

TOWN OF LYONS
BOULDER COUNTY IGA TASK FORCE MEETING
MEETING
LYONS TOWN HALL, 432 5TH AVENUE, LYONS, COLORADO
MINUTES

July 25, 2024

12:00 PM – 1:30 PM

I. Roll Call - Julie Jacobs, Jen Wingard, Martin Soosloff, Sonny Smith, Cindy Fisher, Douglas Mathews, Charles Stevenson, Barney Dreistadt (PCDC liaison), Dave Hamrick (BoT liaison), Andrew Bowen (staff liaison), Hannah Hippley (BoCo)

II. Approve Agenda – JW add discussion of EAB recommendations to next week’s agenda. Motion to approve, seconded, agenda approved unanimously.

III. Approve Min From 16-July-24 Meeting – Motion and second, approved unanimously.

IV. Opening Discussion (10 Min) – Time is becoming short, time to focus on a conclusion of our work over the next 2 weeks. Break recs down into 3 buckets – broad recommendations when finalizing IGA (anything that does not fit into the IGA itself); specific edits to the IGA draft; specific recommendations about map and parcels, likely to have 2 recommendations (keep it all and let annexation process sort it out; ask BoT to take a more measured approach and consider factors before including properties on the map). Group has basic agreement on this structure. CS – consider breaking into smaller groups offline to review recs with the larger group and come to consensus. We will need to define who is working on what topics. Any rec that is not close to unanimous, we should have a placeholder for alternative view and note how many votes for each recommendation.

A. Presentation Structure Overview & Direction, will discuss DM’s draft outline later in the meeting.

B. Presentation Dates Pending (19-Aug or 3-Sept) – There is a placeholder for us if we are ready on the 19th, otherwise it will be Sept. 3.

V. New Data Submissions For Review / Discussion:

Documents:

IGA PRESENTATION OUTLINE V2 24JUL24.PDF – rough outline of what we will put into our formal recommendations to the BoT – use as a guide to talk about the general recommendations and big buckets.

DRAFT LYONS - BOCO IGA TEXT_CONSENSUS.PDF – What edits to make to the legal document itself? MS put a consensus document together outlining the proposed changes. CF - Big question of why a property changed. DM- some of this will fit into the IGA itself, a lot of it won’t and will be in

our additional recommendations. CF thinks it all needs to be in the IGA itself, not sure this is feasible but some mechanism for including history of the decisions.

EAB IGA INPUT V5 DRAFT.PDF – will discuss later, but some concern that only one commission provided input – may be better to have them provide this to BoT themselves, not as part of task force recommendations.

IMPACT OF CHANGE TO PPA NO DEVELOPMENT.PDF – notes about impacts of changing parcel from RP to PAA

DRAFT IGA C FISHER EDITS V1.PDF – for review by task force members

VS DM TASK FORCE QNA 23JUL2024.PDF – responses from VS on process of IGA negotiations

TOWN DOCS UTILITY PLAN IMPACTING IGA INCLUSION SITES FISHER (V1).PDF – CF document outlining her understanding of prior reports on sewer and water and stormwater, modeling and impact of those conditions on old north – runoff from Steamboat Valley is a major issue and concerns about size of pipes. Also included blue line ordinance, needing variance to build above blue line and should not have negative impact on people in the area.

VI. Discuss Topics – Initial Review Of Recommendations Topics

Review/Edit the “General/Specific Recommendations” – Key Points Only

Discussion – Section 2 (iii) – CS – transparency of process and community trust in the BoT and BoCo relationship. Broaden beyond “areas of concern” – needs and areas of concern. JJ – not just feasibility of affordable housing - prioritize/consider housing affordability in all residential annexation considerations. JW – Creation of a sustainable year-round commercial economy. This is already in recommended revisions to IGA. CS – continue to fight for local control as it relates to land use at the state level. CS – support the concept of exploring infill as the first priority for housing affordability.

Section 3 recommendations – Rec. 1 is to the community rather than BoT – community needs to take ownership of these processes, not just complain about the outcome, but be part of the process and discussion throughout. Acknowledge the large amount of data that has been generated and considered and the fact that it is confusing. General agreement that this is appropriate.

Rec 2 - Extending IGA deadline – clearly appropriate given the timeframe.

Rec 3 – focus on areas of agreement – needs some wordsmithing – intent is to clarify the immediate priority with relation to Eastern Corridor and pending Tebo annexation. Ensure that there is a consideration of housing affordability goals in the upcoming annexation of that property as all task force members agree that Eastern Corridor has a lot of potential for housing in addition to commercial development.

Rec. 4 – define and clarify affordable housing goals, reconcile as much as possible the existing conflicting information to come up with one clear set of measures and goals. What is actually needed to meet the stated goals so we can know how we are moving toward meeting those goals? How does Prop 123 fit in?

Rec. 5 – “study history” – try to make it easier for community to track the process and history of what has happened in the past. Recs 5 and 6 go together well – we will combine these. DH – comment on item 6 – transparency – there were not nefarious things going on in negotiating the 2024 IGA, it was bad timing and was exposed during the election – don’t assume bad intent of our elected officials.

Rec. 7 – clarification of ownership of subdivided parcels with undevelopable areas. This is not answerable, we will remove this one.

Rec 8 – pull in some of the non-enforceable language from the prior IGA that we feel is important – what purposes and guiding principles do we want to recommend but not have in the IGA itself. Group wants to include this to show the intent – it will make them comfortable and feel good. JJ – disagree that there is value in making the document longer with unenforceable language just to make people feel good.

Edits to Draft IGA Document - Removal of reference to specific affordable housing requirements in Section 5. Discussion of removing all density requirements as well, which would eliminate all of the specific parcel information from the IGA. JJ – will agree to remove all of this if we revise 5.d. to be robust in terms of requiring consideration of density and housing affordability in accordance with goals of the Town.

VOTE - Motion – to remove the specific parcel requirements in 5.d.(a)-(g) and revise 5.d. as above with specific language TBD – motion by JJ, second by CS, approved unanimously.

IGA Map Discussion – Review initial draft of two recommendations “A” and “B” – no time to discuss.

Support Documents List – (What support data is should be added to BoT presentation deck – first review) – no time to discuss

VII. Summarize Action Items – Create language for 5.d. and propose specific language for this (JJ will work on this).

Review 2.d. (a) – (c) and come prepared to specifically discuss how to address this.

Focus on the redline IGA draft itself – be prepared to go through the document from start to finish.

VIII. Set Agenda For 1-Aug Meeting 12:00-1:30 (Tentative Agenda Topic: Second Review Of Recommendations And Presentation Outline). Subsequent meeting will be 8/13.

EAB document; Q&A document, CF report, Lyons Risk Factor video and document – review and discuss as needed.

Revisions to IGA document itself.

Talk about map if we have time.

IX. Adjournment – 1:27 PM

IGA TASK FORCE - OUTLINE V2 -- 24-July-2024

THE FOLLOWING IS A WORKING DRAFT OUTLINE OF THE PRESENTATION AND RECOMMENDATION FROM THE CITIZEN'S LYONS IGA TASK FORCE TO THE BOARD OF TRUSTEES (BoT). THIS IS INTENDED AS A WORKING OUTLINE ONLY TO BE REFINED BY THE COLLECTIVE TASK FORCE...

1) Overview

- A. What is the IGA and why do we have one?
- B. Task Force - who and why?
 - i. Why: Significant citizen concern about the process and direction of the Draft IGA lead to the BoT creating a citizen task force to review and provide recommendations.
 - ii. Who (how selected, criteria, etc)....
- C. Process used by task force
 - i. Meeting/Discussion dates and process
 - ii. Individual Research and data collection
 - iii. Discussion, debate....

2) Executive Summary / Key Findings

- i. **Widely different perspectives** to the issues lead to alternative recommendations in key areas (such as properties selected on the map for potential future annexation)
- ii. **Research findings** included in this document as reference materials for the BoT to consider as they deliberate on the recommendations provided.
- iii. **Primary Areas of Concern**
 - 1. Transparency of the process
 - 2. Concerns of impact for development on environmentally sensitive lands
 - 3. Health and Safety risk (fire, access/egress, flood, stormwater run-off, etc)
 - 4. Feasibility of proposed development to meet the housing goals outlined in the draft IGA
 - 5. Concerns related to natural constraints (i.e. flood zone, blue line, wildlife corridors, Urban/Wildlife interface, buffer zone, etc)
 - 6. Compatibility of density with existing developments
 - 7. ??

3) Recommendations to Board of Trustees

The Task Force has divided the recommendation to the BoT into three, inter-related sections for consideration: **(A)** general and specific recommendation on the IGA review process, **(B)** specific edits and questions related to the actual IGA document and **(C)** divided recommendation for how to address the IGA Map related to the document.

- A. **General and Specific recommendation on the process** (NOTE: This section should include any items that does not fit into the IGA document but that we want to recommend)
 - 1) **To the Community:** The challenge of the IGA are not assigned only to the BoT or Town Staff but rather, the community at large. Get involved, get informed, speak to neighbors, BoT, others. Avoid “fake-news”, assumptions or accusations. Remain united as a town, open minded, civil. (note: What we want to say here is that citizen involvement and

inputs in this process is critical. There is no reason to try to assign blame but rather, we, the people, need to be the drivers behind our Town's direction by being more engaged. How do we more clearly articulate this matter to defuse the issues?)

- 2) **Extend Deadline:** Advise BoCo of Need to Extend IGA development deadline: With the current IGA set to expire in November 2024, an extension will be needed to allow the current BoT time to properly re-engage in the review process, to appropriately study the data available, to clarify the goals of the IGA and to execute the needed planning for that document's execution
- 3) **Focus on what is agreed:** In multiple studies and surveys, the eastern corridor has time and again presented the highest potential for growth and development. Being close to utilities, below the blue-line, above flood zone, with lower wildlife interface risk, the BoT and staff should concentrate efforts on the development and integration of that area into Lyons. Such development will help us address both our commercial and residential housing goals in a singular, united and widely supported way.
- 4) **Define Real Goals :** Clarify and publish to the town our real Affordable/Attainable Housing ("A/AH") goals and clarify how those goals are measured (i.e. do we include ADUs, do we include only deed restricted A/AH properties, etc). Clarification of those goals will help unite the efforts toward solutions vs allowing the ongoing debate to distract from those efforts.
- 5) **Study History :** What do we know (studies, history, experience, reality...) -Reference Summit development learnings, feedback from developers (DM to summarized and included developer feedback).
- 6) **Transparency :** Shine light on process... how to define? Include examples of how limited the exposure was to the development of the Draft IGA
- 7) **Subdivided Parcel Implications ?:** BEFORE setting IGA Map, clarify who owns (will own) a divided property after the developable portion is sub-divided from the "no-development" portion. Define what the implications (cost)are to the town and include the potential impact (positive/negative) if BoCo retains ownership of the undeveloped portion of a sub-divided parcel.
- 8) **Guiding Principles to follow:** Include Items from 2012 IGA that are not actionable enough to keep in IGA but are good guiding principles. For example (section 1.1.2 with literary license): "...adopt as one of its guiding principles articulating the Town's interest in expanding the development potential in the area by proactively engaging with private landowners, neighboring land owners, citizens within and just outside of town limits, and government stakeholders to make collaborative land use decisions." (This is a good idea but hard to make concrete in practice for the IGA???)

B. **Specific Recommendations :** (edits) to the legal document (see attached "Red Line") (this section tbd following deeper deliberations)

C. **Map Recommendations** - Specific and General Recommendation to the Lyons Primary Planning Area (PPA) Map that includes Potential Annexation Areas (PAA)

IMPORTANT: Challenge Faced : The approach and considerations as to what property should or should not be included in the PPA or PAA was the most difficult part of the process given the emergence of two different perspectives on the most appropriate approach to making such determinations. As accounted for in the establishment of the Task Force, it was agreed that both perspectives would be presented for the BoT. The primary question came down to WHEN should particular parcels be assessed for potential annexation.

Option A: Keep all areas as defined on the Draft IGA and allow the Town's Annexation process to make that determination when and if such application is presented by a property owner:

Draft Option A Text by JJ: Keep all areas as defined on the Draft IGA and allow the Town's Annexation process to make that determination when and if such application is presented by a property owner: **We have a robust annexation process in place that addresses our identified issues of concern - utilities, water, traffic, hazard/fire risk, ingress/egress, etc. - that is based on current technologies and capacities at the time of the application. These determinations are made by experts in each area and focus on what is in the best interests of the Town at the time of each application, and these considerations will change over time. Replacing this expertise with our personal opinions and limited understandings of these issues is not appropriate. Why limit our options and the options of private landowners who may want to apply for annexation for the next 10 years based on incomplete information? It makes more sense to be dynamic in our approach and base decisions on what is known at the time of the application and on objective data rather than on our personal perspectives of how we feel about each parcel right now. Removing parcels from the map limits our options for the next decade or more, and we can't possibly anticipate the changes that could occur over that time.**

Option B: BoT to apply reasonable standard to consider appropriateness of possible annexation / development of parcels before the IGA is solidified:

(WORKING DRAFT- INCOMPLETE - by DM)

As the elected trustees of the citizens of Lyons, it is recommended that you apply, at least from a high level, the wealth of knowledge, expert inputs, readily available historical data and a level of critical reasoning before endorsing the change of a parcel from Rural Preservation to developable in the IGA document. It is vital that the basic considerations are made and that the implications of such a change are determined to be truly in the best interest of the community.

While robust, the annexation process, even when simple and widely accepted, is both costly (in terms of real dollars to the landowner and town) and in the form of opportunity cost to the community. A knowingly controversial annexation process over sensitive rural preservations land will not only take significant amounts of time, energy and focus from the BoT, PCDC, town staff and citizens, it has been shown to create significant division within the community.

Prior to consideration of such an annexation process, it is reasonable that the BoT make to ask the question "WHY" and determine if there is more positive than negative answers to such a question. The BoT should apply reasoned judgement (using some defined criteria

such as the example below). When in doubt, the BoT should error on the side of conservative, protect our natural environment, and minimize health and safety risks for the citizens. Once developed, Rural Preservation land will never exist again.

(DRAFT CRITERIA)

- Include suggested Site Selection criteria to be used by Bot
- If A/AH goals are being applied to a potential parcel, use an independent and measurable Site Selection criteria to assure that the property is appropriately suited to support the population that A/AH is intended to help.
- Include table showing risk factors by property

DRAFT: General Site Selection Criteria to be applied

- o Wildlife / Environmental Impact
- o Health & Safety
 - Fire risk - House to house spread, elimination of defendable buffer zones
 - Access and Egress (especially in an emergency)
 - Storm Water Run-off
 - Flood plain, flood zone, nuisance flooding risk
- o Traffic Impact to surrounding
- o Maintain Urban and Rural interface buffer
- o Development feasibility (difficulties of construction, slope lines) - financial feasibility

DRAFT: For Affordable Housing - Site Selection Criteria -- Examine land and what meets goals developing affordable housing

- o **Location Factors :**
 - Consider where the site is located. (accessibility standard/ADA)
 - **“Walk-Shed”:** Proximity and assess to town and social services (via foot, bike, wheelchair, etc.)
 - **Accessibility Requirements:** Zoning, Location (will site support independence and is the location near services that would be used by residents like transportation access to job center and grocery stores), Infrastructure (does site have ADA-accessible infrastructure as in sidewalks, curb cuts, accessible pedestrian signals)
 - **Evacuation** risk factors
 - **Site infrastructure** cost / complexity - can site support lower cost development (see physical factors)
 - **Property size:** does it allow for scalable development and a variety of housing types (affordable, attainable, market rate)
 - **Target Population Needs:** Key considerations-homeless, families, people with disabilities and special needs, single people, workforce, people with specific income levels. See document for more information regarding financing.
- o **Market Feasibility:** Market study on housing needs assessment, Housing Development Models, Team and Roles. Market study is used to build an understanding of how your development on the selected site will fit into the community and what demands will be met. A new market study will need to be completed specific to each new development. This shows the feasibility and whether it is likely to be successful. This is a key risk-management tool. Need development description, location analysis, comparability analysis, site analysis.

○ **Physical & Environmental Factors:**

- **Slope:** Change in **Elevation**. Most site-selection guidance rules out 10% grade or higher due to cost (moving soil, stormwater management infrastructure, etc.)
- **Drainage / Hydrology** : must be considered.
- **Soil:** Conditions must be considered.
- **Environmental Consideration** : Natural and Human made (flood, fire, wildlife, etc.)
- **Parcel Size & Shape** : How development fits and connects with its surroundings.
- **Existing Utilities & Infrastructure** : Access to existing utilities and infrastructure important for new housing construction, where site improvements to extend or add new/significant upgraded onsite infrastructure may be cost-prohibitive.
 - capacity for additional hookups to existing infrastructure or utility lines.
 - Water lines, Sewer lines, Trash service, Electric, Gas, Broadband, Transportation Access, frontage roads, road access.

- **Regulatory Factors:** Current Zoning. Type of projects (specific groups, do zoning classifications incentives for housing affordability, services, public benefits, requirement of affordable housing units to be provided as part of new development).

LYONS PLANNING AREA COMPREHENSIVE DEVELOPMENT PLAN INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (“Agreement”) is entered into by the Town of Lyons, a Colorado statutory municipal corporation (“Lyons” or the “Town”), and Boulder County, a body politic and corporate of the State of Colorado (the “County”) (individually a “Party” and collectively, the “Parties”) as of the date of the latest signature below.

RECITALS

- A. The Parties are authorized by §§ 29-20-101 et seq., C.R.S., and encouraged by Colorado Constitution, article XIV, section 18(2), to enter into intergovernmental agreements to plan for and regulate land uses, in order to minimize the negative impacts on the surrounding areas and protect the environment, and to cooperate and contract with each other for the purposes of planning and regulating the development of land by means of a “comprehensive development plan;” and
- B. In December 2002, the Parties entered into a Comprehensive Development Plan Intergovernmental Agreement (the “Original IGA”) for a period of ten years which, among other things, defined the Lyons Planning Area as the area the Town may annex and develop. The Original IGA was amended in 2005 and again in 2011. The parties entered into a new Comprehensive Development Plan Intergovernmental Agreement (the “2012 IGA”) in 2012, which replaced the Original IGA. That term of the 2012 IGA has been extended several times and ends in November 2024.
- C. The Parties agree that an intergovernmental agreement to replace the 2012 IGA, providing a comprehensive development plan that recognizes both the urbanization potential of certain lands in the County near Lyons and the rural character of adjacent lands in the County, along with restrictions on development or purchase of open space lands in those areas as defined in this Agreement, is in the best interests of the residents of each of the Parties for the preservation of the unique and individual character and rural quality of those lands; and
- D. The Parties agree that designating portions of Boulder County to remain in Boulder County’s jurisdiction and in a rural character as defined in this Agreement is in the economic and civic interests of their residents and meets the goals of the Boulder County Comprehensive Plan and the Lyons Comprehensive Plan; and
- E. Consistent with municipal annexation, utility service, and land use laws of the State of Colorado, as well as with the Comprehensive Plans of both Parties, this Agreement is intended to (i) encourage the natural and well-ordered development of Lyons and the County; (ii) promote planned and orderly growth in the affected areas and prevent sprawl by encouraging clustered development where appropriate and consistent with existing development; (iii) promote the economic viability of the Parties, including building a thriving year-round economy in Lyons through encouraging development

of new commercial, light industrial and, mixed-use, and workforce housing, and senior housing; and (iv) emphasizes proactively planning for the future needs of the community while balancing the demands of environmental and economic sustainability with the community character, wildlife and ecological preservation, historic preservation and property owners rights.

- F. The Parties have previously entered into the CEMEX Area Comprehensive Development Plan Intergovernmental Agreement (“CEMEX Area IGA”), a complementary IGA that addresses development and preservation issues for the portions of the Lyons Comprehensive Plan as adopted in 2023 (“LCP”) area not contained within this IGA. For the purposes of this IGA, LPA refers to all portions of the overall Lyons Planning Area that are not separately addressed in the CEMEX Area IGA. This IGA and the CEMEX Area IGA together represent a shared vision of appropriate development for the areas covered by the IGAs for their respective durations; and
- G. The Parties have each held duly noticed public hearings for consideration of this Agreement and the comprehensive development plan terms it contains for the subject lands as defined in the Agreement and depicted on the map attached as Exhibit A; and
- H. The Parties are authorized to perform the functions described in this Agreement by article 20 of title 29, part 1 of article 28 of title 30, part 1 of article 12 of title 31, and parts 2 and 3 of article 23 of title 31, C.R.S.; and
- I. The Parties desire to enter into this Agreement to plan for land uses in a mutually binding and enforceable comprehensive development plan.

DEFINITIONS

The Town. The area within the current municipal boundaries of the Town of Lyons, as depicted on Exhibit A.

Potential Annexation Area or PAA. The lands surrounding the Town, depicted on Exhibit A, within which the Town may annex parcels and within which the County agrees not to purchase lands for open space preservation, subject to the terms of this Agreement.

Rural Preservation Area or RPA. The lands outside the PAA in unincorporated Boulder County, depicted on Exhibit A, where Lyons may not annex parcels and where the Town or the County may purchase lands for open space preservation, subject to the terms of this Agreement.

Estate Residential District/Very Low Density. One unit per gross acre (minimum and maximum).

Country Estate (add definition and correct title from Town Code) - Density

Low Density. Six units per gross acre (minimum and maximum).

Medium Density. Twelve units per gross acre (six minimum and twelve maximum).

High Density. Sixteen units per acre gross (twelve minimum and sixteen maximum).

AGREEMENT

1. Lyons Planning Area (LPA) Comprehensive Development Plan

This Agreement, including Exhibit A, is adopted to set forth the Lyons Planning Area (“LPA”) Comprehensive Development Plan as that term is used in § 29-20-105(2)(a), C.R.S. The LPA constitutes the Town, the PAA and the RPA. The Agreement governs the Parties’ use of lands and procedures within the LPA.

2. Potential Annexation Area (PAA).

- (a) The PAA shown on Exhibit A is in the County’s regulatory jurisdiction but may be annexed to Lyons in the future. With its approval and adoption of this Agreement, the Board of County Commissioners for Boulder County determines that a community of interest exists between lands in the PAA and Lyons.
- (b) Lyons agrees that it may annex only lands within the PAA, as depicted on Exhibit A. Lyons agrees that it will not annex lands outside the PAA.
- (c) The County agrees that it will not make any open space acquisitions inside the PAA, except for lands subject to existing or prior approval for such acquisitions from Lyons.
- (d) Areas designated “No Development Area” on Exhibit A have been determined to be inappropriate for development. Therefore, structures and/or development are prohibited in these areas, with the exception of the following:
 - a. The No Development Area on the Boone Parcel (Parcel 120307000058) and the Walters Parcel (Parcel # 120307000013) shall have no development except for utility facilities, access, emergency access, passive recreation, and structures associated with those uses.
 - b. The No Development Area on the Loukonen parcel (Parcel # 120320000038), may be utilized to provide vehicular and utility access to Area B shown on Exhibit A.
 - c. The Loukonen Area C No Development Area (a portion of Parcel # 120320000038 as shown on Exhibit A) shall have no development except for RV/tent camping, and associated access and parking consistent with the regulations of the Town or the County.
- (e) When parcels are annexed which contain No Development Areas, the Town, prior to final plat recordation or other final approval for any development on those parcels, must ensure that the property owners grant to the County and to the Town a Conservation Easement

pursuant to Article 30.5 of Title 38 of the Colorado Revised Statutes, in a form acceptable to both the County and the Town, which prohibits structures and development in the No Development Area of the properties as provided above.

(f) When evaluating development applications, with in their respective responsibilities, both Parties will consider the impact of proposed development on floodways, stormwater run-off, natural area, wildlife habitat, steep slopes and historically and archaeologically-significant areas and will require impact to be reasonably mitigated before approval.

(g) New residential development or neighborhoods should be designed and sighted to protect significant natural areas, wildlife habitat and avoid locations or significant risk of natural hazards.

(h) Lyons agrees that the PAA cannot expand within Boulder County.

(i) Any property currently inside the Town that becomes disconnected will be treated as PAA.

3. Rural Preservation Area (RPA).

(a) The RPA will remain in the County's regulatory jurisdiction for the term of this Agreement.

(b) With its approval and adoption of this Agreement, Lyons determines that there is no community of interest between the RPA and Lyons during the term of this Agreement, and Lyons will not annex lands in the RPA.

(c) Lyons affirms that it is not currently pursuing annexations within the RPA.

4. Lands outside the Lyons Planning Area (LPA).

Excepting the area covered by the CEMEX Area IGA, which is addressed in a separate IGA, the Parties agree that lands outside the LPA a will remain in the County's regulatory jurisdiction. Lands outside the LPA may be acquired by either Party for open space preservation.

5. Special Provisions.

(a) Lyons agrees that it will only annex lands in the PAA over which the County owns a conservation easement after the County releases the conservation easement or if the easement terminates upon annexation by its terms. The Parties intend this Agreement be the sole jointly adopted comprehensive development plan related to County conservation easement lands in the PAA.

(b) The County will refer in writing any discretionary development applications within one mile of Town limits, and any amendment to the Boulder County Comprehensive Plan affecting such parcels, to the Town. Said referrals will be sent according to the timing set forth in the Boulder County Land Use Code.

(c) The Town shall refer in writing to the County any application for annexation and any proposed amendments to the Lyons Comprehensive Plan.

(d) If applications for annexation of the following parcels, as shown in Exhibit A, for the purpose of creating new residential developments on such parcels are submitted for consideration, not including any commercial development or continuation of existing use, said parcels may only be annexed by the Town if the development proposal expands the supply of affordable and workforce housing, as appropriate for each parcel, in accordance with the Lyons Comprehensive Plan and if the following density requirements are met by the proposed residential development on each parcel:

a. The Boone Parcel (Parcel # 120307000058).

i. Estate Residential District/ Very Low Density is prohibited.

b. The Carpenter Parcel (Parcel # 120307000031).

i. Estate Residential District/ Very Low Density is prohibited.

c. The Connor Parcel (Parcel # 120318100001).

i. Estate Residential District/ Very Low Density is prohibited.

d. The Hawkins Parcel (Parcel # 120320200001).

i. Low, Medium or High Density is required.

e. The Harkalis Parcel (Parcel # 120319101001).

i. Low, Medium or High Density is required.

f. The Loukonen Area A (a portion of Parcel # 120320000038 as shown on Exhibit A).

- i. Low, Medium or High Density is required.
- g. The Loukonen Area B (a portion of Parcel # 120320000038 and as shown on Exhibit A).

- i. Low, Medium or High Density is required.

6. Regional Housing Partnership

The Parties recognize that addressing housing affordability is a regional concern and agree to continue to participate in the **Regional Housing Partnership** and work collaboratively along with other jurisdictions to address this issue.

7. Implementation Procedures

The Parties agree to take all necessary steps to adopt procedures, plans, policies, and ordinances or conduct other proceedings necessary to implement and enforce this Agreement. In doing so, each Party will give the other sufficient advance notice to enable the other Party to comment on the planned action if so desired.

8. Partnerships

The Parties recognize and acknowledge the need for intergovernmental cooperation on important local and regional land use matters and to achieve common goals. In accordance with the LCP, the Town and the County agree to cooperate in good faith to:

- (a) Identify and implement programs that assist the Town in meeting its affordable housing goals within the Lyons Planning Area.
- (b) Collaborate on identifying potential grants that support housing, transportation, stream quality, stormwater management, infrastructure, electrification, hazard mitigation, trails, and recreation.
- (c) Work with the Regional Transportation District, Denver Regional Council of Governments, and Colorado Department of Transportation to improve Lyons multimodal transportation systems, transportation safety, electric opportunities, and reduction of emissions (Z-Trips / RTD / Lyons Flyer).
- (d) Collaborate on trails connecting the Town to Boulder County Open Space and other areas in the County.
- (e) Share geographic information system data, maps and expertise;
- (f) Continue to collaborate on recycling and compost facilities.
- (g) Enforce nuisance ordinances to improve the appearance of properties in the LPA.

9. Amendments

This Agreement contains the entire agreement between the Parties and, with the exception of the CEMEX Area IGA, supersedes and replaces any other or prior agreements concerning the same subject matter including the 2012 IGA. Any annexation, property acquisition, or land use or development that does not comply with this Agreement is prohibited without an amendment to the Agreement agreed to by the Parties.

Amendment of the Agreement requires approval by resolution or ordinance approved and adopted by the governing body of both Parties after notice and hearing as required by law. No

action inconsistent with this Agreement may be taken by any Party before this Agreement is amended as required in this Section 9.

10. Non-severability

If any portion of this Agreement is held by a court in a final, non-appealable decision to be per se invalid or unenforceable as to any Party, the entire Agreement shall be terminated, the Parties understanding and intending that every portion of the Agreement is essential to and not severable from the remainder.

11. Beneficiaries

The Parties, in their corporate and representative governmental capacities are the beneficiaries of this Agreement.

12. Enforcement

Any one or more of the Parties may enforce this Agreement by any legal or equitable means, including specific performance, declaratory and injunctive relief. No other person or entity will have the right to enforce the provisions of this Agreement.

13. Indemnification

Each Party agrees to be responsible for its own actions or omissions, and those of its officers, agents and employees in the performance or failure to perform work under this IGA. By agreeing to this provision, neither Party waives or intends to waive, as to any person not a party to the IGA, the limitations on liability that are provided to the Parties under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

14. Governing Law and Venue

This Agreement will be governed by Colorado law, and venue for any dispute involving the Agreement will be exclusively in Boulder County.

15. Term and Effective Date

This Agreement will become effective when signed by authorized representatives of the governing bodies of each of the Parties. Unless otherwise stated in this Agreement, the Agreement shall remain in effect for a period of 20 years from the effective date unless terminated earlier by written agreement of the Parties pursuant to terms of this Agreement or extended as provided below.

At 10 years after the current effective date, the effective date of the Agreement will automatically update to that date 10 years after the previous effective date. In order to avoid automatic extension, a Party must hold a duly noticed public hearing at least 90 days before the date 10 years after the current effective date and make such determination. The current effective date will then remain in place. Notices of the hearing and subsequent Party action must be provided to the other Party.

16. Party Representatives

Referrals and notices required by this Agreement will be made to the following:

For Boulder County:

Director, Community Planning & Permitting Department
PO Box 471
Boulder, CO 80306

For Lyons:

Town of Lyons
Town Administrator
P.O. Box 49
432 Fifth Avenue
Lyons, Colorado 80540

Changes of name or address for Party representatives will be made in writing, mailed as stated in this Section 16.

THIS AGREEMENT made and entered into as of the latest date set forth below.

TOWN OF LYONS

By: _____
Mayor

Attest:

Town Clerk

Approved as to form:

Town Attorney

BOULDER COUNTY
BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Chair

Attest:

Approved as to form:

Clerk to the Board

County Attorney

DRAFT



EAB Final Draft Input to the IGA Task Force

July 21, 2024

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4) Other Comments:

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

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

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

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

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

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

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

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

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

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

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

Topic: Impact on changing a parcel from “Rural Preservation” to “PPA/No Development”

If a property is changed from “Rural Preservation” to “PAA/No Development” (such as the “Walters” parcel), there's an exception in the IGA draft (p. 3, paragraph 2(d)a. : **"except for utility facilities, access, emergency access, passive recreation and structures associated with those uses."** Read that as **"a road, utility lines, and a water or sewer lift station if needed."**

One might ask, if the Walters say "No, we don't want to annex," (and there's no such thing as involuntary annexation), wouldn't that stop the Town from putting a road, utility lines or a lift station on the Walters property outside Town limits?

A review of C.R.S. 38-1-101(4)(b)(I) illustrates the following:

"(b) (I) Effective January 1, 2004, no home rule or statutory municipality shall either acquire by condemnation property located outside of its territorial boundaries nor provide any funding, in whole or in part, for the acquisition by condemnation by any other public or private party of property located outside of its territorial boundaries; ***except that the requirements of this paragraph (b) shall not apply to condemnation for water works, light plants, power plants, transportation systems, heating plants, any other public utilities or public works, or for any purposes necessary for such uses.***"

Therefore, it seems, that if a parcel is changed to PPA/No Development, it may be condemn for an easement for roads or utilities, or a small parcel to build a lift station, even if the owners refuse to be annexed.

In the past, the town could not do this on that particular parcel because doing so would conflict with the County's "Rural Preservation" status. But if that status changes to "PAA/No Development ***except for*** [utilities, roads, etc.]", then the Town could use its condemnation power under state law.

LYONS PLANNING AREA
COMPREHENSIVE DEVELOPMENT PLAN
INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("Agreement") is entered into by the Town of Lyons, a Colorado statutory municipal corporation ("Lyons" or the Town"), and Boulder County, a body politic and corporate of the State of Colorado (the "County") (individually a "Party" and collectively, the "Parties") as of the date of the latest signature below.

RECITALS

- A. The Parties are authorized by SS 29-20-101 et seq., C.R.S., and encouraged by Colorado Constitution, article XIV, section18(2), to enter into intergovernmental agreements to plan for and regulate land uses, in order to minimize the negative impacts on the surrounding areas and protect the environment, and to cooperate and contract with each other for the purposes of planning and regulating the development of land by means of a "comprehensive development plan;" and
- B. In December 2002, the parties entered into a Comprehensive Development Plan Intergovernmental Agreement ("Original IGA") for a period of ten years which, among other things, defined the Lyons Planning Area as the area the Town may annex and develop. The Original IGA was amended in 2005 and again in 2011. The parties entered into a new Comprehensive Development Plan Intergovernmental Agreement (the "2012 IGA") in 2012, which replaced the Original IGA. That term of the 2012 IGA has been extended several times and ends in November 2024.
- C. The Parties agree that designating portions of Boulder County to remain in Boulder County's jurisdiction and in a rural character as defined in this Agreement is in the economic and civic interests of their residents and meets the goals of Boulder County Comprehensive Plan and Lyons Comprehensive Plan, and
- D. The Parties agree that it is in the best interest of the residents of both communities to enter into a new IGA in order to preserve Lyons' unique and individual character through the orderly development within the newly defined Lyons Planning Area ("LPA"). The LPA contains a Primary Planning Area ("PPA") / Potential Annexation Area ("PAA") where annexation and development may occur in accordance with the provisions of

this IGA. It also includes areas designated as Rural Preservation Area (RPA) where the Parties' intent is to preserve the rural quality of the land;

- E. The Parties have previously entered into the CEMEX Area Comprehensive Development Plan Intergovernmental Agreement ("CEMEX Area IGA"), a complementary IGA that addresses development and preservation issues for the portions of the Lyons Comprehensive Plan as adopted in 2023 ("LCP") area not contained within this IGA. For the purposes of this IGA, LPA refers to all portions of the overall Lyons Planning Area that are not separately addressed in the CEMEX Area IGA. This IGA and the CEMEX Area IGA together represent a shared vision of appropriate development for the areas covered by the IGAs for their respective durations; and
- F. The Parties have each held duly noticed public hearing for consideration of this Agreement and the comprehensive development plan terms it contains for the subject lands as defined in the Agreement and depicted on the map attached as Exhibit A; and
- G. The Parties are authorized to perform the functions described in this Agreement by article 20 of title 29, part 1 of article 28 of title 30, part 1 of article 12 of title 31, and parts 2 and 3 of article 23 of title 31, C.R.S.; and
- H. The Parties desire to enter into this Agreement to plan for land uses in a mutually binding and enforceable comprehensive development plan.

1. PURPOSE AND INTENT

1.1. Implementing Comprehensive Plans. This IGA is designed to implement the goals and policies set forth in the Parties' respective comprehensive plans.

1.1.1. The LCP emphasizes that in order for Lyons to become economically sustainable, it must transition from a residential development-based economy to a commercial-based, localized economy. To this end, Lyons will strive to preserve and expand employment opportunities, reduce retail leakage, attract visitors, and encourage new commercial, light-industrial and mixed-use development in the PPA while concentrating any significant additional housing within its current Town limits or within mixed-use areas with commercial being the predominant land use in these areas.

1.1.2. The LCP adopts as one of its guiding principles articulation the Town's interest in expanding the development potential in the area by proactively engaging with private and government stakeholders to make collaborative land use decisions.

1.1.3. The LCP emphasizes proactively planning for the future and balancing the demands of environmental and economic sustainability with community character, historical preservation and property owners' rights.

1.1.4. The Boulder County Comprehensive Plan, as amended from time to time, (the “BCCP”) seeks to protect agricultural lands, channel growth to municipal planning areas and consider environmental and natural resources in land use decisions.

1.2 Recognizing Future Urban Development is Appropriate in the LPA. This IGA intends to direct future urban development within the PPA to: avoid sprawl, ensure the provision of adequate urban services, maximize the utility of funds invested in public facilities and services, distribute fairly and equitably the costs of government services among those persons who benefit therefrom, extend government services and facilities in an efficient logical fashion, simplify the governmental structure of the affected areas, and reduce and avoid, where possible, conflict between Parties.

1.3 Maintaining Community Buffer. This IGA is intended to keep the RPA and the land outside the LPA rural in character to rural in character to preserve a community buffer.

1.4 Protecting View Corridors and Allowing Only Compatible Development in the LPA. This IGA acknowledges the importance to both Parties of protecting sensitive natural area, maintaining view corridors, enforcing nuisance ordinances and ensuring that the new development is compatible with the character of both Lyons and adjoining County properties.

1.5 Fostering Intergovernmental Cooperation. This IGA encourages the Parties to collaborate to achieve common goals, including becoming more socially, economically and environmentally sustainable and supporting the public and private provision of cultural, educational, social and healthcare services in the LPA.

1.6 Encouraging Transparent and Timely Decisions. This IGA is intended to encourage transparent, open communication between the Parties and to ensure that decisions pertaining to this IGA are made in a timely and efficient manner.

2.0 LYONS COMPREHENSIVE DEVELOPMENT PLAN (IGA). (DEFINITIONS)

2.1 IGA Plan Defined. This IGA, including the Map attached hereto as Exhibit A, shall be known as the IGA Plan (as distinguished from the Lyons Comprehensive Plan, LCP). The IGA Plan shall govern and control the LPA.

2.2 **Lyons Planning Area** or LPA. **The area shown on Exhibit A,** which constitutes the Town,

the Potential Annexation Area-Primary Planning Area (the “PAA” and “PPA”, respectively) and Rural Preservation Area (“RPA”). The Map indicates six portions of the PAA-PPA that are designated as “No Development Areas.”

2.3. The Town. The area within the current municipal boundaries of the Town of Lyons, as depicted on Exhibit A.

2.4 Lyons Planning Area or LPA. The area shown on Exhibit A, which constitutes the Town, the PAA and the RPA.

2.5 Potential Annexation Area or PAA. The lands surrounding the Town, depicted on Exhibit A, within which the Town may annex parcels and within which the County agrees not to purchase lands for open space preservation, subject to the terms of this Agreement.

2.6 Areas designated “No Development Area” on Exhibit A have been determined to be inappropriate for development. Therefore, structures and/or development are prohibited in these areas.

DISCUSSION: Should there be any mandated uses, as currently in the draft (mid p 3).

2.7 Rural Preservation Area or RPA. The lands outside the PPA in unincorporated Boulder County, depicted on Exhibit A, where Lyons may not annex parcels and where the Town or the County may purchase lands for open space preservation, subject to the terms of this Agreement.

DISCUSSION: The DENSITIES seem to be a large area of controversy (mid p 3). OUT, IN, OR MODIFY

3.0 ANNEXATION AND DEVELOPMENT OF PROPERTY. (AGREEMENT)

3.1 Lyons Planning Area (LPA) Comprehensive Development Plan

This Agreement, including Exhibit A, is adopted to set forth the Lyons Planning Area (“LPA”) Comprehensive Development Plan as that term is used S 29-20-105(2)(a), C.R.S. The LPA constitutes the Town, the PAA, and the RPA. The Agreement governs the Parties’ use of lands and procedures within the LPA. The Town may annex into its corporate boundaries any and all property located within the PPS, including the No Development Areas, in accordance with state and local laws governing annexation. The town agrees that it will only annex parcels in their entirety, not portions of a parcel, into the Town, unless mutually agreed to by the Parties. By

executing this IGA, the County finds and declares that a community of interest exists between the Town and all property located within the PPA. The County will cooperate with Town efforts to annex land in the PPA.

3.2 Potential Annexation Area (PAA).

3.2.1 The PAA Shown on Exhibit A is the County's regulatory jurisdiction but may be annexed to Lyons in the future. With its approval and adoption of this Agreement, the Board of County Commissioners for Boulder County determines that a community of interest exists between lands in the PAA and Lyons.

3.2.2 Lyons agrees that it may annex only lands within the PAA, as depicted on Exhibit A.

Lyons agrees that it will not annex lands outside the PAA.

3.2.3 The County agrees that it will not make any open space acquisitions inside the PAA, except for lands subject to existing or prior approval for such acquisitions from Lyons.

3.2.4 Areas designated "No Development Area" on Exhibit A have been determined in appropriate for development. Therefore, structures and/or development are prohibited in these area.

DISCUSSION: Some exceptions were made in the Draft p.3

3.2.5. When parcels are annexed which contain NO Development Areas, the Town, prior to final plat recordation or other final approval for any development on those parcels, must ensure that the property owners grant to the County and to the Town a Conservation Easement pursuant to Article 30.5 of Title 38 of the Colorado Revised Statutes, in a form acceptable to both the County and the Town, which prohibits structures and development in the No Development Area of the properties as provided above.

3.2.6 Lyons agrees that the PAA cannot expand within Boulder County.

3.2.7 Any property currently inside the Town that becomes disconnected will be treated as PAA.

3.3 Rural Preservation Area (RPA).

3.3.1 The RPA will remain in the County's regulatory jurisdiction for the term of this Agreement.

3.3.2 Within its approval and adoption of this Agreement, Lyons determines that there is no

community of interest between the RPA and Lyons during the term of this Agreement, and Lyons will not annex lands in the RPA.

3.3.3 Lyons affirms that it is not currently pursuing annexations with the RPA.

3.4 Land outside the Lyons Planning Area (LPA)

3.4.1 Excepting the area covered by the CEMEX Area IGA, which is addressed in a separate IGA, the Parties agree that lands outside the LPA will remain in the County's regulatory jurisdiction. Lands outside the LPA may be acquired by either Party for open space preservation.

3.5 Developing Areas with Constraints.

3.5.1 When evaluating development applications within their respective areas of responsibility, both Parties will consider the impact of proposed development on the floodway, natural areas, wildlife habitat, steep slopes, and historically-and archaeologically-significant areas, and will require impacts to be reasonably mitigated.

3.6 Promote Quality Design and Development.

3.6.1 The Town will promote quality architecture and landscaping that is done in an environmentally sensitive manner.

3.7 Special Provisions.

3.7.1 Discuss draft 5(a)

3.7.2 The County will refer in writing any discretionary development applications within one mile of Town limits, and any amendment to the Boulder County Comprehensive Plan affecting such parcels, to the Town. Said referrals will be sent according to the timing set forth in the Boulder County Land Use Code.

3.7.3 The Town shall refer in writing to the County any application for annexation and any proposed amendments to the Lyons Comprehensive Plan.

3.7.4 THE BIG DISCUSSION draft section 5. (d)

Special conditions for annexation of each property

Begins bottom of page 4- bottom page 6.

3.8 Regional Housing Partnership

- 3.8.1.** The parties recognize that addressing housing affordability is a regional concern and agree to continue to participate in the Regional Housing Partnership and work collaboratively along with other jurisdictions to address this issue.

3.9 Implementation Procedures

- 3.9.1** The Parties agree to take all necessary steps to adopt procedures, plans, policies, and ordinances or conduct other proceedings necessary to implement and enforce this Agreement. In doing so, each Party will give the other sufficient advanced notice to enable the other Party to comment on the planned action if so desired.

4.0 Partnerships.

4.1 The Parties recognize and acknowledge the need for intergovernmental cooperation on important local and regional land use matters and to achieve common goals. In accordance with the LCP, the Town and the County agree to cooperate in good faith to:

- 4.1.1 Identify and implement programs that assist the Town in meeting its affordable housing goals within the Lyons Planning Area.
- 4.1.2 Collaborate on identifying potential grants that support housing, transportation, stream quality, stormwater management, infrastructure, electrification, hazard mitigation, trails, and recreation.
- 4.1.3 Work with the Regional Transportation District, Denver Regional Council of Governments, and Colorado Department of Transportation to improve Lyons multimodal transportation systems, transportation safety, electric opportunities, and reduction of emissions (Z-Trips / RTD / Lyons Flyer).
- 4.1.4 Collaborate on trails connecting the Town to Bould County Open Space and other areas in the County.
- 4.1.5 Share geographic information system data, maps and expertise;
- 4.1.6 Continue to collaborate on recycling and compost facilities.
- 4.1.7 Enforce nuisance ordinances to improve the appearance of properties in the LPA.

Continue adding the remainder of page 7 – 9 of the DRAFT document to finish.

THE FOLLOWING IS A QUESTION AND ANSWER COMMUNICATION BETWEEN TOWN ADMINISTRATOR SIMONSON AND IGA TASK FORCE CHAIR DOUGLAS MATTHEWS. THE ONLY EDITS OF THIS COMMUNICATION HAVE BEEN IN FORMATTING FOR EASIER REVIEW AND ELIMINATION OF SOME BACK AND FORTH DIALOG BETWEEN QUESTIONS AND ANSWERS:

From: Victoria Simonsen <vsimonsen@townoflyons.com>
Sent: Tuesday, July 23, 2024 2:56 PM
To: Douglas Matthews <matthews.douglas.d@gmail.com>
Cc: David Hamrick <dhamrick@townoflyons.com>; Andrew Bowen <abowen@townoflyons.com>
Subject: RE: IGA Questions (per your offer of clarity)

Good afternoon. See comments below.



Victoria Simonsen
Town Administrator
303-823-6622, ext. 19
vsimonsen@townoflyons.com

Please note that my email may be subject to the Colorado Open Records Act.

From: matthews.douglas.d@gmail.com <matthews.douglas.d@gmail.com>
Sent: Tuesday, July 16, 2024 10:37 PM
To: Victoria Simonsen <vsimonsen@townoflyons.com>
Cc: David Hamrick <dhamrick@townoflyons.com>
Subject: IGA Questions (per your offer of clarity)

Hello Victoria,

Thanks again for the open dialog today after the IGA Task Force meeting.

I do wish to take you up on your offer to help provide clarity on some of the many important "why" questions that remain open. While these have been asked, I do realize that they were not directed to you specifically, so you may not be aware of the question that I have been working to address since the start of this process.

As mentioned, in the absence of data or insight about what went into key decisions related to the IGA, we have tried to use available resource to piece things together. Clarity on these topics will greatly influence the direction of the task force and our recommendations to the BoT. I tried to break things down into three main categories:

1. Property Selection:

- a. For the properties added / subtracted / changed on the IGA map (from 2012 to 2014), other than the fact that some owners are looking to sell their land, what selection criteria went into determining which properties were targeted for consideration of annexation?

VS ANSWER: *We first discussed any properties that had inquired about annexation in the past few years. (The three on the north side made regular contact with the town over the past several years asking when the IGA would be opened so they could include their properties in the planning area. We also looked at properties adjacent to the current town limits (e.g., Harkalis) and could possibly connect to utilities.*

The only property removed (I believe) was above Highland Drive. The area north of the Highland Ditch does not have an access point, except over the Boulder County open space to the north. This was recently purchased by a new owner, and they were more interested in keeping this native and developing the low ground below and allowing this hillside to join the rest of the site as rural preservation.

- b. What evaluation criteria went specifically into the decision to change some parcels from Rural Preservation to available for annexation? That is, why was one Rural Preservation property vs another?

VS ANSWER: *It was included upon the request of the property owner, it's adjacency to town limits, and the consent of the county to consider it.*

- c. To the east of the Carpenter property, is 346 Steamboat Valley Road -- referenced as "Walters (Parcel # 120307000013)" - Owner is Matt Hanley, who I spoke with again last week. He reported having no knowledge of why this parcel was selected to move from "Rural Preservation" to "Potential Annexation / No development". This parcel is larger, very developable, and has far less slope than the Carpenter parcel (except for drainage to the east edge). What decision making process went into the selection and designation changes to this particular parcel? Any insight to how this happened without discussions with the property owner (or perhaps there were discussion and I have been misinformed)?

VS ANSWER: *The property owner did not request annexation, and we did not pursue it. The east half of this property is a significant drainage system that runs through the center of Lyons. It is not appropriate for development. It was marked as potential for annexation because of its location. It certainly could be annexed if / when desired. The town is more interested in a utility easement on the northern edge to create a water loop between Vasquez and Horizon. This would increase water pressure, flows and quality to the north side. We would also like to keep the option of pursuing a major storm water mitigation grant in the future for consideration of a retaining structure for heavy rain events.*

The IGA is between the County and the Town. We do not necessarily meet with every property owner at the time of the IGA because they change. This is a very high-level view of what the community needs to consider for its long-term planning and sustainability. We did not meet with every property owner in Apple Valley and the South St. Vrain and get their permission to include them on the previous maps. This is a planning document. It is not a map of what the town is going to do. It is a snapshot of what may be feasible and allowed in the future based on our infrastructure and

needs. Our town has never used eminent domain to take a property (that I know of). It is at the request of the property owners.

- d. When residents of town (inside or outside the boundaries) ask “If decisions can change Rural Preservation land to developable, on what is perceived as high-risk, highly environmentally sensitive land (example: Connor Parcel), what is to prevent the efforts to build on other rural preservation land in the future?” Note: This seems to be the driving concern of folks on Apple Valley Road, many in upper steamboat valley and some within Stone Canyon.

VS ANSWER: *We want to be able to show what may be an option acceptable to the county and town, and what is not. Again, property owners have rights. If they want to change their use, they can request it. As we have learned from many years of development, the only way to guarantee that something won’t be developed, is to buy it yourself.*

- e. The large parcel (sorry, I haven’t found owner name) on North side of eastern corridor, just above Highland Drive, was removed from the town planning area. Is it a correct assumption that that was the “trade-off” with BoCo (moving that outside our planning area) to allow us to develop other rural preservation lands? This was the implication I received from my discussions with Dale Case but without specific confirmation.

VS ANSWER: *No. It was not a trade off for the north side. It was actually a trade off for the parcel south of Highland Ditch coming into the area and everything north of the ditch to rural preservation. The area on the south is adjacent to town limits, easier extension of utilities, etc.*

2. Density Data Requirements:

- a. What decision criteria went into the overlay or assignment of density requirements on specific parcels of land within the IGA? (understanding of course the higher density can lead to more housing affordability in general). When the “required” density levels are shown in some cases > 3x to 7x higher than current development in the area, how was that determination made, what criteria and/or risk factors were considered even from a basic level?

VS ANSWER: *Andrew responded to this question in a separate email. He based it on density allowed per zoning in the Lyons Municipal Code. There was also significant input from the county that if these lots could be considered for development, they wanted some reassurances that it would include housing affordability (and as you stated, often means higher density). I can tell you that staff did not make friends when trying to negotiate this issue. I kept telling them that all my research says that density should be in the core of town, not the edges. We negotiated as far as we could. At some point, we had to take the document to the Board for discussion and decision. Staff does not get a vote.*

Note: Based on data received by Planner Bowen, Steamboat Valley neighborhood density is 1.6 households/acre (the lowest) and Confluence &

2nd/McConnel are 4.7 households/acre (highest), north downtown and Stone Canyon are both 3.8/acre.

- b. Do you personally feel that some basic criteria should be used to balance future development density with current development density?

VS ANSWER: *My personal opinion doesn't really matter. I think it is more important that the development is congruous to the neighborhood in size and aesthetics and embraces the environment. Since there are no longer occupancy limits allowed in Colorado, any house on the north side could house ten or more unrelated people and we couldn't do a thing. I do believe you could have a structure that looks and feels the same as many of the homes, but actually is a tri-plex with higher density than you are currently used to there but could fit in nicely with no disruption to your lifestyle.*

3. **Affordable / Attainable Housing Requirements:**

- a. What considerations were made when applying the affordable/attainable housing requirements for each parcel? Note: Planner Bowen reported on 25-Jun-24 that "The idea of choosing a property on its appropriateness for affordable/attainable housing development was not part of staff's methodology..." Perhaps he was not in the loop on what actual consideration went into the development of these overlays in the draft IGA given that it occurred before he joined the town Staff?

VS ANSWER: *I concur with Andrew. The idea of affordability and density did not come up until well after the parcel discussions occurred. The topic was initiated by county staff.*

- b. Do you personally feel that some basic site selection criteria should be considered when planning for or evaluating a requirement to include affordable/attainable housing?

VS ANSWER: *My personal opinion doesn't matter. From a public administrator perspective, ideally all developments should have a mix of housing types, styles and affordability. I don't like the idea of having separate neighborhood 'projects'. It polarizes communities and puts a scarlet letter on those who live there. I do believe that all neighborhoods should be evaluated for walkability, environmental concerns, parking and appropriate density, to name a few items.*

- c. Is it fair to assume that parcels that had higher affordability/attainable housing requirements over another, were in some way seen as more appropriate, more feasible or that those properties had lower site infrastructure requirements? What considerations we made here?

VS ANSWER: *The county asked that all the parcels considered for annexation include a density and housing affordability criteria. We discussed neighborhood compatibility, design ideas, infrastructure, location, the owner's wishes, to name a few. What isn't in the IGA (but is in the Comp Plan) and was in our discussions, is that the highest, most appropriate place for density is in the core of town with infill and redevelopment opportunities, access to schools and transportation, etc. However, that was not the*

purpose of this IGA map. It was to identify the next 20 years of planning opportunities, not the area already approved for annexation and zoning.

4. East Corridor Development:

- a. Given the multiple studies and data targeting development toward the east corridor, now under annexation discussion with Tebo and others, why was NO density or affordable/approachable housing requirement applied to this important area within the IGA document?

***VS ANSWER:** This was included in the last IGA. None of those properties were reopened or asked to have a housing affordability or density requirement. We work closely with the County already on this area and are in agreement with the plans that have been adopted over the years.*

- b. In discussion around the current annexation, are discussion being had related to trying to apply some of these requirements?

***VS ANSWER:** The owner has not submitted his final plans for the area along Highland Drive other than to say that he would support affordable and/or multifamily housing in this area as he knows that it has been identified as an area that the community would support for denser housing.*

5. **Guess Work:** OK, this last one is just me asking a wild question. If not appropriate, let me know. Is there any truth to my personal hypothesis that the super high-density and unfeasibly high % of affordable/attainable housing requirement was an attempt to meet Prop 123 goals with the real knowledge that these could never be achieved by a developer? That is, was there some other political or optics goal at work here that perhaps I need to understand?

***VS ANSWER:** The town did not include any of the north parcels with the intent to meet our Prop 123 goals. The only one that I recall being mentioned was the Harkalis. We thought we might be able to find a developer that would be willing to build a duplex or triplex on that property in the next couple of years to help meet our goals. I cannot speak on behalf of the county. Maybe they have goals that they are striving to meet, but we feel very strongly that we can meet our Prop 123 goal of ten units using existing properties within the town limits.*

Thanks again for your offer to help provide this level of transparency and clarity to these basic questions related to the draft IGA.

VS ANSWER: You're welcome. Hope it helps. Please don't hesitate to inquire further if needed. Victoria

Douglas Matthews

Town of Lyons Documents (sewage and water service, and stormwater management) Pertaining to the Suitability of Properties Proposed in the Draft 2024 IGA

Part 1: Northern Steamboat Valley

Contributed by Cindy Fisher

The Town of Lyons Blue line Ordinance, Sec 13-1-130 of the Municipal Code, for properties located wholly or partially above the blue line.

Blue line Ordinance:

a) Limit of Service. No water or wastewater service shall be provided by the Town Utility Departments to any property located wholly or partially above the blue line (5,450 ft. elevation), unless applied for and granted a variance from the Town. (Blue Line Ordinance).

(e) Granting of blue line variance.

“... the Board of Trustees may grant a blue line variance and may condition such variance **upon conditions necessary to ensure that the service will not detrimentally affect the health, safety or welfare of the residents of the proposed development or consumers of the public water and wastewater systems.** A blue line variance shall be a legislative act by the Board of Trustees, **shall be subject to public referendum** and shall be made by written resolution containing a legal description of the property affected by the variance and all terms and conditions of the variance....”(Blue Line Ordinance).

Document: Water Distribution and Sanitary Sewer Collection System Capital Improvements Plan, Town of Lyons, CO January 2017.

“The plan evaluates the town’s current water distribution system and wastewater collection system and identifies the improvements needed to both systems.”. (Water Distribution and Sanitary Sewer Collection System Capital Improvements plan, p. 1, here after WDSSCSCIplan)

The following recommendations were made. Cost estimates were for 2017. (WDSSCSCIplan p.1)

townoflyons.com

The proposed wastewater collection system improvements consist of four pipeline replacement projects, four pipeline repair projects, and a lift station replacement project. A summary of these capital improvement projects and their cost estimates are listed in Table 1.

Table 1 – Summary of Wastewater Capital Improvement Projects

Wastewater Capital Improvement Project	Cost Estimate
North Old Town Alleys - 4th Avenue to 5th Avenue	\$520,013
Meily Street - Ewald Avenue to 5th Avenue	\$168,396
Longs Peak Drive	\$359,208
Broadway from Park to 2nd	\$46,200
Broadway from 3rd to 5th	\$63,600
Park Drive from 4th to 5th	\$104,850
4th from Evans to Main Street	\$48,000
High Street- 4th Avenue to 5th Avenue	\$32,400
Eagle Canyon Lift Station	\$192,522
TOTAL	\$1,535,190

The proposed water distribution system improvements consist of five pipe replacement projects, pipe upsizing, and the rerouting of transmission line along St. Vrain Creek. A summary of these capital improvement projects and their cost estimates are listed in Table 2.

Table 2 – Summary of Water Distribution Capital Improvement Projects

Water Capital Improvement Project	Cost Estimate
3rd Avenue - Evans to Railroad	\$99,584
High Street - 4th Avenue to 5th Avenue	\$186,302
North 5th Avenue - Seward to Steamboat Valley Road	\$281,813
Vasquez Court / Horizon Drive Loop	\$318,994
Longs Peak Drive Loop	\$331,336
St. Vrain Creek	\$91,661
Upsize Four-inch Water Mains	\$903,304
TOTAL	\$2,212,994

This plan is intended to be a working document and should be updated regularly as part of the Town’s routine maintenance programs.

Water Capital Improvement Projects in North Old Town Area

You can see there are several areas that directly affect the IGA 2024 Draft proposed building areas. Several of the areas that provide water to northern Steamboat Valley are highlighted for waterline improvements in 2017. Figure 1. Water Capital Improvement Projects in North Old Town Area (WDSSCSCIplan p.7)

Adding more residences would further stress the system.

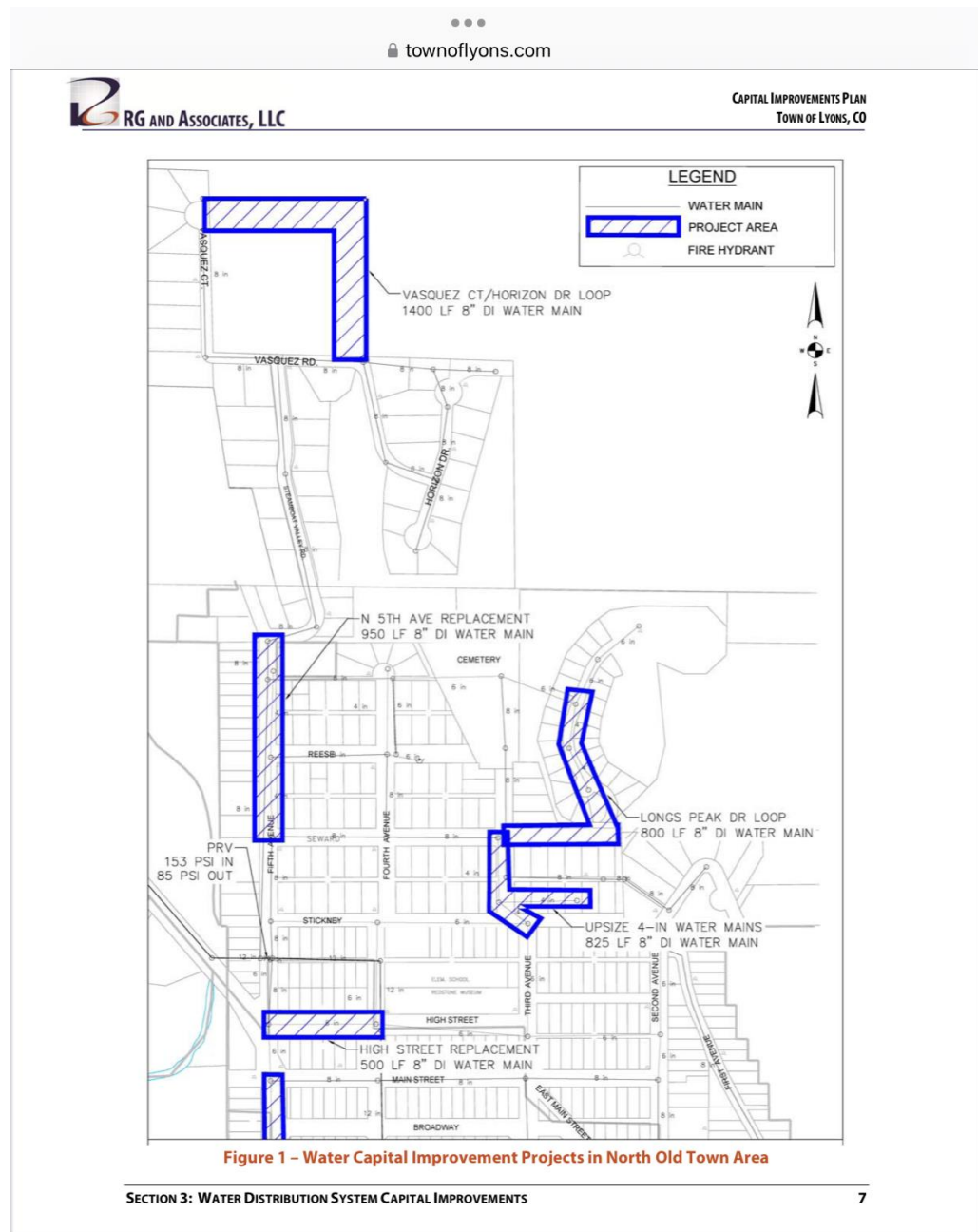


Figure 10 illustrates the pipe diameters in the Town. (WDSSCSCIplan p.31)

There are small diameter pipes leading up to the North Steamboat area and in Longs Peak Drive that negatively impact the delivery of water to the North.

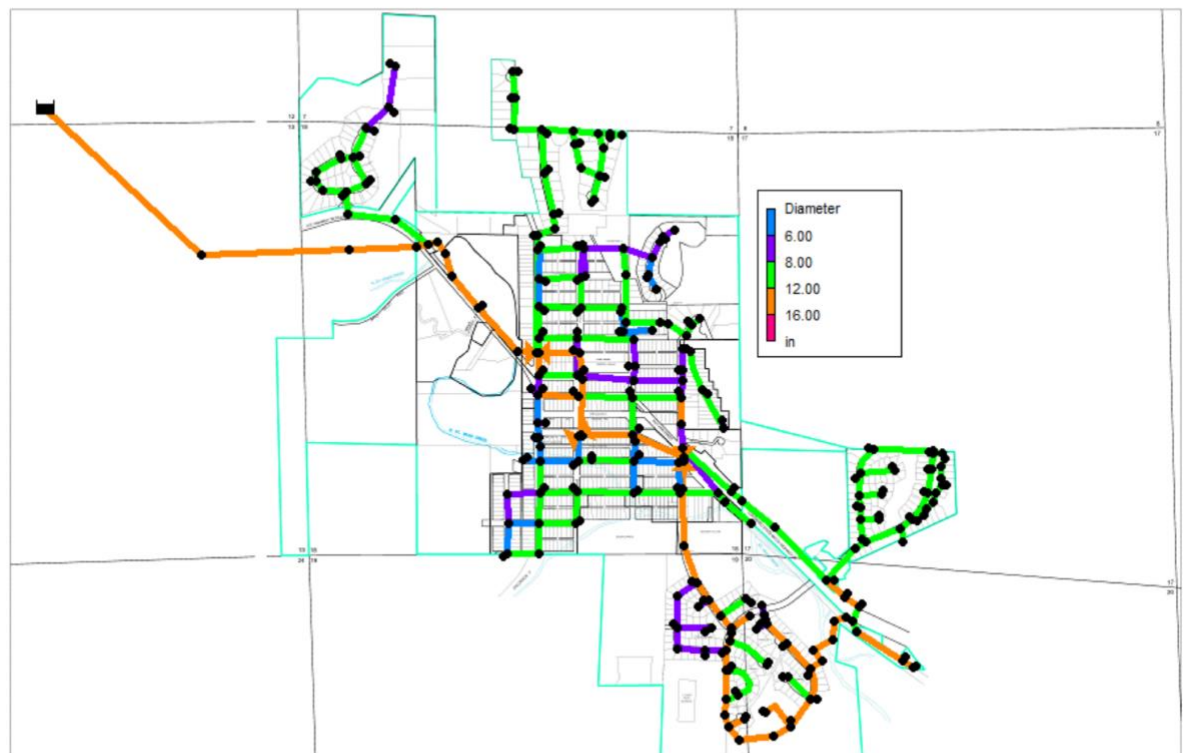


Figure 10 – Pipe Diameters in the Town of Lyons Distribution System

The result of the inadequate water pipe diameters is low water pressure in the Steamboat Valley and Longs Peak drive service areas, as modeled for average demand. See figure 11 below, for the system pressures at Average Day Demand. (WDSSCSCIplan p.34)

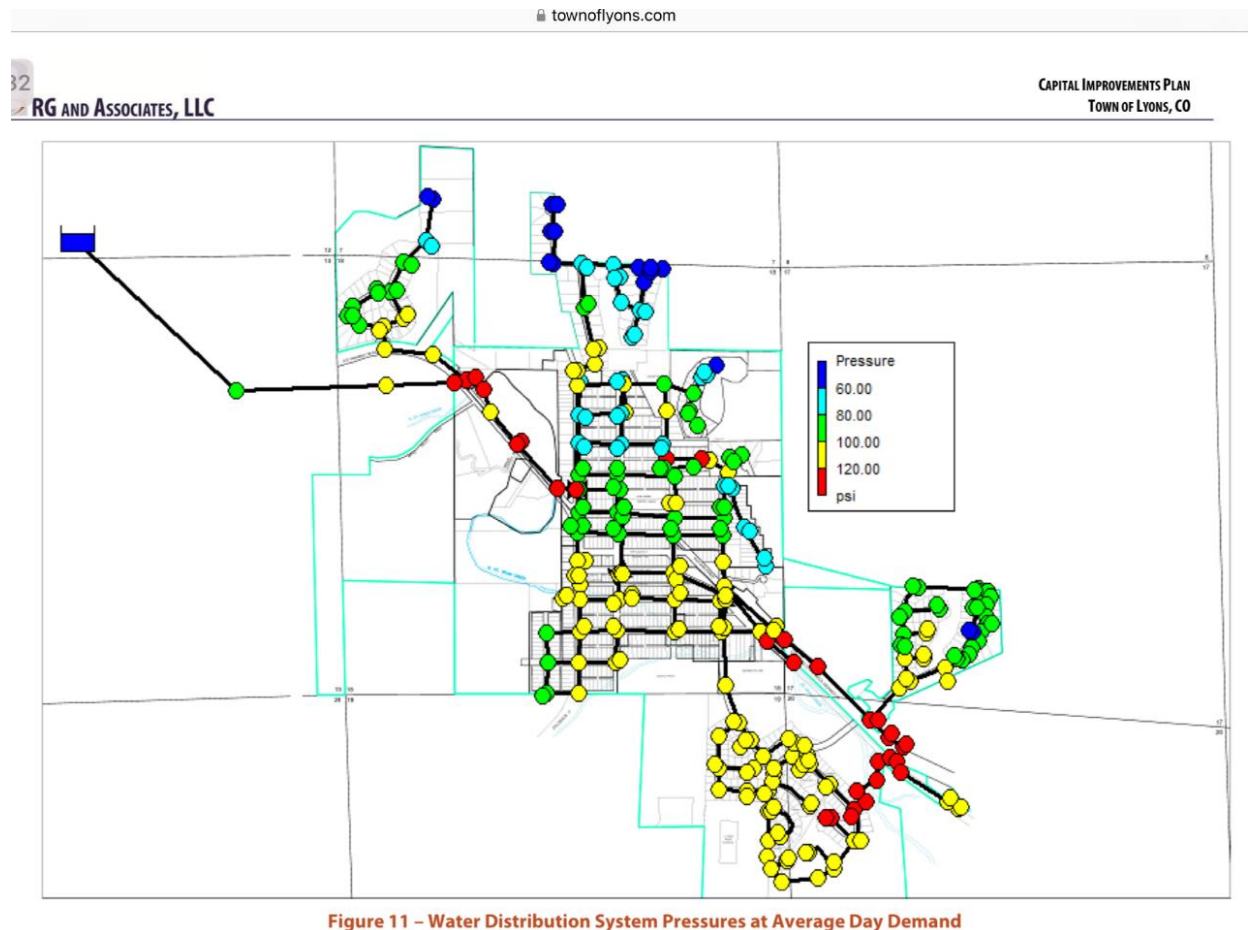
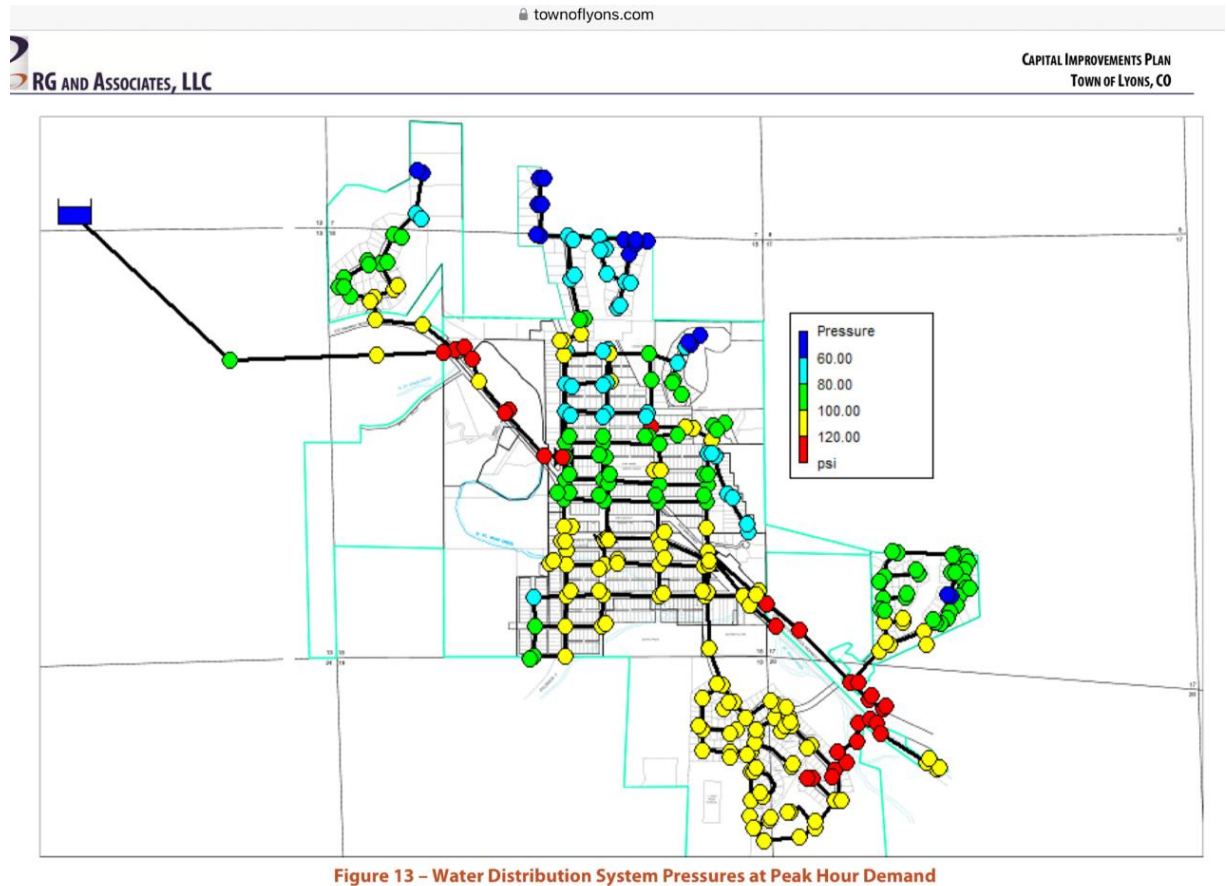


Figure 11 – Water Distribution System Pressures at Average Day Demand

In the areas of North Steam Valley and Longs Peak Drive at times of peak hour demand, the pressure is further reduced, as modeled for peak hour demand. See figure 13 below, for the system pressures at Peak Hour Demand. (WDSSCSCIplan p.36)

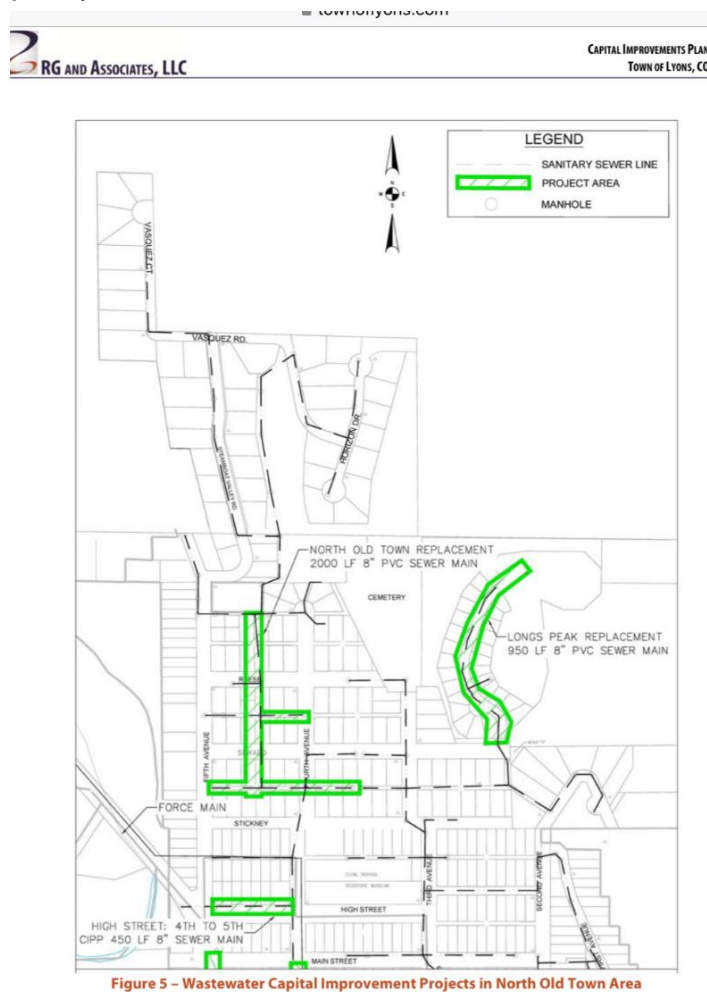


A fire flow analysis model was conducted to determine pressures and head loss at areas throughout the Town. In most areas the pressures and head loss were acceptable. However, in locations where a hydrant is connected to a four-inch water main, or near the limit of the blue line service area, the hydrants would not be able to properly function in the event of a fire. (WDSSCSCIplan p.33)

Given that the Town has not had the funds to address the current water infrastructure issues, the prospect of adding additional residences to North Steamboat Valley, appears contrary to the text in the blue line ordinance (e), stating that projects should not detrimentally affect the health, safety or welfare of the residents.

Sanitary Sewer Collection System January 2017.

The sewage of north Steamboat Valley flows down into 4th Ave, where the report recommended replacing the current sewer main with 2000 linear feet of 8" PVC. (Water Distribution and Sanitary Sewer Collection System Capital Improvements Plan, Town of Lyons, CO January 2017, p.17).



Stormwater considerations

**Document: Town of Lyons Stormwater Masterplan ICON Engineering, Inc.
November 2016**

“The most significant flood hazard impacting downtown Lyons is runoff from Steamboat Valley.” p. 32

1) Inadequate Stormwater Infrastructure

“Existing drainage in the Town reflects open channel drainageways in combination with storm sewer conveyance for more urbanized areas. **Most of the Town’s existing drainage infrastructure is under-sized due to the increase in development within the Town during the 1990s.** The existing conveyance system has the capacity to convey nuisance flows, **but it does not have the capacity to convey even the minor (5-year) storm events.”** (page 7, 2.21 Project Area).

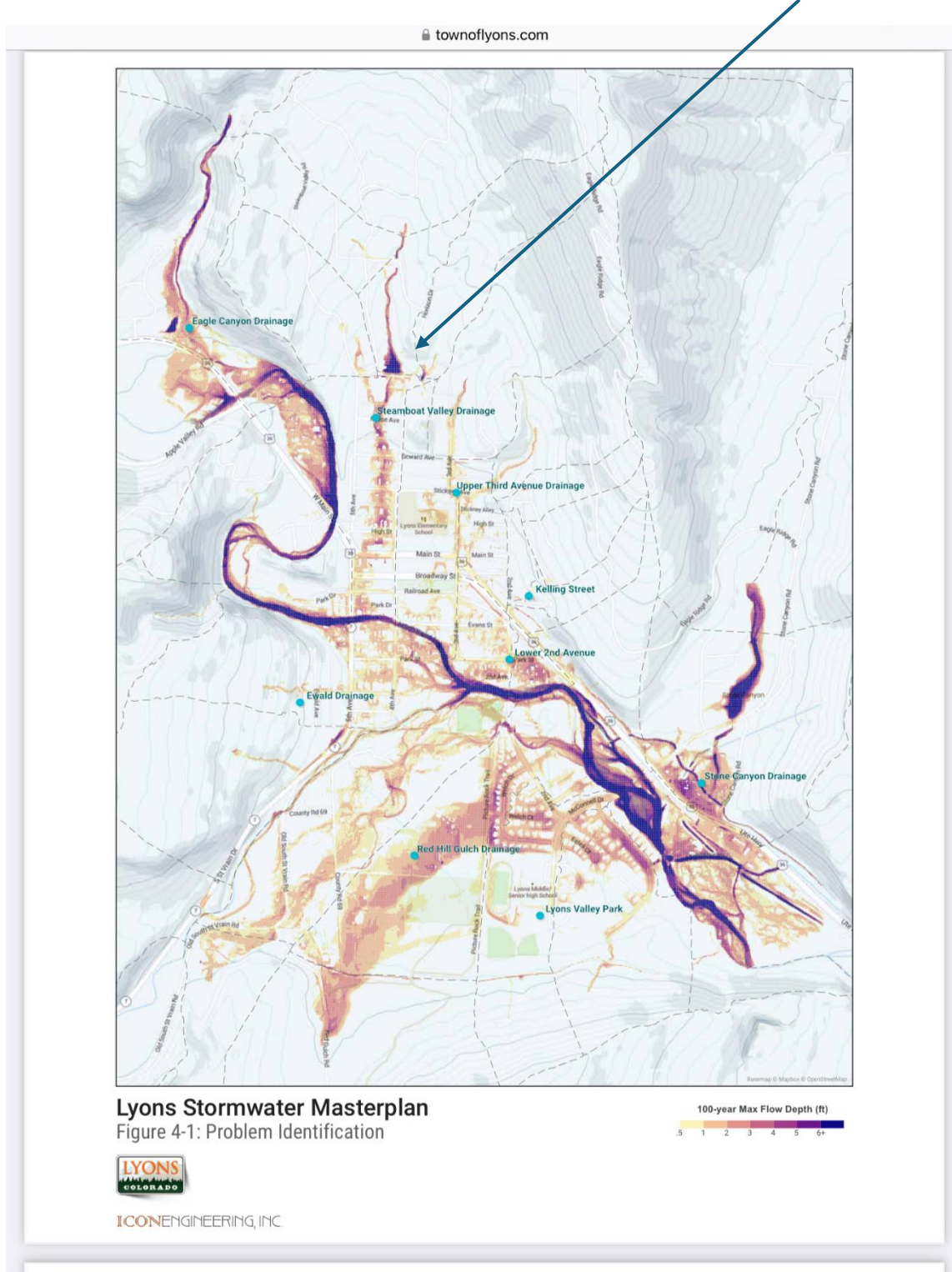
2) Steamboat Valley Drainage

2.3.9“**The majority of the 370-acre watershed converges just upstream of downtown and is conveyed between 4th and 5th Avenue. In the upper reaches, the watershed consists of large lot residential and undeveloped properties. The lower third of the watershed is fully developed consisting of residential and commercial lots. In the lower downtown area, the watershed is bounded by 4th Avenue to the east and North St. Vrain Creek to the west. The watershed ranges in elevation from 6500 feet to 5335 feet.”**

“The flow concentrates in the upper reaches in an open channel with an approximate slope of 16 percent. The flow continues south into a private inadvertent storage area on the Russell property upstream of the old railroad embankment. Downstream of the railroad embankment the drainageway is confined in a small open channel that conveys flow through backyards of private property. There are several

Figure 4.1 Problem identification. Map from model of 100-year flood. Town of Lyons Stormwater Masterplan ICON Engineering, Inc. November 2016.

Railroad embankment Russell property, 6' deep



roadway crossings within this reach including Vasquez Road, McCally Alley, Reese Avenue, Steward Avenue, and Stickney Avenue. A reportedly historic stone box culvert intercepts flow and conveys flow underneath downtown until the outfall location into North St. Vrain Creek. The slope is approximately four percent downstream of the railroad embankment” P. 13.

Hydrologic Analysis

4.3.9 Steamboat Valley

“The most significant flood hazard impacting downtown Lyons is runoff from Steamboat Valley. The runoff from the upper watershed concentrates behind the old railroad embankment. The area behind the old railroad embankment poses a significant flood hazard to downstream properties. Close observation on the stability and maintenance of this embankment is important to managing the risk of a breach or other failure during a storm event. This will require coordination with several private property owners. Downstream of the railroad embankment development within the natural drainage path has confined the runoff to an undersized open channel through private property. The lack of conveyance capacity of this channel and culvert roadway crossings between 4th Avenue and 5th Avenue creates a flooding hazard damaging private property. Any flow that is not intercepted by the historic stone culvert continues the surface flowing through backyards with additional impact to private property and structures.” p. 32

“The existing conveyance within Steamboat Valley does not have the hydraulic capacity to convey storms greater than the 5-year return period. More importantly, the materials (stone and open channel) and alignment (erratic with several sharp bends and constrictions) subjects the adjacent properties to additional risk from debris clogging.” (p. 32)