

**ANNEXATION AGREEMENT**  
**Planet Bluegrass Farm Annexation**

THIS ANNEXATION AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between **Planet Bluegrass Annex, LLC**, a Colorado limited liability company, 500 West Main Street, P.O. Box 769, Lyons, CO 80540 (the "Annexor") and the **Town of Lyons**, a municipal corporation of the State of Colorado (the "Town").

**WITNESSETH:**

WHEREAS, the Annexor desires to annex to the Town of Lyons the property more particularly described on **Exhibit A** which is attached hereto, incorporated herein, and made a part hereof (the "Property"); and

WHEREAS, the Annexor has executed a petition to annex the Property, a copy of which petition is on file with the Town Clerk; and

WHEREAS, the Annexor wishes to use the Property for uses compatible with its objectives and those of the Town; and

WHEREAS, the Annexor acknowledges that upon annexation, the Property will be subject to all ordinances, resolutions, and other regulations of the Town, as they may be amended from time to time; and

WHEREAS, the parties mutually recognize and agree that it is necessary and desirable for orderly development that the Town be the source of necessary urban services for the Property to be developed, such as police protection, and local government administration; and

WHEREAS, the Annexor requests annexation of the Property to the Town subject to the terms, conditions, and obligations set forth in this Agreement; and

WHEREAS, the Property is currently included within boundaries designated as an area for growth and development for the Town as shown in the *Lyons Comprehensive Plan*, as amended; and

WHEREAS, the parties agree that it is in the public interest of the parties hereto to enter into a written Agreement as to the overall plan of development, including location and future dedication or conveyance of public ways and public areas, initial zoning, and dedication of water rights; and

WHEREAS, the Annexor acknowledges that the need for conveyances and dedication of certain property, including but not limited to property for streets, rights-of-way and easements, parks and open space, utility facilities and other public improvements, to the Town as contemplated in this Agreement are directly related to and generated by the development intended to occur within the Property and that no taking thereby will occur requiring any compensation;

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE PREMISES AND THE COVENANTS AS HEREINAFTER SET FORTH, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:**

1. Incorporation of Recitals. The parties confirm and incorporate the foregoing recitals into this Agreement.

2. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the annexation of the Property to the Town. Except as expressly provided for herein to the contrary, all terms and conditions herein are in addition to all requirements concerning annexation contained in the Lyons Municipal Code ("LMC"), *Lyons Comprehensive Plan* including the Lyons Primary Planning Area Master Plan, and the Municipal Annexation Act of 1965, as amended, C.R.S. § 31-12-101 *et seq.*

3. Further Acts. The Annexor agrees to execute, promptly upon request of the Town, any and all other documents necessary to effect the annexation of the Property and the other provisions of this Agreement.

4. Annexation Documents. The Annexor agrees to provide legal documents, surveys, engineering work, newspaper publication, maps, and reports determined by the Town to be necessary to accomplish the annexation.

5. Annexation Election. The Annexor agrees that the Town Ordinance annexing the Property into the Town shall not be effective unless and until the ordinance is referred to the registered electors of the Town of Lyons at a regular or special election and such ordinance is approved by a majority of the Town electors voting thereon. The Annexor further agrees that the Town shall take all reasonable steps to schedule a special mail ballot election ("Special Mail Ballot Election") on Tuesday, August 8, 2017, to refer the annexation ordinance to the registered electors of the Town. In accordance with Section 15-1-340(c) of the LMC, the Annexor shall pay all costs associated with the Special Mail Ballot Election.

6. Initial Zoning and Development. The parties recognize that it is the intent and desire of the Annexor to develop the Property in a manner generally consistent with the Commercial Entertainment (CE-1) zoning of the Town of Lyons. The Annexor shall take all action necessary to permit zoning by the Town of the annexed Property within the time prescribed by state statutes. The parties acknowledge and agree that the zoning of the Property at the time of annexation is Rural Residential (in unincorporated Boulder County). Subject to the Board of Trustees approval of the initial zoning of the Property following annexation, the Parties agree that the Property shall be zoned as Commercial Entertainment (CE-1) under Sec. 16-3-220 of the LMC, as more particularly depicted in the KEYNOTES TO CONCEPTUAL PLAN FOR PLANET BLUEGRASS FARM ANNEXATION attached hereto as **Exhibit B** (the "Keynotes"), which Keynotes include the preliminary Conceptual Plan for the Property and are incorporated herein by reference. Future development of the Property shall be subject to the standards and regulations in the LMC, unless specifically modified by this Agreement. The Parties agree that the Annexor shall execute the Amendable Letter of Understanding (PBG Farm Property) attached hereto as **Exhibit C** prior to the Effective Date (as that term is defined below), and as required by Sec. 16-3-220(f) of the LMC. Nothing in this Agreement shall preclude the Annexor from seeking a rezoning of all or any part of the Property to another zone district classification under the LMC at a future date. Because the zoning and rezoning of property in Colorado constitutes legislative action by a municipality, nothing in this Agreement shall be construed to be an agreement, commitment, or contract binding the Town to approval of any specific zone district.

7. Dedications. The Annexor agrees to grant and convey to the Town, by appropriate instrument of conveyance acceptable to the Town and without any compensation due to Annexor, permanent easements and rights-of-way for public streets, water, sanitary sewer, pedestrian and bike trail access, emergency access,

and other public ways as generally shown in **Exhibit D** attached hereto (collectively, the "Required Dedications"). The Required Dedications shall be dedicated by Annexor to the Town by plat, if a plat of the Property is processed following the Effective Date but prior to the deadline set forth in this Paragraph 7, or shall be granted to the Town via duly executed special warranty deed, easement agreement, or other instrument of conveyance acceptance in a form acceptable to the Town Attorney. Such dedication or grant of the Required Dedications shall occur on or before December 31, 2017. The Town Administrator shall have the authority to grant one (1) six-month extension of the timeframe to complete the Required Dedications, if necessary. No additional extensions shall be granted unless the Board of Trustees approves an amendment to this Agreement. The Town Administrator shall be authorized to accept all of the Required Dedications on behalf of the Town, following review and approval as to form by the Town Attorney. All Required Dedications, following execution by the Annexor and acceptance by the Town Administrator, shall be recorded in the real property records of Boulder County, Colorado.

8. Existing Water Easement. The Annexor agrees that the Town has a twenty foot (20') wide permanent easement for an underground water pipeline crossing the Property as described in that certain grant of right of way dated September 23, 1970 and recorded on December 22, 1970 at Reception No. 963204 in the real property records of Boulder County, Colorado ("1970 Easement"). Annexor agrees to continue cooperating with the Town to allow the Town to locate the existing underground pipeline, and agrees to convey a twenty foot (20') wide permanent easement ("New Water Easement") for underground water pipeline purposes to the Town, and without any compensation due to Annexor, once the pipeline may be located and accurately surveyed. Once the New Water Easement has been granted to the Town, the Town agrees to vacate the 1970 Easement. The Town Administrator shall be authorized to accept the New Water Easement on behalf of the Town and quitclaim the 1970 Easement to the Annexor, following review and approval as to form by the Town Attorney.

9. Public Improvements. The Annexor agrees to design, improve, and provide signage, lighting, and signalization for all public streets and other public ways within or adjacent to the Property in accordance with Town ordinances and resolutions and other applicable standards, subject to any reimbursement which may be provided for in such ordinances, resolutions, and standards, and to make such other improvements as required by Town ordinances and resolutions, to guarantee construction of all required improvements, and, if requested by the Town, to dedicate to the Town any or all other required improvements. If requested by the Town, the Annexor agrees to enter into an agreement pertaining to such improvements and other matters prior to any development of the Property. Improvements required to be completed by the Annexor to Apple Valley Road and the Apple Valley Road/US-36 intersection ("AVR Intersection") will be determined by the Town Engineer based on impacts associated with the added traffic from the Property. Within ninety (90) days of the Effective Date of this Agreement, Annexor shall submit a traffic impact study (TIS) to the Town Engineer complying with applicable CDOT and American Association of State Highway and Transportation Officials (AASHTO). Additional right-of-way, if needed to accommodate CDOT requirements related to ingress/egress to the Property from US-36, shall be dedicated by Annexor to CDOT or the Town at no cost to either CDOT or the Town. No access to the Property from Apple Valley Road shall be permitted by the Town unless and until: (a) the Town Engineer has reviewed the TIS; (b) Annexor has completed any improvements to Apple Valley Road or the AVR Intersection required by the TIS; and (c) Annexor has completed vegetation removal and tree limbing/removal as required (both east and west of the proposed Apple Valley Road access point) to meet applicable AASHTO sight distance requirements.

10. CDOT Access Permits. The Annexor shall not be permitted to conduct any Major Events or Minor Events, as those terms are defined in the Keynotes, on the Property until such time as CDOT has approved access permits for the Property sufficient to allow for ingress and egress for Major Events of 1,000 vehicles daily (up to a maximum of ten days per year), and sufficient to allow for ingress and egress for Minor Events, and Annexor has completed all highway improvements required by CDOT. Annexor agrees to comply with all CDOT requirements pertaining to submitting a traffic impact study, if required, and shall also complete all access construction permitted by CDOT within the applicable timeframes established in the CDOT permits. Annexor agrees to provide a copy of the CDOT access permits to the Town Engineer within ten (10) business days following the date on which the CDOT access permits have been issued by CDOT.

11. Limited Impact Special Use Review (Boulder County Docket LU-16-0009) and Floodplain Development Permit. The Parties acknowledge and agree that Annexor is currently working toward completion and compliance with all conditions set forth in Boulder County Board of County Commissioners Resolution 2016-81 ("A resolution conditionally approving Boulder County Land Use Docket LU-16-0009: Ferguson Property Restoration") (the "BOCC Resolution"). The BOCC Resolution is attached to this Agreement as **Exhibit E**. The Parties also acknowledge that the Boulder County Staff Report prepared for the June 28, 2016 Board of County Commissioners hearing on Docket LU-16-0009, consisting of fifty-one (51) pages and a copy of which is on file with the Town Clerk, shall be incorporated into this Agreement by reference. Annexor agrees to make best efforts to complete all conditions set forth in the BOCC Resolution prior to the Effective Date, as that term is defined below. If Annexor has not completed all conditions set forth in the BOCC Resolution by the Effective Date, Annexor agrees that the Town shall hire and retain the services of qualified consultant selected by the Town ("Floodplain Consultant") to oversee Annexor's compliance with all conditions set forth in the BOCC Resolution, including but not limited to ensuring that all revegetation is inspected and approved. The Parties agree that if condition #4 set forth on page three of the BOCC Resolution has not been satisfied prior to the Effective Date, the Town will waive the requirement for an Engineer Report indicating compliance with Boulder County Multimodal Transportation Standards, and the Town will require the TIS referenced in Paragraph 9 above to be completed by Annexor in lieu of the Engineer Report referenced in condition #4 of the BOCC Resolution. The Annexor shall also be required to submit an application for a Floodplain Development Permit to the Town, and the Floodplain Consultant shall assist Town Staff with the review of said application. No Major Events or Minor Events shall be held on the Property until such time as the Town has issued a Floodplain Development Permit for the Property. The Annexor shall reimburse the Town for all fees billed to the Town by the Floodplain Consultant. The Annexor shall make payment to the Town within thirty (30) days following the date on which the Town presents an invoice or billing statement to Annexor. If Annexor fails to reimburse the Town for fees of the Floodplain Consultant, the Annexor shall be prohibited from conducting any Major Event or Minor Event on the Property. The Parties acknowledge and agree that Annexor desires to make a voluntary contribution to the Town of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) ("Annexor Contribution"), on the condition that the Town make the Annexor Contribution available to the St. Vrain Creek Coalition ("SVCC") to facilitate other stream restoration projects within the Apple Valley primary planning area or adjacent areas that SVCC is involved with, subject to the terms of a written letter agreement by and between the SVCC and the Town. The Town Administrator shall be authorized to execute the letter agreement with SVCC.

12. Property Noise Restrictions. Any Major Event or Minor Event occurring on the Property shall be subject to the following noise conditions:

- a. Outdoor music performed by live entertainment at events shall not include amplified instruments. Horns or percussion are not allowed. Woodwinds (e.g. clarinets, flutes, etc.) are

allowed. One vocalist may use a microphone with amplification.

- b. Outdoor Disc Jockey (DJ) style performance of amplified recorded music is not allowed.
- c. Outdoor weddings:
  - i. During wedding ceremonies: the officiant and other members of wedding parties may use a microphone with amplification for readings, vows. Low level amplified recorded music or unamplified acoustic instruments only are allowed during the ceremony with one vocalist using a microphone with amplification.
  - ii. Wedding ceremonies are to be concluded no later than 5:30 pm.
  - iii. During cocktail hour and dinner: unamplified acoustic only instrumental music is allowed. The officiant and other members of wedding parties may use a microphone with amplification for toasts and announcements
  - iv. After dinner music: unamplified acoustic only instruments are allowed with one vocalist using a microphone with amplification.
- d. All music shall end by 10:00 pm.
- e. Outdoor low level amplified recorded music, vocals, and public address system announcements, or any other noise generated at any wedding or other Major Event or Minor Event conducted on the Property shall be carefully limited to the minimum functional sound level. All uses conducted on the Property shall also comply with the noise restrictions set forth in Sec. 10-11-10 of the Lyons Municipal Code, as it may be amended from time to time. The Annexor or any person or entity holding a function on the Property shall immediately reduce or eliminate any amplified or other sounds when instructed to do so by a member of the Boulder County Sheriff's Office, other law enforcement or emergency services personnel or member of Town Staff.

13. Improvement Districts. If requested by the Town, the Annexor agrees to include the Property in one or more special improvement districts or other mechanisms established by the Town for making improvements to streets and other public ways, or for making other public improvements authorized by law.

14. Conformity with Laws. The Annexor agrees that the design, improvement, construction, development and use of the Property shall be in conformance with, and that the Annexor shall comply with, all Town ordinances and resolutions including, without limitation, ordinances and resolutions pertaining to annexation, subdivision, zoning, storm drainage, utilities, access to Town Streets and flood control. The Annexor further agrees that use of the Property shall at all times strictly conform to the Keynotes attached hereto as **Exhibit B** and the Amendable Letter of Understanding (PBG Farm Property) attached hereto as **Exhibit C**.

15. No Repeal of Laws. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of the Town's ordinances or resolutions, or as a waiver of the Town's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of the Town and its inhabitants; nor shall this Agreement prohibit the enactment or increase by the Town of any tax or fee.

16. Disconnection. No right or remedy of disconnection of the Property from the Town shall accrue from this Agreement, other than that provided by applicable state laws. In the event the Property or any portion thereof is disconnected at the Annexor's request, the Town shall have no obligation to serve the disconnected Property or portion thereof and this Agreement shall be void and of no further force and effect as to such Property or portion thereof.

17. Severability. The parties agree that if any part, term, portion, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining parts, terms, portions, or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, portion, or provision held to be invalid.

18. Municipal Services. The Town agrees to make available to the Property all of the usual municipal services in accordance with the ordinances and policies of the Town. Wastewater services will be provided to the Property subject to the utility service extension policies set forth in Chapter 13 of the LMC. The Property shall, at the Annexor's cost and expense, subject to applicable terms and conditions set forth in that certain Easement Agreement recorded on January 27, 2017 at Reception No. 03571839 ("Easement Agreement") connect to the Town's public wastewater line or main whenever such line or main is located within four hundred feet (400') of the Property, in accordance with the provisions of Section 13-4-50(b) of the LMC. Annexor will be responsible for all necessary service line extensions to the Property, together with all related costs and expenses. No connection to the Town's wastewater line or main shall be authorized until such time as Annexor has obtained a Town-issued license for connection in accordance with Chapter 13 of the LMC and Annexor has paid all connection or tap fees to the Town as required by the LMC, except that Annexor shall not be required to pay the wastewater connection fee set forth in Section 13-4-80(c) of the LMC, as set forth in the Easement Agreement. Annexor acknowledges that Town services do not include, as of the date of the execution of this Agreement, fire protection or emergency medical services, but the Property is presently included within the boundaries of and is entitled to receive fire services from the Lyons Fire Protection District.

19. Water Rights Dedication. Annexor has requested that dedication of water rights be postponed until the earlier to occur of: (a) future subdivision of the Property; or (b) the Conceptual Plan for the Property is amended in accordance with the procedures set forth in Section 16-3-220(h) and Article 7 of Chapter 16 of the LMC. Water dedication requirements for the Property shall be calculated in accordance with Sections 17-14-10 and 17-14-20 of the LMC ("Town Water Dedication Requirements"). The Annexor shall convey, transfer or assign to the Town, free and clear of all liens and encumbrances, units of Colorado-Big Thompson water (C-BT Units) as required by the Town Water Dedication Requirements. The dedication requirements for the Property upon any subdivision of the Property or future Site Plan submitted in accordance with Section 16-3-220(h) and Article 7 of Chapter 16 of the LMC shall be determined by calculating the water use demands for such subdivision or development that is in strict accordance with the Town Water Dedication Requirements, as reviewed and approved by the Town Engineer and Town Administrator. In lieu of the C-BT Units required in this Paragraph, at the sole and absolute discretion of the Board of Trustees, the Annexor may be required to pay cash-in-lieu at the current rate established by the Town at the time the C-BT Units would otherwise be due. In addition to Town Water Dedication Requirements, the Annexor shall, as a condition of the Town's approval of any Event plan for any Major Event or Minor Event, as those terms are defined in the Amendable Letter of Understanding attached hereto as **Exhibit C**, provide the Town with details related to the source and amount of water sufficient to control dust during events, parking, and the restoration of the Property after the conclusion of any Major Event or Minor Event, in order to encourage vegetative re-establishment following camping, parking and other allowed uses of the Property.

20. Special Districts. Within ten (10) days after written request by the Town, the Annexor shall apply for inclusion of the Property within any special districts as determined by the Town. Within ten (10) days after written request by the Town, the Annexor shall petition for exclusion of the Property from any special districts as determined by the Town.

21. Future Cooperation. The parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement, and will execute such additional documents as necessary to effectuate the same.

22. Amendment. This Agreement may be amended by the Town and the Annexor. Such amendments shall be in writing, shall be recorded with the County Clerk of Boulder County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property unless otherwise specified in the amendment. Except as otherwise provided herein, this Agreement shall not be amended unless approved in writing by all parties hereto.

23. Entire Agreement. This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations, or agreements, either verbal or written, between the parties.

24. Indemnification. The Annexor agrees to indemnify and hold harmless the Town and the Town's officers, employees, agents, and contractors, from and against all liability, claims, and demands, including attorney fees and court costs, which arise out of or are in any manner connected with the annexation of the Property, or with any other annexation or other action determined necessary or desirable by the Town in order to effectuate the annexation of the Property, or which are in any manner connected with Lyons's enforcement of this Agreement. The Annexor further agrees to investigate, handle, respond to, and to provide defense for and defend against or at the Town's option to pay the attorney fees for defense counsel of the Town's choice for, any such liability, claims, or demands.

25. Annexor. As used in this Agreement, the term "Annexor" shall include any of the heirs, transferees, successors, or assigns of the Annexor, and all such parties shall have the right to enforce this Agreement, and shall be subject to the terms of this Agreement, as if they were the original parties thereto.

26. Amendments to Law. As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town ordinance, resolution, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, or policy, and the parties agree that such amendments or revisions shall be binding upon the Annexor.

27. Binding Effect. Following the Effective Date (as defined below), this Agreement shall be binding upon and inure to the benefit of the heirs, transferees, successors, and assigns hereof, and shall constitute covenants running with the land. Following the Effective Date of this Agreement, this Agreement shall be recorded with the County Clerk of Boulder County, Colorado, at the Annexor's expense.

28. Failure to Annex. This Agreement shall be null and void if for any reason the annexation does not become effective, including but not limited to the registered electors of the Town rejecting the annexation of the Property at the Special Mail Ballot Election.

29. Breach by the Annexor; Town's Remedies. In the event of any default or breach by the Annexor of any term, condition, covenant or obligation under this Agreement, the Town Board of Trustees shall be notified immediately. The Town may take such action as it deems necessary to protect the public health, safety, and welfare. The Town's remedies include:

- a. The refusal to issue to the Annexor any development permit, event permit, building permit, or certificate of occupancy; provided, however, that this remedy shall not be available to the Town until after the affidavit described in Paragraph 29.b, below, has been recorded;
- b. The recording with the Boulder County Clerk and Recorder of an affidavit, approved in writing by the Town Attorney and signed by the Mayor or his/her designee, stating that the terms and conditions of this Agreement have been breached by the Annexor. At the next regularly scheduled Town Board meeting, the Town Board shall either approve the filing of said affidavit or direct the Mayor or his designee to file an affidavit stating that the default has been cured. Upon the recording of such an affidavit, no further Major Events or Minor Events (as those terms are defined in the Keynotes) shall be authorized on the Property until the default has been cured. The execution of an affidavit by the Mayor or his designee and approved by the Town Board of Trustees stating that the default has been cured shall remove this restriction;
- c. The refusal to process any pending Site Plan application for the Property or any proposed subdivision of the Property; and/or
- d. Any other remedy available at law.

Unless necessary to protect the immediate health, safety, and welfare of the Town or Town residents, the Town shall provide the Annexor ten (10) days written notice of its intent to take any action under this Paragraph 29 during which ten-day period the Annexor may cure the breach described in said notice and prevent further action by the Town.

30. Notice. All notices required under this Agreement shall be in writing and shall be hand-delivered or sent by facsimile transmission or registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices by hand delivery shall be effective upon receipt. All facsimile transmissions shall be effective upon transmission receipt. All notices by mail shall be considered effective 72 hours after deposit in the United States mail with the proper address as set forth below. Either party by notice so given may change the address to which future notices shall be sent.

Notice to Town:

Town of Lyons  
ATTN: Town Administrator  
432 5th Ave.  
P.O. Box 49  
Lyons, CO 80540

With a copy to:

Town Attorney  
c/o Michow Cox & McAskin LLP  
6530 S. Yosemite Street, Suite 200  
Greenwood Village, CO 80111

Notice to Annexor:

Planet Bluegrass Annex, LLC  
500 West Main Street  
P.O. Box 769  
Lyons, CO 80540

31. Legislative Discretion. The Annexor acknowledges that the annexation of the Property is subject to the legislative discretion of the Board of Trustees of the Town and ultimately subject to the approval of the Town voters at the Special Mail Ballot Election. No assurances of annexation have been made or relied upon by the Annexor. If, in the exercise of its legislative discretion by the Board of Trustees or through the exercise of the powers of initiative or referendum, any action with respect to the Property herein contemplated is not taken, then the sole and exclusive right of the Annexor with respect to such exercise of discretion shall be the withdrawal of the petition for annexation by the Annexor.

32. No Third-Party Rights. This Agreement is made solely for the benefit of the parties hereto, and is not intended to nor shall it be deemed to confer rights to any persons or entities not named as parties hereto.

33. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Boulder County, Colorado.

34. Headings. The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

35. No Warranties by Town. The Town is entering into this Agreement in good faith and with the present intention, on the part of the present Town Board of Trustees, that this Agreement will be complied with. However, because some of the provisions of this Agreement may involve areas of legal uncertainty, the Town makes no representation as to the validity or enforceability of this Agreement against the Town, and by entering into this Agreement the Annexor acknowledges and accepts that no such warranty is made on the part of the Town.

36. Sustainable Design and Development Principles. The Annexor agrees to use and develop the Property in a manner that is consistent with the Town's Sustainable Design and Development Principles in the Lyons Comprehensive Plan (the "Principles"). The intent of the Principles is to ensure that new development enhances Lyons' character through deliberate consideration of building materials, architectural details, landscaping, etc. and that development helps to conserve natural resources and is sensitive to environmental constraints such as wildlife habitat, steep slopes and floodplains.

37. Town Codes. Except as otherwise provided in this Agreement, all Town ordinances, regulations, codes, policies and procedures now in existence, and as the same may be adopted or changed from time to time, shall be applicable to the use and development of the Property. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or abrogation of the Town's legislative, governmental or police powers to promote and protect the health, safety, or general welfare of the Town or its inhabitants; nor shall this Agreement prohibit the enactment by the Town of any rate, fee, toll, charge or tax which is uniform or of general application.

38. Recording. The Annexor and the Town agree and acknowledge that this Agreement shall be recorded by the Town Clerk in the office of the Boulder County Clerk and Recorder following the Effective Date (as defined below), and that the provisions of this Agreement shall be binding upon and shall inure to the benefit of the beneficiaries, successors and assigns of the Parties as provided by this Agreement. Such recordation shall not occur prior to the Effective Date.

39. Effective Date. This Agreement shall not be effective until the annexation of the Property has been approved by the Town electorate, as required by Sec. 15-1-340(a) of the LMC. The term "Effective Date" shall be the tenth (10<sup>th</sup>) day following certification by the Town Clerk of the election results of the Special Mail Ballot Election. If the Town electorate fails to approve the annexation of the Property, then this Agreement shall be null and void.

ANNEXOR:  
**PLANET BLUEGRASS ANNEX, LLC**, a Colorado limited  
liability company

By: \_\_\_\_\_  
Craig Ferguson, Manager

STATE OF COLORADO

COUNTY OF \_\_\_\_\_ )

The above instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by Craig Ferguson as Manager of Planet Bluegrass Annex, LLC, a Colorado limited liability company.  
Witness my hand and official seal.  
My commission expires on \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**TOWN:  
TOWN OF LYONS**

By: \_\_\_\_\_  
Connie Sullivan, Mayor

**ATTEST:**

\_\_\_\_\_  
Deb Anthony, Town Clerk

**Exhibits:**

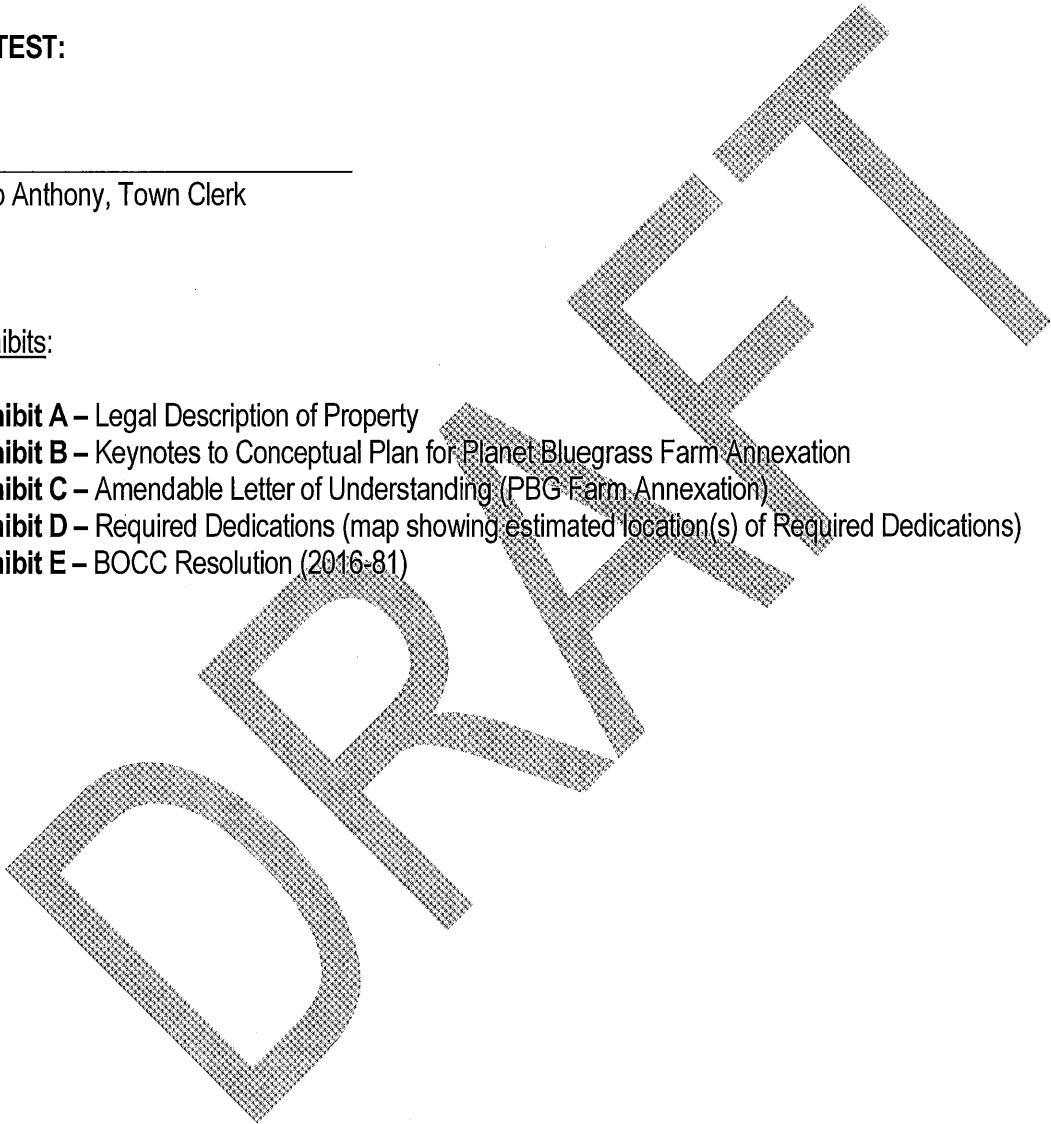
**Exhibit A – Legal Description of Property**

**Exhibit B – Keynotes to Conceptual Plan for Planet Bluegrass Farm Annexation**

**Exhibit C – Amendable Letter of Understanding (PBG Farm Annexation)**

**Exhibit D – Required Dedication (map showing estimated location(s) of Required Dedication)**

**Exhibit E – BOCC Resolution (2016-81)**



## EXHIBIT A

### LEGAL DESCRIPTION OF PROPERTY

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

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

*County of Boulder,*

*State of Colorado.*

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

**EXHIBIT B**

**KEYNOTES TO CONCEPTUAL PLAN FOR PLANET BLUEGRASS FARM ANNEXATION**

**KEYNOTES TO CONCEPTUAL PLAN FOR PLANET BLUEGRASS FARM ANNEXATION**

AS APPROVED BY THE TOWN OF LYONS BOARD OF TRUSTEES  
JUNE 8, 2017

The following keynotes supplement the Conceptual Plan for the following property owned by Planet Bluegrass Annex, LLC (the "Owner") and zoned within the CE-1 Zone District, Town of Lyons:

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

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

*County of Boulder,*

*State of Colorado.*

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

*Total area = 26.2 acres, more or less (the "PBG Farm Property" or "Property").*

These Keynotes describe the permitted uses and the general development allowed as of the effective date of annexation of the PBG Farm Property. These Keynotes are part of the Annexation Agreement by and between the Town of Lyons and the Owner, are incorporated into the Conceptual Plan attached hereto as **Exhibit 1**, and constitutes the initial CE-1 zone district requirements for the Property.

### **Purpose of PBG Farm Property and the CE-1 Zone District**

Conditioned on the approval of the annexation of the Property by the registered electors of the Town of Lyons at a special mail ballot election held for that purpose, the initial zoning of the Property will be established as CE-1 (Commercial Entertainment) Zone District. In accordance with the regulations governing the CE-1 Zone District (Lyons Municipal Code "LMC" Section 16-3-220), the CE-1 District is intended to provide opportunities for entertainment related activities and uses including but not limited to: (a) passive entertainment such as concert and stage performances; (b) education, training and research related to the entertainment based function of the site; (c) hand production and assembly of entertainment products and instruments as an activity related to the entertainment based function of the site; (d) the sale of food or beverages as an activity related to the approved uses of the site; (e) on-site residence, business and office space for staff, tenants and/or owners as related to the business activities and the construction, maintenance, operation, expansion and security of the site; and (f) retail and mail order sales of products produced on-site and other arts, crafts and gift items related to approved on-site functions. The Conceptual Plan for the PBG Farm Property constitutes the initial "site plan" for the Property, as required by the CE-1 Zone District regulations. In accordance with LMC Section 16-3-220(d)(5) any use or activity not included within the scope and intent of the Conceptual Plan shall be prohibited.

The PBG Farm Property will be used in conjunction with the Planet Bluegrass Property consisting of approximately 17.70 acres, more or less, as described in **Exhibit 2** attached hereto (the "Planet Bluegrass Property"). The Keynotes to the Site Plan for the Planet Bluegrass Property are attached hereto as **Exhibit 3** and are incorporated herein by reference.

The PBG Farm Property is intended to support Major Events at the Planet Bluegrass Property and to host other Minor Events as may be approved by the Town from time to time, including educational activities and classes, farm to table dinners, and weddings, subject to the limitations and restrictions set forth herein and in the Amendable Letter of Understanding for the PBG Farm Property. No "standalone" Major Events shall be allowed on the PBG Farm Property. Major Events on the PBG Farm Property shall be limited to those dates on which Major Events are held on the Planet Bluegrass Property.

Camping and event parking on the PBG Farm Property shall be limited to the dates of Major Events, as that term is defined in the Planet Bluegrass Keynotes.

## KEYNOTES

### General Terms and Conditions for the Property

The following general terms and conditions apply to the use of the entire Property and the Conceptual Plan:

- A. The PBG Farm Property is principally intended to support the Planet Bluegrass Property for the conduct of "Events" as described in the Planet Bluegrass Keynotes under the terms and conditions of the Conceptual Plan and the requirements of the CE-1 Zone District. The use of the PBG Farm Property requires conformance with an "Amendable Letter of Understanding" and, where appropriate, other contractual agreements between the owner of the PBG Farm Property and the Town of Lyons for Events which utilize public areas, services, or facilities.
- B. Unless otherwise defined in these Keynotes, all words and phrases shall be given the meaning provided by the Lyons Municipal Code and, where not defined in the Code, shall be given the common and ordinary meaning.
- C. The following words and phrases shall have the meaning identified below:
  - (1) "Annexation Agreement" means that certain annexation agreement by and between the Town of Lyons and the Owner related to the PBG Farm Property.
  - (2) "Conceptual Plan" shall mean and include all of the following:
    - (a) The Conceptual Plan Map prepared for the PBG Farm Property Annexation (one sheet) attached hereto as **Exhibit 1**;
    - (b) These Keynotes;
    - (c) The text of the Commercial Entertainment (CE-1) Zone District regulations found at Section 16-3-220 of the Lyons Municipal Code; and
    - (d) An "Amendable Letter of Understanding" for the PBG Farm Property.
  - (2) "Educational or classroom facilities" or "educational or classroom use" shall have the meaning set forth in the Planet Bluegrass Keynotes attached hereto as **Exhibit 3**.
  - (3) "Event" shall mean and include both a "Major Event" or a "Minor Event" occurring both within and outside of a structure on the PBG Farm Property as further described in the Conceptual Plan.
  - (4) "Major Event" shall mean a "Major Event" as that term is described in the Planet Bluegrass Keynotes attached hereto as **Exhibit 3**. The PBG Farm Property shall be permitted to conduct the permitted accessory uses allowed for a Major Event, as set forth in Section C(3) of the General Terms and Conditions of the Planet

Bluegrass Keynotes, including camping for up to 1,200 people and parking for up to 1,000 cars. Upon application by the Owner made not less than 90 days prior to the date of commencement of a Major Event, the Board of Trustees may modify or alter the restrictions provided by this section (4) where the Board finds that there will be no detriment to the health, safety, and welfare of the public and that such modification or alteration is generally consistent with the Conceptual Plan.

- (5) "Minor Event" shall mean and include only the following:
  - (a) Not more than twelve (12) events in any one calendar year at which fewer than 250 persons are in attendance, with no more than one (1) said event to occur per week up to the maximum of 12 events in any one calendar year, any only on a Friday or Saturday.
  - (b) Minor Events shall be allowed for the purposes of conducting seminars, educational or academic functions, conferences, weddings, family or group meetings, farm to table dinners, and similar functions.
  - (c) There shall be no overnight camping at any Minor Event.
  - (d) No Minor Events shall be held on any Sunday, Monday, Tuesday, Wednesday, or Thursday.
- Upon application by the Owner made not less than 90 days prior to the date of commencement of a Minor Event, the Board of Trustees may modify or alter the restrictions provided by this section (5) where the Board finds that there will be no detriment to the health, safety, and welfare of the public and that such modification or alteration is generally consistent with the Conceptual Plan.
- (6) "Owner" shall mean Planet Bluegrass Annex, LLC, a Colorado limited liability company and its permitted successors or assigns.
- (7) "PBG Farm Property" shall mean the property legally described in Annexation Agreement and these Keynotes.
- (8) "Planet Bluegrass Property" means the property described in **Exhibit 2**.
- D. All Events shall comply with the PBG Farm Property noise restrictions set forth in the Annexation Agreement.
- E. Except for the existing structures specifically noted in the Conceptual Plan, no future, proposed, planned, or new structures, buildings, or renovations will be allowed unless a revised Site Plan (amending the Conceptual Plan) is approved by the Board of Trustees in accordance with the procedures set forth in Section 16-3-220(h) and Article 7 of Chapter 16 of the Lyons Municipal Code.

- F. The Conceptual Plan shall remain effective and shall constitute the supporting documentation for the CE-1 Zone District designation for the PBG Farm Property until the earlier of the following: (1) rezoning of the Property in accordance with local and state law; (2) transfer of ownership from the Owner to any other person or entity. A transfer of ownership which renders the Conceptual Plan ineffective pursuant to this section (E) shall require that a new Site Plan be prepared and submitted for approval to the Town of Lyons prior to commencement of any Event on the PBG Farm Property.
- G. All structures shall conform to applicable uniform building standards adopted by the Town of Lyons and applicable federal and state accessibility standards.
- H. Occupancy of any structure is limited to the standard made applicable by local ordinance or state law.
- I. All applicable ordinances, resolutions, and regulations of the Town of Lyons shall be applicable to all structures and uses within the Property unless otherwise expressly stated by the Conceptual Plan or the Annexation Agreement. No implicit waiver, release, or repeal of any otherwise applicable provision of law is intended by the Conceptual Plan. The Conceptual Plan implements the CE-1 Zone District classification of the Property and does not constitute a "site specific development plan" or a "subdivision plat" and does not create a "vested right" as these phrases are defined by federal or state law. Amendments of applicable ordinances, resolutions, and regulations of a general nature shall be applicable to the Property and the Conceptual Plan to the same extent applicable to other similarly situated property in the Town of Lyons.
- J. The Property includes areas within the floodway and floodplain. Any existing lawfully erected and lawfully existing structures and uses specifically noted in the Conceptual Plan as located within the floodway or floodplain shall be recognized as nonconforming structures and uses. The continued use and occupancy of nonconforming structures and uses is governed by provisions of the Lyons Municipal Code. All construction or activities occurring within the floodway or floodplain shall be approved by the Town of Lyons.
- K. Flammable, hazardous, or explosive liquids, gases, or other materials shall be prohibited from storage or use within the PBG Farm Property other than the storage and use and limited quantities of flammable or hazardous materials reasonably necessary for the day-to-day maintenance and operation of the permitted uses and activities. Any such storage or use shall conform to all federal, state, and local laws. The use of explosives, firearms, or handguns shall be prohibited within the Property, except for firearms or handguns in the possession of federal state, or local law enforcement personnel and except for the use of fireworks or pyrotechnics may be authorized where permitted by state or local law and only with the advance written approval of the Town of Lyons Board of Trustees.
- L. No camping fires or grills shall be allowed on the PBG Farm Property, unless specifically reviewed by the Boulder County Sheriff's Office, the fire protection district, and the Town Administrator, and then only pursuant to specific terms and conditions as may be included in an approved event plan. As used herein, the term "grills" means portable BBQ grills, charcoal, propane, electric, portable fire pits, portable camping stoves, appliances. No

camping fires or grills shall be allowed during a fire ban as established by the Town or the Boulder County Sheriff. If allowed in a specific event plan, the Town shall have the right to immediately revoke authorization for camping fires or grills based upon site conditions on the PBG Farm Property, if necessary to protect the public health, safety and welfare, even in the absence of an official fire ban.

- M. Any use, activity, improvement, and/or structure not otherwise explicitly described in the Conceptual Plan or these Keynotes is prohibited.
- N. No construction or improvement shall be permitted which violates the restrictions of any public or private easements affecting the Property.
- O. Renovation and repair of any existing structures on the Property shall adhere to the applicable uniform construction standards adopted by the Town of Lyons.
- P. Emergency access within the Property shall be maintained at all times. Adequate drive width a minimum of fifteen (15) feet in width shall be maintained into the center of the PBG Farm Property with adequate turn-around space to be maintained for emergency vehicles. Not less than ten (10) days prior to the commencement of each and every Event, the Owner shall advise the Town of Lyons Law Enforcement Administrator (Boulder County Sheriff's Office) and the appropriate fire protection service provider or fire protection district concerning the location and layout of the emergency access route and turn-around.
- Q. Any water provider hired by the Owner to bring water in from off site for any Event, or as required by the Town as a condition of approval of any Event Plan, must be approved by the Colorado Department of Public Health and Environment (CDPHE).
- R. An amendment or approval of the attached form of Amendable Letter of Understanding which is consistent with these Keynotes shall not constitute an amendment of the Conceptual Plan and may be processed and approved by the Board of Trustees in the same manner as approval of contracts and other agreements by the Town (by adoption of a resolution adopted at a publicly noticed meeting).

**THE FOLLOWING NUMERICAL KEYNOTE NUMBERS CORRESPOND TO  
NUMERICAL REFERENCES ON THE CONCEPTUAL PLAN:**

1. EXISTING SINGLE FAMILY RESIDENCE WITH ATTACHED GARAGE. Maximum height: 20 feet. Maximum total floor area: 2,350 square feet. Maximum area of attached garage: 600 square feet.
2. EXISTING BARN. Maximum height: 35 feet. Maximum total floor area: 875 square feet.
3. EXISTING SHED.

4. PARKING AND OVERNIGHT TENT CAMPING AREA – NORTH CAMPGROUND (4.2 ACRES). This area shall be maintained for grazing and the accommodation of livestock; but, may be used for overnight camping if coinciding with a Major Event. Campers, vehicles and tents shall not occupy this area sooner than 24 hours prior to a Major Event and shall be removed within 24 hours following a Major Event. Total number of campers shall not exceed 900, and vehicles shall not exceed 100 in this area during any Major Event. No improved parking spaces allowed within this area. Overflow parking shall be allowed in this area, up to a maximum of fifty (50) vehicles, in accordance with paragraph 8 below.

5. OVERNIGHT CAMPING AREA – SOUTH CAMPGROUND (2.8 ACRES). This area shall be maintained for grazing and the accommodation of livestock; but, may be used for overnight camping if coinciding with a Major Event. Campers that require a license plate under state law will be allowed to camp in this area up to a maximum of 50 such vehicles/campers. No more than fifty vehicles shall be allowed to park within the area and shall not occupy this area sooner than 24 hours prior to a Major Event and shall be removed within 24 hours after a Major Event. No more than 300 campers shall be allowed to camp within this area, subject to the requirement that all campers shall completely vacate the area within 24 hours following the conclusion of any Major Event. No improved parking spaces allowed within this area.

6. PARKING AREA (7.4 ACRES). This area shall be maintained primarily for grazing and the accommodation of livestock; but, may be used for overnight parking if coinciding with a Major Event occurring on the Planet Bluegrass Property. Up to 1,000 cars are allowed to park in this area for up to ten (10) Event days per year. The parking area shall not be striped but the parking area shall be managed in order to create easily recognizable and logical pedestrian and vehicle aisles. An emergency access corridor of a minimum width of twenty (20) feet shall be identified and maintained through the Parking Area and the North and South Campground Areas. Maximum capacity: 1,000 vehicles for Major Events. No improved parking spaces allowed within this area.

7. ALTERNATE ACCESS POINT AND GATE STRUCTURE. Alternate access to Property shall be at specific location as approved by Colorado Department of Transportation (CDOT), authorizing 1,000 vehicles maximum per day up to a maximum of ten (10) days per year. Gate Structure shall be a permanently anchored structure and may include one (1) sign facing U.S. Highway 36 which shall not exceed fifty (50) square feet of sign area. Maximum height of Gate Structure shall be six feet (6').

8. EVENT PARKING / WEDDING VENUE (NOT NUMERICALLY IDENTIFIED ON MAP, BUT MARKED IN RED ON CONCEPTUAL PLAN) (1.2 ACRES). This area shall be where all Minor Events shall occur. A small parking lot may be created for the parking of up to forty (40) cars, within any additional vehicles necessary to support the maximum attendance of 250 persons per Minor Event to be parked within the "Area 4" as designated on the Conceptual Plan [PARKING AND OVERNIGHT TENT CAMPING AREA – NORTH CAMPGROUND (4.2 ACRES)]. Prior to the installation of the small parking lot referenced in this paragraph 8, the Conceptual Plan shall be amended to specifically identify the location of the parking lot and improved access thereto. All parking spaces shall meet all parking stall size requirements of the Town of Lyons and include a sufficient number of handicapped parking spaces as may be required by applicable federal and/or state accessibility laws. Unless otherwise required by applicable federal and/or state accessibility laws, the improved spaces and internal parking lot access shall be constructed as a graveled

surface area of approximate size and outline as will be shown on a future amendment to the Conceptual Plan. No vehicles shall be allowed to park within this area until 8:00 a.m. on the morning of a Minor Event and must be removed by 12:00 midnight on the evening of the Minor Event. Otherwise, this area (EVENT PARKING / WEDDING VENUE) shall be used only by vehicles engaged in the uses allowed year-round on the PBG Farm Property.

Exhibits:

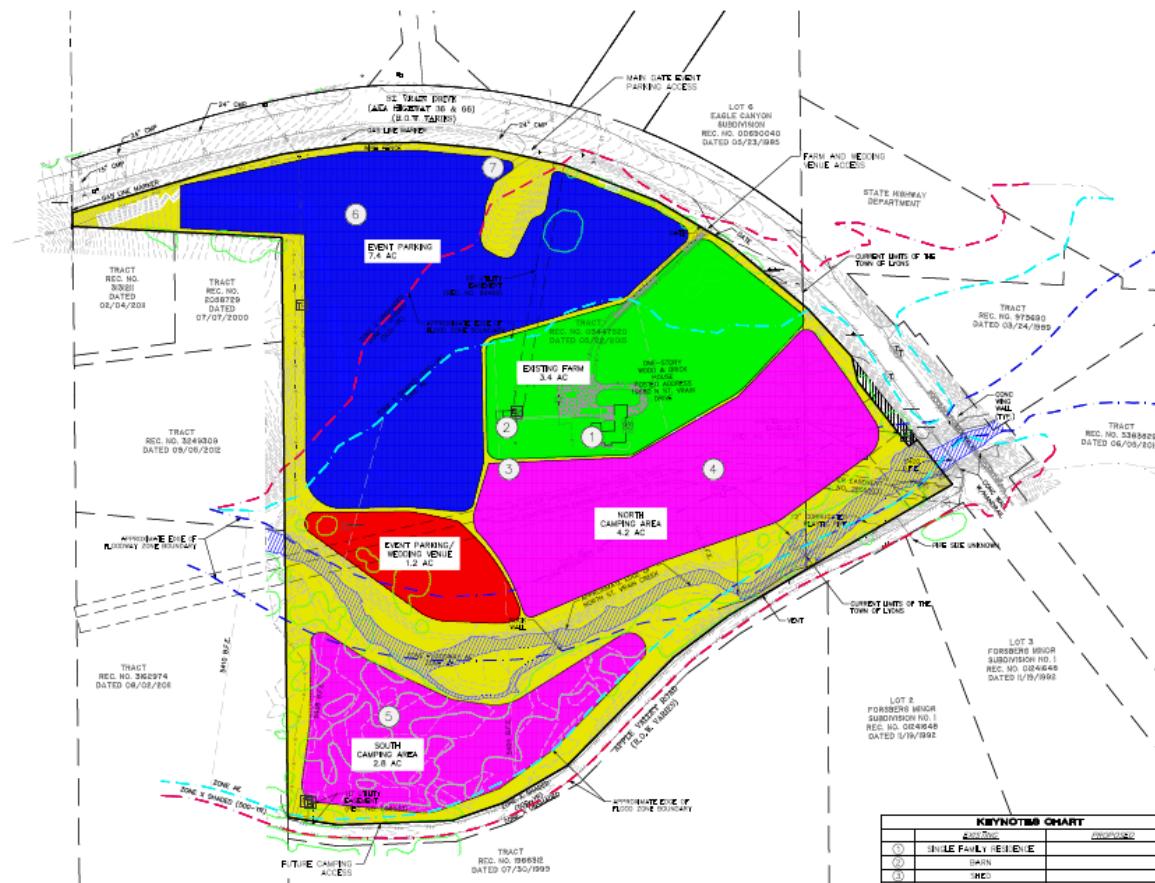
**Exhibit 1 –** Conceptual Plan (one sheet);  
**Exhibit 2 –** Legal description of Planet Bluegrass Property  
**Exhibit 3 –** Keynotes to Site Plan for Planet Bluegrass (recorded June 9, 2000 at Reception No. 2051651 in the real property records of Boulder County, Colorado)

**Exhibit 1**  
Conceptual Plan  
(Planet Bluegrass Farm Annexation)

# PLANET BLUEGRASS FARM ANNEXATION CONCEPTUAL PLAN

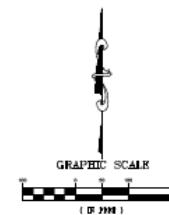
A PARCEL OF LAND, LOCATED IN THE NORTHWEST QUARTER OF SECTION 18,  
TOWNSHIP 3 NORTH, RANGE 70 WEST OF THE 6TH P.M.,  
COUNTY OF BOULDER, STATE OF COLORADO

**TOTAL PROPERTY AREA  
26.2 ACRES**



USE TABLE			
PROPOSED ZONING	COMMERCIAL ENTERTAINMENT - I	PERCENTAGE OF PROP.	
LAND USE	AMOUNT	PERCENTAGE OF PROP.	
EXISTING FARM	3.4	13.0%	
EVENT PARKING	7.4	28.2%	
EVENT PARKING/RENTAL VEHICLE	1.2	4.6%	
CAMPING AREA	7.0	26.7%	
OPEN SPACE	7.2	27.0%	
TOTAL	26.2	100%	

APPLICANT:  
PLANET BLUEGRASS ANNEX, LLC  
PO BOX 798  
LYONS, CO 80540  
303-533-0948 X 101



---

**KEYNOTES CHART**

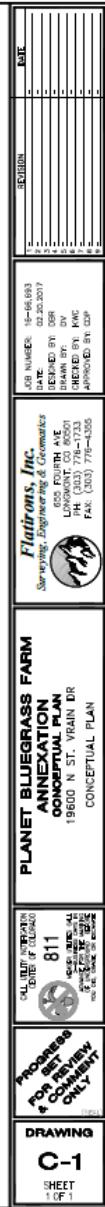
KEYNOTES CHART	
①	SINGLE FAMILY RESIDENCE
②	BARNS
③	WORKS
④	PARKING AND OVERNIGHT TENT CAMPING AREA
⑤	OVERNIGHT CAMPING AREA
⑥	PARKING
⑦	ALTERNATIVE MODES TO DRIVE

### Legend

DESCRIPTION	CODE	DESCRIPTION	CODE
PROXY LINE			
ADAPTER FROM LINE			
DIRECT LINE			
SECTION LINE			
DISC LINE			
DISC SECTION			
100-FT PLUMBLINE			
PLUMBLINE UNIT			
EDGE OF ASPHALT			
1-FT CONTAIN LINE	0020		
-1-FT CONTAIN LINE	0021		
VAR LINE			
WATER VALVE			
PIPE BURST			
WATER HEAD			
STORM DRAIN LINE			
STORM SEWER PIPE			
SANITARY SEWER LINE			
SANITARY SEWER PIPE			
CHIMNEY STOVY LINE			
TELEPHONE REED			
WUTTY PIPE			
GUT WIRE			
ELECTRIC LINE			
ASCE			
SDIN			

Next

1. EXISTING SITE CONDITIONS AND TOPOGRAPHY IS BASED ON SURVEY PREPARED BY FLATTRONICS, INC. DATED APRIL 25, 2016, PROJECT NO. 15-66,693 AND IMPROVEMENT SURVEY PLAT PREPARED BY FLATTRONICS, INC. DATED DECEMBER 30, 2016, PROJECT NO. 15-66,693.



**Exhibit 2**  
Legal description of Planet Bluegrass Property

A tract of land located in Section 18, 13N, Range 70W of the 6<sup>th</sup> PM, Town of Lyons, Boulder County, Colorado, said tract more particularly described as follows:

Beginning at the intersection of the centerline of the waters of North St. Vrain Creek and intersection of the centerline of the paved roadway of U.S. Highway 36, said intersection nearest to the center of Section 18, thence northwesterly along the centerline of the waters of the North St. Vrain Creek, thence northeasterly, then southeasterly, then southerly along the centerline of the waters of the North St. Vrain Creek to the Point of Beginning, excluding therefrom any portion of the preceding not contained within the legal description contained on a Deed dated July 11, 1990 and recorded July 16, 1990 with the Boulder County, Clerk and Recorder at Film No. 1634, Reception NO. 01052495.

Area = 17.70 acres, approximately.

**Exhibit 3**  
Keynotes to Site Plan for Planet Bluegrass  
(attached – 11 pages)



2051651  
Page: 1 of 11  
06/09/2000 11:58A  
Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

## KEYNOTES TO SITE PLAN FOR PLANET BLUEGRASS

AS APPROVED BY THE TOWN OF LYONS BOARD OF TRUSTEES  
MAY 17, 1999

---

The following keynotes supplement the Site Map for the following property ("Property") owned by Craig Ferguson and zoned within the CE-1 Zone District, Town of Lyons:

A tract of land located in Section 18, 13N, R70W of the 6<sup>th</sup> PM, Town of Lyons, Boulder, Colorado, said tract more particularly described as follows:

Beginning at the intersection of the centerline of the waters of North St. Vrain Creek and intersection of the centerline of the paved roadway of U.S. Highway 36, said intersection nearest to the center of Section 18, thence northwesterly along the centerline of the waters of the North St. Vrain Creek, thence northeasterly, then southeasterly, then southerly along the centerline of the waters of the North St. Vrain Creek to the Point of Beginning, excluding therefrom any portion of the preceding not contained within the legal description contained on a Deed dated July 11, 1990 and recorded July 16, 1990 with the Boulder County, Colorado Clerk and Recorder at Film No. 1634, reception No. 01052495.

Area = 17.70 Acres, approximately.

These Keynotes describe the permitted uses and the general development provided as a use by right for the Property. These Keynotes are part of the Site Plan and the Site Plan constitutes the zone district requirements for the Property.

### Purpose of Site and the CE-1 Zone District

The Site is within the CE-1 (Commercial Entertainment) Zone District. In accordance with the regulations governing the CE-1 Zone District (Lyons Municipal Code, Title 9, Chapter 11A), the CE-1 District is intended to provide opportunities for entertainment related activities and uses including but not limited to: (a) passive entertainment such as concert and stage performances; (b) education, training and research related to the entertainment based function of the site; (c) hand production and assembly of entertainment products and instruments as an activity related to the entertainment based function of the site; (d) the sale of food or beverages as an activity related to the approved uses of the site; (e) on-site residence, business and office space for staff, tenants and/or owners as related to the business activities on the construction, maintenance, operation, expansion and security of the site; and (f) retail and mail order sales of products produced on-site and other arts, crafts and gift items related to approved on-site functions. A "site plan" is required for property within the CE-1 Zone District.



2051651  
Page: 2 of 11  
06/09/2000 11:58A  
Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

## KEYNOTES

### General Terms and Conditions for the Site

The following general terms and conditions apply to the use of the entire Site and the Site Plan:

- A. The Site is principally intended for use as a Commercial Entertainment facility for the conduct of "Events" as described in these Keynotes under the terms and conditions of the Site Plan and the requirements of the CE-1 Zone District. The use of the Site requires conformance with an "Amendable Letter of Understanding" and, where appropriate, other contractual agreements between the owner of the Site and the Town of Lyons for Events which utilize public areas, services, or facilities.
- B. Unless otherwise defined in these Keynotes, all words and phrases shall be given the meaning provided by the Lyons Municipal Code and, where not defined in the Code, shall be given the common and ordinary meaning.
- C. The following words and phrases shall have the meaning identified below:
  - (1) "Educational or classroom facilities" or "educational or classroom use" shall mean and include a facility available for an educational purpose including general academic, cultural, and artistic instruction of children under the age of 18. State license or state authorization to be obtained if required by the state of Colorado. Educational or classroom facilities or use does not include: (1) daycare or childcare facilities except where such use is accessory to a principal educational purpose.; or (2) a residential use, including but not limited to a group home.
  - (2) "Event" shall mean and include both a "Major Event" or a "Minor Event" occurring both within and outside of a structure on the Site as further described in the Site Plan.
  - (3) "Major Event" shall mean a musical concert or theatrical performance held for commercial entertainment at which attendees pay for or are granted the privilege of attendance. Permitted accessory uses of a Major Event are limited to retail sale of food, beverages, and goods directly related to the musical concert or theatrical performance and the parking, overnight camping, temporary residential accommodations and other necessary service activities as described in this Site Plan. A Major Event and all accessory uses shall be wholly conducted within the Site in accordance with the Site Plan, except to the extent authorized or permitted by separate agreement between the Site owner and the provider of any requisite offsite needs such as camping or parking, so long as the offsite



2051651  
Page: 3 of 11  
06/09/2000 11:58A

Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

uses are lawfully conducted and are approved by the Town of Lyons, if such approval is required. Major Events on the Site are limited as follows:

- (a) The annual number of Major Events are limited to the more restrictive of the following:
  - (i) A maximum of six (6) Major Events in any one calendar year;
  - (ii) Ten (10) event days per calendar year; or
  - (iii) A maximum of twenty-eight thousand (28,000) patron-days per calendar year.
- (b) A Major Event shall be limited to not more than three (3) consecutive calendar days.
- (c) Not more than two (2) Major events may be conducted in any thirty (30) day period except upon prior written application to and authorization from the Town of Lyons Board of Trustees which authorization may be withheld for purposes of the protection of the public health, safety or general welfare.

Upon application by the Owner made not less than 90 days prior to the date of commencement of a Major Event, the Board of Trustees may modify or alter the restrictions provided by this section (3) where the Board finds that there will be no detriment to the health, safety, and welfare of the public and that such modification or alteration is generally consistent with the Site Plan.

- (4) "Minor Event" shall mean and include only the following:

- (a) Not more than five (5) events in any one calendar year at which fewer than 1,000 persons are in attendance;
- (b) Any number of seminars, educational or academic functions, conferences, weddings, family or group meetings, and similar functions with a maximum capacity of 250 people or less.

Upon application by the Owner made not less than 90 days prior to the date of commencement of a Minor Event, the Board of Trustees may modify or alter the restrictions provided by this section (4) where the Board finds that there will be no detriment to the health, safety, and welfare of the public and that such modification or alteration is generally consistent with the Site Plan.



2051651  
Page: 4 of 11  
06/09/2009 11:58A

(5) "Owner" shall mean and include Craig Ferguson, his legal heirs or descendants, and a spouse of Craig Ferguson holding a ownership interest in the property by joint tenancy.

(6) "Site" shall mean the property legally described in the Site Map and these Keynotes.

(7) "Site Plan" shall mean and include *all* of the following:

- (a) The Site Map;
- (b) These Keynotes;
- (c) The text of the Commercial Entertainment (CE-1) Zone District regulations found at Chapter 11A, Title 9, of the Lyons Municipal Code;
- (d) An "Amendable Letter of Agreement;" and
- (e) A standardized form of "Public Property Lease Agreement."

(8) "Site Map" shall mean the 24 inch by 36 inch plat or map dated April 9, 1998, revised 2-3-99 which graphically and physically describes the Property and its existing and proposed improvements in the form approved by the Board of Trustees for the Town of Lyons with the approval of these Keynotes.

D. Unless otherwise specifically noted in the Site Plan, all future, proposed, planned, or new structures, buildings, or renovations are to be completed and a certificate of occupancy issued on or before September 30, 2004. Failure to complete any future, proposed, planned, or new structures, buildings, or renovations and obtain a certificate of occupancy (if required) by the applicable deadline shall automatically void all approval for the structure and any permitted use(s).

E. This Site Plan shall remain effective and shall constitute the supporting documentation for the CE-1 Zone District for the Property until the earlier of the following: (1) rezoning of the Property in accordance with local and state law; (2) transfer of ownership from the Owner to any other person or entity other than a direct legal heir or descendant of the Owner following the Owner's death or disability or to the Owner's spouse when such transfer is in joint tenancy. A transfer of ownership which renders the Site Plan ineffective pursuant to this section (E) shall require that a new site plan be prepared and submitted for approval to the Town of Lyons prior to commencement of an Event.

F. All structures shall conform to applicable uniform building standards adopted by the Town of Lyons and applicable federal and state accessibility standards.

G. Occupancy of any structure is limited to the standard made applicable by local ordinance or state law.



2051651  
Page: 5 of 11  
06/09/2000 11:58A  
Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

- H. All applicable ordinances, resolutions, and regulations of the Town of Lyons shall be applicable to all structures and uses within the Site unless otherwise expressly stated by the Site Plan. No implicit waiver, release, or repeal of any otherwise applicable provision of law is intended by the Site Plan. The Site Plan implements the CE-1 Zone District classification of the Site and does not constitute a "site specific development plan" or a "subdivision plat" and does not create a "vested right" as these phrases are defined by federal or state law. Amendments of applicable ordinances, resolutions, and regulations of a general nature shall be applicable to the Site and the Site Plan to the same extent applicable to other similarly situated property.
- I. The Site includes areas within the floodway and floodplain. Existing lawfully erected and lawfully existing structures and uses are recognized as nonconforming structures and uses. The continued use and occupancy of nonconforming structures and uses is governed by provisions of the Lyons Municipal Code.
- J. Flammable, hazardous, or explosive liquids, gases, or other materials shall be prohibited from storage or use within the Site other than the storage and use and limited quantities of flammable or hazardous materials reasonably necessary for the day-to-day maintenance and operation of the permitted uses and activities. Any such storage or use shall conform to all federal, state, and local laws. The use of explosives, firearms, or handguns shall be prohibited within the Site, except for firearms or handguns in the possession of federal state, or local law enforcement personnel and except for the use of fireworks or pyrotechnics directly associated with the conduct of a Major Event may be authorized where permitted by state or local law and only with the approval of the Town of Lyons Board of Trustees.
- K. Any use, activity, improvement, and/or structure not otherwise explicitly described in the Site Plan is prohibited.
- L. No construction or improvement permitted in violation of any public or private easements within the Site.
- M. Except for structures or improvements proposed or planned for removal pursuant to the Site Plan, reasonable renovation and repair of any existing and newly constructed structures permitted in accordance with applicable uniform construction standards adopted by the Town of Lyons.
- N. Emergency access to the Site to be made available at all times. Adequate drive width a minimum of fifteen (15) feet in width to be maintained into the center of the Site and adequate turn-around space to be maintained for emergency vehicles. Not less than ten (10) days prior to the commencement of each and every Event, the Owner shall advise the Town of Lyons Chief of Police and the



2051651  
Page: 6 of 11  
66/09/2000 11:58A  
Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

appropriate fire protection service provider or fire protection district concerning the location and layout of the emergency access route and turn-around.

O. Any amendment or approval of the attached form of Amendable Letter of Understanding and the standardized Lease Agreement which is consistent with these Keynotes shall not constitute an amendment of the Site Plan and may be processed and approved by the Board of Trustees in the same manner as approval of contracts and other agreements by the Town (by adoption of a resolution adopted at a publicly noticed meeting).

**THE FOLLOWING NUMERICAL KEYNOTE NUMBERS CORRESPOND TO  
NUMERICAL REFERENCES ON THE SITE MAP:**

1. Future **GATEHOUSE/EVENT SITE ENTRY** structure (one building). Maximum height: 20 feet. Maximum total floor area: 600 square feet. Structure will incorporate a partially or fully enclosed and secured area with a pedestrian access gateway for the purpose of providing a permanent location for the centralized and orderly entry and exit of visitors to and from the Site which shall include activities related to ticket sales and event or site information, and temporary waiting area and/or shelter from weather. Additional accessory use may include the indoor and completely enclosed storage of equipment used in the conduct of Events conducted on the Site; area used for storage shall not exceed 400 square feet. No residential use allowed.
2. Temporary **TENT** structures erected and maintained during an Event. Total number of Tent Structures not to exceed 25 during any one Event. Tent structures to be removed within 48 hours of the conclusion of an Event except that up to 10 tents may remain erected between Events if two Events are to be conducted within 21 days of each other.
3. **DRIVEWAY ACCESS POINT and GATE STRUCTURE.** Access location shall be subject to approval and as approved by the Colorado State Department of Transportation (CDOT). Gate Structure shall be a permanently anchored structure and may include one (1) sign facing U.S. Highway 36 which shall not exceed 120 square feet of sign area. Maximum height of Gate Structure shall be 25 feet.
4. **PARKING AND OVERNIGHT TENT CAMPING AREA.** No surface treatment (gravel, pavement, asphalt) or modification (grading) required or permitted. Use limited to parking of automobiles and recreational vehicles and overnight outdoor camping only during Events (use to include 24 hours prior and following an Event). Parking area not striped but parking area shall be managed in order to create easily recognizable and logical pedestrian and vehicle aisles. An emergency access corridor of a minimum width of twenty (20) feet shall be



2051651  
Page: 7 of 11  
06/09/2009 11:58A

Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

identified and maintained through the Parking and Camping area. Maximum capacity: 500 vehicles for single day Events; 200 vehicles and 500 overnight campers. This area may be used for grazing and accommodation of livestock if such use is permitted within the CE-1 Zone District.

5. **OVERNIGHT TENT CAMPING AREA** No surface treatment (gravel, pavement, asphalt) or modification (grading) required or permitted. Use limited to overnight outdoor tent camping only during Events (use to include 24 hours prior and following an Event). Maximum capacity 200 persons. No parking or vehicles permitted. Area shall be managed in order to create easily recognizable and logical pedestrian walkways or aisles. One primary pedestrian emergency access aisle with a minimum width of ten (10) feet shall be provided into the Overnight Tent Camping Area to connect the parking lot and adjacent internal roadway (Site Number 10) with the center of the Overnight Tent Camping Area.
6. Existing **HOMESTEAD AND SPRINGHOUSE** structures. Permitted uses limited to single family residential purpose only. Rental use or temporary occupancy use for periods less than one (1) year prohibited. Reasonable renovation and repair of structures permitted. Expansion, enlargement, or addition to existing structures prohibited without approval of an amendment of the Site Plan by the Board of Trustees.
7. Future **MULTIPURPOSE STRUCTURE** (one building). Maximum height: 35 feet. Maximum total floor area: 2000 sq. feet. Structure may include non-commercial kitchen facility, bathroom facilities, and shower and locker room facility for use with overnight camping, Events, and other uses permitted within the Site. Structure to be completed and a certificate of occupancy issued on or before September 30, 2000.
8. Footnote reserved and not used on Site Map.
9. Landscaped **COURTYARD AND PATHWAYS** providing access and connections between public buildings.
10. New **PARKING SPACES AND INTERNAL ROADWAY**. Minimum 50 improved spaces and 50 unimproved spaces meeting all parking stall size requirements of the Town of Lyons and including handicapped parking spaces as may be required by applicable federal and/or state accessibility laws. Unless otherwise required by applicable federal and/or state accessibility laws, the 50 improved spaces and Internal Roadway shall be constructed as a graveled surface area of approximate size and outline as shown on the Site Map. During any Event the use of the Parking Lot and Internal Roadway shall be limited to emergency vehicle parking and emergency access; general parking of vehicles, shuttle stop and vehicle turnaround (see Keynote #4); concessionaire service parking; and staff, artist, and VIP vehicle parking. Non-Event use shall be limited to general parking and access to the Site by visitors, customers, and residents. Parking Lot



2051651  
Page: 8 of 11  
06/09/2009 11:58A

Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

to remain accessible to emergency services vehicles at all times and a 20 foot wide vehicle aisle or corridor shall be maintained through the Parking Lot at all times. The following uses of the Parking Lot and internal Roadway are prohibited: (a) storage or long-term parking (more than 48 hours) of vehicles or trailers not owned by or registered to the Owner except during an Event; (b) outdoor storage of materials, goods, or equipment. Parking Lot and Internal Roadway to remain private and shall be privately maintained in a good and accessible condition. Parking Lot and Internal Roadway suitable to accommodate 50 vehicles to be completed prior to issuance of any new certificate of occupancy for the Site; entire planned Parking Lot and Internal Roadway to be completed prior to July 30, 2000.

11. Existing **STONE HOUSE** structure. Use limited to single family detached residential use or office use (home office permitted as an accessory use or home occupation). Rental use or temporary occupancy use for periods less than one (1) year prohibited. Reasonable renovation and repair of structure permitted. Expansion, enlargement, or addition to existing structure prohibited without approval of an amendment of the Site Plan by the Board of Trustees.
12. Existing **WOODSHED** structure. Uses of Woodshed limited to commercial office and commercial studio (non-residential). Structure to be remodeled and renovated and a certificate of occupancy issued for new structure prior to September 30, 2004. This structure to be single level building not to exceed 30 feet in height and a total of 800 square feet in floor area. Commercial office use may include storage of goods, shipping, and receiving associated with commercial mail order operations. This structure not permitted for the sale of goods to the general public or as a primary or principle public destination for retail sales of goods.
13. Future **THEATRE** (one building). Maximum height: 35 feet. Maximum total floor area: 5,000 square feet. Permitted uses limited to one or more of the following: (1) commercial music production studio; (2) arts, crafts, music, or other similar use studio or workshop use (non-residential); (3) educational or classroom facilities (non-residential); (4) commercial office; and (5) commercial food preparation services for food items intended for sale or consumption within the site only. Accessory use may include the noncommercial indoor and secured storage of items intended for use within the Site or associated with Events or with other permitted site uses but prohibiting storage of flammable, hazardous, or explosive materials; Structure to be completed and certificate of occupancy issued on or before September 30, 2004.
14. Existing **SHOP** structure. Uses limited to non-commercial repair of equipment and maintenance activities related to permitted uses conducted on the Site. Intended for renovation and remodeling for purpose of musical instrument construction and continuing non-commercial shop use. Reasonable renovation and repair of existing structure permitted. Expansion, enlargement, or addition to



2051651  
Page: 9 of 11  
06/09/2000 11:58A  
Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

existing structure prohibited without approval of an amendment of the Site Plan by the Board of Trustees.

15. Existing **STUDIO** structure (one building). Intended for major renovation and remodeling of existing structure. New structure to be one story building with maximum building height of 35 feet and maximum total floor area: 1,500 square feet. Following renovation and issuance of certificate of occupancy, permitted uses limited to one or more of the following: (1) state licensed (if required) daycare or childcare and/or school use limited to maximum 15 persons (non-residential); (2) commercial office activities related to Event production and site management; (3) single family residential accommodations, rental use or temporary occupancy use for periods less than three (3) months prohibited; and (4) non-commercial indoor storage of items intended for use within the site or associated with permitted site uses not including flammable, hazardous, or explosive materials. Renovation to be completed and certificate of occupancy issued on or before September 30, 2004.
16. **SPECIAL EVENT AREA** for outdoor recreational use. Existing picnic seating and barbecue facilities to be renovated and expanded.
17. Existing **SILO** structure to be remodeled for observation and photography, use not to exceed the existing height plus a reasonable roof structure not to exceed an additional 10 feet in height provided that the structure does not exceed 35 foot height limitation for CE-1 Zone District. Approval of variance application shall be required if structure proposed for height greater than permitted in CE-1 Zone District.
18. **CONCERT STAGE SEATING**. Use limited to accommodating visitors and attendees of an Event.
19. **CONCERT STAGE**. Maximum height 35 feet. Use limited to staging of Events. Non-commercial indoor storage of items intended for use within the Site or associated with permitted Site uses not including flammable, hazardous, or explosive materials permitted.
20. **BACKSTAGE AREA** for Event use.
21. Existing **MOBILE HOME**. Use limited to providing temporary residential housing and visitor accommodation and reception area during the duration of an Event including period not more than 72 hours prior to Event commencement and 72 hours following conclusion of Event. Year around or non-Event residential use prohibited. Routine maintenance and servicing permitted to maintain Mobile Home in a condition suitable for permitted occupancy. Approval of the Site Plan includes authorization for the complete removal of the Mobile Home from the Site and the replacement of the Mobile Home with the construction in the same general location of a permanent structure for the same permitted use.



2051651  
Page: 10 of 11  
06/09/2009 11:50A

Boulder County Clerk, CO COVENANTS R 55.00 D 0.00

Replacement with another mobile home or mobile structure is prohibited; replacement of the existing mobile home with a residential "manufactured home" (as defined by C.R.S. § 31-23-301) is permitted provided that the manufactured home is permanently attached to a concrete or similar foundation. Any new structure requires conformance with all applicable requirements of uniform construction codes adopted by the Town of Lyons for residential structures and conformance with all applicable construction requirements for construction within the floodplain.

22. **WOODEN SHEDS** (Maximum 3 fully enclosed structures) Each Wooden Shed not to exceed 300 square feet in floor area, single bathroom facility permitted). Use limited to dressing room and temporary shelter during Events only. Permitted accessory use includes non-commercial indoor storage of items intended for use within the site or associated with permitted site uses not including flammable, hazardous, or explosive materials. Sheds to be secured and locked during non-use periods.
23. **RESTRICTED AREA.** No improvements or structures permitted.
24. **EVENT SIGNAGE** structure, 2 sided, maximum 50 square feet per side, maximum height 15 feet.
25. Keynote reserved and not used on Site Map.
26. **GARAGE** structure. Use limited to accessory structure to serve for storage of motor vehicles and equipment related to full time residential occupancy of permitted residential structures within the Site.
27. **LIVESTOCK BARN** located in campground/livestock grazing area to house and shelter livestock.
- 28-32. Keynotes reserved and not used on Site Map.
33. New **BOX OFFICE** structure. Use limited to site for purchase and redemption of Event tickets and visitor reception for other permitted Site uses. Pending completion of permanent Box Office structure, use of tent facility permitted during Events.
34. **HOUSE SOUND POSITION.** Use limited to concrete pit for placement of audio and lighting gear to support Events.
33. Existing **SEPTIC FIELD**. Use limited to field area sufficient to service capacity of 5,258 gallons per day. Expansion or enlargement prohibited without approval of amendment of Site Plan by the Town of Lyons Board of Trustees.
34. Existing **UNDERPASS**. Use limited to livestock travel.



2051651  
Page: 11 of 11  
06/09/2000 11:58R  
R 55.00 D 0.00

35. LINE OF 100 YEAR FLOODPLAIN.

36-37. Keynotes reserved and not used on Site Map.

38. ALTERNATE ACCESS to Site interior provided from U.S. Highway 36. Access to be maintained with a width of 20 feet and to be used only by emergency vehicles.

Attachments:

Amendable Letter of Understanding  
Standard Form of Lease Agreement

**EXHIBIT C**

**AMENDABLE LETTER OF UNDERSTANDING (PBG FARM ANNEXATION)**

**AMENDABLE LETTER OF UNDERSTANDING  
(PBG FARM PROPERTY)**

**THIS AMENDABLE LETTER OF UNDERSTANDING (PBG FARM PROPERTY)** is entered into by and between the Town of Lyons, a Colorado municipal corporation, Planet Bluegrass Annex, LLC, a Colorado limited liability company, 500 West Main Street, P.O. Box 769, Lyons, CO 80540, and constitutes part of the Conceptual Plan approved by the Board of Trustees for the Town of Lyons, Colorado. Upon execution by the parties, the Amendable Letter shall remain effective and govern the use of the Property described in the Conceptual Plan until amended. This Amendable Letter is intended to serve as the "Amendable Letter of Understanding" contemplated by and referred to in Section 16-3-220(f) of the Lyons Municipal Code ("LMC"). This Amendable Letter is intended to be construed by reference to the Conceptual Plan and the Keynotes accompanying the Conceptual Plan.

References to "Property," "PBG Farm Property," "Event," "Major Event," "Minor Event," or "Conceptual Plan," are references to these terms as defined in the Keynotes to Conceptual Plan for Planet Bluegrass Farm Annexation ("Keynotes") and Conceptual Plan for the Planet Bluegrass Farm property ("Conceptual Plan"), which was approved by the Board of Trustees contemporaneously with the annexation of the Property. The Keynotes and Conceptual Plan are incorporated into this Amendable Letter for purposes of aiding the parties understanding of the terms and conditions of this Amendable Letter.

The Parties acknowledge that there is also an Amendable Letter of Understanding that governs the Planet Bluegrass Property, recorded on June 9, 2000 at Reception No. 2051651 in the real property records of Boulder County, Colorado. Nothing in this Amendable Letter of Understanding (PBG Farm Property) shall modify or amend the Amendable Letter that pertains to the Planet Bluegrass Property.

Reference to "Owner" in this Amendable Letter shall include the Owner of the Property and the Owner's designee, an event manager or production specialist with experience in the conduct of events similar to that contemplated in the Conceptual Plan. The Town shall not withhold its consent to the execution of this Amendable Letter by the Owner's designee provided that the Town is reasonably assured that the Owner's designee is both experienced in the conduct of similar Events, financially capable of meeting the responsibilities and obligations of this Amendable Letter and Conceptual Plan, and that the Owner also executes this Amendable Letter.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and Amendable Letter of the Parties, conformance with the Conceptual Plan, and other good and valuable considerations, the sufficiency and adequacy of which are hereby acknowledged by the Parties, the Parties hereto agree as follows with respect to the conduct of an Event.

**1. Notice of Events.**

(A) **Major Events.** The Owner shall provide the Town of Lyons with written notice of any proposed "Major Event." The notice shall be provided no less than 120 days prior to the date of commencement of the Major Event.

(B) Minor Events. The Owner shall provide the Town of Lyons with written notice of any proposed "Minor Event." The notice shall be provided no less than 60 days prior to the date of commencement of the Minor Event.

**2. Event Plans, Generally.**

(A) The Owner shall deliver a written and detailed event plan to the Town Administrator concurrently with the written notice provided pursuant to Paragraphs 1(A) and 1(B) above.

(B) For Major and Minor Events, the event plan shall address the management of all on-site and off-site impacts reasonably anticipated as the result of the Major Event. The event plan shall specifically address the areas of crowd management and safety; parking and camping; transportation needs; infrastructure requirements including but not limited to portable water and portable sanitation facilities; dust, trash management, traffic control, and public safety (Boulder County Sheriff's Office and fire protection) services, and compliance with all applicable Boulder County Public Health regulations.

(C) For any Major or Minor Event, the event plan shall address any off-site impacts as described in the above paragraph 2(B) as well as demonstrate that the event will have no off-site impacts not adequately addressed by the event plan.

(D) All event plans submitted in anticipation of an Event must be evaluated and determined to be sufficient by the Town Administrator for the Town of Lyons and the Town's Chief Law Enforcement Administrator. The Town of Lyons shall make a reasonable effort to have the determination made within thirty (30) days of the date of the event plan's submittal to the Town and the event plan shall be deemed sufficient if no determination of insufficiency is provided to the Owner or the Owner's representative within forty-five (45) days of the date of submittal.

(E) No camping fires or grills shall be allowed pursuant to any event plan, unless specifically reviewed by the Boulder County Sheriff's Office, the fire protection district, and the Town Administrator, and then only pursuant to specific terms and conditions as may be included in the event plan. As used herein, the term "grills" means portable BBQ grills, charcoal, propane, electric, portable fire pits, portable camping stoves, appliances. No camping fires or grills shall be allowed during a fire ban as established by the Town or the Boulder County Sheriff. If allowed in a specific event plan, the Town shall have the right to immediately revoke authorization for camping fires or grills based upon site conditions on the PBG Farm Property, if necessary to protect the public health, safety and welfare, even in the absence of an official fire ban.

(F) Concurrently with the submittal of an event plan, the Owner shall provide proof of the ability to lawfully use any necessary off-site property for parking, camping, or other purposes related to the Event in the manner anticipated or proposed by the event plan.

(G) In the event that a submitted event plan is deemed inadequate by the Town Administrator or the Town's Chief Law Enforcement Administrator, the Owner shall have fourteen (14) days in which to correct any deficiencies identified by the Town Administrator and Chief Law Enforcement

Administrator. In the event that the Owner is unable to correct the cited deficiencies to the satisfaction of the Town Administrator, then the anticipated Event shall be terminated and the Event shall not be held.

- (H) At its election, the Board of Trustees or a committee formally appointed by the Board of Trustees may act in the capacity of the Town Administrator and/or the Town's Chief Law Enforcement Administrator for the purposes of this Amendable Letter; this election shall occur only upon motion by any Trustee during a regular or special meeting, so long as the motion is approved by a majority of Trustees present and voting at the time of the making of the motion and so long as a quorum of Trustees is present at the meeting.
- (I) It is the intention of the provisions set forth above, that all events on the PBG Farm Property be generally conducted in the manner established by previous events conducted on the Planet Bluegrass Property in prior years and that the be conducted in a manner not detrimental to the health, safety and welfare of the citizens of the Town of Lyons.

### **3. Event plans; Content and Requirements.**

Every event plan shall incorporate or include the following minimum requirements:

- (A) Time of Event. The event plan shall specifically identify the time(s) during which the Major Event or Minor Event will be conducted on the PBG Farm Property.
- (B) Crowd Size. For any Major Event, occupancy shall be limited to the restrictions on tent camping and camper/vehicle parking set forth in the Keynotes for the PBG Farm Property, but in no event shall exceed 1,200 people, unless otherwise approved by the Town in the Event Plan.
- (C) Parking. Any parking area(s) to be utilized for any Major Event or Minor Event shall be specifically identified, together with identification of emergency access corridors.
- (D) PBG Farm Property Security. On-site security and crowd management will be provided by the Owner's personnel at the PBG Farm Property. Illegal or criminal acts observed by the Owner personnel will be reported immediately to the BCSO personnel. The Owner shall arrange for and shall maintain and provide radio communication between its own security force and BCSO personnel and, if requested, the Town's Chief Law Enforcement Administrator. If available, the BCSO will provide at no cost to the Town a command center trailer to be used on or in the immediate vicinity of the PBG Farm Property. The Owner shall insure compliance with Colorado State Liquor Laws on the entire PBG Farm Property and report any violations to Boulder County Sheriff's Office (BCSO) personnel.
- (E) Medical Center. The Owner shall provide and maintain a staffed medical center at the PBG Farm Property or the Planet Bluegrass Property with a minimum of one (1) EMT on duty at all times during the hours of operation of the Event. The event plan shall detail the availability of medical staff at the medical center to respond to medical emergencies occurring on the PBG Farm Property.

(F) Taxes. The Owner will be responsible for collection and remittance of all state and local taxes on all sales by its concessionaires occurring on the PBG Farm Property. An itemized written accounting for gross sales and sales taxes will be provided to the Town no later than 5:00 p.m. one week following the last day of the Event.

(G) Business License. The Owner shall obtain business licenses from the Town as required by local laws. Other individual concessionaires shall obtain all necessary and required business permits and licenses except that individual businesses need not obtain a business license from the Town if their revenues are accounted for and reported under the Owner's sales tax number.

(H) Local Ordinance Conformance. The Owner shall manage the Event and the PBG Farm Property during the Event, and any other areas of the Town which may be used by the Owner for the Event (including areas leased to the Owner by the Town) in a manner that ensures conformance with all local ordinances and laws. The Owner may contact the Town Administrator prior to the Event to arrange a meeting to discuss the particular ordinances and laws that may be applicable to the Event and its activities.

(I) Management – Identification. The Owner shall have all managers and management employees wear a similar shirt and hat identifying the wearer as a manager or employee of the Event. The Owner may provide an alternative identification system with the approval of the Town Administrator.

(J) Crowd Management. The Owner shall arrange for and set-up crowd management systems at the PBG Farm Property and any off-site property used in connection with the Event no later than 8:00 p.m. on the date prior to any parking and camping on the PBG Farm Property is allowed pursuant to the occurrence of a Major Event, and said security and crowd management systems shall continue until all vehicles and campers have been removed from the Property.

(K) Pedestrian Traffic. For a Major Event, the Owner, only with the approval and consent of and in conjunction with the Colorado State Department of Transportation (CDOT) and the Boulder County Sheriffs Department, may erect a continuous barricade along the east shoulder of northbound Colorado Highway 36 extending from the south edge of the side entrance driveway southward across the bridge up to and including the free right turn lane from High Street. This barricade will delineate and secure a six (6) foot-wide pedestrian walkway while maintaining the existing two traffic lanes on northbound 36. An additional barricade will be erected along the west edge of southbound Fifth Avenue to close off the free right turn lane at High Street. The Town shall not be responsible for maintaining and managing vehicular and pedestrian traffic along Colorado Highway 36.

(L) Vehicular Traffic. For a Major Event, the Owner, only with the approval and consent of and in conjunction with CDOT, will erect temporary signage and traffic control as necessary to allow access to the PBG Farm Property at the specific location approved by CDOT pursuant to permit #416017, authorizing 1,000 vehicles maximum per day. The Owner will install all temporary signage and traffic control in accordance with Town and CDOT requirements and a minimum of two (2) BCSO deputies will supervise and direct traffic at the PBG Farm Property entrance. All costs related to temporary signage and traffic control shall be borne by Owner.

(M) Parking Management at PBG Farm Property. The Owner shall manage all access, ingress, egress of vehicles at the PBG Farm Property and any other properties lawfully used for parking in associated with any Event and shall, in particular, manage traffic so as not to interfere with reasonable access to public roads for residents of the Town.

(N) Shuttle System. The Owner will provide a shuttle bus system to and from the PBG Farm Property and all designated Event parking areas within the Town, including any property leased by the Owner from the Town. The actual connecting points in the Town will be determined by the Town Administrator or designee. The shuttle system will operate on an average headway of 30 minutes. The Owner will be responsible for informing Event patrons of the shuttle routes and stops and in providing signage approved by the Town Administrator for the shuttle stops.

(O) Other Parking. The Owner shall submit any written agreement(s) and, if any agreement is not written shall provide a written description of the general terms and conditions any agreement, between the Owner and any third party which involves the provision of parking services for the Event. The Owner shall consult the Lyons Municipal Code and is encouraged to determine whether parking of automobiles is a lawfully permitted use of third party property prior to planning parking activities for any Event.

(P) Parking Supervision. The Owner agrees to provide sufficient personnel to manage and supervise all designated parking areas in order to meet the obligations of the Conceptual Plan and to protect the safety and welfare of the Owner's Event attendees.

(Q) Public Safety Assistance. The Town will make its Chief Law Enforcement Administrator available for any security needs or assistance requested by the Owner and will arrange its police scheduling to assist with the security needs of the Owner. Such availability shall be contingent upon the need for the Boulder County Sheriff's Office (BCSO) to respond to emergency situations elsewhere within the Town or its vicinity. For any Major Event, the Owner shall pay for and to contract separately with the Boulder County Sheriff's Office for at least two (2) deputies to assist full-time with traffic control and security associated with the Major Event on the Planet Bluegrass Farm Property. This shall be in addition to any BCSO assistance required by the Amendable Letter of Understanding for the Planet Bluegrass Property. The Town's Chief Law Enforcement Administrator will act as the supervisor for the BCSO deputies. The Owner shall pay any invoice for police services associated with a Major Event promptly and without undue delay.

(R) Insurance Obligations.

(1) The Owner or the Owner's representative shall procure and maintain a general liability insurance policy or policies in the amount and form acceptable to the Town Administrator, sufficient to insure itself, and in addition the Town and its officers, agents and employees against all liabilities, claims, demands, actions or other obligations assumed by the Owner or the Owner's representative pursuant to this Amendable Letter. The minimum limits of such insurance policy or policies shall be \$1,000,000.00 combined single limit and the general liability insurance policy shall expressly provide that its primary insurance and that its coverage will apply prior to utilization of Lyons' general liability coverage. Evidence of the insurance policies described above shall be provided the Town of Lyons no less than thirty (30) prior to the date of any anticipated event. All insurance policies shall be non-cancelable

or non-terminable without 30 days' prior notice to the Town.

- (2) If required by the Colorado State Department of Transportation, the Owner shall submit to the Department (and submit a copy to the Town) of a certificate of insurance as evidence of a general liability policy covering claims that might arise from the closure of the state highway. The minimum limits of the policy shall conform to that required by CDOT but shall not be less than \$400,000.00 for any injury to one person and at any single occurrence and \$1,000,000.00 for injury to two or more persons in any single occurrence. The insurance policy shall name the State of Colorado and its employees as additional insureds and this statement must appear on the certificate of insurance. Evidence of this coverage shall be provided to the Department and the Town no later than 30 days before the commencement of the Event.
- (3) The Owner shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to this Paragraph 3(R) by reason of its failure to procure or maintain insurance or by reason of its failure to procure to maintain insurance in sufficient amounts, duration or types.
- (4) The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto required by this Amendable Letter.

(S) The Owner shall abide by the Town Administrator's directions and requirements which are not inconsistent with this Amendable Letter and which are necessary to protect the health, safety, and welfare of the residents of the Town.

(T) With respect to Event infrastructure requirements, and as a condition to the approval of any Event plan by the Town, the Owner shall provide the Town with details related to: (1) the source and amount of water sufficient to control dust during Major or Minor Events, parking, and the restoration of the PBG Property after the conclusion of any Major Event or Minor Event, including water sufficient to aid in vegetative re-establishment following camping, parking and other allowed uses of the Property; and (2) portable sanitation facilities, including but not limited to portable restrooms and portable kitchen/waste disposal facilities to be set up and utilized on the Property during any Major Event or Minor Event. Every event plan shall document the source and amount of water sufficient to satisfy the requirements of this Paragraph 3(T), and shall include a map or diagram specifically designating the number and location of all portable sanitation facilities.

(U) The Owner understands and agrees that it and the conduct of every Event shall be subject to all applicable laws of the state of Colorado and the Town of Lyons.

#### **4. Additional Provisions.**

- (A) The Owner shall be responsible for all expenses of implementing all event plans, unless otherwise agreed, specifically including all police expenses as said expenses are reasonably requested by the Town's Chief Law Enforcement Administrator. The Town shall, however, be responsible for the expenses of its Chief Law Enforcement Administrator in reviewing event plans and the usual and customary expenses associated with the provision of day-to-day police services within the Town.

- (B) The Owner and the Owner's representatives shall indemnify the Town of Lyons, its officers, agents, contractors, and employees and hold them harmless against any and all claims, actions, demands or liabilities, including attorney fees and court costs, for injury, death, damage or loss to person(s) or property arising out of or directly or indirectly resulting from the Owner or the Owner's representative's actions or omissions in connection with the conduct of any Event and, in particular, the Owner or the Owner's representatives' use of any public property.
- (C) The Town Administrator shall conduct a preliminary review of each Event at a date and time mutually agreed upon by the Administrator and the Owner within 20 days following the conclusion of an Event for the purpose of determining whether the Owner substantially performed the obligations under this Amendable Letter, the Town-approved event plan, the Conceptual Plan, and any lease agreement for public property associated with an Event. The Owner may attend the review by the Town Administrator. The Administrator shall forward his or her written or verbal report to the Town Board of Trustees.

## **5. Notice.**

Notice made during the conduct of an Event shall be in verbal or written form personally delivered to the Owner, the Owner's designated representative, or the Town Administrator, or the Administrator's designated Event representative. All other notice contemplated by this Amendable Letter of Understanding shall be provided the respective parties at the following address and in the following manner:

To the Owner or Owner's Representative. Notice by mail may be provided by the receipt of mail by the Owner or Owner's designated representative at P.O. Box 769, Lyons, Colorado 80540.

To the Town of Lyons. Notice by mail may be provided by hand delivery to the Town Administrator at the Town's principal place of business in Lyons, Colorado.

## **6. Miscellaneous Provisions.**

- (A) This Amendable Letter shall bind the parties and extend to their respective representatives, successors and assigns provided that the Owner shall not assign this Amendable Letter without the written consent of the Town which may be withheld for any reason.
- (B) No amendment or modification of this Amendable Letter shall be valid unless expressed in writing and executed by the parties in the same manner as the execution of this original Amendable Letter.
- (C) A waiver by any party to this Amendable Letter of the breach of any term or provision of this Amendable Letter shall not operate or be construed as a waiver of any subsequent breach by either party.
- (D) This Amendable Letter shall be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Amendable Letter shall be in the appropriate court for Boulder County, Colorado; provided that, at the discretion and election of the Town, the Town may seek venue for any such action in the appropriate court for either Boulder County, Colorado, or

the City and County of Denver, Colorado, and, in the event of such election by the Town, the Owner hereby waives any objection to venue, consents and shall not object to venue, in either court.

- (E) Nothing contained in this Amendable Letter is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party. Absolutely no third-party beneficiaries are intended by this Amendable Letter. Any third-party receiving a benefit from this Amendable Letter is an incidental and unintended beneficiary only.
- (F) The parties understand and agree that the Town is relying on and does not waive or intend to waive by any provisions of this Amendable Letter, the monetary limitations provided by the Colorado Government Immunity Act, C.R.S. § 24-10-101, et seq. as from time to time amended, or any other immunity that may be otherwise available to Town, its officers, agents or employees.
- (G) This Amendable Letter shall not be deemed or construed to create a any partnership, joint venture, employer/employee or other relationship by and between the Town and the Owner or the Owner's representatives. The Town shall not be obligated to secure and shall not provide any insurance coverage or employment, medical, dental, retirement benefits of any kind or type to or for the Owner or any Owner employee, agent, or representative, including but not limited to workers' compensation, health, medical, dental, personal injury, personal property, disability, or errors and omissions insurance, or any retirement fund contributions.

**IN AGREEMENT WITH THE FOREGOING PROVISIONS, THE PARTIES HAVE EXECUTED THIS AMENDABLE LETTER OF UNDERSTANDING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.**

**PLANET BLUEGRASS ANNEX, LLC**, a  
Colorado limited liability company

By: \_\_\_\_\_  
Craig Ferguson, Managing Member

**TOWN OF LYONS:**

By: \_\_\_\_\_  
Connie Sullivan, Mayor

**EXHIBIT D**

**REQUIRED EASEMENTS (MAP SHOWING ESTIMATED LOCATION(S) OF REQUIRED EASEMENTS)**



Exhibit D to Annexation Agreement - Required Dedications (page 2 of 2)

**IMPROVEMENT SURVEY PLAT**  
TO ACCOMPANY PLANET BLUEGRASS FARM ANNEXATION IMPACT REPORT  
A PARCEL OF LAND LOCATED IN THE NORTHEWEST QUARTER OF SECTION 18,  
TOWNSHIP 3 NORTH, RANGE 70, WEST OF THE 6TH P.M.,  
COUNTRY OF COLORADO, STATE OF COLORADO.

**Legend**

- FOUND AUGUST MONUMENT AS DESCRIBED ON SHEET 1
- FOUND CHISELED CROSS
- FOUND MONUMENT AS DESCRIBED ON SHEET 1
- FOUND 5" REBAR WITH 1 1/2" ALUMINUM CAP
- JD JOHNSON LS 6716
- FOUND 5" REBAR WITH 1 1/2" ALUMINUM CAP
- JD JOHNSON LS 24415
- FOUND 5" REBAR WITH 1 1/2" ALUMINUM CAP
- SET 15' 6" REBAR WITH 1 1/2" ALUMINUM CAP
- FLATIRON SUR 16405
- CALCULATED POSITION (NOT FOUND OR SET)

ED 1021 4107/21/2019 09:59:45 127.0.0.1 919-55318731 39095846

**EXHIBIT E**

**BOCC RESOLUTION**



## Land Use

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856  
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • [www.bouldercounty.org](http://www.bouldercounty.org)

August 2, 2016

Craig Ferguson  
PO Box 769  
Lyons, CO 80540

Dear Applicant:

This letter certifies that a hearing of the Board of County Commissioners, County of Boulder, State of Colorado, was duly called and held on June 28, 2016, in consideration of the following request:

**Docket LU-16-0009:** Limited Impact Special Use Review for Ferguson completed flood recovery property restoration involving 1,100 c.y. earthwork

Request: Limited Impact Special Use Review for Ferguson completed flood recovery property restoration involving 1,150 c.y. earthwork.

Location: Located between Apple Valley Road and North Saint Vrain (U.S. 36). It is accessed from North Saint Vrain Road. It is directly contiguous with the western boundary line of the Town of Lyons. North Saint Vrain creek runs from west to east through the southern portion of the property

Zoning: Rural Residential (RR)

Applicant/

Owner: Craig Ferguson

The Board of County Commissioners has determined that the request is CONDITIONALLY APPROVED, subject to the terms in the attached resolution.

Your approval may have included certain conditions that must be met. Please contact the planner who processed your docket for more information on any requirements that will need to be met.

If you have any additional questions, please feel free to contact me at (303) 441-1735 or via email at [jseverson@bouldercounty.org](mailto:jseverson@bouldercounty.org)

Sincerely,

Jennifer Severson, AICP  
Senior Planner, Flood Recovery  
Boulder County Land Use Department  
FRPIC-Flood Rebuilding and Permit Information Center

## RESOLUTION 2016-81

### A resolution conditionally approving Boulder County Land Use Docket LU-16-0009: Ferguson Property Restoration

#### Recitals

A. Craig Ferguson (the "Applicant") has applied to Boulder County for Limited Impact Special Use Review under Article 4-601.A of the Boulder County Land Use Code (the "Code") to allow for approximately 1,150 cubic yards of earthwork along both sides of North Saint Vrain Creek, stabilization of the creek channel and banks, earthwork for a manure pile that was deposited along the floodplain boundary, the creation of an access drive ramp outside of the floodplain, and construction of a retaining wall and reinstallation of a ditch inlet structure for the Evans ditch following the 2013 Extreme Rain and Flood Event (the "Flood Event").

B. The property consists of 25.55 acres located at 19680 North Saint Vrain between Apple Valley Road and North Saint Vrain Drive (U.S. 36), adjacent to the Town of Lyons, and contiguous to the Town's western boundary in the Rural Residential zoning district in unincorporated Boulder County (the "Property"). North Saint Vrain Creek runs from west to east through the southern portion of the Property.

C. Directly following the Flood Event, the previous owner completed earthwork to fill in a post-flood secondary channel created by flood waters backing up at the highway bridge within Lyons town boundary. Initial grading was also performed on the northern side of the creek to stockpile rock debris. The Property was subsequently sold to the Applicant.

D. The Applicant received Hazard Mitigation Review approval (HMR-15-0017) to backfill a small hole resulting from the previous debris removal in the floodplain on the north side of the creek. The Applicant also completed 1,251 cubic yards of earthwork without the necessary County review or permits, including performing earthwork along both sides of the creek within the North Saint Vrain floodplain overlay district (1,111 cubic yards), creating a manure pile (50 cubic yards) that was deposited along the floodplain boundary and creating an access drive ramp outside of the floodplain and north of the creek (100 cubic yards). Additionally, the Applicant installed a retaining wall approximately 6 feet in height and 80 feet long that incorporated the reinstallation of a ditch inlet structure for the Evans ditch and two drop structures in the creek. An excavator was used in the river and along its banks to "comb" and stabilize the main creek channel and 1,400 linear feet of creek bank associated with the Property.

E. The Applicant also removed debris and trash from the creek, and all "non-organic" materials were taken to a landfill.

F. The Applicant transferred earthen materials out of the floodplain and used them to create the access ramp. The Applicant states that the ramp is approved by CDOT to allow its use ten days a year for event parking of up to 1,000 cars per day.

G. The Applicant has submitted revegetation information for the property based on a Colorado State University Extension office consultation. Seed mix and seedlings have been purchased and planted in effort to re-vegetate all disturbed areas on the Property.

H. The above described request was processed and reviewed as Boulder County Land Use Docket LU-16-0009 (the "Docket"), as further described in the memorandum and written recommendation to the Board of County Commissioners by Boulder County Land Use Department Planning Staff dated June 28, 2016, together with its attachments (the "Staff Recommendation").

I. At a public hearing on the Docket held June 28, 2016, as further reflected on the official record of the hearing, the Board of County Commissioners (the "Board") considered the Staff Recommendation as well as the documents and testimony presented by County Land Use Planning staff. The Board also considered the testimony of Craig Ferguson, the Applicant, and Darlene Thompson, speaking on behalf of Northern Colorado Water Conservancy District. No other members of the public spoke.

J. Based on the Public Hearing, the Board finds that the Docket meets the criteria for limited impact special use contained in Article 4-601 of the Code, subject to the conditions stated below.

K. Therefore, the Docket can be approved, subject to the conditions stated below.

Therefore, the Board resolves:

Docket LU-16-0009 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. The Applicant shall obtain a combined building/grading permit for the approved earthwork, retaining wall, and drop structures from the Boulder County Building Safety and Inspection Services in the Land Use Department.

- a. As-built drawings, typical cross sections, a site plan, stream bank wall design, drop structure design, and grading volumes stamped by a qualified Professional Engineer registered in the State of Colorado shall be submitted for review of this permit.

- b. The town of Lyons water line easement shall be depicted on plans submitted for County approval.
- c. Observation reports from the design engineer stating that the grading work and wall have been completed in substantial conformance with the approved engineered plans shall be submitted at the time of permit application.

2. ***Prior to issuance of a combined building/grading permit***, a County Floodplain Development Permit shall be obtained for applicable activity within the regulatory floodplain of Boulder Creek. Floodplain Development Permit requirements shall include, but not be limited to, those listed in the County Transportation Department – Floodplain Review referral comment letter dated May 19, 2016.

3. ***Prior to issuance of a combined building/grading permit***, a plan to reclaim the area where the access ramp has been constructed must be submitted to the Land Use Department. **Prior to final inspection of permits**, the access ramp must be reclaimed. The ramp will be deconstructed within 18 months unless the Applicant has received Boulder County approval to retain the ramp on the Property for an approved use or has achieved annexation to the Town of Lyons.

4. ***Prior to issuance of a combined building/grading permit***, verification of CDOT approval to provide Access Permits for the two access points from US 36 serving the Property shall be submitted to the County. The Applicant shall determine if the southern access is to remain, and if so shall depict this on the grading plan, and provide an Engineer Report indicating that it meets Boulder County Multimodal Transportation Standards (Section 5.5 and Standard Drawings 11, 14, 15, and 16).

5. ***Prior to issuance of permits***, an approval letter from the owners of the Evans Ditch shall be provided verifying approval for the installation of the ditch inlet structure.

6. ***Prior to issuance of permits***, the Applicant shall submit recommendations from a restoration ecologist and the North Saint Vrain Watershed Coalition Coordinator for County review and approval. **Prior to final inspection**, revegetation must be inspected. If revegetation efforts have not been successful by October 2016, erosion control measures will be required. The location of all erosion control measures intended to be used if uniform vegetation is not established by October 2016, including silt fences, shall be shown on site plans submitted for grading permit. These erosion control measures shall be installed prior to commencement of activity and shall remain in place throughout construction.

7. The Applicant shall be subject to the terms, conditions, and commitments of record and in the file for Docket LU-16-0009.

A motion to approve the Docket was made by Commissioner Gardner, seconded by Commissioner Domenico, and passed by a 3-0 vote.

ADOPTED as a final decision of the Board on this 26 day of July, 2016.

**BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY:**

Elise Jones  
Elise Jones, Chair

Cindy Domenico  
Cindy Domenico, Vice Chair

(Excused)  
Deb Gardner, Commissioner

ATTEST:

Cecilia S. Lacey  
Clerk to the Board

