



Town of Berthoud
807 Mountain Avenue
Berthoud, CO 80513
970.532.2643

TOWN OF BERTHOUD PLANNING COMMISSION

TOWN HALL

807 Mountain Avenue

THURSDAY, February 14, 2019

7:00 P.M.

1. Call to Order

2. Roll Call

Scott Banzhaf, Chair
Sean Murphy
Patrick Dillon
Jeff Butler

Jan Dowker, Vice Chair
Kelsey Byron, Secretary
Richard Shepard

All matters listed under Item 3, Consent Agenda, are considered to be routine by the Planning Commission and will be enacted with a single vote. If discussion is deemed necessary on an item, that item should be removed from the consent Agenda and considered separately.

3. Consent Agenda:

a. Minutes from the meeting of January 24, 2019

4. Public Hearing: Habitat For Humanity ODP, FDP and Final Plat amendment

5. Public Hearing: "Case" Annexation and Zoning of 6.259 acres to Mixed-Use District R-4, agent Heron Lakes Investments.

6. Reports. (Reminder of 6:00 pm-7:00 pm Training session with dinner on Feb. 28th)

7. Adjourn.

If you require a special accommodation, please contact the Town Clerk 24 hours in advance at (970) 532-2643.

1. **Call to Order** – The Planning Commission convened a regular meeting on January 24, 2019. Chairman Banzhaf called the meeting to order at 7:00 p.m.
2. **Roll Call** – Members Present: Scott Banzhaf, Chairman, Kelsey Byron, Patrick Dillon, Jan Dowker, Sean Murphy, and Dick Shepard arrived at 7:15 pm.
Member Absent: Jeff Butler
Staff Present: Curt Freese and Jill Wilson.

3. **Consent Agenda** – Minutes from meeting of November 08, 2018. Motion to approve by Commissioner Dowker. With all other commissioners in favor, THE MOTION CARRIED.

4. **Election of Officials** -
Motion by Commissioner Dowker to nominate Commissioner Banzhof as Planning Commission Chairman. Second by Commissioner Murphy. Commissioner Byron abstained from the vote. With all other members in favor, THE MOTION CARRIED.

Motion by Commissioner Banzhaf to nominate Commissioner Dowker as Planning Commission Vice-Chairman. Second by Commissioner Byron. Commissioner Dowker abstained from the vote. With all other members in favor, THE MOTION CARRIED.

Motion by Commissioner Dowker to nominate Commissioner Byron as Planning Commission Secretary. Second by Commissioner Dillon. With all in favor, THE MOTION CARRIED.

5. **Habitat for Humanity ODP, FDP, Final Plat Amendment** –
Commissioner Banzhaf explained that three commissioners would need to recuse themselves from the item, which left no quorum and asked that the item be continued to next scheduled meeting.

MOTION by Commissioner Dowker to table the Habitat for Humanity ODP, FDP, Final Plat Amendment to the next scheduled Planning Commission meeting on February 14, 2019. With all in favor, THE MOTION CARRIED.

6. **Heron Pointe Lot B Final Plat** - Mr. Freese presented the agenda item, which was a request final plat approval for roughly 16.85 acres to create five (5) commercial outlots along Berthoud Parkway, and a multi-family lot proposed for 138 multi-family units. He noted that if approved, each individual lot would be required to go through the site plan review process.
He explained that the Board made a condition of Preliminary Plat approval that a sidewalk be built along the Loveland Water Tower property to the West to access Carrie Martin Elementary School across LCR 14 after a recommendation by Thompson School District was made. Mr. Freese explained that since this is an off-site improvement not owned by the Applicant, the cost will be shared between the Town and the developer.
At the Town Board hearing for the preliminary plat, consideration of raised pedestrian crossings and pylons delineating traffic lanes was analyzed. It was recommended that Beacon lights only be added for additional pedestrian safety, which would be erected at the developer's expense

He noted that the Applicant was also in final discussions with the County regarding the Applicant replacing the LCR 14 bridge, which was located in and maintained by Larimer County. An Intergovernmental Agreement with the County would be required (as the bridge will still be County owned once replaced), which actions would be required by both the Town Board and County Commissioners. Staff was recommending that the IGA be a condition of approval and the Final Plat not be recorded until it had been completed.

He mentioned that the applicant had revised their concept plan, which expanded the open space and park area as well as the amenities. This included additional landscaping, a dog park in the center of the project, an expanded picnic area in the Northeast, a tot lot and playground added next to the pool, and the addition of benches etc. to the west of the proposed clubhouse.

Commissioner Banzhaf asked about the sidewalk connection on the east side Berthoud Parkway along Heron Pointe Lot 1.

Mr. Freese explained that there was not enough right-of-way at the present time for a sidewalk. It was property owned by the City of Loveland, which the City would need to provide.

Commissioner Dowker asked if it would be a consideration by the City of Loveland when County Road 17 was widened.

Mr. Freese replied yes, it would occur with the widening of County Road 17.

Steve Steinbicker, Architecture West, noted the changes made to the concept plan which was additional open space, dog park, and pool, clubhouse, tot lot and parking area, which amenities were meant for the multifamily units of Heron Pointe. He also mentioned that the number of units was reduce from 142 to 138. He acknowledged the sidewalk extension and the County Road 14 bridge replacement. He also spoke to the pedestrian safety island at the roundabout and stated that they acknowledged and accepted the conditions of approval set forward.

Commissioner Byron had concerns about the safety crossing at the roundabout.

John Seyer, Town Traffic Engineer, completed an overview of the traffic safety measures researched and discussed for the site, roads and roundabout.

Commissioner Dillon remarked that public transportation would be a need and should be a focus in the future.

Commissioner Murphy asked about the proposed condition regarding the increased buffer/landscaping.

Mr. Steinbicker stated that the area the conditioned focused on would be applied to the east parts of the commercial lots.

Commissioner Dillon asking if affordability and pricing was ever considered by the Town during an application process.

Mr. Freese replied no. He noted the lot diversity and use standards added to the Development Code in March 2018.

Commissioner Dillion felt it would be helpful to be provided with a price range to help with diversity.

Commissioner Dowker Moved to approve the Heron Pointe Final Plat, with the findings that it is consistent with Section 30-6-105 C with the following recommendations:

- **An increased buffer area or landscaping is recommended from the commercial outlots to the interior multi-family lot.**
- **An IGA is agreed upon with all necessary parties for the replacement of the LCR 14 bridge, as a condition of Final Plat approval.**
- **The sidewalk along the Loveland water tower property is required with a cost to be shared by the Town and the Applicant.**

Second by Commissioner Shepard.

With all in favor, THE MOTION CARRIED.

7. **Planning Commission 2019 Hearing Schedule** – Mr. Freese recommend that no hearing be conducted on November 28, 2019 and December 26, 2019.

8. **Spartan Avenue Extension**

Mr. Seyer explained the process for the Spartan Avenue Extension. He stated that that the transportation plan was updated and one conclusion from that study was that at some point Spartan would extend to the west to Highway 287 and to the east across the railroad track to E. Nebraska Ave. The alignment had changed over the years to now a straight alignment. That alignment would require a 'take' of private property. He also explained that there were also discussions with the railroad for an at grade crossing. The costs associated with the extension would need to be determined along with the cross section of the street. The railroad also required two crossings to be eliminated for this crossing to be added. There was an existing railroad crossing towards the south, which would be eliminated. A second crossing closure site would also need to be determined. The Welch Avenue crossing had been examined.

It was questioned by Commissioner Shepard whether E. County Road 10 could be a potential closed crossing.

Commissioner Byron was concerned with pedestrian crossing if the Welch Avenue crossing was closed.

Commissioner Banzhaf mentioned that planning needed to begin on a future extension of Water Avenue.

9. **Reports**

Meeting adjourned at 9:08 p.m.

Kelsey Byron, Secretary

Jill Wilson, Planning and Building Technician



STAFF REPORT: HABITAT FOR HUMANITY ODP, FDP, FINAL PLAT

TO: Planning Commission
FROM: Curt Freese, Community Development Director

PLANNING COMMISSION INFORMATION SHEET

MEETING DATE: January 24, 2019
ITEM: Habitat for Humanity ODP, FDP, Final Plat

PROPOSAL

The Applicant Habitat for Humanity, is requesting a revised combined ODP, FDP and Final plat approval, which would result in the creation of eight (8) new lots, over a 5.66 acre total area. The amendment to the ODP and FDP would apply to half of the existing Habitat property (starting at the existing Lot 13 to the remainder of the undeveloped Northern lots). in which the existing lots will be essentially split in half for ten paired or zero lot line homes). Habitat wishes to build a new product type, with smaller homes, paired or zero lot line homes, and potentially townhouses which can be built on much narrower lots than the lots which are currently approved.

The project was originally zoned as a PUD with a ODP and FDP approval in 2006 (see ODP/FDP in packet). Staff has allowed Habitat to continue with its old PUD, however the amendment to the PUD (in the ODP/FDP plat) does require approval from the PC and the Town Board as density would increase, and new setbacks would be established. Staff is also allowing a streamlined platting process (all to approved together), owing to its non-profit charitable status, and the fact the platting and engineering work has also been donated to Habitat.

BACKGROUND

This project was approved in 2001, with the last revision to the Final Plat approved in 2006 (see plat in packet). The current plat was approved with 21 single family lots. Since 2006, twelve homes have been built, starting from the South. Setbacks, and minimum lot width, were to follow the R-1 standards. Open Space found in Tract "A" does not change and amounts to over 25% of the total area of the project.

GENERAL INFORMATION

Applicant:	Mike Cook, Agent for Habitat for Humanity	Size: ~5.6 acres total
Site Location:	North Fourth Street	
Applicant's Request:	The Applicant is requesting approval of a revised ODP, FDP and Final Plat for Berthoud Habitat for Humanity.	
Current Zoning: PUD (Planned Unit Development)	Revised FDP/Final Plat to create 8 additional lots, including new paired/zero lot line homes.	

ZONING DISTRICT INFORMATION

	<u>PUD (Existing/old)</u>	<u>PUD (New)</u>
	6-8 dwelling units per acre	10 units per acre
Min. Lot Size	N/A	
Min. Lot Width	52'	28'paired homes; 40' multi family tract, 52' SF tract
Front Setback	20'	20' SF; 20' paired homes; 15' multi-family
Side Setback		0' paired and multifamily and 5' single family
Rear Setback	5' all to garage	5' to garage
Building Height:	35'	35'

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS

<u>Adjacent Zoning</u>	<u>Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning /Buffer required if rezoned</u>
North: County FA	Farm Equipment	N/A
South: Town R-3	Apartments	N/A
East: Town (M-2)	Railroad/Jackson Industrial Park (undeveloped)	N/A
West: Town AG/County FA	Farm Land, Large Lot SF	N/A

PREFERRED LAND USE

The Town's Preferred Land Use Map designates this area as Moderate Density Residential, which intends for residential uses from 6 dwelling units per acre.

- ✓ The density and uses proposed, are consistent with the Preferred Land Use Map.

FINDINGS NECESSARY FOR THE FDP/FINAL PLAT

1. Whether the plan and plat conform to the requirements of the Development Code, to the Town's Comprehensive Plan and land use plan.

- ✓ The FDP plat is in conformance with the Comprehensive Plan and the Preferred Land Use Plan, and also conforms to the approved ODP/PUD zoning district and comprehensive plan in terms of land uses and density (this is in a moderate density residential preferred land use district which supports single family and zero lot line residential development).

2. Whether the proposed development will negatively impact traffic in the area, Town utilities, or otherwise have detrimental impact on property that is in sufficient proximity to the development to be affected by it.

- ✓ The proposed FDP has been designed with final traffic, utility, and drainage analyses to determine the impacts to the Town's systems. Due to the minimal increase in density, no issues with traffic have been found by the Town's traffic Engineer.
- ✓ In addition, the lots are all rear loaded, and thus will not create additional traffic conflicts on North 4th Street.

✓ 3. Whether the proposed development will be complementary to and in harmony with existing development and future plans for the areas in which the proposed development is to take place, according to the following considerations:

- ✓ The proposed lot sizes of this development are complimentary to the high-density apartments to the South.
- ✓ The new paired homes, offer an additional affordable option for Habitat, and also allow Habitat the ability to offer more homes for people in need.

PUBLIC NOTICE

Notice of the Town Board Public Hearing has been mailed to property owners within 500 feet of the subject property, a legal ad published, and the property was posted as required by the Development Code. The copies of public comments are included in this packet, but listed concerns about traffic and the lack of play area for children. Staff has received complaints from neighboring residents that the children living in the Habitat Homes, are playing in the street and the railroad track, as the open space area has not been improved and the lots are not big enough for play within the yard.

FINDINGS AND RECOMMENDATIONS

FDP/Final Plat

Move to recommend approval of the Habitat for Humanity Revised ODP, FDP and the Final Plat for as per the findings found in pages 2-3 of this Staff Report.

[illegible]

PROPOSED ODP/FDP AND FINAL PLAT

**ORIGINAL/
CURRENT
FDP AND
FINAL
PLAT**

BERTHOUD HABITAT FOR HUMANITY SUBDIVISION

BEING A SUBDIVISION OF THE MAP OF BERTHOUD HABITAT FOR HUMANITY ANNEXATION SITUATED IN THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 69 WEST OF THE 6TH P.M., TOWN OF BERTHOUD, COUNTY OF LARIMER, STATE OF COLORADO

RIGHT TO FARM STATEMENT:

The Town of Berthoud has adopted a "Right to Farm" policy. All new and existing residents are expected to read and understand the policy. For a copy of the policy, please contact the Town of Berthoud.

NORTH

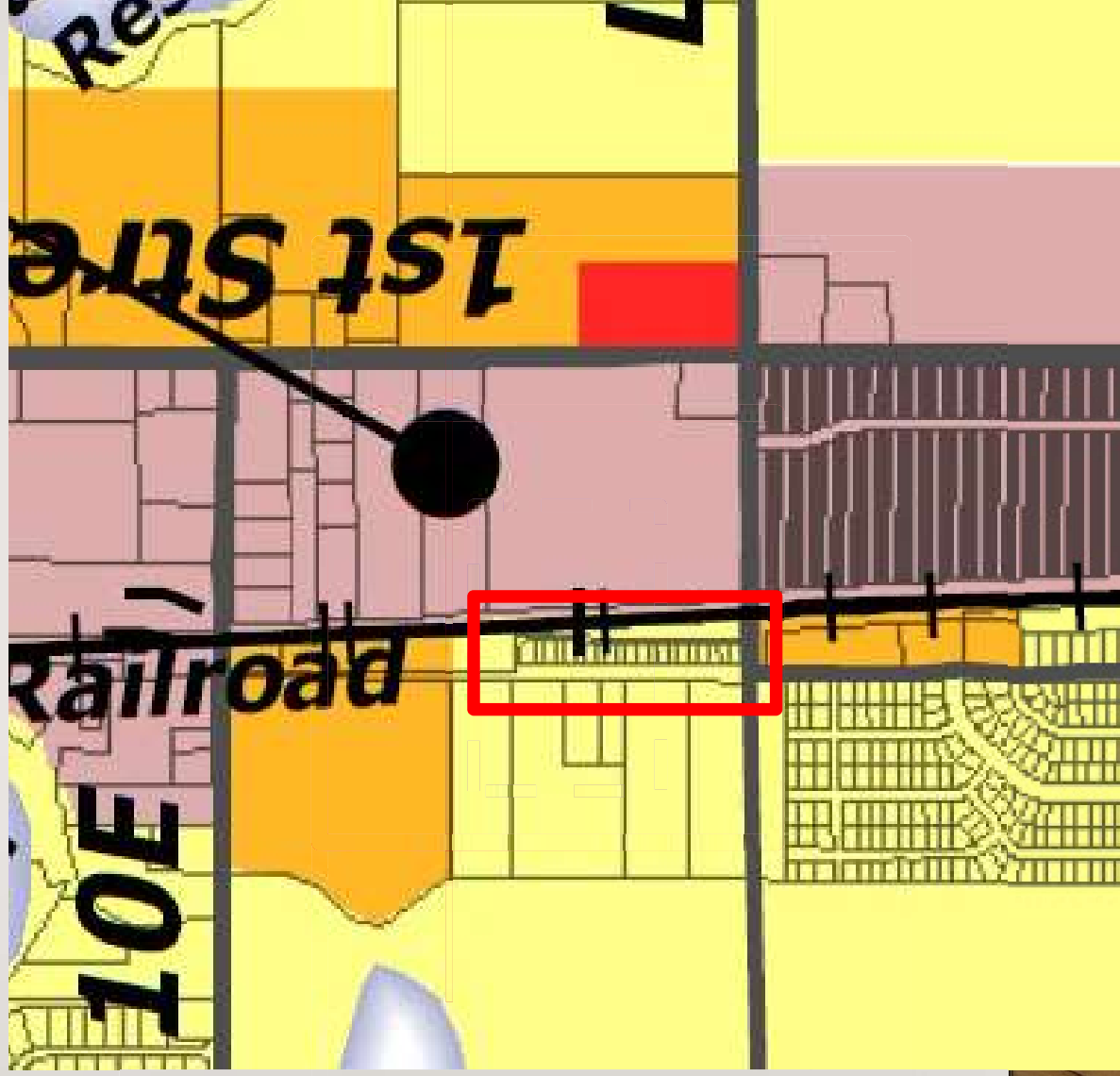
SCALE: 1" = 30'

APRIL 18, 2001

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	CHORD
C1	90°00'22"	25.00'	39.27'	35.36'
C2	90°00'58"	15.00'	23.56'	21.22'

BEARING	CHORD	BEARING
N45°36'E	35.36'	N45°36'E
N45°36'E	21.22'	N45°36'E

Preferred Land Use Habitat





Town of Berthoud
807 Mountain Ave.
P.O. Box 1229
Berthoud, CO 80513
970.532.2643

NEIGHBORHOOD COMMENT REPORT

Date: 01/18/19

Project: Habitat for Humanity

Applicant: Same

As per Chapter 30, Section 6 of the Town of Berthoud Development Code, a neighborhood notice letter was sent to property owners within 500 feet of the proposed development.

The applicant is responsible for addressing all public comment received and must provide the Town with a copy of how the public comments have been addressed.

Attached are the responses received by surrounding property owners.

January 15, 2019

Dear Sir/Madam,

I have taken the time to call the number on your Development Proposal sign 970-532-2643 that you have put up at your development sight. After talking to several people that had no idea what sign I was talking about I was finally put in contact with a person that informed me that the planners of the Habitat Community that is located on County Road 15C are planning the building of several duplexes on the ground that remains on the sight to make housing more affordable. I would like to express my deep concern with this plan.

First, the traffic on County Road 15C has increased exponentially in the past 5 years. The explosion of housing in Berthoud has County Road 15C being used as one of the main roads in and out of Berthoud. I am very concerned as to the safety of children that live in the Habitat Community as more and more cars continue to use the road at much higher than posted speeds.

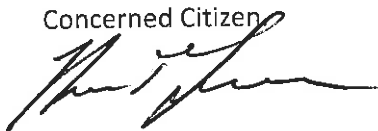
Second, I was told the duplex units would be much smaller than the existing houses that have been built on the sight with much smaller yards. A small house and small yard does not equal quality of life. As it is the existing houses in the community barley have yards as it is as the builders have stacked the houses extremely close to each other. I understand that Habitat is trying to make housing affordable but they are doing so by sacrificing quality of life.

Thirdly, I would like to express my disgust with the management of the development. The managers of the sight have turned it into what appears to be a dumping yard. Anything and everything that they feel could be some benefit to them is dropped or stacked on the sight. The managers have made the area left without buildings and eyesore to the rest of the community on both sides of County Road 15C dropping the values of homes that have been there much longer than the Habitat Development.

In closing I would like to say that I feel people should have access to affordable housing. I am however very concerned with Habitats planning of multi-unit housing with small lot and yards. I feel that the planners of the Habitat Community are doing disservice to the town of Berthoud and to the existing property owners. Small low cost housing units have been tried in other areas, they also have become known as "The Projects" is that what the town of Berthoud really needs?

Sincerely,

Concerned Citizen



January 9, 2019

Re: Development Proposal Sign located on North County Road 15 C

Dear Mr. Freese:

When we were finally able to contact someone at the town regarding this sign, we were able to reach you. You said that this is a proposal to change the current building plan in place for the Habitat Houses being built on this land. The new proposal is asking to build smaller houses, smaller lot sizes with houses closer together and lots for multiple family homes. We were told that normal building codes regarding single family and multiple family dwellings as well as lot sizes were not be adhered to in order to make exceptions for Habitat and more affordable housing in Berthoud.

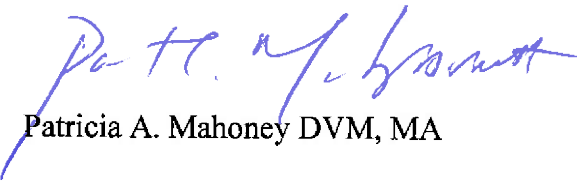
Please let me tell you a little bit about myself. Early in my twenties, I would visit a close friend of mine and her family in Berthoud quite often. I always loved this town and hoped that someday I would be able to buy a home for myself here and raise my own family in Berthoud. I completed a bachelor's degree, a master's degree and my doctorate. I spent two years searching for a house in Berthoud. I found a house on a small amount of land that I could fix up and I have worked hard to make my dream of living in this town come true. I was married under a tree in my yard and we now have a son. I have worked on the house itself as well as the property and continue to do so. New roof, siding, deck, central heat/air and interior remodeling and decorating to the house. I have worked to fix up a shop, added outbuilding and built as well as finished the upstairs interior of a barn. I have hauled in endless amounts of gravel, asphalt and sand. I have built an arena and added fencing. Looking to the future, I want to continue to improve the little piece of Berthoud that I call home.

Habitat for Humanity owns the land across the street from me. I was told they had a set number of lots planned for single family homes. I have watched them build homes across the street from me for a number of years now. A small amount of land on the corner of Water Avenue and North County Road 15C was planned to be a community garden or small park I was told. This area has never actually been turned into anything. It has never been maintained or kept up. Building materials, landscape materials and even what has looked like junk has been dumped and stored on the building land lots for years. The houses built to date on the ~~North~~^{South} end, are the homes that I expected with this current Habitat building plan. I have always supported Habitat, but I am sorry to see that these houses have such small yards. The children in these homes have no place to run and play and end up playing in the street or on the railroad tracks located directly behind these homes. The traffic has already increased on our small street considerably. I worry that as more houses are crowded into the newly proposed lots, the traffic and current safety issues will only worsen. The children's safety and quality of life for everyone in this neighborhood should matter. There has been one energy home built on the ~~South~~^{North} end of these building lots. It continues to be under construction, but clearly doesn't match the

character or style of the original homes in any way. Please drive by and look at this building. Do you view this as a family home or a drive thru coffee shop or gas station? Is this house something you would want built across the street from your home? I fear that if basic codes and standards are not applied or adhered to, that we will end up with a street of incredibly crowded, unmatched, unappealing homes. This will serve to decrease the property value of my home, as well as the value of all of the homes on this street. The town should speak for all of its citizens, not just be the voice for Habitat for Humanity and affordable housing.

Berthoud has always held a standard for a small town of character. It's just this character that made me dream so many years ago of someday owning a home here. Please reevaluate this new proposal. Please consider this to be your voice for homes in your own neighborhood as you determine what is best for this land. Thank you for your consideration in this manner.

Sincerely,



Patricia A. Mahoney DVM, MA



STAFF REPORT: Heron Lakes-Lake Club Annexation, Zoning

DATE: Feb. 14, 2019

GENERAL INFORMATION

Applicant:	Heron Lakes Investments LLC (Jim Birdsall/Jon Turner)
Site Location:	Located off LCR 14, North of Lonetree Reservoir
Applicant's Request:	Annex Property into the Town of Berthoud with a Mixed-Use (R-4) zoning district
Current Zoning:	FA-1 (Larimer County Agricultural)
Preferred Land Use:	None (out of GMA)
Size (in acres):	6.259 acres
Current use of property:	Single Family Home

R-4 DEVELOPMENT STANDARDS

Min. / Max. Lot Size	1,200 sq. ft.
Min. Lot Width:	16'
Net Density:	24 dwelling units per acre
Max. Building height:	50' (subject to Height Transition requirement)
Front Setback:	10' (rear loaded or no front driveway); 20' front loaded
Side Setback	5' (10' 3 storeys)
Rear Setback	5' 8' (alley loaded) 10' front loaded.

SURROUNDING ZONING AND LAND USE

<u>Adjacent Zoning</u>	<u>Adjacent Land Uses</u>
North: FA-1 (in County)	Agricultural
South: AG/R-1	Lonetree Reservoir, Heron Lakes Mixed Use Development (AG is Golf Course)
East: R-4 Town	Heron Lakes Mixed Use Lake Club
West: R-4 Town	Heron Lakes Mixed Use Lake Club

INFRASTRUCTURE

Water: Little Thompson (will come into Town).	Sewer: Town of Berthoud service area.
Electric: PVREA	Gas: Xcel.
Floodplain: n/a.	Transportation: Access Point off LCR 14.

Public Notice: letters mailed to property owners within 500' of property both with original submittal for comments, and for each public hearing; a legal advertisement was published in the Berthoud Surveyor and run for four consecutive weeks; and a sign was posted on the property.

PROPOSAL

Heron Lakes Investments, is proposing an annexation of 6.259 acres, known as the “Case Annexation,” with a Mixed Use (R-4) zoning classification. As per Ordinance No. 1180, any new annexation West of County Road 19 must be approved by the voters of the Town prior to being considered or approved by the Town Board. In this case, the voters of Berthoud overwhelmingly approved the request to consider the annexation at the November 2018 election. After the November election, the formal application for the annexation was then processed through the traditional annexation process (Staff review; the Town Board accepted the petition at its January 22nd meeting; and the requisite public hearings were set and noticed).

This annexation is which currently consists of a house on a little over 6 acres, is surrounded by the Heron Lakes Lake Club Annexation, approved with R-4 zoning in June 2018. For reference, the Case property is the house which is due South on the private drive located off of LCR 14, before the drive curves to East towards the existing Lonetree/Lake Club Marina office. To ascertain the property site in relation to the existing approved annexation, please see the attached maps and exhibits. The Applicant is proposing to continue the Heron Lakes Lake Club uses and facilities onto this property.

Finally, the Applicant is proposing a motorcoach/RV use on this property, consistent also with the Lonetree/Lake Club annexation. Should the applicant propose the motorcoach use, it will require a Conditional Use/Use by Special Review approval by the Planning Commission at a later date. The Applicant informs Staff, that an area to handle the motorcoaches that the pro-players travel in, is a needed amenity for any PGA tournament.

BACKGROUND

The Heron Lakes “Lonetree/Lake Club” Annexation, for over thirty acres of property South of LCR 14, and west of the Heron Lakes golf course, was approved by voters at the April election. The “Lonetree” annexation was approved with a marina use as the Applicant (Heron Lakes Investments) acquired surface rights to Lonetree Reservoir on June 1st of this year. The property was then zoned R-4 Mixed Use, with specific conditions (no multi-family allowed).

Annexation Summary:

The applicants approached the Town last year about the potential of an motorcoach use for the property, but the Applicant has not submitted any proposed plans for the use at this time. Staff did add the RV use (which is considered the same use as an overnight motorcoach use) to the R-4 district as a conditional use to the Development Code in 2018—meaning the use would only be allowed with approval from the

Planning Commission. The property is currently on Little Thompson water (any development would require the entire site to be served by Town Water/Sewer). A community of interest exists between this property and the Town as detailed below.

Infrastructure

The majority of the Town's current infrastructure (i.e. water and sewer lines) are located within the existing Town limits except for portions of both the Town's water and sewer systems that are located within parts of unincorporated Larimer County. The Town maintains LCR 14, and the Town plans and has the capacity to provide both water and wastewater to this lot at the developer's expense.

In 2012 much of the infrastructure at the Water Plant were reconstructed to modernize and improve the treatment processes. In 2015 upgraded computerized process monitoring was deployed. Berthoud uses from approximately 600,000 gallons up to 1.2 million gallons of water each day. The Town's clean water storage can hold up to 3 million gallons of water. The Town has agreements with other water providers such as the Little Thompson Water District to provide clean water during plant maintenance or at times of very high usage.

The Town has one main treatment plant with four surrounding lift stations to serve the Town's wastewater needs. The Wastewater plant was completed in 2004 with additional expansion of the solids handling facility. Following the Little Thompson Flooding in 2013 the Waste Water Treatment plant has received a significant upgrade using latest treatment technologies and equipment. The treatment plant can treat up to 3 million gallons per day using a conventional activated sludge treatment process with aerobic sludge digestion. The bio-solids from the facility are land applied for beneficial use.

Utilities

The anticipated utility services for the annexation of the property will be provided from both existing and new utility facilities. Town water and sewer service will be provided to the property once it is annexed. The Town anticipates minimal impact on the existing transportation system, should this be annexed.

Urbanization/Contiguity

The Heron Lakes property is expected to be urbanized at some point in the future. There is existing development, with a variety of land uses and densities surrounding this property, most notably the mixed-use Heron Lakes golf-course, and this property is a continuation of the uses/services necessary to

provide for a world-class golf course and community. In addition, the property is 69.8% contiguous to existing Town Boundaries, satisfying the 1/6 contiguity requirement of Colorado Revised Statutes.

Annexation Findings

Staff recommends annexation with findings this property satisfies the requirements of Colorado Revised Statutes (31-12-107) as described below:

1. The proposed annexation **satisfies** the 1/6 contiguity to existing municipal limits;
2. **There is a community of interest** between this property and the Town of Berthoud; and
3. This property **is expected to be urbanized** in the future.

Zoning

This property is currently zoned FA-1 Farming in Larimer County. The Applicant is proposing a Mixed-Use District (R-4). The Mixed-Use (R-4) district was chosen at the recommendation of Town Staff. Staff felt that the R-4 district was most appropriate as it allows the developer more creativity in mixing a number and of uses within the same tract or area, instead of creating numerous specific use new districts (for example, a recreation/amusement only district). To that end, Staff added the marina use and RV use to the permitted uses in only the R-4 district when updating the Development code which was approved in 2018. The R-4 district allows neighborhood commercial related uses (restaurants, bars, offices) while also allowing residential uses from single family to high density residential.

When determining the future land use and zoning of a property to be annexed, the Planning Commission is to consider the Comprehensive Plan and its Preferred Land Use designation for this area, as well as surrounding zoning and land uses. Since the Preferred Land Use does not cover this area, the Planning Commission should rely on the surrounding uses and the proposed use for the property in making its decision.

Adjoining Uses

The proposed annexation is adjacent to Heron Lakes, a large multi-zoned mixed-use property. Heron Lakes was approved for a mixture of residential and commercial uses, with a golf course zoned AG. There are a number of Mixed-Use (R-4) superpad areas including the clubhouse in Heron Lakes. The properties to the West remain in the County with similar FA-1 zoning classification, but are comprised of single

family homes, with the Jaskowski property a few hundred feet away, with the potential for a trail linkage. As discussed in the background, the Marina Club was zoned R-4 last year, and surrounds the property.

- ✓ The Mixed-Use District (R-4) proposed, would be in harmony with the adjoining uses proposed in Heron Lakes and the surrounding area.

PUBLIC NOTICE

Notice of the Planning Commission Public Hearing has been mailed to property owners within 500 feet of the subject property, a legal ad published, and the property was posted as required by the Development Code.

FINDINGS AND RECOMMENDATIONS

There are two separate items, which each require a separate set of motions.

Annexation:

Move to recommend approval of the request to annex 6.259 acres of property into the Town of Berthoud known as the “Case” annexation, as per the findings of the Staff Report.

Zoning:

Move to place the Mixed-Use (R-4) district on the 6.259 acres known as the Case Annexation, finding that:

- 1. The Mixed-Use (R-4) district proposed, would be in harmony with the adjoining land uses approved in Heron Lakes and the Heron Lakes Lake Club.**

A close-up, horizontal view of a wooden floor. The floor is composed of numerous parallel wooden planks, likely made of pine or a similar softwood, showing a warm, light brown tone. The planks are laid in a traditional parallel fashion, with visible grain patterns and some minor knots or imperfections. The lighting is even, highlighting the texture and natural variations of the wood.



EXHIBIT “A”

ANNEXATION AND

ZONING MAP/LEGAL

DESCRIPTION

S:\Survey\John\103-064\Annexation\103-064 Case Annexation.dwg, 7/30/2018, 10:48:24 AM, 11

CASE ANNEXATION TO THE TOWN OF BERTHOUD, COLORADO

BEING AN ANNEXATION OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 4 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO (6.259 ACRES)

DESCRIPTION:

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, being the owners and petitioners of that portion of the Northeast Quarter of Section 4, Township 4 North, Range 69 West of the 6th Principal Meridian, County of Larimer, State of Colorado, more particularly described as follows:

CASE ANNEXATION:

That portion of the Northeast Quarter of Section 4, Township 4 North, Range 69 West of the 6th Principal Meridian, County of Larimer, State of Colorado, more particularly described as follows:

Parcel 2A, Amended Duffy Exemption, recorded at Reception No. 97052403, Larimer County Clerk and Recorder, more particularly described as follows:

Considering the North line of the Northeast corner of Section 4 as bearing South 89° 59' 58" West and with all bearings contained herein relative thereto:

COMMENCING at the North Quarter corner of Section 4; thence South 00° 13' 44" West, 50.15 feet to a point on the North line of Heron Lakes Lake Club Annexation To The Town of Berthoud; thence along the West and South lines of Heron Lakes Lake Club Annexation the following 2 courses and distances: South 00° 25' 45" West, 1337.29 feet; thence, North 77° 18' 05" East, 447.46 feet to the Southwest corner of Parcel 2A, Amended Duffy Exemption, said point being the POINT OF BEGINNING; thence along said Parcel 2A the following 10 courses and distances: North 07° 03' 49" West, 396.85 feet; thence, North 04° 08' 54" West, 128.40 feet; thence, North 02° 15' 08" West, 205.22 feet; thence, North 79° 55' 50" East, 337.02 feet; thence, South 28° 00' 27" East, 280.84 feet; thence, South 41° 52' 38" East, 164.83 feet; thence, South 51° 31' 52" West, 107.08 feet; thence, South 47° 26' 05" West, 419.26 feet; thence, South 54° 47' 05" West, 61.59 feet; thence South 65° 29' 05" West, 71.05 feet to the POINT OF BEGINNING, containing 272,633 square feet or 6.259 acres more or less.

OWNER: Heron Lakes Investments, LLC

BY: _____
Jon A. Turner, Manager

STATE OF COLORADO)
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by

Jon A. Turner as Manager of Heron Lakes Investments, LLC.

Witness my hand and official seal

My commission expires: _____

Notary Public

APPROVAL CERTIFICATES:

This is to certify that the annexation of the above described property was approved by Ordinance No. _____ of the Town of Berthoud, passed and adopted on the _____ day of _____, 2018, and that the Mayor of the Town of Berthoud as authorized by said ordinance on behalf of the Town of Berthoud hereby for all acknowledges and adopts the said annexation upon which the certificate is endorsed for all purposes indicated herein.

Approved by the Board of Trustees of the Town of Berthoud, Colorado this _____ day of _____, 2018.

Mayor

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____ day of _____, 2018.

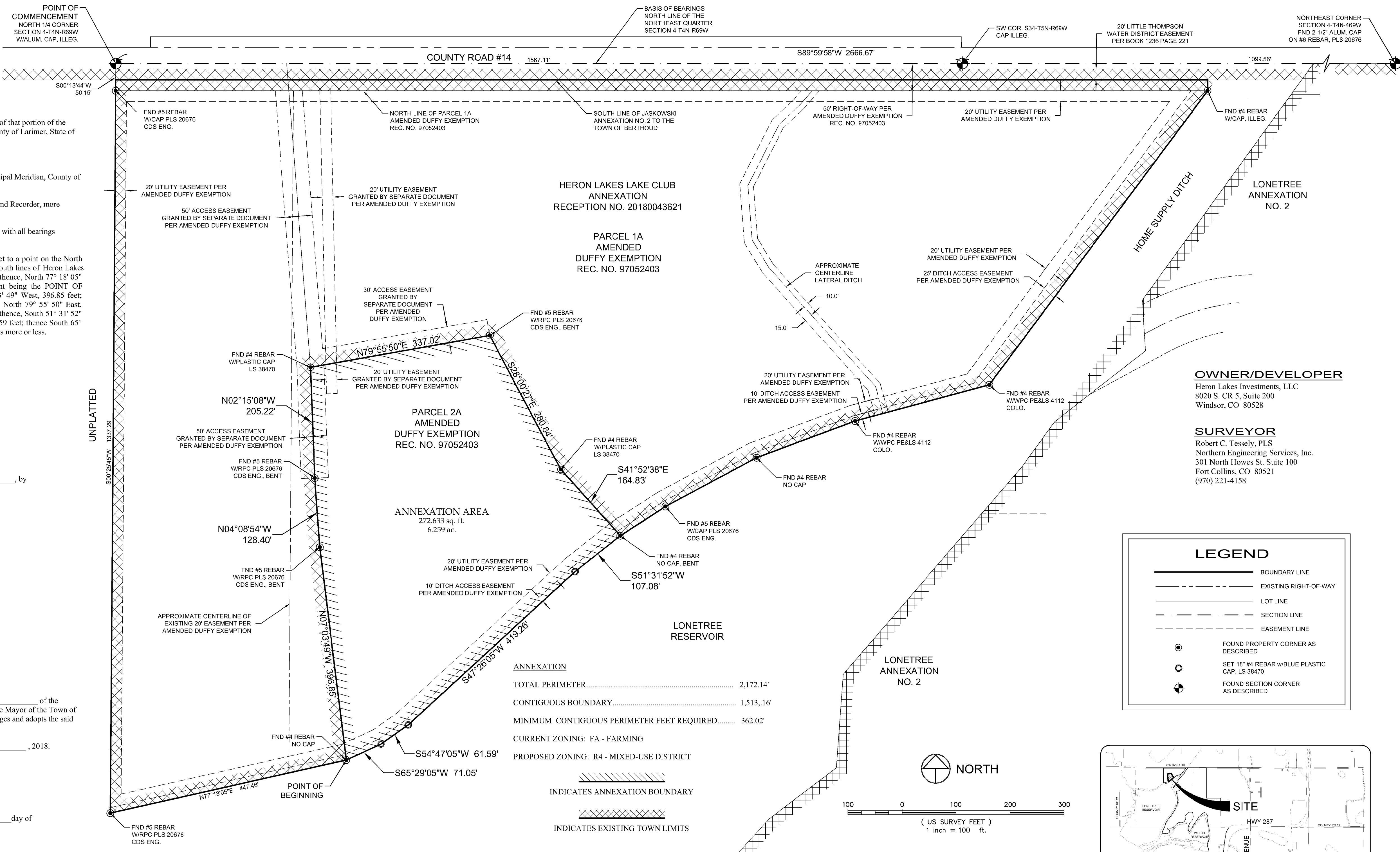
ATTEST:

Town Clerk

SURVEYOR'S STATEMENT

I, Robert C. Tessely, a Registered Land Surveyor in the State of Colorado, do hereby certify that this Annexation Map of CASE ANNEXATION to the Town of Berthoud, County of Larimer, State of Colorado, was made under my direct supervision and the accompanying map accurately and properly shows said annexation.

For and on Behalf of Northern Engineering
Robert C. Tessely
Colorado Registered Professional
Land Surveyor No. 38470



ANNEXATION

TOTAL PERIMETER..... 2,172.14'

CONTIGUOUS BOUNDARY..... 1,513.16'

MINIMUM CONTIGUOUS PERIMETER FEET REQUIRED..... 362.02'

CURRENT ZONING: FA - FARMING

PROPOSED ZONING: R4 - MIXED-USE DISTRICT

INDICATES ANNEXATION BOUNDARY

INDICATES EXISTING TOWN LIMITS

NOTE:

The Consolidated Home Supply Ditch and Reservoir Company would identify to the applicant and the Town that there may be subsurface waters that arise in the area of this development and that there are periods of time when, due to water stored in the reservoir and flowing within the ditch system and otherwise, that portions of the property receive significant amounts of subsurface water that is very near to the surface, or resides on the surface. Due to this problem, the utility of certain portions of the property for construction of structures could potentially be unavailable. The Company has no plans to alter its operations as it would cure this surface and subsurface water issue. Water may flow out of the ditch and the reservoir during a storm event that will cause the spillway of the reservoir to operate. Water could inundate the Subdivision as it is below the reservoir and ditch in elevation.

The Consolidated Home Supply Ditch and Reservoir Company requests that the applicant should acknowledge that historic irrigation and drainage patterns should be maintained on the Subdivision so that there are no changes in the operation of the Company's facilities. A drainage plan should be required to be prepared by a licensed engineer to analyze and report on any change in drainage patterns caused by the development of the Subdivision. The Company should be provided a copy of that plan and the Company should have the opportunity to review and comment on the plan. All drainage facilities constructed by the developer should be operated, maintained, repaired and replaced by the appropriate governmental entity. No mention of any on site detention of drainage water is shown on the plat or mentioned in the narrative. The applicant should be required to monitor and identify any pollutants or other hazardous materials that arise from the Subdivision, and should agree to stop any such deposit in the reservoir.

The Consolidated Home Supply Ditch and Reservoir Company requests that the Applicant should acknowledge that: 1) No access to, including livestock watering, hunting, fishing, boating, swimming, tubing, canoeing or other use of the reservoir from the Subdivision is allowed; 2) No dumping of refuse, including but not limited to household garbage, waste materials, grass clippings, tree and shrub prunings, motor oil, chemicals, pesticides or herbicides is allowed; 3) No pumps for lawn or other irrigation are allowed in the reservoir or the ditch; 4) No use of the reservoir or the ditch for hiking, biking, horseback, motorcycle, off road vehicles or other motorized or non-motorized vehicle shall be allowed.

NOTICE:

According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years after the date of the certificate shown herein.

SECTION:
4

TOWNSHIP:
4N

RANGE:
69 W of the 6th PM

NORTHERN
ENGINEERING

NE

970.221.4158
nortnerengineering.com
FORT COLLINS: 301 North Howes Street, Suite 100, 80521
GREELEY: 520 8th Street, 80631

DATE:

7/30/18

PROJECT:

103-064

DESIGNED BY:

U. Smith

SCALE:

1"=100'

REVIEWED BY:

R. Tessely

CASE ANNEXATION

TOWN OF BERTHOUD

LARIMER COUNTY, COLORADO

Sheet

1

Of 1 Sheet

CASE REZONING MAP

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 4 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO

DESCRIPTION:

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, being the owners and petitioners of that portion of the Northeast Quarter of Section 4, Township 4 North, Range 69 West of the 6th Principal Meridian, County of Larimer, State of Colorado, more particularly described as follows:

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OWNER: Heron Lakes Investments, LLC

BY: _____
Jon A. Turner, Manager

STATE OF COLORADO)
)SS
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by

Jon A. Turner as Manager of Heron Lakes Investments, LLC.

Witness my hand and official seal

My commission expires: _____

Notary Public

APPROVAL CERTIFICATES:

This is to certify that the annexation of the above described property was approved by Ordinance No. _____ of the Town of Berthoud, passed and adopted on the _____ day of _____, 2018, and that the Mayor of the Town of Berthoud as authorized by said ordinance on behalf of the Town of Berthoud hereby for all acknowledges and adopts the said annexation upon which the certificate is endorsed for all purposes indicated hereon.

Approved by the Board of Trustees of the Town of Berthoud, Colorado this _____ day of _____, 2018.

Mayor

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____ day of _____, 2018.

ATTEST: _____
Town Clerk

APPROVAL CERTIFICATES:

Approved by the Planning Commission of the Town of Berthoud, Colorado this _____ day of _____, 2018.

Chairman

The foregoing map is approved for filing and accepted by the Town of Berthoud, Colorado this _____ day of _____, 2018.

ATTEST: _____
Planning Technician

LARIMER COUNTY CLERK & RECORDER CERTIFICATE:

This Rezoning Map was accepted for filing in the Office of the Larimer County Clerk & Recorder on this _____ day of _____, 2018, A.D. at _____ M. in Book _____, Page _____.

Reception No. _____

By: _____
Larimer County Clerk and Recorder

NOTE:

The Consolidated Home Supply Ditch and Reservoir Company would identify to the applicant and the Town that there may be subsurface waters that arise in the area of this development and that there are periods of time when, due to water stored in the reservoir and flowing within the ditch system and otherwise, that portions of the property receive significant amounts of subsurface water that is very near to the surface, or resides on the surface. Due to this problem, the utility of certain portions of the property for construction of structures could potentially be unavailable. The Company has no plans to alter its operations as it would cure this surface and subsurface water issue. Water may flow out of the ditch and the reservoir during a storm event that will cause the spillway of the reservoir to operate. Water could inundate the Subdivision as it is below the reservoir and ditch in elevation.

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NOTES:

- 1) Basis of Bearings is the North line of the Northeast Quarter of Section 4-4-69 as bearing South 89° 59' 58" West and monumented as shown on drawing (assumed bearing).
- 2) The lineal unit of measurement for this plat is U.S. Survey Feet.
- 3) This survey does not constitute a title search by Northern Engineering to determine ownership or easements of record. The following documents were utilized in preparation of this Annexation Map: Amended Duffy Exemption, Rec. No. 97052403; Jaskowski Annexation No. 2 To The Town of Berthoud, Rec. No. 20130083882; Warranty Deed Rec. No. 20170051397; Lonetree Annexation To The Town of Berthoud, Rec. No. 2001095690.
- 4) Zoning information per Larimer County Zoning Map dated March 2017.

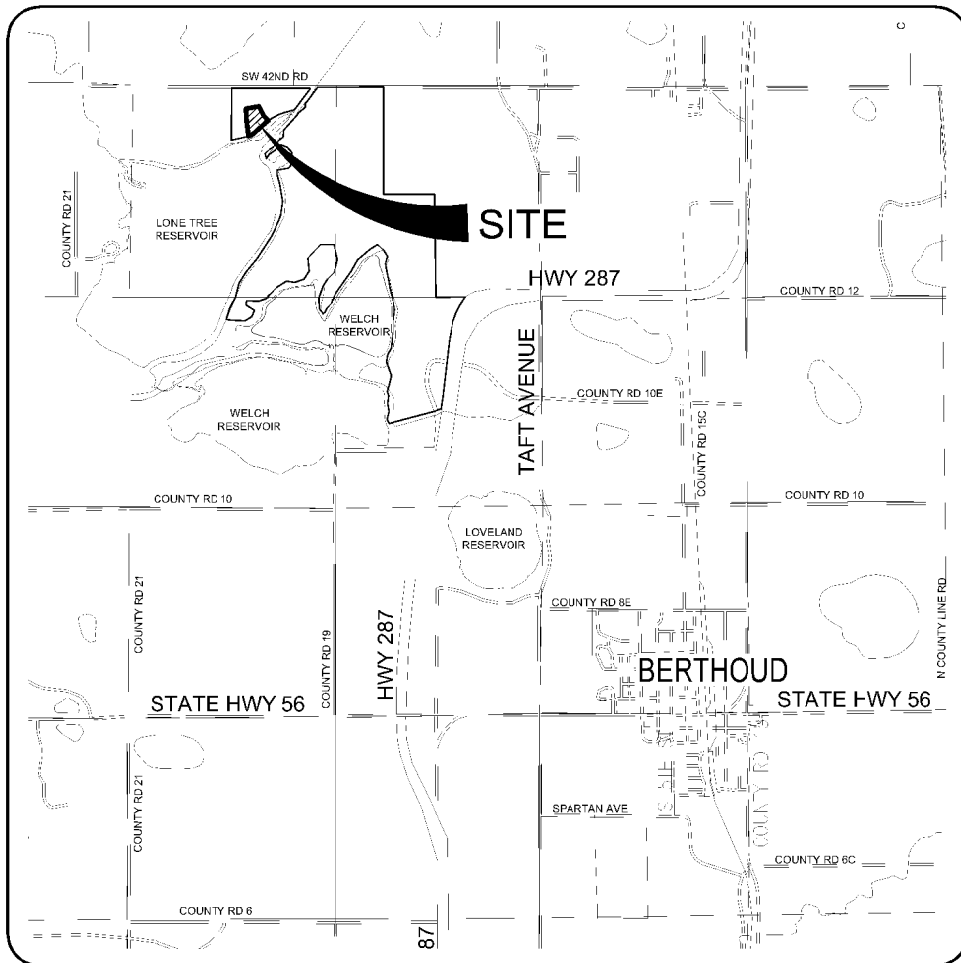
SURVEYOR'S STATEMENT

I, Robert C. Tessely, a Registered Land Surveyor in the State of Colorado, do hereby certify that this Rezoning Map of C/SE, Town of Berthoud, County of Larimer, State of Colorado was made under my direct supervision and the accompanying map accurately and properly shows said annexation.

For and on Behalf of Northern Engineering
Robert C. Tessely
Colorado Registered Professional
Land Surveyor No. 38470

LEGEND

- BOUNDARY LINE
- EXISTING RIGHT-OF-WAY
- LOT LINE
- SECTION LINE
- EASEMENT LINE
- FOUND PROPERTY CORNER AS DESCRIBED
- SET 18" #4 REBAR w/BLUE PLASTIC CAP, LS 38470
- FOUND SECTION CORNER AS DESCRIBED



VICINITY MAP

1"=5000'

CASE REZONING MAP
TOWN OF BERTHOUD
LARIMER COUNTY, COLORADO

Sheet

1

Of 1 Sheet

NOTICE:

According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years after the date of the certificate shown herein.

SECTION
4

TOWNSHIP:
4N

RANGE:
69 W of the 6th PM

NORTHERN
ENGINEERING

NE

970.221.4158
nortnerengineering.com
FORT COLLINS: 301 North Howes Street, Suite 100, 80521
GREELEY: 520 8th Street, 80631

DATE:
7/30/18

PROJECT:
103-064

DESIGNED BY:
R. Tessely

REVIEWED BY:
R. Tessely

CASE REZONING MAP

TOWN OF BERTHOUD
LARIMER COUNTY, COLORADO

Sheet

1

Of 1 Sheet

EXHIBIT “B”

PETITION FOR

ANNEXATION

PETITION FOR ANNEXATION

We represent that we are the landowners of 100% of the land described in this Petition, excluding public streets, alleys, roads and easements, which is legally described on Exhibit "A", and affirm the following to be true and correct as of July 30, 2018, our petition for annexation is filed with the Town of Berthoud.

CONTIGUITY:

1. The perimeter of the proposed annexation has a distance of 2172.14 feet of which 1513.16 are contiguous to the existing Town Limits of Berthoud.
2. This contiguity results in a minimum of 69.6% of the perimeter (at least 1/6) of proposed annexation being contiguous to the Town of Berthoud.
3. The proposed annexation contains approximately 6.259 acres.
4. The requirements of §31-12-104 and §31-12-105 C.R.S., exist or have been met.
5. We further allege:
 - a. It is desirable and necessary that the territory be annexed to the Town of Berthoud.
 - b. A community of interest exists between the territory and the Town of Berthoud.
 - c. The territory is integrated or capable of being integrated with the Town of Berthoud.
 - d. The territory is urban or will be urbanized in the near future.
 - e. No land held in identical ownership is divided into separate parcels unless the owner of said tract has consented in writing or joins in this Petition.
 - f. No proceedings for annexation of the land described in this Petition have been commenced for annexation to another municipality.
6. The Petitioners understand that there may be a significant period of time before municipal utilities will be available, but anticipate that urbanization will be able to take place at a pace acceptable to them without immediate access to these utilities. Until urbanization takes place the petitioners intend to maintain their properties in their current uses, which uses are acceptable to the Town of Berthoud.

7. The Petitioners have submitted the petition with the intention that the property will be developed in accordance with Berthoud's Development Code, Comprehensive Plan, Municipal Code, resolutions and ordinances.
8. The Petitioners are aware that Berthoud has enacted fees and policies with the intention that growth should pay its own way and that growth should improve the health, safety and welfare of its citizens. Examples of Berthoud's fees which are acceptable to the petitioners include fees for: building, electric, construction meter, plan review, building permit administration, parks, trails and open space, public facilities infrastructure, streets, drainage, police facility infrastructure, general administration facility infrastructure, water administration, water meter, water tap, sewer tap, raw water, and other supplemental fees as appropriate.
9. The Petitioners understand that Berthoud is required by Colorado Revised Statutes to prepare and file an annexation impact report. The Petitioners will prepare a proposed annexation impact report and provide it to Berthoud for review and consideration six (6) weeks prior to the hearing.
10. The Petitioners agree to dedicate free and clear of all liens and encumbrances of any kind, and at no charge to the Town, all easements and rights-of-way for streets and other public ways and for other public purposes, within the Property as outlined in a Subdivision Improvements Agreement (approved at the time of final subdivision plat).
11. The Petitioners agree to dedicate, with the subdivision of the Property and at no cost to the Town, all required easements and right-of-way for installation and maintenance of infrastructure.
12. The Petitioners agree to design and install transportation infrastructure, utility infrastructure, and stormwater improvements to serve the Property prior to the issuance of any building permits for all or any portion of the property in accordance with Town standards. The Petitioners shall make such other improvements as required by Town ordinances and resolutions, to guarantee construction of all required improvements, and, if requested by Berthoud, to dedicate to Berthoud any or all other required improvements. The Petitioners agrees to enter into a subdivision improvements agreement pertaining to such improvements and other matters at time of final plat.
13. The Petitioners agree that oversizing agreements may exist that the Petitioners may be responsible for his/her fair share for oversizing of infrastructure. Likewise, Petitioners acknowledges that the Town may require the Petitioners to oversize infrastructure, which would be reimbursed by subsequent developers. The Petitioners acknowledge that the Town shall facilitate reimbursement of any financial participation by the Petitioners, over

and above the proportionate impact of the development. Such reimbursement shall come from new development directly connecting to the improvements.

14. The Petitioners agree to satisfy the public land dedication and landscaping requirements specified in the Town's Development Code.
15. The Petitioners agree that future development of the site will comply with any adopted infrastructure plans including but not limited to transportation, drainage, water, sewer, land use, parks, trails, open space and comprehensive plans.
16. The Petitioners agree that the design, improvement, construction, development, and use of the property shall be in conformance with, and that Petitioners shall comply with, all municipal, county, state and federal statutes, ordinances, rules and regulations.
17. The Petitioners agree that all land use approvals and building permits for the development of the Property shall be subject to requirements including, but not limited to, the payment of impact fees and development charges and other land use and development requirements in effect at the time that such proposed development applies for a building permit.
18. The Petitioners agree to convey to the Town, all water rights necessary for development and all irrigation water rights and associated carrying rights and groundwater rights associated with the property, and any related stock certificates evidencing ownership of the water rights, free and clear of all encumbrances and with all taxes and assessments related hereto paid in full, unless the Town in writing rejects any or all such water rights. Water rights may be conveyed on a pro-rata basis as building permits are issued.
19. Berthoud has various enterprise funds through which the utilities provided by Berthoud are financed. Examples of Berthoud's services are its water, wastewater and drainage utilities. Berthoud's Board of Trustees believe that the provision of utilities by Berthoud assists in complying with the *Berthoud Comprehensive Plan* and *Berthoud Development Code* and the petitioners request that Berthoud provide all utility services which are available now or in the future through Berthoud at a cost comparable to that which can be provided by any third party.
20. The Petitioners understand that the R2-J School District forms an integral part of the Berthoud community. Berthoud has enacted fees to support the acquisition of land by this School District. The Petitioners are aware of these fees and agree to financially support the District's land acquisition programs.

The terms of this Petition are binding on the heirs, devisers, successors and assigns of the parties. Therefore, the undersigned hereby request that the Town of Berthoud approve the annexation of the areas described herein.



Petitioner

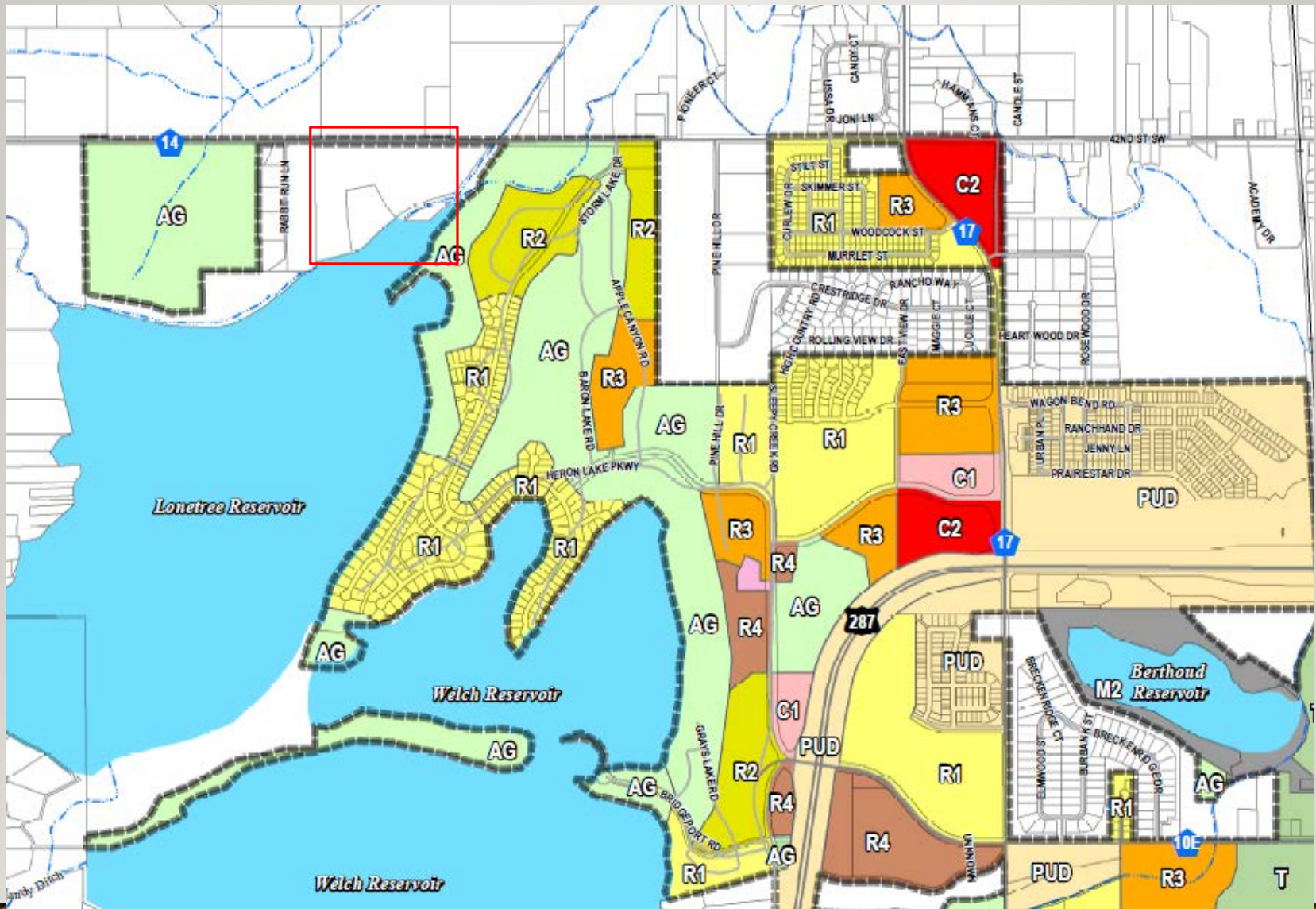


Petitioner

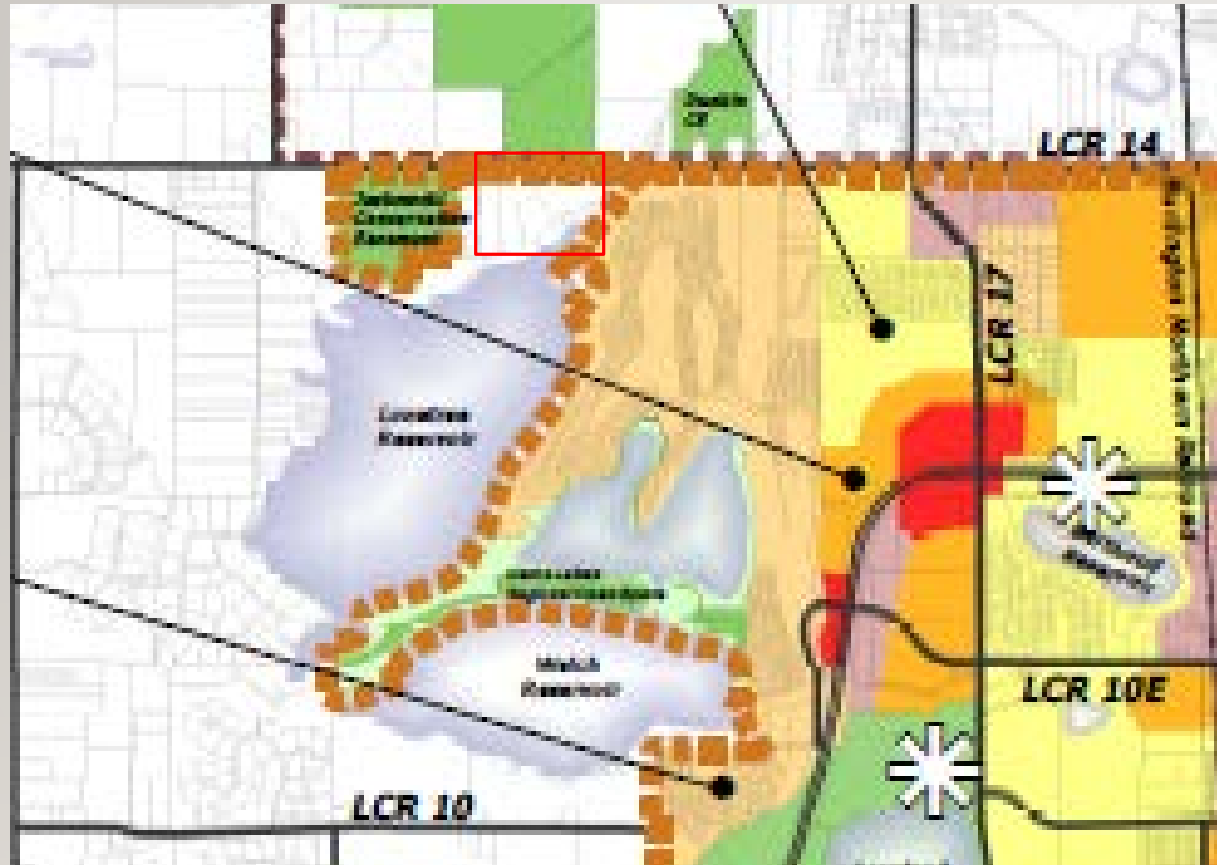
9/5/18

Date Signed

ZONING:



PREFERRED LAND USE



LEGEND

Land Use Designations

-  Low Density Rural Residential (Up to 0.5 DU/AC)
-  Low Density Suburban Residential (Up to 2 DU/AC)
-  Moderate Density Residential (2 to 6 DU/AC)
-  High Density Mixed Use Residential (6 - 14 DU/AC)
-  Commercial/Office
-  Employment
-  Town of Berthoud Area of Community Influence (ACI)
-  Berthoud Growth Management Area/Boundary
-  Natural Preserve/Open Lands (Parks, Bodies of Water, Hwy 2017 Buffer, Trail Corridor Conservation Easement (CE) Irrigation Ditches)
-  View Corridor Areas that may serve to preserve views to agricultural lands, natural areas and mountains along major roadway corridors.



Town of Berthoud
807 Mountain Ave.
P.O. Box 1229
Berthoud, CO 80513
970.532.2643

NEIGHBORHOOD COMMENT REPORT

Date: 02/08/19

Project: Case Annexation

Applicant: Heron Lakes Investments

As per Chapter 30, Section 6 of the Town of Berthoud Development Code, a neighborhood notice letter was sent to property owners within 500 feet of the proposed development.

The applicant is responsible for addressing all public comment received and must provide the Town with a copy of how the public comments have been addressed.

Town staff did not receive any public comments either during the original review submittal, nor for the public meeting notice.



2019 Development Review Calendar

Community Development
807 Mountain Avenue
Berthoud, CO 80513
970-532-2643

Planning Commission Hearing Dates	
January 10, 2019	
January 24, 2019	
February 14, 2019	
February 28 2019	
March 14, 2019	
March 28, 2019	
April 11, 2019	
April 25, 2019	
May 09, 2019	
May 23, 2019	
June 13, 2019	
June 27, 2019	
July 11, 2019	
July 25, 2019	
August 08, 2019	
August 22, 2019	
September 12, 2019	
September 26, 2019	
October 10, 2019	
October 24, 2019	
November 14, 2019	
November 28, 2019	
December 12, 2019	
December 26, 2019	