

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** William Edward Gretz <William.Gretz@colorado.edu>

**Sent:** Saturday, September 4, 2021 11:21 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** We demand a referendum on CU South

**External Sender**

The present schedule for the annexation of CU South must be postponed two months. The voters of Boulder have a petition on the ballot for November and we should be the ones to decide this, not Council members, not city staff, not CU employees (all of whom have obvious conflicts of interest). The property currently known as CU South should be condemned not annexed.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Spenser W Havlick <spenser.havlick@Colorado.EDU>  
**Sent:** Saturday, September 4, 2021 10:24 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Spenser W Havlick <spenser.havlick@Colorado.EDU>; Jan.burton111@gmail.com  
**Subject:** Ten actions for flood mitigation asap

**External Sender**

Dear Council members,

I fear some of you have had your priorities for protecting citizens in the West Valley thwarted or distracted by prolonged negotiations with CU and their pressure to annex their flood plain property.

You may not have seen my ten suggestions a week ago today in the Daily Camera whereby City Council action should have and could have activated effective measures to protect life and property in the South Boulder Creek drainage area. I have 12 other suggestions that space did not permit me to print. If any of you are interested, I would be glad to send them to you.

Could any of you please tell me why there has been so little attention paid to these proven flood mitigation measures by you or previous council members since the 2013 flood eight years ago? Several of these effective steps were discussed at a Spring 2001 city council study session.

Not one of these measures require an annexation of the CU property.

I would be eager to learn what or who it has been that these efforts that I list below have hardly been publicly discussed, or even compared to projected remedies in the agreement draft that has captivated your attention in recent months and years.

It seems to me that you and staff have been so persuaded by CU to get their South Campus city services asap that much less controversial remedies listed below should be put on the table now for action, not tabled!

I would appreciate a reflection from as many of you who believe there may be some merit in the items below.

**Flood Protection Without CU Annexation**

There are many flood mitigation measures that can give residents in the South Boulder Creek flood plain effective protection without annexing over 300 acres of land for yet another CU campus.

In the spring of 2001 several recommendations were made at a City Council study session to safeguard citizens from flood damage in the SBC drainage area. These suggestions came from an Independent Review Panel of local flood plain experts of which Gilbert White was a member. Professor White was known as the leading world authority on reducing risk to life and property in flood plains.

Instead, City officials seized on the possibility of constructing flood engineering works on part of the CU site as part of a deal to allow a huge development on the site even though CU had no definite plans for the abandoned gravel pits along South Boulder Creek.

But What seems to have been forgotten are many steps that could have and should have been taken first to implement practical means of flood mitigation that could be done without promoting another CU campus.

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In the absence of an annexation, here is a list of actions that should be considered:

1. Installation of a flash flood warning system using stream gages in key nearby locations like the Viele Channel where rising floodwaters can be detected in advance of flooding.
2. Devise and implement an early warning system where all residents (in homes, schools, businesses) in the SBC drainage downstream from Gross Reservoir would be notified if South Boulder Creek starts rising to flood levels. This could be set up like the Amber Alert notification.
3. Create permanent signs for flood evacuation routes to help insure safe exit after flood warnings are sounded. This is already done on the U.S. West Coast with tsunami evacuation signage.
4. Streets with low areas that are subject to flooding should have permanent yardstick markers to show dangerous water depth to avoid cars becoming stranded. Note what happened in NYC and New Jersey where vehicles were driven into waters of unknown depths. And equipment should be prepositioned in locations where bridge and roadway closure is required. This technique is in practice on Boulder's multi-use bike paths where flooding is prevalent.
5. Mortgage documents and rental leases should include language to inform future owners and renters about the degree of flood risk and what steps are available to increase safety and reduce loss. California requires this notification when properties are in close proximity to earthquake fault zones.
6. Volunteers should be recruited and trained to help evacuate frail seniors, daycare children, and individuals with disabilities. Annual flood evacuation drills should be held for people in the 500-year flood hazard zones.
7. Relocate car parking out of highest flood risk areas. Label car lots in the SBC flood plain to warn drivers of the danger of floating cars and other debris damming at bridges exacerbating flood damage. Example: the Open Space trailhead at the Bobolink Trail near Baseline Road.
8. Informational signage along the banks of South Boulder Creek with photographs of the 2013 flood could graphically point out the danger.
9. Flood proof the highest risk structures in the flood conveyance zone as was done at the Municipal Building and the Frazier retirement complex.
10. No earth fill and no future residential or commercial construction for human occupancy should be permitted in the SBC flood plain.

It is unfortunate that the Boulder city staff and some Council members have been persuaded by CU administrators to exchange a more protective 500-year flood design for a design of lesser protection, now embedded in the annexation draft. CU would get water, sewer, fire and other city services in order to construct a large branch campus complex, but the residents of South Boulder get inadequate protection from the undersized holding pond, while most of the proven successful and cost-effective measures listed above are ignored.

Finally, this process has overlooked the citizens who live or frequent the other thirteen flood-prone tributaries and water ways in the city. Any one of the city councils since 2013 could and should have

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started a comprehensive flood control plan for all the creeks in the city, including drainage plans and emergency measures that works and will respond to weather uncertainties that climate change will bring.

Respectfully submitted ,  
Spense Havlick      City council member 1982-2003.

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**From:** Wallach, Mark <WallachM@bouldercolorado.gov>  
**Sent:** Sunday, September 5, 2021 1:46 PM  
**To:** HOTLINE <HOTLINE@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** [BoulderCouncilHotline] The CU South Decision

CU South has been the most divisive and controversial project I have encountered in almost 2 years as a member of the Boulder City Council. Passions have run high, and expressions of position have ranged from well-considered to entirely unrealistic. As a sitting member of Council, and the only candidate for election in November who will actually have to vote on this matter, I have been implored, beseeched, and even threatened (politically, not physically) to vote one way or another. Consequently, I want to communicate to the community my thinking on the subject and how I arrived at my ultimate decision. I have no illusions that this explanation will either persuade or satisfy those who disagree with me; it is nothing more than a statement of where I ultimately came out on CU South, and why I reached that conclusion.

I start with the premise that providing flood protection for the Frazier Meadows community is a necessary and important goal. If you do not share this view, obviously there is insufficient basis to support annexation. If you do accept that premise, and given CU's refusal to consider separating the flood mitigation project from its desire to have the property annexed in order to develop a new campus, then there is little alternative to sitting down with CU and negotiating the best deal possible for the community of Boulder.

Let me start by saying there is much in this project to dislike, and I have only respect for those who have reached the conclusion that they cannot support the Annexation Agreement. Some of the defects of the deal that has been negotiated are as follows:

1) Many have noted that the plan calls for 100 year flood protection, instead of the 500 year standard. This is true, and the 500 year is theoretically preferable. However, the expense for the latter standard is probably larger than the City can really undertake, and as CU has not been willing to permit a flood mitigation project of this scope, 100 year protection is the only viable alternative.

2) This project will substantially increase every resident's storm water utility rates, and not every resident will be equally benefitted. For residents who live in areas outside our flood zones it is legitimate to ask why so much funding will be focused on a project benefitting a relatively small number of residents. In addition, we have a number of drainage areas throughout Boulder that require flood protection, and it is not inappropriate to ask where the funding will come from to address their concerns.

3) This is the largest public works project of which I am aware in Boulder. The problem is that the cost is likely to be far larger than initial estimates, which is common for projects of this size and scope. I believe the current estimates are no more than guesstimates, and I am not sure that we have accurately calculated the sticker shock this project will impose on the community.

4) While our negotiating team has gone to great lengths to minimize the impact on surrounding residential communities from noise and light impacts of the sports facilities to be built on the property by CU, that protection is not perfect.

5) There is concern for the impact of the proposed development on the adjacent lands to be preserved as Open Space, including the impacts on several endangered plant and animal species.

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6) And, of course, the development of this campus – which is largely intended to provide housing to for upper class students, graduate students and faculty - does not address the elephant in the room: CU's drive for continued growth and its continuing failure to house its students beyond the first year, placing enormous pressure on our local housing market, driving up rents, and fueling the influx of investment capital to purchase private homes and convert them to student rental housing, in order to provide the housing for which CU has abdicated its responsibility. The time is coming when those policies are going to be the subject of robust community debate. Unfortunately, those topics are not on the table now, as the need for flood mitigation does not permit us to enter into that kind of protracted stalemate with our counterparts.

7) As noted earlier, the unwillingness of CU to discuss flood mitigation apart from annexation has made this entire process more difficult. When I questioned CU representatives about this at a briefing early in my term, they were quite explicit that they wished to employ their political leverage to extract from Boulder what they desire, and were prepared to do so for as long as it took. If not for the efforts of our negotiating team, this agreement would have been a cornucopia of unacceptable provisions damaging to the City. I have detected very little of the partnership relationship that CU often talks about.

And yet, despite all this (and I have not been exhaustive in this list), I am going to vote for the Annexation Agreement. After what I have just written, how is this even possible?

1) First, the impact of the 2013 flood on Frasier Meadows is real. No one died that year, but I believe that is only by the grace of God. As climate change events increase in severity, I am reluctant to bet on similar good fortune in the future.

2) In Boulder, when we see a problem, we try to address it, to the extent that we can. Especially in the context of life, health and safety concerns I am hard pressed to say to the impacted communities that we will not attempt to seriously confront this problem. Our response to those endangered must be better than: Sure it floods, buy a lifeboat.

3) Many of the proposed alternatives to this project are, to me, not realistic. Some have suggested that we condemn the property. It is entirely unclear that we have the legal authority to do so, but I can safely say that there is no appetite among my Council colleagues for such a dubious, scorched earth policy. Despite the obvious low regard in which I view CU's role in this process, condemnation is not an alternative. Similarly, for those who suggest that a land swap for property in the Planning Reserve in North Boulder is a great idea, my response is: you may well be correct. But that swap cannot be compelled, and CU is currently unwilling to entertain it. Unless and until they become more flexible in their position, it is an idea that cannot be implemented. Meanwhile, the clock is ticking down to the next flood event.

4) So if you accept the idea that a flood mitigation project is necessary, which I do, the only alternative is to actively negotiate with CU to obtain the land necessary to undertake it, and to mitigate the impact of the campus that CU proposes to develop on the balance of the property. And here it is necessary to give a shout out to the negotiating team in their continual efforts to produce an agreement that we can live with. If you have read the successive drafts of the Annexation Agreement – and I have had that very dubious pleasure – it is undeniable that each draft has dramatically improved on its predecessor. All of the most obnoxious and unacceptable terms of the early drafts have been removed, such as the obligation to pay for the fill on the land CU is deeding to us, or the obligation to indemnify them for flood damage to the facilities that **they** choose to build in a flood plain. We have circumscribed CU's right to develop the property in many important ways, such as adhering to 55 foot height limits, requiring that the focus of the project be housing for staff, graduate students, and upperclassmen, requiring that residential be built before non-residential structures and requiring that 2 feet of residential space be constructed for every foot of non-residential space. We

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have limited where CU can build, keeping them off the sloping portions of the land and providing buffer zones between the campus and adjacent neighborhoods.

5) And there is more, including an issue that was very important to me: restraining the ability of CU to sell this property to an outside party, merely for profit. CU is now barred from conveying the land for 10 years, and we have the right to purchase the property if and when CU puts it on the market. Most importantly, we have limited the uses to which the property may be put by a subsequent owner. One of my concerns was that we not end up with a Class A office park at CU South, when that is not what the community needs. The agreement greatly limits the future uses of the property and is oriented largely towards housing, with a requirement of 45% affordable housing, and the limitation that all non-residential construction serve the purpose of creating a 15-minute walkable neighborhood. That does not mean that a future developer cannot attempt to develop \$1,000 per square foot condos on the site, but almost half of the units they do develop will have to be affordable. Is there any other project in the City that would not be enthusiastically approved at that level of affordability?

6) It is also important to note that more than 1/3 of the land of CU South will be made available for flood mitigation and for Open Space. An additional 5 acres will be conveyed for the exclusive purpose of creating affordable housing. An additional 2 acres will be conveyed for the possible creation of a new firehouse. These are substantial benefits.

7) The approvals for this project are not a sure thing, and if for any reason we cannot get the flood mitigation project through its many regulatory hurdles, the annexation that we are granting CU is reversible on that basis. We will not be stuck with an annexation without the bargained-for benefits.

8) We talk all the time about creating a more inclusive community, and creating an avenue for those who cannot afford our astronomical rental and purchase prices to live here. With the stated commitment to utilize the housing on site for upperclassmen, graduate students and faculty, (and I hope that a portion will be set aside for lower income staff who actually make the university run), this is an opportunity for Boulder to walk the talk, and we should take it.

The foregoing is only an incomplete summary of the manner in which this agreement addresses key concerns and issues regarding this project. It is not perfect, or close to perfect. But in my world you deal with the circumstances in which you find yourself and do the best that you can. I believe that we have done so, and I believe this Annexation Agreement provides a basis for moving forward.

Last subject (I promise!): with a ballot initiative coming up dealing with this very subject, why not simply wait to see the outcome of the vote? The answer is that this is our job, and that this project has been germinating for years. It is time to act. And the specific wording of the initiative is likely to prove an insurmountable obstacle to actually bringing the flood mitigation process to a successful conclusion at any point in the future. The language is less a proposal to improve or shape the agreement than a poison pill that will serve to kill it. For that reason alone, I am not supportive. But it is also true that our actions are subject to the possibility of a nullifying referendum, a process specified in our Charter, and I fully expect that opponents of this project will follow that route as well. If they collect sufficient signatures, then the specific actions of this Council, should the Annexation Agreement be approved, will be put to a vote. That vote will be a decision made by the community, and, of course, it will be controlling.

My vote on this is conflicted, but it represents my assessment that we are better off moving forward with the Annexation Agreement than taking no action. I have immersed myself in this subject over a number of months and I have assessed its good and bad points. Through my comments and communications I have

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attempted to shape the agreement to better serve the community and, exercising my best judgment, I have made a decision to support the Annexation Agreement. My decision is not based on the politics of the issue, which I believe are irrelevant in a matter of such consequence to Boulder. This is the way I believe we should proceed, and, as I have said elsewhere, I will stand by that decision.

Happy Labor Day to all.

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**From:** Aaron Stone <adobo76@gmail.com>  
**Sent:** Monday, September 6, 2021 7:01 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South?

**External Sender**

I've just received an e-mail regarding "Save CU South"

A quick bit of research that it shows that Open Space would be developed in order to build CU a new campus.

Boulder was a community designed to limit growth. Limits were placed on it years ago. I'm very concerned with the direction the boulder is headed. More apartments like the Peloton are springing up all over Boulder to increase density in the city.

Now I hear that the University wants to expand as well! Boulder does not need growth. It needs to maintain its current size. If the facilities can't accommodate them there are other cities they can go live in. I see this expansion as another way to destroy our open space and let the university do whatever it wants. They already have dorm buildings on baseline that are over the 50 ft limit and it's written into the law that they can. This is disgraceful to the spirit of what Boulder is.

Stop growth. We are big enough. Don't approve CU expansion.

Aaron Stone  
830 McIntire st.  
Boulder, CO 80303

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**Public Comments Through September 14, 2021**

**From:** clint Heiple <clintheiple.1@gmail.com>  
**Sent:** Wednesday, September 8, 2021 8:12 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Draft Annexation Agreement

**External Sender**

Dear Council Member:

I want to thank you all for all the work and effort expended to create the Draft Annexation Agreement for the CU South property. The agreement is a huge win for the City. The primary advantage of course is making flood mitigation possible for South Boulder. But there are many other advantages as well, including among others, public access, agreed upon limits for development, habitat restoration, open space, trip caps, and conveyance of certain water rights to the city.

Thank you again for this great agreement, and I urge your continuing support.

Clinton Heiple  
4840 Thunderbird Dr. Apt 184  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bill & Louise Bradley <billandlouisebradley@gmail.com>  
**Sent:** Thursday, September 9, 2021 6:51 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation Agreement

**External Sender**

City Council Members,

I write in regard to the CU South Annexation Agreement which will be on your agenda September 14, '21:

“What this town needs in an uninvolved citizen,” I quote from a respected Boulder City Council member some years ago. You current Council members may well share his sentiment.

You have heard many an involved citizen these recent months. The pros and cons of all aspects of the South Annexation Agreement have been debated before you. Thank you for listening. Thank you for your courage in taking a stand on this divisive issue.

I urge you to vote an enthusiastic “aye” in favor of the CU South Annexation Plan. Ernest negotiators, informed experts and citizens with input have collaborated to craft an excellent plan.

Please put it into action without another ten year delay.

Louise Bradley  
4875 Sioux Dr.  
Boulder 80303

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Maggie Butler <mbutler18@gmail.com>  
**Sent:** Thursday, September 9, 2021 12:17 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood Mitigation

**External Sender**

I urge the City Council to accept and execute the proposed CU South annexation and flood mitigation plan!

The 2013 "1,000-year flood" was a catastrophe which must be prevented from recurring.

Please do your job and protect Boulder's vulnerable residents from this confirmed threat!!!!!!!

Maggie Butler

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** William Edward Gretz <William.Gretz@colorado.edu>

**Sent:** Friday, September 10, 2021 8:57 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** We demand a vote on CU South

**External Sender**

Why can't we wait two months for the election to decide our towns future? Why don't you trust your own voters? The appearance of corruption between City Council and CU staff is overwhelming. We demand a vote on CU South. The appearance of corruption is so blatant that criminal investigations will be necessary if the City Council continues to insist on annexing CU South before our November election. A large number of Civil suits filed will be also be filed by our local citizens. If it comes down to it many of us will lie down in front of Bulldozers. We demand a vote.

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**From:** Linda Norris <lnorris1722@gmail.com>  
**Sent:** Friday, September 10, 2021 10:23 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** cu south

**External Sender**

I would like an answer, please. CU will require hundreds of tons of fill dirt to raise the level of the floor plain so that buildings/structures can be built. The last I heard, the citizens of Boulder will be paying for this through our water/utility bills.

Is this still in the "draft" agreement? And how many millions of dollars will we citizens be forced to pay?

Thank you for your prompt response.

Linda L. Norris  
Boulder Native  
303 802 0397

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Maggie Butler <mbutler18@gmail.com>  
**Sent:** Friday, September 10, 2021 2:50 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation Agreement

**External Sender**

My fellow residents at Frasier Meadows Retirement Community and I appreciate the work you have done over the past two years on the CU South Annexation and its flood mitigation plan. We encourage you to sign the Annexation agreement on Tuesday so that it can be executed as soon as possible.

We congratulate the Council for developing a plan that will benefit all parties involved -- with housing, recreational facilities, a fire station and green space as well as flood prevention. This is a balanced, workable plan.

Thank you for protecting vulnerable Boulder residents from the recurring threat of catastrophic flooding, such as we saw in 1959 and 2013.

Maggie Butler  
350 Ponca Place 270, Boulder CO 80303

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**From:** Karla <karlariks@comcast.net>  
**Sent:** Friday, September 10, 2021 4:59 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** FYI: How is more study needed?

**External Sender**

Council,  
FYI - Just submitted the following LTE to the Camera.

Dear Editor,

Can someone please explain to me why a small but vocal contingent of people who oppose CU South annexation, and consequently flood protection, are so insistent that we spend more time studying the issue? You'd think they'd just moved here, or just started paying attention to this topic. It has literally been under study and discussion for YEARS!

The southern edge of CU South along US Highway 36 was first identified nearly **two decades** ago as the single best location for flood protections. City officials agreed, but did nothing as the land was privately owned and in an unincorporated area under county jurisdiction. Then came the 2013 flood which caused more than \$11 million dollars-worth of damage to the Frasier retirement community alone. Along with neighborhood damages, it is unbelievable that no lives were lost. Do people not know that annexation is the gateway to critical protection from future flooding? Providing for annexation was included in the Boulder Valley Comprehensive Plan update (studied, vetted and approved by all parties) in **2017!**

CU South must be the most extensively studied and researched tract of land in all of Boulder. City and university leaders agreed on principles of annexation and a deadline by which to act **two years ago**. We have the studies. We have the research. We've done the work. The questions have been asked and answered.

If you've attended to the flood mitigation conversation all these years – you know it's been an incredibly exhaustive and transparent process. Stop the delays and stall tactics!

Folks, pay attention! Beware the lies and misinformation and attempts to delay or kill this critical health and safety project! Many of the people who are calling to spend more time negotiating CU South annexation are the same people who most decidedly do not live in harm's way and did not suffer the 2013 flood. Meanwhile, those who know first-hand how devastating flooding in this area can be have been staunch supporters of the project.

Makes you think, doesn't it?

Karla Rikansrud  
[karlariks@comcast.net](mailto:karlariks@comcast.net)  
303-588-2354  
Boulder CO 80302

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Rebekah Van Sweden <webeone@mac.com>  
Sent: Sunday, September 12, 2021 11:37 AM  
To: Council <council@bouldercolorado.gov>  
Subject: Please reconsider deal for CU South

External Sender

You've heard the arguments so I won't repeat them. Adding my voice asking the "deal" be rescinded. I believe myself to be well read on this matter. Homeowner and Bldr city resident since 1994.

Rebekah Van Sweden  
[WeBeOne@mac.com](mailto:WeBeOne@mac.com)  
303-955-8885

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** reindeer.rudolph18@gmail.com <reindeer.rudolph18@gmail.com>  
**Sent:** Monday, September 13, 2021 9:09 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood mitigation

**External Sender**

Dear council,

I wanted to thank the council for all their hard work on bringing this issue to fruition. I support the CU annexation of the land.

Sincerely,

John Rudolph  
4900 Thunderbird Drive  
Boulder, Colorado 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Pomerance, Stephen <stevepom335@comcast.net>  
**Sent:** Monday, September 13, 2021 10:02 AM  
**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Cc:** Llanes, Sandra <LlanesS@bouldercolorado.gov>  
**Subject:** Fwd: CU South/SBC Update

**External Sender**

To the Council and Staff:

Given the number of different versions of the Annexation Agreement that have come out, especially in the last week or so, it would have been handy for those of us who are trying to follow all the changes to have the versions numbered, and also dated as to when the latest revisions were made.

For example, it is not clear if this one with the link in the text below is the same one that was in circulation last week, or different. I realize that there is a date on the list of changes, but even that is not clear, since last time I looked, I found changes that were not noted in the list (e.g, some of the gobbledygook language in the first part of Sec 58(a) was cleaned up and almost makes sense now.)

Thanks,  
Steve Pomerance

Begin forwarded message:

**From:** "City of Boulder" <[PDSNewsletter@bouldercolorado.gov](mailto:PDSNewsletter@bouldercolorado.gov)>  
**Subject:** CU South/SBC Update  
**Date:** September 13, 2021 at 8:44:12 AM MDT  
**To:** [stevepom335@comcast.net](mailto:stevepom335@comcast.net)  
**Reply-To:** [stanekc@bouldercolorado.gov](mailto:stanekc@bouldercolorado.gov)



## CU South/South Boulder Creek Flood Mitigation Project Update

The City of Boulder and the University of Colorado Boulder have released a [final annexation agreement](#) for the CU Boulder South property, highlighting final proposed terms to be voted on by City Council later this month. The proposed agreement is the culmination of years of collaboration among the city, county, university and community to provide flood protection for downstream Boulder community members, protect and restore critical riparian habitat and manage well-planned housing-centered development on a limited portion of the site.

The updated agreement incorporates several significant newly negotiated terms made in response to feedback from the community, City Council, Planning Board, the Transportation Advisory Board, Boulder County officials and others since an initial draft was released on July 12. City Council's second reading and public hearing is scheduled for Sept. 14, and deliberation and a final vote are slated for Sept. 21. City Council approved the annexation agreement on first reading on Aug. 10, and the University of Colorado Board of Regents on Aug. 13 authorized CU Boulder leadership to execute the agreement once finalized with the city.

Community members wishing to speak during the Sept. 14 City Council public hearing, which will be [held virtually](#), may [register online](#).

[Final Annexation Agreement](#)

[Summary of Key Changes to the Agreement](#)

CU South Annexation Project Webpage

South Boulder Creek Project Webpage

For further information, visit the [project webpage](#) or contact Jean Gatza at [GatzaJ@bouldercolorado.gov](mailto:GatzaJ@bouldercolorado.gov).

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jennifer Bohlin <mauigirlis48@gmail.com>

**Sent:** Monday, September 13, 2021 12:01 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** South Boulder Annexation

**External Sender**

Good morning,

I am emailing again to support the South Boulder Annexation. It appears to me to be an excellent compromise.

Thank you for your efforts on this important matter.

Jennifer Bohlin

4900 Thunderbird Dr. #710

Boulder 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Maggie Butler <mbutler18@gmail.com>  
**Sent:** Monday, September 13, 2021 12:28 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Fwd: CU South Annexation Agreement

**External Sender**

My fellow residents at Frasier Meadows Retirement Community and I appreciate the work you have done over the past two years on the CU South Annexation and its flood mitigation plan. We encourage you to sign the Annexation agreement on Tuesday so that it can be executed as soon as possible.

We congratulate the Council for developing a plan that will benefit all parties involved -- with housing, recreational facilities, a fire station and green space as well as flood prevention. This is a balanced, workable plan.

Thank you for protecting vulnerable Boulder residents from the recurring threat of catastrophic flooding, such as we saw in 1959 and 2013.

Maggie Butler  
350 Ponca Place 270, Boulder CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Don Cote <doncote07@gmail.com>  
**Sent:** Monday, September 13, 2021 12:43 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation Agreement

**External Sender**

Dear City Council,  
I want to say thank you for the long hours and hard work you put in. without that effort we wouldn't have been able to get to this point in flood mitigation. I want you to know that I support the CU South annexation agreement.

thank you

Don Cote, A Frasier Resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kay Miller <kaymillerboulder@gmail.com>  
**Sent:** Monday, September 13, 2021 12:44 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation. NO

**External Sender**

[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)

September 13, 2021  
Barbara Miller  
880 Mohawk Dr  
Boulder, CO

Re: Annexation of CU South Property

Dear Elected City Council Members and Mayor of Boulder, CO,

Having great concern to the open path for change you have been charged with to maintain our Boulder community culture, is a difficult one. There is absolutely no way of knowing how the effect of your decision will impact the land and the future of the citizens of Boulder. I am very concerned that the city should move progressively rather than resort to the grave methods of continued colonization that marks the conflict that is being proposed. It is the time to speak independently of the stagnation that CU is bringing to the city in many forms of economic disarray. This impacts the deepest values of those you represent.

The mood of the time is unlike any I have experienced in my long life. The hearing of your collective decision to vote FOR bringing CU to the forefront is dismaying considering so little trust can be given to their administration choices that we, the citizens have had to bear from their inspired selfish motives. CU has held decades as a foundation of irresponsible indulgences that tracks a broad lack of good leadership that directly has effected the citizens of the city. Most are not here because of the university, but for the opportunity to protect the essence of a very fragile landbase. To provide annexation for such an agency as CU, is not necessary and it will not likely bring anything but some fast, fantasy money from such growth, at the expense of the citizens, but not only CU but by those who still are willing to destroy life for the bottom line. The scope is part of their plan that has not been laid out. They have taken advantage of the time of planetary distress and a population whirling in a pandemic disease.

This annexation is certainly not and will never be consonant with our times. It would be a huge step backwards for human evolution. Those who "see" know what will happen in this regards. As our elected leaders you should not look to the specific application at your hands, but to a larger field of knowledge that would instantly allow you to ask the deeper underlying questions of how this project would effect this city. Only a hypocrite or climate denier would venture this as a good, safe, or appropriate plan of action. Our relationship to our home, the planet has been stressed to a point of no return. The healing must began now as all life is suffering fro the effects of exactly what you appear to be wanting to continue by allowing CU to be your guiding light. It will fail and it will be dangerous if you continue along this path. You can say NO —TAKE THE HIGH ROAD. You need not look back. Everyone will breath better. You will open the door for a more conscious view of your actions and will gain the support of a more unified Boulder. Things can be done better for Boulder. This annexation will cause problems for everyone into an unforeseeable future and will prevent more sustainable actions due to what will be an unbalanced city. There are better things Boulder can do for its city than over-extend itself to the corporate mind.

The outmoded and stifling concerns to grant undue power to an existing institution that has not earned the trust of many of the citizens must at this time challenge are finding issue with how you might also gain the trust of those you represent. No doubt, many just allow you to do as you like, thinking "whatever" and then there are those who want the very best of the natural strengths, and do understand the limitations of where we have chosen as home. This is a necessary and timely decision you can make during an age of climate change and a pandemic of disease. Restrain yourself. You do not need to act Your actions will be considered by many as immature and premature to give away your power and service for the people of Boulder only to bring omore of the same problems extended into undeveloped and highly damaged land. In all its pride of wealth CU could show generosity to the citizens of Boulder (students under their care, their employees, etc) by granting without strings any protection of flood mitigation that might exist. The land CAN restore itself and in healing will heal those who can depend on it in a natural state. CU needs to consider administrative changes as some have been serving for decades through many presidents, and other high officials. Tenured but not elected.

CU is a part of, not the governing body of the people of Boulder. Please do not throw that trust away. CU doe not maintain a spiritual or moral weight that respects or even recognizes the impact of the natural world on the community. I am not speaking

**CU South Annexation Application (LUR2019-00010)**  
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of faith or religion, but of the connectives that allow learning about the whole of human life not only from human endeavors, but from the whole of our biosphere of life. CU, in this endeavor will not be able to make meaningful progress for our city. This will hold us back from setting a good example of what might be called "growth and development". The manipulation of the land by CU ; the limitations for "flood mitigation"; and the lack of transparency on material development are signs for distrust. There are what leaders such as yourselves must deeply examine to promote yourself and give lasting values to a city that all can be proud of. The progress that will come to Boulder from denying annexation for this project will allow you to support projects that have some clarity of purpose. When citizens know of or suspect hidden motives and prejudices that are buried deeply in the actions of an institution or entity that is seeking growth of power, it seems best not to bring it to the city. It will surely draw the citizens into unnecessary peril with what is a commitment with a corporation that has had questionable integrity and principles.

Something is not right at CU given the institution has not taken social concerns and even laws to heart, as are a part of everyone's responsibility. By that I mean they skirt or dismiss or hide their faults. It needs a deep cleaning rather than a continued built-up of mess. Being so huge for the size of our city this growth and development will create more agitation, aggravation, and distress to the citizens. The more we learn about the history of this land and CU intents, it seems sparticularly shady when they fail to trust even its own scientist whose expertise created the language for conditions of land test for water levels and building. The planet can't take more of CU's nonsense. What is the point of a city government if they defer to CU's administration who has not had a trustworthy partnership with the city?

The one thing CU has done is to openly promote Trumpian politics and before that a strong right-wing Republican agenda as seen as instant wealth. There is this faction in Boulder and if you are voting for this, no matter what you might call yourself politically, it is you as individuals. This is not the Boulder most of us know or even necessarily want to know, let alone run the city. We have that faction in Boulder and is being promoted by you, right now, but I hope it never becomes a cultural model for anything about Boulder. Why" Because it is not based on critical thinking. It is full of holes for CU to fill it in themselves---a fantasy, come true, in their eyes. For the city, more of the worst is yet to come.

As city leaders, I trust that you will not suffer the regret that you are wasting the city's resources in an endeavor that will alter the entire relationship of citizens to what is truly vital change. Vote, NO on the CU South application for annexation. Please. That is the right thing to do. You will help CU to review and hold itself more responsible to its rightful position in Boulder and will allow the citizens of Boulder to pursue their cultural unity within this landbase, independent of greater corporate entity impact on us.

Respectfully,

Barbara Miller

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** John <jenkinscapu@verizon.net>  
**Sent:** Monday, September 13, 2021 3:11 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Annexation of CU South

**External Sender**

I want to state my appreciation for all of the time and effort you have put into this issue.

For the safety of the community, I **support approval** of Boulder's annexation of the property in accordance with the agreement between CU and Boulder.

Thank you.

John Jenkins  
4900 Thunderbird Drive, #743  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Peggy Sands <peggysandsart@gmail.com>  
**Sent:** Monday, September 13, 2021 3:10 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Is there a reason you don't want voters to decide this issue?  
I'd appreciate a response.

Thank you,  
Peggy Sands



Peggy Sands  
[Indigo Disegno](https://www.indigodisegno.com)  
[peggysands.com](https://peggysands.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** John Jenkins <jenkinscapu1@gmail.com>  
**Sent:** Monday, September 13, 2021 4:08 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood Mitigation for South Boulder

**External Sender**

I write as a resident of South Boulder to urge the City Council to adopt the proposed agreement with Colorado University that will provide flood mitigation for South Boulder. Thank you for the time and effort you have already devoted to the issue of flood mitigation for South Boulder. Please see this matter through to a conclusion that will protect South Boulder from the next flood.

As you are aware, it was only by extreme good fortune that no lives were lost in the 2013 flood. We may not be so fortunate again. As you are also aware, flood mitigation projects for other parts of Boulder have long since been completed. Because working with CU is necessary for this proposal to be effected, it has taken a long time to reach its current stage. The proposed agreement is a good one. It is not perfect, as no human endeavors are. So many years have gone into developing this that to delay further is unquestionably to make the perfect the enemy of the good.

Meanwhile, the residents of South Boulder remain at risk. Those who urge "more study" and those who wish to prevent CU from developing the land in question are supremely indifferent to the continuing risk to human life here.

Please do everything you can to move this project forward.

Nancy M. Stiles

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Linda Norris <lnorris1722@gmail.com>  
**Sent:** Friday, September 10, 2021 10:23 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** cu south

**External Sender**

I would like an answer, please. CU will require hundreds of tons of fill dirt to raise the level of the floor plain so that buildings/structures can be built. The last I heard, the citizens of Boulder will be paying for this through our water/utility bills.

Is this still in the "draft" agreement? And how many millions of dollars will we citizens be forced to pay?

Thank you for your prompt response.

Linda L. Norris  
Boulder Native  
303 802 0397

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ellen DeMoney <ellen.demoney@comcast.net>  
**Sent:** Monday, September 6, 2021 10:18 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU annexation

**External Sender**

Hello, Boulder City Council members,

I am writing because there is a awful rumor going around that you are planning on approving the CU South Annexation agreement, BEFORE the election. As a citizen that you represent, I am deeply upset that you might even think about this, knowing that there are a whole lot of folks in the town you, represent, who are opposed to this annexation. I have actually read the 80 page document, am about to read the "updated" version and there was so much wrong with this agreement, that I seriously do not believe you fixed 1/5th of the issues.

First, let us talk about the elephant in the room, which is CU Boulder, which I will designate "CU" from here out. I worked for CU, my son graduated from CU, I am a fan of the women's basketball team, soccer team, and I think the University brings value to our city. However, there is this fine line of being valuable and useful to a city and then becoming a powerhouse of too much and this is where CU is heading. How big can CU get? How many more students, professors, staff, administration, research assistants, grounds crew, maintenance folks can our city truly support? I believe we are close to our threshold. CU employs about 37,000 people, this is a little more than 1 position per student. So if CU doubles their enrollment, to 70,000 students (a goal for them, because I interviewed with them as an enrollment advisor and this was said so in my interview. They want to reach this number in 10 years). The number of people employed by CU would be 74,000. You can do the math, but I will just jot this number for you..144,000 people will need to be living or commuting into Boulder. I want you to really think about this number...Our current population is roughly 106,000...so CU will become bigger than our city. Where will these folks live, you think homes are expensive now, it is a known fact that areas close to Universities have a huge home price gap (see this study: <https://sites.duke.edu/urbaneconomics/?p=1102> ). And exactly where are these students, employees going to live? You think we have bad traffic now, wait until we have 70,000 student here. I mean I have noticed a terrible increase in cars on the road since CU started back last week. If you have not, come and visit us in the South of Boulder, drive on 30th, Baseline, Colorado, 28th, Table Mesa and you will surely notice the large number of college students in cars. Go by Willams Village and just take a look at all of the cars these "Freshmen and other students" have.

Next, let us talk about climate change and the limits we will be having with the non-renewable resource, WATER. We do not and will not have enough water to support this huge increase in people living, visiting, using our city as a home/work base. We just will not, as the climate change becomes more severe, the west will become more impacted by the heat and lack of water. So, how can you justify getting rid of a much needed wetland, such as what is at CU South? If CU does not build there, the city can take it over, let it be and we will have access to the creek, CU is so willing to let the city have. The city can then use resources to protect this valuable land for the beings that currently live there, some which are on the endangered species list. Why are you so willing to sacrifice this area, which will soon not even exist in much of the land, for the behemoth of CU? Why? Is preserving the land for the future just not something you value? If so, you should be honest and say so, you certainly did not say anything about this set of values when you were running for election to our city.

As for the flooding issue, I live in Frasier Meadows, most folks in my neighborhood flooded due to back flow from the sewers. This was not from 36 overflowing. Frasier Meadows. Retirement home built and

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

underground garage, in a flood plain, or close enough to one. I saw them build this, they had to pump out an enormous amount of water to even get the foundation poured and I bet they have sump pumps running there. If you build a parking garage where there was once water, when there is a lot of water coming down, like in a flood, the garage will flood. This is just a given and common sense. Frasier Meadows folks, whose houses flooded went through a terrible time, this agreement you think is good, may not help them the next time it floods. You have not even addressed the other areas that were flooded and you are willing to spend how much money on a plan which a LOT of experts (ones you do not agree with, but are still experts and are probably more right than you) think will not even work. I actually went to most of the meetings with regards to the flooding (none of you were in council, so I doubt you went)...but most of the experts were pretty much in agreement, we would have about the same amount of flooding if we did nothing as compared to doing one of the many ideas (none of which you have even agreed to)(like the one with perhaps the best chance of preventing flooding)..This just truly boggles the mind, you go against experts because CU had a fit. Unbelievable..Anyways, I digress, why go for 100 when this part really need the 500?! Makes no sense. And where and how are you going to even pay for what CU wants the city to chip in? I cannot go on about this anymore, because I am just so frustrated with your process on this issue.

Lastly, it is time to listen to the people you represent. It is time to stop catering to CU, they are not in this for the good of our city, they are in this game to make money. They do not care about the impact of growing their campus and what it will do to our city. Do you really think they do? If they did, they would have gone with a land swap, where they could build something in North Boulder, not ruin a wetlands and needless to say a VIEW of our city, they do not care. They may take the land and sell it, they can do this, if you annex it, you would not be able to stop them. They may just build some huge monstrous buildings, because they really do not have to follow our height restrictions or any rules we have and your annexation agreement does not make the accountable. Much has been said about how "slick and slimy" they have been, they did the traffic study, after they closed campus to in person learning, after the schools stopped having in person learning AND during a pandemic, when most people were working remotely. Where is the good will there? They built a berm and then asked for permission...the list goes on. We the people you represent, got enough signatures to ask the fine people of Boulder to vote on whether to annex CU and you are thinking about not honoring this ballot item. Just who do you think you are? You are elected to represent the people of Boulder and if the people you represent, decide that the direction the city council is taking, does not seem to be a very good deal, we have the right to put it on the ballot. We have the right to question such big decisions and say, wait, let us decide. You do NOT have the right to take away our voting power, to disregard valid concerns made by the people you represent. I do not want my city, one I have lived in since 1985, a place I call home, a place I love, to grow to such a high number of students. I do not want to see my view coming home to be ruined by CU, I already have to deal with the ugliness of Williams Village, which is too tall and so vast. I do not want another CU campus in my town, one is plenty, I want you to represent the people of Boulder, not CU. We deserve to be heard and represented by you.

Please do the right thing, stop this forward motion on the annexation, listen to the people, wait until after the election.

Ellen De Money  
4220 Eutaw Dr.  
Boulder, CO 80303  
[Ellen.demoney@comcast.net](mailto:Ellen.demoney@comcast.net)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Florence Anderson <flodie.andy@gmail.com>  
**Sent:** Monday, September 13, 2021 10:57 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU Annexation

**External Sender**

To Council Members:

I'm Flodie Anderson. Immediately upon my arrival to live at Frasier I was introduced to and persuaded of the importance of Boulder's Flood Mitigation/CU Annexation project. As the city's study progressed I, along with many other Frasier residents, attended open house reviews, filled out questionnaires, heard reports by departments and parties of interest as well as Council discussions.

Congratulations to you! City Council has listened carefully to its several affected communities as well as worked with its many governmental constituencies in this process. Please vote yes as a positive step forward in actually constructing this proposed solution for improved storm control and the CU Annexation.

Thank you,

Flodie Anderson

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Nancy Tilly <nancytilly@comcast.net>  
Sent: Wednesday, September 8, 2021 10:34 PM  
To: Council <council@bouldercolorado.gov>  
Cc: Bill & Louise Bradley <billandlouisebradley@gmail.com>; flood@sbcreekactiongroup.org  
Subject: Annexing CU South

External Sender

To the Boulder City Council:

Please vote “yes” on the thoroughly researched and inclusive hundred-year CU South annexation plan. Put together by CU and experts, with informed input from neighbors, the plan offers many community benefits to us as well as critical flood protection. To delay puts us and our neighbors at risk of more flooding.

Thank you,

Nancy Tilly  
4875 Sioux Drive  
Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Janet Brewer <dtbjhb@aol.com>  
**Sent:** Monday, September 13, 2021 11:03 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Annexation of CU South

**External Sender**

To members of the Boulder City Council:

I support the city's annexation of the CU South property and thank you for your persistence in bringing flood mitigation within reach of the residents of South Boulder, who suffered material damage in the flooding event of 2013. There is precedent, in other parts of Boulder, for the city's implementation of flood mitigation where needed. It is the responsibility of the City to protect the lives and property of its South Boulder residents, and the annexation of CU South is a critical step in achieving flood mitigation.

The time and effort that has been spent in reaching the present agreement for annexation of CU South gives greater credibility to its quality. It is a *good* agreement and will benefit both the University of Colorado and Boulder's citizens.

Please vote "yes."

Sincerely,  
Janet Brewer,  
Frasier resident

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

**From:** jrudolph629@gmail.com <jrudolph629@gmail.com>  
**Sent:** Monday, September 13, 2021 9:05 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Annexation

**External Sender**

**Members of the Boulder Council,**  
**As a resident at Frasier, I definitely support the CU annex.**  
**I would not like to see Frasier and its' senior citizens, or**  
**any part of South Boulder, have to experience another**  
**flooding situation as happened in 2013.**  
**Thank you for your work and attention to this matter. It's**  
**appreciated.**

**Ethel Rudolph**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Patricia Kenney <patricia.kenney@Colorado.EDU>  
**Sent:** Sunday, September 5, 2021 5:21 PM  
**To:** Wallach, Mark <WallachM@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Re: [BoulderCouncilHotline] The CU South Decision

**External Sender**

Thank you, Councilman Wallach, for this detailed explanation of the issues involved in the CU South annexation. I am not anywhere near conversant enough with the specifics of this matter to comment on the project, but I do think you hit a nail on the head when you say:

And, of course, the development of this campus – which is largely intended to provide housing to for upper class students, graduate students and faculty - does not address the elephant in the room: CU's drive for continued growth and its continuing failure to house its students beyond the first year, placing enormous pressure on our local housing market, driving up rents, and fueling the influx of investment capital to purchase private homes and convert them to student rental housing, in order to provide the housing for which CU has abdicated its responsibility .

CU has obviously brought many benefits to Boulder since its inception but the growth of the institution is now damaging our community in ways that will soon be irrevocable. I know there are limitations on what the city or even the state has the legal power to do, but I would like to see a more robust pushback on any further growth of the student body or the land occupied by the University. CU has other options for expansion, some of which would be of far more benefit to the state and its communities and students. The University could expand its campus in Colorado Springs by moving a major school, such as Law or Engineering, to that location. It could build a new, additional campus in a Colorado community that could use the economic stimulus that would provide.

Boulder is built out and its infrastructure and available land cannot support more growth. This is not a selfish reaction on the part of an existing resident, it's an observable fact. We are also a thriving affluent community which does NOT need more employers, demand for housing, or consumer activity. Other cities in Colorado are not so lucky.

If the state legislature won't do it, perhaps Boulder can be the David to take on the Goliath that the University of Colorado has become.

Patricia Kenney  
2065 Glenwood Drive  
Boulder CO

On Sep 5, 2021, at 1:46 PM, Wallach, Mark <[WallachM@bouldercolorado.gov](mailto:WallachM@bouldercolorado.gov)> wrote:

CU South has been the most divisive and controversial project I have encountered in almost 2 years as a member of the Boulder City Council. Passions have run high, and expressions of position have ranged from well-considered to entirely unrealistic. As a sitting member of Council, and the only candidate for election in November who will actually have to vote on this matter, I have been implored, beseeched, and even threatened (politically, not physically) to vote one way or another. Consequently, I want to communicate to the community my thinking on the subject

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

and how I arrived at my ultimate decision. I have no illusions that this explanation will either persuade or satisfy those who disagree with me; it is nothing more than a statement of where I ultimately came out on CU South, and why I reached that conclusion.

I start with the premise that providing flood protection for the Frazier Meadows community is a necessary and important goal. If you do not share this view, obviously there is insufficient basis to support annexation. If you do accept that premise, and given CU's refusal to consider separating the flood mitigation project from its desire to have the property annexed in order to develop a new campus, then there is little alternative to sitting down with CU and negotiating the best deal possible for the community of Boulder.

Let me start by saying there is much in this project to dislike, and I have only respect for those who have reached the conclusion that they cannot support the Annexation Agreement. Some of the defects of the deal that has been negotiated are as follows:

1) Many have noted that the plan calls for 100 year flood protection, instead of the 500 year standard. This is true, and the 500 year is theoretically preferable. However, the expense for the latter standard is probably larger than the City can really undertake, and as CU has not been willing to permit a flood mitigation project of this scope, 100 year protection is the only viable alternative.

2) This project will substantially increase every resident's storm water utility rates, and not every resident will be equally benefitted. For residents who live in areas outside our flood zones it is legitimate to ask why so much funding will be focused on a project benefitting a relatively small number of residents. In addition, we have a number of drainage areas throughout Boulder that require flood protection, and it is not inappropriate to ask where the funding will come from to address their concerns.

3) This is the largest public works project of which I am aware in Boulder. The problem is that the cost is likely to be far larger than initial estimates, which is common for projects of this size and scope. I believe the current estimates are no more than guesstimates, and I am not sure that we have accurately calculated the sticker shock this project will impose on the community.

4) While our negotiating team has gone to great lengths to minimize the impact on surrounding residential communities from noise and light impacts of the sports facilities to be built on the property by CU, that protection is not perfect.

5) There is concern for the impact of the proposed development on the adjacent lands to be preserved as Open Space, including the impacts on several endangered plant and animal species.

6) And, of course, the development of this campus – which is largely intended to provide housing for upper class students, graduate students and faculty - does not address the elephant in the room: CU's drive for continued growth and its continuing failure to house its students beyond the first year, placing enormous pressure on our local housing market, driving up rents, and fueling the influx of investment capital to purchase private homes and convert them to student rental housing,

**CU South Annexation Application (LUR2019-00010)**  
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in order to provide the housing for which CU has abdicated its responsibility . The time is coming when those policies are going to be the subject of robust community debate. Unfortunately, those topics are not on the table now, as the need for flood mitigation does not permit us to enter into that kind of protracted stalemate with our counterparts.

7) As noted earlier, the unwillingness of CU to discuss flood mitigation apart from annexation has made this entire process more difficult. When I questioned CU representatives about this at a briefing early in my term, they were quite explicit that they wished to employ their political leverage to extract from Boulder what they desire, and were prepared to do so for as long as it took. If not for the efforts of our negotiating team, this agreement would have been a cornucopia of unacceptable provisions damaging to the City. I have detected very little of the partnership relationship that CU often talks about.

And yet, despite all this (and I have not been exhaustive in this list), I am going to vote for the Annexation Agreement. After what I have just written, how is this even possible?

1) First, the impact of the 2013 flood on Frasier Meadows is real. No one died that year, but I believe that is only by the grace of God. As climate change events increase in severity, I am reluctant to bet on similar good fortune in the future.

2) In Boulder, when we see a problem, we try to address it, to the extent that we can. Especially in the context of life, health and safety concerns I am hard pressed to say to the impacted communities that we will not attempt to seriously confront this problem. Our response to those endangered must be better than: Sure it floods, buy a lifeboat.

3) Many of the proposed alternatives to this project are, to me, not realistic. Some have suggested that we condemn the property. It is entirely unclear that we have the legal authority to do so, but I can safely say that there is no appetite among my Council colleagues for such a dubious, scorched earth policy. Despite the obvious low regard in which I view CU's role in this process, condemnation is not an alternative. Similarly, for those who suggest that a land swap for property in the Planning Reserve in North Boulder is a great idea, my response is: you may well be correct. But that swap cannot be compelled, and CU is currently unwilling to entertain it. Unless and until they become more flexible in their position, it is an idea that cannot be implemented. Meanwhile, the clock is ticking down to the next flood event.

4) So if you accept the idea that a flood mitigation project is necessary, which I do, the only alternative is to actively negotiate with CU to obtain the land necessary to undertake it, and to mitigate the impact of the campus that CU proposes to develop on the balance of the property. And here it is necessary to give a shout out to the negotiating team in their continual efforts to produce an agreement that we can live with. If you have read the successive drafts of the Annexation Agreement – and I have had that very dubious pleasure – it is undeniable that each draft has dramatically improved on its predecessor. All of the most obnoxious and unacceptable terms of the early drafts have been removed, such as the obligation to pay for the fill on the land CU is deeding to us, or the obligation to indemnify them for flood damage to the

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

facilities that **they** choose to build in a flood plain. We have circumscribed CU's right to develop the property in many important ways, such as adhering to 55 foot height limits, requiring that the focus of the project be housing for staff, graduate students, and upperclassmen, requiring that residential be built before non-residential structures and requiring that 2 feet of residential space be constructed for every foot of non-residential space. We have limited where CU can build, keeping them off the sloping portions of the land and providing buffer zones between the campus and adjacent neighborhoods.

5) And there is more, including an issue that was very important to me: restraining the ability of CU to sell this property to an outside party, merely for profit. CU is now barred from conveying the land for 10 years, and we have the right to purchase the property if and when CU puts it on the market. Most importantly, we have limited the uses to which the property may be put by a subsequent owner. One of my concerns was that we not end up with a Class A office park at CU South, when that is not what the community needs. The agreement greatly limits the future uses of the property and is oriented largely towards housing, with a requirement of 45% affordable housing, and the limitation that all non-residential construction serve the purpose of creating a 15-minute walkable neighborhood. That does not mean that a future developer cannot attempt to develop \$1,000 per square foot condos on the site, but almost half of the units they do develop will have to be affordable. Is there any other project in the City that would not be enthusiastically approved at that level of affordability?

6) It is also important to note that more than 1/3 of the land of CU South will be made available for flood mitigation and for Open Space. An additional 5 acres will be conveyed for the exclusive purpose of creating affordable housing. An additional 2 acres will be conveyed for the possible creation of a new firehouse. These are substantial benefits.

7) The approvals for this project are not a sure thing, and if for any reason we cannot get the flood mitigation project through its many regulatory hurdles, the annexation that we are granting CU is reversible on that basis. We will not be stuck with an annexation without the bargained-for benefits.

8) We talk all the time about creating a more inclusive community, and creating an avenue for those who cannot afford our astronomical rental and purchase prices to live here. With the stated commitment to utilize the housing on site for upperclassmen, graduate students and faculty, (and I hope that a portion will be set aside for lower income staff who actually make the university run), this is an opportunity for Boulder to walk the talk, and we should take it.

The foregoing is only an incomplete summary of the manner in which this agreement addresses key concerns and issues regarding this project. It is not perfect, or close to perfect. But in my world you deal with the circumstances in which you find yourself and do the best that you can. I believe that we have done so, and I believe this Annexation Agreement provides a basis for moving forward.

**CU South Annexation Application (LUR2019-00010)**  
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Last subject (I promise!): with a ballot initiative coming up dealing with this very subject, why not simply wait to see the outcome of the vote? The answer is that this is our job, and that this project has been germinating for years. It is time to act. And the specific wording of the initiative is likely to prove an insurmountable obstacle to actually bringing the flood mitigation process to a successful conclusion at any point in the future. The language is less a proposal to improve or shape the agreement than a poison pill that will serve to kill it. For that reason alone, I am not supportive. But it is also true that our actions are subject to the possibility of a nullifying referendum, a process specified in our Charter, and I fully expect that opponents of this project will follow that route as well. If they collect sufficient signatures, then the specific actions of this Council, should the Annexation Agreement be approved, will be put to a vote. That vote will be a decision made by the community, and, of course, it will be controlling.

My vote on this is conflicted, but it represents my assessment that we are better off moving forward with the Annexation Agreement than taking no action. I have immersed myself in this subject over a number of months and I have assessed its good and bad points. Through my comments and communications I have attempted to shape the agreement to better serve the community and, exercising my best judgment, I have made a decision to support the Annexation Agreement. My decision is not based on the politics of the issue, which I believe are irrelevant in a matter of such consequence to Boulder. This is the way I believe we should proceed, and, as I have said elsewhere, I will stand by that decision.

Happy Labor Day to all.

---

bouldercouncilhotline mailing list

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Carla Graubard <cgraubard@gmail.com>  
**Sent:** Sunday, September 5, 2021 2:55 PM  
**To:** Wallach, Mark <WallachM@bouldercolorado.gov>  
**Cc:** HOTLINE <HOTLINE@bouldercolorado.gov>; Council <council@bouldercolorado.gov>  
**Subject:** Re: [BoulderCouncilHotline] The CU South Decision

**External Sender**

Mark,

Thank you for this excellent analysis of an extremely complex ... and important issue.

Given that I have not followed the debate on this subject, I deeply appreciate your summary of the key issues, your conclusion to support the annexation agreement and a clear, well-articulated explanation of your analysis and conclusions.

Thank you for this. Now, I hope you enjoy YOUR Labor Day weekend!

Best,  
Carla Graubard  
1555 Norwood  
Boulder 80404

Carla Graubard  
917-816-1714 m  
[Graubard@quantummedia.com](mailto:Graubard@quantummedia.com), [cgraubard@gmail.com](mailto:cgraubard@gmail.com)

On Sep 5, 2021, at 1:47 PM, Wallach, Mark <[WallachM@bouldercolorado.gov](mailto:WallachM@bouldercolorado.gov)> wrote:

CU South has been the most divisive and controversial project I have encountered in almost 2 years as a member of the Boulder City Council. Passions have run high, and expressions of position have ranged from well-considered to entirely unrealistic. As a sitting member of Council, and the only candidate for election in November who will actually have to vote on this matter, I have been implored, beseeched, and even threatened (politically, not physically) to vote one way or another. Consequently, I want to communicate to the community my thinking on the subject and how I arrived at my ultimate decision. I have no illusions that this explanation will either persuade or satisfy those who disagree with me; it is nothing more than a statement of where I ultimately came out on CU South, and why I reached that conclusion.

I start with the premise that providing flood protection for the Frazier Meadows community is a necessary and important goal. If you do not share this view, obviously there is insufficient basis to support annexation. If you do accept that premise, and given CU's refusal to consider separating the flood mitigation project from its desire to have the property annexed in order to develop a new campus, then there is little alternative to sitting down with CU and negotiating the best deal possible for the community of Boulder.

Let me start by saying there is much in this project to dislike, and I have only respect for those who have reached the conclusion that they cannot support the Annexation Agreement. Some of the defects of the deal that has been negotiated are as follows:

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1) Many have noted that the plan calls for 100 year flood protection, instead of the 500 year standard. This is true, and the 500 year is theoretically preferable. However, the expense for the latter standard is probably larger than the City can really undertake, and as CU has not been willing to permit a flood mitigation project of this scope, 100 year protection is the only viable alternative.

2) This project will substantially increase every resident's storm water utility rates, and not every resident will be equally benefitted. For residents who live in areas outside our flood zones it is legitimate to ask why so much funding will be focused on a project benefitting a relatively small number of residents. In addition, we have a number of drainage areas throughout Boulder that require flood protection, and it is not inappropriate to ask where the funding will come from to address their concerns.

3) This is the largest public works project of which I am aware in Boulder. The problem is that the cost is likely to be far larger than initial estimates, which is common for projects of this size and scope. I believe the current estimates are no more than guesstimates, and I am not sure that we have accurately calculated the sticker shock this project will impose on the community.

4) While our negotiating team has gone to great lengths to minimize the impact on surrounding residential communities from noise and light impacts of the sports facilities to be built on the property by CU, that protection is not perfect.

5) There is concern for the impact of the proposed development on the adjacent lands to be preserved as Open Space, including the impacts on several endangered plant and animal species.

6) And, of course, the development of this campus – which is largely intended to provide housing to for upper class students, graduate students and faculty - does not address the elephant in the room: CU's drive for continued growth and its continuing failure to house its students beyond the first year, placing enormous pressure on our local housing market, driving up rents, and fueling the influx of investment capital to purchase private homes and convert them to student rental housing, in order to provide the housing for which CU has abdicated its responsibility. The time is coming when those policies are going to be the subject of robust community debate. Unfortunately, those topics are not on the table now, as the need for flood mitigation does not permit us to enter into that kind of protracted stalemate with our counterparts.

7) As noted earlier, the unwillingness of CU to discuss flood mitigation apart from annexation has made this entire process more difficult. When I questioned CU representatives about this at a briefing early in my term, they were quite explicit that they wished to employ their political leverage to extract from Boulder what they desire, and were prepared to do so for as long as it took. If not for the efforts of our negotiating team, this agreement would have been a cornucopia of unacceptable provisions damaging to the City. I have detected very little of the partnership relationship that CU often talks about.

And yet, despite all this (and I have not been exhaustive in this list), I am going to vote for the Annexation Agreement. After what I have just written, how is this even possible?

1) First, the impact of the 2013 flood on Frasier Meadows is real. No one died that year, but I believe that is only by the grace of God. As climate change events increase in severity, I am reluctant to bet on similar good fortune in the future.

2) In Boulder, when we see a problem, we try to address it, to the extent that we can. Especially in the context of life, health and safety concerns I am hard pressed to say to the impacted communities that we

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will not attempt to seriously confront this problem. Our response to those endangered must be better than: Sure it floods, buy a lifeboat.

3) Many of the proposed alternatives to this project are, to me, not realistic. Some have suggested that we condemn the property. It is entirely unclear that we have the legal authority to do so, but I can safely say that there is no appetite among my Council colleagues for such a dubious, scorched earth policy. Despite the obvious low regard in which I view CU's role in this process, condemnation is not an alternative. Similarly, for those who suggest that a land swap for property in the Planning Reserve in North Boulder is a great idea, my response is: you may well be correct. But that swap cannot be compelled, and CU is currently unwilling to entertain it. Unless and until they become more flexible in their position, it is an idea that cannot be implemented. Meanwhile, the clock is ticking down to the next flood event.

4) So if you accept the idea that a flood mitigation project is necessary, which I do, the only alternative is to actively negotiate with CU to obtain the land necessary to undertake it, and to mitigate the impact of the campus that CU proposes to develop on the balance of the property. And here it is necessary to give a shout out to the negotiating team in their continual efforts to produce an agreement that we can live with. If you have read the successive drafts of the Annexation Agreement – and I have had that very dubious pleasure – it is undeniable that each draft has dramatically improved on its predecessor. All of the most obnoxious and unacceptable terms of the early drafts have been removed, such as the obligation to pay for the fill on the land CU is deeding to us, or the obligation to indemnify them for flood damage to the facilities that **they** choose to build in a flood plain. We have circumscribed CU's right to develop the property in many important ways, such as adhering to 55 foot height limits, requiring that the focus of the project be housing for staff, graduate students, and upperclassmen, requiring that residential be built before non-residential structures and requiring that 2 feet of residential space be constructed for every foot of non-residential space. We have limited where CU can build, keeping them off the sloping portions of the land and providing buffer zones between the campus and adjacent neighborhoods.

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**CU South Annexation Application (LUR2019-00010)**  
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Happy Labor Day to all.

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** David Davia <outlook\_BFFF9D27213CFC92@outlook.com>

**Sent:** Monday, September 6, 2021 7:55 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:**

**External Sender**

If your job is to represent us, why did Council join CU to approve the CU South issue, bypassing citizens' successful petition drive to put it to a vote? Please, don't insult our intelligence!

Debbie Davia

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Diane Curlette <dcurlette25@gmail.com>  
**Sent:** Tuesday, July 20, 2021 12:57 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Opposition to annexation of the CU South property into the City of Boulder

**External Sender**

Dear Planning Board Members,

On reading the CU South Guiding Principles section of the Boulder Valley Comprehensive Plan, and then considering the content of the proposed annexation agreement between the city and CU, I have the sensation of powerful forces rapidly shoehorning a huge mysterious foot into a small elegant and delicate shoe. It is not a good fit.

Preservation of natural areas and of the character of existing neighborhoods

What are we doing — seriously considering ruining a rare, irreplaceable riparian area of high ecological value forever. Destroying the beautiful wild eastern border and southern border of our city with a massive, mostly undefined heavy density development? Sacrificing the South Boulder section of town to greatly increased traffic, pollution of air, water and noise, thus ruining the small town ambiance of this area? Hemming in the eastern and southern borders of South Boulder with heavy development and removing the lovely connection and interaction with natural beauty that has existed for 80 years?

Awkward, Expensive and Perhaps Dangerous Flood Control Solution

As the rampaging flood waters of 2013 revealed our shameful lack of city flood protections for major developed neighborhoods of south and east Boulder, highlighting the NECESSITY of building flood management structures on this general area of Boulder Creek, an awkward contrived flood protection scheme has been included in the proposed annexation agreement under consideration by your board. The awkward contrived flood protection mechanism will be very expensive and the efficacy of its design has been seriously questioned by many hydrology experts. Only when we get another major flood, which could be anytime now because of increasingly damaging storms generated by climate warming, will we learn if the contrived flood protection scheme actually works.

This whole plan to build in a flood plain — even put residential housing in the flood plain — is completely against accepted hydrology principles. And against the spirit of the comprehensive plan.

That we as a city should have to pay to haul tons and tons of fill to this riparian area to raise the ground to a higher level so that CU can “develop” it with mostly unspecified but high density, high traffic uses is a major, and very expensive flaw to be paid for with citizen water fees. And the agreement states that the city is liable if CU suffers flood damage on its property!

Loss of Fire Protection for existing South Boulder neighborhoods and possible premium increases

Apparently CU is offering the city land on which to build a new fire station as part of the CU South deal. The fire department has been seeking a new site on Table Mesa for a fire station to replace the one on Darley Avenue. If this is the replacement fire station, the location is too remote to adequately and quickly serve the existing South Boulder neighborhoods that depend on it. Meanwhile, CU gains great fire protection for their new development at the expense of South Boulder. Some have said that fire insurance premiums may increase as a result of this action. The city should instead seek permission to build on a small area of school district land at the intersection of Table Mesa and Yale, a central location which would serve South

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Boulder very well. And CU should fund their own fire station if needed for CU South — not weaken fire protection for existing neighbors who carry the tax burden for fire protection.

**Making a Barely Tolerable and Dangerous Traffic Situation Worse**

CU is using a blatantly dishonest traffic study they funded (measurements of traffic taken during the pandemic period of lowest traffic) to prove that development of CU South will not greatly impact the already awful traffic on the north side access off of Table Mesa Drive, nor on the proposed south access off of Highway 93.

This is the actual situation: On the north side of the property, drivers currently experience hazardous conditions and delays, particularly trying to turn left from eastbound Table Mesa onto the exit ramp for northbound US 36. A left turn light is needed to facilitate safely making this turn but none has been installed. Close to this location are traffic lights for the Table Mesa/Morehead intersection, the Table Mesa/RTD station intersection and the Table Mesa/Foothills intersection. During periods of heavy traffic, and most definitely during evening rush hour, continuous rivers of cars fill the westbound lanes of Table Mesa, originating in the large RTD parking garage and from the (non-signalized) southbound off ramp from Foothills Parkway, added to the normally heavy westbound Table Mesa traffic. These uncontrolled rivers of cars bumper to bumper do not permit left turning drivers to find a gap between cars to make a perilous and hasty left turn. Up to a dozen left-turning cars wait considerable time in the left turn lane to find a gap in traffic and then accelerate perilously into the breach. This major traffic intersection should be studied and this problem addressed whether CU South is annexed to the city or not. I can not imagine how this intersection could become the main entrance to another huge development at CU South, generating even more heavy traffic on these arteries.

This is the actual traffic situation on the proposed south entrance to the property, from Broadway (Highway 93): CU has demanded of a new, extremely dangerous and uncontrolled (no stop light) access point for CU-South at Hwy 93, claiming traffic loads were not sufficient to warrant a stoplight. This would be a deathtrap. CO 93 peak traffic is about 2,210 vehicles per hour, leaving about 1.6 seconds between vehicles. Southbound turns exiting the campus would require crossing two lanes of high speed northbound traffic plus a merge into the high speed southbound lane. Left turns southbound to enter the campus likewise would require crossing the two high speed northbound lanes.

It seems highly unlikely that the Planning Board would approve such a major change in the traffic load and flow at the south end of town without consulting the results of a serious traffic engineering study and stop lights being installed. Such a study is not part of the proposed annexation agreement. And CU should pay for the improvements.

**Fallacious Traffic Management Suggestions**

Despite heavily emphasizing the need to shift from vehicular to bicycle and pedestrian transportation, the transportation/traffic study failed to provide safe pedestrian and bicycle access to CU-South to and from adjacent neighborhoods and across heavily travelled nearby streets. It calls for transit buses to access CU-South at Tantra Drive, adding heavy vehicular traffic through a densely populated residential neighborhood. It does not adequately specify what services the “multi-modal transportation hub” would provide, nor who would provide them. In short, the agreement minimizes the substantial damage to existing neighborhoods and existing commuters by creating greatly expanded vehicular traffic on Broadway and Table Mesa, two overloaded city arteries. Though Boulder indulges in

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wishful thinking that cars will disappear and everyone will ride bikes, real conditions indicate that annexing this land for development by CU will generate terrible vehicle traffic.

Subverted Public Process

The CU South Guiding Principles says the public will have full input into this process, but that principle has not been followed. A petition signed by over 4,400 citizens opposing this annexation will be on the ballot in November and voters should have the opportunity to vote on this issue. By rushing the calendaring of this issue, the city council is aiming to approve this faulty agreement before November. Not only does this deprive citizens of the right to vote on this important measure, but also subverts the process by not allowing sufficient time for careful consideration and comment by citizens and boards like the planning board. If your board truly operates under the intent of the comprehensive plan, you should disapprove this annexation agreement and allow the citizens to vote in November.

We in this city are burdened by a state university that claims autonomy from local controls but has allowed its ever growing enrollment and lack of student housing to damage our town and its citizens and workers.

As the city board responsible for overseeing the future of our community through thoughtful and well-considered planning, I ask you to not accept this annexation plan and to instead request that CU and the city consider another location for CU development, such as the city's planning reserve. The planning reserve would be a good location because it would not permanently ruin a valuable nature reserve and riparian area, would not incur the flood management liabilities inherent in the current site, and would protect the southern and eastern edges of the City of Boulder from heavy industrial-type development. And the City of Boulder should acquire the current CU South site as open space, linking the edges of our community to the city open space beyond the floodplain area. And a flood control plan for the area should be pursued as rapidly as possible to protect the city.

In short, the huge mysterious foot doesn't fit the dainty delicate slipper, and the process of quickly shoving it heavily into place is awkward and embarrassing for the City of Boulder which (supposedly) values preservation of natural areas, good planning and citizen input and voting. Please vote against this agreement.

Thank you for your consideration.

Diane Curlette  
South Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: S.H. <cheyennest@aol.com>  
Sent: Sunday, August 8, 2021 4:24 PM  
To: Council <council@bouldercolorado.gov>  
Subject: NO on CU South/Let Voters Decide

External Sender

Dear City Council,

I urge you to let the voters decide on whether or not to let CU develop a south campus. A CU South campus would destroy vital wetlands and wildlife habitat. This area is crucial for flood mitigation. In addition, this development would degrade the quality of life for residents and wildlife of south Boulder. It doesn't seem logical to put the CU expansion in south Boulder when it could be located in north Boulder instead. We have other, better options for a CU expansion than CU South.

Boulder is supposed to be the leader in climate change and diversity. Location of a campus here would destroy the wildlife diversity there. Wildlife cannot speak for themselves. These wetlands and open spaces enrich the lives of all Boulder residents.

I urge you to NOT support CU South.

Thank you,  
S. Hack  
Boulder CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Laura Tyler <laura@sbcreekactiongroup.org>

**Sent:** Monday, July 19, 2021 5:03 PM

**To:** wrab@bouldercolorad.gov

**Cc:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>; Coleman, Brandon <ColemanB@bouldercolorado.gov>; Kathie <joynermcguire@comcast.net>; Deborah Swearingen <dswearingen@prairiemountainmedia.com>; Shay Castle <boulderbeatnews@gmail.com>

**Subject:** New Images, 2013 Flood

**External Sender**

Dear WRAB, Boulder Planning Board and City Council, Joe Taddeucci and Brandon Coleman

I'm writing to share with you some new (never seen in public) images of the 2013 flood. These images were given to me by a resident of one of the NEST buildings on Thunderbird who wishes to remain anonymous. The garden level apartments in the NEST buildings are very vulnerable to flooding by South Boulder Creek. And, as you know, are home to some of Boulder's most vulnerable residents, including many who qualify for Section 8 housing vouchers, some of whom are transitioning from homelessness.

Thank you for considering what you can do to help stop the catastrophic flooding that happens when South Boulder Creek overtops US 36.

Sincerely,

Laura

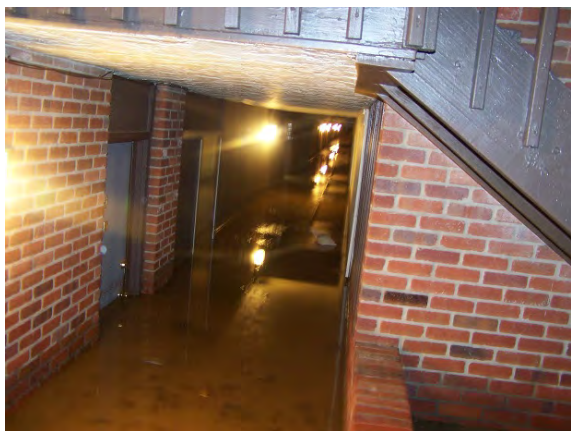
Laura Tyler  
South Boulder Creek Action Group  
[Laura@sbcreekactiongroup.org](mailto:Laura@sbcreekactiongroup.org)  
<https://twitter.com/SBCActionGroup>



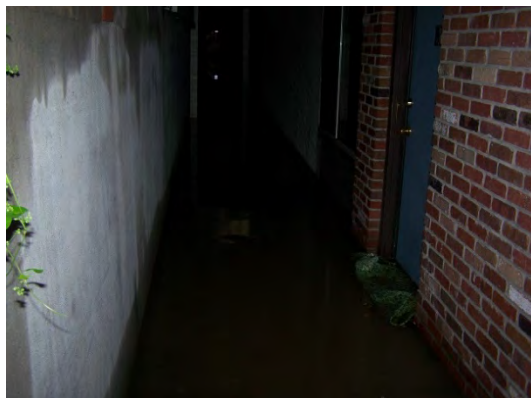
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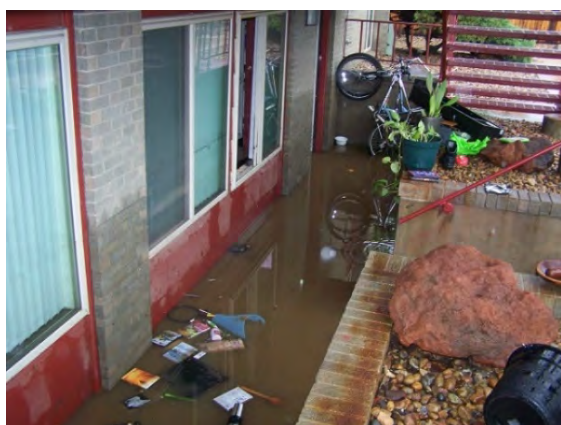
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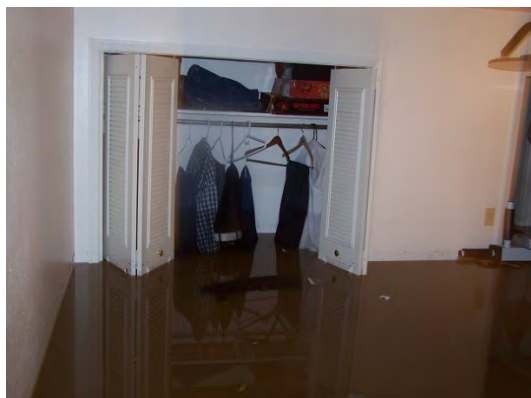
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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Sue Larson <dykenet@aol.com>  
**Sent:** Tuesday, July 20, 2021 1:43 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Letter from South Boulder Resident

**External Sender**

July 20, 2021

To: Boulder Planning Board, Boulder City Council

Greetings, Boulder Planning Board and Boulder City Councilmembers.

I am writing in opposition to annexation and development of "C.U. South".

I am not, however, writing you to debate policies, proposals, studies and data. I am not writing you about money, classism and drooling developers, salivating as they plot with (against) my hometown. I am here to share the thing that you, as newcomers in my eyes, (Councilmembers Nagle and Wallach excepted) seem to lack about my hometown: emotional connection brought longevity, continuity and personal and family history to this exquisite and unique area.

I write to you because if I spoke at City Council, the 2 minutes allotted to public speakers would not allow me time to verbally list all the changes I've seen in my brief lifetime here (60+ years), all the sub-divisions, shopping centers and other development built and very often named after the exact things they have destroyed ("The Meadows" shopping center, "Arapaho Avenue", "Holiday", Frasier "Meadows", Keewaydin "Meadows", etc.) The meadows (prairie of the high plains) are long gone, paved over by "developers", plowed under by farmers and supplanted by residents who immediately "landscape" their properties with non-native flora and trees by the hundreds of thousands, thereby changing the local climate and ecology. (The result of this is commonly called "suburbia".)

My childhood photos in Boulder show the high plains in remnants of their natural glory. Sadly, tens of thousands of newcomers seem to know nothing of their/your ecological surroundings, because they/you never saw it how I once saw it. To quote the late Prof. Bill Weber (founder of the C.U. herbarium), as I once dropped him off at his apartment, "Boulder has become a goddam jungle!"

During my youth here, there was almost no city south of the new, bilingually named (and once very empty) Table Mesa Drive, almost nothing west of South Broadway (which finally got paved south of the Regents Drive/Baseline after my mother graduated from C.U.), almost nothing east of the very narrow overpass (probably out of code even then) crossing over US Hwy 36 (AKA “the toll road”) via Table Mesa Drive. Hwy 36 intersected at Baseline Road. Going southeast on Highway 36, there was a new overpass and exit ramp at a new road in the middle of the prairie, called Wadsworth Blvd. The next overpass & exit ramps were at Federal Blvd in Denver. In my childhood there was no NCAR, no NIST (just NBS); there was nothing north of a newly widened and paved street called Iris Avenue (except the then-rural strip of North Broadway), and there was almost nothing east of Hwy 36 as it bypassed Boulder (now known as 28<sup>th</sup> Street). The water pipe crossed above North Broadway at the top of the hill (near Norwood Avenue), with the “Welcome to Boulder” sign hanging from it, crossing the road. A short segment of 30<sup>th</sup> Street was newly built. The rodeo grounds, which were passed to the City by Mr. Rollie Leonard (supposedly “in perpetuity” but yes, I know what happened) were still at 28<sup>th</sup>-30<sup>th</sup> and Pearl. I can assure you that there are plenty of organic ranch biscuits, corral cookies and road apples (i.e., horse manure) under all that prime real estate at “Whole” Foods. Plenty of us kids grew up with horses. My family had 5 of them. (The last time I rode a horse into Boulder was about 30 years ago, when my girlfriend & I galloped across campus on our mounts, clip-clopped across Baseline Road and got in line at the Taco Bell “drive”-thru to grab lunch.)

Sure, you can go to the library and look at “old” photographs. You can even listen to my great-aunt’s oral history interview via Boulder’s Carnegie Library.

Or you can just keep reading.

My great-grandmother came to this area in 1877, a place newly labeled “the state of Colorado”. Even within my grandmother’s memory, Tribal members came to the back door of my great-grandparents’ home, asking for food. Yes. Begging for food. My great-grandmother was not involved in exterminating the indigenous peoples’ food supply (buffalo). She certainly did not turn them away, but instead fed them when they appeared at her door.

Fast fast fast forward to the present day of this beautiful valley. Despite the best efforts of some public officials, it remains a beautiful valley. It will outlive us all. I live in my family’s remaining home, here in Martin Acres. Martin Acres was the ancestral farm of Jeremy Martin, my brother’s junior high

buddy and long-time business partner. Not long before that, it was native prairie.

Yes, a Martin is still living in Boulder.

Now you want me to live crammed between 2 campuses of the University of Colorado, as you review the C.U. South proposal and prepare to approve "C.U. South". Two campuses (minimum) in this squished little big town? My home would basically become the geographic center of CU. Hasn't Martin Acres suffered enough? Spread the misery and congestion to the upper-class neighborhoods. Or there's always Diagonal Plaza, perfectly located and awaiting the university's unsustainable lust for expansion.

Yes, Boulder is a "college town". But it has long been home for many others living full lives here that are unrelated to the university. There are towns out on the eastern plains that would greatly benefit from C.U. expanding with branch campuses. Why doesn't C.U. go out there? The towns on the eastern plains that didn't blow away during the Dirty Thirties could benefit from some economic growth.

(FYI: it was dusty in this region, too; my great-grandmother put wet towels all around her doorjambs and windowsills.)

C.U. could build a Pueblo campus or even conjoin with CSU's existing Pueblo location. That location would more accurately be "C.U. South". CU South could relocate to the old C, F & I location in Pueblo. It's perfect, right next to the railroad tracks. Pueblo could use a shot of growth. There are several small towns out east with infrastructure that can grow and support a branch of the university. Give Boulder a break! And spread the wealth!

It is not time for me to leave or move somewhere else to recover Eden. It is time for you to make better decisions. For my entire Life, I have constantly adjusted to Boulder's approach to development. My heart has broken many times thru the decades. Do people who came here before you arrived even matter to you? Because some of us are still here. Watching you, listening to you. Will you listen to us?

I am part of a small remnant of my Fairview High class remaining here. Few others could afford to stay. But that doesn't give you license to trample me, to disregard my Life here, to toss off my opinions and desires for my hometown. It is time to listen.

I don't disdain all changes or all development. Not at all.

I just want my future here to be better than the present—not worse.

I ask you this: do you know how it feels to never be included in “the greater good”?

My hope is that you start to care more about the people who already live here, instead of “planning” for ones who don't.

I supposedly live in the city called Boulder, within which is the University of Colorado. It is not supposed to be the other way around. I don't want to live in the University of Colorado, within which huddles the city of Boulder. But that is how it increasingly feels. Do you want the university to swallow the city?

I'm writing to you because you don't know what it was like here before you came. I can assure you that Boulder was a far more pleasant place before any of you arrived. I'm not “better” than you because my family has lived here a long time. I simply have more experience with living in Boulder than any of you. Than any of you. Thus, I think my perspective is valuable and worth sharing with you.

To wit:

In my brief blip of a lifetime here, the population of Colorado has quintupled.

That is pretty horrific. (Shall we talk “invasive species”? It isn't turtles or tumbleweeds that are causing climate change or sucking the rivers dry.) It is a true loss that the entire Front Range, border to border (WY to NM), wasn't made a national park (or even a wilderness area) 100 years ago. This strip of ecology is unique, yet it continues to be trampled, as the “leisure industry” and the “recreation industry” grow, along with an ignorant, selfish, entitled human population who are living out of balance from the planet. What decisions will you make to further destroy this valley? What will you see when you look back in time at your role in my hometown?

I am not a relic of the past. I live here now. I even graduated from the “new” Fairview High School (class rank #1, FYI), so I'm not ready to die off yet. My great-aunt is buried in Boulder's Mountain View Cemetery; she died at 107.

I have greatly contributed to bettering the lives of ALL residents here. And it nearly destroyed me. For a brief glimpse, go here:

<https://www.commfound.org/trends/diary>

See the entry dated 5-25-2021. Open and click to expand.

(Knowing that my nation will never recognize or thank me for my service, I gave myself a purple heart. My purple heart--for risking my Life and for being wounded in battle--is permanently inked onto my breastbone.)

In summary:

No, I do not want more “development” next to or in my neighborhood. No, I want nothing more in my “backyard”---or my front yard. I am an out and proud NIMBY, if that’s the label you wish to apply to me. Over the years, I have spent my share of evenings inside council chambers or watching on Channel 8. I remember when the Council changed from being white men in dark suits to councils that sometime include some of the rest of us.

I have my local heroes here in Boulder. Some of them are still alive. So far, none of them are you.

Please don’t trap me between two university campuses. “Enough” has happened again and again and again and again in Boulder.

Enough is already way too much. Thank you for your time.

Sue Larson

410 South 43<sup>rd</sup> Street

80302, oh no it’s 80303, er wait now it’s 80305.

[dykenet@aol.com](mailto:dykenet@aol.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** kim Bixel <kbixel@yahoo.com>  
**Sent:** Tuesday, July 20, 2021 11:50 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Item 8A Memo Added to 7/20 Agenda Packet

**External Sender**

Dear Council members,

Please see the attached version of the Item 8A Memo Added to 7/20 Agenda Packet for your meeting this evening.

Appreciate your objectivity and unemotional leadership.

Thank you and best regards,

Kim

## RESOLUTION NO. \_\_\_\_

### A RESOLUTION CONCERNING RECENT EVENTS RELATED TO THE BOULDER RESERVOIR

WHEREAS, The City of Boulder, Colorado, owns and operates the Boulder Reservoir located at 2265 Reservoir Road, Boulder, Colorado. The Reservoir is a public facility enjoyed by community members and visitors for its setting and recreational amenities, including swimming, beach access, boating, stand-up paddling, and fishing; and (Note: do you see mention of after-hours, night-time drinking, driving and outdoor dark-time gatherings listed here?)

WHEREAS, the Reservoir is one of the most popular and visited park facilities in the City of Boulder and the surrounding region, annually attracting approximately 300,000 visitors per year; and

WHEREAS, the Reservoir has, for decades, operated a concessions area near the beach that is operated and managed by an outside contractor under a lease agreement with the City of Boulder; and (Note: ice cream and pretzels).

WHEREAS, the Reservoir has, for decades, hosted a variety of special events, and since 2013 the City of Boulder has utilized a Special Events Team and Policy to ensure that event organizers comply with sound, parking, transportation, safety, and security requirements, that under this Policy event organizers must provide a deposit to the city, and that no deposits have been withheld based on a failure to comply with such requirements; and (Note: please ask Parks and Rec why they will no longer host events such as Kinetics, Avery Brewing and why they have made alcohol illegal and close at 5pm on July 4th)

WHEREAS, the City of Boulder's Parks and Recreation Department (the "Department") manages the Reservoir, and the mission of the Department is to promote the health and well-being of the entire Boulder community by collaboratively providing high-quality parks, facilities, and programs; and

WHEREAS, the Boulder Parks and Recreation Advisory Board (the "PRAB") convenes on a consistently scheduled basis to hear updates, provide recommendations, and where authorized by the city's Charter and the Boulder Revised Code, ratifies policies and contracts managed by the Department; and (Note: PRAB is demonstrating here that it is not an independent nor free-thinking Board).

WHEREAS the 2012 Boulder Reservoir Master Plan indicated a need to

feedback from a cross-section of Boulder community members, the PRAB approved a Concept Plan to construct a new visitor center at the Reservoir, and that Concept Plan included specific goals of: extending shoulder season use opportunities, establishing partnerships with various groups to expand programming and offset construction and operating costs, expanding concession offerings with the possibility of obtaining a liquor license for the site, and creating multi-use spaces serving a variety of events across all generations of Reservoir users; and (Yes, to all this and Parks and Rec sought approval for the new visitor service center as an Accessory Use which means: \*a use located on the same lot as the principal building, structure, or use to which it is related and that is subordinate to and customarily found with the principal use of the land; and(2)Is operated and maintained for the benefit or convenience of the occupants, employees, and customers of or visitors to the premises with the principal use (daytime recreation and water utility). During this time, the entire Reservoir is open and welcoming to anyone until exits gates close - 9pm in the Summer.

WHEREAS, between 2018 and 2020, based on the 2017 Concept Plan, the city designed and constructed a beautiful new visitor center that includes a restaurant and patio adjacent to and facing the Reservoir, which was constructed to increase community benefit and enhance customer experience at the Reservoir by providing high-quality food and beverage services; and (Yes, they put together an RFQ in 2019 for a reservoir-hours cafe and concession inside and on the small outdoor patio to the East of the building totaling 1,600 square feet and operating within allowable ancillary use parameters). See attached document. The current lease is a significant departure from this in both intent and content.

WHEREAS, in January 2020, the PRAB approved a lease with Landloch L.L.C. to operate food and beverage services at the restaurant, which expressly contemplated that approved special events and private events may be held at the restaurant and patio space, and that approved liquor licenses may be obtained for special events, and that the lease is subject to the Charter and Boulder Revised Code of the City of Boulder and Colorado law, and which includes an operating principle requiring appropriate controls to promote the safe and responsible consumption of

alcohol at the Reservoir; and (The current lease includes 62,000 square feet of outdoor public beach area, exclusive rights to catering, the ability to sublease to anyone at anytime, any portion of it's leased space, below-market lease rates, and much more that violates the intent and allowable uses set forth in all the planning prior to 2019/2020).

WHEREAS, beginning in Fall 2020, some individuals who live in the neighborhoods near the Reservoir informed the Department staff that they have concerns about the new facility, including: sound and lighting from the new facility and its impact on wildlife, traffic on 51st Street and the potential

aspects of the facility that might plausibly interfere with wildlife, and working with Boulder County to promote multi-modal access to the Reservoir; and (Note: and that it is illegal, not in keeping with an Accessory Use of the Reservoir and was not anything remotely close to what has been disclosed or desired in the years of public feedback, nor had Parks and Rec even sought feedback from Boulder Police and Safety or the Boulder County Sheriffs Department despite statements that they had included them in the process).

WHEREAS, the PRAB heard and considered concerns from these neighbors during a scheduled public meeting; and

WHEREAS, despite this outreach and engagement, some neighbors still have concerns about the new facility and events at the new facility; and (Yes, because it is illegal, unsafe, an abuse of a natural resource and quiet outdoor recreation area and was never the plan before the current Lease in which the tail wags the dog.)

WHEREAS, in Spring 2021, several organizations, including non-profits and foundations, sought to host a series of events, called “Dinner on the Beach,” at the restaurant (Driftwind) and patio, and serve alcohol at those events, to gather the community to celebrate the new facility, show that such events could be accomplished safely and responsibly, and to raise money for local causes; and (Note: Driftwind went out of their way to intentionally solicit personal friends who run non-profit organizations to create a series of events that represented a end-run around a failed liquor license process earlier in the year; events that were effectively to serve as regular operations of Driftwind to thumb their nose and get around rules and as a result put the non-profits in a terribly comprised situation).

WHEREAS, in June 2021, those organizations applied to the Boulder Beverage Licensing Authority (the “BLA”) for Special Event Liquor Permits for the events, and many of the neighbors opposed the applications in writing and at the hearings on each application; and

WHEREAS, the BLA considered input and evidence from all interested parties in a quasi-judicial hearing and approved the applications for Special Event Liquor Permits, finding no cause to deny such applications; and (Note: there were more than 6 hours of deliberation and BLA members were very much conflicted. Boulder County Police Officer Denig quote from the recorded event: “Event or no event, 51st can be a dangerous stretch after dark” - and questioned will there be enough marshalls, will there be enough lighting? And stated that geographic features of the Reservoir including its location present real problems.

WHEREAS, members of the PRAB do not possess and have not personally reviewed the reported emails and, therefore, have not confirmed that the information reported in the *Daily Camera* is accurate or confirmed the identity of the individual(s) who may have sent the alleged emails; and

(Note: that is because the reported emails do not represent threats. Honorable City Council members should request email (s) in question directly from the non-profit entity to make a conclusion for themselves versus content themselves with heresay, intentional rumor and exaggeration).

WHEREAS, given the potential for disruption to the events, Landloch L.L.C., sadly, opted to cancel the Dinner on the Beach events, and the hosting organizations agreed with Landloch's decision. (Note: Landloch opted to cancel the events and it had nothing to do with what are being deemed 'threats' despite their protestations which you will agree once you learn that the 'threats' did and do not exist). This constitutes smoke and mirrors and should not be tolerated).

NOW THEREFORE, BE IT RESOLVED BY THE BOULDER PARKS AND RECREATION ADVISORY BOARD:

Section 1. The Reservoir is an important community asset and is one of the most popular park facilities in Boulder and the surrounding region.

Section 2. The PRAB believes strongly in the vision of enabling greater access to this community asset in a safe and responsible manner. Along these lines, the PRAB supports the 2017 Concept Plan and is incredibly proud of the new Reservoir visitor center and its potential to contribute to this vision, including through a restaurant and patio space for gathering community members and visitors to enjoy the Reservoir and its beautiful scenery. The PRAB supports the democratic and public process through which the Concept Plan and lease agreement with the restaurant owner was established. (The venue was zoned, permitted and approved as an Accessory Use to all the Reservoir uses mentioned in this document. The entire public can meet, gather and recreate all day long, every day of the year and until 9pm in the Summer months. Not a single person is objecting to this use) In fact, a cafe and better concessions were celebrated before the current explosion of scope in the current lease..

Section 3. The PRAB supports hosting events at the Reservoir that benefit the community in a manner that is safe, responsible, and consistent with local, state, and federal laws, and we are proud of the decades-long legacy of beneficial, safe, and responsible events held at the Reservoir. (Yes, agree, local zoning laws say that operations at the Visitor Services Center must be operated as an Accessory use and close at dark with the park.)

Section 5. The PRAB supports civil discourse and pragmatic engagement. We strongly disapprove of the reported emails, if true, threatening to disrupt publicly vetted and approved events at the Reservoir and believe that there are more appropriate and productive ways to express concerns or provide feedback on issues of public concern. (If the PRAB was operating honorably and with integrity, they would first verify and confirm the truth of both the emails and the real reason for the cancellation of the events in question before entangling the City Council in salacious rumors and unconfirmed hearsay).

## BOULDER PARKS AND RECREATION ADVISORY BOARD

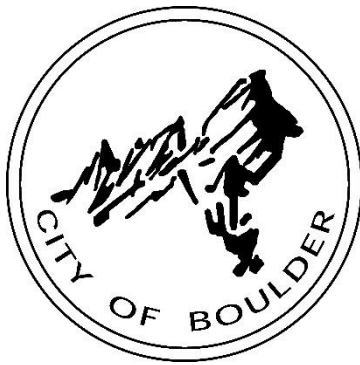
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Raj Seymour, Chair

Attest:

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Charlotte O'Donnell



## **CITY OF BOULDER, COLORADO**

Finance Department / Purchasing Division  
1777 Broadway  
P.O. Box 791  
Boulder, Colorado 80306

Telephone: 303-441-3054  
Email: [grevc@bouldercolorado.gov](mailto:grevc@bouldercolorado.gov)

**RFQ NO. 121-2017**

**SUBMISSION DEADLINE: 4:00 PM, Friday, December 15, 2017**

**REQUEST FOR QUALIFICATIONS  
FOR  
Concession/Vendor Partnership  
At  
The Boulder Reservoir**

**FOR ADDITIONAL INFORMATION CALL:**

Margo Josephs  
City of Boulder – Parks & Recreation  
TELEPHONE NO. 303-413-7251  
[JosephsM@bouldercolorado.gov](mailto:JosephsM@bouldercolorado.gov)

**CITY OF BOULDER, COLORADO  
REQUEST FOR QUALIFICATIONS FOR  
CONCESSION/VENDOR PARTNERSHIP AT THE BOULDER RESERVOIR  
RFQ #121-2017**

The City of Boulder is soliciting Statements of Qualifications from qualified food and beverage entities to invest in and operate a long-term leased space at the Boulder Reservoir property (waterfront area) located at 5565 N 51st St., Boulder, CO 80301. **An opportunity exists for the development and operation of a café/eatery (indoor/outdoor venue with mountain and waterfront views) and to become the indoor catering entity for private and special events occurring on the property. This cafe/eatery will replace and enhance concession offerings on the property welcoming the venue's estimated 300,000 guests per year.**

Timing of this offering is intended to coincide with a scheduled \$3.4M City of Boulder capital improvement project on the property (launching in 2018 and concluding in May 2019 at the beginning of the facilities high season) which includes replacement of the public restrooms/showers, the concession amenity and site administrative offices. A financing letter of intent and lease development negotiations would commence immediately upon selection of the successful entity.

**Context for the RFQ**

Approved by Boulder City Council in 2014, the Boulder Parks & Recreation Master Plan calls for the exploration of partnerships providing and enhancing services to the community and sustainability of Boulder's urban park assets and programs. **Boulder Parks and Recreation (BPR) is pursuing this RFQ seeking a mutually beneficial on-site food and beverage business relationship at the Boulder Reservoir. This opportunity is intended to advantageously leverage City of Boulder planned capital investment of \$3.4M (including permitting and construction) at the property.**

In 2015, BPR received City Council and Parks & Recreation Advisory Board (PRAB) support for the initiation of capital improvement planning which would renovate the 35-year old Reservoir Visitor Center and beach front. The concluded public engagement process informed initial designs for the project and a concept plan for the site was approved by PRAB in January 2017 (See Exhibit A).

The Boulder Reservoir is in northeast Boulder with a main entrance off 51st Street north of Jay Road. This amenity caters to a regional visiting population in an increasingly densifying area in Boulder County (North Boulder and Gunbarrel). The community has expressed a desire for Boulder Reservoir to be enhanced as a multi-use park with an extended season and more amenities. Qualified entities who might enter into an agreement with the department are those with prior food service experience who can leverage this unique opportunity (See Exhibit D). The ultimately successful entity must have the vision and business skills necessary to maximize the community benefit, visitation experience and economic potential complimentary to this unique location along the Front Range. The City of Boulder will select the best overall entity that achieves these goals based on the criteria set forth in this RFQ and through subsequent negotiations.

**Additional information**

1. Annual Visitor Gate Entries: 300,000 (regional)
2. Zoning: Public Benefit (City of Boulder Planning review to be coordinated by BPR)
3. Concession/Eatery Building Costs: Approximately \$1,200,000 inclusive of selectee finishes
4. Structure will be ADA compliant and comply with all other applicable ordinances

5. Customer Type: Families, boaters, swimmers, exercise enthusiasts, and a wide variety of individuals/community/educational or corporate events every year. Regular off-season visitation includes smaller events, cyclists, passive recreationalists and trail users.
6. Median Household Income (2015 \$): \$70,961
7. Current utilization: 30-40 special events/year (including Boulder Ironman and Boulder Triathlon; 200-300 picnics, parties, corporate events, and/or weddings) attracting 21,000+ patrons

#### Development Plans – Boulder Reservoir Visitor Services Center

BPR is on schedule to construct a new Visitor Services Center (VSC) at the Boulder Reservoir starting fall of 2018 and opening in spring of 2019. The new facility will include:

- 7,300 sq. ft. facility with outstanding views of Boulder Reservoir to the east and foothills to the west;
- A new entry/arrival space and conference room;
- A new bath house and locker room building;
- A reimagined cafe/eatery with indoor/outdoor dining areas; and
- Reservoir staff office space

The envisioned cafe/eatery will be a city-owned property pursuant to applicable zoning and the establishment's designation as an "ancillary use" (See Exhibit B). The selected successful entity will nonetheless play an integral role in influencing venue branding and furnishings (indoor/outdoor).

Investment by the successful entity is sought solely to:

- Encourage the long-term interests of both parties; and
- Allow the City to extend greater resources to public offerings on the site (match to PLAY Foundation fundraising amenities including a boardwalk, overlooks and playground).

A listing of assets which would be covered by said investment by the city and selected entity is attached as Exhibit C.

The planned concession/eatery space includes:

- A roughly 660 square foot concessions kitchen;
- A 1,600-square foot indoor/outdoor dining area with gas-operated fireplace;
- Two accessible public restrooms (complimenting the facilities available in the adjacent locker rooms); and
- A dedicated service access to the kitchen.

The facility is estimated to have a roughly 100-person maximum seating capacity and the layout is still negotiable post RFQ Selectee identification.

In addition, this renovated area of the Boulder Reservoir will include a larger public plaza offering outdoor gathering and event spaces overlooking the Reservoir and beach areas. Ample parking is available on site including a separate parking area that could be utilized for private events. Additional features (boardwalk, overlooks and playground) on the property are being pursued via a concurrent fundraising effort of the PLAY Boulder Foundation (<http://www.playboulder.org/>).

**Tentative Selection and Project Schedule:**

The City of Boulder Parks & Recreation panel will screen respondents selecting up to three (3) entities who will proceed to interviews and full RFP phase of negotiations. A final awardee will be selected with all parties notified of the selection on or before January 19, 2018 at which point the City will enter a Letter of Intent with the awardee organization and commence full contracting negotiations. Qualified organizations should expect that the envisioned café/eatery would be constructed throughout 2018 and available for occupancy by the summer of 2019.

RFQ Issued ..... November 17, 2017  
Question and Answer Deadline..... December 8, 2017  
RFQ Response Deadline..... December 15, 2017 – 4:00 P.M.  
RFQ Response Review..... December 18, 2017 through January 1, 2018  
Candidate Interviews..... January 8 through January 18, 2018  
City enters Letter of Intent..... January 19, 2018  
Contract Negotiations..... January 19 through February 2, 2018  
Construction ..... September 2018 through Spring 2019  
Site Open. .... May 2019

**Question and Answer Deadline:**

All candidate's communications concerning this proposed scope of services shall be directed to the project manager listed below. Respondent(s) should rely only on written statements issued by the project manager.

A question and answer deadline has been set for end of business on December 8, 2017. All questions regarding this proposal must be received by that time. Responses to questions will be posted as an addendum on Bidnet.

**The Statement of Qualification will be evaluated for the following factors:**

<b>Evaluation Item</b>	<b>Weighting</b>
Qualifications to operate and maintain a food/beverage service	40%
Proposed vision and food concept	30%
Colorado Business License	10%
Qualifications of personnel (catering and concession-related)	15%
Candidate's responsiveness to this RFQ, and ability to follow directions	5%

**I. Statement of Qualifications/Work Plan Should Contain the Following Elements:**

1. Cover or Introductory Letter (1 page limit – 8 ½ x 11 paper)
2. Qualifications Section (2 page limit – 8 ½ x 11 paper)
3. Minimum font size for all sections is 10 point.

## **II. Cover or Introductory Letter:**

1. Address the cover or introductory letter to:  
Margo Josephs  
City of Boulder  
Parks and Recreation Department  
3198 Broadway  
Boulder, Colorado 80304
2. Include the following information in the letter as a minimum and highlight these items in bold letters:
  - a) Certification that the information and data submitted is true and complete to the best knowledge of the individual signing the letter;
  - b) Name, telephone number, and e-mail address of single point of contact for the SOQ submittal;
  - c) Current Business License Number; and
  - d) An original signature in ink, by an authorized principal, partner, or officer of the business as required by the City.

## **III. Qualifications Section**

Please provide the following information outlining relevant interest and experience:

1. Overview of business experience related to restaurant, catering or food services;
2. Information concerning type of operation, years of business and states/locales in which your business(es) operates;
3. Describe interest in the opportunity;
4. Describe proposed café concept;
5. Describe culinary philosophy and how it might evidence the uniqueness of the City of Boulder and the Boulder Reservoir venue; and
6. Describe scale of business (number of personnel, customers served, etc.) and other evidences of your businesses reputation in the operation of cafes/eatery establishments over the last five (5) years.

**Provide six (6)** hard copies and one electronic copy of the SOQ submittal plainly marked “RFQ No. **XX-**2017, Concession/Vendor Partnership at the Boulder Reservoir, December 15, 2017 and mailed in a sealed envelope to:

Calder Grey  
City of Boulder / Purchasing Division  
1777 Broadway  
Boulder, CO 80306

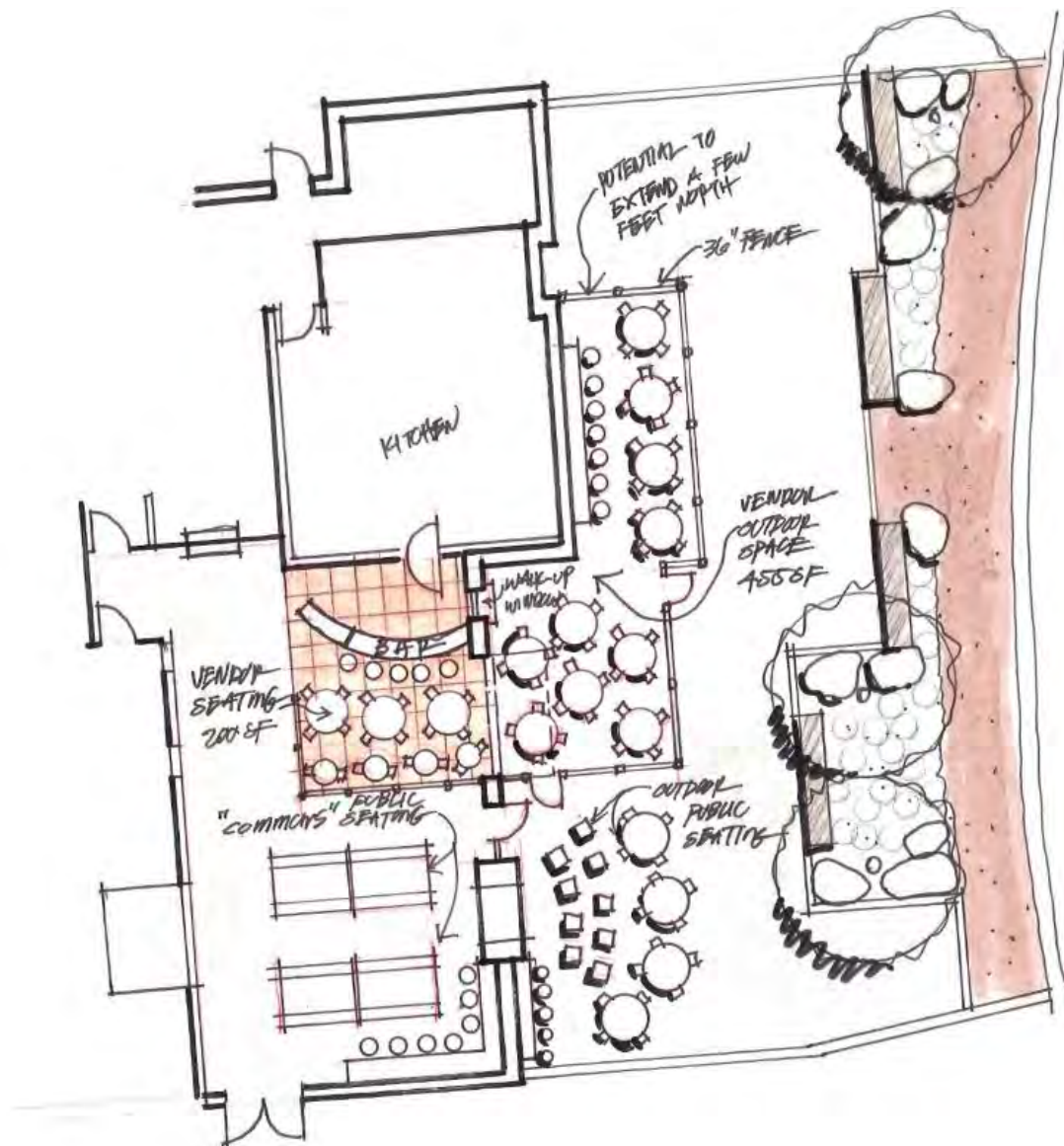
SOQs will be accepted until **4:00 p.m., Friday, December 15, 2017.**

The City reserves the right to reject any or all SOQs and waive any informality therein. The SOQ is prepared at each candidate's sole expense; becomes property of the City; and therefore a public record.

## Exhibit A: Approved Concept Plan



## Exhibit B: Café/Eatery Concept



## Exhibit C: Infrastructure Investment

Reservoir VSC - Approximate Tenant Use Area Costs				
<u>Structure</u>	<u>Square Feet</u>	<u>Cost/SF</u>	<u>Subtotal</u>	
Kitchen area	660	\$522	\$344,520	
Bar area	200	\$522	\$104,400	
Indoor Dining Area	560	\$522	\$292,320	
Outdoor Dining Area	1,040	\$14	\$14,560	
Tenant Use Area (selected entity investment = 1/3)			\$755,800	
<u>Equipment</u>	<u>Unit Cost</u>	<u>Qty</u>	<u>Subtotal</u>	
Upright commercial refrigerator	\$3,700	1	\$3,700	
Upright commercial freezer	\$3,135	1	\$3,135	
Ice Machine	\$3,275	1	\$3,275	
Commercial Range	\$10,429	1	\$10,429	
Microwave - cabinet mount	\$1,589	1	\$1,589	
Dishwasher	\$797	1	\$797	
Dishwasher - Commercial	\$5,651	1	\$5,651	
Make-up air unit, gas fired	\$5,978	1	\$5,978	
Pads, connections, pumps	\$3,288	1	\$3,288	
Dishwasher hood vent	\$1,841	1	\$1,841	
Commercial Kitchen Hood	\$5,644	1	\$5,644	
Cabinets	\$250	10	\$2,500	
Liquor Closet (included in SF cost)	\$0	0	\$0	
Sinks	\$500	2	\$1,000	
Prep Counters	\$2,000	2	\$4,000	

Equipment Subtotal				\$52,827
<b><u>Tenant Finish/FFE</u></b>	<b><u>Unit Cost</u></b>	<b><u>Qty</u></b>	<b><u>Subtotal</u></b>	
Signage	\$2,000	1	\$2,000	
Roll up security shutter	\$600	2	\$1,200	
Bar	\$8,000	1	\$8,000	
Two-seat rectangular tables	\$100	21	\$2,100	
4' circular tables	\$125	6	\$750	
Bar Stools	\$70	25	\$1,750	
Chairs	\$80	64	\$5,120	
Service Ware			\$13,000	
Tenant Finish/FFE Subtotal				\$33,920
<b>Total Approximate Tenant Use Area Estimate</b>				<b>\$842,547</b>
<b>Selectee's Anticipated Investment (1/3 Structural Kitchen Cost) + Equipment and Finish/FFE</b>				<b>\$300,000 (minimum)</b>

## Exhibit D: Envisioned Terms

Boulder Reservoir Opportunity	
Indoor café/outdoor concession vendor relationship	City-owned building
Majestic water and mountain views (300k+ visitors annually; est. 35 events/year)	Café/eatery to operate as an ancillary use. Anticipated investment amt. \$338,680 (1/3structure + equipment)
Lease Term	Minimum 10 years with renewal option(s) Subject to PRAB and City Council approval per City Code; Tentatively scheduled Q2, 2018
Outdoor furnishings and dual face fireplace	City purchase
Commercial Kitchen	City permit/build; Selectee purchased equipment (see Exhibit C)
Pursuit of alcohol licensure	Expected – Selectee application for interior and terraced portion of patio only
Customer Access	Gate fee payable by customer Memorial Day through Labor Day, free during off season; on-site parking available
CAM sharing	CAM share to be negotiated based on square footage; City purchased dumpster
Design, permitting and construction	Est. square footage (660 kitchen sq. ft; 200 bar area sq. ft.; 1600 dining sq. ft.) City to coordinate and pay for facility construction permitting
Rent	Below Gunbarrel/Niwot/North Boulder mkt rate through lease term (escalator after 3 years to be negotiated)
Advertising Benefit	City-determined provision of space in the BPR Recreation Guide, Social Media and website advertising benefit; est. circulation 40,000; 30,000 social media subscribers/followers
Facility Rental Caterer (indoor and fenced portion of patio)	Booking arrangement and fees to be negotiated; Negotiable preferred vending (outdoor) <sup>1</sup> for other events on-site

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<sup>1</sup>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Joan Cardone <joanie\_2753@yahoo.com>  
Sent: Tuesday, August 17, 2021 3:03 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Initiative to vote on CU South annexation

External Sender

All: I am appalled that you are moving forward to vote on the CU SOUTH annexation agreement in order to preempt the citizens of boulder from voting in November to have our approval in the annexation of CU south. This is outrageous. If the former city attorney had not misinformed the folks gathering signatures last year we would have already voted on this. Please put this initiative on the ballot. What are you trying to hide from us. Why are you not representing us and letting democracy work. As a citizen of Boulder for over 43 years I am disgusted with our current city council and your effort to ram annexation thru. Shame on you.

Respectfully.....Joanie Cardone  
84 Huron Ct.

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Andy Schwarz <ams@amstec.com>  
Sent: Monday, July 19, 2021 5:26 PM  
To: boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>  
Subject: I support CU South Annexation

External Sender

Hello members of Boulder Planning Board and Boulder City Council,

I 100% support the CU South Annexation.

I would like to thank City of Boulder staff for the hard work on the draft agreement.

This is a great start to the annexation process and I look forward to see how this develops.

Thank again,  
Andy Schwarz

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jonathon Smythe <jonsmythe17@gmail.com>  
**Sent:** Thursday, August 19, 2021 8:32 PM  
**To:** Governopolis@state.co.us; stephen.fenberg.senate@state.co.us; judy.amabile.house@state.co.us; Council <council@bouldercolorado.gov>  
**Subject:** Guess who

**External Sender**

<https://www.youtube.com/watch?v=RSdKmX2BH7o>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Peter Dawson <peter\_dawson1@yahoo.com>  
**Sent:** Monday, July 19, 2021 10:25 AM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>  
**Subject:** flood mitigation

**External Sender**

I read the April workbook and the current updates and visited the site. As a resident of Frasier, I feel that it's urgent to approve the plan.

Our climate is becoming crazy. Hundreds died from flooding in Germany last week. We don't want another flood in Boulder. We may get a hundred-year flood sooner than we expect it.

"Save South Boulder" urges us to save our open space. There will be plenty of open space in the plan, and the language about restoring habitat and wetlands will be important.

I urge you to vote yes.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ruth Wright <ruthwright1440@gmail.com>

**Sent:** Wednesday, July 28, 2021 11:40 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Federal Case creating liability for a governmental entity for taking of a "flowage easement" over private property

**External Sender**

Hello Members of the City Council,

Attached is an important Federal Court decision entitled In RE Upstream Addicks and Barker (Texas) Flood-Control Reservoirs, dated December 17, 2019. If you are short on time, you can just read the first 3 pages and the last page which are an introduction and a conclusion. I think you will understand why I believe that this is an important new legal "cause of action" in flooding cases using the "takings" clause of the Fifth Amendment. It may be pertinent to the CU South berm and other CU South issues; however, it also could be used against the city if Council approves a building which diverts flood waters to private properties that would not have been flooded but for the new building.

If you have any questions or comments, please text or call me.

Ruth Wright

303-502-4976 (cell)

303-443-8607 (home)

# ***In the United States Court of Federal Claims***

Sub-Master Docket No. 17-9001L

(Filed: December 17, 2019)

*****	)	
IN RE UPSTREAM ADDICKS AND	)	
BARKER (TEXAS) FLOOD-	)	
CONTROL RESERVOIRS	)	
*****	)	
THIS DOCUMENT APPLIES TO:	)	
ALL UPSTREAM CASES	)	
*****	)	
	)	Post-trial decision; government-induced
	)	flooding on private property; application of
	)	factors identified in <i>Arkansas Game &amp;</i>
	)	<i>Fish</i> ; liability for a taking of a flowage
	)	easement

Daniel H. Charest and E. Lawrence Vincent, Burns Charest LLP, Dallas, Texas, Charles Irvine, Irvine & Conner PLLC, Houston, Texas, and Edwin Armistead Easterby, Williams Hart Boundas Easterby, LLP, Houston, Texas, Co-Lead Counsel for Upstream Plaintiffs. With them at trial were Vuk. S. Vujasinovic, VB Attorneys, PLLC, Houston Texas, Lawrence G. Dunbar, Dunbar Barder, P.L.L.C., Houston, Texas, Jack E. McGehee, McGehee, Chang, Barnes, Landgraf, Houston, Texas, Michael J. Dulaney, Sullins, Johnson, Rohrbach & Magers, Houston, Texas, Lydia A. Wright, Burns Charest LLP, Dallas, Texas, Mary Conner, Irvine & Conner, LLC, Houston, Texas, Kyril V. Talanov, Houston, Texas, and Hilary S. Greene, Houston, Texas.

William Shapiro, Trial Attorney, Environmental & Natural Resources Division, United States Department of Justice, Sacramento, California, for defendant. With him at trial and on the briefs were Kristine S. Tardiff, Laura W. Duncan, Sarah Izfar, Jessica Held, Bradley L. Levine, David L. Dain, and Mayte SantaCruz, Trial Attorneys, Environmental & Natural Resources Division, United States Department of Justice, Washington, D.C. With him on the brief was Lawrence VanDyke, Deputy Assistant Attorney General, Environmental & Natural Resources Division, United States Department of Justice, Washington, D.C.

## **OPINION AND ORDER**

LETTOW, Senior Judge.

This case brings to the court the occasionally recurring question of the extent and the nature of government-induced flooding on private property necessary to rise to the level of a Fifth Amendment taking of a flowage easement. Particularly, this post-trial decision assesses whether the government may be liable to private property owners in the Houston, Texas

metropolitan area for takings compensation following Tropical Storm Harvey.<sup>1</sup> Thirteen property owners were selected to serve as bellwethers for the hundreds of property owners who have filed suit raising similar claims against the government.

After making landfall in August 2017, Tropical Storm Harvey (“Harvey”) doused Houston with an average of 33.7 inches of rain over a four-day period. Many properties, including over 150,000 homes, flooded during the storm. Those affected included private property owners within the Addicks and Barker Reservoirs, west of Houston, upstream of the federally designed, built, and maintained Addicks and Barker Dams. During Harvey, the Addicks and Barker Dams collected storm water in their respective reservoirs causing properties within the reservoir to flood from the impounded water. At issue in this bellwether trial is the liability of the government under the Tucker Act, 28 U.S.C. § 1491, and the Takings Clause of the Fifth Amendment of the Constitution, for the damage to thirteen of these properties.<sup>2</sup>

The thirteen bellwether properties are representative of the hundreds of owners of “upstream” properties who brought suit against the United States in this court after Harvey. The property owners claimed that the United States was liable to them for an uncompensated taking, that is, the government-controlled inundation of their properties by the impounded floodwater from Harvey. The first complaint relating to Harvey and the Addicks and Barker Dams was filed on September 5, 2017. See *Y and J Props., Ltd. v. United States*, No. 17-1189L. Hundreds of such cases followed. Using case management techniques comparable to those employed in multi-district litigation, the Chief Judge of the court issued Management Order No. 1, consolidating these cases, and all related later-filed cases, within one master docket. See *In re Addicks and Barker (Texas) Flood-Control Reservoirs*, No. 17-3000L; *Y and J Props., Ltd. v. United States*, 134 Fed. Cl. 534 (2017). The Chief Judge then bifurcated the issues of liability and damages, initially setting a schedule to deal with liability. See Order Regarding Judicial Assignment and Scheduling (Nov. 20, 2017), Master Docket No. 17-3000L, ECF No. 70. Subsequently, the Chief Judge divided the Master Docket into two sub-master dockets, see *In re Addicks and Barker (Texas) Flood-Control Reservoirs v. United States*, No. 17-3000L, 2017 WL 6334791 (Fed. Cl. Dec. 5, 2017)—one for downstream properties, *In re Downstream Addicks and Barker (Texas) Flood-Control Reservoirs*, Sub-Master Docket No. 17-9002L, and, pertinent here, one for upstream properties, *In re Upstream Addicks and Barker (Texas) Flood-Control Reservoirs*, Sub-Master Docket No. 17-9001L.

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<sup>1</sup>When Harvey first made landfall on the Texas mainland on August 26, 2017, it was classified as a Category 4 hurricane. See Eric S. Blake & David A. Zelinsky, Nat’l Hurricane Center, *Tropical Cyclone Report: Hurricane Harvey* 3 (January 23, 2018), available at <https://www.hssl.org/?view&did=807581>. But “Harvey rapidly weakened over land to a tropical storm” within the first twelve hours and to a tropical depression by August 30, 2017. *Id.* Because the majority of the five-day downpour that the Houston area experienced coincided with Tropical Storm Harvey, the opinion will use this designation.

<sup>2</sup>The named defendant, the United States, is representative of all relevant government actors, including the United States Army Corps of Engineers (the “Corps”). Thus, references to the “United States,” the “government,” and the “Corps” all refer to defendant and its collective entities and actions.

Since the division, proceedings have moved apace in the upstream docket. In the spring of 2018, thirteen plaintiff properties were designated to serve as bellwethers for the cases.<sup>3</sup> In February 2018, the government filed a motion to dismiss under the Rules of the Court of Federal Claims (“RCFC”) 12(b)(1) for lack of subject-matter jurisdiction and 12(b)(6) for failure to state a claim upon which relief can be granted. *See* Motion to Dismiss (Feb. 16, 2018), Sub-Master Docket No. 17-9001L, ECF No. 59. Although the court made some preliminary rulings in addressing that motion, resolution of the government’s motion to dismiss was deferred until trial, pursuant to the court’s authority under RCFC 12(i), in light of the fact-intensive inquiry this case required. *See In re Upstream Addicks and Barker (Texas) Flood-Control Reservoirs*, 138 Fed. Cl. 658, 672 (2018).

A ten-day trial was held in Houston, Texas, commencing on May 6, 2019, regarding the liability of the United States for the thirteen test properties. During the course of trial, on the afternoon of May 8, 2019, the court conducted a site visit of the dams that included the spillways and end points of both dams as well as the drainage canals that feed into the reservoirs, as well as seven of the test properties. Following post-trial briefing, *see* Plaintiffs’ Post Trial Brief (“Pls.’ Br.”), ECF No. 235; Defendant’s Post Trial Brief (“Def.’s Br.”), ECF No. 242; Plaintiffs’ Post Trial Brief Reply (“Pls.’ Reply”), ECF No. 246, the court heard closing arguments on September 13, 2019, in Washington, D.C. The issue of liability pertaining to the thirteen test properties and the government’s motion to dismiss are ready for disposition.

Overall, based on the facts and circumstances at hand, the government’s motion to dismiss is denied and the court finds the government to be liable for a taking of a flowage easement on the properties.

## FACTS<sup>4</sup>

### *A. The Addicks & Barker Flood Control Project*

#### *1. The impetus for flood control measures.*

Buffalo Bayou originates in eastern Waller County and western Harris County and flows in a generally eastward direction through a circuitous channel approximately 75 miles long.

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<sup>3</sup>Originally, the court directed the parties to come to an agreement on ten test properties. *See* Case Mgmt. Order (Feb. 1, 2018) at 2-3, Sub-Master Docket No. 17-9001L, ECF No. 37. At the behest of the parties, the number was later increased to fourteen properties. *See* Order Approving Test Prop. Selection (Mar. 13, 2018), Sub-Master Docket No. 17-9001L, ECF No. 91. One of these fourteen plaintiffs voluntarily dismissed his suit, *see* Notice of Voluntary Dismissal (Aug. 24, 2018), Sub-Master Docket No. 17-9001L, ECF No. 136, and therefore thirteen plaintiff test properties remain.

<sup>4</sup>This recitation of facts constitutes the court’s principal findings of fact in accord with RCFC 52(a). Other findings of fact and rulings on questions of mixed fact and law are set out in the analysis.

Joint Stip. ¶ 84.<sup>5</sup> After its confluence with South Mayde Creek in western Harris County, the bayou winds through downtown Houston, where it converges with the White Oak Bayou and continues east, eventually reaching the Houston Ship Channel and pouring into San Jacinto Bay, Galveston Bay, and the Gulf of Mexico. Joint Stip. ¶¶ 84, 85. The city of Houston is situated at the confluence of the two bayous and at the base of a fan-shaped system of streams that flow through a flat and “almost featureless plain,” contributing to the creation of a major flood hazard in the region. JX5 at 4.<sup>6</sup> For much of the year, little or no water flows through the narrow streams in the Buffalo Bayou watershed, but during heavy rainfall the small stream channels cannot hold the water and “a general overflow along the banks” results. JX5 at 5. The soil composition in the region and the foliage it supports do not allow much water seepage and result in exceedingly poor natural percolation and drainage. *See id.* at 4-5. Close proximity to the Gulf of Mexico yields regular hurricanes and tropical storms, rendering the region susceptible to especially heavy rainfall events and attendant flooding. *See* Tr. at 614:7-23 (Test. of Jeff Lindner).<sup>7</sup> Due to this combination of factors, between 1854 and 1935 six major floods occurred in the Buffalo Bayou watershed, including the City of Houston. JX5 at 6. Two particular storms and the flood devastation they created, one in May 1929 and the other in December 1935, prompted congressional action that led to the construction of the Addicks and Barker Dams. Joint Stip. ¶ 81.

In May 1929, a storm (“the 1929 storm”) produced rainfall ranging from six to twelve inches over the White Oak Bayou and Buffalo Bayou basins, causing flooding in downtown Houston and resulting in property damage within the city of \$1,392,000. Joint Stip. ¶ 82. About six years later, in December 1935, another storm (“the 1935 storm”) produced three days of rainfall dropping approximately fifteen inches throughout the basin. Joint Stip. ¶ 83. That storm generated flooding that killed eight people and caused property damage estimated at \$2,528,000. Joint Stip. ¶ 83.

The real possibility of a storm even larger than these events raised serious concern. The Corps noted in its 1940 Definite Project Report about the then-proposed dams that the Buffalo Bayou watershed was situated “in an area subject to all of the circumstances making possible large storms.” JX5 at 7.<sup>8</sup> That same report stated that had the 1935 storm centered directly over

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<sup>5</sup>On April 23, 2019, the parties entered into stipulations of fact “for the purposes of the trial of the thirteen claims in the Upstream Sub-Docket only, and [specifying that the stipulations] are not intended to be binding as to any other claim that falls within Master Docket No. 17-3000L, the Upstream Sub-Docket No. 17-9001L, or the Downstream Docket No. 17-9002L, or in any other action or proceeding.” Stipulations of Fact for Trial at 1, ECF No. 211. The stipulations number 116 and will be cited as “Joint Stip.” followed by the paragraph number.

<sup>6</sup>Citations to plaintiffs’ exhibits are identified as “PX\_\_\_,” defendant’s exhibits are identified as “DX\_\_\_,” and the parties’ joint exhibits are identified as “JX\_\_\_.”

<sup>7</sup>The transcript of the trial will be cited as “Tr. \_\_\_:\_\_\_,” showing the pertinent page and line number and the name of the pertinent witness.

<sup>8</sup>The Definite Project Report was issued in 1940 in connection with plans to construct the Addicks and Barker Dams.

the basin—rather than where it did over Westfield, Texas, about eighteen miles from Houston—it would have resulted in even more severe flooding. *See id.* Nor was there any “evident meteorological reason why the storm could not have centered over the basin.” *Id.* It was also recognized at the time that, due to the topographic and meteorological features of the region, any flood control system constructed for Houston could be subjected to storms equal to any of record in Texas, and greatly in excess of any so far experienced over the basin. *See id.* “[O]nly chance,” the Corps observed, had “prevented the occurrence of a storm over the basin much larger than the 1935 storm.” *Id.* The largest rainfall of record in the United States at the time Addicks and Barker were constructed occurred only ninety miles northwest of Houston at Hearne, Texas in 1899—under meteorological conditions that the Corps noted “could be approximated closely over the Buffalo Bayou watershed.” *Id.* The Hearne storm generated a maximum 31.4 inches of rain in a period of three days, with an average depth over an area of 1,000 square miles of 25.8 inches. PX777 at 4. A hydrology report prepared by the Corps in 1938 concluded that the 1899 Hearne storm was the “maximum probable storm” that might arise over the Buffalo Bayou watershed, also noting that should such a storm occur the average rainfall would be “almost twice the average of 15 inches that produced the record flood of 1935.” JX5 at 8. While conceding that the probability of the occurrence of a storm as severe as the Hearne storm in the Buffalo Bayou basin was “very remote,” the Corps also noted in its Definite Project Report that “ultimate protection against such a storm is desirable” though perhaps not feasible in “the initial stage” of flood control construction. *Id.* at 9-10. Without flood control measures, the Corps predicted “[c]onsiderable overflow” from storms that would produce “disastrous peak flows.” *Id.* at 8.

Another storm that occurred at Taylor, Texas in 1921 (“the Taylor storm”) constituted the greatest single-day rainfall ever recorded in the United States at that time, producing 23.11 inches in 24 hours. PX777 at 4. The Taylor storm did not cover as large an area as the Hearne storm, but the rainfall was more intense over a shorter period of time and the Corps noted in the 1940s that such depths of accumulated rain over a basin as small as Buffalo Bayou would be considerable. *Id.* at 5.

Against this background, Congress acted to initiate the implementation of flood control measures. Pursuant to the River and Harbor Act of 1938, Congress authorized the Corps to design and build the Addicks and Barker Dams as part of the Buffalo Bayou and Tributaries, Texas Project. *See* Pub. L. No. 75-685, 52 Stat. 802 (codified mainly at 33 U.S.C. §§ 540, 558(b), 558(c), 571, 701(k)). The purpose of the project, as defined by the Corps’ Definite Project Report published on June 1, 1940, was “to provide for complete control of floods on the Buffalo Bayou watershed and the protection of the city of Houston, Texas, and the Houston Ship Channel against the estimated probable maximum storm.” JX5 at 3.

At critical junctures in the ensuing lifespan of the dams, the Corps consistently echoed that the whole purpose for the construction and operation of the project was to prevent downstream flooding, especially in downtown Houston. *See, e.g.,* PX59 at 8 (USACE464077) (“The sole authorized purpose for [the] Addicks and Barker Reservoirs is to reduce potential flood damage along the downstream reach of Buffalo Bayou.”); PX59 at 21 (USACE464090) (“The dams are operated strictly to prevent downstream flooding.”); JX110 at 3-1 (USACE016311) (“The existing project, as authorized, provides for flood risk management, the protection of the City of Houston from flood damages, and the prevention of excessive velocities and silt deposits in the Houston Ship Channel Turning Basin.”).

2. *Project design.* ✓

The original design of the project consisted of three detention reservoirs, a system of canals and levees, and channel improvements along Buffalo Bayou below the reservoirs. *See* JX5 at 12-13. The three detention reservoirs were to be built on White Oak Bayou and at the Addicks and Barker watersheds on Buffalo Bayou, which are seventeen miles west of downtown Houston and upstream of the confluence of Buffalo Bayou and South Mayde Creek. *Id.*; Joint Stip. ¶ 100. The Barker Dam would be located on Buffalo Bayou about 1.5 miles above its confluence with South Mayde Creek and the Addicks Dam would be located on South Mayde Creek about one mile above its confluence with Buffalo Bayou. *See* JX110 at 4-1 (USACE016316). North of and adjacent to the Addicks Reservoir watershed lies the 130 square mile watershed of Cypress Creek, which flows in an eastward direction toward its outlet into the San Jacinto River. *See id.* To prevent overflow from the Cypress Creek watershed into the Addicks Reservoir, an upstream levee was to be built. JX5 at 13. Additionally, approximately 7.4 miles of the Buffalo Bayou channel immediately downstream of the Addicks and Barker Dams was to be rectified and enlarged. JX110 at 3-3 (USACE016313). This channel rectification and enlargement was completed in 1948. *Id.*

Aspects of the original design, however, were not completed. Tr. 473:8-18 (Test. of Robert Charles Thomas, III). Neither the detention reservoir on White Oak Bayou nor the Cypress Creek levee were ever built, nor was a south canal that would divert the surcharge releases into the Houston Ship Channel. Tr. 191:16 to 193:5 (Thomas). Notably, the failure to complete the reservoir on White Oak Bayou has apparently had little effect on the Addicks and Barker Reservoirs, *see* Tr. 193:19-21 (May 6, 2019) (Thomas), but because the Cypress Creek levee was never completed, run-off can still flow from the Cypress Creek watershed into the Addicks watershed during major rain events, increasing the size of the flood pool in the Addicks reservoir, *see* Tr. 1539:3-11 (Test. of Richard Long). And, importantly, the deletion of the south diversion canal was also a major change from the original design because surcharge releases from the Addicks and Barker Reservoirs now have no place to go except down Buffalo Bayou or in the reservoirs themselves. Tr. 193:23 to 194:7 (Thomas).

The completed Addicks and Barker Dams are parallel u-shaped earthen embankments that rise almost imperceptibly over a distance of miles. *See* JX15 at 9-10 (noting that the Addicks and Barker embankments slope at a rate of about two to seven feet per mile). The size of the reservoir embankments was determined by reference to the rainfall produced by two previous storms: the Hearne storm and the Taylor storm. The Hearne storm, modified to account for the rainfall intensity rates in the Taylor storm, was used as "a basis of design," the so-called "design storm." PX777 at 5. The design storm would produce a maximum rainfall depth of 31.4 inches and served as the basis for the specifications of the dams that were ultimately constructed—meaning that the dams were built to contain the amount of water the design storm was projected to produce. *Id.* ✓

Construction on the Barker Dam and Reservoir began in February 1942 and finished in February 1945. Joint Stip. ¶ 95. The Barker Dam consists of an earthen embankment that measures approximately 13.6 miles long and rises 36.5 feet above the stream bed at its highest point. Joint Stip. ¶ 97; JX23 at 3 (USACE318524). Its outlet at the time of completion consisted of five conduits which were 9-feet wide by 7-feet high and 190.5-feet long. JX23 at 3 (USACE318524). The Corps began construction on the Addicks Dam, located just north of the

Barker Dam, in May 1946. Joint Stip. ¶ 90. Completed in December 1948, the Addicks Dam consists of an earthen embankment that measures approximately 11.6 miles long and rises 48.5 feet above the stream bed at its highest point. Joint Stip. ¶¶ 90, 92; JX23 at 3 (USACE318524). When completed, its outlet consisted of five conduits which were 8-feet wide by 6-feet high and 252-feet long. JX23 at 3 (USACE318524). The dams were designed to release water through these outlet conduits, which could be controlled by gating, making it possible to limit discharges from the reservoirs and thereby reduce downstream flooding. JX22 at 1-2. The original design of both dams called for four of the five outlet conduits to be uncontrolled. *Id.*

Importantly, the embankment design of the Addicks and Barker Dams required the government to acquire land behind (upstream of) the dams, thus partitioning off the reservoirs that would hold the water held back by the dams. Behind the Addicks Dam, the United States acquired all land at and below an elevation of approximately 103 feet, which amounts to about 12,460 acres of property. Joint Stip. ¶¶ 94, 102. For the Barker Dam, the government acquired all land at and below an elevation of approximately 95 feet, amounting to 12,060 acres. Joint Stip. ¶¶ 99, 104. The Corps calculated the amount of land it purchased behind each dam by adding "[three] feet above the pools which would be produced by the 1935 storm transposed over each watershed." JX5 at 26. At the time, the property behind the dams was almost exclusively used for ranching and rice farming. *See* Tr. 455:4-19 (Thomas). The government purchased much of it at prices between five to ten dollars per acre, and "[m]ore lands could have been purchased upstream for reservoir storage at relatively low prices, but urban development was not anticipated in this baron [*sic*] prairie land remote from Houston." JX52 at 17 (USACE015146). ✓

Significantly, the Corps calculated the amount of land it purchased based on a historical storm metric (the 1935 storm) that was different—and, notably, smaller—than the design storm metric (which combined the Hearne and Taylor storms) it used for engineering the dam embankments. *See* Tr. 199:12 to 200:25 (Thomas). In other words, the embankment design storm would generate more water than would the land-acquisition model storm. Put simply, the dams were designed to contain more water than the acquired land could hold. These differing metrics were not an oversight; rather, they were driven by a calculated decision. The Corps noted at the time that storms of intensities similar to the 1935 storm—which was used for calculating the land acquisition—were "expected" to "occur several times during the lives of these structures." JX5 at 26. While observing that the land purchased was inadequate to contain the pool elevation which would be produced by the embankments' design storm, it noted that "[a]lthough the design of the embankments is based upon the design storm rainfall of 31.4 inches, the occurrence of such a storm in the basin [can not] be expected to occur more than once in the lives of these structures." *Id.* The Corps viewed the Hearne storm as representing the upper limit of possible storms that could occur in the region, *see* Tr. 1029:13-20 (Thomas), so when setting the land acquisition line it looked for a large storm "but not the worst ever, because [then the Corps] wouldn't be able to afford all [its] projects," Tr. 1060:22-25 (Thomas). If, however, the Corps did not design the project to survive the upper limit storm and such a storm did occur, it would create the possibility that the dams "could [ ] fill [ ] all the way up and catastrophically fail[ ]." Tr. 1061:7-10 (Thomas). While the Corps designed the project consistent with a much larger design storm, it considered it "unnecessary to acquire lands to the pool elevation which would be produced by the design storm." JX5 at 26. ✓

Several documents dating from 1938 provide further insight into the Corps' contemporary understanding of the likely recurrence of a storm akin to the Hearne storm.<sup>9</sup> In one document evaluating an alternative flood control project that was never authorized or built (the so-called Triple Corridor Plan), the Corps observed that "[t]ransposition of [the Hearne storm] to the Houston area does not appear to be unreasonable" because such a storm "has already occurred but a short distance away." Pls.' Mot. to Reopen the Trial R. Ex. A at USACE2019\_0000014. The Corps stated that it considered such a storm "likely to occur with a frequency of once every 50 years." *Id.*<sup>10</sup> Likewise, the Galveston District engineer's office, in another of these 1938 documents, recognized that the primary meteorological criteria required for the occurrence of significant storms were satisfied in the Houston area, cautioning that "the susceptibility of the Buffalo Bayou area to a storm as great as the 1899 storm must be considered in designing any flood control works in the Houston area." *Id.* Ex. B at USACE2019\_0000252.

Ultimately, in 1940, after conducting a cost-benefit analysis, *see generally* JX52, the Corps concluded that "[a]cquisition to a taking-line, [three] feet above the computed pool elevations for the 1935 storm centered above each reservoir, [wa]s considered advisable, since the savings in annual interest would be in excess of the probable damage from storms producing

<sup>9</sup>These documents did not come to light until several months after trial, through no apparent fault of either party. When they were discovered, the Department of Justice transmitted the documents to plaintiffs in the interest of transparency, all the while maintaining that it was not legally obligated to do so. Upon receipt, plaintiffs moved to reopen the trial record to include the documents as additional evidence. *See* Pls.' Mot. to Reopen the Trial R. to Include Additional Evidence from Late-Produced Documents, ECF No. 245 ("Pls.' Mot. to Reopen the Trial R."). The government opposed the motion, asserting that these documents had not been sought during discovery and that they lacked probative value because they concerned a flood control plan that was never authorized or constructed and were preliminary parts of an iterative review and analysis process. *See* Def.'s Opp'n to Pls.' Mot. to Reopen the Trial R. to Include Additional Evidence at 4-5, ECF No. 254 ("Def.'s Opp'n to Mot. to Reopen the Trial R."). The government also moved contingently, if the court were to admit the documents, that the court also admit a sworn statement of Mr. Robert Thomas providing "critical context" for the documents. Def.'s Opp'n to Mot. to Reopen the Trial R. at 2.

The decision of whether to reopen the record to submit additional proof is within the trial court's discretion. *See Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 331 (1971); *Confederated Tribes of the Warm Springs Reservation of Or. v. United States*, 101 Fed. Appx. 818, 822 (Fed. Cir. 2004). Upon consideration of the probative value of the evidence and the circumstances of its identification, the court GRANTS plaintiffs' motion to include the additional evidence. To prevent any undue prejudice, defendant's motion to admit the statement of Mr. Thomas providing context for the documents is also GRANTED.

<sup>10</sup>As noted in the statement of Mr. Thomas regarding these documents, this 50-year prediction as used by the Corps at the time does not necessarily refer to the expected return frequency of the storm, but to the 50-year planning horizon for the project. In other words, it means that the Corps believed the Hearne storm "was the worst rainfall that could occur during the 50-year planning horizon for the [Triple Corridor Plan] project." Def.'s Opp'n to Mot. to Reopen the Trial R. Ex. A ¶ 11.

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✓ pools greater than the taking-line limits," JX5 at 26-27. The decision to acquire less land than that required to store the runoff contained and controlled by the dams was "considered an acceptable low-frequency risk because of the relatively remote rural project location," JX52 at 5 (USACE015134). Thus, the Corps based its land-purchase decision, at least in part, on a calculation that "the expected damages of inundating pastures and rice fields" would be less than the cost of buying additional land. Tr. 200:21-24 (Thomas).

After its initial land purchase based on the 1935 storm calculations, the government made one last additional purchase at some time before 1945 during the preconstruction planning for the Addicks Dam. JX22 at 2. By that time, it had become evident that the levee on Cypress Creek would not be built, and the Corps determined that it would "be more economical to increase the capacity of Addicks Reservoir to accommodate Cypress Creek overflow and delete the diversion levee." *Id.* To that end, the Corps acquired an additional three to four vertical feet of property in the Addicks watershed to contain the anticipated overflow from Cypress Creek. See Tr. 474:11 to 475:7 (Thomas).

### *B. Post-Construction Improvements and Operations*

#### *1. Dam modifications, evaluations, and safety reviews.*

##### *a. 1940s, 1950s, and 1960s: Additional gates added to both dams.*

Due to development in the Houston area and opposition concerned with aesthetic effects, the original plans for the south discharge canal were shelved and the canal was not constructed. See JX22 at 2; PX42 at 1-2 (USACE541550-1); see also Tr. 208:4-11 (Thomas). This led to concerns about a potential flood threat in downtown Houston, as the area adjacent to Buffalo Bayou saw significant urban development during the 1940s and 1950s, and the Bayou could no longer sustain a large uncontrolled flow without flooding. See JX22 at 2. The original design of the Addicks and Barker Dams called for the inclusion of five outlet conduits at each dam, with four of the five allowing uncontrolled water flows. JX22 at 1-2. The fifth conduit was controlled using a gate included originally for emergency purposes. Tr. 197:20 to 198:6 (Thomas). With four conduits uncontrolled on each reservoir, a combined uncontrolled discharge of about 15,700 cubic feet per second would flow into Buffalo Bayou. JX44 at 4. To alleviate what appeared at the time to be temporarily, any possible resulting issues in Buffalo Bayou, two additional gates were installed on the conduits, marking a total of three gated conduits out of five in each reservoir. See JX22 at 2-3. By the time these additional gates were installed in 1949, the combined uncontrolled discharge from the reservoirs in the four total remaining conduits was 7,900 cubic feet per second, which was considered to be the maximum channel capacity at the time for Buffalo Bayou. See JX44 at 4; JX16 at 4. Additional development around Buffalo Bayou led to a lower calculated maximum channel capacity, and as a result, the two remaining uncontrolled conduits in each reservoir were gated in 1963. See JX22 at 2; JX16 at 4. This gating, while beneficial for the downstream protection of downtown Houston, also forces the prolonged storage of water in the reservoirs and increases each ✓

✓ reservoir's pool size. *See* JX15 at 44; JX16 at 4.<sup>11</sup> After all the gates were added, the Corps calculated that the maximum design spillway in Addicks and Barker was 114.6 feet (Addicks) and 106.4 feet (Barker), exceeding the government-owned land by 6.6 vertical feet in Addicks and 8.1 vertical feet in Barker. *See* JX16 at 1.

b. 1970s: Land development, outgrants, and increased concerns.

"Beginning in the late 1970's, private land developers upstream from the reservoirs sought permission to extend channel improvements onto [government-owned land]." JX52 at 15 (USACE015144). Around 1981, the Corps began granting several of these easement requests, limited to a maximum flow capacity. *Id.* Presently, several upstream tributaries flow into Addicks and Barker extending onto government-owned land as a means to facilitate the movement of water off upstream property. Tr. 383:9-15 (Thomas); Tr. at 868:20-23 (Test. of Johnson-Muic). These easements—known as "outgrants"—while beneficial to the development of the upstream area generally, had a number of negative consequences for the Addicks and Barker Reservoirs. These effects included: (1) "increase[d] inflow of sediment into the reservoirs resulting in the loss of flood storage capacity," JX52 at 15 (USACE015144); (2) "faster flood runoff into the reservoirs . . . [that] would result in more frequent impoundments," *id.* at 16 (USACE015145); (3) "larger impoundments," *id.*; and (4) "increase[d] flood damages resulting from reservoir impoundments," *id.* ✓

As one consequence of the outgrants, the late 1970s and early 1980s saw the beginning of rapid urbanization in the upstream areas, as the population of the Houston metropolitan area grew. The character of the land upstream of the Addicks and Barker Dams was beginning to shift from that of barren grazing lands and rice fields to a more urban-suburban development. *See generally* JX52 at 17 (reporting in 1995 how over the last 50 years, "extensive urbanization has occurred" in the upstream area). Additionally, scientific advances in hydrology and meteorology prompted the Corps to issue new policies and procedures pertaining to the determination of spillway capacities. *See generally* PX34 (referencing updated criteria such as 1966 Engineer Circular No. 1110-2-22).

These developments, *i.e.*, advances in science, changing meteorological forecasts, general wear and tear on the reservoirs, and upstream urbanization, collectively raised concerns with the Corps that flooding beyond the extent of government-owned land was highly probable, if not inevitable, during a severe storm. In 1973, the Corps lamented that the possibility of flooding lands in the reservoirs beyond the government-owned land was soon expected to become a public issue. *See* PX37 at 1. In a 1973 memorandum from the Corps' Engineering Division Chief in the Galveston, Texas area, the Chief noted, "It is suggested that the project engineer research the background of the existing situation and develop a history and rationale for our operating concept of imposing flooding on private lands without benefit of flowage easement or other legal right." *Id.* A 1974 Corps inspection report echoed similar thoughts. *See* PX38 at 5 (USACE233674) (1974 Buffalo Bayou Inspection Report) ("Development of the area will eventually place the Government in the position of having to flood the area within the reservoir ✓ ✓

<sup>11</sup>The Corps, in a 1960 study, had even recommended not adding additional gates, noting that "[t]hese gates would only provide a negligible amount of increased flood protection" and "would have more undesirable effects than benefits." JX15 at 44.

with the accompanying damages in order to protect downstream improvements in the event of a severe future storm.”).

*c. Late 1970s: Hydrology investigation.*

Based upon the increased scrutiny, the Corps completed an extensive hydrology study on Addicks and Barker in 1977. *See* JX23 (1977 Hydrology Report). The study was deemed necessary “because it [was] apparent that urbanization of the subject watersheds will soon reach levels in excess of those considered in the original design[,] and updated hydrologic criteria prescribe more severe design standards than those addressed in the original.” *Id.* at 1 (USACE318522). The 1977 report calculated a dramatic increase to the maximum design spillway, *see* Tr. 497:15-21 (Thomas), and developed a higher probable maximum precipitation value, *see* Tr. 499:8 to 500:2 (Thomas). Both of these circumstances reflect the notion that then-current calculations (in 1977) for the possible amount of rain in the Addicks and Barker watershed and the potential size of the reservoir pools in each dam were significantly higher than originally calculated when the dams were built. The report also revealed serious safety issues with the dams, putting both upstream and downstream properties at risk. *See* Tr. 257:21 to 258:1 (Thomas). ✓

*d. 1980s: Embankment strengthening & dam modifications.*

These concerns led the Corps to consider various measures. The first major modification of the dams came as a result of the permanence of the conduit gates. The Corps noted that one negative result of the added conduit gates was the prolonged storage of rainfall runoff behind the dams that resulted in the need for “emergency seepage control measures” at the pervious sections of the embankments and foundations of the dams. JX44 at 4. This seepage threatened the stability of the embankments and created a potential for failure of the dams in the event of a high reservoir pool. JX15 at 44. Emergency modifications to strengthen the embankments of the reservoirs were completed between 1977 and 1979. JX44 at 4. These improvements, however, were not the final time the embankments were modified.

Around the time of the completion of the improvements addressing seepage, the Corps’ concerns about the current embankment heights as not “safe” in both Addicks and Barker grew. PX42 (1978 Water Control Plan) at 1 (USACE541550). Specifically, the report noted that a recent study showed that “the spillway design flood would overtop the dam embankment with possible embankment failure” for both Addicks and Barker. PX42 at 2 (USACE541551) ✓ (Addicks), 2 (USACE541562) (Barker). Additionally, the report noted that scientific advances showed an even higher increased maximum size for the reservoir pool in each reservoir, both of which would exceed the reservoirs’ respective capacities. *Id.* (explaining that a reservoir pool of 118.1 feet was possible under existing conditions in Addicks and a pool of 110.3 feet was possible under existing conditions in Barker).

In the 1980s, the Corps considered a number of potential solutions to address these concerns. Seventeen alternative plans were considered, seven of which were developed more thoroughly. *See* PX51 at 5 (USACE013572) (1984 General Design Memorandum). These options included taking no action, degrading the ends of the dams to reduce maximum flood pools, diverting water to other channels, and raising and extending the embankments to impound more water. *Id.* Plan I, which consisted of increasing the existing spillway capacities and raising

low portions of the dam crests, was recommended first, *see* JX26 (1980 Corps Mem.), and included a plan to consider the purchase of real estate upstream of the reservoirs, *see id.* The Corps, however, deferred any decision to purchase upstream real estate. *See* PX48 (1980 Corps Telephone Record).

Consistent with the original purpose of the project, a 1981 Corps environmental assessment highlighted the Corps' focus on alleviating the risk for *downstream* flooding. *See generally* PX87. Emphasizing the great risk downstream to Houston, the report deemphasized the upstream risk by simply noting that "should this [standard size] storm occur, flooding would extend beyond the [g]overnment owned land upstream of the embankments." PX87 at 4 (USACE012909). The report also explained that "[t]he inadequacy of [g]overnment owned land upstream . . . to contain the water from the [standard size storm] was recognized in the original design of the reservoirs. However, it was considered at the time to be a limited problem, because the land's primary use at that time was for agricultural purposes and any damages . . . would be infrequent and relatively minor." *Id.* Ultimately, the Corps concluded that "[t]his problem does not affect the safety of the dams." *Id.*

Thus, despite potential risks upstream and because of the grave consequences downstream of dam failure, *see* Tr. 89:22 to 90:8 (Thomas), the Corps adopted a new alternative plan, Plan V(b), to raise the main embankments and to add additional erosion protections to the dams' auxiliary spillways, *see* PX51 at 8 (USACE013575) (1984 General Design Mem.). This work was completed in the late 1980s and did not increase the effective storage of the dams. *See* PX2284 at 2 (FB0000633) (1989 Mem.).

*e. 1990s: Storms in the area and subsequent evaluations.*

In the period leading up to and during March of 1992, a series of storms resulted in then-record flood pools in both the Addicks and Barker Reservoirs. *See* Tr. 363:20 to 364:2 (Thomas). A large portion of Houston suffered major flooding, and public concern for flooding of privately-owned land inside the reservoirs grew. *See* JX52 at II-1 (USACE015195) (1995 Reconnaissance Report). As a result, the Corps prepared a special report in May of 1992 to provide general background and an overview of anticipated flooding damages which could occur beyond government-owned property in Addicks and Barker. JX44 at 1 (USACE015073). One conclusion from the report calculated that, "[T]he Possible Maximum Flood would affect over 4,000 structures valued at approximately \$725 million and cause damages of \$245 million." *Id.* at 9 (USACE015081). The report detailed a number of options to consider as potential solutions for this upstream flooding problem, *see id.* at 10-16 (USACE015082-88), and suggested further evaluation of the options for their economic, environmental, and engineering feasibility, *see id.* at 16 (USACE015088). Concerned for public safety, one potential option included the creation of a public awareness program, noting that, "In the absence of a public awareness program, residents are likely to forget or ignore the flood threat. Turnover in home ownership could also result in a significant proportion of residents being unaware of the risk." *Id.* at 11 (USACE015083).

The year 1995 saw the completion of the Corps' Addicks and Barker Reconnaissance Report evaluating the options, ordered after the completion of the 1992 study. *See generally* JX52. The area surrounding the government-owned land was now "densely populated" and full of "residential and commercial urban developments." *Id.* at 7 (USACE015136). After

option considering the various recommendations, including taking no action, purchasing flowage easements, land buyouts, channel enlargements, excavating the government-owned land, and/or adopting a flood warning and evacuation plan, *see id.* at 7-8 (USACE015136-37), the Corps decided to take no action upstream, finding "insufficient economic benefits to justify project modification," *id.* at 19 (USACE015148).

*f. 1990s and 2000s: Home elevation surveys.*

Throughout the 1990s and 2000s, the Corps completed surveys of capital investments located within the standard project floodplain for the purpose of determining potential flood-damage estimates. *See* JX52 at 4 (USACE015224) (1995 Reconnaissance Report Appendix). The surveys looked at homes, businesses, and other structures, *see* Tr. 390:20 to 391:2 (Thomas), with over 95% of the structures inventoried in each reservoir being residential, *see* JX52 at 4 (USACE015224). "Information recorded during the field survey included the location of structures (*i.e.*, street address), ground elevations of structures, the flooding threshold of individual structures[,] and structure category types." *Id.* In other words, the government was aware of where and at what elevation water could or would enter each property. *See* Tr. 100:5-10 (Thomas). One such field study was conducted and completed in July 1994. JX52 at 4 (USACE015224). Another study was completed in the early 2000s, when the Corps hired a private contractor to do elevation surveys for over 10,000 structures in the potential impoundment area. *See* Tr. 100:11-16 (Thomas). The Corps also prepared internal "Reservoir Structure" maps that depicted the elevations of these surveyed upstream structures. *See* PX268. As a result, the government gained an appreciation of the specific risks upstream in Addicks and Barker associated with a severe storm.

*2. Community engagement about proximity to the dams.*

Long before Harvey occurred, information about the possibility of flooding upstream of the dams and beyond the borders of the government-owned land was well known to the Corps and accessible by the public. At a basic level, it could be obtained in publicly available maps. Moreover, the Corps had discussed upstream flood risks with developers in the 1980s and 1990s. Harris County began warning the community about flood risks years before Harvey, and Fort Bend County began including warning language in upstream subdivision plats in the early 1990s. The Corps also engaged in public outreach efforts to inform the community about the risk of upstream flooding.

*a. Publicly available maps.*

Several types of publicly accessible maps graphically illustrated the flood threat long before Harvey occurred. For example, the Houston and Harris County Atlas Key Maps contain information enabling an astute map reader to understand the elevation of maximum flood pools at each reservoir, *see* DX795, and Key Maps are prevalent enough to be referenced by page on real estate listings in the Houston area, *see, e.g.*, JX76.

Likewise, the Federal Emergency Management Agency ("FEMA") prepares Flood Insurance Rate Maps, showing areas expected to flood during storms of various intensities, based on data generated by a hydrologic modeling program. *See* Tr. 1904:12-21 (Test. of Philip Bedient). The maps denote zones expected to flood during storms with one percent or less

annual chance of occurrence, *see* Tr. 2353:6 to 2354:14 (Test. of Michael Nakagaki), and all the test properties fell within one of these zones at the time they were acquired by plaintiffs, *see* Def.'s Br. at 26-27 (identifying the map flood zone for each test property both at the time it was acquired and under the current flood zone maps). Additionally, topographic maps, known as "quadrangle maps," produced by the United States Geological Survey have identified areas upstream of the dams as subject to controlled inundation since the early 1970s. Tr. at 2283:10 to 2285:18 (Test. of Leslie Hansmann). These maps have been publicly accessible online since 2010 and were readily available for purchase or at universities and public libraries prior to that time. Tr. 2285:21 to 2286:7 (Hansmann).

*b. Discussions with developers.*

Throughout the 1980s and 1990s, representatives of the Corps interacted with various developers of the properties surrounding the reservoirs. *See, e.g.*, PX2284 at 1-3 (FB0000632-34) (documenting exchanges between the developer of subdivisions upstream of the reservoirs, noting the possibility of upstream flooding). The Corps compiled a fact sheet, *see id.* at 2 (FB0000633), to share with developers of the adjacent property to ensure that they "were fully aware of the capabilities of the project and size of the pools that could occur behind [the dams]," Tr. 1507:5-10 (Long). The fact sheet indicated that the design flood pool boundary exceeded the government-owned land. *See* PX2284 at 2 (FB0000633).

*c. Harris County flood risk studies.*

Flooding in the early 1990s resulted in increased public awareness of the flooding potential, *see* Tr. at 2397:5 to 2400:18 (Test. of Steven D. Fitzgerald), and prompted several studies by the Harris County Flood Control District, *see generally* JX54; JX60. The studies noted growing concern among "residents, business owners[,] and government representatives . . . regarding the level of protection [*sic*] that the reservoirs provide to the property upstream of the dams," JX60 at 1 (USACE795732), and concluded that the "primary flood threat" in the area was "the inability to drain the Addicks and Barker [R]eservoirs in an efficient manner," JX54 at 2 (USACE686046). One report emphasized that "[t]he maximum flood pool levels of the Addicks and Barker [R]eservoirs extend far beyond the limits of the government[-]owned land," noting that "more than 8,000 acres [are] within the reservoir 'fringe' areas between the limits of the government[-]owned land and the . . . maximum flood pools." *Id.* Harris County also engaged in public outreach, seeking to educate the public about flood risk through public meetings, where information about the potential for flooding from the reservoirs was included. *See* Tr. 595:16-23 (Lindner).

*d. Subdivision plat warnings.*

The risk of upstream flooding that could be produced by the reservoirs filling to their maximum pool level was well known to Fort Bend County officials. *See* Tr. 719:15 to 720:10 (Test. of Mark Vogler). During a meeting with the Corps in the early 1990s, a county engineer discussed "[t]he issue of intermittent inundation or flooding within the Corps' Barker Reservoir," JX45 at 1 (FB0006378). The Corps informed the engineer "that the Barker Dam was designed and/or modified to contain 8.7 more feet of water than was purchased by the Corps," which could "translate[] into the flooding of approximately 4,769 acres of land, not under jurisdiction of the Corps of Engineers." *Id.* In 1992, a Fort Bend Engineering Department report included a

“notice that this subdivision is subject to controlled inundation from Barker Reservoir.” DX122 at 2 (FB0000611).

Around this time, Fort Bend County began requiring the addition of warning language on subdivision plats to inform purchasers about the possibility, already known to developers, of upstream flooding due to Barker Dam operations. *See* Tr. 736:9 to 737:15 (Vogler). For example, the plat for one of the trial properties (Giron) stated that “[t]his subdivision is located adjacent to the Barker Reservoir and . . . [is] subject to extended controlled inundation under the management of the U.S. Army Corps of Engineers.” DX557 at 1 (FB0025541).

*e. Public outreach discussing upstream flood risk.*

The Corps began its own public-outreach efforts regarding the dams in the mid-1980s, directing its focus toward interested communities, businesses, and governmental entities. *See* Tr. 1498:20 to 1499:4 (Long). Thereafter, the Corps conducted “dozens and dozens” of public presentations in the greater Houston area, during which it discussed the project’s purpose, history, operations, and operational limitations. *See* Tr. 1498:20 to 1500:10 (Long). These public presentations also “included information on the storage capacity of the projects, and that, in severe storm events where [the reservoirs] stored large pools, that those pools could exceed the limits of government-owned land,” Tr. 1501:12-19 (Long), noting that “[w]ater stored behind . . . the dams [] would result in floodwaters in [] homes,” Tr. 1501:25 to 1502:2 (Long). After a series of storms caused flooding in the early 1990s, the Corps released a report to publicly emphasize the “order of magnitude of the anticipated flooding damages which could occur off of Government property assuming different flood events.” JX44 at 1 (USACE015073). Various documents published by the Corps during the 1990s identified the possibility of future flooding and the “potential threat of property damage upstream of the reservoir lands.” *E.g.*, JX52 at 7 (USACE015136).

✓ The Corps continued to discuss and inform the public about the possibility of upstream flooding in the decade and a half leading up to Harvey. In the mid-2000s, it created an emergency coordination team to organize better with local agencies in the event of an emergency concerning reservoir operations. *See* Tr. 2406:3 to 2407:9 (Fitzgerald). Members of that team discussed the possibility of upstream flooding on multiple occasions. *See, e.g.*, Tr. 598:14-21 (Lindner) (discussing drills that were conducted in the event of flooding upstream); DX206 at 2 (USACE467209) (stating that “it is only a matter of time before the reservoirs flood off government-owned land”). In 2009, the Corps prepared presentation slides for public meetings which showed upstream flooding during large storms. *See* PX1597 at 18-29 (USACE755528-39). Again in 2010, the Corps held a series of public meetings where it showed slides illustrating the possibility of upstream flooding. *See* JX94 at 74-77 (USACE594433-36). Similar public meetings, where like information was displayed, were sponsored by Corps in the following years leading up to Harvey. *See, e.g.*, Tr. 1558:6-14 (Long); DX238.

*3. Operating conditions and meteorological setting for Harvey.*

*a. Standard Operating Procedures & the Water Control Manual.*

The general operations of the Addicks and Barker Reservoirs are governed by a Water Control Manual issued in 2012 (the “Manual”), *see generally* JX110, with the Corps serving as

the regulating agency, *see id.* at 1-2 (USACE016306). The Manual was prepared pursuant to a Corps regulation entitled "Water Control Management" dated 1982, *see* Tr. 63:24 to 64:3 (Thomas), and it explains the guiding procedures for how the Addicks and Barker Reservoirs should be controlled in varying situations. The 2012 Water Control Manual was in effect when Harvey made landfall. *See* Tr. 58:24 to 59:5 (Thomas).

X The Addicks and Barker Reservoirs are normally dry, as they do not impound water except to alleviate flood risk. JX110 at 6-3 (USACE016334). The reservoirs and dams are part of a flood risk project and do not serve any other main purpose such as navigation or hydroelectric power. *See* Tr. 63:7-13 (Thomas). "In keeping with the primary objective of flood control for Addicks and Barker Reservoirs, the general plan for reservoir regulation will be to operate the reservoirs in a manner that will utilize to the maximum extent possible, the available storage to prevent the occurrence of damaging stages on Buffalo Bayou." JX110 at 7-4 (USACE016338). This plan for storage includes all of the land in the reservoirs behind the embankments, including land the government does not own. *See* Tr. 67:12 to 68:3 (Thomas).

→ Under normal conditions, the reservoirs "operate with two gates set at one-foot openings to pass normal low flows . . . limit[ing] the discharge on each reservoir to approximately 100-250 [cubic feet per second]." JX110 at 7-4 (USACE016338). "The gates on both reservoirs will be closed when 1 inch of rainfall occurs over the watershed below the reservoirs in 24 hours or less, or when flooding is predicted downstream." *Id.* The gates are kept closed until the gauging station on Piney Point Road, about eight-to-ten miles downstream of the outlets, is reading less than 2,000 cubic feet per second. *See* Tr. 989:13 to 990:8 (Thomas). At times, the Manual recommends instances of induced surcharges. *See* JX110 at 7-5 (USACE016339). An induced → surcharge is "a release made to optimize the available [reservoir] storage and protect the integrity of the dams." Tr. 103:6-9 (Thomas). That is, when the reservoir pools rise to a certain elevation, releases from the reservoir will be made gradually according to the induced surcharge schedule. JX110 at 7-5 (USACE016339).

*b. The Addicks & Barker Dams and Reservoirs immediately prior to Harvey.*

During Tropical Storm Harvey, the Corps operated the dams consistent with the instructions of the 2012 Water Control Manual. Joint Stip. ¶ 109. When Harvey hit the Addicks and Barker watershed, the reservoirs for each were empty. *See* Tr. 160:21-25 (Thomas). At the time, the Addicks Reservoir had a storage capacity for the government-owned land of 127,591 acre-feet of water, Joint Stip. ¶ 105, and the Barker Reservoir had a storage capacity for the government-owned land of 82,921 acre-feet of water, Joint Stip. ¶ 106. The Addicks Reservoir had a maximum capacity of 199,643 acre-feet of water, *see* JX118 at E-2 (USACE019883), and the Barker Reservoir had a maximum capacity of 209,600 acre-feet of water, *see* JX118 at E-4 (USACE019885), if the reservoirs were to fill to their highest elevations where the reservoirs meet the natural ground. The Addicks watershed is approximately 50% developed and the Barker watershed is about 60% developed, most of which is residential or related commercial and office use. *See* JX110 at 4-8 (USACE016323). The undeveloped areas of the watershed are primarily used for pasture land and general mixed agricultural purposes. *Id.*

c. Major storms prior to Harvey.

Several storms of substantial scope occurred in the region during the decades preceding Harvey. After listing a series of major storms, an operational assessment report issued by the Corps in 2009 observed that “had some of these events been centered over Addicks and Barker Reservoirs or the Upper Buffalo Bayou Watershed, the combined rainfall and runoff could have resulted in flood pools exceeding the limits of government[-]owned land and possibly exceeding the capacity of Addicks and Barker Dams.” PX59 at 5 (USACE464074).

In 1979, Tropical Storm Claudette dropped 43 inches of rain in 24 hours on Alvin, Texas—50 miles southeast of the reservoirs. *Id.* at 4 (USACE464073). The rainfall produced by Claudette was the highest recorded in the United States during a twenty-four hour period, *id.*, causing the Corps to conclude in 1984 that “[t]he [Projected Maximum Flood] on an empty pool is considered a probable occurrence when compared with the 1979 Claudette rainfall event,” JX31 at 2 (USACE487626). The Corps likewise acknowledged in 2009 that “[i]f this event had occurred over the Addicks and Barker watersheds, their reservoir capacities may have been exceeded.” PX59 at 4 (USACE464073). The Corps calculated that if Addicks or Barker were to receive the amount of rain dropped by Claudette, it would take between approximately 53 and 55 days to remove enough water to get it back on government-owned land. PX1597 at 40-42 (USACE755551-53).

Tropical Storm Allison struck about 50 miles northeast of the Addicks and Barker watershed in 2001, dropping almost 36 inches of rain in five days, and “could have potentially exceeded reservoir capacity had the storm event occurred directly over the reservoirs.” PX59 at 5 (USACE464074). In light of Claudette and Allison, the Corps recognized in 2009 that, although the reservoirs had never previously flooded off government-owned land, “we know it can and probably will happen at some point in time.” PX1597 at 46 (USACE755557).

Water in the reservoirs exceeded government-owned land for the first time when the → April 2016 “Tax Day Storm” produced record flood pools. Tr. 166:6-10 (Thomas); *see also* DX295 at 10 (DEPO\_0053700) (“At its peak Barker Reservoir occupied 102.5% of its government[-]owned land and 40.5% of its total storage capacity.”). The Tax Day Storm generated ten-to-sixteen inches of rainfall over a twelve-hour period, *see* JX134 at VII-4 (USACE869254), and although the flood pools exceeded government-owned land, the reservoir water did not inundate any structures, *see* Tr. 978:17-22 (Thomas).<sup>12</sup> Nonetheless, in the Corps’

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<sup>12</sup>Even so, at least one of the test properties suffered flooding during the Tax Day Storm, *see* Tr. 1764:11-18 (Test. of Elizabeth Burnham), and some streets flooded during the storm, *see* JX134 at VII 3-4 (USACE869253-4). This result may have been attributable to local stream flooding or other local circumstance rather than conditions in the reservoirs themselves.

Additional uncontrolled flows occurred on the road surfaces, which act as part of the drainage system in Houston, being specifically built at lower elevations than buildings such that gravity naturally pulls the water down to the roads where they can push flows downstream. *See* Tr. 25:20 to 26:2 (Site Visit, May 8, 2019) (Test. of Captain Charles Ciliske).

assessment, for Buffalo Bayou at the time it “may have been the worst storm of record.” JX134 at VII-3 (USACE869253). A year later, Harvey exceeded that record.

*C. Operation of the Addicks & Barker Dams During Harvey*

*1. Tropical Storm Harvey.*

Harvey made landfall along the coast, near Rockport, Texas, around 10:00 p.m. on August 25, 2017, as a Category 4 hurricane (130 mile per hour winds), Joint Stip. ¶ 107; DX737 at 12 (FEMA078357), but weakened into a Tropical Storm within twelve hours of making landfall, Joint Stip. ¶ 108. Harvey, however, stalled over the Houston metropolitan area for four more days, maintaining its intensity, dumping record amounts of water on the area. See Joint Stip. ¶¶ 108, 113, 115. Over the five days, Harvey dropped an average of more than 43 inches of rain in a 2,000 square mile area, DX737 at 12 (FEMA078357), becoming the largest storm in the recorded history of the United States, see Tr. 2030:14-17 (Bedient).<sup>13</sup> Within Harris County, Harvey poured an average of 33.7 inches of rain over a four-day period. DX682 at 5.

*2. Corps' response to Harvey.*

During Harvey, the Corps operated the Addicks and Barker Dams according to the 2012 Water Control Manual. See Tr. 982:1-3 (Thomas). The gates on all five conduits were closed for Addicks and Barker at the beginning of the storm, as called for by the Manual. See Tr. 1446:10-15 (Long). On August 25, 2017, the Corps declared a general emergency, which included a dam safety emergency. Tr. 118:25 to 119:1 (Thomas). As a result, the Corps followed the Manual's instructions for the initial emergency levels. Tr. 119:15-17 (Thomas).

With the forecasted impending rain, the Corps knew that flooding “beyond the government[-]owned land limits” in Addicks and Barker was imminent. JX146 at 2 (DOJ0008154) (Corps' internal letter dated August 25, 2017 at 2:26 p.m.). On August 28, shortly after midnight, the Corps initiated releases of impounded water in both reservoirs, pursuant to the induced surcharge regulation in the Manual. DX649 at 1. At that point, the flood pools in the reservoirs had reached at least 101 feet in Addicks and 94.9 feet in Barker. See Tr. 983:11-16 (Thomas). Because these releases were limited, however, by the guidelines in the Manual to protect downstream Houston from additional flooding, the Corps was unable to release water fast enough to decrease the pool size given the high rate of incoming water. See Tr. 991:8-19 (Thomas). During Harvey, uncontrolled releases also flowed around the ends of the auxiliary spillway at the northeast end of the Addicks Reservoir onto private land. See Tr. 24:8 to 27:12 (Site Visit) (Ciliske); see also PX25 at 1 (USACE016691) (“Uncontrolled release[s] around the Addicks north[-]end emergency spillway w[ere] observed on August 29, 2017 when the reservoir reached □ 108 ft.”).<sup>14</sup>

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<sup>13</sup>Tropical Storm Claudette in 1979 was roughly comparable in total rainfall, and was more intense but more localized. See *supra*, at 17.

<sup>14</sup>Testimony about the flows at the north-end auxiliary spillways of Addicks was ostensibly inconsistent due to the imprecise vocabulary used when describing spillway functions, i.e., whether water flowed over or around at both the northwest and northeast auxiliary spillways

The flood pools in the reservoirs crested at a record pool elevation of 101.6 feet in Barker and 109.1 feet in Addicks on August 30, 2017. Joint Stip. ¶¶ 110, 111. When the threat subsided and flood pools dropped to safer levels, the Corps developed a drawdown plan to fully drain the reservoirs while still maintaining their integrity. See Tr. 992:4 to 993:4 (Thomas). The plan went into effect on September 3, 2017, and the Corps resumed normal operations on September 16, 2017. DX649 at 6-7. The reservoir water elevations far exceeded the extent of government-owned land in both Addicks and Barker. See DX683 at 1. Of the approximately one million homes in the Harris County, around 154,000 of them flooded from the impounded water. See Tr. 2451:19-24 (Fitzgerald). The Addicks and Barker flood control project, though, did prevent an estimated \$7 billion in projected losses downstream in Houston. See Tr. 164:24 to 165:8 (Thomas).

#### *D. Background of the Thirteen Upstream Test Properties*

The thirteen upstream test properties provide a sampling of the conditions at various locations inundated by the Addicks and Barker Reservoirs during and after Tropical Storm Harvey.

##### *1. Banker residence.*

The land owned by plaintiffs Christina and Todd Banker is a residential property situated within the Barker reservoir in Katy, Texas at 4614 Kelliwood Manor Lane. Joint Stip. ¶ 4. The finished first floor of the home is set at a 100.7-foot elevation. Joint Stip. ¶ 9. Flooding within the home attendant to Harvey reached approximately 1.1 feet. See PX526 at 46. The Bankers evacuated their home on the morning of August 28 and returned on September 4. Tr. 1709:23 to 1712:20 (Test. of Todd Banker). During that period, flood water was present in the home for approximately four days. DX608 at 164. In addition to structural damage to the home, much of the Banker's personal property was destroyed by the flooding, see, e.g., Tr. 1717:24 to 1718:21 (Banker), and the home was uninhabitable for about seven months while it underwent remediation, Tr. 1717:12-18 (Banker).

##### *2. Burnham residence.*

The land owned by plaintiff Elizabeth Burnham is a residential property situated within the Addicks Reservoir in Houston, Texas at 15626 Four Season Drive. Joint Stip. ¶ 10. The finished first floor of the home is set at a 105.4-to-105.5-foot elevation. Joint Stip. ¶ 18. Flooding within the home attendant to Harvey reached approximately four to five feet. See PX526 at 46; Tr. 1773:21-24 (Test. of Elizabeth Burnham). Flood water was present in the home for at least seven days. See DX608 at 164; Tr. 1771:20-22, 1773:25 to 1774:5 (Burnham). Ms. Burnham's personal property as well as the home suffered substantial damage. See, e.g., Tr.

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of Addicks Reservoir. At the northwest auxiliary spillway, there was no flow around or over the ends, see Tr. 21:18-22 (Site Visit) (Ciliske), however, at the northeast auxiliary spillway, water flowed around the spillway, see Tr. 24:15-18 (Site Visit) (Ciliske), but not over it, see Tr. 24:8-14 (Site Visit) (Ciliske). The spillways are intentionally designed to have water flow over them, but not around. See Tr. 35:19 to 36:4 (Site Visit) (Ciliske).

1775:24 to 1776:21 (Burnham). The home was uninhabitable for a period of months, at which time Ms. Burnham sold the property "as is." See Tr. 1780:15 to 1781:18 (Burnham).

3. *Giron residence.*

The land owned by plaintiff Juan Giron is a residential property situated within the Barker Reservoir in Katy, Texas at 4310 Cassidy Park Lane. Joint Stip. ¶ 19. The finished first floor of the home is set at a 101.5-foot elevation. Joint Stip. ¶ 23. Flooding within the home attendant to Harvey reached approximately one foot at the high-water mark. See Tr. 1675:7-11 (Test. of Juan Giron). Flood water was present in the home for approximately five days. See DX608 at 164. The Giron property suffered substantial damage to the home and much of what was inside was unsalvageable. See, e.g., Tr. 1678:19-22, 1680:3-5 (Giron). At the time of trial, Mr. Giron was still living in a trailer parked in his driveway. See Tr. 1646:20-21 (Giron).

4. *Holland residence.*

The land leased by plaintiff Scott Holland is a residential property situated within the Addicks Reservoir in Houston, Texas at 1923 Wingleaf Drive. Joint Stip. ¶ 24. The finished first floor of the home is set at an elevation between 107.8 and 107.9 feet. Joint Stip. ¶ 26. Flooding within the home attendant to Harvey reached approximately 1.5 feet. See PX526 at 46; Tr. 1845:23 to 1846:1 (Holland). Mr. Holland evacuated his home on August 28, a daunting process due to sutures in his stomach and chest still healing from a recent kidney surgery. Tr. 1836:7 to 1838:11 (Holland). Flood water was present in the home for about 3.5 days. DX608 at 164. The home suffered severe structural damage and much of Mr. Holland's personal property was destroyed by the flooding. See, e.g., Tr. 1842:1 to 1844:4 (Holland). Because the home was uninhabitable and he was unable to afford repairs, Mr. Holland was forced to move away from Houston and reside in a small trailer, where he still lived at the time of trial. Tr. 1844:15 to 1845:11 (Holland).

5. *Lakes on Eldridge Homeowners Association.*

Lakes on Eldridge is a homeowners association that acquired its real property from the developer or builder of the Lakes on Eldridge residential subdivision, a gated community in Harris County situated within the Addicks Reservoir. Joint Stip. ¶¶ 27, 28. The property at issue includes a clubhouse and its associated amenities, a swimming pool, tennis court, volleyball court, and playground. Tr. 1386:3-16 (Test. of Sue Strebel). Flood water rose to about six feet above the volleyball courts, Tr. 1398:17-22 (Strebel), approximately six inches in the clubhouse, PX526 at 46, and was present on the property for at least four days, see Tr. 1401:22 to 1402:11 (Strebel). The clubhouse and various amenities required extensive repairs, see, e.g., Tr. 1390:19 to 1391:21 (Strebel), requiring the clubhouse facility and its amenities to close for eight months, Tr. 1390:5-12 (Strebel).

6. *Micu residence.*

The land owned by plaintiff Christina Micu is a residential property situated within the Barker Reservoir in Katy, Texas at 6411 Canyon Park Drive. Joint Stip. ¶ 31. The finished first floor of the home is set at a 99.8-foot elevation. Joint Stip. ¶ 36. Flooding within the home attendant to Harvey reached approximately two feet. See PX526 at 46. Ms. Micu and most of

her family evacuated the home prior to Harvey. Tr. 1296:11-25 (Test. of Christina Micu). Her husband gained access to the home via kayak on September 2 and she returned on September 5, Tr. 1298:22 to 1299:1 (Micu), finding mold growth and extensive destruction of personal property, *see, e.g.*, Tr. 1299:25 to 1300:10 (Micu). Flood water was present in the home for about ten days. Tr. 1300:24 to 1301:1 (Micu). The Micu family was forced to reside with a friend and then rent an apartment before moving back into their home a year after Harvey. Tr. 1306:21 to 1305:7 (Micu).

*7. Popovici residence.*

The land owned by plaintiff Catherine Popovici is a residential property situated within the Barker Reservoir in Katy, Texas at 19927 Parsons Green Court. Joint Stip. ¶ 37. The finished first floor of the home is set at a 102.2-foot elevation. Joint Stip. ¶ 42. No water entered inside the home, but it rose to the foundation and was within a couple inches of entering, Tr. 1239:2-5 (Test. of Catherine Popovici), and remained on the property between four and six days, Tr. 1242:2-12 (Popovici). The flooding around the home prevented ingress or egress and damaged wooden beams in the structure of the home. Tr. 1243:1-9 (Popovici).

*8. Sidhu residence.*

Plaintiff Kulwant Sidhu is the joint owner of 29 condominium units used as residential rental properties and situated within the Addicks Reservoir in Houston, Texas at 16111 Aspenglenn Drive. Joint Stip. ¶ 43. The property at issue in Mr. Sidhu's claim at trial consists of two of his 29 units: Unit 603 (a first-floor, downstairs unit) and Unit 604 (a second-floor, upstairs unit directly above Unit 603). Joint Stip. ¶¶ 44, 46. The finished first floor of the condominium building in which the two units are located is set at an elevation of 107.0 to 107.1 feet. Joint Stip. ¶ 49. No flood water reached the upstairs unit, Joint Stip. ¶ 48, and it was not damaged, Tr. 1748:5-7 (Test. of Kulwant Sidhu). Flooding within the downstairs unit attendant to Harvey reached approximately 2.4 feet, PX526 at 46, and remained for about 4.5 days, DX608 at 164. The flood damage required gutting and renovating Unit 603—a process that took nearly a year, during which time the unit could not be rented. Tr. 1741:23 to 1742:25 (Sidhu).

*9. Soares residence.*

The land owned by plaintiff Elisio Soares is a residential property situated within the Barker Reservoir in Katy, Texas at 20526 Indian Grove Lane. Joint Stip. ¶ 50. The finished first floor of the home is set at a 101.1-foot elevation. Joint Stip. ¶ 55. The Soares family was on vacation when Harvey happened, Tr. 1080:12-16 (Test. of Elisio Soares), and they could only access their home by kayak when they returned on August 31, Tr. 1080:17 to 1081:10 (Soares). Flooding within the home attendant to Harvey reached approximately 8.4 inches, PX526 at 46, and was present in the home for approximately four days, Tr. 1086:22-24 (Soares). In addition to structural damage to the home, a significant amount of the Soares family's personal property was destroyed. *See, e.g.*, Tr. 1091:12 to 1092:4 (Soares). The family was forced to live with friends for two weeks and then in the upstairs of the home, unable to cook meals, until January of the following year, and the home could not be repaired until May 2018. Tr. 1092:18 to 1093:23 (Soares).

*10. Stewart residence.*

The land owned by plaintiff Mitchell Stewart is a residential property situated within the Addicks Reservoir in Houston, Texas at 4719 Eagle Trail Road. Joint Stip. ¶ 56. The finished first floor of the home is set at a 108.9- to 109.0-foot elevation. *Id.* ¶ 61. Flooding within the home attendant to Harvey reached at least six inches, *see* PX526 at 46; Tr. 1600:13-15 (Test. of Mitchell Stewart), and the water was present in the home for approximately four-to-five days, *see* Tr. 1607:13-18 (Stewart). The Stewart family suffered damage to much of their personal property and their home required significant renovations including removing and replacing the first four feet of the home's sheetrock. Tr. 1603:25 to 1604:4 (Stewart). The Stewarts were displaced from their home for about five months. Tr. 1609:17-20 (Stewart).

*11. Turney residence.*

The land owned by plaintiff Robert Turney is a residential property situated within the Addicks Reservoir in Houston, Texas at 15910 Red Willow Drive. Joint Stip. ¶ 62. The finished first floor of the home is set at a 104.5- to 104.7-foot elevation. Joint Stip. ¶ 69. Flooding within the home attendant to Harvey was about five feet, *see* PX526 at 46, with the high-water mark reaching about six feet, *see* Tr. 2134:18-23 (Test. of Robert Turney). Flood water was present in the home for over a week. *See* DX608 at 164. The Turney property suffered great damage that required the entire interior to be gutted and rebuilt. *See* Tr. 2136:8-11 (Turney).

*12. West Houston Airport.*

The West Houston Airport Corporation is the owner of a commercial property situated within the Addicks Reservoir in Houston, Texas at 18000 Groschke Road. Joint Stip. ¶ 76. The finished first floor of the terminal building at the West Houston Airport is set at a 108.6-foot elevation. Joint Stip. ¶ 78. Flooding within the terminal reached a maximum of about 9.6 inches. *See* PX526 at 46. The flood water reached the terminal on August 29 and receded from the terminal by September 1. *See* Tr. 1885:17 to 1886:13 (Test. of Stacey Lesikar-Martin). Flood water remained on the runways until September 5, with the water receding from the property line on approximately September 7. *See* Tr. 1886:17-24 (Lesikar-Martin). The terminal itself suffered substantial damage, and damage occurred to numerous aircraft, service apparatus, and vehicles present at the airport at the time of the flooding. *See* Tr. 2121:6-25, 2124:8-14 (Test. of Woody Lesikar). The airport was not fully operable for seven-to-ten days' time, and repairs on the property took about a year. *See* Tr. 2121:6 to 2123:8 (Lesikar).

*13. Wind residence.*

The land owned by plaintiffs Kurt and Jean Wind is a residential property situated within the Addicks Reservoir in Houston, Texas at 5306 Sunbright Court. Joint Stip. ¶ 70. The finished first floor of the home is set at a 109.2-to-109.3-foot elevation. Joint Stip. ¶ 75. Flooding within the home attendant to Harvey reached approximately two inches. *See* PX526 at 46; DX608 at 164; Tr. 1633:12-14 (Test. of Kurt Wind). Flood water was present in the home for about two-to-three days. *See* Tr. 1635:10-11 (Wind). In addition to significant structural damage to the home, much of the Winds' personal property was destroyed by the flooding. *See* Tr. 1635:11 to 1636:24 (Wind). Due to the damage and necessary repairs, the home was uninhabitable for 11 months. *See* Tr. 1637:5-7 (Wind).

### *E. Expert Reports about the Storm*

#### *1. Dr. Bedient.*

An expert in hydrology, hydraulics, and floodplain analysis, Dr. Philip Bedient testified on behalf of plaintiffs regarding the cause of flooding at each of the test properties during Harvey. *See generally* PX526; Tr. 1934:11-13 (Bedient).<sup>15</sup> Dr. Bedient reached his conclusions by reference to a number of data sources, including slab elevations of the test properties, ground elevation data, water level gauges for creeks and the reservoir pools, aerial images from the National Oceanic and Atmospheric Administration, and eyewitness photographs and videos. *See* Tr. 1910:1 to 1911:17 (Bedient). Dr. Bedient's methodology compared the reservoir pool elevation data obtained from United States Geological Survey gauges to the slab elevation survey data of each test property, and then confirmed those findings by reference to aerial images taken on August 30 and LiDAR data<sup>2</sup> (technology for determining ground elevation at numerous points). *See id.* He concluded that the flooding at each test property was caused by the water impounded behind the Addicks and Barker Dams. Tr. 1948:3-12 (Bedient); PX526 at 46.

Dr. Bedient also addressed whether any of the test properties would have flooded without the dams impounding the rainfall waters or whether any of the properties flooded during Harvey independently of the reservoir pool levels entering onto the properties. He identified, and rejected, two other possible causes of the flooding: local drainage systems and riverine flooding. *See generally* PX526 at 47-54. His examination of the relevant local drainage systems' capacities led him to the conclusion that they were capable of adequately handling rainfall much more intense than Harvey. *See* PX526 at 49. Likewise, Dr. Bedient concluded that "the riverine flooding that occurred during Harvey did not cause and would not have caused any of the [t]est [p]roperties to flood." PX526 at 54. He reached this conclusion by estimating the flood level along each of the creeks in the vicinity of the test properties, and then comparing that elevation to the slab elevation of each test property, except the airport. *See* Tr. 1984:11-25 (Bedient). He noted that the airport was a unique situation because of the size of the property but nonetheless he concluded that because of a high bank attendant to a creek in that location, creek water did not cause the flooding. *See* Tr. 1985:18 to 1989:14 (Bedient). He confirmed this observation by reference to eyewitness testimony and by comparison to the Tax Day flood, which likewise did not produce airport flooding. *Id.* In sum, Dr. Bedient concluded that "[n]one of the test properties' structures would have flooded but for the impoundment of rainfall runoff waters behind Addicks and Barker Dams." PX526 at 7-8.

#### *2. Dr. Nairn.*

Dr. Robert Nairn, an expert in coastal and riverine engineering, with a specialty in numerical modeling across actual and hypothetical conditions, testified on behalf of the government using a numerical model of the storm and relevant waterflows. *See generally*

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<sup>15</sup>Dr. Bedient is a professor of engineering at Rice University and teaches and performs research in hydrology. Tr. 1901:7-9 (Bedient).

DX608; *see also* Tr. 2628:22 to 2629:3 (Test. of Robert Nairn).<sup>16</sup> Dr. Nairn looked at the water surface elevations at each of the test properties, specifically examining the rise and drop over time. Tr. 2636:14-21 (Nairn). Using various input data sets, including, *e.g.*, topography maps and a land cover data set, *see* Tr. 2647:15-20 (Nairn), and taking into account various water runoff impacts and parameters, *see, e.g.*, Tr. 2648:11-23 (Nairn), Dr. Nairn built a modeling system that applies mathematical principles of hydrodynamic equations to simulate rainfall and water movement, *see, e.g.*, Tr. 2655:10-16 (Nairn). Subsequently, after calibrating the model and relevant coefficients, *see* Tr. 2656:19 to 2657:20 (Nairn), Dr. Nairn ran the model for each of the properties and analyzed the outcomes of four different scenarios for Addicks and Barker: (1) the actual Harvey scenario; (2) the no-dam ("no project") scenario; (3) the gates-closed scenario; and (4) the gates-open scenario, *see* Tr. 2636:14-24 (Nairn); *see also* DX608 at 92-93. Dr. Nairn's main conclusion was that three out of the thirteen test properties (Burnham, Giron, and Micu) would have flooded even had the Addicks and Barker Dams not been built, due to the sheer amount of rainfall and riverine flooding, thus positing that the flooding of at least those three properties was not the result of the government's actions relating to Addicks and Barker. *See* DX608 at iii, 129.

### 3. Other testifying experts.

Several expert witnesses testified at trial regarding the severity of the impact that flood damage had on the test properties. Dr. Glen Randall Bell, an expert in real estate damage and economics and real estate valuation (including severity), testified on behalf of plaintiffs about severity of the impact of the flooding on the valuation of plaintiffs' properties. *See generally* PX660; *see also* Tr. 1360:5 to 1361:15 (Bell). His testimony and report focused on the severity of impact rather than on the specific quantification of any lost value. PX660 at 4; Tr. 1362:6-15 (Bell).

Additionally, Matthew Deal, an expert in real estate market studies and real estate valuation, conducted a market study appraisal analyzing supply, demand, and prices for specific property types in the area. *See generally* PX2205; Tr. 2188:4-15 (Deal). His research concluded "that properties that were inundated by flood waters suffered significant and immediate impairment that resulted in precipitous price reductions after flood waters had receded." PX2205 (report cover letter).

David Hooper, a microbiologist who is an expert in preparing scopes of work for property damaged by water, was retained by the government to create models of the scopes of work that would be required on five of the test properties after the flooding. *See generally* DX602-607. His report considered "the overall quality of water; the amount of waters present within a residence; the duration of flooding; the ability for water to move via capillary action within a wall; as well as the presence of microbiological growth; and, lastly, application of industry standards in construction guidelines." Tr. 2876:2-7 (Hooper). He developed estimates of the scope of work that would be required under various scenarios, such as if the reservoirs had not been in place at all, *see, e.g.*, DX602 at 17-18 (considering the Burnham property),

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<sup>16</sup>Dr. Nairn is an engineer who works at Baird & Associates, Oakville, Ontario, Canada, on river and coastal engineering projects worldwide. Tr. 2625:15 to 2626:1 (Nairn).

concluding that the scopes of work would be very similar in the actual Harvey scenario and in the alternative scenarios, *see, e.g.*, 2922:2-4 (Hooper).

Andrew Ickert, an expert in hydrology, testified on behalf of the government about the character of the land in the Addicks and Barker watershed and greater Houston area. *See generally* DX600; *see also* Tr. 3083:21 to 3084:7 (Ickert). Mr. Ickert explained how development could impact the watershed overall, giving particular regard to increasing runoff flow rates and size, and the impact of this circumstance on the overall flood pool size. *See* Tr. 3084:11 to 3085:14 (Ickert).

William Kappel, an expert in meteorology, was called to testify by the government, regarding the magnitude of Harvey and the meteorological setting. *See generally* DX601 at 38-222; *see also* Tr. 1156:6-22 (Kappel). Specifically, Mr. Kappel testified about “the methodology and results of a detailed analysis of the storm precipitation in and around the region of [ ] Houston[,] Texas during the month of August 2017[, when Harvey hit].” DX601 at 44.

### STANDARDS FOR DECISION

Under the Takings Clause of the Fifth Amendment, “private property [shall not] be taken for public use, without just compensation.” U.S. Const. amend. V. The Takings Clause applies the fundamental notion that the government cannot “forc[e] some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v. United States*, 364 U.S. 40, 49 (1960). Thus, “[w]hen the government physically takes possession of an interest in property for some public purpose, it has a categorical duty to compensate the former owner.” *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Planning Agency*, 535 U.S. 302, 322 (2002) (citing *United States v. Pewee Coal Co.*, 341 U.S. 114, 115 (1951)).

In a takings case, the plaintiff must establish two elements to have a viable claim. First, plaintiff must establish that he or she holds “a property interest for purposes of the Fifth Amendment.” *Caquelin v. United States*, 140 Fed. Cl. 564, 572 (2018), *appeal docketed*, No. 2019-1385 (Fed. Cir. Jan. 9, 2019) (citing *Members of the Peanut Quota Holders Ass’n v. United States*, 421 F.3d 1323, 1330 (Fed. Cir. 2005)) (additional citations omitted). After identifying a valid property interest, “the court must determine whether the governmental action at issue amounted to a compensable taking of that property interest.” *American Pelagic Fishing Co., L.P. v. United States*, 379 F.3d 1363, 1372 (Fed. Cir. 2004) (citations omitted).

“[N]o magic formula enables a court to judge, in every case, whether a given government interference with property is a taking.” *Arkansas Game & Fish Comm’n v. United States*, 568 U.S. 23, 31 (2012). And while there are some bright-line rules, *see id.*, the inquiry into whether a taking has occurred ultimately is a question of law based on factual underpinnings, *Caquelin*, 140 Fed. Cl. at 572, requiring the court to engage in “ad hoc, factual inquiries,” *Kaiser Aetna v. United States*, 444 U.S. 164, 175 (1979); *see also* *Arkansas Game & Fish*, 568 U.S. at 32 (“[M]ost takings claims turn on situation-specific factual inquiries.”).

A government taking can occur in many forms, ranging from the classic example of a permanent physical occupation of property, *see Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 426 (1982), to regulation which permanently deprives a property owner of all

economically viable uses of his or her land, see *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1019 (1992), or one that bars most such uses, see *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 124 (1978). More specifically, takings can be broken down by their means, duration, and impact. That is, takings can be either (1) physically or by regulation; (2) permanent or temporary; and (3) categorical or non-categorical. See *Caquelin*, 140 Fed. Cl. at 573.

At the outset, to apply the proper analysis, the court must determine the type of taking alleged. See *American Pelagic*, 379 F.3d at 1372. Physical takings, as opposed to those by regulation, involve physical occupation, and can occur when the “owner [is] deprived of valuable property rights, even [if] title ha[s] not formally passed.” *Caldwell v. United States*, 391 F.3d 1226, 1235 (Fed. Cir. 2004). The distinction between permanent and temporary is a narrower one, in that on a sufficiently long timeline, every government action could be considered temporary. See *Caquelin*, 140 Fed. Cl. at 575. Generally, the word temporary “refers to those governmental activities which involve an occupancy that is transient and relatively inconsequential,” *Hendler v. United States*, 952 F.2d 1364, 1377 (Fed. Cir. 1991), while permanent refers to those governmental activities more substantial in nature, though they need not be “exclusive, or continuous and uninterrupted,” *id.* For example, the Supreme Court in *Nollan* concluded that a “permanent physical occupation” had occurred when the government essentially took an easement for public access across plaintiffs’ property that granted a “permanent and continuous right to pass to and fro, so that the real property may continuously be traversed.” *Nollan v. California Coastal Comm’n*, 483 U.S. 825, 832 (1987). Lastly, a categorical taking occurs when the government seizes the entirety of a landowner’s property, see *Caquelin*, 140 Fed. Cl. at 573, whereas a non-categorical taking occurs when the landowner is not completely deprived of all economic value, see *id.* at 574 (citing *United States v. Causby*, 328 U.S. 256 (1946)).

(1) At issue here is whether the government’s actions constitute a physical, permanent, non-categorical taking for a flowage easement.<sup>17</sup> The alleged taking is physical, in the sense that actual flood waters physically entered the property; permanent, in the sense that the government retains the rights to this flowage easement on a permanent basis with a continual right of re-entry; and non-categorical, in the sense that the property owners are not deprived of all economically viable use of their property as a result of the flowage easement. Further, this case presents a scenario of inverse condemnation, *i.e.*, where the landowner seeks to “recover[] just compensation for a taking of his [or her] property when condemnation proceedings have not been instituted.” *United States v. Clarke*, 445 U.S. 253, 257 (1980).

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<sup>17</sup>Plaintiffs have alleged three separate takings: (1) a temporary, categorical, physical taking for the temporary flooding; (2) a permanent, categorical, physical taking for the destruction of plaintiffs’ personal property; and (3) a permanent, non-categorical, physical taking for the flowage easements on each property. See Pls.’ Br. at 59. The court, however, finds these distinctions unnecessary, as the first two alleged takings are simply the consequential result of the third. Thus, the court here will apply its analysis to the consideration of whether the government’s actions constituted a physical, permanent, non-categorical taking for a flowage easement.

Inverse condemnation cases in the flooding context, particularly those resulting from government-induced flooding either of a permanent or temporary nature, are not new to this court or others. *See, e.g., Arkansas Game & Fish*, 568 U.S. at 32-33 (citing *Pumpelly v. Green Bay Co.*, 80 U.S. (13 Wall.) 166 (1872), *United States v. Cress*, 243 U.S. 316 (1917), and *United States v. Dickinson*, 331 U.S. 745 (1947)). In 2003, the Federal Circuit decided *Ridge Line*, addressing the scenario of whether government-induced increased water runoff onto private property constituted a taking of a flowage easement by inverse condemnation. *Ridge Line, Inc. v. United States*, 346 F.3d 1346, 1355 (Fed. Cir. 2003). In *Ridge Line*, the Federal Circuit applied a multi-pronged test to determine whether a taking, and specifically not a tort, had occurred. *Id.* The first prong evaluates whether “the government intends to invade a protected property interest” or whether “the asserted invasion is the direct, natural, or probable result of an authorized activity and not the incidental or consequential injury inflicted by the action.” *Id.* (quoting *Columbia Basin Orchard v. United States*, 132 F. Supp. 707, 709 (Ct. Cl. 1955)). In other words, the government must intend to invade the property or the injury must be the foreseeable result of the action. *See Caquelin*, 140 Fed. Cl. at 576 n.18 (citing *Cary v. United States*, 552 F.3d 1373, 1377 (Fed. Cir. 2009), and *Ridge Line*, 346 F.3d at 1346). Second, “the nature and magnitude of the government action must be considered.” *Ridge Line*, 346 F.3d at 1356. This factor includes a requirement that “an invasion must appropriate a benefit to the government at the expense of the property owner, or at least preempt the owner[']s right to enjoy his property for an extended period of time, rather than merely inflict an injury that reduces its value.” *Id.*

With this background, the Supreme Court decided *Arkansas Game & Fish* in 2012, expounding a list of six factors to consider when determining the existence *vel non* of a compensable taking. *See* 568 U.S. at 38-40. The factors, subsuming the considerations of the *Ridge Line* test, include: (1) “time;” (2) “inten[t];” (3) “foreseeab[ility];” (4) “character of the land;” (5) “reasonable investment-backed expectations;” and (6) “severity.” *Id.* Although *Arkansas Game & Fish* concerned a taking which was temporary in nature, the same considerations remain relevant to the inquiry here, that is, whether the government’s actions with regard to Addicks and Barker constitute a compensable taking, albeit a permanent one.

### ANALYSIS

The court will begin its assessment by determining if each plaintiff has established a cognizable property interest. Following this, the court will turn to the more fact-intensive examination of the *Arkansas Game & Fish* considerations to evaluate whether plaintiffs have met their burden of showing that they have suffered a compensable taking. Finding that the government’s actions in this case constitute a taking, the court will then consider whether defendant has any potential defenses to liability. The government argues that its actions do not constitute a taking because the Corps was acting under the police power and under the doctrine of necessity. The court concludes that these defenses are not applicable; therefore, the government is liable for the taking of plaintiffs’ properties.

### A. The Takings Analysis

#### 1. Property interests.

Plaintiffs must have a valid property interest at the time of the taking to be entitled to compensation. See *Wyatt v. United States*, 271 F.3d 1090, 1096 (Fed. Cir. 2001) (citing primarily *Almota Farmers Elevator & Warehouse Co. v. United States*, 409 U.S. 470, 473-74 (1973)). Plaintiffs are owners of private properties not subject to flowage easements.<sup>18</sup> Ownership of the properties by each plaintiff respectively and the lack of a previous flowage easement are not in dispute. See generally Def.'s Br. at 93-97. The government, however, disagrees that plaintiffs hold compensable property interests under principles of both state and federal law. Namely, the government argues that: (1) the government has the right to mitigate against floodwaters under Texas law; (2) that plaintiffs have no right to be free from invasions because their ownership post-dates the dams' construction; and (3) that the federal Flood Control Act of 1928, ch. 569, § 3, 45 Stat. 534 (codified as amended in relevant part at 33 U.S.C. § 702c), limits plaintiffs' rights to compensation. See *id.*; see also *In re Upstream Addicks & Barker*, 138 Fed. Cl. at 667.

The government misstates the interplay of these laws with the Takings Clause. While the law cited in support of the government's first contention, Tex. Water Code Ann. § 11.086(c), exempts the government from liability for diversions of water caused by the "construction and maintenance of levees and other improvements to control floods," a conscious diversion of water by the government onto private properties in a reservoir by a flood-control dam is not within this exception. Cf. *Harris Cty. Flood Control District v. Kerr*, 499 S.W.3d 793, 807 (Tex. 2016) ("This is not a case where the government made a conscious decision to subject particular

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<sup>18</sup>This description, *i.e.*, that plaintiffs are owners of private properties not subject to flowage easements, is in a nutshell a finding respecting the character of the land at issue. In other cases, the character of the land may be more complicated or may factor more heavily in the takings determination. What is most relevant to the takings inquiry here is that defendant had no legal right to cause flood waters to enter the properties. The character of the land in government flooding cases is usually defined by whether, inherently, the property is "especially susceptible to flooding." See, e.g., *Caquelin*, 140 Fed. Cl. at 581. In this case, whether the private property is used as farm land, as a residence, or commercially does not bear on liability. *Id.* at 581 n.22. Defendant contends that the character of the land at issue is land that has always been "susceptible to flooding during extreme weather events" including "possible inundation associated with the pools impounded by the [Addicks and Barker] Project." Def.'s Br. at 100-01. The government thus appears to be arguing that the character of plaintiffs' lands is property located within a reservoir in an area of the country susceptible to storms. That plaintiffs' properties may be susceptible to flooding during extreme weather events is of some relevance, but it is independent from the fact that plaintiffs' properties are privately-owned land within a reservoir that only flooded in this case because of the government's construction of the Addicks and Barker Dams (for a discussion on causation, see *infra*, at 35-39). Even if this geographical area is generally susceptible to flooding during extreme weather events, the character of plaintiffs' land would not be *especially* susceptible to flooding without the construction of the dams. Therefore, the character of the land at issue in this case is most simply described as private property not subject to a flowage easement.

properties to inundation so that other properties would be spared, as happens when a government builds a flood-control dam knowing that certain properties will be flooded by the resulting reservoir. In such cases of course the government must compensate the owners who lose their land to the reservoir.”); *see also In re Upstream Addicks & Barker*, 138 Fed. Cl. at 667. The government’s second contention, that plaintiffs’ claims fail because they acquired their land after the completion of the Addicks and Barker Dams, also does not bar relief, *see id.*, 138 Fed. Cl. at 669, and is more appropriately addressed as a consideration in regard to plaintiffs’ reasonable investment-backed expectations. Lastly, defendants argue that “Section 702c of Flood Control Act of 1928 . . . supports the conclusion that landowners in the vicinity of a federal project constructed and operated to reduce flood risk lack a right to compensation for damages caused by floodwaters not fully controlled by the Project.” Def.’s Br. at 97. This argument is unpersuasive. The Flood Control Act of 1928 does not supersede or bar this court’s jurisdiction over takings claims for flooding. *See In re Upstream Addicks & Barker*, 138 Fed. Cl. at 668; *accord California v. United States*, 271 F.3d 1377, 1383 (Fed. Cir. 2001) (“Our review of the Flood Control Act of 1928 leaves us with the firm conviction that Congress did not partially impliedly repeal the Tucker Act.”) (addressing immunity in Tucker Act contract claims); *see also Scranton v. Wheeler*, 179 U.S. 141, 153 (1900) (“Congress may not override the provision that just compensation must be made when private property is taken for public use.”). The court finds defendant’s arguments unconvincing; therefore, plaintiffs have met their burden of establishing a valid property interest.

2. *Takings factors.*

a. *Nature and magnitude of the government action.*

i. *Time & duration of the taking.*

The time and duration of the government invasion is an important consideration in many takings cases. *See, e.g., Arkansas Game & Fish*, 568 U.S. at 38-39 (citing *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. at 435 n.12; *Tahoe-Sierra*, 535 U.S. at 342; *National Bd. of YMCA v. United States*, 395 U.S. 85, 93 (1969)). Particularly, the time and duration of the government action may be a highly relevant inquiry when determining whether the action constitutes a tort or a taking in the context of temporary takings. *See Caquelin*, 140 Fed. Cl. at 579 (collecting cases applying the time factor in a temporary takings analysis). But when the taking is one of a permanent nature, as it is here, the time and duration of the invasion is essentially undisputed and manifestly supports the finding of a taking. The government, through its construction, maintenance, and operation of the Addicks and Barker Dams in the past, present, and future, has taken a permanent flowage easement on plaintiffs’ properties.<sup>19</sup> Defendant argues that its actions had only temporary consequences, because flood waters from Harvey were only on the properties for a matter of days. *See* Def.’s Br. at 108-09. This

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<sup>19</sup>The parties in their briefing for the motion to dismiss disputed whether plaintiffs’ claims related only to government inaction, as opposed to affirmative government actions, and thus would not state viable takings claims. *See* Def.’s Motion to Dismiss at 4; Pls.’ Opp’n to Motion to Dismiss at 17, ECF No. 99. For the reasons set forth in the court’s opinion deferring ruling on the motion to dismiss, *see In re Upstream Addicks & Barker*, 138 Fed. Cl. at 666-67, the court concludes that plaintiffs’ claims are properly based on government action, not inaction.

argument, however, fails to account for the fact that the government's actions have subjected plaintiffs' private properties to the possibility, rather probability, of government-induced flooding ever since the construction of these dams, throughout subsequent changes to the dams and reservoirs, and for at least the foreseeable future. The time and duration of the government's actions at issue here is *not* measured by "the length of time the water inundates the properties," as the government would have it, *id.* at 109; rather, it is measured by a permanent right to inundate the property with impounded flood waters. Thus, this factor weighs in favor of plaintiffs.

*ii. Severity.*

Another factor that warrants consideration in the determination of liability under *Arkansas Game & Fish* is the "[s]everity of the interference." 568 U.S. at 39. The severity factor aids in differentiating a taking from a tort. *See Ridge Line*, 346 F.3d at 1355 (noting that "[t]he tort-taking inquiry . . . requires consideration of whether . . . the government's actions were sufficiently substantial to justify a takings remedy"). In effect, it requires the court to assess whether the government's interference with plaintiffs' property rights "was substantial and frequent enough to rise to the level of a taking." *Id.* at 1357 (citation omitted). As the Supreme Court stated in *Portsmouth Harbor Land & Hotel Co. v. United States*, where the Court held that repeated firing of military guns over a beach resort could constitute a taking if frequent enough, "[w]hile a single act may not be enough, a continuance of them in sufficient number and for a sufficient time may prove [a taking]. Every successive trespass adds to the force of the evidence." 260 U.S. 327, 329-30 (1922); *see also Causby*, 328 U.S. at 258, 265 (holding that repeated overflights of governmental aircraft above a farm constituted a taking). In the flooding context, "property may be taken by the invasion of water where subjected to intermittent, but inevitably recurring, inundation due to authorized [g]overnment action." *Barnes v. United States*, 538 F.2d 865, 870 (Ct. Cl. 1976) (holding the government liable for taking a flowage easement) (citing numerous cases). Thus, intermittent inundation of land, as contrasted to continuous overflow, can give rise to a viable permanent taking claim. *See Cress*, 243 U.S. at 328. Moreover, even a single flooding event may give rise to a taking where the defendant uses a permanent structure to "purposely flood[] a property once and expressly reserves the right to do so in the future." *Quebedeaux v. United States*, 112 Fed. Cl. 317, 323 (2013). In that event, the "defendant's actions may be viewed not as an 'isolated invasion,' but rather as reserving a flowage easement over the affected property." *Id.* (internal citations omitted); *see also Nollan*, 483 U.S. at 832 (holding that a permanent physical taking occurred, "even though no particular individual [was] permitted to station himself permanently upon the premises," when the government reserved a "continuous right [of individuals] to pass to and fro").

Here, plaintiffs contend that "the [g]overnment's actions resulted in an invasion by flooding that preempted [their] right to use and enjoy the protectable real and personal property interests they owned in the manner expected" and were therefore "sufficiently severe to constitute a taking." Pls.' Br. at 52. To support this assertion, plaintiffs note that the government-induced flooding caused "[t]he disruption of their lives, the devaluation of their properties, the destruction of their real and personal property, and their displacement from their homes and businesses for an extended period." *Id.* at 59. They emphasize that the flooding "restricted access to and from their property, causing their eviction from their properties for a period long after the water receded due to necessary repairs [and] significantly limited use of that property." *Id.* On the other hand, the government asserts that the severity factor "favors a finding of no liability because repairable damage resulting from temporary flooding during a

single flood event is not the type of severe impact that can support a claim for compensation under the Fifth Amendment.” Def.’s Br. at 101. Stressing that each property was repaired or capable of repair by the time of trial, the government asserts that such “repairable” damage or “temporary harm” is “manifestly different from the type of injury that can support a Fifth Amendment claim.” *Id.* Additionally, the government maintains that some plaintiffs recovered “significant flood insurance” and received federal benefits that mitigated actual out-of-pocket expenses, and that the damage attributable to the government action was “relatively minor” for many of the properties. *Id.* at 102.

The flooding at issue here went well beyond a tort and was sufficiently severe to rise to the level of a compensable taking. The government’s suggestion that this flooding is not a compensable taking because it was temporary and confined to a single flood event carries no water. Even if a single event of this nature were insufficient to rise to a taking, the sheer frequency of significant storms in the region both before and since construction of the dams—the Hearne storm, the Taylor storm, the 1929 and 1935 storms, Tropical Storm Claudette in 1979, the 1992 series of storms, Tropical Storm Allison in 2001, and the Tax Day Storm—suggests that this was more than an isolated event, and that it is likely to recur. *See also* Tr. 1199:13 to 1200:7 (Kappel) (noting that Harvey’s maximum rainfall was not unprecedented in the region when Harvey occurred). Indeed, this was not the first time that water had exceeded government-owned land, and the Corps itself had fully anticipated a storm the likes of Harvey. The future recurrence of a similarly large storm, producing comparable rainfall, remains likely to occur again. *See* Tr. 1198:4-8 (Kappel) (stating that “[t]here is a probability that [a rain event similar to Harvey] could happen again in the future [over the Addicks and Barker watersheds]”); Tr. 1494:3-11 (Long) (noting the “inevitably recurring” continuation of storms “that are of large magnitudes that could have impacts similar to those of Harvey”). Nor is there any reason to expect that the government would, or that it ought to, operate the dams to release more water downstream any differently in a future storm than it did during Harvey. As noted previously, the Corps operated the dams as prescribed by the Water Control Manual. Hence, in the nearly inevitable event of a future storm of significant magnitude, it can be expected that the government would similarly impound water on plaintiffs’ properties to prevent what would be catastrophic flooding downstream. As a result, the likelihood of recurrent flooding is high, weighing strongly in favor of the finding of a compensable taking.<sup>20</sup>

The significant harm caused to plaintiffs’ properties, almost entirely preventing their normal use and enjoyment, is also relevant to the severity analysis. Water measuring as much as several feet in some cases inundated plaintiffs’ homes—for as long as a week in multiple instances—destroying substantial personal property, causing structural damage, and rendering properties uninhabitable or unusable until repairs could be completed months or years later. And even in the case of the Popovici residence, where water came within inches but did not actually

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<sup>20</sup>The government also avers that plaintiffs suffered “no lasting infringement on their property rights” differing from those of “thousands of other Texans in nearby areas whose homes flooded.” Def.’s Br. at 102. But contrary to the government’s contention, the flooding on plaintiffs’ property did differ from that experienced by others because it was directly caused not by the storm itself but by the impoundment of water behind the dams, and that infringement is lasting because the government reserves the right to repeat the impoundment in the future.

enter the home, seepage around the foundation caused structural damage. *See* Tr. 1242:13 to 1243:6 (Popovici). Some homeowners expressed concern about the substances and materials absorbed into the soil from the composition of the water itself, which became putrid, smelling of “fecal material and dead animal material and chemicals.” Tr. 66:5-12 (Site Visit) (Popovici). Given that the water at the test properties was classified as Category 3 “black water,” *i.e.*, water with “a greater potential to harbor pathogens, including sewage, chemicals, fertilizer, [and] organic material,” these fears are not unfounded. Tr. 2892:14-24 (Hooper).

Furthermore, while water was present it prevented basic ingress and egress at all the properties, with some accessible only by watercraft. *See, e.g.*, Tr. 1299:1-12 (Micu). Notably, the amount of water that actually entered the structures is not reflective of, and actually much less, than the severity of the water level outside the structures in the lawn and streets. *See* Tr. 1952:24 to 1953:21 (Bedient). The streets in these areas were designed to serve as a drainage system that channeled water, and to that effect the elevation of street levels is lower than the elevation of structures by at least 18 inches, meaning that the water would be much deeper in the streets and lawns than in the structures themselves. *See id.*

Also relevant to the severity analysis is the substantial decline in property value caused by the flood event and the likelihood of similar events in the future. The court takes judicial notice of a recently enacted Texas law that requires a seller of residential real property to disclose to potential purchasers whether the property is located wholly or partially in a reservoir subject to controlled inundation by the Corps and whether the property has previously flooded. *See* Tex. Prop. Code Ann. § 5.008 (West, Westlaw through the end of the 2019 Reg. Sess. of the 86th Leg.). All the properties at issue here fall within these disclosure requirements and the adverse impact of the government-induced flooding on their market value is evident. Additionally, Dr. Bell testified at trial that flooding events of this kind generally cause a decline in property value of at least 20 to 30 percent, although he did not specifically opine on the properties involved here. Tr. 1353:13 to 1354:2 (Bell). While the government seeks to discredit his testimony as “decidedly qualitative, not quantitative,” Def.’s Br. at 104, the severity factor is by nature a qualitative inquiry, lacking any definite quantitative thresholds. Nor is the dollar amount of damages in issue at this juncture. Therefore, although Dr. Bell’s testimony did not provide quantitative analyses for the specific properties, there is little room to question his broad conclusions about the severe impact of this kind of flooding at these kinds of properties on market value. Simply put, the absence of specific quantitative calculations does not serve to discredit those conclusions. Likewise, Mr. Deal’s expert opinion concluded that plaintiffs’ properties “suffer[ed] permanent damage, damage that wouldn’t be healed by itself” and “would require [a] significant amount of investment and risk of capital in order to get them all the way back to [being] habitable.” Tr. 2210:6-10 (Deal). After inspecting the residential properties involved here, Mr. Deal identified nearby comparable sales and compared the two. *See generally* PX2205. He concluded “[t]hat the inundated properties suffered a significant diminution in price levels.” Tr. 2210:25 to 2211:22 (Deal).

The government maintains that the testimony of Dr. Bell and Mr. Deal simply “show[s] that the flood-related impacts to the [t]rial [p]roperties were temporary and repairable,” suggesting that such impacts do not rise to the level of a taking. Def.’s Br. at 105. But contrary to the government’s assertion, the fact that property has been or could be, with sufficient outlays, restored to its pre-flood condition is not a relevant consideration in the severity analysis. *See Arkansas Game & Fish*, 568 U.S. at 26-34 (finding a compensable taking even though the

damaged terrain could be repaired by “costly reclamation measures”); *see also Dickinson*, 331 U.S. at 751 (holding that “no use to which [plaintiff] could subsequently put the property by his reclamation efforts changed the fact that the land was taken when it was taken and an obligation to pay for it then arose”). Under the government’s theory, seemingly any takings claim based on government-caused damage to property could not be sustained if the damage were susceptible to repair. Even catastrophic damage can often be mended by enough time and expense, but the mere capacity for repair in no way mitigates the severity of the harm itself. Furthermore, the government’s argument that the ability to repair damages caused by flooding weighs against imposing liability on the Corps is also heedless of the recurrent nature of the flooding involved here. Plaintiffs may have—in many, if not most, instances—been able to repair their real property, if not their personal property, but the taking here involves more than the damage already incurred; it encompasses a loss of the property owners’ right to exclude future floodwater incursions onto their land and into their homes. Thus, that most of the bellwether plaintiffs were able to repair their property is likewise irrelevant to their inability to prevent future government-induced flooding on that property. It is not defensible to propose that an action which destroys property, all the while reserving the right to do so again, is not a taking simply because the property owner can, at great inconvenience and expense, repair the property after the fact. Moreover, the government fails to consider that some plaintiffs could not even afford to conduct the necessary repairs to render their homes habitable. Plaintiff Scott Holland, for example, could not afford to fix his property, was forced to move away, and continued living in a trailer at the time of trial. Tr. 1844:15 to 1845:11 (Holland).

Likewise, that some affected property owners recovered insurance money is not apposite to whether the government deprived plaintiffs of their right to use and enjoy their property. Insurance proceeds that mitigate the amount of out-of-pocket expenses incurred to repair damages in no way lessens the degree of harm caused by the initial infliction of that damage. The same is true of other government benefits plaintiffs may have received, such as FEMA grants. Independent awards of aid might have lessened the *ex post facto* cost of recovery for some plaintiffs and be relevant to damages, but that has little bearing on whether the government effected a taking initially.

Given the extensive damage caused to plaintiffs’ real and personal property, their inability to exercise the right to exclude floodwaters, the interference with their right to use and enjoy their property, the high likelihood of recurring floods, and the significant diminution of property values, the court finds that the severity calculus weighs in favor of finding a taking.

### *iii. Benefit to the government.*

Another consideration in the takings analysis is whether the invasion “appropriate[s] a benefit to the government at the expense of the property owner,” *Ridge Line*, 346 F.3d at 1356, as opposed to inflicting a mere “consequential” injury, *id.*; *Armstrong*, 364 U.S. at 48. The line between which destructions of property by government action are compensable takings and which are simply consequential, and therefore subject to a tort analysis or not compensable, is not always easy to distinguish. But when the direct result of the government’s actions is the destruction of property for its own, and thus the public’s, benefit, the affected property owners are entitled to just compensation for a taking. *See Armstrong*, 364 U.S. at 48-49. In the case of Addicks and Barker, the government received a notable benefit at the expense of the upstream private property owners. That the dams protected downstream Houston is not the point. It

suffices to say that, consistent with the purpose for the construction of the Addicks and Barker flood-control projects, the government protected downstream properties from an estimated \$7 billion in losses during Harvey, *see* Tr. 164:24 to 165:8 (Thomas), while concurrently causing upstream properties to suffer from severe flooding.

The government argues that “the direct . . . result of the government action is to reduce the risk of catastrophic downstream flooding” and “[t]hat such [upstream] flooding occurred in connection with Hurricane Harvey was merely a consequential result.” Def.’s Br. at 82. But the precedents suggest otherwise. This is not a case where the damage to plaintiffs’ land was a residual effect of government actions on other property. *Cf. Southern Pac. Co. v. United States*, 58 Ct. Cl. 428, 432 (1923) (finding that the injury to plaintiff’s railroad from construction of a jetty nearby that may have altered ocean currents was not compensable as a taking because the injury was incidental and indirect to the government actions). Notably, here the same actions which benefitted the downstream properties are those which caused harm to plaintiffs. The damage to plaintiffs’ properties was the direct result of the government’s construction, modification, and operation of the Addicks and Barker Dams, reflecting the sheer fact that plaintiffs’ properties are, by government design, within the dams’ flood-pool reservoirs. The flooding suffered by plaintiffs and the associated “damages were not merely consequential. They were the product of a direct invasion of [the plaintiffs’] domain.” *Causby*, 328 U.S. at 265; *see also Cress*, 243 U.S. at 327 (“[T]his is not a case of temporary flooding or of consequential injury, but a permanent condition, resulting from the erection of the lock and dam, by which the land is subject to frequent overflows of water from the river.”). The invasion of the Addicks and Barker flood pools onto plaintiffs’ properties from the construction and modification of the dams and their operation during Harvey, appropriated a benefit to the government at the direct expense of inflicting significant injury to plaintiff property owners. Therefore, this factor weighs in favor of plaintiffs.

✓ *b. Intentional or foreseeable.*

*Arkansas Game & Fish* next requires the court to assess “the degree to which the invasion is intended or is the foreseeable result of authorized government action.” 568 U.S. at 39. A taking occurs either where the government intended to invade the property or where the invasion is the “direct, natural, or probable result of an authorized activity and not the incidental or consequential injury inflicted by the action.” *Ridge Line*, 346 F.3d at 1355 (quoting *Columbia Basin Orchard*, 132 F. Supp. at 709). The presence of the disjunctive “or” in the *Arkansas Game & Fish* factors, *see* 568 U.S. at 39 (“intended or is the foreseeable result”) (emphasis added), makes evident that one of these circumstances must be present to support the finding of a taking. *See Barnes*, 538 F.2d at 871 (“[P]laintiffs need not allege or prove that defendant specifically intended to take property. There need be only a governmental act, the natural and probable consequences of which effect such an enduring invasion of plaintiffs’ property as to satisfy all other elements of a compensable taking.”) (internal citations omitted). Despite being separate inquiries, the two factors are interrelated—one cannot find intent without foreseeability; but what is an objectively foreseeable result may not have been the intended result. *See John Horstmann Co. v. United States*, 257 U.S. 138, 146 (1921) (“[I]t would border on the extreme to say that the government intended a taking by that which no human knowledge could even predict.”); *Columbia Basin Orchard*, 132 F. Supp. at 711 (“Such [results were] not the direct, natural or probable consequence[s] of the Government’s act, and for this reason no intent to take can be

implied.”). Here, both intent and foreseeability were present. Because foreseeability bears on intent, foreseeability is addressed first.

✓ i. *Foreseeability and causation.*

Whether the asserted invasion is the “direct, natural or probable result of an authorized activity” is a critical part of the takings analysis. *Columbia Basin Orchard*, 132 F. Supp. at 709. Put in other terms, the court should determine here “whether the [flooding] on the claimants[] property was the predictable result of the government action.” *Ridge Line*, 346 F.3d at 1356 (citing *Sanguinetti v. United States*, 264 U.S. 146, 149-50 (1924)). If the most that can be said is that the government’s actions are only “a contributing factor towards” the flooding, in contrast to the flooding being “the natural or probable consequence” of those actions, then “a tort action may lie in the proper forum for such an incidental or consequential injury,” but not an action for taking. *Columbia Basin Orchard*, 132 F. Supp. at 709.

The invasion asserted here by plaintiffs is that of impounded floodwaters entering onto their properties resulting from the Corps’ construction, modification, maintenance, and operation of the Addicks and Barker Dams. Plaintiffs contend that “the inundation of private properties from the reservoir pools behind each dam was the predictable result of the [g]overnment’s actions.” Pls.’ Br. at 30. Plaintiffs support this assertion by arguing that the Corps always “knew there would be recurrent storms of such a magnitude [as Harvey],” *id.* at 30, and that the foreseeability of plaintiffs’ properties flooding was obvious in light of the fact that the properties are located within the maximum pool size for the reservoirs, *see id.* at 38.

Defendant, in response, puts forth several postulates why the inundation was not foreseeable. Defendant first argues that the flooding of private properties in the reservoirs was not foreseeable because “Hurricane Harvey was an extraordinarily rare and large storm.” Def.’s Br. at 58 (heading) (capitals omitted). Further, defendant argues that, “[t]he relevant government action . . . for purposes of this [foreseeability] analysis should be at the time the Corps constructed the dams in the 1940s.” *Id.* at 79. The government avers that “[t]he agency’s knowledge at th[at] time [was] that [this] particular result is [] possible” and that “does not mean it is a *direct, natural or probable* result.” *Id.* at 80 (emphasis in original). Additionally, the government argues that the Corps did not foresee “the resulting damage when it constructed the Project in the 1940s” and that “[t]o find otherwise would hold the Corps responsible for unforeseen urbanization.” *Id.* at 81.

Defendant’s reliance on the contention that foreseeability in this scenario is most properly measured from the viewpoint of the government in the 1940s, at the time the Addicks and Barker Dams were constructed, is not appropriate because the foreseeability inquiry should not be so constrained. Most importantly, defendant misstates the underpinnings of the foreseeability analysis. Foreseeability—in contrast to intent, which more aptly accounts for subjective positions—is not simply measured from the viewpoint of the government; foreseeability is an objective inquiry. *See, e.g., John Horstmann Co.*, 257 U.S. at 146 (considering whether the results of the government actions could have been objectively foreseen); *Sanguinetti*, 264 U.S. at 147-48 (explaining how the foreseeability inquiry depends on whether there was “any reason to expect that such result would follow.”). That is, would an objective person reasonably foresee that the actual results which occurred would have been the direct, natural or probable results of the government’s actions? Whether the Corps subjectively foresaw the results may bear on

objective foreseeability, but it is not the only consideration. Therefore, it is irrelevant in this case whether foreseeability is measured in the 1940s, 1970s, or even in the 2000s, because at all of these points defendant should have objectively foreseen that the pools could and would exceed government-owned land.

Here, the evidence demonstrates the Corps was aware or should have been aware since the initial construction of the dams and at every point onward, that the flood pools in the Addicks and Barker Reservoirs would at some point (and thereafter) exceed the government-owned land, inundating private properties. As early as the 1940s, the Corps understood that storms of exceptionally large size were possible in the Houston metropolitan area. For example, the Corps noted in the 1940 Definite Project Report that the Buffalo Bayou watershed is situated "in an area subject to all of the circumstances making possible large storms" and that "only chance has prevented the occurrence of a storm over the basin much larger than the 1935 storm." See JX5 at 7. The Hearne storm of 1899, which served as a basis for the design of the maximum pool size in each reservoir, occurred only 90 miles northwest of Houston. See *id.* (explaining that the Hearne storm occurred under meteorological conditions that the Corps noted "could be approximated closely over the Buffalo Bayou watershed"). Notably, the Corps considered that pool sizes beyond the extent of government-owned land were foreseeable in the 1940s during the lifetime of the structures, when they conducted a cost-benefit analysis, see generally JX52, ultimately determining that "the expected damages of inundating pastures and rice fields" would be less than the cost of buying additional land, see Tr. 200:21-24 (Thomas). To an objectively reasonable person, it was not a question of whether the pools would reach the level they did—it was merely a question of when and how often. Just as in *Cotton Land Co. v. United States*, "The events which occurred, although they took some time, were only the natural consequences of the [government's actions]. If engineers had studied the question in advance[,] they would . . . have predicted what occurred." 75 F. Supp. 232, 233-34 (Ct. Cl. 1948). Accordingly, even measuring foreseeability in 1940, as defendant advocates, leads to a conclusion that pools of a size at or close to Harvey were objectively foreseeable.

But the taking at issue here does not begin and end with the construction of Addicks and Barker. The Corps' modification, operation, and maintenance of the dams was and is ongoing, continuing well into the years following the 1940s, and at each successive instance, the likelihood of occurrence of flood pools exceeding government-owned land grew. By the 1960s and 1970s, the Corps had a definite understanding that larger pool sizes were highly probable. A study by the Corps in the 1960s explained that the now-permanent gates on the reservoir conduits would lead to larger and more permanent pools. See JX15 at 44. In a 1973 memorandum, the Corps' Chief of the Engineering Division in the Galveston, Texas district noted that the Corps should "develop a history and rationale for our operating concept of imposing flooding on private lands without benefit of flowage easement or other legal right." See PX37 at 1. A 1974 Corps inspection report echoed similar thoughts. See PX38 at 5 (USACE233674) (1974 Buffalo Bayou Inspection Report) ("Development of the area will eventually place the [g]overnment in the position of having to flood the area within the reservoir with the accompanying damages in order to protect downstream improvements in the event of a severe future storm.").

Later events only magnified the risk of flooding beyond government-owned land, rendering it virtually inevitable. Around March of 1992, a series of storms resulted in then-record flood pools in both the Addicks and Barker Reservoirs. See Tr. 363:20 to 364:2

(Thomas). This result, known as the “ratcheting effect,” demonstrated that one Harvey-sized storm was not necessary to create large flood pools—a series of consecutive moderate storms could have the same effect. *See* Tr. 363:20 to 364:11 (Thomas). The Corps in the 1990s and 2000s, aware of the increased risk, surveyed properties in the reservoirs located beyond government land to have a firmer idea as to the extent of the possible damage if flooded. *See* Tr. 100:5-16 (Thomas) (One such field study was conducted and completed in July 1994; another study was completed in 2003.). Not only is it evident that the Corps believed flooding beyond the extent of government-owned land was probable, it is unreasonable to contend otherwise.

It is true that Tropical Storm Harvey was a record-setting storm. But the evidence markedly shows that pools of this size and the attendant flooding of private property were, at a minimum, objectively foreseeable. Thus, Harvey’s magnitude does not exculpate the government of liability for its actions. Even so, the government suggests that “the *claimed losses* were not the direct, natural or probable result” because the Corps could not have foreseen “such significant development upstream of the reservoirs.” Def.’s Br. at 81 (emphasis added). Essentially, the government suggests that because the properties that flooded were more developed, *i.e.*, homes and businesses occupied the land as contrasted to the more rural fields of the 1940s, it should not be held responsible for the resulting damage. The government, however, misapplies the foreseeability inquiry. That the monetary amount of damages may be more significant than initially thought does not detract from the fact that it was foreseeable that the land would be invaded by floodwater. In short, just because the nature of the invaded land has changed from farm land to residential does not bear on the question of whether an invasion of such land should have been foreseen.

The parties also present opposing views on the causation analysis for the flooding at issue. Establishing causation is a vital component of the foreseeability inquiry. “In order to establish causation, a plaintiff must show that in the ordinary course of events, absent government action, plaintiffs would not have suffered the injury.” *St. Bernard Par. Gov’t v. United States*, 887 F.3d 1354, 1362 (Fed. Cir. 2018). Additionally, “the causation analysis must consider the impact of the entirety of government actions that address the relevant risk.” *Id.* at 1364. Therefore, the relevant question here is whether the flooding on plaintiffs’ properties would have occurred but for the government’s actions regarding Addicks and Barker.

Causation for all thirteen properties was originally contested, *see* Pls.’ Br. at 39-49; Def.’s Br. at 63-75, and expert testimony on the subject was presented from both Dr. Bedient for plaintiffs and Dr. Nairn for defendant. As for ten of the thirteen properties, defendant has essentially conceded that without the dams these properties would not have flooded. *See* Tr. 3258:8-12 (closing argument). Defendant’s expert opined that only the “finished first floors on *three* of the thirteen upstream Test Properties would have experienced some flooding even in the absence of the federal project.” DX608 at 166 (emphasis added). With respect to ten properties, plaintiffs’ burden of causation thus has been met: (1) Banker; (2) Holland; (3) Lakes on Eldridge; (4) Popovici; (5) Sidhu; (6) Soares; (7) Stewart; (8) Turney; (9) West Houston Airport Corporation; and (10) Wind.

The remaining three properties require a more thorough analysis: (1) Burnham; (2) Giron; and (3) Micu.<sup>21</sup> The parties presented competing testimony about the causes of the flooding on these three properties. Plaintiffs argue that “Dr. Bedient’s work establishe[d] that each of the Test Properties’ [] flooding was in fact caused by the Addicks or Barker [D]am impoundment.” Pls.’ Br. at 43. In his report, Dr. Bedient concluded that “all of the test properties were flooded due to the impounding rainfall runoff waters by the [Corps] behind the Addicks and Barker Dams,” PX526 at 46, and such flooding was not a result of the local drainage systems or due to riverine flooding, *see id.* at 47, 49, 54. Contrastingly, defendant argues that flooding was unavoidable upstream due to the magnitude of Harvey. Def.’s Br. at 72. That is, defendant asserts that the flooding on these three properties cannot be attributed to the pools created by the Addicks and Barker Dams. *See id.* at 68-69 (arguing that the flooding on the three properties was attributable to alternative sources such as diversion channels and riverine flooding).

Dr. Bedient reached his conclusions by studying and analyzing real-time data collected during the storm, whereas Dr. Nairn reached his conclusions through modeling and projections. While modeling can be a useful tool for planning and analyzing hypothetical outcomes and at times may be able to provide more sophisticated insights than even real-time data, in the case at hand, Dr. Bedient’s analysis was more persuasive. Particularly, Dr. Nairn’s testimony suffered from a major flaw—a failure to fully capture what *actually* occurred. For instance, Dr. Nairn’s model concluded that flooding within the homes on the Giron and Micu properties due to riverine overbanking had already occurred as of August 27. *See* DX608 at 125-26. But live witness accounts and photographic evidence show that water did not enter either home until at least an entire day later. *See* Tr. 1999:14 to 2000:13 (Bedient). Additionally, Dr. Nairn’s model failed to account for stormwater drainage systems and improperly accounted for channel diversions and drainage projects. *See, e.g.,* Tr. 2002:14-25 (Bedient). These oversights render the model scenario different from the real-life scenario, and likely caused an overstatement of Dr. Nairn’s projections of riverine flooding. *See* Tr. 2004:19 to 2005:2 (Bedient); *see also* Tr. 1858:6-12 (Lesikar-Martin) (explaining that, in contrast to Dr. Nairn’s assertions, Bear Creek was not overflowing beyond its banks during Harvey). A predictive modeling system which relies on incorrect inputs and outputs used to align the model’s coefficients and factors, cannot provide reliable projections. Accordingly, Dr. Nairn’s model, which relies on input data that do not match what in fact occurred, cannot be fully reliable. Lastly, Dr. Nairn’s conclusions seem, in part, to agree with that of plaintiffs’ expert, Dr. Bedient, even as to the three contested properties. Dr. Nairn concludes that “[P]eak flood elevations at all of the upstream Test Properties are attributed to backwater due to high pool elevations in Addicks or Barker Reservoirs.” DX608 at iii (emphasis added). In other words, Dr. Nairn appears to agree that the water would not have been as high in each of the three contested homes but for the Addicks and Barker projects.

Defendant has alleged a number of errors in Dr. Bedient’s calculations. For example, defendant contends that Dr. Bedient failed to account for cumulative effects, and simply looked at discrete six- and twelve-hour time periods when collecting certain data. Def.’s Br. at 73. But these allegations do not suffice to discredit Dr. Bedient’s conclusions. Whether Dr. Bedient’s model fully accounts for intervening hours does not detract from the fact that his conclusions are

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<sup>21</sup>Given that the causation issues were the same for all three properties, the properties can be discussed collectively with regard to causation.

more reliable because they align with what was actually witnessed.<sup>22</sup> As such, plaintiffs have met their burden of showing that but for the Addicks and Barker project, flooding would not have occurred to the level it did on the three contested properties.

Defendant also puts forth in rebuttal one additional argument on causation. Defendant argues that because the government's actions that address the relevant risk must be considered in their entirety, plaintiffs' failure to account for the impact of the outgrants is fatal to their argument. *See* Def.'s Br. at 97-98 (citing *St. Bernard Par.*, 887 F.3d at 1364). Defendant argues that the outgrants that the "United States allowed to be built on the Project property were built to reduce flood risks to upstream properties," and because this is "government action [that] mitigates the type of adverse impact that is alleged to be a taking, it must be considered in the causation analysis." *Id.* (citing *St. Bernard Par.*, 887 F.3d at 1367). It is defendant, however, who fails to fully account for *all* the impacts of the outgrants. Defendant asserts that the outgrants mitigated the flood risk upstream. To an extent, that allegation is correct. They effectively allowed water to be removed from the upstream neighborhoods more rapidly. But the outgrants also had the effect of causing "more frequent" and "larger" impoundments in the reservoirs and "increase[d] flood damages resulting from reservoir impoundments." JX52 at 16 (USACE01545). Thus, it cannot be said that the government's granting of easements for drainage systems consequently built by developers and local entities, as a whole, provided a greater benefit than harm. As to the "but for" analysis, it would be wrong to say that but for the granting of the outgrants, plaintiffs would have been worse off. Notably, the evidence actually suggests the opposite. Moreover, in the counterfactual scenario where the federal government refused to grant these easements, the evidence suggests that upstream developers would have been required to seek other feasible remedies for drainage. *See* Tr. 817:1-11 (Vogler).

Thus, considering the totality of the evidence, plaintiffs have met their burden of showing causation for all thirteen properties. Plaintiffs have sufficiently demonstrated that the inundation of floodwaters onto their private property was the "direct, natural, or probable result" of the government's activity. *Ridge Line*, 346 F.3d at 1355.

## ii. Intent.

*Intent* does not concern whether the government meant to abridge a private property right but whether it intended to occupy the pertinent property without lawful authority or excuse. *See LaBruzzo v. United States*, 144 Fed. Cl. 456, 474 (2019). Thus, the intent element is present if the government intended its physical occupation even if it did not intend to effect a taking. *See id.* As noted by the Supreme Court of Texas, "build[ing] a flood-control dam knowing that certain properties will be flooded by the resulting reservoir" is a "*conscious decision* to subject particular properties to inundation so that other properties [will] be spared." *Harris Cty. Flood Control Dist.*, 499 S.W.3d at 807 (emphasis added). The requisite intent to invade is present in

<sup>22</sup>Similarly, defendant's assertions that Dr. Bedient's testimony relied upon flawed gauge data, *see* Def.'s Br. at 67, are unavailing. Defendant argues that "Dr. Bedient erroneously based his critique on uncorrected data for [the upper Buffalo Bayou gauge]." *Id.* But these gauges are regularly inspected, *see* Tr. 2173:10-15 (Test. of Jeffrey East), and are considered reliable, *id.* Even if the gauge was misreading, Dr. Bedient's report corrects any misreading by comparing and subsequently aligning the data with what was actually witnessed. *See* Tr. 3195:9-15.

such cases, and “of course the government must compensate the owners who lose their land to the reservoir.” *Id.* See also *Tarrant Reg’l Water Dist. v. Gragg*, 151 S.W.3d 546, 555 (Tex. 2004) (citing *City of Dallas v. Jennings*, 142 S.W.3d 310, 314 (Tex. 2004) (“[T]he requisite intent is present when a governmental entity knows that a specific act is causing identifiable harm or knows that the harm is substantially certain to result.”)). The government may not, however, intend an outcome which it did not subjectively foresee as a “direct, natural, or probable consequence” of its action. See *John Horstmann Co.*, 257 U.S. at 146.

Here, the Corps knew from the outset that the land it purchased was inadequate to hold the amount of water that would be contained in the reservoirs should the embankment-design storm occur. See JX5 at 26. It knew then that if such a storm transpired, the water produced would exceed government-owned land and flood private property. *Id.* But it appears doubtful that the Corps *subjectively* foresaw the occurrence of a storm event large enough to create pools that exceeded government-owned land—although, as already noted, such a storm was *objectively* foreseeable at that time, see *supra*, at 35-36. It certainly knew that such a storm was *possible* over the Addicks and Barker watersheds, see, e.g., Pls.’ Mot. to Reopen the Trial R. Ex. A at USACE2019\_0000013-14 (recording the Corps’ observation that the occurrence of a storm like the Hearne storm was not “unreasonable”), but the Corps seems to have reckoned then that it was an *improbable* event, see JX5 at 9-10 (concluding that the occurrence of a storm as severe as the Hearne storm was “very remote”), or at least that it would not occur frequently. This conclusion is also inferable from the cost-benefit analysis the Corps conducted around this time. To perform such an analysis, the Corps needed to determine both how much it would cost the government to flood beyond government-owned land and how frequently that was likely to happen. Comparing the cost attributable to flooding rural land to what it would cost to purchase rights to the then-undeveloped land, the Corps determined that the cost of flooding was less. That the calculus reached the conclusion it did indicates that the Corps regarded such overflow as possible but that it was willing to take the ensuing risk. That calculus did not withstand the test of time. Nonetheless, the intent inquiry does not end there.

Intent is present here because, like foreseeability, intent is not measured at one singular point in time. Again, this is because the government action at issue is not simply the construction of the dams, but the totality of their construction, modification, maintenance, and operation over the project lifespan. The Corps subjectively knew by the 1940s, and particularly by the 1960s, that storms larger than the design storm were likely to occur over Addicks and Barker. See *supra*, at 17, 31, 36. From that time forward, it had subjective knowledge that pools exceeding government-owned land were probable at some point. Indeed, by 1973 the Corps expected the possibility of flooding off of government-owned land to become a public concern. See PX37 at 1. Thus, intent can be inferred here because the government knew flood waters would likely occupy plaintiffs’ private properties at some point.

✓ Equipped with the knowledge that storms of the design storm magnitude were probable, the Corps did not stray from its primary objective to prevent downstream flooding (indeed, it probably could not), even when it knew that could well mean impounding water on private property. For example, the 2012 Water Control Manual, which the Corps followed during Harvey, instructs the Corps to operate the dams in a manner consistent with their original purpose: to protect downstream property by impounding water in upstream reservoirs. It states that “the general plan for reservoir regulation will be to operate the reservoirs in a manner that will utilize to the maximum extent possible, the available storage to prevent the occurrence of

damaging stages on Buffalo Bayou.” JX110 at 7-4 (USACE016338). Notably, the “available storage” that was to be “utilize[d] to the maximum extent possible” encompasses *all* land in the intended reservoir behind the embankments, including land the government has never owned. *See* Tr. 67:12 to 68:3 (Thomas). To accomplish its purpose of downstream protection, the Corps planned all along to impound water to the maximum extent of the available storage—a determination that never altered even when the Corps came to understand that rainfall events reaching the design storm magnitude were probable rather than merely possible. In short, the government had the requisite intent to invade plaintiffs’ properties because the Corps had been well aware that storms capable of overflowing government-owned land were likely to occur, and despite that knowledge it still intended to occupy the property concerned without lawful authority or excuse. *See LaBruzzo*, 144 Fed. Cl. at 474.

*c. Reasonable investment-backed expectations.*

A property owner’s “reasonable investment-backed expectations regarding the land’s use” is also a factor relevant to the takings inquiry under *Arkansas Game & Fish*, 568 U.S. at 39 (citing *Palazzolo v. Rhode Island*, 533 U.S. 606, 618 (2001)). As a threshold matter, plaintiffs assert that this factor should not even be considered here because the concept applies only to regulatory, not physical, takings. *See* Pls.’ Br. at 116-17 n.541. They correctly observe that “time and again, the Supreme Court has underscored the distinctness of [the physical and regulatory] lines of takings cases,” *id.* at 117 n.541, and there is no question that the reasonable investment-backed expectations factor is ordinarily applied in the context of regulatory, and not physical, takings. *See, e.g., Penn Cent.*, 438 U.S. 104. Noting this difference, the Federal Circuit stated in *Preseault v. United States* that “[t]he Government’s attempt to read the concept of ‘reasonable expectations’ as used in regulatory takings law into the analysis of a physical occupation case would undermine, if not eviscerate, long-recognized understandings regarding protection of property rights; it is rejected categorically.” 100 F.3d 1525, 1540 (Fed. Cir. 1996). *See also Palm Beach Isles Assocs. v. United States*, 231 F.3d 1354, 1364 (Fed. Cir. 2000) (explaining that “‘reasonable investment-backed expectations’ are not a proper part of the analysis” in physical takings cases); *Caquelin*, 140 Fed. Cl. at 582 (citing and quoting *Love Terminal Partners, L.P. v. United States*, 889 F.3d 1331, 1345 (Fed. Cir. 2018) (“The reasonable, investment-backed expectation analysis is designed to account for property owners’ expectation that the *regulatory* regime in existence at the time of their acquisition will remain in place, and that new, more restrictive legislation or regulations will not be adopted.”)) (emphasis added).

The precept plaintiffs reach from this line of precedents is that the inclusion of the investment-backed expectations factor in the *Arkansas Game & Fish* listing was not intended to translate that factor outside the regulatory takings context. They seek to diminish its enumeration as a relevant factor in *Arkansas Game & Fish* by noting the preamble to the list of factors, which states that the ensuing factors are relevant “[w]hen regulation or temporary physical invasion by government interferes with private property.” 568 U.S. at 38.

Even so, flooding cases can pose an exception to the quotidian rule that physical takings do not involve consideration of “reasonable investment-backed expectations.” Plaintiffs fail to take account of the context in which *Arkansas Game & Fish* arose. *Arkansas Game & Fish* plainly involved a physical, not regulatory taking, but the Court nonetheless included the factor as relevant for guiding the decision on remand. Although citing *Palazzolo*, a regulatory takings case, for inclusion of the factor, the Court applied it to the physical taking before it because it

had accepted the finding that the flooded area at issue had flooded previously. The prior flooding had occurred fairly often following Spring rains, but that flooding was transient and did not affect the growing season of the management area's forest. *See* 568 U.S. at 39. Extensive flooding that stretched over the growing season was quite a different matter. *Id.* Thus, the Court acknowledged the plaintiff's expectations that flooding at certain times and of limited duration was possible, but that the flooding involved in the taking claim was of a different kind than that which they could have anticipated or had previously encountered.

The context of the case at hand is strikingly similar. In this case, the properties are located in a geographical area that is generally susceptible to large storms and potential flooding, and the landowners were aware of that fact. But the flooding that caused the alleged taking before the court was different in kind from that which had occurred naturally and from what plaintiffs had reason to anticipate; it was more severe than any prior flooding and it was not the result of natural conditions but rather of deliberate government action. Reasonable investment-backed expectations are therefore as equally applicable here as they were in *Arkansas Game & Fish*.<sup>23</sup> Despite the evident tension of transposing this factor from the regulatory to the physical takings context, *Arkansas Game & Fish* clarifies that reasonable expectations are a relevant consideration in connection with physical takings cases of this particular nature.

Informing the application of the factor are two considerations. First, the landowner's expectations must be "reasonable," meaning that while this is a fact-intensive inquiry, "it is nonetheless an objective one." *Chancellor Manor v. United States*, 331 F.3d 891, 904 (Fed. Cir. 2003). Second, the matter at issue is a question of degree, that is "the extent to which the [government action] interferes" with those expectations. *Palazzolo*, 533 U.S. at 617. Significantly, it is not the case that a takings claim must fail simply because a property owner "acquired [] land while on notice that a taking was occurring or had the potential to occur." *In re Upstream Addicks & Barker*, 138 Fed. Cl. at 669 (citing *Dickinson*, 331 U.S. at 750); *see also Cooper v. United States*, 827 F.2d 762, 764 (Fed. Cir. 1987) (finding a taking where the plaintiff acquired property while on notice that the government-induced flooding was already occurring). The law offers the government no loophole whereby it may escape takings liability by putting landowners on notice of the risk that it could or would take their property. *See Palazzolo*, 533 U.S. at 626 (rejecting the "sweeping rule" that "a purchaser or a successive title holder . . . is deemed to have notice of an earlier-enacted restriction and is barred from claiming that it effects a taking."). In short, the government gains no immunity for an uncompensated taking by giving advance notice that it will take property. When the taking actually occurs, it still must provide compensation.

Even if notice had a bearing, plaintiffs would still prevail here because they neither knew, nor reasonably should have known, of the risk posed by the dams. The government nonetheless maintains that plaintiffs fail on this factor because "they lacked an objectively reasonable expectation that their properties would not flood in a Hurricane Harvey-like event." Def.'s Br. at

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<sup>23</sup>Perhaps the Supreme Court's inclusion of the words "investment-backed" invites too strong a reference to regulatory takings law. Simply referring to "reasonable expectations" would capture the context in which the Court used the factor in *Arkansas Game & Fish*.

106.<sup>24</sup> To support this contention, it emphasizes that plaintiffs had notice of the possibility of flooding, pointing out that “Harris and Fort Bend Counties have a long history of flooding during large storms.” *Id.* It also cites publicly available information demonstrating the possibility of upstream flooding during large storms, notifications proliferated by local governments, and the frequency with which residents in the region purchased flood insurance. *See id.* Plaintiffs counter that not one of them had any knowledge that their property was situated in a reservoir, *see* Pls.’ Br. at 117, and assert that there is no reason to think plaintiffs reasonably should have known about that particular risk, different from natural flooding. *See* Pls.’ Reply at 24. *See also* Tr. 1729:10-17 (Banker); Tr. 1758:15 to 1760:3 (Burnham); Tr. 1651:8-23 (Giron); Tr. 1834:14-16 (Holland); Tr. 1413:15 to 1414:5 (Lakes on Eldridge); Tr. 1293:24 to 1294:15 (Micu); Tr. 1225:2-17 (Popovici); Tr. 1738:9-17 (Sidhu); Tr. 1076:22 to 1078:3 (Soares); Tr. 1607:19-22 (Stewart); Tr. 2151:16-20 (Turney); Tr. 1626:1 to 1627:10 (Wind); Tr. 2120:20 to 2122:5 (Lesikar).

✓ It is undisputed that plaintiffs did not know their properties were located within the reservoirs and subject to attendant government-induced flooding. The point of contention here is whether plaintiffs objectively ought to have known about that risk based on notice.<sup>25</sup> First, the government points to “[p]ublic documents” that discuss the “possibility of upstream flooding during large storms.” Def.’s Br. at 106. But the mere fact that information is available does not make it reasonable to assume that plaintiffs should have known about it or, if they did, that they would understand that it related to government-induced flooding. Even if plaintiffs are assumed to be aware of information in places such as Key Maps, FEMA Maps, or United States Geological Survey quadrangle maps—an assumption that is hardly a given—the import of data on these maps is far from obvious. For example, to infer the possibility of flooding from the Key Maps would require a baseline knowledge about property elevations, something the average homeowner does not generally know. It is highly tenuous to suggest that the average citizen should know how to read and understand the information in these maps or recognize that the map annotations refer to government-induced flooding rather than naturally occurring flooding.

Next, the government cites the subdivision plats, which indicate that land was subject to controlled inundation, as evidence that plaintiffs had notice of the risk when they purchased their property. *See, e.g.,* Def.’s Br. at 113-14. These subdivision plats are replete with miniscule

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<sup>24</sup>The court perceives the irony of the government’s simultaneous contentions that the Corps could not have anticipated a storm of Harvey’s magnitude but that plaintiffs ought to have foreseen the risk of their properties flooding in such an event.

<sup>25</sup>At trial, the government sought to introduce the testimony of Dr. Gerald Galloway, a retired Brigadier General in the Corps, as an expert witness. The government proposed that Dr. Galloway testify as to “indicators that are available to laypeople that they could consider when making a decision such as purchasing property.” *See* Tr. 2544:10-12 (Test. of Gerald Galloway). The court declined to certify Dr. Galloway as an expert witness because the government did not satisfy its burden to show by a preponderance of the evidence that the testimony was based on scientifically valid principles rather than a subjective belief or unsupported speculation. *See* Tr. 2580:12 to 2581:17 (Galloway). Likewise, the proposed expert’s opinions about the subjective views of the landowners were far less credible than the testimony offered by plaintiffs themselves of their own personal knowledge and belief.

details. *See, e.g.,* DX557. Even if one were to examine the plats, which it appears no purchaser actually did, *see, e.g.,* Tr. 1295:6-9 (Micu); Tr. 1660:14-16 (Giron), it would take an uncommonly attentive eye to notice and comprehend the import of such a “disclosure.” Moreover, the government’s own witness, the Fort Bend County Drainage District’s Chief Engineer, testified that the plat language was not successful in informing the public of the risks involved. *See* Tr. 682:10-16 (Vogler). Additionally, the fact that the Corps discussed the possibility of upstream flooding with developers is not evidence that anyone who subsequently purchased that property also should have been apprised of the information. The government further cites the high rate of flood-insurance purchases compared to the national average, concluding that this demonstrates that “the possibility of upstream flooding has long been knowable in this region.” Def.’s Br. at 106. This argument also fails because no one disputes that the Houston region is, and long has been, especially flood prone. Because that general flood risk was well known, and because some residents purchased flood insurance to account for it, is simply not evidence that plaintiffs should have been aware of the specific risk associated with the very different type of flooding at issue here, namely, government-induced flooding.

Perhaps the government’s strongest argument on the issue of notice is the fact that both the Corps and local governments conducted public meetings, in which they disclosed information about the possibility of flooding, during the decades leading up to Harvey. Def.’s Br. at 106. But here, too, the government fails to show that plaintiffs should reasonably have known of the risk. The mere fact that meetings occurred does not mean they were effective at communicating the risk such that the public should have known about government-induced flooding; there is no evidence that these meetings were heavily attended or particularly well publicized in the community. And in rapidly developing suburbs of a large city like Houston, it is reasonable to expect a regular flow of people moving in and out of the area, further reducing the likelihood that new residents adapting to the area would know of the risk without an especially aggressive public campaign. That not one of the plaintiffs in this case was aware of the situation regarding government-induced flooding is also telling with respect to the effectiveness of these meetings, suggesting that it is quite reasonable to conclude that the average person in the community was likely unaware of the risk.

Having determined that plaintiffs’ investment-backed expectations were reasonable, the court next addresses the extent to which the government’s action interfered with those expectations. Plaintiffs purchased their property for the same varied reasons people generally buy real estate, *e.g.,* for a home to live in safely or as an investment. *See, e.g.,* Tr. 1704:12-19 (Banker) (noting that the property was purchased as home for retirement and was considered an investment that would appreciate). As already noted, the degree of interference with these expectations was acute—rendering properties uninhabitable for a significant time, requiring substantial outlays to perform repairs, and resulting in a significant diminution in the resale value of inundated properties. Subsequent developments prompted by the flooding, such as the recently enacted Texas statute mandating disclosure when property is situated in a reservoir, can further be expected to diminish property market value. Therefore, the court concludes that the government-induced flooding severely interfered with plaintiffs’ reasonable investment-backed expectations.

Overall, each of the factors identified in *Arkansas Game & Fish* supports the finding of a taking of a flowage easement on all thirteen of the bellwether test properties.

### *B. Defenses to Liability*

The court must determine whether any of the government's defenses would preclude the finding of liability. The government asserts two defenses. ~~(First)~~ the government argues that its actions constituted an exercise of police powers, such that no viable taking claim exists. See Def.'s Br. at 87-91. ~~(Second)~~ the government argues that "the doctrine of necessity [] 'absolv[es] the State of liability for the destruction of real and personal property.'" See *id.* at 91-92 (citing *TrinCo Inv. Co. v. United States*, 722 F.3d 1375, 1377 (Fed. Cir. 2013)) (internal citations omitted). These defenses, however, are inapplicable to the case at hand.

The government first argues that "[p]articularly in an emergency, where the government action is part of an effort to reduce or mitigate *unavoidable* harms to the public, no viable taking claim exists." Def.'s Br. at 88 (citing *Miller v. Schoene*, 276 U.S. 272, 279-80 (1928)) (emphasis added). But that argument cuts against the defense, because the flooding at issue here was not an *unavoidable* harm. Defendant asserts that in the situation at hand, the Corps had little to no choice on how to act when Harvey hit, and that in an effort to protect lives, the Corps operated the project in accordance with the 2012 Water Control Manual. See Def.'s Br. at 89-90. That is, the Corps could open the gates and risk more severe downstream flooding or keep the gates closed, as it did, flooding upstream properties. When Harvey struck, it was true that certainly "the actions available to the government for dealing with the relevant emergency were constrained by the design of the dams and impoundments, the Corps' 2012 Water Control Manual, and the Corps' normal operating procedures." See *In re Upstream Addicks & Barker*, 138 Fed. Cl. at 669. But these constraints only existed because the Corps' design of the dams contemplated flooding beyond government-owned land onto private properties. "Thus, it was not that the government had to respond to Tropical Storm Harvey as an emergency that necessitated the flooding of private land," but rather that the government had made a calculated decision to allow for flooding these lands years before Harvey, when it designed, modified, and maintained the dams in such a way that would flood private properties during severe storms. *Id.* Defendant cannot now claim that this harm was unavoidable when it planned for years to impound floodwaters onto plaintiffs' properties.

Similar reasoning applies to the government's necessity defense. That defense rests on the notion that "in times of imminent peril—such as when fire threatened a whole community—the sovereign could, with immunity, destroy the property of a few [such] that the property of the many and the lives of many more could be saved." Def.'s Br. at 91 (quoting *TrinCo*, 722 F.3d at 1377). Three requirements must be met for the necessity doctrine to apply: (1) "actual emergency;" (2) "imminent danger;" and (3) "actual necessity of the [g]overnment action." *TrinCo*, 722 F.3d at 1379. That this case involved a severe tropical storm, and a record-breaking one at that, is not enough to infer an actual emergency. See *id.* at 1378 (rejecting this court's "decision to extend the doctrine of necessity to automatically absolve the [g]overnment's action in any case involving fire control"). Where, as here, the government is responsible for creating the emergency, granting the government immunity from liability under the necessity doctrine would "stretch[] the doctrine too far." *Id.* Further, the term "emergency," according to both common usage and definition, refers to "a state of things *unexpectedly arising*." *Emergency*, *Oxford English Dictionary*, <https://www.oed.com/view/Entry/61130?redirectedFrom=emergency#eid> (last visited Dec. 17, 2019) (emphasis added). The invasion alleged here was by no means unexpected—the Corps knew that when a severe storm like Harvey came, flooding beyond the extent of government-

owned land upstream would result, in light of the design of the dams and the plans for their operation. Thus, the necessity defense cannot apply here, because it cannot be said that "necessity" existed in this case, when the flooding that occurred was the direct result of calculated planning.

### CONCLUSION

For the reasons stated, the court finds that the government's actions relating to the Addicks and Barker Dams and the attendant flooding of plaintiffs' properties constituted a taking of a flowage easement under the Fifth Amendment. Thus, the court finds defendant liable.<sup>26</sup>

Because liability and damages were previously bifurcated, a plan for addressing damages must now be put in place. The court proposes to adjudicate damages for five out of the thirteen test properties. To that end, the parties shall each propose three properties for consideration as to damages, thus providing to the court with a total of six candidates. The court will then select five test properties from the six properties proposed. Each party is requested to file with the court a notice detailing its three proposed test properties for damages and its respective arguments for selection of those properties as bellwethers by January 21, 2020.

It is so **ORDERED**.

s/ Charles F. Lettow  
Charles F. Lettow  
Senior Judge

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<sup>26</sup>The court had previously deferred resolution of the government's earlier motion to dismiss, *see In re Upstream Addicks & Barker*, 138 Fed. Cl. at 672 (acting pursuant to RCFC 12(i), taking into account the fact-intensive inquiry involved). In light of the detailed post-trial findings of fact and conclusions of law in this decision, that motion to dismiss is **DENIED**.

Further, pursuant to the court's previously stated reasons, *see supra*, at 8 n.9, Pls.' Mot. to Reopen the Trial R., ECF No. 245, is **GRANTED**, subject to the inclusion of the sworn statement included in Def.'s Opp'n to Mot. to Reopen the Trial R., ECF No. 254. Also pending before the court is Def.'s Mot. to Correct [the Trial] Transcript, ECF No. 241. This motion is **GRANTED** as to those requests not opposed by plaintiffs, *see* Pls.' Opp'n to Def.'s Mot. to Correct [the Trial] Transcript, ECF No. 243, but the requests for correction opposed by plaintiffs are **DENIED**.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Caryl Stalick <cstalick@aol.com>  
**Sent:** Thursday, August 19, 2021 10:11 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Examples of traffic on Table Mesa

**External Sender**

Dear Council Members,

The building of CU South will only add to existing traffic problems. Right now I feel trapped in my Majestic Heights neighborhood, especially before Summit charter school starts each morning and when it lets out each afternoon - due to parents dropping off and picking up children. The streets leading to Table Mesa and Broadway, the two exits from our neighborhood, are often terribly backed up; and once you get to Table Mesa, you must wait interminably for a chance to enter. (Also, cars tend to pick up speed on Table Mesa, leading to even more accidents!)

Traffic will be much worse if CU South is built.

Boulder is a finite space but CU wants to keep expanding. You can't have both Open Space and an expanding (student) population!!! It's like stuffing cats into a bag - fights will break out! (Sorry for the inelegant metaphor.) Boulder must insist that CU cap its student population.

Below are two examples of traffic issues posted by local residents on nextdoor.com.

Sincerely,

Caryl Stalick  
4360 Darley Ave.  
Boulder, CO 80305

**Joy Rohde**

• [Martin Acres](#)

As mentioned, the trip caps do not apply during sporting events. Driving up Table Mesa yesterday at 3:45 to pick up my daughter from Fairview (when only half the students are back) I was backed up to 40th street at that light. I can't imagine what a nightmare 8:00-9:00 AM is going to be once CU is built. Anyone trying to get to Fairview/Southern Hills/Manhattan/Platt/Summit/Horizon/Creekside is now going to have to contend with CU traffic on Table Mesa as well.



**Jeb Densen**

• [Highview](#)

**Joy Rohde** yes, i commute home via Table Mesa all the way to the last street on Broadway in South Boulder (Chambers) and every year it has gotten so much worse. Seems like most of the Fairview students now have their own cars. It's such a mess. I remember way back in one of the meetings about CU South when the question of increased traffic was brought up, the city

**CU South Annexation Application (LUR2019-00010)**  
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representative simply said that more people are just going to have to rely on public transportation. Unfortunately, that doesn't just happen. Table Mesa/36 on/off ramps/ Foothills/Broadway are ALREADY a hot mess. I've lived here 22 years and it just gets progressively worse every year. The city needs to redo their traffic studies NOT during a pandemic when the schools are closed. Traffic is ALREADY A PROBLEM. Adding ANYTHING to CU South will only EXACERBATE it. I don't need a traffic study to determine that. It's simple math.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** morrow University of Minnesota <morrow@umn.edu>  
**Sent:** Saturday, July 17, 2021 7:49 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>  
**Subject:** Draft Annexation agreement. Comments

**External Sender**

No wonder it's taken almost 8 years to deal with the 2013 floods that hugely impacted Frasier Meadows where I live – so many things to consider. Thanks for producing such an inclusive, sensible, readable document.

I'd like to comment on two points I especially appreciate •Page 13. ***“HOUSING on the site will meet the needs of the University faculty, staff and non-freshmen students in order to address the fact that Boulder housing is currently unaffordable to faculty, staff and students. Providing workforce and non-freshmen housing will contribute positively to the community's housing affordability goals and aid the University in its recruitment and retention.”***

As a retired professor I can attest to the problems CU has with faculty retention. Eight CU faculty applied for positions in just my department. Minnesota has higher salaries and benefits, lower teaching loads, housing is more affordable and the University has housing, and the city is delightful if cold. Many universities (U. California, Stanford, Princeton, etc.) provide housing because their cities are unaffordable. This Annexation Plan would provide much needed housing relief for the U and Boulder. Well done.

•Page 15, #16. ***FLOOD CONTROL ZONE.*** *“the site will provide adequate areas for, and operation of city flood control dams, appurtenances, and associated flood storage including freeboard to reduce flood risks.”*

Boulder will have more frequent and bigger floods. Now is the time to do the mitigation that will prevent the massive damage of 2013.

*“The Flood Control Zone will also provide opportunities for passive and active recreation activities ..., conserve and/or restore areas within the flood mitigation facilities with high ecological value and mitigate impacts.”*

How great to restore a mining pit to the original wetland. Good for plants, animals and people. And replenishing the water table.

Win for Boulder, win for the U. Thank you.

Patrice Morrow, Professor Emerita  
Department of Ecology, Evolution and Behavior,  
University of Minnesota, Twin Cities  
and  
4900 Thunderbird Drive #516  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Roddy Hibbard <bldrroddy@yahoo.com>  
**Sent:** Tuesday, July 20, 2021 11:24 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Draft Annexation Agreement

**External Sender**

Dear Planning Board,

Really have been amazed by the work that City of Boulder staff have put in on the Draft Annexation Agreement. I am most interested in the work around flash flooding prevention and what this agreement will provide to further that. The underpass at Thunderbird and Table Mesa, Access to the CU property, water rights, and trip cap are all very important as well. I appreciate all of your diligent work on this contentious issue.

Thanks,

Roger Hibbard  
Boulder, CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kelly Murphy <bouldernatural@gmail.com>  
**Sent:** Monday, July 19, 2021 5:36 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>  
**Subject:** DRAFT ANNEXATION AGREEMENT support

**External Sender**

DRAFT ANNEXATION AGREEMENT remarks from the Murphy's

First, thanks to all of you for all the time you've taken and the constructive thought on CU South issues. The Draft Annexation Agreement work by the Planning Board and City Council gives us hope.

Like many, our family has lived in Boulder nearly 25 years and during that time, like all of you, we've seen a lot. That includes the wildfires in 2012 and the floods of 2013.

During the fires my wife was put on notice of potential evacuation while working on 9th street, but it really sank in when I told my wife, son, and daughter to box up as many photos as possible if we had to evacuate. That drill happened again during the big flood, and those episodes really brought home what we value the most in our lives – irreplaceable memories – often contained in old pictures.

Given the horrific flooding in Western Germany, flooding is even more “top of mind” for us now – so we appreciate your urgency during this last mile. Since Mosley (our tri-color border/aussie) and I often walk CU South, we also appreciate the creativity and possible leeway optionality access built into the draft with the “80 acres for flood mitigation purposes” or possibly a portion for Open Space.

Same tip-of-the-hat on the wisdom of addressing water rights.

Thanks for creatively thinking ahead for our community and the generations that will follow us.

Thanks again,  
The Murphy Family  
5160 Illini Way  
Boulder, CO  
Kelly Murphy  
[bouldernatural@gmail.com](mailto:bouldernatural@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Keller Kimbrough <keller.kimbrough@colorado.edu>  
Sent: Tuesday, July 20, 2021 11:31 AM  
To: boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
Cc: Council <council@bouldercolorado.gov>; Keller Kimbrough <keller.kimbrough@colorado.edu>  
Subject: Draft Annexation Agreement

External Sender

Dear Members of the Boulder Planning Board,

My name is Keller Kimbrough, and my wife and daughter and I are residents of South Boulder. I am writing to urge you to please move forward with the Draft Annexation Agreement for CU South. The bottom third of our home, including my home office and my personal library of hundreds of Japanese books, was destroyed in the 2013 flood. Now, nearly 8 years later, my home is just as vulnerable as it was when the flood waters swept through our windows and filled our finished basement. Just a few weeks ago we had another flood scare in our neighborhood when a sudden storm caused the water to rise, again, on the west side of my home. If the water had risen another two feet we would have been flooded.

The Annexation Agreement is a very good one. Let's please move forward with it and try to prevent the next flooding catastrophe in South Boulder. Peoples lives are on the line.

Sincerely yours,

Keller Kimbrough  
46 Pima Court  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** clint Heiple <clintheiple.1@gmail.com>  
**Sent:** Tuesday, July 20, 2021 12:42 PM  
**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>  
**Subject:** Draft Annexation Agreement

**External Sender**

The City of Boulder staff have done a remarkable job in negotiating a draft annexation agreement for the CU South property with the University of Colorado. The agreement is very favorable to the City of Boulder. In addition to making it possible to finally construct flood protection for South Boulder, we get public access to many of the facilities to be built on the site and significant habitat restoration. We even get some water rights.

I strongly support this draft agreement, and I hope you will as well.

Clinton Heiple  
4840 Thunderbird Dr. Apt 184  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Janet Cerretani <janetcerretani@icloud.com>  
Sent: Wednesday, August 18, 2021 10:11 AM  
To: Council <council@bouldercolorado.gov>  
Subject: Delay the vote on the CU Annexation

External Sender

Dear Council,  
You are in the position to represent the people in your community, not just the interests of CU and industry. Delay the vote on annexation until after the referendum to see what your community wants.  
Thank you,  
Janet Cerretani

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Tuesday, July 20, 2021 3:46 PM

**To:** WRAB <WRAB@bouldercolorado.gov>; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; ben binder <bbinder@ddginc.com>; SaveSoBo Now <savesobonow@gmail.com>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; OSBT <OSBT@bouldercolorado.gov>; Parker, Laila <ParkerL@bouldercolorado.gov>; Douville, Chris <DouvilleC@bouldercolorado.gov>; Baird, Ken <Bairdk@bouldercolorado.gov>; Laura Tyler <laura@amstec.com>; Council <council@bouldercolorado.gov>; landmarksboard <landmarksboard@bouldercolorado.gov>; Housing Advisory Board Group <HousingAdvisoryBoardGroup@bouldercolorado.gov>; timothy <timothy@schoechle.org>; paul.culnan <paul.culnan@gmail.com>; TAB <TAB@bouldercolorado.gov>; Environmental Advisory Board <EnvironmentalAdvisoryBoard@bouldercolorado.gov>; norby.cw@gmail.com; plan boulder <advocate@planboulder.org>; Human Relations Commission <HRC@bouldercolorado.gov>; Derek Silva <Derek.Silva@Colorado.EDU>; Jim McMillan <jmc1277@gmail.com>; Council <council@bouldercolorado.gov>; Rivera-Vandermyde, Nuria <Rivera-VandermydeN@bouldercolorado.gov>; Llanes, Sandra <LlanesS@bouldercolorado.gov>; Lindsey, Jacob <lindseyj@bouldercolorado.gov>

**Subject:** Re: Deja vu. CU Guts Reclamation Plan and refused to cooperate with Boulder to address SBC Flooding

**External Sender**

So, my bad, now with the coveted attachment.

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**From:** Lynn Segal <lynnsegal7@hotmail.com>

**Sent:** Tuesday, July 20, 2021 1:47 AM

**To:** WRAB <[WRAB@bouldercolorado.gov](mailto:WRAB@bouldercolorado.gov)>; [taddeuccij@bouldercolorado.gov](mailto:taddeuccij@bouldercolorado.gov) <[taddeuccij@bouldercolorado.gov](mailto:taddeuccij@bouldercolorado.gov)>; [kleislerp@bouldercolorado.gov](mailto:kleislerp@bouldercolorado.gov) <[kleislerp@bouldercolorado.gov](mailto:kleislerp@bouldercolorado.gov)>; ben binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>; SaveSoBo Now <[savesobonow@gmail.com](mailto:savesobonow@gmail.com)>; planning board <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>; OSBT <[OSBT@bouldercolorado.gov](mailto:OSBT@bouldercolorado.gov)>; [parkerl@bouldercolorado.gov](mailto:parkerl@bouldercolorado.gov) <[parkerl@bouldercolorado.gov](mailto:parkerl@bouldercolorado.gov)>; [douvillec@bouldercolorado.gov](mailto:douvillec@bouldercolorado.gov) <[douvillec@bouldercolorado.gov](mailto:douvillec@bouldercolorado.gov)>; [bairdk@bouldercolorado.gov](mailto:bairdk@bouldercolorado.gov) <[bairdk@bouldercolorado.gov](mailto:bairdk@bouldercolorado.gov)>; Laura Tyler <[laura@amstec.com](mailto:laura@amstec.com)>; Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>; [landmarksboard@bouldercolorado.gov](mailto:landmarksboard@bouldercolorado.gov) <[landmarksboard@bouldercolorado.gov](mailto:landmarksboard@bouldercolorado.gov)>; [housingadvisoryboard@bouldercolorado.gov](mailto:housingadvisoryboard@bouldercolorado.gov) <[housingadvisoryboard@bouldercolorado.gov](mailto:housingadvisoryboard@bouldercolorado.gov)>; timothy <[timothy@schoechle.org](mailto:timothy@schoechle.org)>; paul culnan <[paul.culnan@gmail.com](mailto:paul.culnan@gmail.com)>; tab <[tab@bouldercolorado.gov](mailto:tab@bouldercolorado.gov)>; [environmentaladvisoryboard@bouldercolorado.gov](mailto:environmentaladvisoryboard@bouldercolorado.gov) <[environmentaladvisoryboard@bouldercolorado.gov](mailto:environmentaladvisoryboard@bouldercolorado.gov)>; [norby.cw@gmail.com](mailto:norby.cw@gmail.com) <[norby.cw@gmail.com](mailto:norby.cw@gmail.com)>; plan boulder <[advocate@planboulder.org](mailto:advocate@planboulder.org)>; [hrc@bouldercolorado.gov](mailto:hrc@bouldercolorado.gov) <[hrc@bouldercolorado.gov](mailto:hrc@bouldercolorado.gov)>; [derek.silva@colorado.edu](mailto:derek.silva@colorado.edu) <[derek.silva@colorado.edu](mailto:derek.silva@colorado.edu)>; Jim McMillan <[jmc1277@gmail.com](mailto:jmc1277@gmail.com)>; Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>; [rivera-vandermyden@bouldercolorado.gov](mailto:rivera-vandermyden@bouldercolorado.gov) <[rivera-vandermyden@bouldercolorado.gov](mailto:rivera-vandermyden@bouldercolorado.gov)>; Llanes,Sandra <[LlanesS@bouldercolorado.gov](mailto:LlanesS@bouldercolorado.gov)>; [lindsayj@bouldercolorado.gov](mailto:lindsayj@bouldercolorado.gov) <[lindsayj@bouldercolorado.gov](mailto:lindsayj@bouldercolorado.gov)>

**Subject:** Deja vu. CU Guts Reclamation Plan and refused to cooperate with Boulder to address SBC Flooding

Hidden in plain sight.

Please tell me that the documents in this pdf and the 1981 Reclamation Plan Ben forwarded are

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

not true. Tell me Gilbert White **from CU**, is wrong. Love and Associates were hired by CU to protect CU's interests.

How can you support **another** privately negotiated plan between CU and the city when CU already caused the 2013 flood, Laura?

The first private agreement was that of the original purchase in 1996 from Flatirons with CU's counsel, Dick Tharp as the mediator between CU and Flatirons and excluded the city by inflating the value of the property on pure speculation. The city was removed from the option of purchase.

..."The university would like to maximize development"... Love made it clear. This does not make this CU's bad, it's simply that their business model is not coherent with the COB's responsibility to its citizens. The property appraisal was actually inflated based on speculation on what CU could do on it. Is this some kind of perverse self-fulfilling prophesy CU dreamed up? Who's in the lead here? Some kind of Olympian contest? No. Value is value. It's not pre-ordained. Add it up and put the numbers side by side. Include the \$5M discount to CU, the \$2M overvaluation and include inflation from '96.

But one more thing. This is much more than a last minute \$23M discount as if it's some kind of bargain basement special, it's about determination of the carrying capacity of Boulder and REAL affordable housing. It's about the city's water and sewer and infrastructure. It's about the 15 other neglected drainages and the open space deficits.

Make the numbers quantitative, comprehensive and long term. THEN compare. There's simply no question.

Lynn

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**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>  
**Sent:** Monday, July 19, 2021 6:33 PM  
**To:** [WRAB@bouldercolorado.gov](mailto:WRAB@bouldercolorado.gov) <[WRAB@bouldercolorado.gov](mailto:WRAB@bouldercolorado.gov)>  
**Cc:** Lynn Segal <[lynnsegal7@hotmail.com](mailto:lynnsegal7@hotmail.com)>  
**Subject:** CU Guts Reclamation Plan and refused to cooperate with Boulder to address SBC Flooding

As a result of CU's revisions to the Flatiron gravel pit Reclamation Plan and the university's refusal to cooperate with the city to craft a plan that would address flooding problems, during the 2013 flood the vacant gravel pit was dry while hundreds of downstream residences were severely flooded.

Please see the documents in the attached PDF.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Maribel Williams <maribel.williams2@icloud.com>  
Sent: Wednesday, July 28, 2021 12:43 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CUSouth property proposal

External Sender

Having just read Steven Telleen's guest commentary in the July 28th Daily Camera, I wonder if the council has ever considered the city's document ranking the monetary losses of the 2013 flood? If these are the facts why the push to deal with CU.

Why not listen to Steve Pomerance's comments and simply trade the north 26th street property for the South property and eliminate the fight with CU.

Most sincerely, M H Williams, a resident since 1960

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Steven Telleen <stelleen@comcast.net>  
**Sent:** Tuesday, July 20, 2021 5:26 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU-South Annexation

**External Sender**

Planning Board Members:

As you consider the city's proposed annexation of the CU-South property, ostensibly for flood mitigation, I hope your deliberations will consider a few facts the City of Boulder compiled concerning the 2013 flood.

According to the:

SUMMARY REPORT OF PRIVATE PROPERTY AND RESIDENT  
FLOOD IMPACT SURVEY AND ANALYSIS  
SEPTEMBER 2013 FLOOD DISASTER  
CITY OF BOULDER – UTILITIES DIVISION  
November 4, 2014

the data do not support prioritizing the annexation of CU-South for mitigation of South Boulder Creek flooding as the highest priority. This is particularly true when the cost of mitigation will take money away from other areas of the city that suffered more damage during the 2013 flood.

In terms of Total Estimated Loss/Cost (Table 5: Drainageway Basins), South Boulder Creek (\$27,815,855) ranks third behind Boulder Creek (\$41,276,084) and Two-Mile Canyon/Goose Creek (\$39,101,067).

However, these totals are misleading as much of the 2013 flooding in the South Boulder Creek drainageway came not from South Boulder Creek, but from local drainage flooding and other non-stream related issues. Since the CU-South annexation proposal would only address flooding issues for the South Boulder Creek drainageway, it is worth ranking the flood areas using only the "Major drainageway flooding" loss/cost from Table 5. In this ranking South Boulder Creek drops to fifth place behind Boulder Creek, Two-Mile Canyon/Goose Creek, Wonderland Creek, and Gregory Canyon.

Table 6 (Drainageway Floodplains) in the document breaks down the South Boulder Creek data into whether the loss/cost occurred in the 100-year or 500-year floodplain. This also is illuminating.

Almost half (44%) of the damage done in the South Boulder Creek Floodplain was in the 500-year flood zone. This was calculated by taking the \$15,841,479 for the entire 500-year floodplain, and subtracting the \$8,957,975 from the 100-year portion, which equals \$6,983,522 that was outside the 100-year floodplain, (i.e. in the 500-year floodplain).

This alone should indicate that a 100-year solution may have been inadequate even for a

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

2013 level storm. Recommending approval of this agreement, which only addresses a 100-year level storm, would lock-in a solution that is likely inadequate and certainly not resilient.

- But this is not all. Table 6 also allows us to calculate that only 30% of the overall damage in the South Boulder Creek 100-year floodplain was from stream flooding (South Boulder Creek and local streams), and 65% of that stream-flood damage was from local stream flooding not the South Boulder Creek drainageway.

Applying these same calculations to the South Boulder Creek 500-year floodplain only 21% of the total damage was from stream flooding (South Boulder Creek and local streams), and 70% of that stream-flood damage was from local stream flooding not the South Boulder Creek drainageway.

This seems to suggest that even if the proposed South Boulder Creek proposal does successfully contain the water (and this comprises the entire rationale for approving this proposed agreement to annex the CU-South property now), it will only account for basically 35% of the 30% of the total damage in the 100-year flood area and 30% of the 21% of the damage in the 500-year area.

The above data strongly suggest that the CU-South solution in any configuration is not likely to provide the city with the mitigation promised. The Planning Board needs to seriously consider recommending to the City Council that the current CU-South annexation agreement should be put on hold until the following 4 issues that these data raise are addressed:

- The 2013 flood was considered a “70-year flood” and yet 44% of the damage occurred in the 500-year flood zone. This should raise concern about a 100-year solution!<sup>[L]  
[SEP]</sup>
- Focusing on the South Boulder Creek drainageway does not address other drainage areas in the city that suffered more damage. The focus and priority should be on the areas that suffered the most damage first. If this proposal is approved will there be money left to address the areas that suffered more damage than this one?<sup>[L]  
[SEP]</sup>
- Even in the South Boulder Creek floodplain, 70-80%% of the damage was caused by non-stream related water that the current CU-South proposal does not address or mitigate.<sup>[L]  
[SEP]</sup>
- Of the stream-originated water, 65-70% of the water came from local-drainage flooding rather than South Boulder Creek. This suggests that focusing on mitigating the local-drainage issues first might provide more effective mitigation than the current CU-South proposal.

Thank you for your attention,

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

Steven Telleen  
Boulder, CO 80303

=====

Calculations for damage from stream drainage vs. other sources

100-year

(SBC+Local Drainages) \$2,764,912 / (Total Damage) \$8,957,975 = 30% from Stream Drainage

500-year

(SBC+Local Drainages) \$3,429,369 / (Total Damage) \$15,841,479 = 21% from Stream Drainage

Calculations for damage from SBC vs. Local Drainage

100-year

(SBC) \$955,733 + (Local) \$1,809,179 = \$2,764,912 (Total)

(Local) \$1,809,179 / (Total) \$2,764,912 = 65% from Local Drainage

500-year

SBC \$1,005,061 + Local \$2,424,308 = \$3,429,369 (Total)

Local \$2,424,308 / Total \$3,429,369 = 70% from Local Drainage

=====

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Madelyn Wynne <mjpgwynne@gmail.com>

**Sent:** Sunday, July 25, 2021 12:07 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South: The great giveaway

**External Sender**

*CU South: The great giveaway* By Steve Pomerance 7-25-21 Daily Camera  
I support what Steve has to say and agree this should go to the citizens for a vote. A decision of this magnitude should be decided by the Boulder citizens, not just a few on the city council.

City Council should restart this whole process, get some leverage on CU, seriously consider a land swap, do a comprehensive flood control plan for all the creeks, and then put it all to a citizen vote.

Madelyn Wynne (citizen since 1970)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Linda Norris <lnorris1722@gmail.com>  
Sent: Monday, August 2, 2021 3:54 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU/South

External Sender

Both my husband and I are opposed to the current proposal as presented. I am thankful for Steve Pomerance's analysis and I'm sure you all must have read many more salient points against this agreement.

I thank you and the City Staff for the work that has gone into this annexation agreement. But, it is flawed in its basic flood prevention goals and needs to be rejected.

We ask you not to agree to this proposal and not saddle the citizens of Boulder with millions of dollars added to our utility bills.

Linda L Norris (Boulder native)  
Richard J. Kraemer

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mikechiropoulos@gmail.com>

**Sent:** Tuesday, August 10, 2021 2:24 PM

**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>

**Subject:** CU South: Public Safety, Climate, Resiliency, Housing, "Emergency" and Democracy

**External Sender**

Dear Council,

Tonight's meeting includes a Facilities Master Plan discussion that references the City's resiliency goals and climate action plan commitments.

The CU South annexation proposal largely ignores both and has not been analyzed in the context of our climate policies.

First, overtopping of US35 could occur in any future floods greater than 100-year, as acknowledged by staff experts. That is unlikely to threaten critical structures, which are required to be outside the 500-year floodplain. But like in 2013, flooding could result in US36 and other key roads being closed and Boulder being isolated. This risk is absent from the discussion of the annexation's proposed 100-year mitigation.

The Boulder Creek Flood Warning Plan advises us that future large floods on South Boulder Creek would effectively cut off access in and out of Boulder. Roads at risk of being over-topped and possibly washed out include US36, Foothills, State Highway 93 (South Broadway), 170 (Eldorado Springs Dr.), Marshall Road, Arapaho, 55<sup>th</sup> and many local streets. The Plan states that this would exacerbate public safety problems, impacting the use and movement of emergency vehicles and equipment.

According to the Flood Warning Plan (underlining added):

Access in and out of Boulder would effectively be cut off during a large flood on South Boulder Creek. This would exacerbate problems and impact the use and movement of emergency vehicles and equipment. The following roads are at risk of being overtopped and possibly washed out:

\* State Highway 170 (Eldorado Springs Dr.) \* State Highway 93 (South Broadway)  
\* Marshall Road \* U.S. Highway 36 \* Foothills Parkway \* South Boulder Road \*  
Baseline Road \* Gapter Road \* Dimmit Avenue \* McSorley Lane \* Old Tale Road \*

**CU South Annexation Application (LUR2019-00010)**  
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Arapahoe Road \* 55th Street \* many local streets between Foothills Parkway and South Boulder Creek

The public safety risk looks like a steep price to pay for subsidizing CU's development in the floodplain, especially when safer alternatives are readily available on city-owned land designated for development.

Last on resilience, I-70 in Glenwood Canyon is an interesting case study of how climate can affect infrastructure, public safety, mobility and public spending in unforeseen ways. Mudslides and closures are from catastrophic wildfires linked to climate change, and the State's Emergency Declaration requested \$116 million in federal funds for at least a temporary fix. That stretch of I-70 was completed in 1992, and extreme weather events linked to climate change were not considered in design and location decisions.

Second, per tonight's agenda and City Climate Plans, Boulder commits to being a Net Zero city by 2035. But CU's development at "CU South" would be to LEEDS standards, not Net Zero. The 1,100 residential units and 750,000 square feet of non-residential would be the biggest construction project in the City in coming decades. If *new* construction by governmental entities isn't net zero, how can we hope to achieve the Net Zero goal? Government and new construction need to lead. Retrofitting oil buildings is more expensive or cost-prohibitive to get to net zero.

I'm unsure if the Net Zero goal is limited to City buildings or is city-wide. Regardless, if our climate commitment is authentic, it seems it should apply to the vast new construction anticipated for CU South or an alternative location.

Third, citizens raising questions about annexation at CU South are often perceived as anti-development and unconcerned with housing supply. Contrary to that assumption, the 500-acre Planning Reserve offers the size, flexibility and characteristics to build significantly *more* than the 1,100 units proposed at CU South due to site constraints – perhaps making meaningful progress on the jobs/housing imbalance.

Fourth, the City has lots of great plans and laudatory goals. To be effective, they need to be applied at specific projects and land use decisions. On CU South, there seems to be a tendency to pretend they don't exist if they are inconvenient.

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Informed decision-making depends on careful analysis, starting with asking the right questions. For annexation, the most important questions go to the big picture:

- Is this the right site for CU?
- Is the reserve worth looking at in light of what's at stake?
- Is 500-year flood protection warranted and affordable if CU builds elsewhere?
- After future floods, will we be wishing we hadn't allowed CU to develop land needed for 500-year flood protections but within the Development Zone mapped by the annexation agreement?
- Is the proposal compatible with our public safety, climate, resilience, jobs/housing, traffic, and environmental/open space goals
- CU has expressed willingness to analyze the reserve if Council took steps towards annexation, so why not take them up on that offer -- especially when the new regents are open to an informed approach?
- Is equity advanced by offering more high-quality open space experiences close to town where they are most accessible and most connected to our communities?

Fifth, on climate science, the new Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (August 9 2021) just came out. As we weigh the pros and cons of annexation, Council and staff should consider this Report, which supplements and reinforces what we already knew – and disregard at our peril.

The new IPCC Report confirms the climate science long argued by citizens and relied on by the City's Climate Action Plans and resilience policies (underlining added):

- In addition to repeated projections of more frequent and severe extreme weather events, the Report warns:

“Climate change is intensifying the water cycle. This brings more intense rainfall and associated flooding.”

- “B.3.2 A warmer climate will intensify very wet and very dry weather and climate events and seasons, with implications for flooding or drought (high confidence)”

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

- C.2.2 At 1.5°C global warming, heavy precipitation and associated flooding are projected to intensify and be more frequent in most regions in Africa and Asia (high confidence), North America (medium to high confidence) 40 and Europe (medium confidence). A
- C.2.3 At 2°C global warming and above, the level of confidence in and the magnitude of the change in droughts and heavy and mean precipitation increase compared to those at 1.5°C. Heavy precipitation and associated flooding events are projected to become more intense and frequent in the Pacific Islands and across many regions of North America and Europe (medium to high confidence) 40.

Across Colorado and the globe, we're learning that failing to consider the science can lead to short-term decisions with risky and expensive medium- and long-term consequences.

Sixth, the climate emergency is real. But any attempt to shortcut regular processes or limit a robust public debate by presenting annexation as an “emergency measure” that is somehow of immediate effect is an insult to citizens and voters.

If annexation is a good idea, Council should welcome robust debate, including a city-wide vote should citizens submit a qualifying petition. The “emergency” language in Section 10 of draft Ordinance 8483 should be deleted. This is an obvious attempt to avoid citizen engagement and undermine the rights to initiative and citizen petitions in the Colorado Constitution.

A vote for a version of the ordinance including this language is a vote against participative democracy that suggests Council is above the law. While Council has not yet acted in the 8 years since the 2013 flood, I believe that the Manor (the most important critical infrastructure in the downstream floodplain) has implemented important flood mitigation infrastructure improvements.

The brief window for a citizen petition and city-wide vote is a small fraction of the many years Council has deliberated, both before and after the 2013 floods. The emergency aspect of the draft ordinance has not been debated or discussed. None of the City's talking points, FAQs or summaries on the CU South webpage mentioned this maneuver. It is a non-starter.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

As a practical matter, we are still looking at a draft work-in-progress as we approach first reading. Key regulatory approvals from outside agencies have not been obtained, and their decision or feedback could change the project. The underlying traffic study is fatally flawed by assumptions that question the credibility and conclusions of the entire study, relying on 500,000 instead of 750,000 square feet of non-residential infrastructure among other glaring problems. Neither staff nor consultants corrected the glaring error in the draft study, despite 750k being in the briefing book and draft annexation proposal.

Instead of attempting to create a pretend emergency of its own making to insulate a risky and controversial annexation from public review and a city-wide vote, Council needs to focus on the real climate emergency. If annexation stands on its merits, Council would welcome debate and a city-wide vote.

### Conclusion

The ball is in Council's court. I understand the urgency on flood mitigation. I hope we can all agree on the importance of getting it right. That goes to high-level decisions about where CU builds and what level of flood protections are reached today -- or that remain available tomorrow after witnessing future storms.

It's worth taking the time to make informed decisions and keep future options open with lives, property and our core values on climate, environment and a livable community on the line.

I appreciate your commitment to make decisions informed by science, facts, data and what's best for the City. Some aspects of annexation seem to be fueled by inertia, rather than common sense, risk assessment, and a perspective grounded in how the legacy of today's decisions will be viewed in 50 years, or 7 generations time.

best,

Mike Chiropolos

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

3325 Martin Drive Boulder CO 80305

303-956-0595 [mikechiropoulos@gmail.com](mailto:mikechiropoulos@gmail.com)

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

**From:** WhiteBonus \_\_\_\_ <white\_bonus@hotmail.com>  
**Sent:** Monday, August 9, 2021 2:21 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South/CO 93 intersection

**External Sender**

Dear Boulder City Council Members,

Regarding CU South, if, as a city statement begins; **“After decades of analysis...”** has led to the Draft Annexation Agreement, why does the planned CO 93 intersection stick out like a sore thumb?

As recently as 6/28/2021, Boulder County’s **Community Planning & Permitting** report points out major flaws in the transportation-intersection plan. The plan doesn’t demonstrate the ability to comply with the **Boulder Valley Comprehensive Plan**, nor appear to meet the **Colorado Department Of Transportation** standards.

Look for yourselves. The intersection is planned for the east side of CO 93 (south of where Broadway becomes CO 93 at the city limits boundary), midway between Chambers Drive & the east turn off to Marshall Road. The intersection would be where the slope is greatest & the road makes a big bend.

With patience & perfect daylight conditions, right turns entering/exiting the intersection shouldn’t be too risky, while left turns (in or out) greatly elevate the risk level. Nighttime right turns in or out shouldn’t be too risky, while left turns in or out, again pose much more risk. Under inclement conditions, the risk level for any turn could be off the charts.

It would take a monumental reconfiguration of the land & the highway for this proposed intersection to be safe, & that is not part of the Agreement.

Since a monumental reconfiguration is unlikely, the city & university should work on a “plan B” for the second access road into CU South. Because of that, the Draft Annexation Agreement should not be approved until at least a suitable substitute for the CO 93 intersection is found.

Steve Whitehead  
1720 S. Marshall Road #2  
Boulder, CO 80305  
720-635-5701

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Caryl Stalick <cstalick@aol.com>  
**Sent:** Friday, August 20, 2021 8:43 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South: Traffic on Table Mesa

**External Sender**

Another example of current traffic on Table Mesa:

[Name deleted] • [Martin Acres](#)

Today I drove up to Whole Foods at 7:45. On the way back, Table Mesa was backed up from Broadway all the way to Martin - there was absolutely no way to turn into Martin Acres until then. Can you imagine what that will look like once the traffic is backed up by all the additional proposed trips? People won't even be able to take the Table Mesa off ramp. I suspect it won't take any time at all to realize that there will need to be a whole new rework of the off ramp and the citizens will again pay for CUs project

13 min ago

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Caryl Stalick <cstalick@aol.com>  
**Sent:** Friday, August 20, 2021 5:08 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South: Another traffic complaint

**External Sender**

[Name Withheld] • [Majestic Heights](#)

I feel strongly that people will die in car accidents that result from the additional pressure on this section of Table Mesa. I live just east of the intersection with Broadway and already hear crashes happening more than I am comfortable with. I am regularly frustrated at the existing traffic while trying to get to and from my home. The traffic in this area is already well over the volume it was designed for, without any real viable options for accommodating even more traffic. I invite the people of Frasier Meadows to come hang out here during in rush hour, and tell me if you lived here, would an increase in traffic (meaning frustration for those who live here, and of course accidents, and injuries or more,) be an acceptable trade-off for the minimal protection they will get from future floods? The quality of life in this neighborhood is being sacrificed for the good of CU's expansion, and we get to pay for it to boot. Seriously, it will create an even more dangerous situation here than we are already experiencing, and is being ignored by the powers that be. I definitely support flood mitigation at CU South. Why won't CU do the land swap? So disappointed in my alma mater.

[August 20, 2020]

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** rmheg@aol.com <rmheg@aol.com>  
**Sent:** Wednesday, July 28, 2021 4:49 PM  
**To:** openforum@dailycamera.com; Council <council@bouldercolorado.gov>  
**Subject:** Cu South Will Worsen Boulder's Housing Situation

**External Sender**

I have significant concerns about the annexation agreement CU and city of Boulder is trying to get past the Citizens of Boulder and passed by City council. For people who took the time to read the 8 page annexation it was revealed that CU will be able to build 750,000 sq ft of NON residential buildings vs the 500,000 ( still alot of space) initially requested. Initially CU committed to 1,100 housing units for 2,200 people. Yet this increase in non residential buildings could create 5000 new employees for the non residential building!! ( students, faculty, staff, other workers). That will completely negate any additional housing from taking any more pressure off housing in Boulder and will just add more stress! Meanwhile, CU's 2021-2022 enrollment is increasing by 840 students! ( Not to mention increase staff and workers for the non residential buildings at CU South- no way all these people already live in Boulder). And there is no commitment from CU to not continue to increase student enrollment every single year! And did you know the annexation agreement allows CU to build 4,000 sf mansions as its "housing?" How much profit is CU going to make on CU south housing while the City foots the bill and Citizens of Boulder suffer from increased density! And the agreement only states CU MIGHT build affordable housing UP TO 5 acres! COME ON City Council! You need to do better for Citizens of Boulder.

Rosemary Hegarty  
375 28th St Boulder, CO 80305  
[rmheg@aol.com](mailto:rmheg@aol.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: [gmangcl@aol.com](mailto:gmangcl@aol.com)

To: [BrockettA@bouldercolorado.gov](mailto:BrockettA@bouldercolorado.gov) <[BrockettA@bouldercolorado.gov](mailto:BrockettA@bouldercolorado.gov)>

Sent: Tue, Aug 17, 2021 8:12 pm

Subject: Re: CU South proposed annexation agreement

I have so many responses to Aaron's reply ... like really, this massive growth on the board is "moderate growth" ... this is beyond absurd ... Boulder should not be confused with "our neighbors" ... it's Boulder, not Lo do, not Tennyson NW Denver, or other cities from which all these planning board and city council members came ... they have NO idea of the real Boulder ... and guess what, the new city manager is from Austin TX city attorney's office where Austin residents were livid about the uncontrolled growth (one of the biggest college town/cities in the country) ... and it seems the City now wants a patsy city attorney to promote the city's chamber of commerce growth agenda ...

Rachel and Sam, what's your conflict with CU ?

... you seem dialed into transforming the city into some sprawling city that will transform Boulder into something that will never resemble the real Boulder, a great college town that can sustain itself without massive traffic and density ... you guys will be responsible for transforming Boulder into a ridiculous suburban city which is irreparable ... please explain why you are so bought and paid for CU's shtick

thank you

Garth Lucero  
Boulder

-----Original Message-----

From: Brockett, Aaron <[BrockettA@bouldercolorado.gov](mailto:BrockettA@bouldercolorado.gov)>

To: [gmangcl@aol.com](mailto:gmangcl@aol.com) <[gmangcl@aol.com](mailto:gmangcl@aol.com)>

Sent: Tue, Aug 17, 2021 11:58 am

Subject: Re: CU South proposed annexation agreement

Hello Garth. Thanks for the response. Unfortunately though, after many years of work and analysis on this project, I'm not aware of any viable flood protection options that don't involve CU's cooperation. We are being careful though to not give them a blank check, but rather to include many restrictions on how they could eventually develop, including preserving 119 acres as permanently protected open space, a 55' height limit, and many others. There are enforcement measures for the trip cap, and CU would be required to offer many alternatives to private vehicle travel, including frequent transit, bike-share, carpooling, etc.

Regarding overall development limits, I think the key is maintaining a moderate pace of growth. We already have very strict limits set by our urban growth boundary, our world-class open space system, our height limit, the blue line etc. Within those limits, we've seen population grow at a little under 1% a year for the last couple of decades, which is much slower than our neighbors, and somewhat slower than the country as a whole. As long as we focus that development in areas with good transit, walking and biking options, like the 30th and Pearl area where the recent development has replaced asphalt and aging strip malls, the character and beauty of our fair city will be unaffected. And some of those new residents might even increase our level of genius!

Best,

**Aaron Brockett**

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



**City of Boulder  
Council Member**

C: 720-984-1863

[brocketta@bouldercolorado.gov](mailto:brocketta@bouldercolorado.gov)

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**From:** [gmangcl@aol.com](mailto:gmangcl@aol.com) <[gmangcl@aol.com](mailto:gmangcl@aol.com)>  
**Sent:** Monday, August 16, 2021 4:39 PM  
**To:** Brockett, Aaron <[BrockettA@bouldercolorado.gov](mailto:BrockettA@bouldercolorado.gov)>  
**Cc:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** Re: CU South proposed annexation agreement

Councilman Brockett,

thank you for your response to my email -- you are the only council member that replied.

it is disappointing that you continue to buy into the conclusion that the only way to get flood mitigation around the Fraser Meadows area is to give away all the city's annexation amenities forever, to forego the city's fundamental planning/zoning powers and let CU do what it chooses. There are many viable options for flood mitigation which incidentally, would provide more flood relief to all of south Boulder than the plan contained in the existing draft annexation agreement. It is also sad that the great City of Boulder can be manipulated by CU into basically an unequal tying arrangement -- CU conditions a donation of some land for some level of flood mitigation in exchange for the city giving CU a blank check to develop a massive new campus.

you also seem to take a dismissive approach to the disastrous traffic gridlock certain to result throughout south Boulder. You indicate that CU has agreed to some nebulous trip count limitation, but amazingly there seems to be no enforcement provisions nor any smart solutions in place to address the massive traffic hazards which will be created by full development of this land.

finally, you did not answer the fundamental question I posed -- how much growth, development and density in Boulder is enough, and how much more continuous growth and development can we sustain before it destroys the beauty, character and genius of Boulder? (my previous email referenced almost a dozen huge developments on tap for Boulder including two major hotels on the Hill, a new CU campus, and numerous proposed developments with 200-400 residential units throughout the city).

I look forward to your answer to my question above.

thank you,

Garth Lucero  
Boulder

(I would welcome other council members to answer my simple question above)

-----Original Message-----

From: Brockett, Aaron <[BrockettA@bouldercolorado.gov](mailto:BrockettA@bouldercolorado.gov)>  
To: [gmangcl@aol.com](mailto:gmangcl@aol.com) <[gmangcl@aol.com](mailto:gmangcl@aol.com)>  
Sent: Wed, Jul 28, 2021 12:15 pm  
Subject: Re: CU South proposed annexation agreement

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Hello Garth. Thank you for your email, I appreciate you writing us. I wanted to address a couple of the points you raise. First, the primary motivation for considering the annexation agreement is flood protection for the more than 2,300 Boulder residents that are currently in harm's way in the South Boulder Creek floodplain. Flood mitigation along that waterway has been studied carefully for approximately 20 years and many alternatives have been examined and rejected, including a number of possibilities that would have had much greater impacts on sensitive ecological areas. The current proposal has been found to be the best possible one in terms of practicality and open space impacts.

Regarding transportation, the annexation agreement stipulates a maximum number of trips (around 5,000 per day) that can be generated from the site so there is a guarantee that the roadway impacts would be manageable. CU has also committed to extensive multi-modal transportation options to make that cap practical.

Best,

**Aaron Brockett**



**City of Boulder  
Council Member**

C: 720-984-1863

[brocketta@bouldercolorado.gov](mailto:brocketta@bouldercolorado.gov)

**From:** gmangcl@aol.com <gmangcl@aol.com>

**Sent:** Tuesday, July 27, 2021 8:12 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South proposed annexation agreement

**External Sender**

Dear City Council members,

as a resident of Boulder for several decades, I feel compelled to comment about the above-referenced proposal. For numerous reasons, a massive development of this crown jewel area of our town is a seriously bad idea, and will be a mistake that lasts forever.

it seems the driving force for this annexation agreement is a combination of flood control and more affordable housing, both laudable and necessary goals. However, more effective flood mitigation can be attained in other ways, and the number of affordable housing units provided by this proposal is several hundred units less than normally required by city annexation agreements. Moreover, this proposed annexation is far too vague and leaves the City toothless in terms of future enforcement options.

"paved paradise and put up a parking lot" --- Joni Mitchell

council members -- please tell me how much growth and development in Boulder is enough and, how much more continuous growth and development can we sustain before it thoroughly destroys what we have? Spine Road, Armory, Alpine Balsam, Waterview, Ball, Diagonal Plaza, Macys, Google, two major hotels on the Hill and now a vast new university campus without the surrounding infrastructure to support it? It makes no sense.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

I would like to highlight one of many critical issues of this proposal which is inexplicably downplayed, if not ignored --- the lack of adequate transportation infrastructure surrounding the CU South property to accommodate the massive traffic and safety issues which are guaranteed to result from this proposed annexation.

the City of Boulder was never designed nor intended to be a traditionally urban area replete with freeways, boulevards, dense housing, and all the accompanying traffic, noise, congestion, safety and environmental problems. That is the beauty and genius of Boulder with its open space and unique character. How can this city, and more specifically South Boulder, take on tens of thousands of additional cars and trucks resulting from the proposed CU South annexation? Have you seen the miles of cars every morning and afternoon on US 36 and Foothills cutting through Boulder precisely in the area of the proposed annexation?

our city has its fair share of bike and public transit commuters, but most are still reliant on automobiles. The proposed 1100 residential units, plus athletic complexes, research and classroom buildings and more, will add multiple thousands of additional car trips daily. Please do the math for all the residences (1, 2 and 3 bedroom units) with spouses, roommates, significant others, and visitors, all needing to go to classes, jobs, and to shop for goods and services. Most residents, as well as the many employees and service workers at the new campus are not going to take a shuttle bus or bike to grocery stores, restaurants, recreation centers, doctors/dentist offices, pet care, especially in bad weather. This gateway area of Boulder will be transformed into an urban nightmare with nonstop traffic congestion. By the way, these traffic issues apply to virtually every proposed development in Boulder (see partial list above).

lastly, the entire dealings concerning the proposed annexation between the City and CU is lacking any structure, definition and defies normal procedures in any large scale negotiation. The university seems to dictate, the City obeys. How can the City authorities analyze and vote on a massive land use and annexation proposal that provides only color-coded maps with generic designations and no concept plan, no artist rendition or depictions, only guess work and unenforceable terms.

I urge you to deny any fast track deal, and demand serious study and consideration of all the the problems and potential solutions that have given rise to this proposal.

thank you,

Garth Lucero  
Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Madelyn Wynne <mjpwynne@gmail.com>  
**Sent:** Monday, July 26, 2021 5:23 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU SOUTH Petition

**External Sender**

Since the petition against CU SOUTH annexation has enough signatures for it to be a ballot item in the November 2021 election

How can the City Council make a decision ahead of the November election?

This isn't a democracy if the citizens of Boulder aren't allowed their vote.

## Save South Boulder

[tjSponungsodesrS 1eoedo5u](#) ·

WE DID IT. 🥳 OUR PROPOSED BALLOT MEASURE "LET BOULDER CITIZENS VOTE ON ANNEXATION OF CU SOUTH" HAS BEEN CERTIFIED AS "SUFFICIENT, WITH A TOTAL OF 3,420 VALID SIGNATURES!!

The city did its darndest to keep us off of the ballot by disqualifying roughly 1,000 of our signatures but thankfully we planned for something like this to happen and our incredible volunteers collected 4,600 signatures, when we only needed 3,336 to qualify. There may be additional legal hurdles to clear but this is a great start.

I would like a reply from someone.     Madelyn Wynne (citizen since 1970)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jody Berman <jody@bermaneditorial.com>  
**Sent:** Thursday, August 19, 2021 11:32 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South objections

**External Sender**

Council:

I am a 36-year resident of Boulder. Please note my strong concerns and objections to the revised draft annexation agreement with CU:

1. Inadequate flood protection: The proposed detention pond on South Boulder Creek will fill up and overrun if rain significantly exceeds the 100-year size, which is inevitable due to more atmospheric moisture from global warming. Moreover, expanding the pond to 500-year capacity has serious issues, too, because of the high water table, CDOT's concerns with raising the dam, and huge cost.
2. Undesirable impacts: excessive CU development; creation of traffic and congestion; destruction of wetlands and habitats that birds and other wildlife depend on; elimination of popular recreation grounds for Boulder citizens.
3. Council passing the flawed and highly controversial annexation ordinance prior to the November election in order to invalidate the citizens passing an initiative that would require a citizen vote on the agreement.
4. Improper, closed-door communication with city and CU representatives.
5. CU's aggressive growth being at odds with preserving the character of Boulder and the quality of life here.

Please allow for a day-long (at least) public seminar where ALL sides (CU, city, citizens, experts) can share facts, concerns, suggestions--and then allow for the citizens of Boulder to vote on the plan in November. Surely, we can come up with solutions that will satisfy and serve more people!

Thank you,  
Jody Berman

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Curt Brown <cbrown1902act@gmail.com>  
**Sent:** Tuesday, August 10, 2021 10:19 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Noise and Light provisions insufficient

**External Sender**

Dear Council Members:

First, thank you for all of your efforts on CU South. As all who have worked on this know, it is a Gordian Knot of competing interests.

The Open Space Board of Trustees tried to make clear that an agreement by the University to adhere to the City's noise and light ordinances was insufficient by itself to protect the habitat and human use values of the adjacent open space, for two reasons: (1) applicable ordinances would allow for stadium lights and high levels of amplified sound, and (2) the draft agreement includes an complete exemption from City enforcement of noise ordinances for any state entity.

If we are to prevent CU-South amplified outdoor rock-concerts, fireworks, nighttime sporting events and the like from degrading the adjacent State Natural Area (that we have acquired and protected with millions of our tax dollars), the Annexation Agreement must be improved by:

- Deleting the provisions 17. c. and d. in the August 6, 2021 Annexation Agreement, and
- Adding a provision that restricts noise and light pollution from CU-South's Flood Control and Development Zones onto the South Boulder Creek Natural Area, and
- Requiring the inclusion of provisions recommended by the Planning Board and OSBT – limiting recreation field uses to daylight hours, and ensuring that use of the CU property will not result in light and noise pollution impacts on the adjacent OSMP land, including but not limited to that from nighttime sports lighting and amplified sound systems even if the same would otherwise be allowed under City codes.

As an aside, why does the University need a lighted sports field in an area dedicated to housing and research, and adjacent to these natural areas? The University main campus has at least six lighted recreation fields. Why is daytime recreation use not sufficient in the CU South area? Although the Guiding Principles state that CU South will not include "large-scale sports venues", why does this not prohibit a football-sized field with stadium lights, bleachers, amplified sound systems and concession facilities?

Thank you for your efforts to make this agreement one that protects our adjacent natural areas and neighborhoods!

Curt Brown  
Former OSBT Chair

Curt Brown  
303-886-7083  
[cbrown1902act@gmail.com](mailto:cbrown1902act@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: JAMES MARTIN <jimmartinesq@icloud.com>  
Sent: Tuesday, August 17, 2021 12:54 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Re: CU South legal question

External Sender

Thought of another question.

Will the zoning for CU south after annexation be P? Has that zoning designation for Public use been changed? If it is P zoning then what if any control will the city have with the parcel?

How legally binding is the agreement once the parcel is annexed?

Jm

Jim Martin Esq.

> On Aug 16, 2021, at 1:16 PM, JAMES MARTIN <[jimmartinesq@icloud.com](mailto:jimmartinesq@icloud.com)> wrote:

>

> Hi everyone -

>

> I am thinking about doing a column on CU South

>

> Could someone take a stab at answering the legal question of : "what would be the legal effect of council passing the annexation agreement and later the citizen initiative vote is no"?

>

> Best to you all. And thanks for the many hours and hard work to all the council members not seeking re-election.

>

> Best

>

> jm

>

>

>

>

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>

>

> Jim Martin Esq.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Fred Donaghy <rhynehart@aol.com>  
**Sent:** Friday, September 3, 2021 9:27 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South etc

**External Sender**

Dear Council Folks

This is the second email that I have sent you. The first letter that I sent had my many reasons for not approving CU South and letting the citizens decide with a vote in November, kinda like a democracy should do. The only answer I got was "CU would not even consider a land swap" without addressing any of my other concerns, such as a 100 year flood protection would do literally nothing for a 500 year flood that is getting more likely with climate change, the major increase of traffic in an area already over burdened, ruining a plot of land that should remain as open space and CU adding more and more and more students into a city that cannot even find housing for the workers here.

What got me to write this email was Steve Pomerance's editorial today. He was spot on when it comes to the current council holding closed door meetings with CU and allowing only public comment that is set up to agree with them, this is not democratic. I urge you to let the people vote on this and make it a MUST that if CU wants another campus it MUST be on the N Boulder property that makes so much more sense.

And while I am at it. I do not understand why the past and present councils think that they can provide low cost housing to anybody that wants to live here. Look around, it is not working. Boulder is just too popular of a place to live and the more that gets built the more people want to live here. The traffic in town is becoming more unmanageable every day and yet you allow more and more build out, this is going to ruin our fair city that has been home to me and my business for 42 years

Thanks for your time

Fred Donaghy

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jeff Flynn <jflynn@jmflynn.net>  
**Sent:** Saturday, August 28, 2021 6:38 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south editorial today mocking Rachel Friend

**External Sender**

I'm sure you all saw this.

<https://www.dailycamera.com/2021/08/27/opinion-a-robust-correction-well-not-exactly/>

I honestly believe the tide is turning on this issue and may be the thing around which the election revolves.

There should have been eminent domain from the beginning if CU was not willing to give the easement discussed in the article. Why wasn't that discussed from the beginning? Why was it always a push to accommodate CU? Boulder city council should have been pursuing these issues first, doing what is best for Boulder, not what is best for CU.

The citizens have a right to vote on this issue. It is a dereliction of your duty to jam this through before the November ballot vote. It's not too late to pull back and let the vote occur.

Jeffrey Flynn

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** gnmccurry@gmail.com <gnmccurry@gmail.com>  
**Sent:** Tuesday, July 20, 2021 4:57 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Crystal Gray <graycrystal@comcast.net>; Council <council@bouldercolorado.gov>  
**Subject:** CU South Draft Annexation Agreement comments

**External Sender**

Planning Board Members,

The draft Annexation Agreement (AA) is in violation of the Boulder Valley Comprehensive Plan (BVCP) in the many ways and should not be approved by the Planning Board in its current form. Examples include the following:

- **Section 1.07 Adapting to Limits on Physical Expansion:** Section 15(i) of the AA states that non-residential buildings will be up to 750,000 square feet, with additional 1,100 residential units and an additional 5 acres with an estimated 100-110 affordable housing units. These buildings would all be in currently undeveloped areas and represent a substantial expansion of the City, which violates this section's statement to *increasingly emphasize preservation and enhancement of the ... assets of the community*.
- **Section 1.09 Growth Requirements:** This section states that *growth must add significant value to the community, improving the quality of life*. Development of CU South will add congestion to the roads, increase the demand for local housing, place additional burdens on our water and wastewater utility infrastructure and our roads.
  - Development of the CU South property will add thousands of cars per day to the already-congested roads in south Boulder. The trip caps given in Section 21 of the AA, of 5,550 vehicle trips/day from South Loop Drive and 750 trips/day onto Highway 93, plus no trip cap through Tantra Drive for campus transit (proposed for every 10 minutes) and maintenance vehicles, and exemptions on 12 days/year (AA Section 23). The University's draft traffic study was flawed since its travel survey was done during the height of Covid restrictions, including after the Boulder Valley School District had closed all schools, and assumed non-residential buildings would be limited to 500,000 square feet. These flaws result in it grossly undercounting normal vehicle trips on the affected roads and the projected trips. Yet somehow, the final traffic study showed a further reduction in vehicle trips on these roads. Anyone who lives in south Boulder will be adversely affected by the additional traffic associated with a CU South campus. The AA has no effective mechanism to limit traffic from CU South and so the trip caps will undoubtedly be far exceeded. How does that add significant value to the community?
  - The University and City planning staff tout the AA's emphasis on housing. However, the 750,000 square feet of non-residential buildings will bring a large influx of workers. Using commercial real estate guidelines of 150 square feet per office worker, the 750,000 square feet results in 5,000 workers. This number will far exceed the 1,100 residential plus 100 to 110 affordable housing units. The result is even more demand for housing in Boulder. This will drive up housing prices and make the City even less affordable than it is now. How does that add significant value to the community?
  - Section 11 (h) of the AA indicates that the City will be responsible for constructing, operating and maintaining water and wastewater utilities to the CU South campus. CU will have to pay Plant Investment Fees for new construction. However, the City is burdened with aging water and wastewater infrastructure and is significantly behind on maintaining this infrastructure, with an

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

approximately 100-year backlog of projects. The large influx of residents and workers to the CU South campus will place a strain on our utility infrastructure. This will result in an increase in maintenance and replacement of that infrastructure, the cost of which will be borne by Boulder residents. How does that add significant value to the community?

- **Section 1.10 Jobs: Housing Balance:** The development of the CU South property will make the City's current imbalance of jobs and housing even worse. This is perhaps the most misleading aspect of the AA, and of how CU and City staff have presented to the public.
  - The large area of non-residential buildings will bring with them faculty, staff, maintenance, and students. An estimate using commercial real estate guidelines of 150 square feet per office worker, the 750,000 square feet results in 5,000 workers. This number will far exceed the 1,100 residential plus 100 to 110 affordable housing units.
  - The result is that there will be more demand for housing in Boulder and the jobs to housing ratio will be even further out of balance than it is today.
- **Section 1.16(d) Annexation:** This section states: *In order to reduce the negative impacts of new development in the Boulder Valley, the city will annex Area II land with significant development or redevelopment potential only if the annexation provides a special opportunity or benefit to the city. ... emphasis will be given to the benefits achieved from the creation of permanently affordable housing....reduction of future employment projections... environmental preservation.* Comments provided for Section 1.09 above indicate the annexation of CU South and its development will not provide a benefit to the City. In addition,
  - the small number of affordable housing units, estimated in the AA to be 100-110 units, is minor compared to the significant negative impacts of traffic and additional demands for housing;
  - the workers (faculty, staff, maintenance) needed to service and support activity within the 750,000 square feet of non-residential buildings will increase, not reduce, future employment projections; and
  - the development of residential and non-residential buildings across 129 acres of land in the Development Zone and CU's plans to construct recreational fields and sports venues that can seat up to 3,000 people (AA Exhibit I) on 30 acres of the Flood Control Zone (AA section 12) is anything but environmental preservation. Add to that development the noise and lighting associated with such a massive development and presence of the thousands of students, staff and faculty who will live there and that will create a large area devoid of wildlife and natural environment. That is the opposite of environmental preservation, and would occur adjacent to a State Natural Area, designated because of its unique and rare habitat and endangered species.
- **Section 2.05 Design of Community Edges:** This section includes the statement: *Major entryways into the Boulder Valley will be identified, protected and enhanced.* It is not clear how allowing buildings of 175,000 square feet, nearly as large as CU's Aerospace Building on the East Campus, allowing development of 129 acres of land including 750,000 square feet of non-residential buildings, and allowing building heights to be 55 feet and 4-5 stories high at the southeast entrance to the City protects and enhances our community edge. The development will be particularly noticeable for everyone driving into Boulder along Rt 36, down the long hill from Davidson Mesa.
- **Section 2.10 Preservation and Support for Residential Neighborhoods:** This section states: *The city will work with neighborhoods to protect and enhance neighborhood character and livability.. and The city will seek appropriate building scale and compatible character in new development...*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

- Allowing campus transit buses to go through the Tantra neighborhood, proposed for every 10 minutes, 15 hours per day, along with maintenance vehicles to service 1,100 housing units and 175,0000 square feet of non-residential buildings will neither protect nor enhance the character and livability of this neighborhood.
- Allowing non-residential buildings as large as 175,0000 square feet and residential buildings larger than 4,000 square feet would be completely out of character for both the Tantra and Hy View neighborhoods. The setbacks listed in Exhibit C of the AA are inadequate to preserve the neighborhood character of the Hy View neighborhood.
- **Section 2.13 Protection of Residential Neighborhoods Adjacent to Non- Residential Zones:** This section states: *The city and county will take appropriate actions to ensure that the character and livability of established residential neighborhoods will not be undermined by spill-over impacts from adjacent regional or community business zones.* The campus transit buses and maintenance vehicles driving through the Tantra neighborhood will adversely affect the livability of this established residential neighborhood.
- **Section 3.21 Preservation of Floodplains.** This section states: *Undeveloped floodplains will be preserved or restored where possible...* The northern part of the CU property is within the 100-year floodplain, according to the City's Flood Hazard Zones maps ([maps.boulder.colorado.gov/flood-zones](https://maps.boulder.colorado.gov/flood-zones)). Constructing an earthen dam across part of this area, filling in an existing pond, and excavating other areas of the floodplain to create a detention area for the Phase 1 flood mitigation violates this section of the BVCP.
- **Section 3.22 Floodplain Management.** This section includes the statement: *The city seeks to manage flood recovery by protecting critical facilities in the 500-year floodplain...* and
- **Section 4.02 Climate Adaptation Planning:** *The city and county will cooperatively develop and implement a climate change adaptation plan to identify current vulnerabilities ... and determine strategies to protect the community against the potential negative impacts associated with climate change. These challenges include ...flash flooding...*
  - After selecting a 500-year level of flood protection in August 2018, in a February 2020 study session, and without a public hearing, the City Council decided to abandon the 500-year plan and in June 2020 voted to adopt the Variant 1, 100-year flood mitigation plan.
  - The 500-year plan protects 1,800 more residences and 470 more properties and, now that the costs for fill and CU damages have been reduced, the 500-year plan is far more cost-effective than the 100-year plan. A 2014 study done by the City Utilities department on the damage the 2013 flood shows that nearly half (44%) was in the 500-year flood zone.
  - Although we don't know the specific impacts of climate change on the magnitude and frequency of significant flood events, the City's recent report on how climate change could affect the South Boulder Creek flood mitigation (Lynker, 2020) states that the potential for extreme rainfall is generally expected to increase with continued global warming, and that climate change should be considered into long-range planning.
  - Since the annexation agreement is tied to South Boulder Creek flood mitigation, the climate change science, improved safety for Boulder citizens' life and property, and prudence suggests that this Section of the BVCP should be adhered to.
- **Section 6.03 Reduction of Single Occupancy Auto Trips:** The development of the CU South property will increase traffic and congestion in the area.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

- The 750,000 square feet of non-residential buildings will draw an estimated 5,000 faculty, staff and students. While some of these may live locally, there still will be thousands of additional trips to this location. The AA should not be approved until the traffic impacts are delineated accurately.
- The trip caps of 6,300 vehicles per day plus uncounted trips for maintenance vehicles as given in section 21 of the AA will increase, not reduce, auto trips. It is assumed that, like today, most of those trips will be single occupancy vehicles. The additional vehicles also will hamper Boulder's goals to reduce greenhouse gas emissions and decrease air quality (**BVCP Section 6.20**).
- **Section 8.03 Equitable Distribution of Resources.** This section states: *The city and county will consider the impacts of policies and planning efforts on low- and moderate- income ... populations.* The cost to the City of this AA will place a burden on all residents and those costs need to be clearly understood before annexation occurs.
  - The South Boulder Creek flood mitigation design includes high costs associated with AA. These include an estimated \$3 million for earth fill, \$2 million for South Loop Drive, and \$2.8 million to purchase 75 acres of Open space for a total of nearly \$8 million. In addition, any other purchases of the property would cost the City \$37,500/acre. These costs will be added to residents' utility bills and City taxes.
  - The neighborhoods located in the immediate vicinity of CU South include Tantra, Hy View, Martin Acres and Table Mesa. These neighborhoods are populated primarily by middle income residents, with several low-income enclaves. The development of CU South would target these populations unfairly, placing additional burdens of increased traffic, congestion and noise in an already busy area.

Although not a comprehensive list, the City will violate the sections of the BVCP listed above if the CU South property is annexed and developed as proposed. Therefore, I ask that the Planning Board reject the annexation agreement as currently written and request that the agreement be rewritten to be more consistent with the BVCP.

Thank you for your consideration of these comments.

Gordon McCurry  
1200 Albion Way  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Kay Forsythe <mikekayforsythe@gmail.com>  
Sent: Monday, July 19, 2021 9:13 AM  
To: Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>  
Cc: Laura@sbcreekactiongroup.org; Carden Pat <ptc39@comcast.net>; Bradley LouiseFMpac  
<billandlouisebradley@gmail.com>; Cote Don <doncote07@gmail.com>; Johnson Tim  
<tjohnson@frasiermeadows.org>  
Subject: CU South Draft Annexation Agreement

External Sender

We are so pleased that the Flood Mitigation Project has advanced to this level. Almost eight years ago, Frasier Retirement Community suffered huge loses, as did our South Boulder Creek neighbors. Finally, we see a light at the end of the tunnel. Frasier has tried to protect ourself spending millions to restore our property and protect our campus with flood walls. We expect our City to further ensure our safety and that of our neighbors as well.

So thank you, for considering and including so many important aspects in this annexation agreement. We appreciate CU providing community access to their property. We are thrilled that an underpass at the confusing and dangerous Thunderbird-Table Mesa intersection is being considered and hopefully built — cost sharing seems like a good thing. Glad transportation issues and trip caps are being worked out. The height limits for development are needed to help restore town and gown confidence in one another. I'm very impressed by the University, by our City staff, our advisory boards and council members for working on such a positive and effective agreement.

Please, please help propel this agreement toward an effective means to guard our personal safety and prevent more property damage before another "100 Year Flood" hits again!

Thank you,  
Kay and Mike Forsythe  
4990 Thunderbird Drive  
Boulder 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Max Gould-Meisel <mrmgm88@gmail.com>  
**Sent:** Saturday, August 7, 2021 3:55 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Citizen Feedback

**External Sender**

To Whom It May Concern,

**We believe that Boulder residents and taxpayers should have a say in how much and what kind of development should be undertaken at CU-South.**

- We believe any annexation agreement between the City of Boulder and the University of Colorado should be guided by a ballot measure submitted to the residents of Boulder that specifies what the uses of the CU-South property should be and who should pay for any kind of development there.
- We believe that priority should be placed on developing a sensible and cost-effective flood mitigation project for South Boulder Creek that maximizes protection of open space and endangered habitat prior to the CU-South property being put to any other use.
- We support encouraging CU and the City of Boulder to explore alternative to the CU-South location for CU's expansion needs, as suggested in the Boulder Valley Comprehensive Plan.
- We believe the Boulder community at large supports exchanging the CU-South property for city owned land elsewhere. A land swap would protect the environment, and make flood mitigation for South Boulder Creek more feasible.
- A land swap could be a win-win for CU, the City, and the Boulder community

**We oppose moving forward with the Variant 1 flood mitigation design**

**We oppose moving forward with the Variant, 100-year flood mitigation design for South Boulder Creek:**

- It limits mitigation to a 100-year flood event, in the face of climate change induced events of much greater severity. Boulder's greatest flood expert, Gilbert White, repeatedly exhorted the City to plan for a higher level of flood protection than 100-year. The County mandates that CU's land must be raised above the 500-year flood level, largely because of Gilbert White's work, but the Variant 100-year provides citizens of Boulder far less protection than it does CU's property.
- We believe that the Boulder City staff and its consultants have inadequately studied the complexities of flood mitigation in South Boulder and City Council is unwisely rushing decisions on both flood mitigation and annexation in ways that are damaging to our community.
- Serious consideration was not given to alternatives more congruent with current federal recommendations that flood avoidance and mitigation be pursued, rather than flood control dams. We believe an upstream detention strategy should be considered and vetted as thoroughly as other options considered. Analysis the City has conducted to date is inadequate to evaluate both upstream detention opportunities and the full range of structural and non-structural flood mitigation solutions possible.

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

- Despite being tasked to do so by City Council in 2018, none of the critical studies of ground water, surface water flows, topography, soil characteristics, geotechnical issues, wildlife and habitat inventories have been completed, or their results reported to the public, the City's advisory boards, and City Council. A good and sustainable decision cannot be made without this critical information.
- The City Council's impending decision is not backed up by comprehensive analysis of its impact on nearby residential areas upstream from the proposed dam, as well as adjacent to and downstream from it.
- The proposed Variant I would take 5-7 years to complete, once preliminary engineering designs drawn up.
- Enormous costs, currently estimated between \$30 to \$45 million, are associated with Variant 1 as proposed, despite its limitations and no guarantees that regulatory agencies would grant permits for it.
- These costs will be paid for by Boulder residents, through large increases in the flood protection assessment fees in their utility bills. These could more than double.
- We Oppose CU's ill-advised plans to construct 1250 residential units, 8 academic buildings, parking lots, playing fields, athletic facilities and other infrastructure on its mined-out quarry pit. This site, with its high-water table, and its location in the middle of a floodplain, on unstable and slumping soil, and in an already overly-congested part of Boulder, is completely inappropriate for any such development.

Thank you,

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Max Gould-Meisel

[mrmgm88@gmail.com](mailto:mrmgm88@gmail.com)

(720) 470-3330

<https://www.mrmgm88.com/>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Jon and Cathy Swanson <jncswanson@gmail.com>  
Sent: Sunday, August 29, 2021 9:30 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South Ballot Measure

External Sender

Council Members:

For all the considerable controversy about the annexation of CU South, I urge you to take the pulse of the Boulder community before making your negotiated decision.

Editor Julie Marshall informed us of the significant decision for the Blue Line, when the then City Council thought the idea insane but the ballot measure revealed 76% of the voters supported the idea. That policy has been one of the defining turning points of our city.

I consider the annexation of CU South another defining turning point. One of the most perplexing arguments for annexation is flood mitigation for SE Boulder. That in light of a \$100 million expenditure for a wall and flood pond for 30% of the responsible 2013 flood waters to SE Boulder. This begs the question where city funds will come for the other 70% creek waters. High influencers in our community are urging restraint. The smart and courageous thing to do is to first hear from Boulder residents on the ballot measure.

Cathy Swanson  
2288 Kincaid Place  
Boulder 80304  
303.440.0436

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** A. R. Pete Palmer <a.r.pete.palmer@gmail.com>  
**Sent:** Monday, July 19, 2021 2:34 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexing

**External Sender**

Dear Planning Board:

I am unable to go to the virtual meeting Thursday evening regarding CU South issues (medical appointment) that have been summarized in the Camera. I live at Frasier, and I am one of the strong supporters of the plans worked out by CU and Boulder. About 6 years ago, I was inadvertently invited by Ruth Wright to be a part of her "team" which was expressing concerns about the flood berm to protect South Boulder residents north of Highway 36 who luckily lost no lives in the 2013 flood. I quickly realized that the focus of her group was really to do everything possible to block CU's use of its property, and I stopped my participation. Over the next years her "team" tried multiple tactics that dragged out the solution for the CU South problem until the present day. They were joined by Plan Boulder and the disingenuous "Save South Boulder" advertising (which was a cover for "Screw CU" and largely reflected NIMBY concerns of residents south of highway 36).

I am delighted that the University and the City seem to have reached a sensible plan, but I expect the deniers to continue to block progress or obfuscate in their emails or virtual comments to you for Thursday's meeting. There has been enough delay and I encourage you move forward and approve the plans so thoughtfully worked out by CU and the City. Thanks.

A. R. (Pete) Palmer

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Suzanne De Lucia <sdelucia@frontrangebusiness.com>  
**Sent:** Monday, July 19, 2021 1:42 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation Violates the Will of the People

**External Sender**

Dear Planning Board,

I am still reeling about the drive to ramrod the CU South annexation agreement through the system. It was my understanding that we followed the proper legal procedures to have the voice of the people heard via collecting signatures to get on the November ballot.

What kind of a Banana Republic is this?

Sincerely,

Suzanne De Lucia



Suzanne M. De Lucia, CBI  
Fellow Of The IBBA  
President  
Front Range Business, Inc.  
5353 Manhattan Circle, Suite 101  
Boulder, CO 80303  
Office: 303-499-6008  
Fax: 1-888-521-8219

[sdelucia@frontrangebusiness.com](mailto:sdelucia@frontrangebusiness.com)  
[www.frontrangebusiness.com](http://www.frontrangebusiness.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Andrew .Cragg <apcragg@gmail.com>  
**Sent:** Saturday, August 21, 2021 4:04 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation Support

**External Sender**

Hello,

I am writing to convey my support for the annexation of the CU South Property. I live as close as you can physically get to it (E Moorhead Cir) and recognize the need for more housing, flood mitigation, and university expansion space.

Don't let the loudest people in the room derail the conversation! I have felt that the Council has been exceedingly transparent with the process and has done a great job informing us local residents about the impact and changes.

My only complaint is that the process has been too slow, and that the bad faith complaints from the wealthy property owners is styming progress.

Best,  
Andrew Cragg  
903 E Moorhead Cir, Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** joynermcguire@comcast.net <joynermcguire@comcast.net>  
**Sent:** Tuesday, July 20, 2021 4:51 AM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexation recommendations

**External Sender**

Dear Planning Board members,

I would like to encourage you to vote to recommend that Council approve the annexation of the CU South property. The draft annexation agreement contains a number of significant community benefits, not the least of which is flood mitigation which will protect thousands of Boulder residents from a repeat of the devastating floods of 2013.

The draft agreement also includes significant commitments by CU for housing--1100 housing units for CU-affiliated employees/students, as well as five acres donated for development of affordable housing units for those with no CU affiliations. This is much-needed housing and a real driver for this agreement.

The commitment of CU to transportation monitoring and mitigation such as trip caps is innovative and quantifiable and is clearly designed to minimize impacts as a result of future development.

Transfer, acquisition and improvements to City Open Space are also significant and are made even more so by the transfer from CU to the City of water rights to Dry Creek #2.

The thoughtful environmental restoration of this degraded area is a real boon for the ecology of the property.

These are a few of the many community benefits that are contained in the draft agreement. We hope you will agree and recommend to Council that the annexation agreement be approved.

Best regards,

Kathie Joyner  
*South Boulder Creek Action Group*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** SHARON ROUSE <sharonrouse1@comcast.net>

**Sent:** Saturday, July 31, 2021 7:24 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Annexation letter

**External Sender**

I am a resident at 4656 Greenbriar Ct., Boulder, Co 80305.  
(303-589-2023).

Thank you for your consideration on this very significant decision. You are voting to make a permanent change to this open acreage.

Sharon Rouse

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Melissa Roberts <mnr80303@hotmail.com>  
**Sent:** Friday, August 13, 2021 2:54 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation feedback - Please do not move forward

**External Sender**

Hello, my name is Melissa Roberts. I was born in Boulder and raised in S.Boulder. I attended Bear Creek, Southern Hills, Fairview and CU. I left Boulder after my undergraduate degree, but quickly realized Boulder is where I wanted to be and moved back. I now live in S. Boulder on Gordon Dr., just down the street from my childhood home.

My entire life, the understanding and plan for the land that is the CU South campus has been open space. Please, do not continue to violate what this was intended to be (open space) because of some poor decisions in the past.

The annexation agreement is FLAWED and must NOT move forward. Not only are there endangered species in this area, Preble's Meadow Jumping Mouse and the Ute Ladies Tresses Orchid, but this land is part of the single largest contiguous stands of a particular tall grass species. This land is wetland and hugely important as a carbon sink to fight global warming, which Boulder has said we as a city are committed to reducing. Developing this land is in direct contradiction; this land has value as-is and should not be changed.

Additionally, CU's demand that the City pay for earth fill plus any "damages" to its property during flood mitigation construction or after construction "if the project should fail," constitutes a blank check whose cost will be added to all residents' utility bills.

The annexation plan has not, as required, assessed negative impacts on adjacent neighborhoods, including increased flooding risks, and increased noise, water, air and light pollution.

**It Will Cause Unacceptable Traffic Impacts Because It's Based on Inadequate Assessments of Traffic, Congestion and Danger to Drivers, Cyclists and Pedestrians**

The annexation agreement relies on an invalid "traffic/transportation study" to assess the impact of development at CU-South.

Stop this madness. If Boulder holds values and priorities focused on open space and reducing our impact on global warming, then this can not move forward as it stands today. If annexation does move forward prior to citizen input via election in November, that action speaks LOUDLY that Boulder is only focused on the almighty dollar and increasing the tax base, and shame on you, for selling out. No current council members will receive my vote in the future, and I will actively work to prevent your re-election as it will be clear you are not allowing the voice of the citizens to be heard.

Melissa Roberts  
4687 Gordon Dr  
Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Joe Polman <joepolman@gmail.com>  
Sent: Tuesday, July 20, 2021 5:01 PM  
To: Council <council@bouldercolorado.gov>  
Cc: boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
Subject: CU South Annexation comment

External Sender

Dear City Council and Planning Board,  
As a resident of South Boulder, employee of University of Colorado Boulder, and user of CU South, I would like to offer my comment on the plans for annexation of CU South.

Basically, I would like to speak in support of the draft annexation agreement dated July 12, 2021. I feel that this agreement represents a sound response to community concerns that have been expressed, and I believe the benefits of moving ahead with this project would be far-reaching. I see it as an especially strong plan with regard to flood mitigation, housing, and provision of open space.

I know there are many skeptics and critics of the plan, but at risk of offending my neighbors, I believe that much of the criticism is rooted in fear of change and a "NIMBY" response to provisions for new and more affordable housing.

As an employee of the university and resident of this city, I strongly believe that the university and the city desperately need to create more housing options for CU students, faculty, and staff, as well as others who seek to work and live in Boulder. The CU South project accomplishes this aim, in a way that I believe will contribute positively to life and culture in the city and the university.

Thank you for taking my perspective into consideration within your deliberations. And thank you for your service to our city and our region.

Sincerely,  
Joe Polman

-----

Joseph L. Polman, Ph.D.  
Professor and Associate Dean for Research School of Education University of Colorado Boulder

Residence: 4495 Martin Drive, 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Brookie <brookiegal@gmail.com>

**Sent:** Thursday, July 29, 2021 8:08 AM

**To:** Gatza, Jean <GatzaJ@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Subject:** CU South Annexation Agreement--"de-annexation" problem

**External Sender**

Good day,

There are many problems with the proposed annexation agreement, but here I am just going to focus on one glaring problem.

From what I heard at last week's Planning Board meeting, the so-called off-ramp of "de-annexation" if the flood mitigation cannot proceed does not provide any protection to the city and provides many benefits to CU--at our expense.

What I heard is absolutely unacceptable and detrimental to the city of Boulder on so many levels. It must be corrected.

Here's what I heard: For the first couple of years, while the city is attempting to move forward with flood mitigation plans to protect the community, CU will get the utility hook-ups and utility services they desire from the city--at the city's expense. They will proceed with the development of athletic fields. They will NOT begin building any of the housing that I heard all those in favor of annexation expressed as a key reason for their support of the plan. Then, if for some reason the current flood mitigation plan cannot go forward and the city chooses the so-called "de-annexation" off ramp, CU will have already gotten the city services and we, the community will get nothing--but the bill.

This would not be an off-ramp or a de-annexation, but a gift to CU courtesy of Boulder taxpayers.

As community representatives, I know you can't possibly agree to terms like this.

Please correct me if I misunderstood.

Sincerely,

Brookie Gallagher

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** David McGuire <dmcguirepm@hotmail.com>  
**Sent:** Tuesday, July 20, 2021 9:32 AM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** RE: CU South Annexation Agreement

**External Sender**

Planning Board Members

I have completed a review of the proposed CU South Annexation Agreement. I'm pleasantly stunned by how equitable, complete and detailed these negotiated proposals appear to be. After my long career in urban and regional planning I wish I had achieved such a successful negotiation with such a generous partner. A few examples:

- Reducing flood risk downstream from the property. We all remember the flooding in 2013 and the flood waters coming over US36 from this property. CU is offering 80 acres of their land to the City for flood mitigation purposes. If the City does not require the entire 80 acres for flood mitigation, the remaining portion of the 80 acres will be zoned Open Space.
- Providing for continued public access to the property including recreational facilities, sidewalks, trails, buildings, restrooms, and other amenities.
- Traffic reductions/mitigations (multimodal/autos) including a partnering agreement for a pedestrian/bike underpass under Table Mesa connecting the RTD Park-n-Ride lot. Agreeing to a "trip cap" program establishing a maximum number of daily automobile trips to and from the property.
- Conveying Dry Creek 2 water rights to the city. As you/we all know, water is "liquid gold"...
- Expanding Open Space and habitat restoration including restoration of degraded wetlands and critical species habitat.

I strongly encourage your Board to use your platform at an advisory board to City Council for annexations and support moving this excellent effort forward.

Thanks you all for your past and continued support in making this happen on behalf of all Boulder residents!

David McGuire

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bill & Louise Bradley <billandlouisebradley@gmail.com>  
**Sent:** Monday, July 19, 2021 11:05 AM  
**To:** Council <council@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** laura tyler <laura@amstec.com>; Kathie <joynermcguire@comcast.net>; 'David Slack' <DSLACK@frasiermeadows.org>; 'Colleen Ryan Mallon' <CRyanMallon@frasiermeadows.org>; ptc39@comcast.net; 'Don Cote' <doncote07@gmail.com>; Jim Wolf <jimwolf1@gmail.com>; Tim Johnson <tjohnson@frasiermeadows.org>; Joan and Pete Dawson <peter\_dawson1@yahoo.com>  
**Subject:** CU South Annexation Agreement Draft

**External Sender**

Planning Board 7.22.21  
CU South Annexation Agreement Draft

I write in praise of the process as well as the product. The negotiations between Boulder and CU have been a fine example of cooperation. Through difficult conversations, compromise and productive ideas the representatives of CU and Boulder have arrived at a workable agreement which meets the needs of both entities. The thoughtful process has yielded a more detailed and nuanced agreement than a slogan driven ballot battle ever could.

The document satisfies my primary concern for flood mitigation: CU is yielding 80 acres to the city for that purpose. Furthermore, the plans for 100 year flood containment are in line fiscally with the remedies applied to other city drainages.

I am also pleased to note in the agreement a plan for an underpass beneath South Boulder road so that bikes and pedestrians can safely access the area which CU is generously pledging to keep open for public use. I am further pleased by the joint promise to restore the wetlands associated with the old gravel pits so that wild life and natural plants can again thrive in the sadly degraded landscape there.

While some may seek to halt the growth of CU and of our city, looking back with nostalgia to the days when no buildings existed east or south of the frog pond at 28<sup>th</sup> and Arapahoe, that is not possible in our world. Growth is imminent. It is our responsibility to guide it wisely. I believe the provisions of the CU South Annexation Agreement Draft point the way.

I urge the Planning Board to vote in favor of this Annexation Agreement.

Louise Bradley, 62 year resident of Boulder, Frasier survivor of the 2013 flood.  
4875 Sioux Drive Apt. 002  
Boulder, CO 80303  
Frasier Retirement Community

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Dan Williams <williamsdan303@gmail.com>  
**Sent:** Tuesday, July 20, 2021 8:58 AM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation Agreement

**External Sender**

Dear Planning Board: I am writing in strong support of the CU South Annexation Agreement. As we are living through another unprecedented summer of climate records, I am reminded of how desperately we need increased flood protection. This Annexation Agreement is the only way we'll get that flood protection in the foreseeable future. And to boot, the City did an amazing job negotiating an excellent agreement with multiple community benefits. This agreement not only is critical as a mitigation tool for the flooding that the climate emergency is expected to cause, it will also take important steps to reduce carbon emissions. Creating middle income and student housing in Boulder is an important step to reduce the number of in-commuters, and the traffic management plan is a model that should be considered with respect to parking strategies around the City. The plan creates great outdoor spaces for our whole community, and includes a buffer zone for the closest residents to this future project. Empowering City staff to do the right thing by the City's stated values, and the Values listed at the front of the Comp Plan, means supporting them when they come forward with proposed agreements such as this one. I hope you will vote in support of the Annexation Agreement, without modification or conditions.

Best regards, Dan Williams

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Barbara Hanst <bhanst@gmail.com>  
**Sent:** Wednesday, September 1, 2021 9:03 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation Agreement

**External Sender**

Dear Council members,

I was SO relieved and pleased to learn that the first reading of the annexation agreement passed on August 10. I understand it will come before you again on Sept. 14th. I wish I could be there in person to show my support or even speak, but I am recovering from cancer surgery so unable. But I will surely be interested in how you each vote. PLEASE let's get this issue put behind us once and for all! I am only sorry my friend and mentor, Pat Carden, did not live long enough to see this long campaign successfully completed. She worked on it with such diligence. Approve the 2nd reading and then make a final affirmative decision on Sept. 21 in her memory. Please!

Thanks for giving this your serious consideration.

**Barbara Hanst**

350 Ponca Place, Apt. 122  
Boulder, CO 80303  
720.667.8321 (cell)  
720.562.8090 (home)

"Don't squander one bit of this marvelous life God has given us"  
II Corinthians 6:1 The Message

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** pat carden <ptc39@comcast.net>  
**Sent:** Tuesday, July 20, 2021 4:18 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation agreement

**External Sender**

Dear Planning Board members,

I am writing to request your support for the Draft Annexation Agreement defining terms of Annexation by the City of CU South property.

I am extremely impressed with the results of the City/CU collaboration to address so many of opponent's concerns by putting forth a document that not only answers concerns, but enhances outcomes above and beyond what was earlier envisioned. I also extend kudos to the city for providing so many feedback opportunities over the past 2 years to finetune the details of the agreement.

As a South Boulder resident, I am certainly in favor of mitigation efforts to bring safety to this community. As you may recall, flooding in the 2013 flood event closed HWs 36 and 93 making it impossible for emergency vehicles to access/rescue in the flooded areas, but actually other parts of the city as well. It was truly frightening to learn that no one was able to reach us to assist with evacuation of a flooded healthcare facility. And the threat of that happening again still exists today!

A safer recreational opportunity with an underpass is very encouraging as the current route to access this CU property on foot or by bike is really a safety hazard. However, for a good walk with a pretty view, I occasionally get in the car for this short distance to the rutted, dusty parking area, only to be barraged by usually happy dogs, that come at me as if to knock me over, make it another safety concern. So I welcome the proposal of a dog park, an underpass, and care of wetlands, orchids and Preble mice. I would add my additional appreciation for housing plans, transportation caps, and continued use of property by the general public. Translates to a win/win for me. And I hope for you as well.

Sincerely,

Patricia Carden

350 Ponca Pl, Apt 365

Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lyra Mayfield <lyramayfield@gmail.com>  
**Sent:** Tuesday, July 20, 2021 9:26 PM  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexation addendum

**External Sender**

Dear Planning Board Members,

Although I just wrote a letter to you opposing the annexation and development of CU South from a climate change perspective I feel compelled to add an addendum straight from the Boulder Valley Comprehensive Plan as a reminder that the citizens of Boulder have made a pledge to protect our natural ecosystems and riparian habitats:

**Protecting Native Ecosystems & Biodiversity**

**3.03 Native Ecosystems**

The city and county will protect and restore significant native ecosystems on public and private lands through land use planning, development review, conservation easements, acquisitions and public land management practices. The protection and enhancement of biological diversity and habitat for state and federal endangered and threatened species, as well as critical wildlife habitats, migration corridors, environmental conservation areas, high biodiversity areas, rare plant areas, significant natural communities and county and local species of concern (i.e., resources identified in the Boulder County Comprehensive Plan) will be emphasized. Degraded habitat may be restored and selected extirpated species may be reintroduced as a means of enhancing native flora and fauna in the Boulder Valley.

**3.04 Ecosystem Connections & Buffers**

The city and county recognize the importance of preserving large habitat areas, especially of unfragmented habitat, in support of the biodiversity of their natural lands and viable habitat for native species. The city and county will work together to preserve, enhance, restore and maintain land identified as critical and having significant ecological value for providing ecosystem connections (e.g., wildlife corridors) and buffers to support the natural movement of native organisms between ecosystems. Connected corridors of habitat may extend through or along the edges of the urban environment and often serve as vital links between natural areas for both wildlife and humans. Connected corridors are often at the greatest risk of degradation and development, and those deemed to have high ecological value should be identified for planning and, where appropriate, for acquisition, preservation, restoration and/or management while balancing existing land uses and other needs of the community.

**3.06 Wetland & Riparian Protection**

Natural and human-made wetlands and riparian areas are valuable for their ecological and, where appropriate, recreational functions, including their ability to enhance water and air quality and reduce the impacts of flooding. Wetlands and riparian areas also function as important wildlife habitat, especially for rare, threatened and endangered plants, fish and wildlife. Because they have historically been so scarce in the Front Range and because of continued degradation, the city and county will continue to develop and support programs to protect, enhance and educate the public about the value of wetlands and riparian areas in the Boulder Valley. The city will strive for no net loss of wetlands and riparian areas by discouraging their destruction, or requiring the creation and restoration of wetland and riparian areas in

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

the rare cases when development is permitted and the filling of wetlands or destruction of riparian areas cannot be avoided. Management of wetland and riparian areas on city open space lands is described in the OSMP Grasslands Ecosystem Management Plan.

**The proposed annexation and development of CU South violates these pledges. Please don't let them get away with this.**

Thank you,  
Lyra Mayfield

*Lyra Mayfield*

[lyramayfield@gmail.com](mailto:lyramayfield@gmail.com)  
720-352-2631 / cell

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Keller Kimbrough <keller.kimbrough@colorado.edu>  
Sent: Monday, August 9, 2021 2:22 PM  
To: Council <council@bouldercolorado.gov>  
Cc: Keller Kimbrough <keller.kimbrough@colorado.edu>  
Subject: CU South Annexation -- Please support!

External Sender

Dear Council Members,

My name is Keller Kimbrough, and I my family and I live on Pima Court in South Boulder. Our home was devastated by the 2013 flood, and our basement is still gutted and bare due to the fact that we are still in the flood zone. I cannot bring myself to pay for renovations when we remain in as much danger as we were in 2013. Please support the CU South Annexation Agreement so that we can move forward with vital flood mitigation efforts. There are those in our community who do not live in the flood zone, who have nothing personal at stake, and who seem to mindlessly oppose the Annexation Agreement for no reason other than their conservative opposition to any kind of development. The Annexation Agreement is fair and equitable. Please make the bold and moral choice to support it.

Sincerely yours,

Keller Kimbrough  
46 Pima Court  
Boulder, CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Stuart Ollank <stuart.ollanik@comcast.net>  
**Sent:** Monday, August 9, 2021 1:03 PM  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Re: CU South Annexation - please don't end-run around your constituents

**External Sender**

Dear Council members and staff,

I signed a petition to require certain steps to be taken with respect to the CU South Campus and annexation of that property by the city. I understand that the petition drive succeeded and that the voters are scheduled to decide on adoption of the provision in November.

However, I've also read that the city is attempting to rush through action that will circumvent the voters before November, despite the lack of any exigent circumstances. That's just not the right thing to do, to try to undercut the will of the voters who pursued the prescribed course to require voter approval. I think staff and counsel should be empowered to decide most issues, and they are. And I don't know how I will vote on the referendum - I will read up on all sides of the issue before the November vote. But rushing to do a power grab before the voters speak in November is undemocratic and exhibits a lack of respect for the voters.

Thank you for your consideration of these views and I hope you will **require that no annexation approval occur before the November ballot measure vote.**

Sincerely,

*Stuart*

Stuart Ollanik  
1439 Wildwood Lane  
Boulder, CO 80305  
Cell: 303-579-9322

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Meg Tilton <meg.tilton@gmail.com>  
**Sent:** Sunday, August 29, 2021 8:30 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation -- please support

**External Sender**

Hello,

Thank you for reading the first draft of the annexation agreement for CU South. Please support this legislation. My parents and many other senior Boulder residents live in the Frasier Meadows area. This neighborhood will be much more protected from floods if the annexation agreement--not simply an easement--is enacted. In addition, the annexation will provide for additional CU housing. As a CU employee, I see firsthand how desperately CU needs more student and family housing. We often have trouble recruiting a diverse workforce at CU because our housing prices are prohibitive. The annexation agreement is well designed and has been years in the making. Please support the agreement, and do not be unduly influenced by a vocal minority of other South Boulder residents.

Sincerely,  
Meg Tilton

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** A Adams <adams\_amanda1@yahoo.com>  
**Sent:** Monday, July 19, 2021 7:19 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation - enthusiastic support

**External Sender**

Dear Boulder Planning Board Members,  
I am reaching out to express my enthusiastic support for the CU South Draft Annexation Agreement. I live in a neighborhood that is at continued risk of severe flooding and I am grateful for the flood mitigation planning incorporated into the document. I am also very excited about the thoughtful consideration included in the plan around public access and habitat restoration.

With thanks,  
Amanda Adams

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kay Forsythe <mikekayforsythe@gmail.com>  
**Sent:** Wednesday, August 25, 2021 6:45 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

My Council representatives,

I know that you are listening to all aspects of solving the flood issue for me and my neighbors in the Frasier Meadows area. Unlike Julie Marshall in her recent editorial where she opined, "We have diligently been on a listening tour with all parties involved to find a solution." She certainly didn't ask or listen to those of us who lived through the 2013 flooding, to those of us who continue to pay to restore property, to those of us who have been proud of you and the City staff who have researched and listened and are ready to act on our behalf.

The agreement proposed by the City and CU is reasonable and will be effective. Please approve and do not delay measures to protect our safety any longer.

Thank you for listening to my plea,  
Kay Forsythe  
4840 Thunderbird Drive  
Boulder 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** paul cure <paul.cure@gmail.com>  
**Sent:** Monday, July 19, 2021 2:46 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexation

**External Sender**

Good afternoon,

I ask you to proceed with the annexation of CU South. I have attached a list of Community Benefits which would result in this agreement:

- Flood mitigation, flood mitigation, flood mitigation 😊
- 1100 housing units for CU students (non-freshmen)/staff/faculty
- 5 acres donated by CU for development of affordable housing units unrelated to CU affiliations
- Newly acquired open space for the City, including water rights to Dry Creek #2.
- Improved trails/connections
- Additional passive and active recreation activities within the flood control zone.
- Innovative and quantifiable transportation mitigation measures (e.g., trip caps)
- Collaboration between City and CU on how best to restore wildlife and wetland habitat
- CU agrees to comply with City's height limits, noise standards, outdoor lighting standards, wetland ordinance, avoidance of development within floodplains; avoidance of steep slopes development
- Improvements to CU South access from the Frasier Meadows/SE Boulder neighborhoods via a tunnel connecting Table Mesa Drive with the property.

In appreciation for your work and advocacy,

Paul Cure

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Paul Alter <palterboy@me.com>  
**Sent:** Monday, July 19, 2021 6:54 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexation

**External Sender**

Hi folks,

Just a quick note to show my support for the CU South Annexation proposal! No proposal like this is "perfect"; there's always some compromise. But this is a darn good proposal. Having lived through the 2013 flooding, it's time to make this a reality.

Paul Alter  
3855 Birchwood Drive  
Boulder, CO 80304  
303-443-9727  
[palterboy@icloud.com](mailto:palterboy@icloud.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** David Fulker <dave.fulker@gmail.com>  
**Sent:** Monday, July 19, 2021 7:38 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexation

**External Sender**

Please know that I favor proceeding with the annexation agreement as drafted, and I congratulate its drafters. — David Fulker, 1400 Mariposa Ave, Boulder, CO 80302

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Lisa Sleeth <lisasleeth@hotmail.com>  
Sent: Tuesday, July 20, 2021 8:32 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South annexation

Hello,

I support the annexing of CU South for flood mitigation. Though I'm not writing a lot here I just want the council to know of this citizens thoughts.

Thank you,  
Best,  
Lisa

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: kaye howe <kayehowe@icloud.com>  
Sent: Tuesday, July 20, 2021 10:17 AM  
To: boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>  
Subject: CU South Annexation

External Sender

Dear Friends

The agreement reached between the City and the University on the CU South annexation is striking in both its thoughtfulness and the list of benefits to all of us. There must be thousands of hours of patient work from the dedicated people who achieved this. Among those people were the citizens of Frasier and its Neighbors. As all of you know well, the flood of 2013 deeply impacted Frasier financially, but, most importantly, it threatened the lives, and still threatens, of both Frasier Residents and our Neighbors. As immediate past Chair of the Frasier Board, I ask you to recognize the superb work done by so many over these years and approve the agreement.

Kaye Howe  
500 Pleasant Street  
Boulder CO 80302

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** nesnej.arbed@yahoo.com <nesnej.arbed@yahoo.com>  
**Sent:** Tuesday, July 20, 2021 2:03 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Hi, I am a resident in the Hyview neighborhood (1335 Chambers Drive) and I am SUPER STRONGLY OPPOSED to the CU Annexation. There are just so many reasons why this irreversible decision is so bad for our community and Boulder as a whole. Issues such as: loss of the beautiful trees, wetlands and wildlife habitat that CU South currently provides as well as the cleansing effects that their wetlands contribute to our environment. And then there is the loss of our neighborhood's quiet, safe, peaceful character.

The annexation of CU South increases light pollution, noise pollution, overpopulation and the most obvious problem, TRAFFIC. Traffic is already a huge problem that has been continually increasing on Broadway & Table Mesa & in our South Boulder neighborhoods. Since I have lived here for 22 years, I can personally attest to this. Your traffic impact studies done during Covid are NOT ACCURATE as Michael Tuffly was able to clearly discredit in his article in the Daily Camera.

So, what is the benefit of annexing CU South? People use the excuse of "flood mitigation" as the benefit to disguise and detract from the real motive of just plain greed. Annexation of CU South means more money for CU and the city.

Please don't let the greed of development cloud your judgement into making such a horrible and irreversible decision that will permanently destroy South Boulder.

But what about the flood mitigation? Well, it's no secret that CU CREATED the flood problem starting back in 1997 when they began illegally filling in the ponds and wetlands. CU should be forced to

RESTORE the property and then nature will once again provide the flood mitigation.

I have been fortunate to walk this beautiful land on a daily basis for 22 years and observe how it has slowly struggled back from the mining days. Every year I have marveled at how many more trees and plants keep springing up. I am often overwhelmed by the beauty of all the wildflowers, the birds singing, deer grazing, coyotes howling, owls hooting. It is an area of rebirth and regrowth. It is a testimony of how nature can rebalance itself after man has stripped it for mining purposes and it is truly a beautiful sight to behold. It will break my heart over and over to see the land once again being torn up and trees toppled, habitats destroyed and paved over. I don't think I could bear it and will probably have to move. Please take the time to walk there and see it for yourself. CU South is a wonderfully beautiful resource that should be preserved. It is located right at the entrance to Boulder and it would be a legacy for the current City Council if you were to choose to preserve it for future generations to enjoy, instead choosing the sight of a huge dam and more development.

So please ask yourself, can the city of Boulder REALLY sustain the growth that CU wants to irresponsibly burden the city and residents with? Do you really want to be part of city council that irreversibly and so negatively impacts Boulder? If you care about this beautiful city at all, please choose NOT to destroy it.

Thank you so much for your time,  
Debra Jensen

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lyla Hamilton <ld\_hamilton@comcast.net>  
**Sent:** Tuesday, July 20, 2021 4:18 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

All,

I'm writing in support of the proposal. The process has been open and thorough. It's time to act. We, the residents of South Boulder, need the flood protection the annexation will provide.

Lyla Hamilton  
4900 Thunderbird Dr.  
Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** JtEdson <cjedson1@comcast.net>  
**Sent:** Tuesday, July 20, 2021 4:31 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexation

**External Sender**

Boulder has lost its character. Traffic miserable, the city is too crowded. I enjoy the university and what it offers, but I'll never support more development. Thumbs down.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lyra Mayfield <lyramayfield@gmail.com>  
**Sent:** Tuesday, July 20, 2021 9:25 PM  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Dear Members of the Boulder Planning Board,

This letter is in reference to the annexation of CU South for the development of a future 3rd main campus by CU Boulder.

I have been involved with this issue since 2013 when flood mitigation was highlighted by the 2013 flood, but I have been a recreational user at CU South for over 20 years. I have watched the former gravel mine regenerate itself back into the lush wetland and Tall Grass Prairie that was its former Self. I have watched the water table rise, seen migratory birds such as Sandhill Cranes and Mountain Bluebirds, as well as Bald Eagles, Osprey and Great Blue Herons - all of which signify the presence of water. Yes, this acreage is a natural wetland and floodplain and it is returning with wildlife corridors, endangered species and contiguous hydrology from the mountains to beyond East Boulder.

I am a climate activist, as well, and I know that our City's Climate Initiative, which was written just this year, promotes the value of saving all Open Space, wetlands, prairie and forests as important aspects to a healthy ecosystem which would promote carbon drawdown and sequestration. As stated in the Initiative:

"Following recent guidance from the Intergovernmental Panel on Climate Change, the city will also look to employ innovative carbon drawdown and sequestration efforts. [Leveraging living systems](#) such as trees, vegetation and soils to absorb carbon and build resilience, drawdown will play a pivotal role in helping us to narrow the gap between current emissions and achievement of net zero....We have a moral responsibility to act....The threat we are facing is daunting, but not insurmountable. Now is the time for [clear-eyed action](#)."

CU Boulder, who is purported to be environmentally conscientious is violating climate science and common sense with this ludicrous development proposal. Replacing this ecosystem with large academic buildings, huge amounts of housing, playing fields, running track, dog park, restaurants, etc. and the subsequent traffic, diminished air quality, noise and light pollution that will impact ALL South Boulder will simply fragment and destroy this ecosystem. There is no way around that fact despite the glossy picture CU is painting.

CU Boulder is holding the citizens of Boulder hostage as they use annexation as leverage for our much needed flood mitigation. This is not neighborly behavior, NO this is outrageous behavior!

I oppose this development for many, many reasons but here in this letter to you I am pleading with you to hold the line on the side of what is Right through the eyes of our climate crisis. Let's take a stand and say that we here in Boulder have "a moral responsibility" to be the North Star on climate action decisions in the West, make the hard choices and hold the line with the development of CU South.

Thank you for your consideration and time.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Sincerely,  
Lyra Mayfield  
*Lyra Mayfield*  
[lyramayfield@gmail.com](mailto:lyramayfield@gmail.com)  
720-352-2631 / cell

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Elizabeth Black <elizabeth@elizabethblackart.com>

**Sent:** Saturday, August 7, 2021 6:01 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Annexation

**External Sender**

To Boulder City Council,

I am so glad that you are tackling the difficult and complex issue of the CU South Annexation and floodway improvements on South Boulder Creek. I hope that you understand that there is no perfect solution, but that there are some very good ones.

We unfortunately live in a town that decided decades ago to develop land with no thought to flood impacts to residents. As a result we have numerous drainages, alluvial fans, previous wetlands and low spots that now are full of homes, schools, nursing homes, businesses and highways. South Boulder Creek is just one of many such heavily developed Boulder drainages. When one tries to design flood protection after the fact of Boulder's development, there is no perfect solution. Instead there are inevitable compromises. That is just the nature of the beast. Compromises are expected when you try to superimpose floodway improvements onto previously developed neighborhoods.

An example of such a compromise is 100-year-flood protection rather than 500-year flood protection. 100-year-flood protection will not protect all the residents that would be impacted by a 500-year-flood. However, 100-year-flood protection will protect most of the 500-year-flood-prone residents. It will also lower water levels and lessen damage for everyone in the 500-year-flood plain. Those are both good things.

Even with their inevitable compromises, floodway improvements are good and necessary to preserve life, safeguard property, and prevent suffering. I urge you to proceed with the best annexation agreement that you can extract for CU South, and then lickety-split, to construct drainage-way improvements on South Boulder Creek. Please do not let the perfect be the enemy of the good.

Thanks for your consideration, Elizabeth Black

Elizabeth Black

4340 N 13<sup>th</sup> St

Boulder CO 80304

303-449-7532 Home; 720-839-5576 Cell

[Elizabeth@ElizabethBlackArt.com](mailto:Elizabeth@ElizabethBlackArt.com)

[www.ElizabethBlackArt.com](http://www.ElizabethBlackArt.com)

To Unsubscribe, click on [Elizabeth@ElizabethBlackArt.com](mailto:Elizabeth@ElizabethBlackArt.com) and tell me to remove you.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** David McGuire <dmcguirepm@hotmail.com>  
**Sent:** Sunday, August 8, 2021 5:18 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Council members: The thousands of residents in constant danger from potential flooding over US36 sincerely appreciate this Council's focus on finally getting this accomplished. The cooperation between CU and the City has produced a very reasonable annexation agreement that borders on being unprecedented in its overall positivity for Boulder residents. Flood mitigation meeting FEMA requirements, equitable housing goals, mitigation and protections for open space and critical habitat, state of the art transportation goals that will positively impact the climate mess we are in, continued City resident recreational access to the property, and more. Please see the negativity to this annexation for what it is... Factually hollow and merely an attempt to slow/stop this process. Thank you for getting us this far, and please see it to a successful and timely conclusion!

David McGuire

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Tuesday, August 10, 2021 3:50 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Dear City Council,

The nineteen closed-door meetings between two city councilmembers and CU representatives have revealed the problems and complexities of attempting to address all issues relating to annexation of a very challenging property without having a site plan.

**There are many unresolved issues and public concerns.** For example, CU's abandoned gravel pit has terrible access and Boulder residents are concerned additional traffic generated by 1,100 dwelling units, another five acres of affordable housing, a 3,000 seat stadium, thousands and thousands of square feet of academic/research/commercial buildings, and other uses will exceed the capacity of already-congested streets and intersections on Table Mesa Drive, South Broadway and US 36.

**Terms and conditions in the annexation agreement are grossly inadequate to guarantee satisfactory traffic flows.** The "trip caps" were based on a traffic study by CU's consultant Fox Tuttle. The study was not independently verified. You may recall that several years ago the city "right-sized" Folsom Street based on a Fox Tuttle study and reduced the number of automobile lanes from two to one. The result was a transportation debacle. Fortunately the situation was easily corrected by re-striping the traffic lanes. A transportation fiasco resulting from the CU South annexation cannot be more than a bus stop.

Since an assistant city attorney stated the citizen initiative regarding annexation will be moot if the city annexes the property before the November vote, **it is very likely residents will gather a sufficient amount of signatures to force a referendum on any annexation ordinance.** This newsworthy event will bring national attention to all of the events related to CU's, a university with a National Hazards Center and where the late Dr. Gilbert White, the "Father of Floodplain Management" spent many years, purchase of a floodprone abandoned gravel pit at the foot of a major front range drainage for a new campus. And how Boulder spent millions on four sets of engineering consultants over a period of twenty years and still does not even have preliminary engineering drawings. And how CU is holding the lives and property of Boulder residents hostage until you annex its gravel pit and agree to provide utilities.

The whole circus revolves around Boulder's need for 36 acres of CU's property for flood control. CU has no plans to develop that small parcel, and could not because most of it is in the 100-year floodplain. The clock is ticking until the next flood, and it's time to end this nonsense and expeditiously acquire the small percentage of CU South urgently needed for flood protection. The offer price could be TWICE the \$37,500 per acre stated in the annexation agreement for purchasing additional open space, and the amount would only be \$2.7 million. If CU refuses, it clearly reveals CU's scheme to withhold the land solely for the purpose of extorting annexation.

Sincerely yours,  
Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mary Maxwell <jacaranda1957@gmail.com>  
**Sent:** Wednesday, August 18, 2021 6:28 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexation

**External Sender**

Dear City Council,

I am asking you to decline the annexation of CU South. Recently there have been repeated letters and articles in the Daily Camera pointing out the glaring deficiencies in the plan for development of this property. The increase in traffic and the destruction of the ecosystem are the two most offensive issues of this is allowed to proceed. The flood protection part of the deal is not worth the cost of the increase in traffic and the destruction of the ecosystem. Please deny this annexation.

Thank you.

Mary Maxwell  
Citizen of Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: slbrant <slbrant62@gmail.com>  
Sent: Wednesday, August 18, 2021 9:03 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South Annexation

External Sender

To the City Council

From the beginning, South Boulder Creek flood planning required an arduous path dealing with all of the complexities of a highly engineered and compromised watershed. Over 100 years of dams, and agricultural / industrial / municipal water diversions, as well as gravel quarries and other uses, created this complexity. There was never going to be "good" solution. The resulting 3 "variants" were all a series of compromises given all of the infrastructure running from Moffatt Tunnel to the confluence with Boulder Creek. However, the annexation of CU South will only make things worse. There has been much written about and documented by many knowledgeable professionals and citizens, regarding the annexation agreement as flawed in and of itself. Backing up and looking at the larger watershed, any significant development in this flood plain makes no ecological or public safety sense. It is a false comparison to call this a compromise between competing needs, when the starting premise is flawed from the beginning. In following the tortuous trail of this annexation, there has never been an adequate explanation as to why a land swap of City owned land to the north is not a better option.

The other unanswered question is why CU "needs" to expand. Please vote NO on annexation, and, if CU really needs to expand, look more closely at the north location option.

Respectfully,

Stephen Brant, 2195 King Avenue

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Sallie Greenwood <sallie.greenwood@gmail.com>  
**Sent:** Thursday, August 19, 2021 9:32 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Council members,

I am convinced that the University of Colorado's intentions for developing its CU South property are not in the best interest of Boulder. There are so many vague proposals (trip cap, transportation hub, recreation facility) that need much more detail and specificity before we/you approve the annexation plan.

The plan has enough loopholes that would eventually result in a mini-mall among tract homes. I do not see the value of accepting the promise of a dog park and running track (that already exist) worth compromising the integrity of open space and our investment in Critical Habitat and State Natural Area for CU's profit.

Sallie Greenwood  
4424 Greenbriar Blvd.  
Boulder, Colorado 80305  
home: (303) 494-3271  
cell: (303) 906-9094

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kelly Murphy <bouldernatural@gmail.com>  
**Sent:** Tuesday, August 24, 2021 9:14 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Council Members,

I am writing, again, to congratulate the City Council (and the Planning Board and others) for the work in coming up with the CU South Annexation Agreement.

Some pushback on it appears to ignore the fact that this agreement is the culmination of years of work, and, in particular, I applaud the South Boulder Creek Action Group's years of committed efforts on it since the flood.

In my mind, it is still easy to think back to 2013 and the bizarre vision of manhole covers floating atop the sewers on the Manhattan Dr on my way to my son and daughter's old school.

Climate change isn't waiting for us to prepare.

Best,

Kelly Murphy

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** joynermcguire@comcast.net <joynermcguire@comcast.net>  
**Sent:** Wednesday, August 25, 2021 1:40 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south annexation

**External Sender**

Dear Councilors,

Thank you for your overwhelming approval of the first reading of the draft annexation agreement with the University of Colorado Boulder on August 10th. The hard work put in by Mayor Weaver and Council Member Friend has resulted in a win-win draft agreement which includes numerous community benefits for city residents, not the least of which is flood protection for 1000s of downstreamers.

I also appreciated Mayor Weaver's Guest Opinion in the Camera (8/14/21) in which he succinctly summarizes what's at stake, the (very) lengthy process of analysis/design, and the extensive and comprehensive public engagement process. It is this latter process (public engagement), along with thoughtful input from Council, that has resulted in the city and CU producing the best document possible. City and CU negotiators and staff are to be commended in making this draft agreement equitable for both entities while setting the stage for both the city and CU to accomplish their individual goals through this agreement.

I know this was not an easy process (an understatement!) and I appreciate the resolve and courage Council has shown in successfully bringing this project to this point. We look forward to September 21 when a vote will finally be taken. I know I speak for many when I say "please approve" without delay.

Kind regards,

Kathie Joyner

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Amrita <amrita.george@gmail.com>  
**Sent:** Tuesday, August 24, 2021 7:27 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Dear City Council,

As a resident of Boulder, a former resident of the South Boulder community, and a member of the University of Colorado community, I am disappointed to learn of the official plan to annex CU South and develop it.

CU, like most universities, would like to increase student enrollment for their own profits, and this provides them a solution to do that as they have already built over the rest of the town (some buildings of which, by the way, stand out as eyesores.)

There has to be a point at which institutional expansion and construction projects are viewed in the environmentally destructive light that they are. Once the area is built on, we will Never get that land back. I do not understand how flood mitigation requires development- that development would protect the land is the most anti-logical argument I have heard and an embarrassment that I have heard it repeated and used as justification. Additionally, we may have to pay more, or may not be able to live in Boulder, but at least Boulder remained a place with open space for wildlife to thrive, and for visitors to enjoy. The people who live here respect and cherish the fact that there is so much open space in Boulder relative to other towns is what makes it valuable and sacred. But lately, we are encroaching on the space that remains little by little. In contrast to the Ute, Cheyenne and Arapaho values of the true ancestors of this region, I see that our society even in Boulder is still driven by profits and peoples individualistic wishes more than concern for our environment.

Thank you for your time.

AG

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bill & Louise Bradley <billandlouisebradley@gmail.com>  
**Sent:** Tuesday, August 24, 2021 7:39 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Boulder City Council Members,

I write to honor the memory of Al Le Bang and Pat Carden and to thank all Frasier Retirement Community Members and others who have worked together these past eight years urging the city toward a solution to the South Boulder Creek flooding problem.

Pat and Al had hoped to see the matter settled before their deaths. They did not. But now, in fitting memorial to their efforts, an agreement is near completion. .

Negotiators for Boulder and the University of Colorado have created an excellent workable agreement. They have reached a solution acceptable to both sides. Is it perfect in every person's view? Of course it is not. No conceivable plan would please all. It is a good plan, you have agreed. You have passed it on first reading. I urge you to pass it on second and third readings next month

It is time. Let us see this CU South Annexation to completion.  
We honor you, Al, Pat, and all others who labored by your side.

Thank you Council Members for your patient ears and efforts  
Louise Bradley

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** William Edward Gretz <William.Gretz@colorado.edu>

**Sent:** Sunday, July 25, 2021 9:40 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South

**External Sender**

We demand a vote on our ballot initiative before any negotiations begin with CU unless Council is willing to adopt the ballot initiative as written. CU is too big right now, it's becoming a cancer eating away at our town. CU needs to expand somewhere else in Colorado like South Denver if it's going to expand at all. Our town is finite and cannot survive the idiotic philosophy of endless growth being pushed by the Chamber of Commerce. This is too important to rush an agreement before the voters have a chance to weigh in in November. It would give our city council and city staff a reputation for government corruption it hasn't had since Google was invited into our town by the staff of our little known office of economic development with no say from the voters. This isn't a private entity trying to blow up our town this time, its the State and it's accountable to the voters. We can fight CU and we can fight Denver Water to save South Boulder creek.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Marsha McClanahan <marshamccl@icloud.com>  
**Sent:** Sunday, July 25, 2021 1:16 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

I agree completely with Steve Pomerance in his summary of the CU South fiasco:

**We citizens deserve a say:** City Council should restart this whole process, get some leverage on CU, seriously consider a land swap, do a comprehensive flood-control plan for all the creeks, and then put it all to a citizen vote.

Please don't go around the voice of the people who live right here and are most affected.  
Let us vote our preferences.

Marsha McClanahan  
Frasier Meadows Neighborhood

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** David Davia <outlook\_BFFF9D27213CFC92@outlook.com>  
**Sent:** Monday, July 26, 2021 7:55 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Sent from [Mail](#) for Windows 10  
Dear Fellow Boulderites,

My husband and I and MANY other friends and neighbors are perplexed and more than a little angered by the apparent dismissal of citizens' wishes to put the CU South issue to the voters. Signatures have been gathered and there are more than enough to put the issue on the ballot in November. Yet, you and CU are making it very clear that you will vote YES to move forward with the annexation, "flood mitigation" etc. before the election occurs. And you wonder why the general population has such skepticism about the integrity of government, really. PLEASE listen to your constituents and put this issue on the ballot in November as the people who voted for you are asking. Table your vote, in all fairness. You are in the position to rise above the current mentality of elitism and total control that is so pervasive in government today.

My husband and I have lived in Boulder for over 32 years, love the beauty of Nature here and want to preserve it as much as possible. The mammoth wall along the south side of highway 36 would be an incredible eyesore, act as a sounding board, bouncing all the traffic noise straight across the highway into Boulder and would obliterate a breath-taking view of our beloved scenery of quiet, calm and serenity. Again, please delay your vote until the people have a chance to voice their wishes. If then the voters agree with your direction, by all means, proceed. At least let the democratic way of life that we like to think we enjoy play out.

Thank you in advance for your consideration,

Debbie and David Davia

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim Hill <jimdrjhill@msn.com>  
**Sent:** Thursday, July 29, 2021 1:37 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

I am sure you all read the Camera's guest commentary by Steve Pomerance this past Sunday. I think there were a number of legitimate concerns raised, and I hope that you will consider them, along with the recommendation to consider a land swap, do comprehensive planning for flood control of all our creeks, and let the citizens of Boulder make the final decision on any proposed agreement between the city and CU, as was requested by a majority of Boulder voters. Thank you. Jim Hill

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Marsha McClanahan <marshamccl@icloud.com>  
Sent: Friday, July 30, 2021 11:52 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

I am writing one more time to urge the council not to sign off on the annexation of the CU South property. We, the nearby property owners, deserve to be listened to. We don't want the destruction of this land for the benefit of CU. It will further erode the quality of life in Boulder and will impact us in south Boulder the most. Stop it now.

Marsha McClanahan  
Frasier Meadows Neighborhood.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Jon and Cathy Swanson <jncswanson@gmail.com>  
Sent: Friday, July 30, 2021 5:18 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

Council Members:

We continue to read commentaries and letters to the open forum about negotiations between

the city council and CU. The logic presented from those who see serious flaws in the current

agreement with the risk of flooding from multiple creeks, the tax burden on citizens for addressing wetland

property for residential and commercial property, and the resulting negatives to South Boulder residents navigating

Table Mesa and Broadway makes little sense to more citizens than you might imagine.

We need a council that will take a stand against CU's refusal to cap enrollment as a previous council did.

We need a council that will make a decision AFTER the ballot issue gets a heads up or down. We need to think that our honest objections to such a loose understanding of CU's promised use of the land before annexation will be heard.

CU clearly seems to be the dominant player in this, for which many of us regret the dynamics.

Sincerely,

Cathy and Jon Swanson  
2288 Kincaid Place  
Boulder 80304  
303.440.0436

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** STANLEY BROWN <stanbrown@comcast.net>  
**Sent:** Wednesday, August 4, 2021 7:28 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

As signatories to the citizen ballot petition.... and having written before about our objections to CU South expansion.... we repeat our request that this initiative be put before the voters...  
That is what it means to live in a participatory democracy, isn't it.

Pamela Barsam Brown  
Stanley Brown  
310 Overlook Drive  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Angela McCormick <angela.mccormick12@gmail.com>  
**Sent:** Tuesday, August 10, 2021 10:03 AM  
**To:** Council <council@boulder.colorado.gov>  
**Subject:** CU South

**External Sender**

Dear City Council members: With recent, well thought out comments by our Planning Board on its review of the Draft Annexation Agreement for CU South, and with numerous well written opinion pieces in the Daily Camera that actually have educated the public, I am asking you to convene an open, public process to further vet the annexation and EDUCATE the voters.

Please, do not rush a decision on this very important issue. Take the time to educate the citizens of the city on the pros and cons of the Planning Board comments, and the omissions found in the current draft document. This process will make a better outcome for the City.

And allow the vote to occur in November. We, the voters, have earned the right to vote. In today's political climate, pulling a power play by voting on this weak draft in September is inappropriate. We the voters deserve more and you- as OUR representatives- certainly must understand this!

Thank you.

Angela McCormick  
2855 7th Street  
Boulder CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** david martus <dmartus@gmail.com>  
**Sent:** Wednesday, August 11, 2021 8:15 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** kloster, mark <deadwait@comcast.net>; Donna Pocci <poccides@msn.com>; Marcy Roberts <robertsm56@aol.com>  
**Subject:** CU South

**External Sender**

Hello Council,

A quick note to share some concerns about where we sit with the CU South annexation. In summary, the current "principles" feel rushed and far from thought thru. I understand that Council is trying to balance the need for flood mitigation without having CU ignore prudent guidelines that the city wants. Once the annexation is done, CU holds all of the cards. Of note, Phil Kessler has done a great job and is super timely in answering my queries.

Key areas that are of concern:

- Transportation - As contemplated, cars could drive thru CU South to bypass Table Mesa/Broadway. This combined with a proposed dangerous location for the traffic light on Hwy 93 should be ironclad before annexation (control gates like on the main campus required)
- Housing - I was surprised to see that single-family houses may be built. This would be contradictory to the spirit of sustainability/walkability.
- Water - Even though the City has an excellent supply of water, is adding up to 5,000 new residents a good idea. As we know, new infrastructure is very expensive and new water rights are downright prohibitive. Reductions are in place for western slope water and with Lake Powell falling to record lows, more restrictions on our Windy Gap water may be in store. Climate change is happening faster than we all thought.
- Schools - With the possibility of non-students (staff with kids) living in CU South, is BVSD in a position to accommodate more students. CU does not pay property taxes, so the burden would be borne by City residents
- Dam Cost - Has a new estimate been put together for the cost of the dam? Massive increases in commodity and labor costs are occurring and the cost estimate is probably very stale at this point. I hope we don't get in a position where the dam is half-built and the budget doubles or worse, leaving us with a lose-lose situation.
- CU resistance to not modifying terms in the future - CU has a great PR department, they are pros. CU consistently says they have to do what is in the best interest of the University and situations change, so that leaves me with a feeling of "We can do whatever we want in the future".
- Nov. election - Why rush things at this point and not wait until voters have provided their perspective. It is only a three-months from now in what has been a multi-year project. With the initial rejection by the planning board and significant concerns raised by the County, moving to completion now would feel like the democratic process has been circumvented. If the voters respond with a string yes, then you can wrap things up.

I hope that council can take a deep breath and wait a couple of months and listen to the voices of the entire community.

Kind regards, David Martus

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Sallie Greenwood <sallie.greenwood@gmail.com>  
**Sent:** Thursday, August 12, 2021 2:03 PM  
**To:** openforum@dailycamera.com; Council <council@bouldercolorado.gov>;  
kleiserp@bouldercolorado.gov; gatzaj@bouldercolorado.gov  
**Subject:** CU South

**External Sender**

Open Forum:

I live less than a half mile from the CU South property's western edge on CO 93 and try to follow the pros and cons of annexation and development being negotiated between the university and the city. I admit the concept of residential/non-residential (commercial?) development so near at hand and increased traffic on Broadway/93 and Table Mesa is disturbing. Well, yes, appalling.

Now I see on the [beheardboulder.org](http://beheardboulder.org) site that the university proposes developing a recreation facility location unspecified (possibly abutting the City's Open Space Conservation Habitat/State Natural Area)? Sound amplification? (Is the university exempt from city noise and light regulations?) Parking? Restrooms? Size?

This is the kind of vague proposal that befuddles and belies a minefield of unintended consequences. It's a moving target. I appreciate the opportunity to question and review details. I do not see the benefit of shortcuts, assumptions, or "trust me" that may compromise community benefits and interests.

If you share my concerns, let [beheardboulder.org](http://beheardboulder.org) and Boulder City Council ([Council@bouldercolorado.gov](mailto:Council@bouldercolorado.gov)) know.

Sallie Greenwood  
4424 Greenbriar Blvd.  
Boulder, Colorado 80305  
303 494-3271

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Michael O'Neill <echomill37@yahoo.com>  
**Sent:** Friday, August 13, 2021 1:06 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear City Council,

I am alarmed by the vagueness of CU's proposal. Most recently, the language around the recreational facility. Where is it going to be located? How large? Will there be limits on the hours of operation?

I am also concerned with the highway 93 entrance. Again, I'm not hearing enough specifics about safety concerns.

Is it correct that some citizens of Boulder have gathered enough signatures to get the CU South issue on the ballot in November? Is it also true that City Council is trying to get this decided before the citizens get to have their voices heard? Not a good look.

Sincerely,

Michael O'Neill  
2595 Vassar Dr.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Linda Quigley <lindaquig@comcast.net>  
**Sent:** Tuesday, August 17, 2021 12:43 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** 'Linda Quigley' <lindaquig@comcast.net>; openforum@dailycamera.com  
**Subject:** CU South

**External Sender**

Dear Boulder City Council;

I cannot emphasize enough how very much residents are against the CU South expansion with Boulder losing our 500 year flood protection, ironically as we watch the world deal with out-of-this-world floods and fires. SURELY it is clear that climate change is upon us.

You think you have worked hard with CU to come to some compromise? But compromising with CU is like Congress trying to work with Republicans who describe the Jan. 6<sup>th</sup> terrorists as tourists. It is NOT in good faith.

It feels as if you are only listening to CU at this point; with as many as FIVE articles in one of our days' papers, many from our citizens presenting well thought out considerations. Many of the other articles are about disasters that are occurring daily due to climate change all over the world. The folks in Frasier Meadows have been sold a bill of goods, lies, lies, lies from CU; who removed the 500 year flood protection we had in the natural environment at this site with their berms, etc., then offered to provide 100 year flood protection. Do you not listen to our own experts who say we will barely get 100 year flood protection from this plan; and it is NOT enough??? We need 500 year flood protection restored.

The City should condemn the CU property necessary to obtain this protection for citizens. The wetlands should be restored; AND the huge lake that filled the gravel pit. Or let CU cede this land to Boulder before we put pen to paper on any agreement. Why reward CU for swooping in and buying land we needed to protect our city from a flood??? CU just wants to get bigger, despite already serving 35,000+ students in our city alone. I thought we here in Boulder decided LONG ago that bigger is NOT better??? Or does that apply only to our homes and businesses, but not greedy CU???

We already have a 'sacrifice zone' on The Hill. CU does little if anything about riots caused by resentment that students (and non-students) could not PARTY the way they wanted to during a pandemic. Students damaged our Fire, Rescue, and Police cars with no accountability. CU does little about dumping E Coli in our streams. CU did next to nothing about the Greek community hazing students so forcefully they were dying of alcohol poisoning! I do not want my home 'run' by 18-21 year old unsupervised not-quite-adults. And traffic!!! There is little movement on 157 (Foothills Hwy) during rush hour due to CU on Colorado Boulevard. 28<sup>th</sup> Street by CU is already next to impossible to navigate home during rush hour. We. See. That. South Boulder does not want to become a sacrifice zone; neither does the rest of the city. The council has already considered buying the last home on the block to expand Table Mesa drive, then added a bike path(???) instead of the turning lanes most residents requested. Bikes can run on Moorehead just parallel much more safely. Table Mesa is too dangerous for them, just like 28<sup>th</sup> Street and Canyon Boulevard. Then you do a traffic study during a pandemic to measure use of Table Mesa?! Omg. You. Are. Not. Listening. Don't let CU take over our beautiful city. The first infrastructure bill has passed in Congress, (with more to come) providing important funds to our city.

If you do approve the current CU plan (which is not enforceable with CU), I will join others to campaign as hard as we can to have every one of you lose your next elections, and never win another. It is the least we can do after you ruin our homes for us; acting deaf, dumb, and blind to the citizens' concerns. Speaking of

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

listening: You need to open our City Council public comment meetings back up to the vaccinated and masked public. You are hiding at this point. The Senior Center re-opens, but not our City Council??? Come on!!!

Sincerely,  
Linda Quigley, LCSW  
retired

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Fred Donaghy <rhynehart@aol.com>  
**Sent:** Wednesday, August 18, 2021 4:08 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Council People

As a 42 year resident and tax payer I would like to tell you that what you are doing with CU South project is pushing Boulder in the totally wrong direction. It is a farce the way this has been rolled out. The studies, such as the traffic count being done during the peak of the pandemic when things were totally shut down, are a joke. The "survey" that you put out is all fluff. And your shoving this thru before the November election, after the people petitioned to place it on the ballot, is a sham. You were elected to do the peoples business and you are acting like you are in bed with CU. Why are you not looking into the trade for the City owned property in N Boulder? This makes much more sense.

Fred Donaghy

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Susan Weeks <susanpweeks@gmail.com>  
**Sent:** Wednesday, August 18, 2021 8:30 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear City Council,

How can this be good for Boulder? The only part of our community that it is good for is CU. And CU will do just fine without the creation of this eyesore on a spectacularly beautiful riparian corridor.

When you were elected we hoped for some representation that respected our Open Space and desire to protect it for the future. Please use your ability to save the natural beauty that we have still have left on this unique parcel of land bordering Open Space.

Thank you.

Susan Weeks  
3048 9th St, Boulder, CO 80304

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Dan Guesman <dan@ccmboulder.com>  
**Sent:** Thursday, August 19, 2021 1:26 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Council,

Please do not approve the annexation of CU South. Please let this go to a vote of the people. You were elected by the people of Boulder to represent us. By approving the annexation, you are not representing what we want. This is a very, very bad deal!

Daniel K. Guesman  
3417 Iris Ct  
Boulder, Colorado 80303  
Ph: 303-775-1250  
Email: [dan@ccmboulder.com](mailto:dan@ccmboulder.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Emily Reynolds <emily2reynolds@gmail.com>  
**Sent:** Tuesday, August 24, 2021 9:27 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Council,

I must admit to being appalled at what is intended for CU South. As Steve Pomerance points out in this morning's *Camera*, the development could be as substantial as downtown with little attention to affordability. Steve Pomerance is known for his brain-power, not bias. He doesn't have an axe to grind. I appreciate that money shouts in this town, but I've wondered why the 500-year retention pond that the City recommended years ago has been replaced with a 100-year pond, which clearly will not get the job done. This move would endanger South Boulder and Frasier Meadows residents. And the level of development turns my stomach. Why is there no student cap at CU? As Gary Urling points out in this morning's paper, WE DON'T HAVE ENOUGH WATER to double the downtown area at CU South.

**Please, please reconsider your position.** CU should not be permitted to manipulate the City for windfall development profits. Thank you.

Emily Reynolds  
2030 Mesa Dr, Boulder, CO 80304  
303-875-7514

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: David Shomper <dshomper@me.com>  
Sent: Tuesday, August 24, 2021 10:35 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

We think it would be extremely undemocratic for Council to vote on the CU South issue before the question on the November ballot is put to a vote.

David & Judy Shomper  
3170 Kittrell Ct.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Ariel Goettinger <arielgoettinger@gmail.com>  
Sent: Tuesday, August 31, 2021 3:05 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU SOUTH

External Sender

Hello Dear City Council of Boulder,

I am writing to share my desire for CU SOUTH to NOT be developed for the following reasons:

- 100 year flood protection is insufficient; plans for 500 year protection are of course better for long-term given recent flooding events in Boulder and around the world.
- Affordable housing amount is insufficient to justify development and can be done on other parcels of land less valuable to wildlife.
- Traffic will be significantly worse
- Open space/ natural spaces should be preserved for both the needs of animals for habitat and humans for time in nature
- Continued student population growth will only benefit the university's coffers and not the citizens of Boulder.

I am also writing to ask that you honor the majority of the people's will of Boulder by honoring the petition that gathered enough signatures to put this issue on the next ballot. I would like to understand under what laws you have the right to take a vote on this vs. honoring the petition that requires this be voted on by the general public?

Thank you for being our democratically elected and functioning council, working in service of what the citizens of Boulder want their town to be, Best, Ariel Goettinger

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Schuyler Stevenson <sky.stevenson@gmail.com>  
Sent: Tuesday, August 24, 2021 10:37 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

Pardon the lame metaphors but the plan you're furthering is full of holes & will leak like a sieve.  
Sky Stevenson  
721 Hawthorn Ave  
80304

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** David McGuire <dmcguirepm@hotmail.com>  
**Sent:** Thursday, August 26, 2021 2:04 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Council Members, I just wanted to send a quick note in support of moving forward with the CU South annexation agreement. You have done a remarkable job thus far in keeping this important project on track. There are so many residents watching and waiting for ground to be broken on the flood mitigation project. You all know how important that is to all of us by now, I'm sure...

We were very distressed to see the recent Camera editorial filled with conjecture, inaccuracies, and general misinformation. I know all of you could spot the glaring problems with her opinion. Had anyone at the Camera done their due diligence and reached out to residents directly affected by this project and City staff they would have at least come away with some accurate information on the lengthy process in which many of us (including your council and boards) have been involved over the last eight plus years.

Regardless, this is not a popularity contest. This is a life and death decision for many and we all know we can sleep at night when we know we've done the right thing.

Thank you again for your continued support in putting this successfully behind us!

David McGuire

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Priya K <vkhatri7@gmail.com>  
**Sent:** Monday, August 30, 2021 2:38 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** planner@bouldercolorado.gov; commissioners@co.boulder.co.us  
**Subject:** CU South

**External Sender**

I am a home-owner in South Boulder and I strongly oppose CU Boulder developing on CU South without a 500-year flood mitigation plan. I support the flood mitigation plan put forward by the engineer Ben Binder. I want the CU South land preserved for open space and flood mitigation. I strongly oppose both Variant I and Variant II that CU has offered and ask to reinstate the original 500-year flood mitigation or do a land swap at another site in Boulder. Looking at what's happening in New Orleans again, no one can guarantee that the 2013 flood won't happen again and sooner in Boulder. CU Boulder's plan for flood mitigation is insufficient, quite frankly dangerous in Variant II, and turns a blind eye to their neighbors in South Boulder who would be most impacted by this development.

Vishnupriya Khatri  
4505 Darley Ave  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mike Duggan <dugganboulder@yahoo.com>  
**Sent:** Wednesday, August 18, 2021 9:17 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Cu boulder south

**External Sender**

To City Council,

I have been a home owner in boulder south for 19 years. I would like to see the area called cu south used for flood mitigation and open space. No housing.  
Catharina Duggan.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Jerry Jacka <Jerry.Jacka@Colorado.EDU>  
Sent: Tuesday, August 24, 2021 7:31 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU Boulder South Annexation

External Sender

Hello,

I just want to emphasize my strong support for this project to go forward. As a professor at CU Boulder, I am unable to afford a house in Boulder with my salary as home prices are insane here. The development of CU Boulder South will bring affordable housing to an area that desperately needs it.

Sincerely,

\*\*\*\*\*

Jerry K. Jacka, Ph.D.  
Associate Professor, Department Chair  
Department of Anthropology  
Faculty Associate, Institute of Behavioral Science &  
Center for Native American and Indigenous Studies  
1350 Pleasant St, 233 UCB  
University of Colorado Boulder  
Boulder, CO 80309-0233 USA

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Sallie Greenwood <sallie.greenwood@gmail.com>  
**Sent:** Friday, September 3, 2021 9:19 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU Annexation

**External Sender**

What are the options at this point?  
revisit the agreement with citizen input?  
roll over and accept done deal?  
are you listening?  
are you understanding that some of us, perhaps late to the party, do not want to compromise open space  
or subject ourselves to loosey-goosey CU development plans that degenerate the quality of life of South  
Boulder?  
Sallie Greenwood  
4424 Greenbriar Blvd.  
Boulder, Colorado 80305  
cell: (970) 714-3651  
cell: (303) 906-9094

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mark Kloster <deadwait@comcast.net>  
**Sent:** Sunday, August 15, 2021 3:06 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU Development

**External Sender**

Greetings-

Much has been said about this plan. I was here when CU obtained the south property and like most people I suspect, forgot about it. Almost. But as Frank Zappa observed, the more you know the darker things look. This is an iconic piece of land and it has many aesthetic community benefits, not to mention value as a flood mitigation location. Dedicating this property to real estate development would be a travesty. Hard to believe anyone would want their name on it.

Given CU's growth model, and what we have been able to observe as they have added development to the City, taking a circumspect approach regarding any plans such as those under discussion at the south project seems advisable. Moreover, vagaries within the annexation plan make even some CU Regents and planning department authorities uneasy, and reluctant, regarding the plan. (one wonders about those council members who recused themselves). It may be a bad plan, with the likelihood of bad results, given the known trade offs and various unknowns, disingenuous dealings or not. Cloaking everything as a solution to the housing "crisis" has been a reliable sales pitch for development but it is wearing thin.

No need to rehash the deficiencies in the plan. The impacts of new development on a community area that is already beyond capacity will be felt most by those who will probably benefit least. Roads, parking lots, large buildings, reconfigured freeways, loss of open space, noise. What else? There are many knowledgeable people in Boulder, some of whom have shared specifics regarding aspects of the proposal- transportation, flood control, legal worries etc. The mayor and city manager touting the supposed merits of the proposal notwithstanding, it is easy to be a skeptic.

So why the rush? Well, we know what Frank Zappa said. So, let the people decide in November. After all, with the municipal utility the City proceeded at great cost with a closely split vote. I suspect there is far less support for annexation, creating a dilemma. Why proceed with something most people don't want? I suspect as well that you would have a better time selling the public on a 500 year flood plan and open space. Go figure.

Respectfully,

Mark Kloster  
5071 Euclid

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Joy Rohde <joy@tractable.ai>  
**Sent:** Thursday, July 29, 2021 9:03 AM  
**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>  
**Subject:** Council Meeting Tonight and CU South appeal

**External Sender**

Council and Planning Board,

Prior to your meeting tonight, I wanted to make one last appeal to you. Please do not jump into the annexation of CU South without the full context of how this project will play out, and without full commitment from CU that they will not just use this concession as a "bait and switch" to put a full sized stadium or other major project on the site.

When you began the annexation review process, it was based upon the premise that a dam would prevent flooding in South Boulder. We now know that only 30% of the flooding would be mitigated by the relinquishment of this open space, a unique ecological environment that is so valued by the South Boulder citizenry for its beauty and recreational value.

That alone should cause you to take a pause and consider alternatives. The thought that we should spend 25-99M of taxpayer dollars to build this dam that is questionable in its efficacy is enough to require more research. And of course, given the significant increase in commercial square footage, a new traffic study should be commissioned as well before anyone sleepwalks into what could be a city planning nightmare requiring significantly more funding to create new off ramps, wider lanes and other costly measures.

But what's worse is that you have absolutely zero commitment from CU. Even if it is determined that this dam can't be built, or that the land is ecologically significant, CU will get the property it wants, and the city will be on the hook for all of the utility services they need at a cost to us.

And they aren't even sharing finalized plans with you. If they decide to host major sporting events or concerts there, you will have to contend with a parking, noise, trash, and traffic nightmare.

This project is all upside for CU and all risk for the city. As representatives and advocates for the citizens of Boulder you cannot go forward with this ill-planned project as it stands today.

Best Regards,  
Joy Rohde

--

**Joy Rohde**  
**Director, Business Development**  
**415.942.3115**

[tractable.ai](http://tractable.ai) | In the news: [Wall Street Journal](#) | [New York Times](#) | [Wired](#) | [TechCrunch](#) | [FT](#) | [VentureBeat](#) | [The Economist](#) | [Forbes](#) | As seen in [CB insights AI100](#)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Alan Delamere <wadelamere@comcast.net>  
**Sent:** Thursday, July 29, 2021 2:16 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Council error - typo corrected

**External Sender**

Dear Planning Board,

Council made a gross error in assuming that an 100 year flood protection was adequate when they authorized staff to proceed with an annexation agreement with CU.

Since then we have had a number of very disturbing flood events that totally negate the 11 year flood assumption in light of world-wide flooding.

First we had the Cache La Poudre flood that was outside any predications. More recently we had two heavy rainstorms that flooded the 9<sup>th</sup> and Balsam intersection.

The first I experienced as I had to avoid about 4 inches of water and the second last Sunday was more serious.

It was obvious that our storm drains are inadequate to deal with heavy rain.

Protecting all of Boulder requires more than wishful thinking that an 11 year flood will solve the problem.

Our major problem is that we do not have a detailed Flood Mitigation Plan covering all of Boulder.

If we did have such a Plan it seems that the Planning Board would be a major reviewer of such a plan.

Some of the questions that the plan needs to address are:

1. Are the diameters of our storm and sewage pipes adequate?
2. Do we need to add pumping stations to the system?
3. Where can we find and designate temporary flood water storage areas?
4. What happens if we get a stalled /slow moving thunderstorm west of Boulder similar to the Big Thompson flood?

Until such a plan has been created and approved, it is appropriate to put a hold on the CU South annexation.

Sincerely,

Alan Delamere  
303-447-2780

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gary Strand <strandwg@mac.com>

**Sent:** Friday, July 30, 2021 2:10 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Concerns regarding proposed SH 93 intersection for CU Boulder South campus

**External Sender**

Please see attached PDF file outlining my concerns regarding the proposed intersection on SH 93 just south of the city limits to allow access to the CU Boulder South Campus.

Thank you for your time and attention.

Gary Strand  
1496 Brown Cir  
Boulder CO

## CU Boulder South issues related to SH 93 intersection

### Summary

Analysis of the Fox-Tuttle traffic study reveals a number of serious issues regarding the proposed intersection on SH 93.

### Introduction

We purchased our home in Hy View subdivision in June 1996, just before CU bought what is now their South Campus.

The CU Boulder South campus will be accessible via only two locations - the current access on the north end (to be enhanced), and a proposed new intersection on SH 93 just south of Boulder city limits, roughly where the end of the old Marshall Road is located. The new intersection will allow for an additional evacuation route from the housing on campus if needed. However, the traffic study makes some claims that aren't well-supported or conflict.

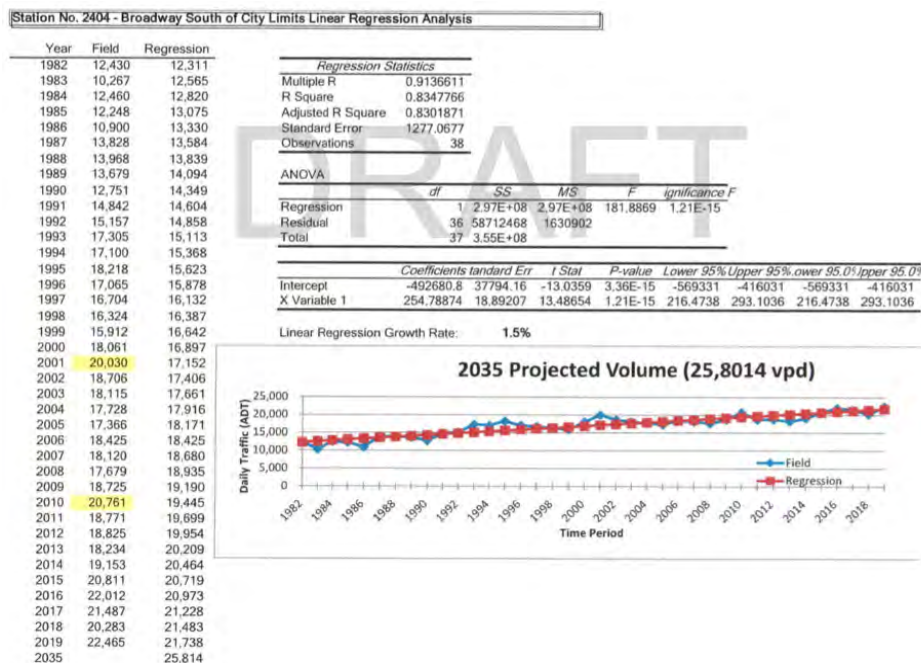
Additionally, the location of the planned intersection is on a very steep and sharply curved section of SH 93. In the 25 years we've lived here, we've observed a number of vehicles coming northbound into Boulder fail to navigate the curve and go off the road to the east. Given the grade, the very limited sight distances, and the lack of a center lane or divider, the intersection would be a likely source of potentially severe vehicle accidents.

### Unsupported claim regarding traffic counts on SH 93

On page 11, section 5.1, the study states:

**“Broadway (SH 93):** Traffic growth to/from the south has increased over the past 20-years but has seemed to flatten in recent years (see historic data in the **Appendix**).”

However, the data presented in the Appendix for Station 2404 shows no such “flatten in recent years”:

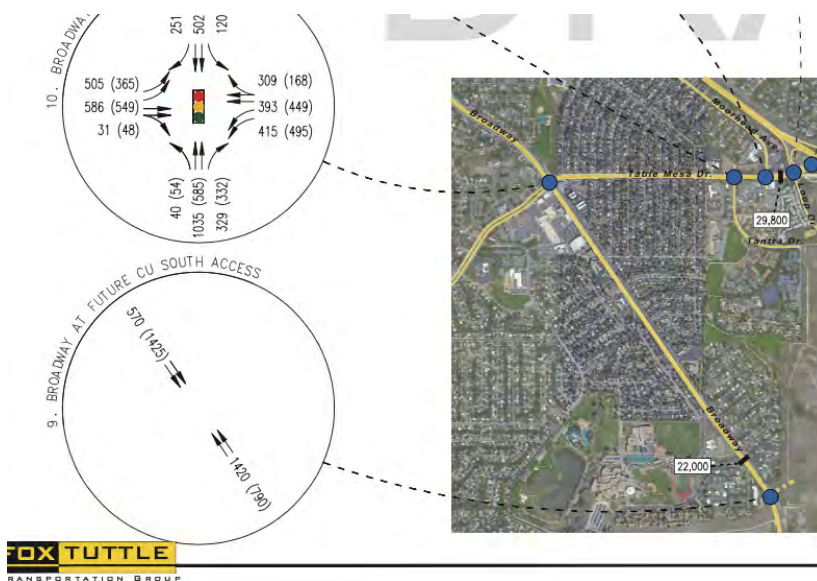


### How much traffic at the proposed intersection?

The study says that CU Boulder South will add about 7,000 vehicles per day (Section 11.0, Conclusions) and the SH93 intersection is going to absorb ~22%, which is ~1,500 vpd:



On page 35, the “Existing Traffic Volumes” diagram shows between 2,000 and 2,200 vpd through the proposed intersection:



The large difference in the traffic counts needs to be addressed.

## Grade and curve of SH 93 at the proposed intersection



The most substantial problem with the proposed intersection is that the road grade is significant, and the sharp curve reduces sightlines considerably.

Using Google Earth for elevation data, the northbound lane leaving campus starts at about 5,460 feet and over the length of the 350' acceleration lane, gains about 10 feet in altitude, for a slope of about 3.3%. The merge lane then gains another 10' in elevation over only 145', which is a grade of just under 7%.

Overall, the lane gains 20' in elevation in only 450' length, which is about a 4.5% grade. Some vehicles will likely not be able to merge into SH 93 traffic at the proper speed.

Southbound on 93 traffic turning left onto campus will have to decelerate down the same steep slope, on the curve, heading into oncoming traffic (there is no center lane or separation).

On days when 93 is slick, the odds of a collision caused by a vehicle attempting to enter the left turn lane and sliding into oncoming traffic isn't negligible.

## Conclusion

There are a number of significant issues with the proposed intersection on SH93 that the traffic report and the annexation agreement fail to address. Given the critical nature of the intersection (CU Boulder South cannot have only one access point given the potential for the need to evacuate the campus), I feel that additional study and analysis are warranted.

Thank you.

Gary Strand  
1496 Brown Circle  
Boulder CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** A. R. Pete Palmer <a.r.pete.palmer@gmail.com>  
**Sent:** Saturday, August 28, 2021 5:13 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** FW: Clarification on CU South

**External Sender**

**From:** A. R. Pete Palmer <[A.R.Pete.Palmer@gmail.com](mailto:A.R.Pete.Palmer@gmail.com)>  
**Sent:** Saturday, August 28, 2021 5:09 PM  
**To:** 'openforum@dailycamera.com' <[openforum@dailycamera.com](mailto:openforum@dailycamera.com)>  
**Subject:** Clarification on CU South

**Clarification regarding the CU South debate**

I have been involved since 2013 in discussions about a way to protect Boulder citizens and their property on the northeastern side of highway 36 from the next serious flood in the South Boulder Creek drainage system. Therefore, it has been disconcerting to read last week's "Hero" article about CU South, Spence Havlick's guest opinion today (Aug. 28) suggesting ways to create flood protection and dodge the need to give CU anything, and the nasty reply, also in today's Camera, from the author of the "Hero" editorial regarding a critique of that editorial from a Boulder City Council member.

Regarding the "Hero" article, it essentially takes us back to ground zero by asking CU to give up a small part of its land to permit construction of the flood berm, offering CU a property trade for the remainder, and leaving the rest of current CU South in limbo to "possibly be developed" at some unspecified future date. All one has to do is look on Google Earth to see that the property trade is a really bad deal. The alternative site in North Boulder is separated from the main campus by the central part of downtown Boulder which will result in a huge increase in traffic through central Boulder, among other problems.

Regarding today's guest opinion by Spence Havlick, he gives almost no indication concerning issues around property damage for those residents whose lives would be at risk, and is largely relying on signage and other messaging to get people out of the flooded area.

The nasty response, by the editor of the "Hero" editorial, to a critique of the that editorial by a Boulder City Council member, should be an embarrassment for any civilized reader of the Camera.

This brings me to my last concern. For the voting residents of Greater Boulder PAY ATTENTION! The disingenuous slogan of "Save South Boulder" needs to be recognized for what it is. It reflects primarily the views

of those residents on the mountain side of Highway 36 who want to keep the CU South property for their playground, and was inspired by those senior citizens who are still angry because CU bought the property, which the City decided not to purchase when it had the chance. There has been little real concern among those sloganeers for the lives and property of the residents in South Boulder who live north and east of Highway 36. The ballot issue dealing with the CU South property should be soundly defeated.

A. R. (Pete) Palmer

4875 Sioux Drive

Boulder, CO 80303

720-562-8206

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Alexey Davies <membership@communitycycles.org>

**Sent:** Monday, July 19, 2021 4:54 PM

**To:** Council <council@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Kirsten Schuchman <Kirsten.Schuchman@colorado.edu>; Abby Benson <abby.benson@colorado.edu>; Lisa Wachowicz <Lisa.Wachowicz@colorado.edu>; Bill Rigler <brigler@mapr.agency>

**Cc:** Sue Prant <sue@communitycycles.org>; Alexey Davies <alexey@communitycycles.org>

**Subject:** Community Cycles input on CU South Transportation elements

**External Sender**

Dear Planning Board / City Council / CU

It is great to see many good transportation elements in the CU South annexation terms. We hope to see this area as a model for how to build a neighborhood with as little dependence as possible on private motor vehicles.

Below is our specific input:

We are happy to see "South Loop Drive will be constructed as a "complete street" with a detached multi-use path and buffered bicycle lane.

Moorhead Ave. will serve as the most direct and convenient route for walking and bicycling between CU South and the main campus. Safe access to that street needs to be ensured for this major bike corridor. Currently the most straightforward way to get from CU South to northbound Moorhead is to follow the multi-use path on the south side of Table Mesa to the Moorhead intersection, and then cross in the pedestrian crossing. This won't function well when CU South is built out and tens of northbound cyclists are queuing at this intersection at once: the curb cut is too narrow and the movement is too awkward to move bikes through efficiently, and they have to compete with left-turning motor vehicles off Moorhead. This intersection will need a thorough re-thinking to ensure efficient movements, especially for people walking, biking, and taking transit to and from CU South. We believe a safe, cost-effective design would entail an at-grade intersection with a dedicated signal phase for bikes and clear pavement markings.

We urge the city to consider a redesign of Moorhead Ave. itself to ensure that it remains a safe and comfortable place for people walking, biking, and busing. We suggest closing it to private motor vehicles at Bear Creek, widening the sidewalks along the entire street, and replacing the existing bike lanes with a parking-protected two-way cycle track on the northeast side of the street.

The new entrance to CU South off of Highway 93 is proposed to cross the Broadway path at a busy location where bicyclists coming down the hill are traveling at high speeds. We are not supportive of this connection for motor vehicles and believe this option should only exist for emergency egress. However, if there must be a new access at this location, it must be engineered to ensure that the route to Marshall, Marshall Mesa, and Eldorado Springs from town remains a safe option. Because the road and intersection will be brand new and will require significant grading and fill, it will not be difficult to add a pedestrian-bicycling underpass. Additionally, the new intersection of Highway 93 and this CU South access should be a signalized intersection. Highway 93 speeds and volumes are too high for this to be a safe unsignalized intersection to be safe without traffic signals.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

The trip cap (5500 ADT) we assume is based on current CU travel patterns. Future patterns of travel should be targeting a lower number if we wish to meet our climate goals.

Last, we feel the proposed parking ratio of 1 space per dwelling unit is unnecessarily high, given that CU South will be very well served by transit that will go directly to most residents' destinations. We suggest a lower ratio of 0.75, which would also complement the trip cap.

Thank you,  
Community Cycles Advocacy Committee

--

ride on!

alexey davies

[membership@communitycycles.org](mailto:membership@communitycycles.org)

Membership Director / Advocacy Manager Community Cycles

[www.communitycycles.org](http://www.communitycycles.org)

303-641-3593

*2601 Spruce St, Unit B (in the back)*

[Join the Movement, Become a Member!](#)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>  
**Sent:** Monday, August 9, 2021 2:31 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Lindsey, Jacob <lindseyj@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Subject:** Comments for 8/9 listening session on CU South

**External Sender**

Dear Council,

I have a work meeting at 3 p.m. today, and I understand that public comments may be limited, so I have no idea if I will be able to comment at today's hastily arranged "listening session" or not. Here are my comments I may or may not get to read this afternoon:

Today you are "listening" to comments on a tragically flawed and senselessly rushed annexation agreement. This agreement amounts to little more than a negotiated "drug deal" between the City and CU which started and continues to be negotiated under duress and in the shadows by a potentially illegal council committee. There is no site plan. There has been no cost of service study. The annexation agreement is incomplete and would be irresponsible to adopt as it stands.

Today I want to address the review and comment process by which Boulder City Council has foisted upon citizens of Boulder. Today's meeting was scheduled late last week and set during normal business hours when many Boulder citizens are presumably at work. Similarly, we are asked to complete a "Be Heard Boulder" survey, but the document we are supposed to comment on is constantly changing and only the most profoundly engaged have a chance at making meaningful comments. Please know that we the citizens of Boulder find this to be unacceptable and needlessly rushed.

More than 4,500 citizens have signed a petition and placed a measure on the ballot in November. Please consider the optics of trampling on democracy in Boulder should you refuse to listen to your constituents who attempted to follow the petition process in 2020 (thank goodness the incompetent Tom Carr is gone!), and then successfully collected enough signatures in 2021, to have our voices heard. It would be truly shameful and blatantly anti-democratic for the City Council to approve any annexation agreement prior to this November's election.

Please be aware that Boulder citizens are prepared, should you foolishly ram through this flawed agreement. I urge you to study each measure of your annexation agreement carefully because they will be scrutinized under the harsh light of referendum review. You can expect our referendum petition to launch immediately should you approve this agreement before November. We will easily collect the necessary signatures once again. Our network and volunteers are ready, willing, and able. Please know that every aspect of this annexation agreement will be under the microscope and the anti-democratic tendencies of city council members will be put on full public display during the election season.

The decision to CU South, the gateway to our city and our last undeveloped floodplain, is one of the most consequential that will be made in Boulder for years. Citizens have worked to prevent encroachment and to protect this floodplain for 25 years. The annexation agreement before you lacks a site plan, a cost of service study, and many standard measures that are fundamental. It also leaves far too little space for the necessary flood protection. Do not capitulate to CU. Listen to your citizens. Let the voters speak. Boulder deserves careful consideration of this matter after 25 years.

Sincerely,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Peter Mayer  
Save CU South

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Andrew Allison <andy@allisonmgmt.com>  
**Sent:** Tuesday, July 20, 2021 5:33 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** McLaughlin, Elaine <McLaughlinE@bouldercolorado.gov>; Ferro, Charles <FerroC@bouldercolorado.gov>  
**Subject:** CC recusal email

**External Sender**

Dear City Council members,

We saw an email from Eric Budd to CC in regards to apparent council member social media posts. While we share Mr. Budd's passion for affordable Housing, he is not affiliated with our project and we believe our project stands on its own merit and as always look forward to any comments from any CC members.

Sincerely,

Andy Allison

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Marc Killinger <marckillinger@gmail.com>  
Sent: Sunday, July 25, 2021 5:16 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Careful on CU South

External Sender

Dear Council members,

I greatly oppose the kind of development CU seems to have in mind for its CU South property. CU needs to be reigned in, NOT encouraged. Keep our city green!

Sincerely,

Marc Killinger  
Holiday neighborhood

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Diane Curlette <dcurlette25@gmail.com>  
**Sent:** Thursday, August 5, 2021 12:25 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Cancel the CU South annexation plan, let the people speak

**External Sender**

Dear City Council members,

The more I learn, the sadder I feel about the blatant dishonesty and self-serving behavior displayed by CU regarding the CU-South property, and the lack of professional staff work, combined with lazy analysis by city boards and the city council regarding this mess. We now are trying to hold the current city council accountable for the all around failure of this process.

If you haven't already, I hope you will watch this 35 minute video (<https://youtu.be/ov0INtW0-8Q>) on the history of the proposed development and all the chicanery, poor decision-making and total waste of money due to decisions by city council and university leadership. The malfeasance extends to state agencies as well. (As noted in the YouTube above, there is an additional 30 minutes of discussion available on another video as well.)

True, it would have taken real courage to have stood up to CU, the local business interests and the city staff to demand a fresh start and total re-examination of this issue. But look at the payoff: by buying the property or condemning it, you will have ensured the best flood protection possible for all the vulnerable neighborhoods downstream for decades. Also you would permanently protect a beautiful riparian area, and protect the city of Boulder gateways to east and south for the future.

It also will take real courage to stop this annexation action by the city council and to let the voters decide on this project in November. But it is now the public's chance to speak up — we have lost our confidence in your leadership and need to make our opinions known by the best legal means available. The ballot.

It is not too late. Read these articles:

<https://boulderdailycamera-co-app.newsmemory.com/?publink=16900e391>  
<https://www.stevepomrance.com/2021/05/cu-south-road-not-taken.html>  
[https://boulderdailycamera-co-app.newsmemory.com/?publink=1375aff69\\_1345e4f](https://boulderdailycamera-co-app.newsmemory.com/?publink=1375aff69_1345e4f)  
[https://boulderdailycamera-co-app.newsmemory.com/?publink=06ecb1416\\_1345d7b](https://boulderdailycamera-co-app.newsmemory.com/?publink=06ecb1416_1345d7b)

Please take some wisdom and insight from these citizens who are trying to speak to you. You do have the backing of all the thousands of petition signers and residents of this area of the community, as well as professional engineers, to stop this annexation. This is a terrible project backed by dishonest science and duplicity and secrecy from various parts of our local and university government.

Please allow the people to vote on the petition. Please stand up as leaders and cancel this annexation project. Then acquire the property as open space and build the appropriate 500 year flood structure to protect the humans and environment of this irreplaceable area.

Thank you for your leadership, I hope.

With respect,  
Diane Curlette  
South Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gloria McVeigh <caryopter@yahoo.com>  
**Sent:** Tuesday, July 20, 2021 8:12 PM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Boulder Planning Board: CU South

**External Sender**

In anticipation of your hearing on CU South, I'd like to quote Boulder City Council member Aaron Brockett because his reasoning is the most compelling to me, given the 13+ years South Boulder residents have waited to feel safe again in their homes:

"The primary reason for the annexation is flood protection for Boulder residents.

Annexing CU South would allow the City of Boulder to acquire 36 acres that will be used to build a much-needed flood protection facility that will protect approximately 1,100 homes and 2,300 people from a 100-year flood. These include the senior citizens at Frasier Meadows, hundreds of folks living in affordable housing located in the floodplain, as well as many other Boulder residents. These are the same people who were severely affected by the extreme flood conditions in 2013 caused by waters overtopping Highway 36, and who have lived with fear and anxiety during every heavy rain ever since."

<https://www.dailycamera.com/2021/07/17/guest-opinion-aaron-brockett/>

I listened in to the recent Zoom meeting on the subject, during which an array of informed experts weighed in on the project's merits, and came away convinced that the city and CU Boulder had acted in good faith in reconciling their mutual and competing differences.

One of my favorite aphorisms is, "Don't let the perfect be the enemy of the good." In this case, "the good" is the welfare of residents in the path of future destructive floods. I urge you to approve the plan before you for annexing CU South to achieve critical flood mitigation.

Thank you,

Gloria McVeigh, Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Krezek, Michelle <mkrezek@bouldercounty.org>  
**Sent:** Friday, August 27, 2021 8:15 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Meschuk, Chris <MeschukC@bouldercolorado.gov>; Lori Call - CU <lori.call@colorado.edu>  
**Subject:** Boulder County Commissioners' comments on the proposed CU South Annexation Agreement

**External Sender**

Boulder City Council Members,  
Please find comments from the Boulder County Board of County Commissioners on the proposed CU South Annexation Agreement.  
Thank you,  
Michelle

Michelle Krezek | Chief of Staff  
Boulder County Commissioners' Office  
303.441.3561 office | 720.810.3332 cell | 303.441.4525 fax  
1325 Pearl Street | P.O. Box 471 | Boulder, CO 80306

August 26, 2021

City Council Members  
City of Boulder  
1777 Broadway  
Boulder CO 80302

Sent via e-mail to [council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)

Dear Boulder City Councilmembers,

The Board of County Commissioners received official notice of the proposed annexation of the property known as CU South on August 17, 2021. Up to this point county staff have been providing comments and feedback on the project. It is in the spirit of the collaboration called for in the general principles of the CU South portion of the Boulder Valley Comprehensive Plan (BVCP) that we now reach out to you. We appreciate that Planning Board considered county staff's comments and included in their recommendation measures to address some of the concerns raised. However, we do not believe the August 6, 2021 version of the annexation agreement adequately addresses our concerns.

The BVCP clearly includes a prohibition on a bypass connection between Hwy 93 and Foothills Parkway/US 36, and therefore, any access point at Hwy 93 should not have automobile and/or bus connectivity through CU South to Table Mesa Dr. Furthermore, as proposed, the Hwy 93 access would create significant safety issues that have not been addressed and that would be exacerbated by the use of the access for anything other than emergency access.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

The primary purpose of the CU South development as understood by the county and called for in the BVCP is residential development which would “help balance jobs and housing in the community”. We are supportive of the additional changes made to ensure that affordable housing is addressed as a key component of the annexation. While there is a proposed set aside for permanently affordable housing and the University is committed to providing student and faculty housing, we continue to be concerned there is not enough clarity in ensuring the overall amount or numbers of units, the housing product type mix and affordability to achieve the BVCP goals.

We ask the City Council, in considering the annexation agreement, to fully address the issues raised in the memos provided by county staff and include appropriate development parameters in the agreement. The agreement should ensure the full implementation of all of the goals of the CU South element of the BVCP so that the resulting development supports the health, safety and welfare of Boulder County.

Sincerely,



Matt Jones  
Chair



Claire Levy  
County Commissioner



Marta Loachamin  
Vice-Chair

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gloria McVeigh <caryopter@yahoo.com>  
**Sent:** Monday, August 9, 2021 3:20 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Boulder City Council: Annexation Agreement

**External Sender**

I've been watching horrific images of flooding and mudslides over the past week. Everyone has seen what closed I-70. But I also watched video of flooded streams throughout last year's burn areas. In every case, what I saw was flooding of existing streams - which had been adequate to handle normal runoff, but were overwhelmed by last week's widespread floods. A family of four was lost in one flood, a sobering reminder of how close our neighbors in South Boulder came to losing more than property in 2013. Then I look at the plot involved in this Annexation Agreement. I have walked trails around that property. Even before I understood what the city and CU were working on, I thought to myself, This must be a flood plain. I've lived in other communities where similar land was used to safely divert flood water. Boulder is fortunate to have available a resource that's ideal for use as a flood plain, especially situated where it can be applied directly to relieve threats to residents of South Boulder. My only question: Why on earth is this Annexation Agreement still being argued by so-called opponents? It's clear that the city has gone to great lengths to accommodate reasonable objections - much further than any municipality I've ever resided in. An outsider like me, trying to follow the process and learn the details, can only come to the conclusion that opposition at this point is not being offered in good faith. Rescheduled meetings? Please. Please proceed with approval of the Agreement and immediately begin taking action to put an end to flooding threats to our South Boulder neighbors.

----- Forwarded Message -----

From: [joynermcguire@comcast.net](mailto:joynermcguire@comcast.net) <[joynermcguire@comcast.net](mailto:joynermcguire@comcast.net)>  
To: "[flood@sbcreekactiongroup.org](mailto:flood@sbcreekactiongroup.org)" <[flood@sbcreekactiongroup.org](mailto:flood@sbcreekactiongroup.org)>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Nicholas Fiore <nick@flowerarchitecture.com>  
**Sent:** Sunday, August 29, 2021 8:30 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Ben Binder OpEd / DC / Truth?

**External Sender**

Hello Council

Mr Ben Binder has written what appears to me to be the most clear eyed analysis of the CU South decision I've ever seen. I'm interested to know if his (seemingly) fact based record of events rings true to you?

I was a planner at CU, working under the Campus Architect, up until 2016. I know the guy who bought the lot for CU in the 90s, he just retired. CU knows they're sovereign. They'll act like they are even when they ain't... maybe like right now? I don't like to be cynical in my personal actions, but a behemoth like CU can operate cynically without a single person inside it feeling that responsibility. Catch my drift?

If it's true that the 500 year protection, and CDot headaches that go with it, will be better for the city and FMeadows in the long long run - especially in light of forecasts for more rain events more often like 2013 - then it might be smart to demand more from CU. It does appear that they're playing for time, which is a smart negotiation tactic as the City has the urgent need. Sometimes the right demand requires the long game. CU knows this. Not sure we've even attempted it yet.

Nick

---

Nicholas Fiore (he:him)  
Studio [720 515 7749](tel:7205157749)  
Mobile [434 531 6837](tel:4345316837)  
[nick@flowerarchitecture.com](mailto:nick@flowerarchitecture.com)

**FLOWER**  
2304 Pine Street  
Boulder, CO 80302  
[flowerarchitecture.com](http://flowerarchitecture.com)  
@flowerarchitecture

Typos courtesy of iPhone X <sup>™</sup>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** the.dragons.be.here <the.dragons.be.here@gmail.com>

**Sent:** Wednesday, July 14, 2021 12:20 PM

**To:** Council <council@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>; Boulder County Board of Commissioners <commissioners@bouldercounty.org>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Cc:** Deborah Swearingen <dswearingen@prairiemountainmedia.com>; Shay Castle <boulderbeatnews@gmail.com>; Claudia Hanson Thiem <thiem.claudia@gmail.com>; Angela Evans <aevans@boulderweekly.com>

**Subject:** Attachment to previous message: July 14 CUSouth Community Briefing and Listening Session

**External Sender**

Once again, having spent all morning writing up a response, I sent it off before actually attaching it.

On Wed, Jul 14, 2021 at 12:10 PM David Takahashi <[the.dragons.be.here@gmail.com](mailto:the.dragons.be.here@gmail.com)> wrote:  
I have far too much to say in 2 minutes, and I want to get it in the public record anyway.

The question I pose to the City of Boulder and the University of Colorado is to please fully define 'the good of future generations' in:

Recital C in the Annexation Agreement, *Community Review Draft of July 12, 2021*, reads:

*C. The University, through its partnership with the City to annex CU Boulder South, wishes to contribute positively to the good of future generations by not only supporting its educational mission but by, among other things, providing housing, engaging in environmental preservation and sustainability, and by contributing toward the safety of the greater Boulder and Colorado community.*

Our Boulder Valley Comprehensive Plan clearly states what inter-generational equity is based upon, and I do not find this agreement fulfills the interests of future generations. In fact, I believe this adds to the burdens we are already heaping upon the yet-to-be-born population which will outnumber us.

Please clarify.

David Takahashi

--

David Takahashi  
326 29th Street  
Boulder CO 80305

*Hic Svnt Dracones* Location/Time Zone: Boulder, CO/ Mountain

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Cara Anderson <cara.boulder@gmail.com>  
Sent: Tuesday, August 3, 2021 11:53 AM  
To: Council <council@bouldercolorado.gov>  
Subject: Are you listening?

External Sender

Esteemed Council Members,

I've written to you before and I feel that my plea is falling on deaf ears, so here I go again.

Is each one of you willing to read the ongoing commentaries in the daily Camera from many people who are more informed than I on the many problems with the current agreement with CU? Are you willing to consider that this whole thing should be put on pause while some significant deficiencies in the plan are dealt with? Do you feel locked into where things stand because of the time invested so far? Do you feel your credibility and reputations would be damaged if you took a hard look at the serious problems and admitted that you rushed into things because CU essentially blackmailed you into accepting a plan that will not really solve the flooding issue at all? Have you considered how you are going to feel if you approve the annexation and cave to CU's demands, only to see serious flooding damage down the road because you abandoned the 500 year flood mitigation?

Are you ignoring the fact that in November, there will be a ballot initiative requiring that any agreement with CU Boulder regarding annexation be approved by voters prior to the provision of city utilities and services? Why are you voting on the annexation agreement prior to Boulder voters being able to weigh in?

I feel so frustrated, because I feel that nothing will change your headlong journey down the wrong road.

Cara Anderson  
Boulder resident since '67

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Illya Kowalchuk <illya.kowalchuk@gmail.com>  
**Sent:** Tuesday, August 24, 2021 4:41 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Appalling Editorial in today's paper! Yes on Annexation.

**External Sender**

I'm writing to let you know, again, that your proposal to annex CU South to mitigate the impacts of the next 100-year flood has my wholehearted support. The work that you've done over the last decade have resulted in a comprehensive, considerate, and wonderful compromise between the city and CU. This agreement ensures safety for the members of my neighborhood as well as provide solutions to our continued issues involving traffic, growth, and youth safety. Please do not let the misinformation of today's appalling editorial influence your decision to support this wonderful and desperately needed annexation/agreement.

Kindly,

Illya Kowalchuk  
He/Him/His

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Janet Brewer <dtbjhb@aol.com>  
**Sent:** Tuesday, August 24, 2021 2:47 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Annexation of CU South

**External Sender**

To all Council Members:

I wish to express my full support for the annexation agreement with CU, which will enable needed protection from future flooding in South Boulder as well as address other intractable issues facing our community; i.e. housing and traffic.

This annexation agreement is the product of years of negotiation and compromise. Much study has been done, many perspectives considered.

Please see this project through to a successful completion.

Sincerely,  
Janet H. Brewer  
(resident of Frasier)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Pomerance, Stephen <stevepom335@comcast.net>

**Sent:** Friday, July 30, 2021 1:33 PM

**To:** Council <council@bouldercolorado.gov>; Llanes, Sandra <LlanesS@bouldercolorado.gov>; Rivera-Vandermyde, Nuria <Rivera-VandermydeN@bouldercolorado.gov>; Haddock, Kathy <Haddockk@bouldercolorado.gov>

**Subject:** Agenda 4B does not fix the problems with Charter Sec's 44 and 46

**External Sender**

**To the Council:**

Someone just alerted me to some problems with the proposed amendment to Charter Section 46 that is in your packet as Agenda Item 4B.

There are two important points that need to be in both Charter Section 44 and Charter Section 46.

Each of these Sections is currently missing one of these two points:

1) that all signers of petitions are Boulder registered voters.

Section 44 is currently missing this requirement.

2) that the number of signatures required is the average of the number of people that voted in the last two city council elections.

Section 46 is currently missing this requirement.

*(This numerical requirement was the suggestion of the Elections Working Group; it was supported by the Council; and it passed by the voters in 2018.)*

These are pretty simple to fix. But Agenda Item 4B does not make the necessary changes:

1) Agenda Item 4B does not provide additional language for Section 44 to ensure that signers are Boulder registered voters.

2) Agenda item 4B is missing the word "average" from the language proposed for Section 46.

I've laid out below what seem to me to be the simplest fixes to these missing pieces. The amendments are in **red**.

My first approach was to use the exact same language in both Sections, basically copying from one to the other, so that there is nothing to confuse the petitioners.

My alternate version simply has Section 46 reference Section 44 with regard to the numerical requirement.

This "reference" approach is also used in the Initiative process in Charter Section 39. So it has precedent, and seems to work fine.

I would recommend using this alternative

Properly amending both Sections correctly will eliminate unnecessary confusion.

Regards,

Steve Pomerance

*P.S. At the bottom, I included the language from the 2018 Council meeting where second reading was done for the amendments, so you can see that the intent was clearly to change the numerical requirement for referenda as well as initiatives to the average number of voters in the last two city council elections. BTW, the required signature number for a recall was upped to 20% by the council in that meeting, to the best of my recollection.*

**Current Charter Language:**

**Sec. 44. - Referendum petition.**

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)

If, within thirty calendar days after final passage of any measure by the council, a petition signed by at least ten percent of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, it shall not, except in the case of an emergency measure, become operative until the steps indicated herein have been taken.

(Amended by Ord. Nos. 4598 and 4599 (1981), § 1, adopted by electorate on November 3, 1981. Further amended by Ord. No. 8272 (2018), § 3, adopted by electorate on November 6, 2018.)\*

**Sec. 46. - Certificate of petition.**

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)

Within ten days after the filing of the petition the city clerk shall ascertain whether or not the petition is signed **by registered electors of the city** to the number of at least ten percent of the registered electors of the city as of the day the petition was filed, and the clerk shall attach to such petition a certificate showing the result of such examination. If by the city clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by the filing of supplementary petition papers with additional signatures. The city clerk shall within ten days after such amendment make like examination of the amended petition and certify the result thereof. The City Clerk shall verify signatures to the extent reasonably possible by comparison with the election records of the Boulder County Clerk or the Secretary of State.

(Amended by Ord. Nos. 4598 and 4599 (1981), § 1, adopted by electorate on November 3, 1981. Further amended by Ord. No. [8273](#) (2018), § 3, adopted by electorate on November 6, 2018.)\*

**Proposed Amended Language for Sec. 44 — this adds in the “**registered electors of the city to the number of**” language, copied from Sec. 46:**

**Sec. 44. - Referendum petition.**

**[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)**

If, within thirty calendar days after final passage of any measure by the council, a petition signed by **registered electors of the city to the number of** at least ten percent of the average of the number of registered electors of the city who voted in the previous two municipal candidate elections be filed with the city clerk requesting that any such measure, or any part thereof, be repealed or be submitted to a vote of the electors, it shall not, except in the case of an emergency measure, become operative until the steps indicated herein have been taken.

**Proposed Amended Language for Sec. 46 — this copies the numerical “average” requirement language from Sec. 44, but maintains the “signed by registered electors of the city to the number of” language that was already in there:**

**Sec. 46. - Certificate of petition.**

**[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)**

Within ten days after the filing of the petition the city clerk shall ascertain whether or not the petition is signed by registered electors of the city to the number of at least ten percent **of the average** of the number of registered electors of the city who voted in the previous two municipal candidate elections, and the clerk shall attach to such petition a certificate showing the result of such examination. If by the city clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by the filing of supplementary petition papers with additional signatures. The city clerk shall within ten days after such amendment make like examination of the amended petition and certify the result thereof. The City Clerk shall verify signatures to the extent reasonably possible by comparison with the election records of the Boulder County Clerk or the Secretary of State.

**Alternate — Proposed Amended Language for Sec. 46 — this is an alternate approach that simply references Section 44 regarding the numerical requirement; this has the advantage of being shorter and not duplicating language, and is what is used in the Initiative Section 39:**

**Sec. 46. - Certificate of petition.**

**[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)**

**CU South Annexation Application (LUR2019-00010)**  
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Within ten days after the filing of the petition the city clerk shall ascertain whether or not the petition is signed by registered electors of the city to the number [required in Section 44](#), and the clerk shall attach to such petition a certificate showing the result of such examination. If by the city clerk's certificate the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate by the filing of supplementary petition papers with additional signatures. The city clerk shall within ten days after such amendment make like examination of the amended petition and certify the result thereof. The City Clerk shall verify signatures to the extent reasonably possible by comparison with the election records of the Boulder County Clerk or the Secretary of State.

- **CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 14, 2018**

▪

**AGENDA TITLE** (*Item B in the Public Hearings section of the meeting*)

Ordinances 8272, 8273 and 8274 related to the work of the Campaign Finance and Elections Working Group:

1. Second reading and consideration of a motion to pass Ordinance 8272 submitting to the registered electors of the City of Boulder at the municipal coordinated election to be held on Tuesday, November 6, 2018, the question of amending City Charter Sections 29, 38A, 38B, 39, 40, [44](#), 48 54 and 56 regarding the city's initiative, referendum and recall processes; setting forth the ballot title; specifying the form of the ballot and other election procedures; and setting forth related details. ....

**EXECUTIVE SUMMARY**

The purpose of this agenda item is for the council to consider a motion to adopt three ordinances related to the recommendations of the Campaign Finance and Elections Working Group. The three ordinances are related the working group's efforts on its review of election procedures.

1. Ordinance 8272 contains a majority of the working group's recommended charter amendments. It includes:

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

- amendments to the initiative and referendum process;
- clarification of charter amendment related to the withdrawal of a candidate from a

city council election on the 65<sup>th</sup> day before the election;

- an amendment to set the number of signatures required for an initiative, referendum, or recall to be at least 10 percent of the average number of voters in the last two municipal candidate elections; .....

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: timothykc <timothykc@gmail.com>  
Sent: Wednesday, August 18, 2021 8:18 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Against CU South Development

External Sender

Adding my voice and vote against the plans to annex and develop CU South.

It will create a traffic nightmare that benefits no one except the University.

We do not need to increase the size of the student population. All that does is decrease the prestige of the school and the overall quality of life for the residents of Boulder...

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Friday, July 23, 2021 5:42 AM

**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Cc:** paul.culnan <paul.culnan@gmail.com>; timothy <timothy@schoechle.org>; Lindsey, Jacob <lindseyj@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; landmarksboard <landmarksboard@bouldercolorado.gov>; Environmental Advisory Board <EnvironmentalAdvisoryBoard@bouldercolorado.gov>; Housing Advisory Board Group <HousingAdvisoryBoardGroup@bouldercolorado.gov>; TAB <TAB@bouldercolorado.gov>; OSBT <OSBT@bouldercolorado.gov>; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>; norby.cw@gmail.com; Jyostna Raj <raj@colorado.edu>; lisa spalding <vanospalding@comcast.net>; ben binder <bbinder@ddginc.com>; SaveSoBo Now <savesobonow@gmail.com>; Derek Silva <Derek.Silva@Colorado.EDU>; Abby Benson <abby.benson@colorado.edu>; Jim McMillan <jmc1277@gmail.com>; plan boulder <advocate@planboulder.org>; Coleman, Brandon <ColemanB@bouldercolorado.gov>; SaveSoBo Now <savesobonow@gmail.com>; Council <council@bouldercolorado.gov>; mike marsh <mgmarsh1@juno.com>; Koehn, Jonathan <Koehnj@bouldercolorado.gov>; John Tayer <john.tayer@boulderchamber.com>; WRAB <WRAB@bouldercolorado.gov>

**Subject:** 22 July PB "CU So" on Fast-track.

**External Sender**

Hey PB,

\*Ed Smutney said in testimony, "8 days ago, the COB website opened 'page not found' on the newly posted 80 pg. "agreement" on the secret negotiation just when the city decided to launch their new website. Not good timing, or maybe it was planned. He complains there is no dialogue. This project is a BIG DEAL with limited engagement. \* *(I cannot spell Ed's last name because the lower half of the display is blocked/faded. I hope this is not on the tape!)*

CU sucks all the oxygen out of the room. It is not that the annexation is complicated, it's that it is big, and it needs lots of time. Sam and Rachel may feel good about it, but they are just two council members that had months of private negotiations. Government is bigger than them.

Much of what has been asked by PB has been answered incompletely by CU. Abby diverted from Sarah's most obvious and crucial question about CU's net growth. Sarah asked if this was not just going to increase student population. Abby said it would provide affordable housing. So? In proportion to what **demand** for more housing, how many more students? The regents decide, Abby said. *NOT the city*. Yet it is the **city that is burdened with greater, not lesser net demand for housing from annexation of "CU So"**.

Microgrids? Abby said "no plans, so can't say". OS for community gardens or solar? 10 acres not to flood community gardens in OS if after 3-5 yrs. What is the status of OSO pre and post annexation after building anything? First allow levee to come down. CU built it, and now the city shall pay for its removal? All of this is confusing to me. WHERE IS THE OPEN HOUSE AND PUBLIC PROCESS TO CLARIFY TO THE PUBLIC WHAT EXACTLY THIS HUGE PROJECT ACTUALLY MEANS?

**CU South Annexation Application (LUR2019-00010)**  
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Mat Benjamin. Unbelievable. Like so many others asking for better sleep not worrying about floods for Frazier residents, these testifiers have the audacity to use the climate change argument about Germany recent flooding to **defend** annexation when in fact those same arguments justify opposition. CU has a business model that does not include climate change. Ironically CU will not "protect" the city. The evidence is as Ben Binder described, their filling of the ponds and erection of the levee, **caused** the 2013 flood. It's not their fault, like with Xcel who just decided to close costly Unit 3 coal plant with a life of only 12 yrs. out of it's projected 60 yr. lifetime, for which (by way of "securitization") it will charge the taxpayers for the loss by transferring the stranded costs to a new nuclear power plant, that they will again charge the taxpayers for in arrears when decommissioning. They are beholden to the state with CU and the shareholders with Xcel. If it's in their best interests, CU will cause a flood. If it is in their best interests, they will build on their FEMA and state-required 500 yr. floodplain and leave Boulder with another flood in a 100 yr. remediation. It's not that they are bad. **It's that they have a conflicting business model with the city.** These Frazier activists must acknowledge this. There are also 15 drainages that need attention in town. CU will not only fail to solve their flooding problem, by leaving them wet in a 100 yr. event, but they will enrage the rest of the city with still high stormwater bills even after the last hour bargain basement "discount" on the fill, tennis courts, warehouse and South Loop Dr. as CU's costs get passed on to them. No land donation makes up for it.

They insist on Highway 93 access or no go. 93 is a scam to add net trips and divert from the already high-level congestion at Table Mesa diverting it around to Superior to cheaper housing points south on I-36 and 93 for more in-commuting due to the high-income sector of "workforce" housing's consequent creation of low-income service workers jobs that cannot afford to live in Boulder. CU did not acknowledge these consequences and provide the numbers. Do not approve access to Highway 93.

The rep. from the Chamber had so many gratuitous thank you's that he practically used up his time. Workforce housing? CU itself dared use this noxious and misleading industry terminology. Here it is again! He has no understanding on the net negative impact, which is even against the Chambers best interests. Annexation wildly violates the BVCP 1.11 J/H balance. Now Abby's doing the thank-yous and claiming affordable housing. No attention to potential private personal residences being developed on the site other than saying they aren't going to do that. The point is, they CAN in this agreement, because without site plans, private development is not ruled out. But even if they agree to not do that, it's a distraction from the impact of even the idea of another campus here. Power begets power. The only way we got out of the development planned at Enchanted Mesa was condemnation and a lobby of the citizens for the overage of funds we needed to purchase it. That initiated a groundswell of support for the Open Space tax and the Blue line. From Caitlyn Plantico on the Blue Line and Enchanted Mesa Purchase:

[http://www.boulderblueline.org/pdfs/e\\_mesa\\_purchase.pdf](http://www.boulderblueline.org/pdfs/e_mesa_purchase.pdf)

## The Blue Line Amendment and Enchanted Mesa Purchase: Setting the Stage for Boulder's Open Space Program

The Blue Line Amendment and Enchanted Mesa Purchase: Setting the Stage for Boulder's Open Space Program Prepared by Cailyn Plantico OSMP History Intern, September 2008  
[www.boulderblueline.org](http://www.boulderblueline.org)

Pg. 23 (*Mirise is the developer*).

"With Mirise's side presenting their case, the blue line quickly came under fire. "The blue line was directed specifically at Enchanted Mesa. It was a trap meant for me, and it also caught others," Mirise testified. His attorneys went as far as to call the blue line unconstitutional and argue that the city could be forced to supply Enchanted Mesa with water for private use. According to Mirise, municipal officials had once promised him water in return for his petition to annex his land to the Northern Colorado Water Conservancy District, in addition to telling him that he could develop his land with other water sources. (*Remember when CU tried getting water from Superior or some other place nearby unsuccessfully?*) Regardless of the city's willingness to provide a water supply, "The highest and best use was then and is now a Broadmoor-type development," said Mirise, in reference to the Colorado Springs hotel. In addition to plans for a luxury hotel, Mirise also had plans for "luxury homes" ranging in price from \$40,000 to \$100,000 ("Enchanted Mesa Worth \$876,000 Mirise Contends," Boulder Camera)."

Well, Neil King represented the city and won. The "CU South" annexation vote will take place.

There are so many unclear and moving targets on the project due to the lack of site plans and so much discussion on de-annexing that it must be prescient. So, could the city de-annex if there are no permits for flood mitigation? Does this happen if CDOT doesn't approve the mitigation? And then it may be too late. All this is premature to CDOT, yet Derek tells me it is not CU pushing for annexation, it's the city. Sounds like wait for CDOT.

If CU opts to sell after annexation, these plans are university-oriented and binding to the land use under annexation. That is very limiting to future buyers. Boulder may want **this** university on the site, but not a different one. Maybe other universities land use business models since COVID are changing, and other types of users would find the property more useful. Yet the annexation regulations would not encourage that use and the land would effectively be devalued. Maybe Boulder finally wants to get their fair opportunity to buy it for their version of affordable housing, without state authority through CU, as they tried to do in 1996 but were circumvented by CU who inflated the price through a tax advantage and a projection on speculative future development value.

All these discounts, it sounds like a bargain basement special. \$10M down to \$3M for the fill, tennis 5 down to 0, warehouses 5 to 0, South loop 5 down to 2, totaling \$23M reduction in price from \$66M down to \$43M. Why were the numbers so high to start? Start high and shoot for low the last minute, before quantification can be determined.

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I don't know what spillway is, or freeboard. Seems like I should. Last week Joe offered a video covering what the OSBT field trip showed that I was not allowed to attend over a year ago. I saw it. Didn't help. I need a 3D rendering of the space over time including the original gravel pit, what the agreement was that was violated, the flow pathways before and after the levee, (the berm, if that's different) and an open house answering questions from the public. Drones imagery could be used. I have the advantage to know doppler ultrasound in blood flow dynamics from my profession, which can be applied to hydrologic systems, background that many folks don't happen to have, yet I still don't understand this geographical and hydrological change over time from the digging of the gravel pit.

CU has their own affordable housing mechanisms and I heard tonight they are not eligible to the LIHTC funds that BHP uses. Although they said they would consider all local affordable housing groups options, their state status may be limiting. And like with the secret Xcel Energy agreement, nothing is binding and everything is open. The city may have an option at first right of refusal if CU sells, but the "agreement" has fixed the use to a limited market in which, for a **second** time, the city may be excluded. What does it matter if the city has first right of refusal, what do they care if the value to them has been deflated in theirs or others eyes? That's not much community benefit. The community deficit is what CU incurs on the city, the deficit of excessive growth.

What Erin is saying about the BVCP is not a detail as to a minor modification before which PB has to make a decision next week. Minor becomes an order of magnitude when applied to a state university. I agree with Sarah that these are major issues that are fundamental to a deep consideration on this most dramatic and consequential land use decision ever to take place in Boulder. The **board has imminent power**, David is right. But it is not a little conjecture, as he also said. This is different. What appears to be small has a big unknown associated with it when there is no site plan preceding a vote. It is something to discuss **live** with Erin, considering that what she may perceive is minor, is not minor to members of council. This is reductionist. To say there is a higher level of opportunity for dissent at council is kicking the can, and rises to a level of ethical violation to the PB members on their mission and commitment, as well as publics. There is no specificity in the charter for Erin that can address this adequately to enable her to counsel planning board fairly and ethically.

The elephant in the living room is the growth this represents. Raw growth equals increase in jobs/housing imbalance. This is not just housing faculty, it's housing all the students that faculty generates and moves the problem around like the homeless encampments. CU said the regents themselves make the decision on CU expansion of student population. Boulders interests are confined to carrying capacity, which it is remiss in addressing. What's more there is no control over the state entity. CU can outgrow the city with one campus and you are even considering adding a second as fuel to the fire?

My comment tonight about Denver 7 Brutalist architecture project 30 Apr:  
<https://www.denverpost.com/2021/04/30/denver-7-landmark-demolition-brutalist-development/>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

By 11 May it was done (as in demolished):

<https://denverite.com/2021/05/11/denver7s-brutalist-building-on-speer-wont-become-a-city-landmark/>

The 5-story building failed in the attempt at landmarking and will be demolished. A student housing developer will build new at the 12-story zoned site at Speer and Lincoln. I understand that they will use a model of renting by the room rather than apartment. I just heard about this on NextDoor yesterday. They aren't even a university town that these developers target. Seriously. *Take note Landmarks Board.*

Similarly, but in spite of being landmarked, Marpa House was approved by you, the Planning Board, to be converted from an economical communal, surrounding community-loved home with a newly remodeled industrial sized kitchen and large inviting outdoor dining patio housing 40 folks with shared space, to 16 three-bedroom units without living rooms, patio removed and rented by the room c/o John Kirkwood with other hill managers/developers with the rental-by-room model of undergrad on-campus housing, now infecting the off-campus market. John posed as a benefactor and undermined their bid over appraisal. The neighbors had pitched in to help the occupants buy it.

Dick Tharp had sold Liquor Mart to WW Reynolds who then sold it to "Core Spaces" a national student housing developer that has expanded into market rate and had to defend that not only students would occupy. WW Reynolds doubled his investment in two years. This was within the last couple years. You approved that, remember Adrian Sopher, the project soon to be "OLIV at Boulder" at the site of Liquor Mart? Lots of ELU's and no room for on-site affordable. ELU's are planned for "CU So." Micro efficiencies are waste since they supply only one person. But it was 1996 when Dick Tharp, CU counsel and part-owner Liquor Mart, wrapped up a deal on the "Gateway" Flatirons Gravel property for an inflated \$16.4M including \$5M tax deduction for CU and \$2M more for future development potential, removing the city from competition. This resulted in his being appointed athletic director. Now he and WW Reynolds (c/o Jeff Wingert on EBWG) have sold it out, following the Marpa effect. It's another student high-end market creeping downtown. That's what Core Spaces does. And it sets precedent. Shortly after Marpa, there's the attempt of hiding a bedroom as dining room with door in "Marine 11" at 1024 Marine, creeping downtown. That was Bill Holicky, former PB chair with Coburn, and Michael Bosma from 311 Mapleton. Bill's also with Spine Rd. and partner Andy Allison on Spine was with Boulder Junction. This network of wealth extraction increases wealth inequity thereby causing the housing crisis and homelessness that the developer does not pay for. CU is not paying all the costs, water demand, OS, retail, services and all public infrastructure, roads to libraries and rec. centers, just like the city failed on Gunbarrel with **that** annexation. But CU is growth like no other project. Summarizing, Dick Tharp came full circle from the original purchase of the Flatirons Gateway "CU So" in 1996 to student housing at "OLIV at Boulder" in 2020. It's an industrial complex.



## Denver7's brutalist building in Speer won't become a city landmark - Denverite, the Denver site!

It looks like the end of the road for the imposing building on Lincoln and Speer. City Council on Monday rejected an application to turn the giant TV broadcast building at 123 Speer Blvd. into a ...  
[denverite.com](http://denverite.com)



## Denver7's brutalist building: a landmark or unremarkable?

The Denver7 building on Speer Boulevard is either a sterling, rare example of brutalist architecture in the city or a relic waiting to be destroyed. Denver's City Council gets to make the call in May.  
[www.denverpost.com](http://www.denverpost.com)

Mike Marsh said it was 2800 students would be generated, yet Brooke said that a 750K sf. non-student structure would generate 5000. Did her numbers include educators, staff? What does CU say? Abby said the regents vote on that. Then put up the regents as representatives, not Derek and Abby. And why should members of the public be the ones speculating? To take this one step further from John's argument, how can we as the public solicit you if you yourselves don't know what you are actually voting on? It seems to be either a moving target or the answers are just not going to be forthcoming at all. But we knew this from the start, a basically blind annexation, absent site plans. Can Boulder include CU in a subcommunity plan like Gunbarrel Spine Road? Or can the state just have Boulder for dinner?

Lynn

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Nicholas Fiore <nick@flowerarchitecture.com>  
**Sent:** Monday, August 30, 2021 9:43 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** 100 v 500 yr floods // CU

**External Sender**

Dear CC

It occurred to me that the city always places an extra burden on regular homeowners who want to build or add onto a home within the 100yr floodplain. Most often the city denies it, or de facto denial via onerous requirements. The result is homeowners have to make a "wise" choice and keep structures outside of this boundary.

CU prides itself on building structures above and beyond the quality and detail you'd see in commercial, residential, or for profit development. Institutions are by definition solid and lasting, and the built environment the seek and maintain is rigorous and lasting.

It feels odd to me, then, that rules that would apply to a single family home, with fewer resources and most often little incentive or resources to build of a quality past their own lifetimes, would or should also apply to an institution that (usually) prides itself on multi generational strategies in their decisions.

Mr Distefano the Chencellor recently wrote that CU has met its full moral obligation on this project. I respectfully disagree based on the logic above. Multigenerational lasting and 'right' development should be a moral imperative of a body representative of an entire state.

Are we trading the best solution for the expedient solution? Why do we always do this? Trains. Folsom bike paths. Flood protections...

Cheers  
Nick

---

Nicholas Fiore (he:him)  
Studio 720 515 7749  
Mobile 434 531 6837  
[nick@flowerarchitecture.com](mailto:nick@flowerarchitecture.com)

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[@flowerarchitecture](https://www.instagram.com/flowerarchitecture)

Typos courtesy of iPhone X ™

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Monday, August 9, 2021 4:47 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** SaveSoBo Now <savesobonow@gmail.com>; plan boulder <advocate@planboulder.org>; sebna@googlegroups.com; gwen dooley <gwendooley@comcast.net>; Pomerance, Stephen <stevepom335@comcast.net>; Havlick, Spenser <havlick@colorado.edu>; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>; Abby Benson <abby.benson@colorado.edu>; Derek Silva <Derek.Silva@Colorado.EDU>; Jim McMillan <jmc1277@gmail.com>; ben binder <bbinder@ddginc.com>; gerstlej@bouldercolorado.gov; Hanschen, Ryan <HanschenR@bouldercolorado.gov>; lewisb@bouldercolorado

**Subject:** "Listening" session "CU South" 9 Aug.

**External Sender**

From COB resident from North Central Boulder on the subject of the Elephant in the Living Room. CU.

Public process: No ability to sign up ahead. 2 hrs. for this meeting and you blocked communication signing up and quit 50 m. ahead with 2 min. /testimony. When it says sign up is over, what do you think people do?  
They ditch.

Peter Mayer's communication was cut up, largely in part because of the failure of the city to inform residents 3 mos. ago when the cell tower at former BCH was removed. I understand (through no public announcement) that it is being replaced in September at the Foothills campus). Meanwhile Boulder residents have experienced countless hours of loss of productivity and money from buying new cellphones and experiencing the blame game between their carriers and device sources. How dare the city not inform and prepare?

So, CU is "excited". Why? Derek Silva told me in one of these sessions months ago that it is the city is excited about this project, not CU. And Barbara, Derek incriminated himself with that statement, so don't blame me for a clarification. Same with Dick Tharp.

2Ksf. residential to 1K non res.? Nope. 2Ksf. res. to 1 **hundred** sf. non-res.

Return the \$5M extorted in a tax deduction for CU by Dick Tharp in '96. AND the \$2M inflation because of "development" potential. He wasn't bargaining on a flood plain. \$7M total returned to the COB plus inflation.

\$10M in damages need to be compensated to the city for losses from police expenses from damages related to sex scandals, liquor and riots due to CU's "students".

Land transfer 10 yr. and \$348/acre +CPI? No, no, no! 150 yrs. and \$4M/acre +CPI + inflation. Can't put a price on open space at the rate of Boulder's growth. The cash register is ringing by the microsecond with one university in town.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

900 sf. construction AKA 50% buildout for trip cap? Nope. **1 sf.** It's as simple as putting up a monitor. This is a transportation atrocity for all of Boulder.

**Separate potential annexation from flood mitigation. No "deals".**

Boulder has 15 other drainages with many more residents at risk. How dare you deceive the rest of Boulder?

Trade water rights for PIF's? No, I don't think so.

Pay for CU's gain and benefit with my stormwater and sewer rates? Nope I'm saving for my property taxes from the inflated land value from CU not paying the impacts.

No lighting, no noise, no sports. Got too much of that that's not going to be used. Repurpose your existing Folsom Field with this second campus.

Residential units less than 2K sf.? Nope. 500 sf. will suffice.

750K sf. non-res. to 500K sf. Nope. 50K sf. is generous.

Bear Creek floods too.

You put your sights too high CU, or was that the city that put their sights too high?

Lynn

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**External Sender**

July 20, 2020

Re: CU South Annexation Comment

Dear Planning Board, City Council and Staff,

It appears that some of the impetus to move forward with the Draft Annexation Agreement (“DAA”) for CU South is based on inertia. I urge that we consider whether the City and the community’s top goals will be achieved under the current proposal, or whether better alternatives warrant consideration.

I’m aware that the City has decided to move forward with 100YR flood mitigation for CU South. But newly released new documents including the April 2021 Briefing Book, the July 2021 Draft Annexation Agreement (“DAA”), and various slides and presentations developed for the DAA cast doubt on the current proposal.

On the surface, the City and CU have prepared highly persuasive talking points. But much information has been left out of the official releases. Under closer scrutiny, serious questions are raised on issues including public safety, net effects on housing, alternatives, level of flood protection, costs, climate, environment, and intelligent planning grounded in a commitment to science and the core values of the Boulder Valley Comprehensive Plan (BVCP).

**I. Informed Decisions, New Information and City-wide Flood Mitigation**

Two highly important considerations have been absent from coverage and discussion of the new DAA to date. First, whether it is more cost-effective and responsible to re-commit to 500YR flood mitigation. Second, whether the current proposal to allow CU to develop 1,100 new residential units and 750,000 square feet of non-residential buildings – as the student body could grow by as much as 2.4% (840 students) per year – will improve or worsen the jobs/housing imbalance for CU’s contribution.

I urge the City to give thought and have an open mind to three concepts:

- Does a land exchange directing CU to a North Campus at the Planning Reserve offer enough advantages as a win-win solution to warrant consideration, including expedited study and analysis by the City starting with a Baseline Urban Services Study (“BUSS”)?
- Does 500YR flood mitigation make enough sense under a land exchange scenario to warrant revisiting; or, in the alternative, leaving our future options open to extend an initial 100YR design to 500YR if future extreme weather events establish the need for heightened protections?
  - On public safety, under a land exchange and 100YR initial design -- 75-105 acres within the 100YR or 500YR flood plain would be available now for natural flood absorption and mitigation, and for future active flood mitigation (possibly raising the dam and expanding the detention area) in the event a future storm proves that 100YR is inadequate?
- Under a land exchange, the community would achieve all the benefits of CU’s proposed development at an arguably far more suitable location with greater flexibility to get it right.

**CU South Annexation Application (LUR2019-00010)**  
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Apparently, the City now asserts that the original \$10 million (\$10M) cost of the berm is now only \$3M. The analysis below uses that number. I am yet to see the City provide a cost estimate for berm removal, but understand that could be \$5-10M.

If taxpayers pay for berm removal, the cost of 100YR as currently proposed is greater than "earthfill" alone of \$10M under the previous run, where the two line items were "earthfill" and "CU Impacts" (\$15M) for a total of \$25M. What's happened to "CU Impacts"?

From the best I can make out, one cost was reduced by about \$7M (earthfill), and another increased by \$5-10M (berm), pending confirmation. It seems likely that the supposed "savings" is actually a re-allocation of the same costs into another category. The City needs to fully explain and document the numbers before any decisions are made. For now, citizens are confused at what may or may not be sleight of hand or creative accounting.

Staff needs to update boards and citizens on all major cost items, including earthfill, CU Impacts, and berm removal amounts, and justifications for any changes from past estimates and cost figures. I look forward to seeing updated numbers, explanations, charts and maps from staff to allow an informed discussion on facts and tradeoffs. If I learn more prior to Council meetings and future sessions, I will update this comment. It is drafted in good faith based on the best information I can find after attempting a careful review of available documents.

At the July 13 "Listening Session", City staff and officials offered three primary reasons for "settling" for 100YR versus 500YR.

First, cost. Cost appears to be a minor difference if 100YR is compared to 500YR mitigation *absent earthfill and "CU Impacts" costs* only accrued under a "Development Zone" approach where the City subsidized CU's development of a total of 159 acres, 129 for buildings and 30 more for playing fields and related infrastructure.

The cost difference for *flood mitigation alone* is only \$6M, or 16%: \$41M for 100YR versus \$47M for 500YR, taking out earthfill costs. In 2013, almost \$16M in damages were in the 500YR SBC floodplain.

Second, historical development patterns. City staff accurately stated that some drainages were built within flood zones long ago, before current codes and regulations were enacted. That seems irrelevant today. The City shouldn't dumb down or diminish protections for lives and property just because floodplain development was allowed 100 years ago. From Gilbert White to Liz Payton, we've heard from experts on avoiding development in floodplains and sound planning informed by the best science and engineering. Professor Payton has weighed in on modern climate science.

Third, competing demands or fairness and equity across drainages/watersheds. This is an important consideration. But it seems clear that the *cost savings* of not subsidizing CU under a land exchange would more than pay for the extra \$6M for 500-year (see below), and even leave a few million to invest elsewhere or to leave in taxpayers' pockets. A North Campus at the reserve would be expected to be cheaper overall for CU because site characteristics are overall far more favorable for development.

**II. Comparing 100YR and 500YR; and "CU South" versus "North Campus"**

**CU South Annexation Application (LUR2019-00010)**  
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The points below summarize the differences between 100YR and 500YR under a land exchange where CU develops a North Campus at the planning reserve instead of CU South.

1. Public Safety:

500-year flood mitigation design would protect 1800 more people, 800 more homes and 470 more structures than 100-year. That's 1,800 lives and \$800M in property value at \$1M/dwelling unit. If the numbers are lower for total property at risk, the City should provide those numbers. Typical home value is \$925-931K, going up like mad, so rounding up accounts for buildings.

Investing in 500- versus 100-year flood mitigation has far better returns on protections based on \$47M versus \$41M cost:

- 4100 versus 2300 people (78% more)
- 730 versus 260 structures (280% more)
- 1900 versus 1100 dwelling units (73% more)
- Cost comparison
  - \$11.5K versus \$17.8K/person
  - \$24.7K versus \$37.2/home

Councilmember Brockett's op-ed stated that the 100YR proposed design is under \$50M, "which is comparable to or less than other flood projects the city has constructed in the past on a cost per protected resident basis." Absent earthfill, the 500YR design is also under \$50M and would have far lower costs/protected resident. It's a better investment with superior financial returns on a per capita basis for lives and property, as well as reducing fear and anxiety in the face of future heavy rains for at 1,800 residents.

Numbers come from this table developed by staff:

Under a land exchange with berm removal, significant potential benefits result from passive/natural floodplain functions on the 129 acres in the Development Zone, if reclaimed rather than developed with buildings and paving that displace floodwaters. The 30-some acres to be developed for playing fields, access, infrastructure etc. in the "Flood Control Zone" and adjacent lands as "needed" by CU – would also be available for natural flood absorption. Reclamation and restoration on the entire 308 acres would enhance current properties across the floodplain.

Finally, potential regulatory issues going to CDOT approval have been raised for 500YR. Just as for 100YR, these can be addressed and resolved by discussions and negotiations as needed. A significantly higher level of on-site floodwater retention under 500YR would appear to better protect the state highway by significantly reducing the likelihood and volume of overflow from any given rainfall event.

At recent meetings, multiple Council members have stated openness to looking at a land exchange. All that's lacking is *expediting* the baseline study or BUSS, to set the process in motion. Action is needed. Voters support informed decisions and meaningful problem-solving.

**CU South Annexation Application (LUR2019-00010)**  
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2. Cost and subsidies

Costs and subsidies remain a major consideration. Cost and subsidies were a major difference under development scenario and they remain a major concern for CU developing 129 acres under 100-year proposed design.

To develop under 100-year, cost still significant: \$3M for earthfill + \$2M for South Loop Drive + \$2.812 to purchase 75 Open Space Acres = \$7.812M

The open space to be purchased within the berm is almost all [85%?] inside the 500-year floodplain now. That is mostly or entirely because of the berm, otherwise much of it within the 100-year floodplain. There are land use questions, which are outside the scope of this comment.

At \$7,812,500 total costs related to development, per acre subsidies for CU would be:

- \$60,562/acre total subsidy for each of the 129 acres in the “Development Zone (\$7.8125 divided by 129 acres); and
- \$100,000/acre for earthfill for each of the 30 acres in the “Development Zone” that will be inside the 500-year floodplain as a result of the new dam (\$3M divided by 30 acres)

Boulder has a \$390M capital improvements backlog. I don’t know the numbers on flood work, but the numbers indicate that a land exchange scenario would be significantly less expensive for both a 100YR and 500YR design, by several million dollars. Taxpayers have a right to accurate numbers to ensure informed decisions. Any cost related to water rights should also be included.

I think the numbers above add up, and if not, I welcome updated numbers and documentation from the City to allow an informed discussion and intelligent decisions.

3. Flood Risks and Past Damages

During the 2013 floods for the South Boulder Creek drainage, \$8,957,975 of damages were incurred in the 100-year flood zone and \$15,841,479 in the 500-year floodplain. The total is \$27.8 M.

The 2017 NIST study of Boulder’s 2013 floods establishes that the total for the South Boulder Creek watershed was \$38 million including the \$10M in “outlier reports of damage” for the South Boulder Creek watershed. NIST at 44. Thus, the \$38 million damages represent 3.5 times the \$11 million CU paid for the entire “CU South” property in 1996. *Id.* \$38M is also very close to the cost of flood mitigation design only under either a 100YR (\$41M) or 500YR (\$47M) scenario.

\$47M might be a worthwhile investment when just one recent storm cost \$28-38M in damages across the basin. My understanding is that the 2013 flood was a 50-100 year event, so a 200- or 500-year storm could result in significantly more damages, and possibly loss of life. Based on 2013 floods data, not protecting the 500-year floodplain appears to leave as much as 60% of flood-prone property and lives at risk in the drainage.

**CU South Annexation Application (LUR2019-00010)**  
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Of the \$24.8M total in “damage costs”, 36% of losses were in the 100YR and almost 64% in the 500YR. Based on this data, the 100-year design seems to inadequately protect as much as 2/3rds of residents, homes and buildings in the downstream flood zone.

From the City’s Flood Impact Survey and Analysis Memo (2014):

Total out of pocket damage costs exclude 4 outlier values ranging from \$1M to \$10M and a total of \$18.5M.

With the outliers included, the total estimated damage cost from the survey extrapolated to FEMA claims is \$194,868,964. The outlier values are associated with the following more specific areas:

- \$10 million – South Boulder Creek 100-year Floodplain area

Impact Survey at 2.

*Note: these exclude 4 outlier values ranging from \$1M to \$10M and a total of \$18.5M. With the outliers included, the total estimated damage cost from the survey extrapolated to FEMA claims is \$194,868,964. The outlier values are associated with the following more specific areas:*

*\$10 million – South Boulder Creek 100-year Floodplain area*

*\$6 million – Wonderland Creek 100-year Floodplain area*

*\$1 million – Boulder Creek Basin area (not 100-year Floodplain area)*

*\$1.5 million – Twomile Canyon Creek Basin area (not 100-year Floodplain area)*

Impact Survey at 4.

Thus, the “outlier values” for South Boulder Creek were greater than all other floodplains and drainages in the City combined. This further supports 500-year protections for South Boulder Creek.

By settling for 100YR design to allow CU to develop 129-159 acres, including 30-some acres within the floodplain and requiring earthfill as a result of the flood mitigation project, the City would be leaving at least 1800 people, 800 dwelling units and 450 additional structures at risk. That falls short of the City’s top goal of protecting public safety – lives and property.

Predicting future floods is an inexact science. But in a warming world, climate science tells us that future extreme weather events will be more frequent and severe. Colorado’s record-setting 2020 wildfires are a case in point. In the summer of 2021, we saw all-time record temperatures of 130 recorded at Death Valley; unprecedented temperatures and stifling heat waves across the Pacific NW into Canada; and floods in Germany and Belgium that resulted in more than 160 fatalities. As a low country, Belgium has some of the best flood engineering in Europe.

Future floods in the South Boulder Creek drainage are likely to shatter past records for frequency and severity – in this century. All it takes is one major flood to confirm the wisdom of a conservative, responsible 500YR approach, that can be implemented for only 16% more than 100YR mitigation under a land exchange scenario.

**CU South Annexation Application (LUR2019-00010)**  
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Boulder ignores climate change at our peril, and at the risk of residents. I have submitted separate comments on the disconnect between the City's climate action plans and resiliency policies and "CU South" planning. It's time to take these issues seriously and rigorously analyze local land use proposals in the context of our climate goals and policies. Paper plans achieve nothing if ignored by future on-the-ground decisions. Let's walk the climate talk.

4. Jobs/Housing Imbalance, Traffic and Congestion

The City and CU assert that the DAA will improve the jobs/housing balance in Boulder, reducing overall commuting and vehicle-miles traveled (VMTs). But will it? How will CU's future operations affect community, traffic and congestion in Boulder, if we look at the big picture?

CU commits to build up to 1,100 new residential units. So far, so good. But the City guarantees CU the right to build 750,000 square feet (sf) of non-residential buildings for academic and office purposes. That's in addition to almost 1.2 million sf in new buildings on East Campus over the last decade or so, with more development coming.

CU-Boulder currently has 35,000 students and 10,000 staff members for a total of 45,000. Less than 40% live in Boulder according to CU representatives, meaning at least 27,000 commute from outside Boulder. Those numbers appear to be missing from the traffic study.

How many new commuters could be expected if "CU South" annexation goes forward? Back-of-the-envelope estimates range from 1,250 to 5,000 additional workers, depending on assumptions. More new commuters would result from the residential mixed use component (maintenance, food service, etc.) and playing fields which could host several hundred users and staff per day.

At the low end, the annexation agreement commits to one parking space for every 600 sf – and a new parking garage. According to a 2016 article in the Colorado Real Estate Journal, office buildings accommodate densities of around 200 to 250 sf per employee, some as low as 150 sf.

Assuming 60% commuters and adjusting for new residents who stay in town, it appears likely that CU's development could actually *increase* in-commutes by 1,000 or more, and perhaps double or triple that. In-commuting increases traffic congestion and VMTs that contribute to air pollution and CO2 emissions.

CU plans a parking garage but that is all we know. In 2016 CU's Folsom Garage was built with a 555 spaces capacity; and in 2014 CU Colorado Springs built a four-story 1,227 capacity garage. Slated for the "north end" of the property, absent a commitment to avoid sensitive natural areas.

The Boulder Daily Camera reported on July 19, 2021 that for the 2021-22 school year, "Boulder campus leaders predicted a 2.4% increase in enrollment, or an additional 844 undergraduate and graduate students." Just two or three years of adding 800-some students would cancel out "in-commuting" gains from the 1,100 new dwelling units. How many additional staff employees are projected with regard to a growing student body and office/academic/research/non-residential buildings? The existing ratio looks close to one staff per 4 students. CU can provide accurate, updated numbers and projections to inform decision-making.

**CU South Annexation Application (LUR2019-00010)**  
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Finally, the allowed size of new residential units in the DAA raises concerns that are unmentioned in any of the official summaries or op-eds. The DAA (page 14) allows new residences of 4,000 sf or more. That's a red flag. CU negotiated the ability to develop luxury single-family housing for top administrators, adding to the category of housing that will do the absolute least to address our jobs/housing challenges.

If annexation were about providing housing within the reach of graduate students and staff, luxury mansions would be off the table. If it were intended to reduce in-commuting, non-residential development would be only a small fraction of the 1,188,814 total at East Campus – rather that 62.5% as big as the East Campus build-out.

Again, annexation is likely to significantly *increase* net in-commuting into Boulder. Student body growth and 750,000 sf of new non-residential offices and academic buildings could more than cancel out any in-commuting reductions from the new residential units. Is this the right site?

Ideally, a new CU campus would be devoted to 75-90% housing from a square foot measure. Ideally, CU would provide more housing units than 2.5% of the existing student and staff population. Ideally, new housing would be assured of being significantly *more* than anticipated growth in the student and staff population. But it looks as if none of these desired outcomes are planned, or possible, at "CU South".

Because the City owns 230-some acres at the Planning Reserve, which is over 500 acres total including private lands, that site offers far more flexibility to meet housing and other goals without sacrificing public safety or the last remaining piece of the Open Space landscape ringing the City. The reserve needs to be analyzed to compare potential cost-benefits against "CU South". That required expediting a BUSS to set the process in motion. CU has reasonably requested the City move on annexation of at least a portion of the reserve for CU to engage in land exchange discussions.

5. Environment, Ecosystems, Open Space values

Under a land exchange, both 100YR or 500YR allow protecting most or all of the 308 acres at "CU South".

If 500YR mitigation can be designed to avoid significant environmental impacts to wetlands and other sensitive natural areas, it would appear to be far superior on most or all top metrics under a scenario where CU's development is directed to a more appropriate location.

Missing from cost projections provided to date is the inestimable value of lost or diminished habitat and ecosystem services. These apply for the "CU South" site as a whole including individual habitats and habitat/ecosystem types, the added value of a property-wide reclamation and restoration scenario, and in the context of adding value to adjacent protected Open Space in the South Boulder Creek corridor and the State Natural Area to the South. Across the Front Range, restored gravel pits and aggregate operations are among our most bio-diverse habitats. Sawmill and Walden Ponds and stretches of the St. Vrain are among several examples in Boulder County.

The development proposed by CU would directly impact 129 acres for buildings and up to 159 acres total (adding 30 acres for playing fields). Significant wetlands complexes, springs and other sensitive natural areas are found within the Development Zone. CU has referred to replacement, meaning off-site "mitigation" after developing these lands. Thus, many would be lost in part or in whole. The pond now east of the tennis courts would be developed on all sides close to the banks, significantly reducing ecosystem functions and isolating it from other habitats.

**CU South Annexation Application (LUR2019-00010)**  
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Climate change, intact landscapes, wetlands, value of habitat connectivity and resilience that promote movement, adaptation and shifting habitats for plants, plant communities, wildlife, and ecosystems as climate shifts and planet warms – are all significant losses that would result from development. They can be harder to quantify in dollars than the cost of a new roadway or building. But the value of an intact Greater South Boulder Creek Ecosystem would by many measures be greater than the proposed development, especially given the availability of alternative locations for CU at the reserve.

The physical and mental benefits of continued recreation on an intact, protected landscape are enormous. In the context of a usage explosion for OSMP documented by Master Plan Update, Boulder's Open Space System is challenged by an explosion in use (even before 2020-21's pandemic bump) that results in more users, more conflicts, greater impacts on Open Space resources, and lower quality visitor experiences as a result.

Conservative assumptions of 500 visitors per day, a \$20 value per visit, time 365 days per year equals \$3.65M annually in recreational benefits. On many days, actual visitor numbers are far higher. Natural resource economists can quantify recreational, passive flood mitigation and ecosystem services benefits. Protecting the magnificent views at the southern gateway to Boulder is another intangible benefit of protection.

**III. Conclusion**

The DAA and flood proposal continue to raise serious questions about adequate levels of protection and other costs and benefits. Please consider facts and climate science in making decisions and recommendations. The more we learn, the better a land exchange solution looks and the less sense it makes to develop.

A North Campus could be a phenomenal amenity for North Boulder. Rather than half-measures kicking the can down the road on housing/jobs and CU's interest in continued growth, a North Campus site offers flexibility to meet CU's long-term needs. Development "CU South" is not a long-term solution for CU's future, but it will preclude long-term flood mitigation solutions on South Boulder Creek.

An exchange has marked advantages under either a 100YR or 500YR flood mitigation design. Not developing the floodplain leaves the City's options open to extend the initial 100YR flood project, rather than foreclosing that option if needed land for detention is developed when a future climate-related flood shows that 100YR design was a mistake. Let's look at what might be the best deal for public safety, jobs/housing, the City, CU, residents across town, the environment, climate, resiliency and quality of life.

Sincerely,

/s

Mike Chiropolos

3325 Martin Drive, Boulder CO 80305 \* 303-956-0595 [mikechiropolos@gmail.com](mailto:mikechiropolos@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Brookie <brookiegal@gmail.com>

**Sent:** Tuesday, April 20, 2021 3:13 PM

**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Subject:** "Reviews and comments" of CU's development plans will have no teeth.

**External Sender**

Dear Council Members,

"Reviews and Comments" or "strong desires" are meaningless and have no place in negotiations or considerations of any potential annexation agreement.

I've copied below 2 of the terms staff is suggesting you consider during tonight's discussion of CU South (from the General Terms, page 4 of tonight's agenda item),

1) "The city will have an opportunity to formally **review and provide comments (but not veto)** the CU South Master Plan and conceptual site plans for CU Boulder South when it is developed in the future by the university."

4) "City staff has informed CU Boulder of a **strong desire** to see affordable housing constructed on CU Boulder South."

Respectfully, I say so what? These are not "terms" that have any value in any agreement. They have no enforcement capability.

The ability to "review and comment on" CU's development plans in the future without any veto power is meaningless. There would be no teeth in these reviews and comments. CU can simply say thanks for sharing and do whatever they want (anything that has not been explicitly prohibited in an annexation agreement.)

Please be clear with yourselves, with negotiators, and with the public that while these desires sound nice, that's the extent of it. There is nothing enforceable in a desire or a comment.

Please negotiate enforceable terms.

Respectfully,  
Brookie Gallagher

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Linda Bachrach <myprimetimecoach@me.com>  
**Sent:** Wednesday, March 24, 2021 7:02 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** 3rd Boulder CU Campus

**External Sender**

Dear Council Members,

I write today to express my concern about building out the South Boulder Campus of the University of Colorado. I believe it is not prudent to expand the campus there for several reasons.

1) It will have several negative environmental impacts on our community because of many additional vehicle trips to the campus, because of building out the additional space using additional raw materials for buildings that may not be needed now that we have learned to be used to virtual learning, the South Campus is in a flood zone and has not been mitigated.

2) The City of Boulder and its residents will incur costs of at least between \$66 to \$99 million for CU South.

3) The City has proposed moving the Darley Avenue Fire Station to CU South. This will benefit CU South but residences in south Boulder, will significantly higher home insurance rates because the fire station will be further from our homes. Our insurance rates have skyrocketed over the last several years because of all of the wildfires we have had and the flood of 2013.

Please do not approve CU's request for the proposed CU South Campus.

Sincerely,  
Linda Bachrach  
2650 Juilliard Street  
Boulder, CO 80305

303 808 5273

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: kaye howe <kayehowe@icloud.com>  
Sent: Sunday, May 16, 2021 4:26 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Annexation and Flood mitigation

External Sender

Dear Council

First let me thank you for what must be the hundreds and hundreds of hours that you and your staff have spent on this complex set of issues. Frasier, its Residents and Neighbors have done that as well.

This is one of those issues, like so many you are faced with, that is a nexus of contending goods. But one can establish priority even among contending goods and. surely, the protection of human life, is among the highest priorities.

Thanks be to good luck and a devoted staff, we lost no residents to the terrifying flood waters of 2013, but many fragile people suffered great trauma. Our neighbors and their homes did as well. Frasier was able to spend millions of dollars to do everything we could to protect our Residents, but that protection is not total and it does not extend to our still vulnerable neighbors.

I have deep admiration for all the people who have worked with such intelligence and flexibility and devotion on the Annexation and Flood mitigation solutions before you now.

Please complete the work that has filled so many years.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Debbie Brinley <debbiebrinley.boulder@gmail.com>  
Sent: Tuesday, May 25, 2021 9:37 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Annexation of area in Boulder South by CU

External Sender

This needs to be decided by voters. We live here. CU is just another business. It is a good one but shouldn't be above the rules and not subject to the will of the people.

Let the residents decide. CU is cow towing to rich out of state students and their families.

Bummer.

Let us protect our open space, endangered species and peace.

Biggest question I have is how will traffic be handled? That area is one of the worse for ingress and egress. What is the plan there?

Best,

Debbie Brinley

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lyla Hamilton <ld\_hamilton@comcast.net>  
**Sent:** Thursday, July 1, 2021 4:56 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Annexation of CU Boulder South: flood mitigation

**External Sender**

Dear Mayor, Mayor Pro Tem, and Members of the Boulder City Council,

As I'm writing this, on the afternoon of July 1, 2021, heavy rain is falling in the City of Boulder. A flash flood watch is in place in Boulder County. Frasier Retirement Community, where I live, is experiencing water incursions despite protections put into place after the 2013 flood.

Almost eight years after that disaster, it's time for the Boulder City Council to protect our community—not just Frasier, but the entire South Boulder area—by completing the annexation of the CU South property. Only then can proper flood mitigation measures be instituted.

The Council has assiduously provided opportunities for the public to engage on this topic, and heeded feedback regarding open space, restoration, and other public benefits related to the annexation. Boulder residents appreciate that.

Now, however, it's time to act.

Thank you for your service to our community. Let's get this done.

Lyla D. Hamilton  
4900 Thunderbird Dr.  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Boulder Paula <boulderpaula@outlook.com>  
**Sent:** Saturday, April 17, 2021 2:40 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Before you vote to annex CU South Please Do This

**External Sender**

Dear City Council Members,  
South and southwest Boulder have been historically underrepresented on the City Council where the impact of annexing CU South will be the greatest. I have one simple request for each one of you that should aid you in making the right decision for our community.

BEFORE you vote on the annexation, each one of you should drive in the NON TOLL lanes from Table Mesa to Broomfield between 6:30-8:30am, then turn around, drive back, and note how long each leg takes. Knowing we have a traffic problem is NOT the same as experiencing impossible traffic during rush hour twice a day every day. Notice also how the traffic backs up on Table Mesa Drive, sometimes almost to 36, hundreds of idling cars spewing pollution into the air. Then please discuss how another 7000 trips/day will greatly exacerbate an already impossible problem. And how another huge population increase will create a permanent traffic jam at the southern boundry of the city.

My water bill, with NO WATER USED, is \$55/month. I have paid water bills for 40 years so can legitimately criticize the lack of escrow for capital improvements and repairs that would have alleviated this problem from the get go (similar to building affordable housing in the 1990s instead of now when the median home price is \$1.5M). At the current speed of (unjustified) rate increases, will I be paying \$150/month in 15 more years for NO WATER USED?

In case any of you are interested in a more viable approach to sustainable growth, I highly recommend the podcast "Is Economic Growth the Wrong Goal" by an internationally respected Oxford trained economist.  
<https://freakonomics.com/podcast/doughnut-economics/>

Longtime Boulder resident.  
Paula Sharick

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Elisabeth Patterson <elisabeth.patterson@gmail.com>  
**Sent:** Tuesday, May 18, 2021 5:01 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** WRAB <WRAB@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; better-boulder-board@googlegroups.com  
**Subject:** Better Boulder Letter to Council - CU South Annexation

**External Sender**

May 18, 2021

RE: CU South Annexation

Dear Mayor Weaver and Members of Boulder City Council:

Better Boulder urges Council to approve without delay the annexation of the CU South property. 25 years of outreach, study, and testimony are more than adequate to move forward with The South Boulder Creek Major Drainageway Plan (also referred to as South Boulder Creek Master Plan, or SBC Master Plan), approved in 2015, which identified this area for urgently needed flood mitigation. The 2,300 residents, 1,100 homes and 260 other buildings currently in harm's way deserve swift action, protection, and peace of mind.

The annexation agreement will be a binding contract, the terms of which include CU's gift to the City of 36 acres for flood mitigation and 44 acres of open space, abiding by the 55-foot height limit, clustered village-style facilities, and human scale sports fields. We encourage CU to provide as much housing as possible within these guidelines.

We also appreciate the forward-looking view of Transportation Demand Management (TDM) that would provide a hub to get people out of cars. We think that with deep cooperation between the transportation departments of CU and the City prioritizing trip caps in the annexation agreement, transit, bike, and pedestrian design, and housing that offsets in commuting, we will see real benefits to the neighbors and progress towards our transportation and environmental goals.

While CU's plans are not as detailed as one might expect at this juncture in an annexation, we are confident that when the University completes their multi-year planning process the result will be consistent with the timeless, well-loved, and beautiful architecture and design that can be seen in nearly every building on the Boulder campus.

We will all have the opportunity to review and comment on the Campus Master Plan, CU South Master Plan and conceptual development plans for CU South in advance of the flood mitigation and South Campus construction, currently slated for 2026.

For all of those reasons, we believe it's time to move forward with the CU South annexation. It will hasten the completion of critical public safety investments, along with the build-out of desirable future housing and transportation plans.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Thank you for your consideration of this input and for your service,

Better Boulder

ATTACHMENT:  
May 18, 2021

Dear Mayor Weaver and Members of Boulder City Council:

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For all of those reasons, we believe it's time to move forward with the CU South annexation. It will hasten the completion of critical public safety investments, along with the build-out of desirable future housing and transportation plans.

Thank you for your consideration of this input and for your service,

Better Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Bill Mossa <billmossa@comcast.net>  
Sent: Thursday, April 22, 2021 11:06 AM  
To: Council <council@bouldercolorado.gov>  
Subject: Boulder City Council provides direction on CU South – Colorado Daily

External Sender

This is exactly why people get upset at the process- just read the article. The traffic data is suspect based on when it was conducted - but you are going to move it along and support staff's efforts. Not sure exactly how much flood mitigation and other things will cost- but your going to move it along and support staff's efforts. You acknowledge the amount of email you've received stating how folks would prefer nothing like what you are considering- but you are going to move it along and support staffs efforts. You all go on record expressing concerns, but it is clear you have already green lighted this thing. What good is that ?? What kind of representative government is that ?? And to Adam's comment a few week's ago that "representation costs more than what he is being paid" how dare you even suggest something like that during these times. And I'd suggest that the type of representation the community receives isn't worth that much more. I'll pay for things that work, but.....

<https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.dailycamera.com%2F2021%2F04%2F21%2Fboulder-city-council-provides-direction-on-cu-south&data=04%7C01%7CKleislerP%40bouldercolorado.gov%7Cab054af105be40f82c7408d905b12a8d%7C0a7f94bb40af4edcafad2c1af27bc0f3%7C0%7C0%7C637547080742145949%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C1000&data=xwANLXq9fvGzl2ZOKfesm%2B43AeRTBF1bQbEJvewphT8%3D&reserved=0>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim Wolf <jimwolf1@gmail.com>  
**Sent:** Saturday, May 15, 2021 10:02 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Boulder Flood Mitigation

**External Sender**

Dear City Council Members.,

I know you have been bombarded with communications about your plan for preventing another flood in South-east Boulder. Having lived through the 2013 flood, I know we were lucky to not have a fatality. Perhaps next time we won't be so fortunate.

Please, stick to your plan to work with C.U. to prevent as best we can another damaging flood to people and property.

Thank you for what you do, and what you will do.

Sincerely,

Jim Wolf  
President of the Resident Council  
Frasier

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jocelyn West <jocelynmwest@gmail.com>  
**Sent:** Monday, April 19, 2021 11:24 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CM Yates should retract Op-Ed

**External Sender**

Dear Councilmembers,

We were all present at the recent Council meeting (except Councilmember Nagle) when you heard a unanimous voice from ~40 of our neighbors in Boulder expressing strong support for SB21-62 as written. The Council also had the opportunity to ask questions and hear directly from the writers and advocates of this bill about how it works. You have all the facts about what this bill means, and what it does not.

That's why it is profoundly disappointing and insulting that Councilmember Yates published an op-ed that willfully spread misinformation about this bill. I'm asking Councilmember Yates to retract his op-ed from April 16, "[Good intentions, bad results](#)". CM Yates is ethically obligated to retract the piece and correct the disinformation he distributed to our community. Anything short of that is a violation of a council member's responsibility to all of us in Boulder.

I understand you have received information about line-by-line corrections to the op-ed, so I won't repeat that here.

However, I will say that Councilmember Yates' mention of the Boulder Racial Equity Plan in that piece comes across as insincere at best, and at worst, it looks like an attempt to co-opt the racial justice movement to serve his own separate interests. Therefore, I ask you all to closely re-read the Racial Equity Plan in full, and continue to educate yourselves about its purpose. Spreading *misinformation* about legislation is clearly *not* the purpose of that Plan, making Yates' op-ed an insult to the Racial Equity Plan's many dedicated authors and stakeholders.

Thank you for reading, for continuing to support SB-62, and for practicing honesty and integrity with the communities you serve in Boulder.

With respect and hope,  
Jocelyn West

South Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ryan Lillis <ryan.lillis@gmail.com>  
**Sent:** Tuesday, March 23, 2021 1:36 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Concern About CU South Campus

**External Sender**

Dear Boulder City Council,

I wanted to express my concern about the proposed CU South Campus. I live in South Boulder and am concerned about...

- The size and scope of the CU campus (nearly the same size as the main campus!)
- The extra traffic it will bring to the area (an estimated 7,000 additional trips per day on South Boulder roads!)
- The cost that Boulder residents will incur (\$66 - \$99 million!)
- The need to relocate the Table Mesa/Darley Ave fire station (which may increase our insurance rates in the area!)

I hope that these concerns can be addressed by reducing the size of the proposed campus and other efforts to help reduce the negative impacts on the community.

Thank you,  
Ryan Lillis  
720-884-6458

Home Address: 816 Ithaca Dr, Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Tanya Dueri <ttdueri@gmail.com>  
**Sent:** Friday, April 16, 2021 1:31 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Concerns about CU South Development

**External Sender**

Dear Council.

I have been a South Boulder resident since 1999 and I chose to live in this part of town and in Boulder proper due to the wonderful access we have to open space here. I frequent CU South at least 2 times a week for walks and also bike there and ski there in the winter. It's such a beautiful piece of land that offers so many activities that the residents of Boulder enjoy. I am very concerned about the potential development of this land for many reasons:

1. Losing our open space. The residents of Boulder have voted consistently to preserve open space. Not only is this land widely used by the residents, but it also contains wetlands and habitats for migratory birds.
2. Development on a flood plain: Instead of spending \$25 million-plus for costs associated with developing on a flood plain (\$10 million for earth fill to build land that will be within the floodplain due to the mitigation project, and \$15 million or more for other infrastructure), why not save that money by directing CU to a higher, dryer, appropriate location
3. Increased traffic: I have watched Boulder grow over the last 20 years and with that comes increased traffic. I understand a traffic study was conducted, but due to circumstances, happened during a point in the pandemic when people were restricted by stay at home orders. I would ask for another traffic study to be performed once the pandemic is over and that public input into this is allowed.

Based on these being my major concerns, I would ask that a land exchange with the North Boulder "Area 3" planning reserve land be incorporated into the CU South Annexation Agreement. The planning reserve land sits "high and dry," that is, not in a flood plain, and thus won't cost the taxpayers \$25 million that could better spent on other much-needed civic needs.

Thank you so much for your time and consideration.

Best Regards,  
Tanya Dueri

.....  
TD Creative  
[www.tanyadueri.com](http://www.tanyadueri.com)  
303.641.3845

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** jessica morgan <jessicamorgan.email@gmail.com>  
**Sent:** Friday, April 16, 2021 3:56 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Concerns about CU South Development

**External Sender**

Dear Council,

I have been a South Boulder resident since 2005 and I chose to live in this part of town and in Boulder proper due to the wonderful access we have to open space here. I frequent CU South at least 2 times a week for walks and also bike there and ski there in the winter. It's such a beautiful piece of land that offers so many activities that the residents of Boulder enjoy. I am very concerned about the potential development of this land for many reasons:

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Thank you so much for your time and consideration.

Best Regards,

--

Jessica Morgan  
Phone: 303-827-8036  
Email: [jessicamorgan.email@gmail.com](mailto:jessicamorgan.email@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** James F Williams <James.Williams@Colorado.EDU>

**Sent:** Sunday, May 16, 2021 4:44 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU & Annexation & Flood Mitigation Plan

**External Sender**

Dear Council Members. I just want to add my voice (as a member of the Frasier Board) in support of the critical CU Annexation Plan and the equally critical Flood Mitigation Plan now under your consideration. Many thanks for the opportunity to share my sentiments.

James F. Williams II

Dean Emeritus, University Libraries

University of Colorado Boulder

Email: [james.williams@colorado.edu](mailto:james.williams@colorado.edu)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Marissa Yanick <tpcmarissa@gmail.com>  
**Sent:** Wednesday, June 2, 2021 1:09 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU Campus South

**External Sender**

Hello,

I am emailing with concern over the proposal for the 3rd Boulder Campus area in South Boulder.

I understand there is a proposal to potentially build on this open space area.

This area is home to many species of wildlife and also backs up to farm land on some sides.

This area is one of the only open space areas left in Boulder.

Development over the years has greatly diminished open space and trail access within Boulder City Limits.

Is there a formal place online to submit my input?

Thank you,

Marissa Yanick  
303-579-7787

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** rmheg@aol.com <rmheg@aol.com>  
**Sent:** Tuesday, April 20, 2021 9:23 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south COST No one has addressed cost to CU

**External Sender**

Rosemary Hegarty

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mary Eberle <m.eberle@wordrite.com>  
**Sent:** Sunday, April 11, 2021 10:37 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South - Listening Session

**External Sender**

Dear Mayor Weaver and Boulder City Council Members,

As you listen about CU South on Monday, April 12, please be aware that many Boulderites are waiting and hoping for you (us) to somehow buy the land from CU and maintain it as open space and flood storage. An assortment of letters and guest commentaries have appeared in the *Daily Camera* to support this outcome. I hope to always see open space toward the west when returning from Denver to Boulder on U.S. 36.

Does the redevelopment of the Harvest House area for student housing help this argument? I hope so. It could be a trend.

Thank you for all the hard work you put in on our behalf.

Mary C. Eberle  
1520 Cress Court  
Boulder, CO 80304  
(North Boulder)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Jeff Wormer <jswst17@yahoo.com>  
Sent: Thursday, April 1, 2021 2:44 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Cu south - Serious concerns from a dam engineer

External Sender

To whom it may concern,

I am a dam engineer who designs dams and flood retention projects. I live in the table Mesa neighborhood and I oppose any development at the cu south property. I am hurt that my tax money would go to flood retention at the property and not saving the property as open space. My house is upstream of cu south and flooded in 2013 as did almost all of my neighbor's houses. Spending this money to protect houses and property, not lives, while leaving us unprotected is not right. Also, this project would do nothing to prevent life loss in areas of high velocity flooding west of cu south where not surprisingly but unfortunately lives were lost in 2013. Also, in reviewing the contractor's designs, it appears while the concept may provide protection from property flood, it may actually, depending on final design, put those residents downstream at a higher risk of life loss. I also reviewed the cost estimates which were missing many items that, coupled with inflation, could put the project cost way higher than is currently planned. I recently completed a completely worthless cu survey on cu south with loaded questions intended to guarantee certain responses. It makes me land on the conclusion that this ship has left the dock and city council is on the boat. That has prompted me to send this second email, asking you to please reconsider and talk to more people prior to making any decision that the residents here, including future generations, will be left to bear the outcome. Thanks, Jeff Wormer

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mark Van Akkeren <markvanakkeren@gmail.com>

**Sent:** Wednesday, June 9, 2021 5:29 PM

**To:** OSBT-Web <OSBT-Web@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** CU South

**External Sender**

Howdy,

Please stop delaying the implementation of life saving flood control and approve the conditional disposal of land so that we might usher this process along quickly to a productive conclusion.

Thank you

MVA

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jack Panetta <jackpanetta@gmail.com>  
**Sent:** Wednesday, May 26, 2021 12:51 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Hello,

I am resident of South Boulder right by the CU South area. I would like to understand CU's position on the development project of the CU South land.

What processes, plans, & laws does the University of Colorado have to abide by in order to develop the land? Who will be making the decision and do the neighbors of the land / citizens of Boulder get a vote in the decision? What entity will ultimately be ruling on the plan?

Currently, it serves as a flood mitigation system for the town of Boulder. I understand that CU owns a 308 acre parcel of land. What exactly will the annexation agreement mean and why can't they develop right now?

As a concerned neighbor, I just want to know the facts.

I speak for the ducks,  
Jack Panetta

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Deborah Byrd <boulderbyrd@gmail.com>  
**Sent:** Monday, May 24, 2021 2:14 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Chase <chasepressongo@gmail.com>; bpressonboulder@gmail.com  
**Subject:** CU South

**External Sender**

I oppose CU's ill-advised plans to construct 1250 residential units, 8 academic buildings, parking lots, playing fields, athletic facilities and other infrastructure on its mined-out quarry pit. This site, with its high-water table, and its location in the middle of a floodplain, on unstable and slumping soil, and in an already overly-congested part of Boulder, is completely inappropriate for any such development.

Deborah Byrd  
Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ruth Wright <ruthwright1440@gmail.com>  
**Sent:** Thursday, May 20, 2021 1:34 PM  
**To:** Council <council@bouldercolorado.gov>; Boulder County Commissioners <commissioners@bouldercounty.org>  
**Subject:** CU South

**External Sender**

Hi All,

Below is the talk I gave regarding the issue of the CU South annexation agreement. My purpose is to show that an annexation agreement at this time is premature.

You will note that the talk refers to slides that are appropriate to the text. Those slides are attached and numbered from 14 to 23. As you read the talk you will see, for example on page 2, it refers to Slides 14 and 15. I would recommend that you print out the talk which is a total of 9 pages, then go to the attachment which has all the slides. While you are reading the talk you can refer to the slides on your computer.

**[Ruth Wright – CU South Talk to Town and Gown,  
April 12, 2021]**

**INTRODUCTION**

**My name is Ruth Wright. I appreciate the opportunity to speak to you about the flood issues on South Boulder Creek and the negotiations taking place right now with the University of Colorado that may affect our City in perpetuity.**

**Boulder's Council Members are actively working on an agreement with the University of Colorado to annex CU property so that the City can build a long-overdue, critical flood control project on that property.**

**My purpose is to show that an annexation agreement at this time is premature.**

**At present the City and CU are on equal footing regarding negotiations – a Home Rule City and a State Institution. However, once annexed, City regulations no longer control CU.**

**It is difficult to write a negative contract – one which lists things you cannot do. If you miss just one important one, you have failed. At present, we have no idea what a future CU administration may want many years from now that we have not prevented.**

**CU does not need annexation now. CU also says it has no development plans for the property. So why annex now?**

**The proposed flood control project has neither been reviewed nor approved by the Department of Transportation or the State Dam Safety Engineer. What changes might these state agencies require?**

**What are the total costs of the project to be paid by Boulder taxpayers, including the improvements to CU South that CU is demanding?**

**Will the City have to bond to pay for the project?**

**What funds will be used to repay the bonds?**

**Is CU setting up the property for future sale?**

**An annexation agreement could make a bad situation irreversible. Future City Councils may feel frustrated that their hands were tied by the 2021 City Council.**

**A bit of personal history:**

**Boulder's incomparable natural setting brought us to Boulder in the late 50's. I was inspired to protect this beautiful place, and became chair of PLAN-Boulder, the local environmental group, in 1965. Accomplishments were the sales tax for open space purchases and adding the 55-foot building height limit to the City Charter, both supported by votes of the citizens of Boulder.**

**In the early 2000's the City hired consulting engineer Taggart to develop a solution to the flooding in the South Boulder Creek Valley to protect the people and property on the downstream side of Highway #36, called the West Valley. His contract was ultimately canceled because the proponents of the project could not agree on flood flows.**

***Slides 14 and 15***

**Anyway, at the same time the City asked me to join City Manager Frank Bruno to negotiate with the University of Colorado. The purpose was to limit the property it calls CU South to uses which are compatible with being in a floodplain. This was rejected by CU, but to some degree I have been involved ever since. My single-minded goal has always been to protect the people living in the West Valley.**

**I graduated from CU Law and am a strong supporter of my alma mater. The only issue, and admittedly it is a big one, is CU's insistence on using the depleted graveled-out pit and floodplain at the foot of a huge drainage basin, as a campus.**

**[CU/FLATIRONS ARRANGEMENT]**

***Slides 16 and 17***

**These slides show that in 1996, CU asked an appraiser to value the subject property at \$16 Million; remarkably, he appraised the property at \$16 Million.**

**Actually, this appears unethical from both sides. You do not tell an appraiser what number he should use when you hire him, and the appraiser certainly should not readily accede to the request.**

**This was a scheme that CU worked out with Flatirons Paving, the owner of the 308 acres that would be named CU South. The scheme was to appraise it at \$16 Million, then to be able to tell the Regents of the University that Flatirons was willing to sell it for \$11 Million and**

**receive a charitable contribution from the IRS for the \$5 Million -- which made it look like a bargain to the Regents of the University.**

**Jim Crain, our Open Space Director, who saw this as potential open space, received a more realistic appraisal for \$9 Million. As a rule, he was not permitted to purchase any property for much higher than the appraised value. The purchase was put on the ballot for a vote. Unfortunately, the Council put a NIMBY (Not in My Backyard) project which had little or no open space values, on the same ballot, at the request of neighboring residents who just did not want that property developed. The voters were not fooled – it went down in defeat, taking CU South with it.**

**In the final analysis, it made no difference. Why would Flatirons sell to the City when CU was willing to pay \$11 Million cash, with the promise of a \$5 Million charitable contribution. In the long run, however, the IRS saw through the scheme and refused to approve it as a charitable contribution. So, the final payment to Flatirons was \$11 Million.**

#### **[THE 2013 FLOOD] *Slide 18***

**Fast forward 10 years to 2013 and the disastrous flood resulting, not from a surge of water plunging down the valley, but from many days of local rain saturating the soil in the South Boulder Creek Valley until it could hold no more. Then it backed up against Highway #36 and eventually overtopped the highway, at night, flooding into the West Valley with disastrous results. This included Frasier Meadows Retirement Community, where some patients were evacuated by carrying them through hip-deep flood waters. A flood control protection solution was desperately needed.**

#### **[THE ENGINEERING REPORT AND RECOMMENDED SOLUTION - Option D] *Slide 19***

**So, the City again hired a consulting firm (CH2MHill). At a community meeting presenting the consultants' 2015 report, I**

approached Kurt Bauer having heard that he was the City's Project Engineer. He agreed to meet after the Christmas Holidays. But when I called him, he told me he was no longer the Project Engineer. Yet two weeks later he testified to the County Commissioners as the Project Engineer. OK – I was on my own.

*Slide 20 - Option D*

A study of the lengthy report showed that the engineering solution was to build a detention pond upstream of the highway, which would detain flood waters and then release them in a controlled manner through the developed West Valley and down South Boulder Creek. The report recommended Option D. It also showed that the property known as CU South was the only possible location.

**[OBTAIN DETENTION BY EXCAVATION]** *Continue Slide 20*

This seemed to be a workable situation, with the City needing land for the project, while CU was considering development and needed annexation to obtain City services – an “equal exchange” situation. But CU's tough negotiators insisted on the smallest “footprint” possible for the detention pond in order to maximize the amount of land for development. So, the City agreed that much of the detention would be obtained by excavating, that is, digging a hole in the ground, and chose the recommended Option D. I am not an engineer, but this is not rocket science. With half of the capacity of the detention pond obtained by excavation, and photos in the report showing ponds already filled with water due to the high groundwater table, half of the detention pond would already be full of water when flood waters arrived. Obviously, the detention pond was totally inadequate. Testifying at public meetings got zero response, until the City was given a check to test Option D by running it through the computer. The check was graciously returned, but no action taken.

However, two City Council Members pursued the idea, at which time the Utilities Director had to admit that he already knew that Option

**D did not work.** Question: How far would the City staff have continued with a multi-million dollar project they knew did not work?

*Slide 21 - chart*

Also, the flood flows are site specific, so the costs are site specific. If we look at the chart entitled South Boulder Creek Flood Mitigation Project - Probable Cost Construction for South Boulder Creek, the top line with the blue arrows, Regional Flood Detention, shows the 100-year option costs \$41 Million and the 500-year option costs \$47 Million, a difference of only \$6 Million, but results in a much higher degree of protection.

*Slide 21a – chart*

The upper part of this chart entitled Projects Tradeoffs Summary shows that Downstream Flood Benefits (in the West Valley) for the number of “People” benefitted, goes from 2,300 for the 100-year to 4,100 for the 500-year. Structures protected, from 260 to 730, and Dwelling Units from 1,100 to 1,900. A huge difference in protection.

We must also note that these statistics are based on historical data, and with climate change, floods will be bigger and more frequent. So, it comes down to a policy decision, and I personally support the higher protection of people’s lives and property.

**[CU’s SELF-CENTERED POSITION]** *Slides 22 and 23*

Despite the above, and the fact that it is City money, not University money, that would be building the project, the University of Colorado has vehemently resisted the 500-year flood level of protection only because it may require a larger “footprint” for the detention pond, resulting in less land for development. In these decisions, CU has never evidenced any concern for the folks living in the West Valley and what may be best for them.

Here is the current option which CU supports. Some comments:

**Once again, the West Valley is only protected from the 100-year flood.**

**The area shown in yellow shows the huge area CU expects the taxpayers of Boulder to raise up to the 500-year level by bringing in fill material at a cost of \$15 Million so that CU can develop it. Is this legally a part of the flood control project? If not, our drainage fee probably cannot be used. Also, it is hypocritical: the CU South developable area is to be protected from the 500-year flood, while the West Valley only gets protection from the 100-year flood.**

**The detention pond is again mostly excavated, but now a concrete wall down to bedrock surrounds this huge site, in an attempt to keep groundwater from filling the pond before flood waters arrive.**

**What are the real costs of the entire project? The costs are going up dramatically. For example, will we be expected to build the roads down to the property?**

### **[ANNEXATION AGREEMENT]**

**Now CU is pressing for an annexation agreement, and the City is busily trying to accommodate. Why now? CU readily admits it has no present land-use plans for the site. And the City is still working on the concept of the flood control project, which eventually requires approval from the Department of Transportation, the State Dam Safety Engineer and potentially others. It would be foolhardy to limit our options at this time.**

**An annexation agreement is way premature. As I have said, it is difficult to write a negative contract, that is, one which lists things you cannot do. If you miss just one important one, you have failed. At present, we have no idea what the future might bring, what a future CU administration may want many years from now that we have not prevented.**

**This is in perpetuity. As of right now, Boulder and CU are on equal footing for negotiations. However, once annexed, City regulations no**

**longer control CU. Then we are at CU's mercy, and as regards CU South, CU has not shown much mercy lately.**

**[SUMMARY]**

**CU is the big gorilla in the room. It has had the upper hand from the beginning. Instead of cooperating with the City for mutual benefit, it has stymied us at every turn. After years of negotiating, we have morphed from the goal of protecting the people in the West Valley -- to maximizing development of CU South -- and now to the outrageous demand that the taxpayers of Boulder pay the cost of filling their graveled-out property to the 500-year level for development.**

**CU is acting like a greedy developer instead of a revered institution of higher education. Instead of instilling our younger generation with a high degree of ethical behavior, CU is an example of selfishness and greed. It is outrageous -- and very sad.**

**[APPEAL FOR ACTION]**

**Having heard this story, Alan, Spense and I are making this appeal to YOU, our audience, to take action now.**

**Call or email the Members of the City Council and the Planning Board to stop working on an annexation agreement because:**

**Annexation is way too premature.**

**We need the total costs to the taxpayers of Boulder, including the improvements to CU South that CU is demanding.**

**Will the Mile High Flood District contribute funds to help pay for the project. If so, how much?**

**Will the City have to bond to pay for the project?**

**What funds will be used to repay the bonds?**

**The City does not even have an approval for the flood control project from the Colorado Department of Transportation and the State Dam Safety Engineer. What revisions might be required?**

**Will CU sell the property? It just sold some property in Denver. Is CU setting up CU South with City services in preparation for a sale?**

**An Annexation Agreement could make a bad situation irreversible.**

**Future City Councils may feel frustrated that their hands were tied by the 2021 City Council.**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kimman Harmon <kimman@kimmanharmon.com>  
**Sent:** Friday, May 14, 2021 3:42 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear City Council Members;

I was hoping you all had a chance to read Spence Havlik's piece in yesterday's Daily Camera; I thought he had many great points. One of his points about CU having a more concentrated focus on land development in recent years really hit home for me. Because the University has this focus, the city seems to have to play along at their level. Instead, we need to develop (as Spence Havlik said), "mutually acceptable growth limits" with the University.

So maybe you can tell me what is the end game to CU's growth? Is there one? As far as I know, we live in a finite world, with finite limits. Much of what CU is currently teaching its environmental science students is about humans needing to abide within limits. Limits of how MUCH carbon we can put into the atmosphere, limits to how many humans we can populate the planet with, limits to how much debris we can put into the ocean.

So how then does it follow that CU, uniquely, should be able to have unlimited growth? As a Boulder resident, I'm concerned that CU will just keep growing, indefinitely, endlessly, to the point where it eclipses our town and Boulder the town just becomes nothing more than the backdrop to a gigantic university, a mere asterisk to the monstrosity known as CU.

Balance in all things. For decades Boulder and CU co-existed in balance. Neither overshadowed the other. That's no longer the case. We're in danger of being dwarfed by CU. Please tell me what the City of Boulder is going to do to prevent that. I look forward to your response.

Thanks,

Kimman

**Kimman Harmon,**  
**Boulder, CO 80305**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Barbara League <bleague54@me.com>  
Sent: Sunday, May 9, 2021 11:35 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

To Whom It May Concern,

I've been told our water rates are going to rise to pay for CU South.  
Is that true? My rates have doubled in the last 7 years. There are two of us living here and we don't take showers every day and yet we're paying \$65 a month in the winter.

Why are the residents of Boulder being expected to pay for CU South, which is going to add more pollution to the area, reduce wetlands, and contribute to more overcrowding?

What are you trying to do to Boulder? Turn it into an overcrowded, overpriced area with a reduced quality of living? Is that your goal? If not, please tell me what your goal is.

Thank you,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kathryn Foster <kathryn@highbluff.com>  
**Sent:** Thursday, May 6, 2021 8:22 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Boulder City Council,

I urge you to change course on plans for CU South. Steve Pomerance explained it best in his article [The Road Not Taken](#), in the Monday May 3 Daily Camera. Flood risk, traffic safety, and neighborhood impacts are all too great. And to approve a development that has not even been planned and specified seems fool hardy at best, irresponsible at worst. The City of Boulder should protect the interests of its constituents and not bow to CU. Please DO NOT APPROVE development of CU South.

Thank you,

Kathryn Foster  
[kathryn@highbluff.com](mailto:kathryn@highbluff.com)  
(303) 819-3113

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jon and Cathy Swanson <jncswanson@gmail.com>  
**Sent:** Friday, April 23, 2021 11:20 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Council Members,

I applaud Chris Hoffman for his open forum letter of April 21st entitled

CU South: Against our Values. He describes Boulder's values of supporting

biodiversity, mitigating climate change, and preventing flooding. He contends

that CU South in its current planning would result in the opposite.

News reports indicate you are close to a decision. I urge you to negotiate a

a strong response to these important concerns with CU.

Cathy B. Swanson

2288 Kincaid Place

Boulder 80304

303.440.0436

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** ro-cah Adams <roa357@msn.com>  
**Sent:** Tuesday, April 20, 2021 3:35 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

I have been a resident of Boulder for 56 years. I've seen a lot, and a lot that upsets me and makes me sad. Our children were born and raised here. When they visit they don't want "to see Boulder". I won't repeat all that has been said in opposition to annexing CU South. Ruth Wright, Spense Havlick, Steve Pomerance and others have said it so well. The city should not be in this situation; for whatever reason the county didn't purchase this property, it's not a good enough reason. We have spent millions of dollars on Open Space since this was available, in various locations in the county. This property is the gateway to the city, an ecological gift to wildlife and plant life. If I owned the property and wanted to build a mansion, I'm quite sure I'd be told "No, not in a wetland"! CU is having financial problems, as is Boulder. Yet, we taxpayers are expected to fork over several million dollars for fill dirt for a state owned entity! Traffic congestion on Table Mesa Drive between Broadway and 36 is terrible. I've been on it when there was no way emergency vehicles could get through. To have a fire station (which we taxpayers would pay for) on that property would put those of us in Table Mesa and Martin Acres at high risk in emergencies. Thank you for careful consideration of this issue and its negative effects on neighborhoods and the city. Thank you.

Catherine Adams  
Table Mesa

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jan <janalan80305@gmail.com>  
**Sent:** Tuesday, April 20, 2021 8:58 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Greetings Council,

I was not selected for open comment so I thought I'd shoot an email of my thoughts and experience with the flood of 2013 and CU South proposals.

In September of 2013, after days of constant, relentless rain, I threw on my fishing waders and ran down from my house on South 36th St, to Martin Drive to help my neighbors throw sandbags in an attempt to divert the overflow from Bear Creek away from neighborhood properties as well as the elementary school. I am only 5.2 so the water was chest high by 35th St. We used plastic garbage bags purchased at King Soopers. We had a team of people filling the bags with sand from the playground and a nearby large sandbox from a neighbor's property. The other team passed them down the line to divert the water. Eventually, another neighbor came in with a compact track loader, shoving the sand in to further divert the water back towards Bear Creek. It was a successful endeavor because of the teamwork, determination and bravery from the people of Martin Acres.

There seems to be a misconception that the flooding in Martin Acres was due to sewer back-ups. This was not the case as you can see from the photos. However, It has been ascertained by Council member Sam Weaver that since the city replaced the Moorhead Ave. main sewer line, Martin Acres shouldn't have any flood issues.

This is simply not the case. In the provided photos, you can see that two major drainages bisect our neighborhood. Skunk Creek and Bear Creek. Both over-topped their banks in 2013. Practically, every house with a basement in Martin acres flooded. This was due to two major factors.

1. The ground was so saturated with water that it seeped in through people's basement foundation walls
2. Running surface water poured in through people's basement window wells.

My final point is this. No one begrudges Frasier Meadows getting flood protection. In the past, I have spoken multiple times at Planning board and Council meetings in their defense against proposed further developments that would have increased flood danger.

Now this next statement needs to be considered by planning board: if the city is going to spend \$66 million on flood mitigation for Frasier Meadows, they should be prepared to spend that type of money for flood mitigation for other vulnerable Boulder neighborhoods.

If you agree with this statement, where is the money going to come from?  
If you disagree, why the singular special focus on Frasier Meadows?

Thank you for listening.

Jan Trussell  
Martin Acres

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Girz, Cecilia <cgirz@earthlink.net>  
**Sent:** Tuesday, April 20, 2021 12:32 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Girz, Cecilia <cgirz@earthlink.net>  
**Subject:** CU South

**External Sender**

Dear Boulder council members,

I oppose the university's development at CU South for reasons that many have expressed in letters and guest opinions over the last several months to the Daily Camera - endangered species, flood mitigation, expense to the city, increase in traffic - to name four. I live on Ingram Ct., and have experienced difficulty exiting this court during the late afternoon. The southeast-bound traffic on Moorhead attempting to turn east onto Table Mesa Dr. at the traffic light has backed up beyond Ingram to the next court, Hamilton Ct., even during the pandemic. I attended the listening meeting on 4/12, and found the traffic study, and its defense by Mr. Derek Silva, to be disingenuous, fundamentally flawed, and not credible.

Instead of the current proposal, I advocate for the land exchange, in which CU gets the Area 3 planning reserve land in North Boulder (sitting high and dry, and with its much better building site), while the City and CU negotiate that the CU South land be preserved in perpetuity.

Respectfully yours,  
Cecilia Girz  
4669 Ingram Ct.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kim Raupp <kraupp@msn.com>  
**Sent:** Monday, April 19, 2021 8:30 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south

**External Sender**

Dear council.

I have been a resident here in table mesa for 20 years and am so worried about CU developing the CU open space. It will really change the quality of life and increase the traffic for the people of south boulder. There isn't enough parking at king soopers as it is now and if so many more buildings were creased I don't know how we can sustain that. Here are some thoughts below.

Sincerely Kim Raupp

**Advantages/Disadvantages to Locations for CU's Next Campus:**

CU South:

Advantages:

- We can't think of any.

Disadvantages:

- The addition of 7,000 vehicles per day to Boulder's already-most-heavily-trafficked area (South Boulder). That's b/c we get the full brunt of Boulder's in-commuters coming up US 36, before any of that traffic has exited or dissipated.
- Up to \$25 million in costs to City of Boulder & its residents for construction site improvements completely unrelated to downstream flood protection for Frasier Meadows (thousands of tons of fill dirt, moving the tennis courts, etc.)
- It will require the remarkably un-environmental and energy-intensive practice of trucking thousands of tons of fill dirt from somewhere else, via behemoth giant diesel trucks that will tear up our roadways, pollute our air, and cause disruptions for months on end. All for the purpose of trying to turn a flood zone into a non-flood zone. There's a reason nature made the site as it is.
- The sheer obvious fact of trying to build a major, sprawling campus in a flood zone - people, lives, and structures at risk.
- A much better application of these \$25 million would be toward Boulder's \$375 million in unfunded city-wide needs. These include things like traffic mitigation and roadway system improvements, alternate transportation support such as free Eco-Passes for all residents, climate action, electric vehicle charging stations, arts and cultural programs, affordable housing, long overdue maintenance on our overused Open Space lands, etc.
- Destruction of wetlands ecosystem and habitat, and the natural carbon sequestration they represent.
- Stress to at least two endangered species onsite. We don't buy CU's argument that Prebles' Jumping mice don't stray onto CU's land at CU South (because the mice can read property boundary signs?).

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

- The guaranteed cut-through traffic through neighborhoods.
- May require moving the Table Mesa/Darley fire station to CU South. Slower emergency response time, and higher home insurance rates, for thousands of South Boulderites.

CU North (Area 3 planning reserve land):

Advantages:

- CU will gain ownership of planning reserve land that sits "high and dry" and therefore will save the City \$25 million in gratuitous taxpayer-funded site improvements for a campus that is inherently the responsibility of CU.
- It is inherently a much superior building site that won't put lives, structures, and people to flood risk.
- It won't require the remarkably un-environmental and energy-intensive practice of trucking thousands of tons of fill dirt, from somewhere else, via behemoth giant diesel trucks that will tear up our roadways, pollute our air, and cause disruptions for months on end.
- It will allow \$25 million in City funding to be used for much-needed city wide efforts such as traffic mitigation and roadway system improvements, alternate transportation support such as free Eco-Passes for all residents, climate action, electric vehicle charging stations, arts and cultural programs, affordable housing, long overdue maintenance on our overused Open Space lands, etc.
- Traffic will be compelled to use existing high-capacity traffic corridors, rather than cutting through neighborhoods.
- It will preserve wetlands ecosystem and habitat, and the natural carbon sequestration they represent.
- It will avoid stress to at least two endangered species onsite. We don't buy CU's argument that Prebles' Jumping mice don't stray onto CU's land at CU South (because the mice can read property boundary signs?).
- It will allow the City to assume ownership of the high-value wetland ecosystem at CU South. In so doing, this land can be preserved as a living ecological laboratory in which students and residents can observe wildlife in its natural habitat.
- This will provide a much superior buffer against City-owned Open Space, compared to a constant activity, noisy campus.
- The planning reserve land does not immediately abut any neighborhoods.

Disadvantages:

- We can't think of any. It's a vastly superior building site.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** rmheg@aol.com <rmheg@aol.com>  
**Sent:** Monday, April 19, 2021 8:09 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south

**External Sender**

HI Council,

I am writing again re CU south to continue to oppose annexation of CU south for following reasons

1. FLAWED traffic study- come on!
2. COST to Boulder re land fill for CU to build on- which no one knows what they will build or when... Why is Boulder expected to take on this cost?
3. Why is campus being built in a flood plain to begin with?
4. Why is CU forcing annexation to be tied to land they are "Donating" for the good of Boulder?
5. IF CU campus has to happen which is questionable with enrollment cliff colleges are facing then it should be built in north boulder and NOT on highly valued land which will have a huge impact on south boulder
6. Very poor Boulder Heard survey COME ON! Stop these suggestive, poorly designed surveys

Rosemary

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Kenneth Nova <kgnova9@mac.com>  
Sent: Monday, April 19, 2021 8:02 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU south

External Sender

Hello,

I had signed up to speak to tomorrow's meeting, but was not chosen. I wanted to tell you about how I strongly believe that CU should not build a portion of their campus on what's referred to as the CU South land. It's a flood plain, for heaven's sake. For Boulder to spend \$15-25 million or more just to bring in a massive amount of dirt to raise the level to a supposedly safe level is environmentally destructive, wasteful, and damaging, as well as economically outrageous when Boulder has many other more pressing and more relevant needs.

I'm all for Boulder annexing the land for the purpose of building flood mitigation projects. Then, let a flood plain area be used for recreation, as it is currently by hundreds of south Boulder residents. Then, part of the annexation agreement should be for Boulder and CU to make a land exchange between what is now called CU South and the North Boulder Area 3 Planning Reserve land. CU can build a "CU North" on land that is high and dry and Boulder wouldn't have to spend many millions on filling in a flood plain with millions of tons of dirt. Seems like a much better solution to me!

Thank you,  
Kenneth Nova  
355 S 44th St  
Boulder 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Meg Dopp <megforb@gmail.com>  
**Sent:** Monday, April 19, 2021 4:10 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear City Council.

I wanted to write to you about your upcoming decision regarding CU South.

I have lived in Boulder for over 17 years and I currently live in South Boulder off of Table Mesa. CU South is a very important part of the trail system and 'Open Space' in South Boulder. We bike, walk the dogs, ski and run at CU South at least 3-5 times per week.

The entire community of South Boulder has been really upset for some time about the prospect of development on this land. First of all, it is a very beautiful and unique piece of land with wetlands, ponds and lots of migratory birds and other wildlife. You can't find anything similar anywhere in Boulder. Secondly, the traffic impact to our neighborhood will be overwhelming. I have heard that the traffic study that was done was during COVID so I don't believe that truly represents the traffic impacts to our community. Finally, this area is in a flood plain. It was never meant to be developed and it is my understanding that Boulder never wanted to develop this land but is being forced to by CU. We also have heard that the fire station may get moved to CU South which would drastically raise homeowners insurance. I would like to ask the city to hold off on any decisions until a proper traffic study is done and then allow for community feedback in a non pandemic time.

I have heard that the city owns the land up in North Boulder Area 3 and that is being saved for future development. Has there been any studies on the viability of that property as a replacement for CU South? I don't know if that is a viable option but it certainly won't have the floodplain issues as well as the impact on wetlands and birds and wildlife. I also think that this issue could be solved with further density and development on CU Campus. Has that been discussed with CU?

Thank you so much for your time and consideration.

Best Regards,  
Megan Dopp  
303-710-5050

Megan Forbes Dopp, RD, CFMP  
Forbes Nutritional Consulting, LLC  
Certified Functional Medicine Practitioner  
[www.forbesnutritionalconsulting.com](http://www.forbesnutritionalconsulting.com)  
Phone: 303-710-5050

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Wendy Bigelson <wendy101@comcast.net>  
**Sent:** Monday, April 19, 2021 1:58 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

To Whom it may Concern,

I am writing because I have a few issues which I am greatly concerned about.

I want to ask that you find a way to prevent CU South property from being annexed for any purpose other than flood control. It is another state overreach. The costs of annexation and development will not fall upon CU/Colorado but upon Boulder residents and what will we see for it? Higher bills and more traffic. To validate my concerns please link to [bit.ly/MANA\\_CU\\_South2](https://bit.ly/MANA_CU_South2).

As a senior I am being priced out of my home through taxes.

Another issue I am VERY concerned about is the use of Open space tax dollars , purchasing conservation easements, which are THEN REMOVED!! I know the industrial compost facility is a pet project but it is hardly appropriate on Open Space land. If the City requires another income stream it should be put in an area already established as Industrial. And, it is an enclosed toxic waste facility so lets not forget that .

I feel like there is way too much of this underhanded use of tax dollars happening.

Sincerely,

Wendy Bigelson

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Katie Emaus <katieemaus@gmail.com>  
**Sent:** Monday, April 12, 2021 12:54 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

To Whom it may Concern:

As a resident of South Boulder in Martin Acres, I am very concerned the 7,000 additional trips per day that CU South will generate, according to CU's own recently released traffic study. I chose to buy a home in Martin Acres because of the family-friendly community that it is. This increase of traffic will greatly reduce the safety and desirability of my community. I'm asking that this development is permanently stopped.

Thank you,  
Katie Emaus

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim Hill <jimdrjhill@msn.com>  
**Sent:** Wednesday, April 7, 2021 4:51 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Council Members: As you continue your deliberations and negotiations with CU regarding their proposals to develop a south campus, please consider the massive impacts that will occur on traffic, air pollution, and water availability for all users in Boulder. The impacts on wildlife and the floodplain, with potential for increasing risks to downstream residents, are other major problems with the site. Why should the city pay millions of dollars to truck in soil into a floodplain area for the benefit of a state-owned entity? Lastly, do we really want to encourage expansion of the student population from its current number of approximately 35,000 to perhaps 60,000 in the future? Students are great, and part of the reason that many of us selected Boulder as a place to live, but we do have finite space and resources within our city limits, and we have to recognize that reality. Thanks for your consideration. Jim Hill

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Cecilia Ruffing <cealruffing@gmail.com>  
Sent: Thursday, April 1, 2021 12:56 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

Hi,

I'm a resident of Table Mesa neighborhood, and I am generally against the CU South proposal. From what I've read, there will be overwhelming traffic added to this area, an eyesore of substantial development on the site, costs to Boulder residents from the act of annexation, overgrowth of the university, problems with moving the fire station from our neighborhood to CU South, and a flood control option allowing for the development that may or may not work.

It may be time to consider refusing annexation and try to negotiate a land swap with CU, so that if they must grow, it is done in an area that doesn't cause so many problems.

Thanks,

Ceal

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** ira freedman <irafreedman@indra.com>  
**Sent:** Monday, March 29, 2021 10:46 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Hello. I strenuously object to approval of the CU South project. It will add an untenable burden to an already overtaxed traffic system, and the relocation of the Darley fire station to CU South is wonderful for CU, but not acceptable to the rest of us. (Let CU add a fire station.) The University is already a fine part of the mix in our Boulder Community. Adding more of it at CU South creates a stunning imbalance and an intolerable burden on existing infrastructure. Please reject it. Thank you. ira freedman

*Wear a mask, keep your distance, wash your hands, don't touch your face!*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Beth Bennett <beth.bennett@colorado.edu>  
Sent: Thursday, March 25, 2021 6:28 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU south

External Sender

Council, i, like many other Boulder residents, are very concerned about the potential costs of the proposed CU south expansion.

and i don't mean just the financial costs.

increased traffic, environmental effects and increased flood risks are significant and not satisfactorily addressed by the proposed plan sincerely, Beth Bennett PhD

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Cara Anderson <cara.boulder@gmail.com>  
Sent: Tuesday, March 23, 2021 1:30 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

Esteemed council members,

I came to CU Boulder in 1967 as a graduate student, so I have a lot of affection and respect for CU, but I am firmly opposed to the ill-advised expansion they are lusting for if the annexation of CU South goes through and they succeed in doubling their footprint in Boulder, while destroying a pristine natural area that deserves to be left alone. It's a tragedy that years ago, CU outbid the city and acquired this land, but that doesn't mean they get to thumb their noses at this city that has been very good to them. Please, I beg you, do everything in your power to preserve this precious land for future generations and not hand it over to be developed. If CU wants to expand their campus, they need to find somewhere else to do it.

Respectfully,  
Cara Anderson

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Donnie Novak <donnienov@q.com>  
**Sent:** Tuesday, March 23, 2021 1:26 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Members of City Council,

I have lived in Martin Acres since 1971 and love the area, the neighbors and the entire quality of life here.

I cannot be more upset at the proposed CU annexation of the 308 acres of land at Table Mesa and US36.

Many projects have been proposed for the area since I moved here most notably Women of the West Museum.

Many influential people have endorsed these various projects without success I'm happy to say.

Ruth Wright and Steve Pomerance's editorial was as succinct a message as was ever written opposing this annexation.

I heartily endorse their view and would hope that the members of the city council will also.

PLEASE do not let CU

take over any more of the City of Boulder. Enough is enough!!!

Donella Novak  
280 Martin Drive  
Boulder CO 80305  
303-494-8

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Crystal Gray <graycrystal@comcast.net>  
Sent: Tuesday, May 25, 2021 4:45 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South and one step you can do now for flood safety

External Sender

Dear Council,

I think it is very important for you to take some steps to increase safety to residents of the West Valley overflow area - now. Here is a suggestion:

1). Provide state of the art warning system for the West Valley Overflow residents of S. Boulder Creek - including water sensing devices in basements- paid for by storm water fees. Flood detention won't be funded and build for a 1/2 decade (at least) so this area should have state of art early warning systems. Sensing of ground water rise, as well as other upstream state-of-art sensing seems to be something you could implement - soon.

A second step would be to ask staff, boards and working groups for ideas on other ways to increase safety for South Boulder Creek residents - here are a few additional ideas:

- 1) identify properties that are in vulnerable locations and purchase them. This was done to the east of Eben Fine Park and west of Boulder High - both were apartment buildings. Urban Drainage contributed to both projects. The sites can accommodate flood flows. This would not be a condemnation.
- 2) create a fund to assist property owners with flood mitigation projects.
- 3) when houses come on the market the city could purchase them and elevate them above the flood elevation and resell them.

Thank you for considering these ideas - and good luck.

Crystal Gray  
303-906-5509

Sent from my iPhone

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Brian Buma <brianbuma@gmail.com>

**Sent:** Tuesday, April 20, 2021 8:05 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Annexation - include a provision requiring the use of the N Planning reserve

**External Sender**

I am writing to urge you to stop CU from expanding into CU South, the entrance to our city and a popular wetland area with rare and endangered species, and instead write into the annexation agreement that they will use the land the city actually set aside for development, the Area 3 planning reserve.

This will save us money - why pay for CU to build in a floodplain - that can be used on more important projects for the city. It will eliminate the need to truck in tons of dirt (at our cost) to a bad building site. It will use the planning reserve for what it was meant for - building. And it will force all increases in traffic to use actual major highways rather than put it down in the middle of a neighborhood (Tantra, Martin Acres).

The only advantage to CU building at CU South I can see is it's easy and will accomplish a limited but important goal, the flood retention dam. But the disadvantages are many - The addition of 7000 cars per day in Boulder's heaviest trafficked region, and only area where it's even marginally possible for a family to afford if they don't already live here with property equity. Up to 25 million in costs to us. Thousands of tons of dirt in an environmentally sensitive area. Destruction of carbon-heavy wetlands. Flood plain building. It's craziness. I honestly can't see why this is even on the table.

There is no reason not to couple a land swap in the annexation agreement, have CU build on the planning reserve. The city holds the cards here, use them.

Brian Buma  
Boulder resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Thomas Sanford <thsanford19@gmail.com>  
Sent: Monday, April 19, 2021 8:32 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South Annexation

External Sender

This has been a difficult issue that I have watched from the start. It looks like You may move to a finish line for now and I am pulling for you. I have an idea how difficult issues with many sides as I have lived in Boulder for 31 years and served on the Beverage Licensing and Parks and Recreation Boards. I also experienced the 2013 Flood so am most interested in moving forward. I do think CU is pushing for too much with their portion of CU South and not focusing on the flood issues. Keep up the good work.

Thomas Sanford

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Coordinator, martinacres2 <eknapp165@comcast.net>  
**Sent:** Sunday, April 18, 2021 5:40 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Hello City Council Members,

I live in South Boulder and in 2013 the downstairs of my house filled with water, looking very much like the house on Qualla Drive featured in today's (4/18) Daily Camera article about CU annexation and the City flood mitigation plan. My sympathies go out to the family on Qualla Drive as well as to all the others who have built/live in homes with below-grade features. However, like our home, these structures were built in a floodplain. In retrospect, we would not have built a below-grade addition. However, we did. But, I have no expectation that the City is now responsible for mitigating the flooding we experienced. This is one of the reasons I do not support the City's proposed plan for the CU south campus property. When you build in a floodplain, you should expect flooding.

There are many puzzling components to the City-CU project for which the citizens of Boulder deserve an explanation. I'll only list my top two questions here:

- Why is the City responsible for addressing the flooding in a neighborhood in which below-grade construction should never have been allowed?
- Why is the City incurring the cost of infilling a floodplain so that CU can build housing? We have enough evidence to know that infilling does not work. Those structures will flood. I do not think this expenditure (or long-term financial commitment) is in the City's best interest.

I look forward to hearing your responses and ask that you do not enter into an agreement with CU for annexation until you negotiate 1) better cost sharing and/or 2) limitations on the development of the property. Thank you for your time and consideration.

Liz Knapp

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lynn B <klgmanecer@gmail.com>  
**Sent:** Tuesday, April 13, 2021 7:00 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Good morning City Council members,

Please make common sense decisions about an annexation of CU South.

It needs to be written into the Annexation Agreement that when and if CU decides it needs to build its 3rd campus, it will be done through a land exchange, in which CU gets 129 acres at the North Boulder 'Area 3' Planning Reserve, and the City gets the land at CU South.

The rationale is that the Area 3 land is not in a flood plain. A CU campus there will save Boulder \$15 million to \$25 million in campus-area fill dirt and other campus site improvements totally unrelated to flood protection for Frasier Meadows. It will take tens of thousands of tons of fill dirt to raise CU's desired campus site above flood height. All of which will have to be brought in via huge, heavy diesel-spewing trucks that will tear up and congest South Boulder roadways. It's hard to imagine anything more un-environmental. Moreover, those \$15 million to \$25 million in fill dirt and campus site improvements are Boulder tax dollars that could be much better used for improving city-wide infrastructure that will benefit city residents, as well as affordable housing for city residents, Boulder traffic mitigation, climate action, and long-overdue maintenance on Open Space lands.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Brian Buma <brianbuma@gmail.com>  
**Sent:** Monday, April 12, 2021 8:35 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation Agreement

**External Sender**

Hi,

I am writing to express my desire that the annexation agreement that the city appears to be ready to enter with CU include specific provisions to deal with the major issues that have, so far, apparently been ignored or mistreated.

First, the CU traffic study suggested an additional 7000 trips per day - and yet, inexplicably, ignored the obvious routes of travel between campuses (not discounted, actually ignored). This is bizarre. I honestly can't imagine why they didn't realize people will take Moorhead - literally the shortest route, with no stoplights. I would, wouldn't you? One of the last affordable neighborhoods in Boulder will be deeply impacted - with an elementary school directly on one of the two major thoroughways, and there is clearly no consideration given to this problem. Are you going to close the road to all but locals? How will that be enforced? Otherwise it's complete nonsense that those 7000 won't go straight through, as anybody with a map can see. Eventually people will get hit.

Second is the environmental cost. The fill dirt required for the city to pay for CU's expansion above the floodplain (we're paying?!) is an immense environmental cost associated with transport and habitat loss (perhaps not all, but some. And we're supposed to be an environmentally friendly city...)

Third is the economic cost. The city is apparently required to pay 15-25 million (despite some 300 million in things we need to do as a city). Really?

Please, when there is an annexation agreement reached (if there must be - many neighborhoods were flooded in 2013 and yet this is all over a single neighborhood, with no attention given to Martin Acres or the other people flooded), it should be written into the agreement that if and when CU builds, they can build on the planning reserve to the north - land specifically set aside for expansion, land that doesn't require us to pay for them, land not in a floodplain, and land that won't force students and staff through neighborhoods, but rather on major arterials.

Brian Buma  
Boulder resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Janet Brewer <dtbjhb@aol.com>  
**Sent:** Thursday, April 15, 2021 2:09 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation and Flood Mitigation

**External Sender**

To all Council Members:

I want to express gratitude to the City of Boulder Staff for their above-and-beyond efforts to engage with the public during the pandemic. I especially thank the Staff and CU for listening to neighborhood concerns about views, setbacks, noise and light pollution and for addressing them in the annexation negotiation process.

Above all, I wish to stress the urgent nature of Flood Mitigation. Inasmuch as the annexation of CU South is a pre-requisite to achieving Flood Mitigation, I urge you to do so as soon as possible.

Sincerely,  
Janet H. Brewer

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Roddy Hibbard <bldrroddy@yahoo.com>  
**Sent:** Friday, April 16, 2021 12:35 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation and Flood Mitigation

**External Sender**

Dear Council,

Appreciate your hard work and efforts to move forward with annexation of CU South and flood mitigation for South Boulder Creek. Long overdue flood mitigation will decide the fate of many of your citizens who now live in harms way. Many of these folks are some of Boulder's most at risk due to living in affordable housing. Due to the escalating effects of climate change, another flood will come and most likely it will be devastating.

I have been blown away by the organized opposition and their thinly veiled arguments. It is clear they are against any development on the CU South parcel of private property, and will use any means at their disposal. No matter how despicable.

Thanks for your help,

Roger Hibbard  
4900 Qualla Drive  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** David McGuire <dmcguirepm@hotmail.com>  
**Sent:** Wednesday, June 9, 2021 5:23 PM  
**To:** OSBT-Web <OSBT-Web@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Annexation

**External Sender**

Dear Members, Like many of us in the West Valley flood area, I would like to express my support for the draft resolution being addressed at tonight's meeting. This is a great way to better achieve protections for OSMP lands with less-than-5 acres of Open Space being impacted to achieve critical flood mitigation protections for our neighborhoods.

Alacrity is of the essence in protecting our lives. This project is long overdue and this is the opportunity to move forward with protections for Open Space lands. Thanks to board members Estrella and Hallstein for working tirelessly to make this happen!

David McGuire

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Angie Zimmerer <angiezimmerer@comcast.net>  
Sent: Wednesday, April 21, 2021 2:25 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South Campus

External Sender

Dear City Council Members,

I'd like to express my concerns about the possibility of losing our local fire station: Darley-Table Mesa, with the development of the CU South Campus. We've lived in our home for nearly 30 years, and have always felt that having a fire station so close is quite an asset. Obviously, we also appreciate the discount this affords us on our homeowner policy. Relocating this station 1+ miles further from our neighborhood is a concern, and one about which we'd appreciate your careful consideration. Perhaps CU could be asked to contribute to their own fire station.

Additionally, the proposed increase in auto traffic of approximately 7000 trips per day will be incredibly impactful to the South Boulder community. We already experience heavy traffic on Table Mesa Drive during many time of day.

Thank you for your time and consideration.

Sincerely,

Angie Zimmerer  
Table Mesa

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bobby Dahlstrom <bobby@alpenlux.com>  
**Sent:** Tuesday, April 20, 2021 3:28 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Campus

**External Sender**

To whom it may concern,  
Speaking for myself and several neighbors I've spoken with, we are extremely disappointed to hear about the push to develop the area where we ride bikes and hike with our friends (and dogs). We have witnessed increased traffic in our south boulder neighborhoods, and prefer the land be held as a place to enjoy nature without having to drive to distant locations, or ascend difficult trails. Please consider keeping the area as a quiet retreat.  
thank you!

**Bobby Dahlstrom**

Phone: 303-641-0416

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Stan Brown <stanbrown@comcast.net>  
**Sent:** Tuesday, April 13, 2021 9:57 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Campus

**External Sender**

Dear Council Members,

This email follows one to Councilman Yates on the same subject and represents the views of our household. We await a response.

As some of you may recall DIA airport noise, instituted without public notice to our local officials, remains a traffic lane over our homes. While there has not been a Record of Decision announced, I believe that we must expect the worst possible outcome. A blight of noise from DIA that will only grow as time and the expansion of DIA continue. We have appreciated the former Council's repeated and full support of our fight – as well as Boulder County Commissioners, the other Mayors and elected bodies as well as the State Representatives with affected population, the assist of Governor Polis and the strong effort of Representative Neguse. This impact is beyond an annoyance for those of us who cherish our outdoors... as my husband and I do.

Then there was the Soopers mass shooting... violence that permeated every thread of our being and remains a dark cloud over those of us who have already experienced gun violence in our live – and live with a family heritage of genocide. The Boulder star which we thank you for lighting gave solace.

So South Boulder has really had enough and we adamantly object to the expansion of the CU South Campus. We are strong supporters of CU financially so we value the health and well-being of the campus – one of the reasons we chose Boulder as our home some 18 years ago. However, that support does not extend to the incursion of the many detriments this expansion will bring.

My husband and I would appreciate an update if the Council is going to stand strong for our part of Boulder and reject this invitation from CU to further undermine the sanctity of our quiet corner of the city.

Pamela Barsam Brown  
Stan Brown  
310 Overlook Drive  
Boulder, 80305

Sent from [Mail](#) for Windows 10

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Sebastian Casalaina-Martin <casalainamartin@gmail.com>  
**Sent:** Sunday, April 4, 2021 3:04 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Campus

**External Sender**

Dear Boulder City Council,

I recently received mail from the Martin Acres Neighborhood Association regarding the proposed CU Boulder South Campus project.

Generally, I believe I would support the project.

However, there is one point that was mentioned that was quite concerning to me. It was mentioned that the Table Mesa--Darley Fire Station would be closed. I want to voice my strong opposition to this. This fire station is around the corner from me. While I support adding a Fire Station on the CU Boulder South Campus, I am opposed to closing existing stations in the process.

Please do not hesitate to contact me if you would like me to explain further.

Thank you for your time.

Best,  
Sebastian Casalaina-Martin

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Linda Boley <lboleym870@gmail.com>  
**Sent:** Wednesday, March 24, 2021 10:56 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Campus

**External Sender**

I have lived in south Boulder for 60ish years (in Marshal and mainly in Martin Acres). I believe the addition of an extended CU campus into our south floodplain/turn pike/housing area would be a majorly poor decision.

There is already quite a bit of congestion in this area - tight intersecting roads with lots of vehicles moving in, out, and around. It's very prone to future flooding because you can't fool Mother Nature when she decides to rain -- no matter what WE think we can overcome.  
It's just a plain poor area to build in and add much more congested car and people movement.

Please hear our pleas and allow this area to be a natural floodplain for plants and animals...and people.

Sorry CU. I graduated from you and was employed by you for 10 years, but don't move south.

Here's my very strong vote to NOT develop this area.

Thank you for listening.

Linda Boley  
150 South 35th  
[lboleym870@gmail.com](mailto:lboleym870@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** edgalaxie <edgalaxie65@gmail.com>  
**Sent:** Monday, March 22, 2021 10:42 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south campus

**External Sender**

Please do NOT approve CU's expansion into Table Mesa.

Traffic in the Table Mesa area is bad as it stands. Adding thousands of cars to the problem will make it unbearable. Table Mesa does not have enough available room for any meaningful expansion to the traffic infrastructure.

As a taxpayer and bill payer, I do not approve of paying for CU to expand.

A better use of that property is to build a bypass around Table Mesa for the Foothills Parkway to Hwy 93 traffic. That would relieve a lot of the congestion on Table Mesa Drive and South Broadway.

Ed Myers

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** human.nature.2021 <human.nature.2021@protonmail.com>  
**Sent:** Monday, March 22, 2021 9:27 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Campus

**External Sender**

Dear Boulder Council,

I have been learning about the proposed CU South Campus, along with some of it's drawbacks. I want to write in and say that I am opposed to this measure. It is expensive enough for us to live in this town of Boulder, and things just keep getting more expensive. Just because people live in Boulder doesn't mean they have a big pile of money just laying around to waste.

I do not wish for my tax payer dollars to go towards an expansion of the university, nor do I want my water bill going up again.

I also hear that the fire station on Darley would have to be moved, which is a terrible idea. We are very close to the mountains where fires easily jump over into those South Boulder subdivisions right under NCAR. One minute can make the difference between saving south Boulder or it going up in some flames.

And unless you can increase the lanes on Table Mesa Drive (you can't), I do not wish to drive in traffic that is packed anymore then it already is on that road. Can you image how bad that intersection at 36 will be if this project goes through? How will this effect the bus station there?

That land should stay as open space. I do not support the expansion of CU in south Boulder.

Sincerely,  
Boulder Resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** sarah spaulding <sarahaspaulding@gmail.com>  
**Sent:** Monday, March 22, 2021 7:46 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Campus

**External Sender**

Dear Boulder City Council,

I am deeply concerned about the University of Colorado's proposed expansion into the "CU South Campus" property.

First, the property is located within the floodplain of South Boulder Creek. This land is needed to serve its ecological function to absorb and mitigate high flows, including to protect the neighborhoods downstream. Furthermore, the creek and surrounding habitat is a valuable home for life - marshy plants and riparian birds.

Second, the University of Colorado has an endless appetite for growth. The university already dominates the City of Boulder, and still, CU thinks they need more space. Enough is enough already. And, on top of that, CU asks the City of Boulder residents to subsidize their expansion through higher costs for water and fire response in the form of higher insurance rates.

Thank you for consideration of these crucial points.

Regards,

Sarah Spaulding, Ph.D.  
Aquatic Ecologist  
3235 Longwood Ave.  
Boulder CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Duggan Family <dugganboulder@msn.com>  
**Sent:** Tuesday, March 30, 2021 12:17 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South campus

**External Sender**

Dear Sirs,

I am against a third campus at CU boulder south. It will cause a lot of additional traffic in a city that is already very congested.

In the information I got it states that the city will pay millions in tax money which will be added to our water bill. I am against paying any of my tax money for CU south campus and will vote accordingly when city elections will be held.

Catharina and Mike Duggan  
1590 Lehigh street.

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Timothy Schultz <timothy.e.schultz@gmail.com>  
**Sent:** Tuesday, March 30, 2021 9:35 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Campus Concerns

**External Sender**

Hello,

We live in the Table Mesa neighborhood near the location of the proposed CU South Campus. We are extremely concerned by the disturbing proposition to have this new campus potentially built here.

We moved to this area, partially for the open space and lack of traffic. CU says this would add 7,000 additional vehicle trips per day to our neighborhood, which would be horrible. We also don't want a massive campus built on what is now beautifully preserved open space; it is cherished by so many people in our community.

The cost of this potential new campus is \$66 to \$99 million dollars. The proposition of paying for this by increasing our water bill is extremely troubling. We do not want this to happen. The water bills here have gone up tremendously over the years and we do not want to finance this by having our bills increased even further.

We also currently live near the Darley Avenue fire station. It is yet another reason why we chose this neighborhood. We absolutely do not want the fire station moved away to a new location. The response time would be longer, hence our home insurance rates would also increase.

I'm a CU graduate and love CU Boulder, but I absolutely do not want this in our neighborhood. It would ruin some of the reasons why we moved here and increase our cost of living.

We cherish this community and this space; please do not allow this new campus to be built at this location and please do not force us to pay for it.

Thank you very much for your time and consideration!

-Tim

--

Timothy Schultz  
[Timothy.e.schultz@gmail.com](mailto:timothy.e.schultz@gmail.com)  
Cell: 303-489-1676

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: David William MacLennan <dave.maclennan@icloud.com>  
Sent: Tuesday, March 23, 2021 5:25 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South Campus proposals

External Sender

My wife and I are homeowner residents of Martin Acres neighborhood in South Boulder and we have lived here more than 30 years.

We were here to experience the disaster of the September 2013 floods of Boulder. Not only did it affect our immediate neighbors with flooded basements and crawl-spaces and associated housing infrastructure, but it also threatened to inundate our house, but fortunately our house was spared because the 100-year flood level of Bear Creek only licked at the bottom of the driveway and didn't rise any higher, allowing us to help neighbors who were less fortunate.

My understanding has always been that any development of the CU South Campus would/should only be used for sports fields/facilities with minimal building structures, and NOT for residences, storage or academic buildings. Allowing a large number of buildings and parking lots on that land would eliminate large swathes of "natural" habitat that currently serve as wetlands that would divert or retain large amounts of flood waters from South Boulder Creek.

I believe the City's and the University's planning boards should be focused on reducing the flooding risks for residents of Boulder, no matter which flood plain they happen to reside on, and so I oppose the current proposals for developing CU South for anything other than sports fields or for just leaving it as-is, a man-modified wetland.

Sincerely -

David W MacLennan  
45 South 33rd Street  
Martin Acres  
Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jean Pierre Lewis <Lewdens@msn.com>  
**Sent:** Thursday, April 22, 2021 3:20 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Campus

**External Sender**

Council,

As a resident of south Boulder for over 50 years I strongly oppose the annex of CU South Campus. University of Colorado's plans to develop 108 acres far exceeds the area's ability to absorb the impacts. The University has not been transparent in its planning and consistently lied to the residents of the area. Table Mesa drive and Hanover drive are already congested and overused by automobile traffic. Traffic access to US 36 from Table Mesa Drive is also impeded by heavy, daily, auto & bus transit to and from work sites in points south. CU states that 7,000 additional vehicle trips will be added daily! Goodbye air quality!

Additionally, the City of Boulder residents are being asked to fund \$66 to \$99 million for the construction of CU South. CU proposes moving the Table Mesa Fire Station to CU South. Paid for by the aforementioned taxpayers I assume. Who besides CU benefits from this move? Certainly not current residents whose fire response times will get longer.

Water bills will increase for the current residents . Water bills have tripled over the last 15 years. Water will only become more precious due to climate changes.

Really, the City of Boulder and the University of Colorado couldn't find any other solution but defile a beautiful area of open space that the was originally promised to the people of Boulder? This has a fishy smell of greed. Recent riots on the Hill demonstrate the University's inability to manage the student population. Enforcement of existing codes and laws is lacking.

Shame on you! If this travesty is perpetrated on the citizens of Boulder, remember I vote!

Sincerely Yours,

Jean Pierre Lewis  
620 S 43rd Street  
Boulder CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** rmheg@aol.com <rmheg@aol.com>  
**Sent:** Tuesday, April 20, 2021 10:29 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south cost new fire station

**External Sender**

Again thinking about traffic... Is there going to have to be traffic lights added to deal with increased traffic, flow onto ramp onto HW 36.... who pays for that?

What is cost of new fire station and adding those personnel to the city?

Does not matter what fire station looks like... the location is very important. So you are saying that fire station on South Broadway will stay even if new fire station is built at CU south?

Rosemary

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** kimi riter <tahigh22@gmail.com>  
**Sent:** Saturday, April 24, 2021 8:32 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South is a solid no for our community

**External Sender**

CU South doesn't make any sense for anyone except CU! You cannot let this go through. \$66-\$99 million that residents are supposed to pay? Added to our already high water bill? Not everyone in this town is made of money. Are you wealthy enough to pay even more taxes for CU's project? We are not!

I have lived in Martin Acres for 15 years. I am a teacher and my husband is a firefighter. We have made our home in this great neighborhood prior to our current times when teachers and firefighters can't afford to live in Boulder. We pay plenty of taxes and support open space initiatives and public education. We can't continue to pay more taxes toward something like CU South. IF CU wants to develop it, they should be responsible for the entire amount, even if it means they are paying for the flood mitigation work. Any other developer would be responsible for improvements to their projects.

I reviewed all the impacts predicted for South Boulder, specifically Martin Acres which would bear the brunt of the traffic. My children ride their bikes to school every single day. We have to cross Moorhead to get there. Have you ever done this? It's dangerous. When CU students are in town, we have an uptick in traffic. That traffic breaks the speed limit and NO ONE stops for children or anyone else in the crosswalk. I had to brace myself last week and screamed at my children to ride quickly since the car way down the road was flying so fast it came upon us in the middle of the crosswalk and I genuinely thought someone might die. Imagine when they increase traffic using Martin Acres as a shortcut.

Have you ever been to CU South? Actually, have you ever tried to drive out of CU South? That intersection will have to be completely reconfigured. Who is paying this? It is a one-lane exit. Traffic waiting for the light, turning left backs up traffic trying to go right. Both lanes of oncoming traffic coming off the 36 eastbound usually turns left onto Table Mesa, but sometimes someone in the right lane goes straight into CU South so you have to wait until the appropriate time to turn left just in case someone is coming straight toward you. You can't tell because the cars in front block the other cars' turn signals. So you wait and people behind you also have to wait. The traffic study should include when an ROTC group or a tennis tournament exits CU South. It backs up almost to the parking lot at times. So I ask, who is responsible for that? The city?

When you are doing your due diligence, collecting your final numbers on costs associated with this project, please have the city include costs of revamping the intersection.

Since you have another option for CU development north of town, I strongly recommend that you take care of the people in this city that elected you. We aren't made of money. This project benefits only CU. There is an alternative.

Sincerely,  
The Ritters

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Brookie <brookiegal@gmail.com>

**Sent:** Friday, April 16, 2021 12:16 PM

**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** CU South Planning Board Meeting 4/14/2021

**External Sender**

Good day,

I attended the Planning board meeting last night (4/15/21) and spoke during public comment about CU's refusal to negotiate regarding PILOT payments and the proposed CU South Fire and Rescue Station. I am sending you these comments (below) in writing, along with the graphs I submitted for you to view while I spoke, to be sure you have them together in one place.

I am extremely concerned about CU's unwillingness to consider contributing to services they would receive from the city. Derek's comment (apologies that I'm not sure of his last name) that they don't want to set a precedent was unclear. For what doesn't CU want to set a precedent? Do they not want to set a precedent for negotiating in good faith? Or for helping to pay for services they expect to receive? It all seems disingenuous.

There appears to be a severe lack of pushback from the City when CU refuses to consider decoupling annexation of property for flood mitigation from annexation for future development or when CU refuses to consider PILOT payments. The negotiations look a bit more like the City finding creative ways to capitulate to CU's demands instead of making strong demands on behalf of the Boulder community.

If CU cannot actually negotiate, I encourage the city to explore eminent domain. Flood mitigation is a serious need for the public good.

Thank you for listening.  
Brookie Gallagher

My public comment to Planning Board last night (April 15, 2021) along with attached graphs:

Good evening. I live in the Table Mesa neighborhood of South Boulder.

The recently updated CU South Briefing Book notes that CU stated that they are unwilling to make annual payments to the city to contribute to the cost of services--such as fire and rescue--that the city will be required to provide if the property is annexed. These Payments in-lieu of Taxes (PILOT) are standard practice for tax-exempt entities who seek annexation. (please see pages 1 and 24 of the April 5 Briefing Book.)

CU is uninterested in paying anything toward city services they would receive. Instead, they have suggested that they would allow the city to build a new Fire and Rescue station on their property--at city expense.

If the proposed fire station is built as a replacement for the existing Darley Ave. Fire Station--as has been suggested--it will be extremely detrimental not only for the South Boulder Community but for the entire Boulder Community. I have attached an image with 2 graphs which display this clearly.

The data for the graphs are distances between 7000 South Boulder structures and the existing Darley Station and the distances between these structures and the proposed CU South station.

Currently, the majority of South Boulder homes are less than 1 mile from the Fire Station. The distance of the majority of homes from the proposed Fire Station would be 1 mile-2.5 miles. This significant increase in response distance significantly increases emergency response time. Insurance companies are well aware of this as well, which is why in cases such as these, homeowners' insurance costs go up.

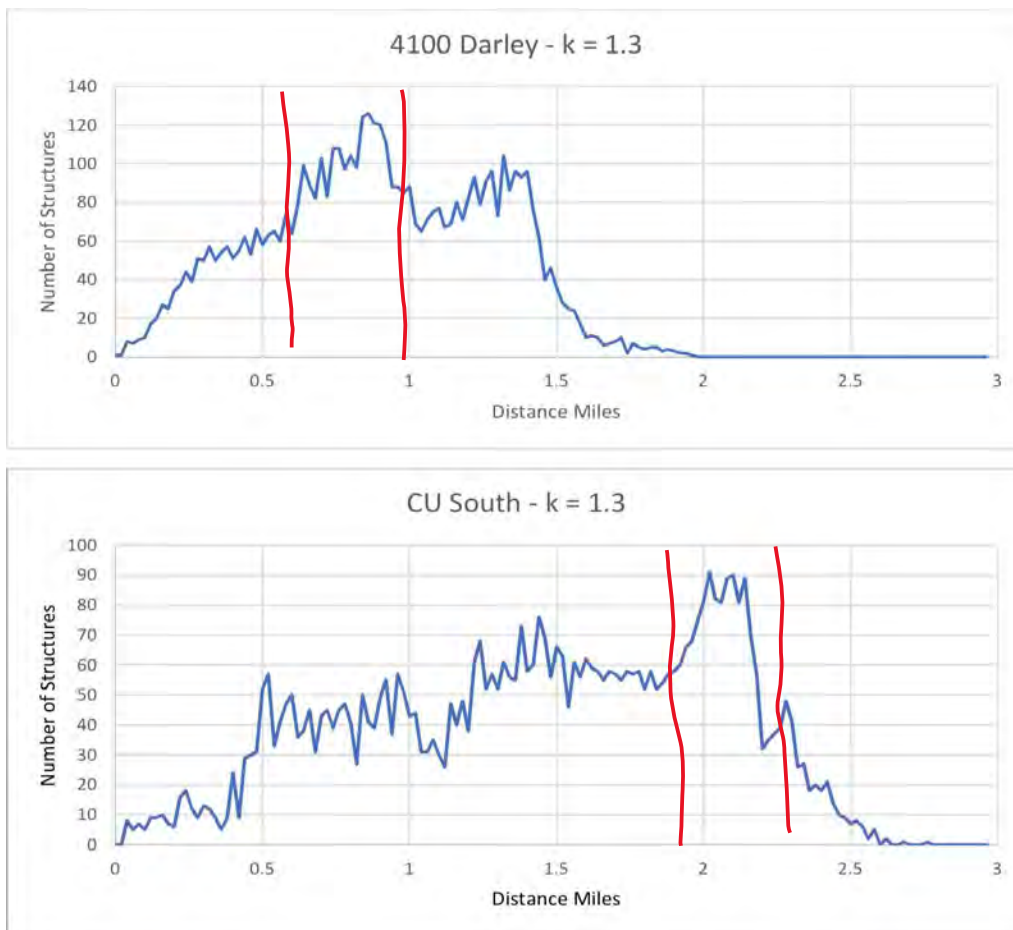
**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

The only beneficiary will be CU, who will end up with an on-site fire and rescue station to support their future campus development--paid for by Boulder residents. This is **not** a community benefit, but would entail huge costs for the community.

I am concerned that Boulder residents are not being provided with adequate accurate information about the true costs of the proposed annexation. And, I implore city staff to negotiate more rigorously on behalf of Boulder residents. Please demand that CU agree to PILOT payments and do not settle for "exchanges" that do not benefit the community. Thank you.

Distribution chart showing increased distance from fire rescue, after Table Mesa (Darley) fire station is moved to CU South.

Note: this is a distribution chart. Just look at the percentage of homes that move from being 0 to 1 mile away, to now being 1 to 2.5 miles away. That's huge, for fire response time. And, as a result, home insurance rates.



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: GINA MARTYN <ginamartyn@aol.com>  
Sent: Saturday, April 17, 2021 7:09 PM  
To: Council <council@boulder.colorado.gov>  
Subject: CU South proposal

External Sender

Hello Council Members,  
I'm writing to you today out of concern for the proposed CU South Campus. My concerns revolve around:  
Cost to Boulder residents,  
The environment,  
And the moving of my local fire station.

Even \$66 million, the low end of the proposed costs, is a lot of money. Water bills have already gone up a lot, and adding more to them for development, when Colorado is in a drought, doesn't seem wise to me. I enjoy the CU South campus, it's running distance from my home and I enjoy the marshy fauna and camaraderie of other folks getting out. I'm sure it's not critical wetland, but it's part of our green space and one that has a lot of utilization. Also, adding thousands of vehicles to the south Boulder roads when the city has committed to fight climate change doesn't seem the wisest course of action either. Finally, I live up on Shanahan ridge. The fire station on Darley serves a huge neighborhood, and is well placed to get to a lot of houses. Moving it further east doesn't make any sense.

Thanks for listening, and I look forward to any explanations. I know it's been a tough year budget-wise but I think going forward with this proposal would be short-sighted.  
—Gina Martyn

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mike@chiropouloslaw.com>

**Sent:** Monday, April 19, 2021 8:41 PM

**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Meschuk, Chris <MeschukC@bouldercolorado.gov>

**Subject:** CU South Summary and Questions

**External Sender**

Council,

Please find pasted and attached a fact sheet primarily responding to the City's new Briefing Book based on an initial review. At 3 pages, it checks at a few pages shorter.

After streaming the Planning Board meeting and reaching out to staff, I did my best to ensure the flyer is accurate on issues including the reason for earth fill at the "CU South" site. CU's Vice Chancellor stated that the land to be filled isn't currently in the designated flood plain, but would be as a result of the flood mitigation work.

From the taxpayer perspective and that of City leaders responsible for budgets, services and governance, the key takeaway might be that -- regardless of the exact circumstances that might result in subsidizing development by paying for earth fill, the fact remains that the \$10 million for earth fill and \$15 million for other site-specific costs will not be available for other uses, at a time when the budget picture is complicated by the pandemic and lower revenues requiring deep cuts across city government.

Top tier questions include:

- Might a North Campus planning reserve be a better location for CU in light of constraints at "CU South"?
- Can "CU South" accommodate CU's foreseeable infrastructure needs given constraints, or might it be more of a short-term, stop-gap "solution"?
- Has anyone proposed a better use for the reserve -- from the perspective of North Boulder residents -- than a North Campus, or a better neighbor than CU?
- Can the Council meaningfully advance equity or AH goals without looking at the reserve?
- Given demand for open space and over-use of existing trails, are there any comparable parcels that could add 308 acres to our magnificent system?
- As Council Member Wallach observed, is the "right of first refusal" requested in the annexation agreement meaningful given that: 1) CU plans to develop somewhere for infrastructure needs and currently lacks alternatives; and 2) the City doesn't have \$50 or \$100 million sitting around, let alone in an open space budget, to exercise such right.
- Is a land exchange that gives the City full title to "CU South" for current and future flood mitigation and open space uses *at no cost to taxpayers* a good deal for the City and an enviable legacy for Council members who supported a win-win outcome?
- Finally, given the above, might it make sense to expedite the urban services expansion study for the reserve, especially when the answer is expected to be that the reserve is in fact suitable for such expansion (as anticipated by the BVCP)?

###

**CU South Annexation Application (LUR2019-00010)**  
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Here's the pitch for a negotiated land exchange that would protect "CU South" and direct CU to a North Campus at the Planning Reserve in under 25 words:

*Fiscal responsibility*

*Common sense*

*Win win for all of Boulder*

*North Boulder, South Boulder, CU, intelligent planning, climate science and equity*

###

**ATTACHMENT**

**City of Boulder "CU South" Annexation and Briefing Book Talking Points (4.15.2021)**

**A Better Vision Is Developing a North Campus and Protecting Our Priceless Open Space**

As City Council and City Boards and Commissions consider staff's new "Briefing Book" on "CU South" and next steps on CU's annexation applications, the values, principles and strategies that officials should bear in mind include:

- Residents support sound, effective **flood mitigation**
  - If Council proceeds with 100-year flood planning today, should it complement that approach by reclaiming, restoring and managing the full site to maximize the natural floodplain's ability to absorb floodwaters and reduce peak flows downstream from future storm events?
- Residents support **informed decision-making** consistent with the Boulder Valley Comprehensive Plan (BVCP) and the best available science
  - Consistent with BVCP guiding principles, the City and County should ensure that we fully analyze whether a land exchange for city-owned land at the planning reserve might be a win-win alternative for all
- Residents support accurate descriptions of **public outreach** and comment
  - The staff memo should note that under a negotiated land exchange, the affordable housing benefits will be obtained at the alternative site
  - The staff memo should state that of 19 written comment received as of December 2020 that mentioned affordable (posted on the City website), 11 of those comments supported protecting the "CU South" property and/or a land exchange (58% of those comments) and only 2 (11%) stated support for affordable housing at the site (6 used the word "affordable" without taking a position on housing versus protection) (32.6%)
- Residents support **responsible fiscal practices** and spending of taxpayer funds, especially in the midst of a pandemic that has required cutbacks to important services across almost all city departments and given hundreds of millions of dollars in currently unfunded infrastructure priorities across the City
  - Instead of spending \$25 million-plus for costs associated with developing a challenging site (\$10 million for earth fill to build land that will be within the floodplain due to the mitigation project, and \$15 million or more for other infrastructure), why not save that money by directing CU to a higher, dryer, appropriate location

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- City-wide, Boulder has identified \$375 million in unmet infrastructure needs, many urgent and related to public health and safety
- The opportunity cost of subsidizing CU's current plans at the CU South site is that \$25 million or more infrastructure dollars will not be available for other projects: does that make sense given our current fiscal challenges?
- CU is demanding that the City purchase certain lands that would not be developed at taxpayer costs – would it not make more sense to negotiate a land exchange with CU for land appropriate to develop and obtain 308 acres of vitally needed new Open Space at no cost (or negligible) to taxpayers
- Under the above scenario, proceeds from the recently approved open space funding measure could be applied to restoration and recreation on 308 acres
- The opportunity cost of a \$25 million taxpayer subsidy of CU South is the foregone ability to build up to 500 new affordable housing units (at \$50,000/unit) – or more funding and new units than the city-wide totals for 2009-14 (\$22 million and 481 units)<sup>1</sup>
- \$25 million represents more than 6.7% of the City's total budget for 2020 (\$369.7 million) and 29% of the total capital improvement budget for 2020; see [2020 Budget in Brief-1-202002040950.pdf \(bouldercolorado.gov\)](https://www.bouldercolorado.gov/202002040950.pdf)
- **Residents support Open Space**
  - The recent Open Space Report found that our world-class system is experiencing an explosion in use levels, resulting in impacts to resources and conflicts among users
  - Boulder needs more open space opportunities closer to where we live and work, not less, especially areas more easily accessed by working families and disadvantaged communities less likely to drive to more distant trailheads
  - Protecting the entire property is consistent with plans and greenways strategies dating back to the 1970s, and will protect both stunning views and ecosystems at the gateway to the City
  - The Briefing Book depicts the proposed dam or flood wall, but lacks any depiction or description of how 55-foot five story buildings would obstruct views of the Flatirons from open space on the property, or adjacent Open Space and State Natural Area lands
  - Integrating this property on an ecosystem scale would be a magnificent challenge for our Open Space and Mountain Parks Department and Trustees in cooperation with citizens: we could create one of the most biodiverse and ecologically valuable wetlands and bird habitats on the Front Range
  - Voters recently approved an extension of Open Space Funding: a land exchange protecting

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“CU South” will get us the most popular benefit of all: more lands and trails, coursing through a spectacular area with an amazing story of working with nature on restoration at this site

- That will reinforce current and future support for OSMP and County Parks and Open Space across all demographics and 99.9% of citizens – especially students, who can benefit from nature education opportunities on the ground – including restoration work
- Protecting 308 acres with current viewsheds is more inspiring than 100-some acres with 55 foot building blocking today’s magnificent views of the Flatirons to the west

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<sup>1</sup> [Boulder: Is affordable housing working? – Boulder Daily Camera](#)

- CU’s plans would destroy wetlands on lands targeted for development
- Off-site “mitigation” will not change the fact that we will lose vital habitat when we should be restoring and improving it: the site is on a flight corridor used by tens of thousands of migratory birds annually
- **Residents support climate science**
  - Science forecasts more frequent and more severe extreme weather events, including floods and wildfires; and wildfires will increase the volumes of runoff during future floods
  - Leading scientists tell us that climate change is introducing so much uncertainty and uncharted territory that there is no “normal”, and existing designations of 100-, 200- or 500-year floodplains are of limited use for future planning
  - The City’s Department of Climate Initiatives should conduct a cost-benefit analysis of developing at “CU South” versus an alternative site such as the planning reserve informed by the City’s Climate Action Plan; sustainability, resilience and ecosystem policies and goals; and the BVCP
  - With \$6.3 million for the City’s climate initiatives line item in 2020, City climate staff have adequate funding to give this vital issue the attention it demands
  - County Staff should do the same
- **Residents support CU (many of us are alumni and have children who attend or graduated)**
  - CU will be better off by directing future infrastructure spending and development to an appropriate site, and possibly offers some room for future needs beyond those currently identified (which are the absolute maximum that “CU South” could support)
  - CU and the City already disagree on whether the site is appropriate for the acreage of playing fields and recreation infrastructure CU insists on, seemingly establishing that “CU South” is already too small to support CU’s future infrastructure objectives
- **Residents support Frazier Meadows, Martin Acres and other neighborhoods impacted by past floods and at-risk from future floods**
  - Keeping our options open at “CU South”, allowing a restored natural floodplain to work with nature, and avoiding controversy which could lead to delays and uncertainly will expedite flood mitigation, which is urgently needed
- **Residents support North Boulder**
  - A “North Campus” could be a magnificent amenity at the Planning Reserve, giving local communities the benefits of the cultural, intellectual, recreational and vibrancy benefits of being located closer to a campus of Colorado’s flagship university
  - The City should commit to an expedited urban services extension study for the planning reserve and continue to a full community-wide planning process if the initial study finds (as

**CU South Annexation Application (LUR2019-00010)**  
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expected and as anticipated by the BVCP) that the site could support the extension of urban services and possible annexation

- **Residents support equity**
  - Instead of spending \$25 million or more to subsidize CU infrastructure at a site that is inappropriate to develop, why not spend that money on vital services for disadvantaged populations and other city-wide priorities that could include more affordable housing at appropriate locations?
  - See above bullet on \$375 million in unmet infrastructure needs, a topic not addressed by the Briefing Book that needs thoughtful deliberation by Council, the City Manager and staff
- **Residents are concerned about traffic**, and congestion detracts from our quality of life
  - The reserve is on Jay Road, which has relatively little traffic compared to Table Mesa Drive
  - For residents at the reserve to get to Main Campus, East Campus or elsewhere, options for North-South commuting and transit routes include Broadway, 28<sup>th</sup>, 30<sup>th</sup>/Folsom, Foothills and Diagonal Highway
- Conclusion: let's reflect on viable alternatives and fully analyze potential win-win solutions under a negotiated land exchange that allows flood mitigation to proceed at the "CU South" site while opening the door to intelligent planning, open space protection, equity, ecosystem health, environmental protection and land use informed by climate science



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[1] [Boulder: Is affordable housing working? – Boulder Daily Camera](#)

Mike Chiropoulos  
Attorney & Counselor, Chiropoulos Law  
3325 Martin Drive - Boulder CO 80305  
[mike@chiropouloslaw.com](mailto:mike@chiropouloslaw.com)  
303-956-0595

"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

*Please contact sender immediately if you may have received this email in error, because this email may contain confidential or privileged information*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** shurlock <mountaintrouthome@gmail.com>  
**Sent:** Thursday, March 25, 2021 9:54 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Loren Trout <mountaintrouthome@gmail.com>  
**Subject:** CU south to the point

**External Sender**

Dear Council,

This is the wrong time to be writing this email. A horrific tragedy struck us down. But here is another dawn.

OK, so this is CU's land. But CU is no one person. So the residents of Boulder are dealing with an entity that has constriction over us.

- CU is too big- This going to double the size, way too big in a time when Universities don't even know what the future of learning is- online learning seems to be a huge factor after co-vid. When Harvard offers on-line degrees, a lot of folks are going to choose a Harvard degree and move away from Universities like CU. Universities face a future of reduction, even survival, not expansion.
- 7,000 more trips on roads Broadway (pre-covid thousands) were traveling to go to Fairview, Southern Hills, and the other 3 elementary schools west of Broadway, places of work like NCAR, shopping center etc). Table Mesa turning to South Boulder rd-Then there is Summit, Bixby right there. To the South, Manhattan, and Horizons. You are going to put 7,000 new trips into the mix down there- NO! it's unsafe, pollution, congestion like in LA, way too dense for what the infrastructure and surrounding area can support.
- Taxpayers are going to pay for this -NO !! Really, you want Boulder taxpayers to pay for the burn to be removed at CU South? we never put it in CU destroyed wetland doing this. I'm not paying to take it out. I am not paying to put in huge new roads, not paying to put in flood barriers because CU is taking them away. I can't even afford to put my sons at CU, now I have to pay for their unrelenting expansion? \$66-99million, where is that money going to come from, not my water bill which is already too high. NO!
- Destroying the green belt and wildlife corridor that was guaranteed recently by the purchase of Shanahan Ridge. Why is Boulder buying Shanahan Ridge which meets with open space to the west, then totally compromising the green belt which continues with CU South around the city by permitting the dense use area which CU has planned? There truly will be NO greenspace from Denver to Boulder. Wetland is the rarest type of habitat there is. Once this land is built on it's gone forever.
- This is not what Boulder is about, eliminating wildlife habitat, piling 7000 car journeys daily into our roads, for an out of control entity that is a growth machine. And to add insult to injury we are to be told by you that we have to pay for it- NO!
- Whoever reads this please respond with a short simple sentence so I know which council members are listening -thankyou

*regards*  
*Caron Trout Boulder Resident of 27 years*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Peter Chen <xpeterchen@gmail.com>  
**Sent:** Tuesday, March 23, 2021 4:39 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South!

**External Sender**

Dear Council member,

I am a concerned resident living in the south Boulder Table Mesa area. I heard that the City is giving CU the greenlight to build the gigantic CU South without careful planning on the increased traffic, pedestrian safety, fire house allocation. I voted for you to the Council to take care of the interest of local residents, not CU. Please reconsider.

Best regards,

Peter

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Jon and Cathy Swanson <jncswanson@gmail.com>  
Sent: Friday, June 11, 2021 10:18 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

Council Members:

I wrote you recently about two questions about CU South that were confusing to me because of different voices reported in the Camera. Today's commentary by Ben Binder answered one of those questions about the new plan: it includes CU's demand of \$10 million for the cost of earth fill to replace removed gravel, paid by city taxpayers.

I was gratified to read Mr Binder's reference to Dr. Gilbert White regarding best practices for flood management.

That the city negotiations have ignored his wise policies is disturbing. Ft. Collins suffered from a 200-year flood in 1997 because they had made plans for 100-year floods, as is CU's limited vision.

My second question was whether or not your council would proceed with a decision on CU South without waiting for a vote of the city in November. It looks very promising that the petition has more than enough signers.

Sincerely,

Cathy B. Swanson  
2288 Kincaid Place  
Boulder 80304  
303.440.0436

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** mm <sdwoodruff@yahoo.com>  
**Sent:** Saturday, April 17, 2021 5:49 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU-BOULDER SOUTH ANNEXATION (CASE LUR2019-00010)

**External Sender**

Re: CU-BOULDER SOUTH ANNEXATION (CASE LUR2019-00010)

Dear Boulder City Council:

Please find attached a letter (CUSouthLetter.pdf) conveying my views on the proposal annexation development.

Thanks in advance for considering these views, and please feel free to contact me in the event of questions.

Sincerely,  
Scott Woodruff  
4851 W. Moorhead Cir  
Boulder CO, 80305  
[sdwoodruff@yahoo.com](mailto:sdwoodruff@yahoo.com)  
(303) 494-2392

Re: CU-BOULDER SOUTH ANNEXATION (CASE LUR2019-00010)

Dear Boulder City Council:

I write as a Boulder resident townhome owner of 35 years who is deeply concerned about the massive CU campus development component of this annexation proposal, threatening a key segment of the world-class scenic US-36 open space gateway to Boulder.

If allowed to proceed, this campus development is certain to seriously diminish the accessibility, character, and natural habitat areas of South Boulder, and also have widespread outlying impacts on the already congested transportation and living situation throughout the city.

While improved flood mitigation on South Boulder Creek—the other half of the proposal—clearly is urgent and critical, the current 100-year design primarily benefits only Frasier Meadows, and in my view represents a very unfortunate compromise, e.g. in neglecting climate change effects that may well make >100 year flooding much more likely sooner rather than later (see for example [1]).

As I understand it, adoption of the current Variant 1 flood mitigation compromise was driven primarily by cost/feasibility considerations. But if CU is able to move their campus development to another location, then their 129 “developable” acres could instead probably help the city reach 500-year flood mitigation protection more practically and affordably.

Also, since the city hopes to complete flood mitigation as soon as possible, this whole arrangement effectively gives CU—with no concrete development plans on its horizon (and moreover not constrained by existing city development rules)—vastly unfair leverage in terms of crafting an annexation agreement.

Arising from this unfair playing field, the project also sadly evidences every sign of being “rammed through,” and moreover, I would guess, is unfolding “under the radar” for the vast

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

majority of Boulder’s residents.

**Public engagement to date**

The public engagement efforts provided by the city have become very extensive—and are greatly appreciated. But in many respects it seems to me these efforts have been somewhat late and deficient. For example, while the opportunity was appreciated to comment earlier this year in the BeHeardBoulder.org questionnaire—I found it deeply problematic, with characteristics of a “push poll” because it was so narrowly tailored, and designed as if the whole project already had a predetermined general outcome.

Thus far it seems like there has been no effective mechanism for city residents to convey our overall concerns—and I also question whether most of Boulder’s residents (and neighborhoods) have more than a vague understanding of the adverse and costly impacts that may be looming ahead, if the campus development proposal goes forward.

Specifically, in view of the severe visual and practical impact this development would have on the existing open space gateway traversed by US-36, and surrounding neighborhoods, have all Boulder residents been asked for their opinions on basic questions, e.g. whether it is acceptable to move forward with any new development on the site?

Recently, I thought that both the City’s April 9th Briefing Session [2] and particularly the April 12th Listening Session [3] were very useful in allowing a wider range of opinions to be expressed. I didn’t speak up during [3], but in developing the following additional points have referenced several comments or presentations, which I thought included very valuable insights from a broad spectrum of the community.

My overall impression, in addition, is that many, if not most, of the public comments in [3] were highly critical about the existing annexation proposal.

**Please put key issues on the city ballot**

As expressed by Steve Pomerance during [3] (at 58:40), for genuinely effective and fully inclusive community engagement, basic questions—such as whether any new development should occur in what are now essentially areas of open- space (except some CU tennis courts etc.)—should be addressed at the ballot box.

**“CU on a hill” vs. inadequate flood mitigation**

Part of the plan is for trucking back in some 360,000 cubic yards of earth-fill, at huge expense to Boulder’s citizens (estimated \$10M; plus another \$15M to reimburse CU for “damage” to existing facilities), so as to raise a portion of the site above 500-year floodplain levels. This so CU can eventually develop a 129- acre new campus (equivalent to 52 city blocks). But at the same time, the other part of the plan is to provide residents of Boulder with mitigation only for estimated 100-year flood levels. This is a glaring and unacceptable inequity.

**Displacement of existing recreation (and natural habitat)**

Over the last several years the CU South property has come to be very heavily used for recreation. And thus it has proved a tremendous venue for hikers, runners, bikers, dogs, etc.—most recently under the very trying circumstances of the Pandemic (since many trails are wide enough, or have parallel options, to allow for easy social distancing).

In this regard, I would suggest that current recreation usage statistics would be very useful to add into the overall plan for consideration, since the proposed CU campus development seems likely to significantly diminish this possibility in the future.

Adding at the same time that other trailheads throughout Boulder and nearby areas (e.g. Eldorado Canyon State Park and Boulder Canyon) are already frequently beyond capacity with recreational visitors. Thus balancing the proposed offsets of recreational pressure seems to be an important overlooked part of in-depth planning for the proposed annexation.

### **Land swap**

The possibility of a “land swap” with “Area III – Planning Reserve” I believe needs to be put seriously back on the table (as also suggested by participants in [3]). This option would separate the urgent issue of flood mitigation, from the longer range questions of developing a new 129-acre University campus.

Basically, the flood mitigation problem, and the question of whether any land at all on CU South should be developed by the University (or any other private entity, should CU sell the property), must be de-coupled.

At the Community Briefing [2], Phil Kleisler stated in part, in response to my question (at ~44:22), that those approximately 500 acres in the Planning Reserve represent “the last frontier of planning for the City’s growth.” That statement seems to imply that the fate of the far more sensitive, controversial, and congested CU South location is no longer an open question—whereas in reality it is clearly a much more prominent and impactful “last frontier” for the city’s growth.

### **Condemnation**

Abby Benson (CU Associate Vice Chancellor) made these comments in [2] (at 47:03): “At this time our interpretation is that that would not be allowed, and that’s not something we would be open to considering.” Nevertheless, it seems like this unsettled legal possibility should be kept actively under review by Boulder, to protect its citizens from what could be unwise and hasty development, and extensive losses of what is now effectively open space.

### **Traffic impacts**

Quoting from the draft traffic report:

“The project is estimated to generate approximately 7,000 daily trips with about 450 trips occurring in the AM peak hour and 650 trips occurring in the PM peak hour.”

However, as anyone who has sat recently through several traffic light signal cycles to clear the intersection of Broadway and Table Mesa around rush hour can attest, the following associated conclusion from the draft study seems preposterous and disingenuous:

“It was determined that the existing roadway system can adequately accommodate the projected traffic volumes, although some traffic mitigations have been identified.”

Bottom line: a new, and fully independent, traffic study is clearly needed (several speakers at [3]). It is not at all evident that appropriate historical baseline numbers were used, etc.

### **Please prohibit large recreational fields**

If the annexation goes forward, any development plans by CU at this site should expressly

prohibit this possibility: “With a proposed fixed-seating capacity of 3,000 persons, the proposed large-scale sporting venue would roughly equate to Potts field.” For those of us living in very close proximity, the adverse impacts—in terms of heavy traffic, lighting, and noise—would likely be very consequential and detrimental. This property would not be an appropriate location for anything close to a 3,000 person sporting venue.

### **Neighborhood impacts**

As I understand was the case for South Creek 7, I'd suggest that additional community-focus meetings be offered to other immediately adjacent neighborhoods—including South Creek 8, where I live (which abuts the CU South property across Moorhead Circle).

As one example issue in this regard, it seems like some changes in the annexation proposal are being tailored so that views east from the Hy View subdivision will be minimally impacted. In contrast, the “viewsheds” of those of us downstream in the real “ground zero” of proposed development seem not to have not been very directly considered.

Finally, if Tantra Drive must eventually become a sizable new traffic artery, would it be possible to restrict new traffic on Moorhead Circle to emergency access? In addition, “trip caps” etc. must not be applied to preexisting nearby residents.

### **Affordable housing**

From all appearances, this annexation proposal seems unlikely to advance that goal in any direct way, if the proposed University development is only “intended for university faculty, staff, graduate students and non-first year students.” Except that: what are currently relatively affordable neighborhoods, such as where I live in South Creek 8, will probably have their characters irreparably damaged.

### **A proposed win-win solution**

In conclusion, it seems to me that the ideal solution would be to: (a) shift CU’s new campus to another location (see **Land swap**); (b) gradually refurbish this 308-acre tract and its trail systems (as needed) into park and other open space components; and (c) rename the whole site appropriately. Coupled with these changes, a more protective (e.g. 500-year), and likely more cost effective, flood- mitigation solution could be implemented for the whole area. This would be a win-win addition appropriate for the main transportation gateway to our wonderful city, and also preserving good access to CU’s other campuses here.

Thanks in advance for considering these views.

Sincerely, Scott  
Woodruff

### **References**

[1] Talk (and Q&A) by Dr. Gordon McCurry at the Plan Boulder 2021 Annual Meeting (<https://planboulder.org/development/dr-gordon-mccurry-dives-deep-into-cu-south-controversy/>).

[2] CU South Briefing Session, 9 April 2021 (<https://vimeo.com/535068598>)

[3] CU South Listening Session, 12 April 2021 (<https://vimeo.com/536402987>)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jon and Cathy Swanson <jncswanson@gmail.com>  
**Sent:** Thursday, June 3, 2021 12:05 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Current facts on CU South

**External Sender**

I would like a representative of the council to clarify conflicting facts about

the progress of CU—Council negotiations the Camera. I think residents need to know.

1. Frasier's full-page spread about their position on CU South annexation included:

"In exchange for releasing part of their land for flood mitigation, the University wanted city utilities (water and sewage removal) for the section they would retain for future development." There is no mention of CU's expectation of City residents paying for millions of tons of soil to raise the developable land for buildings and tennis courts.

Were this still true, in addition to the cost shouldered by residents, this soil raising reduces the acreage of wetland that is in itself flood mitigation.

2. Patrick O'Rourke (CU's COO) commentary (6.2) made the point: "Additionally, CU Boulder will fund **all** improvements to the developable area including, but not limited to, connections to utilities; on-site utility and transportation infrastructure; and extensions and connections to the city's trail network." Is he saying that the soil elevation on developable land is now CU's responsibility?

There is confusion in the air about the status of these negotiations. If the petition is placed on the November ballot, is the Council going to wait for the results?

Thank you for responding.

Cathy B Swanson  
2288 Kincaid Place  
Boulder 80304  
303.440.0436

**From:** hoopandtree <hoopandtree@aol.com>

**Sent:** Sunday, April 4, 2021 1:00 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Development of CU South

**External Sender**

To City Council,

Please don't let CU bully the City into supporting the development of CU South.

**BIODIVERSITY – The City says its objective is to “protect and enhance the biodiversity and productivity of ecological systems” – the City’s *Sustainability + Resilience Framework* ([https://www-static.bouldercolorado.gov/docs/Sustainability + Resilience Framework-1-201811061047.pdf?\\_ga=2.20509823.691273552.1617317906-1315396517.1617317906](https://www-static.bouldercolorado.gov/docs/Sustainability%20%20Resilience%20Framework-1-201811061047.pdf?_ga=2.20509823.691273552.1617317906-1315396517.1617317906))**

**But the development of CU South would do the opposite.**

“The wetland habitat of South Boulder Creek has been a designated state natural area since 2000 for its ecosystem — a combination of riparian, tall grass prairie and wetlands, the last of which is described by the state as “among the best preserved and most ecologically significant in the Boulder Valley.” It’s also critical habitat for the Preble’s meadow jumping mouse and Ute-ladies’-tresses orchids, both federally listed as threatened under the Endangered Species Act. All three options for flood mitigation will impact at least a portion of this critical habitat.”

(<https://www.boulderweekly.com/news/the-controversy-surrounding-cu-south-explained/>) “Maximum potential development,” which is what CU says it intends, would of course deliver the largest negative impact.

**CLIMATE CHANGE – The City says, “The City of Boulder and the Boulder community are committed to mitigating climate change by reducing GHG emissions.”** (<https://bouldercolorado.gov/climate>)

**But the development of CU South would do the opposite.**

It would destroy a wetland. The soils in wetlands sequester a tremendous amount of carbon. (<https://seagrant.gso.uri.edu/how-to-protect-wetlands-combat-climate-change-for-a-century/>) Buildings, tennis courts, and streets do not sequester carbon.

**FLOODING – The City acknowledges “that the future isn’t static” and that it should “do things in the present with an eye toward the future.”**(<https://bouldercolorado.gov/resilience>)

**But the development of CU South would do the opposite.**

Flood control on the CU South property is essential to prevent reoccurrence of the disastrous flooding which inundated Frasier Meadows retirement community in 2013. Yet the planned development would raise a portion of the depleted gravel pit about the level of the South Boulder Creek floodplain, making the situation worse, not better. Further, quoting the City’s own *Hazard Mitigation Plan*, “The 100-year flood of today might become a more frequent event in the future (i.e., a 50-year event), meaning that current design levels and regulatory practices might be less adequate in the future.” <https://www->

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

[static.bouldercolorado.gov/docs/COB\\_Hazard\\_Mitigation\\_Plan\\_2018-1-201808281450.pdf?\\_ga=2.49814241.691273552.1617317906-1315396517.1617317906](https://static.bouldercolorado.gov/docs/COB_Hazard_Mitigation_Plan_2018-1-201808281450.pdf?_ga=2.49814241.691273552.1617317906-1315396517.1617317906)

I urge you not to become known as “The City Council That Took Boulder Backwards.”

Thank you,

Chris Hoffman

1280 Fairfield Drive

Boulder, CO 80305 USA

303-513-3621 (mobile)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Tim Shropshire <TimInBoulder@comcast.net>  
Sent: Thursday, March 25, 2021 11:11 AM  
To: Council <council@bouldercolorado.gov>  
Subject: Disastrous CU South Campus ...

External Sender

To Our City Council Members ...

- A New 313 Acre Campus Destroys our South Boulder Neighborhood
- 7,000 More Cars per Day Destroys our South Boulder Neighborhood
- \$99,000,000.00 In Additional Utility Bills Destroys our South Boulder Neighborhood
- No More Darley Avenue Fire Station Destroys our South Boulder Neighborhood
- Guaranteed Higher Insurance Rates Destroys our South Boulder Neighborhood

You Are Not Protecting Nor Respecting our South Boulder Neighborhood !

Of course you will all roll over and do whatever CU commands you to do

But You Are Not Good for our South Boulder Neighborhood :-(

Sad

Very, Very Sad for Our Once Good South Boulder Neighborhood

And WE VOTE EVERY ELECTION ! ... Tim Shropshire, Boulder

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jenny Platt <jennyhavlickplatt@comcast.net>  
**Sent:** Sunday, April 4, 2021 12:30 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Do not approve development of CU South - PLEASE!

**External Sender**

Hello Esteemed City Council Members:

As an active public school teacher of thirty-seven years, (most of those years with Boulder Public Schools), it became apparent long ago that the art of compromise is a lesson of survival.

Let's draw upon this art of compromise when considering the property at CU South and the entities involved in finding a working solution to this existing conflict between the University of Colorado and the City of Boulder?

Both CU and the City of Boulder have a type of symbiotic relationship which would serve both parties if a peaceful compromise might be obtained. The University of Colorado needs the City to annex the existing 308 acres located at CU South before the proposed development could proceed. The City of Boulder should evaluate the substantial costs of any development that would involve new police and fire, substantial traffic impacts through Martin Acres and elsewhere and all other external dis economies produced by this tax-free institution that does not need to abide by city codes and zoning such as height and other negative impacts. More development on the CU gravel pit property will exacerbate the already severe flooding in the city of Boulder. Benefits such as more students buying more cars will not outweigh the negative costs. With Boulder's recent disagreeable appetite for too many out-of-scale and unattractive buildings, most residents do not want more mega growth beyond our current city limits.

A simple solution, which would be a favorable compromise for both parties might be to consider a land trade. The City of Boulder owns two properties of 300 acres east of the city, which are already annexed for water, sewer, and electricity as well as being in closer proximity to the most recent expansion of the University of Colorado.

The University is requesting CU South to be annexed so that additional classroom, housing, parking, and playing fields might be developed in this space, which has a significant amount of land in a flood zone.

If the City of Boulder and the University of Colorado could come to terms favorable and make a land trade, the City would not need to spend the money needed to put in water, sewer, or electricity. The City could preserve CU South as open space allowing CU to

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

continue to utilize and profit from the tennis courts that were built and are rented throughout the year to organizations outside the University. With all the big business moving to Boulder including Google, Amazon, and Twitter, it is critical that Boulder maintain the open space habitats that have helped create the city we love.

The ramifications of a land trade would benefit both the City and University far beyond the saving costs of annexation. The congestion which currently exists in South Boulder with commuter and pedestrian traffic would not be further taxed by additional vehicles. The infrastructure for commuting from an East Boulder property is already in place with multiple options for students to travel to campus by bike paths and bus shuttles. I want to know CU as a public institution providing net public benefits to the community, not as an institution acting like an insensitive land greedy operation unwilling to seek compromises beneficial to both city and a compact campus.

Thank you for any consideration you are willing to give this request.

Jenny Havlick Platt

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ellen Franconi <ellen80301@gmail.com>  
**Sent:** Friday, April 23, 2021 8:28 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** FEMA BRIC funding opportunity for CU South

**External Sender**

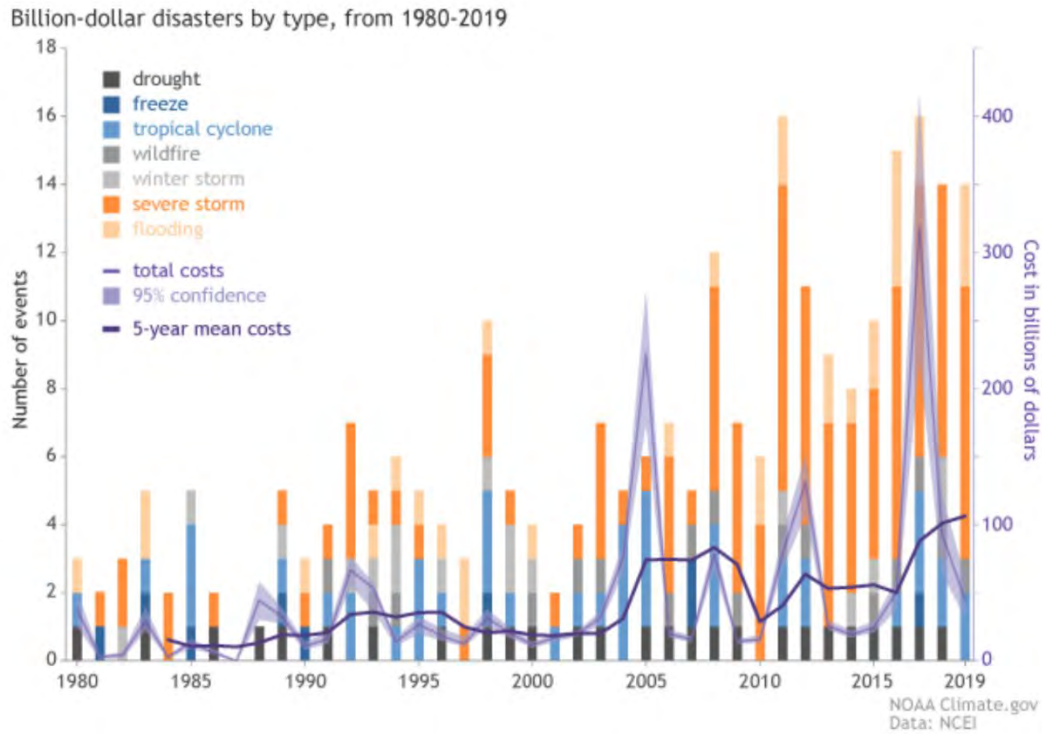
Dear City Council Members,

Before the design of the CU south flood mitigation project is finalized, I would like the City Council and OSMP to be aware of a funding opportunity that would allow for a more expensive solution that can provide reduced risk and greater long-term value.

The Federal Energy Management Association (FEMA) provides money to communities to support resilience against future natural disasters. They started a new program last year called the Building Resilience Infrastructure to Communities (BRIC) national competition. The program provides grants covering up to 75% of the cost of the proposed mitigation project. It's a proactive program, which funds mitigation projects to reduce risk of infrastructure damage from future hazard events. To qualify, projects should demonstrate nature-based solutions, which is a criterion for the application scoring. Applications are due in September. While BRIC's first-year 2020 program funding was modest, totaling \$500 million, it is expected to be ~ 10x as large in 2021. FEMA's key role and extra expense incurred from fighting Covid-19 will allow it to redirect a much larger sum of money to climate projects in 2021. Initial estimates suggest that available BRIC funding could be as much as \$3.7 billion with the potential to climb to \$10 billion (see <https://www.nytimes.com/2021/01/25/climate/fema-climate-spending-biden.html>).

With climate change impinging everywhere, we're just entering into a new era where resilience becomes a fundamental criteria for all development projects. FEMA is at the front line of this, and you see this in their funding and policy plans. And based on compiled data, the number and cost of natural disasters are increasing over time. For example in the U.S. from 1980 to 2019, there have been an average of 6.5 1-billion-dollar or higher natural disaster costs per year. In 2019, there were 14 separate U.S. billion-dollar disasters, which follows earlier top disaster years, including: 16 in 2017, 15 in 2016, and 16 in 2011 (please see <https://www.climate.gov/news-features/blogs/beyond-data/2010-2019-landmark-decade-us-billion-dollar-weather-and-climate> and the extracted chart below).

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



Thank you for considering this. If I can be of further assistance, please do not hesitate to contact me.

Ellen Franconi  
1216 Aikins Way  
Boulder 80305  
720-253-6104

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** allyn s feinberg <[feinberga@comcast.net](mailto:feinberga@comcast.net)>  
**Sent:** Saturday, July 10, 2021 9:02 AM  
**To:** TAB <[TAB@bouldercolorado.gov](mailto:TAB@bouldercolorado.gov)>  
**Subject:** PLAN-Boulder Comments on CU South Traffic Study

**External Sender**

July 10, 2021

Members of the Transportation Advisory Board:

A few months ago PLAN-Boulder County board member George Gerstle, who is the past Boulder County Director of Transportation, provided the comments to TAB and the Planning Board on the transportation impacts associated with CU South as identified in the Draft Traffic Study. These comments are attached below. There have been some positive changes from the draft, but PLAN-Boulder believes that more should be required of CU as part of the annexation agreement:

**1. The performance standard should include a requirement of no net increase in traffic during peak periods, in addition to a daily measure of performance.**

The staff summary indicates that the current draft agreement limits the amount of traffic to around 5,000 additional daily vehicle trips that will predominantly use the intersection at Table Mesa/US36, which is already approaching peak hour capacity. The Broadway/Table Mesa intersection is already over capacity at rush hour. Recognizing that some of the traffic will go west through the Broadway intersection and some will go east to use either US36 (which is at capacity at Colorado, the next signal to the north) or Foothills interchanges, which are also already at capacity. These capacity constraints underscore the need to have a no net peak period increase in traffic performance measure.

**2. CU Should be required to show how the shuttle bus/bikes and peds will move between campuses.** Table Mesa/Broadway, Table Mesa/US36, and Table Mesa/Foothills are all already congested. We see no discussion or analysis of how the buses will move effectively between CU South, Main Campus, and East Campus. It would make sense to consider dedicating Moorhead as a bikeway/local access/transitway connecting the CU South and Main Campus. This would take the buses off of Table Mesa/US36 and Broadway and address concerns from locals about increased cut through traffic on Moorhead.

**3. Concern about the safety of the proposed SH93 access point.** Putting a new unsignalized access on a steep curving hill with high speed traffic is a recipe for disaster. This proposed access will have AM southbound traffic making left turns again high speed northbound commuters on a curve. This access should be for transit/emergency access only.

**4. There should be a specific agreement/requirement in the annexation agreement that CU construct a bike/ped/transit underpass under Table Mesa connecting to Moorhead, as well as to the proposed multimodal center and the Table Mesa PnR in order to provide a safe crossing/connection for bikes/peds and transit.** This is critical to accomplishing the goals of reducing SOV traffic and building an integrated transportation system. Without such a grade separation, Table Mesa will continue to grow as

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

a barrier between CU South the rest of our transportation system, and make achievement of the necessary trip reductions almost impossible.

Thank You,

Peter Mayer

Allyn Feinberg

Co-Chairs, PLAN-Boulder County

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** joynermcguire@comcast.net <joynermcguire@comcast.net>  
**Sent:** Wednesday, June 9, 2021 5:11 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** FW: support for OSBT Draft Resolution, City of Boulder Flood Mitigation and the CU South Property

**External Sender**

**From:** [joynermcguire@comcast.net](mailto:joynermcguire@comcast.net) <[joynermcguire@comcast.net](mailto:joynermcguire@comcast.net)>  
**Sent:** Wednesday, June 9, 2021 5:07 PM  
**To:** 'OSBT-Web@bouldercolorado.gov' <[OSBT-Web@bouldercolorado.gov](mailto:OSBT-Web@bouldercolorado.gov)>  
**Subject:** support for OSBT Draft Resolution, City of Boulder Flood Mitigation and the CU South Property

Dear OSBT, I would like to express my support for the above draft resolution being addressed at tonight's meeting. This document appears to represent an equitable compromise to an earlier version and would ensure that OSMP lands are adequately protected when the less-than-5 acres of Open Space along the CDOT ROW are needed for the City's very important flood mitigation project.

I am hoping that the Board will find a way to ensure that actions tonight do nothing to delay the project further. This is a critical health and safety project, overdue for decades, and your help is needed to move this along efficiently and, at the same time, in a manner which reflects your responsibilities to Open Space. This draft offered by Board Members Estrella and Hallstein appears to do just that.

Kathie Joyner

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** George Gerstle <gerstleg@gmail.com>

**Sent:** Tuesday, April 13, 2021 2:28 PM

**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** Fwd: Gerstle Comment on CU South Traffic Impact Study

**External Sender**

**Subject: GGerstle Comment on CU South Traffic Impact Study**

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City Council/Planning Board:

By way of introduction, I am the retired Transportation Director for Boulder County (and a native of Boulder and Boulder County resident).

Please find below my high level comments on the CU South Transportation Study you will be considering at your upcoming meetings.

**1. Traffic Impact on Table Mesa Drive and Moorhead**

The consultant analysis does not appear to accurately present the likely forecast traffic volumes on Table Mesa Drive or SH93 from the proposed CU South conceptual development due to a flawed adjustment for Covid related reductions in traffic volumes and an unjustified reduction in trip generation rate.

The consultant understandably makes adjustments in traffic volume assumptions necessary to reflect the impacts of Covid on traffic counts. However it appears that the adjustment is based on a comparison of inconsistent months; it is important that the same months (November 2019 and November 2020) be used to evaluate the impact of Covid on traffic volumes rather than the months used in the report for an accurate representation of changes due to Covid.

According to city traffic counts, volumes increased on Table Mesas Drive by 10% between 1999 and 2019. Assuming traffic increases by another 10% between November 2019 and 2035 without development on CU South and with the forecast increase of 7,000 additional trips due to CU South development, a total 36,888 trips are forecast to access Table Mesa/SH93 by 2035. Depending on distribution of trips, this represent an increase of up to a 36% increase in traffic over 2019 conditions. (See table below). The impact of this forecast increase in traffic over current conditions should be evaluated for consistency with city TMP and Climate Change plans, and appropriate mitigation identified.

The CU South traffic report assumes a 30% reduction in trip generation rates compared to ITE trip generation rates for similar land uses, claiming the reduction is justified based on similar trip generation rates from other CU studies and anticipated, but unspecified, TDM programs. This reduction is questionable given the greater distance CU South is from the other CU campuses used for trip generation calculations, the lack of direct or convenient connections between CU South and the other campuses, and the congestion that currently exists on the connecting roads (Table Mesa/Broadway, US36/Table Mesa/Foothills Parkway) and the congestion on US36 between Baseline and Colorado that does not exist between the other campuses (CU Main, CU East, and Williams Village).

**CU South Annexation Application (LUR2019-00010)**  
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The traffic study does not appear to include traffic generated (or mitigated) by the proposed multimodal center or the commercial land uses mentioned in the land use concept.

**2. Impacts of Increased Traffic on Table Mesa/Adjacent Intersections and Key Transit/Bike/Pedestrian Routes**

Recognizing that not all of the increase traffic from CU South will head the same direction on Table Mesa, it is likely that a significant proportion of the trips generated from CU South will go west through the Table Mesa/Broadway intersection and/or use the Table Mesa/US36 intersections and the already congested section of US36 between Baseline and Colorado, or use Moorhead as a cut through/bypass to avoid the congestion on Table Mesa. The proposed lengthening of the left turn storage pockets at the critical intersections do not address the problem, but merely provides storage for the additional waiting vehicles.

The impact of increased congestion at these key intersections on the the primary RTD transit corridor to downtown Boulder/Broadway is not addressed. The traffic study assumes an aggressive shuttle between campuses, as well as increased biking, however the impact of this increased intersection and corridor congestion on the transit system (both the CU Shuttle and RTD) as well as bike and pedestrian connections at these key intersections should be evaluated and mitigation, such as dedicated transit bypass lanes and transit signal preference, a bike/ped underpass under Table Mesa should be evaluated, as should the possibility of dedicating Moorhead to transit, bikes and local residential access while closing it to through traffic. Mitigating transit, bike and pedestrian impacts of increased congestion on Table Mesa is critical given the goal of increasing transit ridership, biking, and walking as expressed in the city TMP (as well as achieving the assumed 30% reduction in trips rates due to the assumed, but unspecified TDM program at CU South).

**3. SH93 Access**

The proposed access from SH93 to the southern portion of the CU South site presents safety concerns. The location of the proposed access is on a steep high speed curve on SH93 with poor sight distance. The proposed unsignalized southbound left turn from SH93 into the CU South site appears to be dangerous, as it will occur during the morning peak period when northbound in-commute traffic on SH93 is at its peak. In addition, the proximity to the existing left-turn pocket to Marshall Road will be confusing and unsafe.

The trip distribution (and therefore the number of vehicles using the intersections) between the CU South Access, Tantra, and SH93 will largely depend on how/where the various land uses are located on the site, and whether the SH93 access road will connect through the site to the CU South/Table Mesa access. However, it is a little bit of a "damned if you do, damned if you don't" situation between whether to encourage use of the SH93 access or the Table Mesa access since putting more trips on the SH93 access makes it more dangerous and putting more of the trips on to Table Mesa has the obvious downsides.

**Summary/Suggestions:** I urge you to consider the following steps in your consideration of the traffic impacts from CU South development.

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

- **Establish an enforceable performance measure/single occupant vehicle trip budget in the annexation agreement:** Since there is significant uncertainty on the timing and nature of development on CU South, and little authority or oversight by the City of development unless identified in the annexation agreement, all of the transportation issues and concerns militate towards establishing in the annexation agreement a very strict (perhaps net zero) single occupant vehicle trip budget for the site since the surrounding transportation system cannot easily handle significant increases in traffic without significant costs, both financial and to the surrounding neighborhoods.
- **Evaluate impacts of proposed development using unadjusted trip generation rates on the traffic, transit, bicycle and pedestrian system.** Only reduce such trip generation rates after TDM programs are designed, evaluated and committed to, or based on committed performance measures (preferably a no net increase in vehicle trips leaving the site) are identified and included in an enforceable annexation agreement.
- **Clearly identify the offsite shuttle, transit, bike and pedestrian system impacts and improvements necessary to achieve the committed travel reduction performance goals.** Improvements considered should include identification of the specific shuttle route, shuttle frequency, system enhancements, location of a grade separated bike/ped facility under Table Mesa that serves both CU South and the adjacent neighborhoods.
- **Specifically address how the proposed CU South development addresses and helps achieve the relevant goals, strategies, etc in the City TMP and relevant Climate Change/GHG plans.**
- **Identify and include in any annexation agreement a requirement that CU share in the costs (construction, operation and maintenance) of such improvements.** The city is already facing significant financial challenges in meeting its transportation and mobility goals. After the necessary offsite infrastructure and system service needs related to CU South are identified (which will likely be in the many millions of \$), CU must commit to it's fair share of the cost of implementation, operations and maintenance in the annexation agreement.

For all these reasons, I urge you to focus on including in the annexation agreement a strict and ambitious trip budget with significant financial consequences for exceeding the trip budget and meaningful bike/ped/transit offsite infrastructure improvements and operating agreements, paid for by CU, to make getting out of the car more convenient than getting in the car....and unless it is specified in an enforceable annexation agreement it is unlikely to happen and City of Boulder residents and taxpayers will bear the costs, both financial and otherwise.

Thank you very much for your consideration of these comments.

George Gerstle

**CU South Annexation Application (LUR2019-00010)**  
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<b>Table Mesa E. of 40th (CoB Traffic Counts)</b>			
	<u><b>1999</b></u>	<u><b>2019</b></u>	<u><b>2035</b></u>
			<b>2019-2035</b>
			<u><b>% Change</b></u>
	<b>26281</b>	<b>27141</b>	<b>29888</b>
			<b>10%</b>
<b>7000 new CU South Trips</b>		<b>36888</b>	<b>36%</b>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Len Segel <lens@kephart.com>  
**Sent:** Monday, April 19, 2021 1:17 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** I advocate that you support the CU-South Annexation Agreement

**External Sender**

Greetings Council members:

I appreciate the opportunity to urge you to support the CU-South annexation Agreement for the following reasons (all of which you have heard dozens of times):

- 1) As outlined by CU, and reviewed by the City of Boulder planners, this would be the best use of this, former gravel mine. It's not pristine land.
- 2) It would solve a dire need for flood control. As I'm typing, its raining, reminding me of the pressing need.
- 3) It would support one of the best types of businesses in our society..... education.
- 4) It will benefit the entire citizenry of Boulder.
- 5) The City will have continuing review of CU's plans here..... more so than on any of their other properties.
- 6) CU Plans to build housing here.....one of Boulder's greatest needs.

There are just so many more benefits than concerns. I hope you will vote to accept the Annexation agreement and do it soon.

Best regards.....

.....Leonard Segel  
726 Pine Street, Boulder  
19 April 2021

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Marie Blaney <orffwoman@comcast.net>

**Sent:** Thursday, June 10, 2021 9:04 AM

**To:** OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Cc:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>

**Subject:** I oppose the annexation of CU South

**External Sender**

I am writing to you today to oppose the annexation of CU South campus. Below are sections from the open space charter section 176. It appears to me that a decision by the board to annex this property goes totally against the open space charter. Please consider all of this:

"According to the Open Space charter, Section 176, paragraph (e), Open Space land is supposed to 'limit urban sprawl and discipline growth.' Well, annexing a giant 308 acre property - equal to the size of Main Campus - into the City, for the purpose of development, is the exact OPPOSITE of limiting urban sprawl and disciplining growth. It's allowing sprawl in the worst, helter-skelter way, on land that, while very ill-suited for construction, is extremely well suited for the remarkable biodiversity of flora and fauna that live there. For this reason, disposal of Open Space land, which will basically pave the way - so to speak - for the development of CU South, would be a dereliction of duty on the Board's part.

*Sec. 176. Open space purposes - Open space land.*

Open space land shall be acquired, maintained, preserved, retained, and used only for the following purposes:

- (a) Preservation or restoration of natural areas characterized by or including terrain, geologic formations, flora, or fauna that are unusual, spectacular, historically important, scientifically valuable, or unique, or that represent outstanding or rare examples of native species;
- (b) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats, or fragile ecosystems;
- (c) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding, or fishing;
- (d) Preservation of agricultural uses and land suitable for agricultural production;
- (e) Utilization of land for shaping the development of the city, limiting urban sprawl, and disciplining growth;
- (f) Utilization of non-urban land for spatial definition of urban areas;
- (g) Utilization of land to prevent encroachment on floodplains; and
- (h) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

Sincerely,  
Marie Blaney

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

3195 Stanford Ave.  
Boulder, Colorado 80305  
720-252-8928

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Steven Fatur <steven.fatur@gmail.com>

**Sent:** Monday, March 22, 2021 7:40 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** I support proposed CU South Campus

**External Sender**

Hi,

I'm a resident of south Boulder (Cripple Creek Trl) and I support the proposed CU South development. I think the proposed project will benefit us by providing affordable housing and additional amenities to the area.

Steve

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Tuesday, April 20, 2021 12:24 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Instead of caving in to CU's demands, please give them hell for problems and delays in mitigating flooding.

**External Sender**

Dear Boulder City Council,

In 2002, when CU applied for a county permit to construct tennis courts in a low-lying area of CU South, the city warned CU that the land would likely be needed for flood control. CU ignored the city's advice and now wants us to pay \$10 million for earthfill to raise the land above the level of a 500-year flood and another \$5 million to demolish and rebuild the tennis courts on top of the fill or at another location.

Is it wise to use \$15 million of our scarce stormwater utility fees (at the current rate of funding it is estimated it will take over 100 years to pay for all needed flood control projects) to protect tennis courts from a 500-year flood while the city is only going to protect the lives and homes of downstream residents from 100-year floods?

Those \$15 million of stormwater utility funds (which are dedicated for flood control) will not in any way protect us from flooding. In fact, the \$10 million spent to import 360,000 cubic yards of dirt to refill a portion of CU's depleted gravel pit will actually worsen downstream flooding as the 223 acre-feet of earthfill will decrease the volume of the flood control detention pond. To compensate for this, additional funds will be spent to increase the volume of the excavated detention pond. The additional cost for excavation required to compensate for the added fill has not been disclosed.

After meetings with city councilmembers two at a time to avoid the need for public notice, the city council, at a February 25, 2020 study session, with no public input, relied upon Joe Taddeucci's statements that CDOT would not approve the Variant 1 500-year plan because of flow conditions at the US 36 bridge and directed staff to eliminate the 500-year option from consideration.

On several occasions I asked Joe Taddeucci for written evidence that CDOT would not approve the 500-year plans and was told that he doesn't have any ***written information to share on the subject of CDOT's potential approval of various levels of flood protection.***

Noting that the US 36 bridge was designed to convey 6,300 cubic feet per second and the Variant 1 500-year flows could be as low as 5,740 CFS and that the city's consultant's report stated that the 500-year plan may not cause any negative impacts, I asked CDOT, via a CORA request, for any evidence that the 500-year plan would be unacceptable.

I received 135 documents from CDOT none of which stated that the 500-year plan would be unacceptable to CDOT.

In fact, a September 9, 2019 letter from CDOT's Region 4 Director to the City's Interim Director of Transportation stated "CDOT is not part of the "variant" discussion and is impartial as to the variants being considered by the city."

**CU South Annexation Application (LUR2019-00010)**  
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One would hope that city council would demand hard facts before rejecting a previously-approved 500-year plan and voting for a plan costing \$31 million more and providing less protection. While protection for Boulder residents was reduced to 100-year floods, \$15 million was budgeted to protect CU's vacant gravel pit against 500-year floods.

So what was the real reason the city decided to ignore the effects of climate change, reduce protection from a 500-year flood to a 100-year flood and import 360,000 cubic yards of earthfill to raise CU's excavated gravel pit above the level of a 500 year flood.

Could it be that you simply caved in to Frances Draper's May 20, 2019 letter to the city council which stated:

***We are writing to you today to provide notice that the university, as the landowner, does not agree to Variant I 500. we are informing the city that any further expenditure for the development of preliminary designs for Variant I 500 should cease. Again, the university will not agree to that option. Neither of our organizations should expend further staff or financial resources to continue to pursue Variant I 500.***

Many have surmised that the university wants annexation, city utilities, and the city to spend \$10 million to raise land above the 500-year floodplain and \$5 million to move the tennis courts (an appropriate use for facilities which are infrequently flooded) to provide attractive developable acreage to a private developer.

At the April 12, 2021 city sponsored "Listening Session" on CU South annexation, CU was represented by Derek Silva. The CU website states that Derek Silva joined the Finance and Business Strategy team as Assistant Vice Chancellor for Business Strategy and that ***In this role Silva oversees the development of new revenue-generating opportunities for the university.***

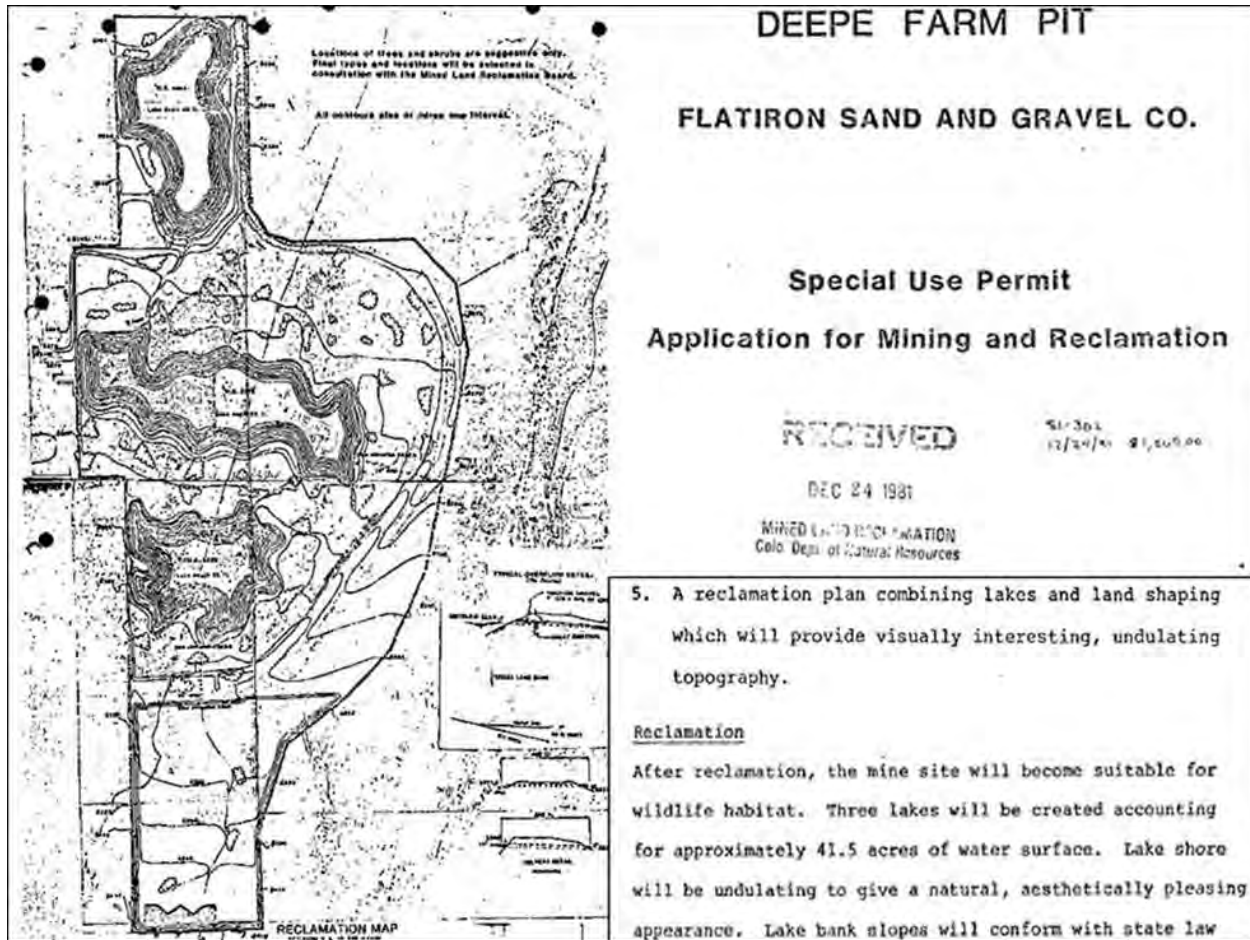
<https://www.colorado.edu/fbs/derek-silva>

The sale of all or a portion of the CU South property is very plausible. In fact, last September, CU announced: it will *shutter and sell its CU South Denver campus in Douglas County, which it was gifted in 2015.*

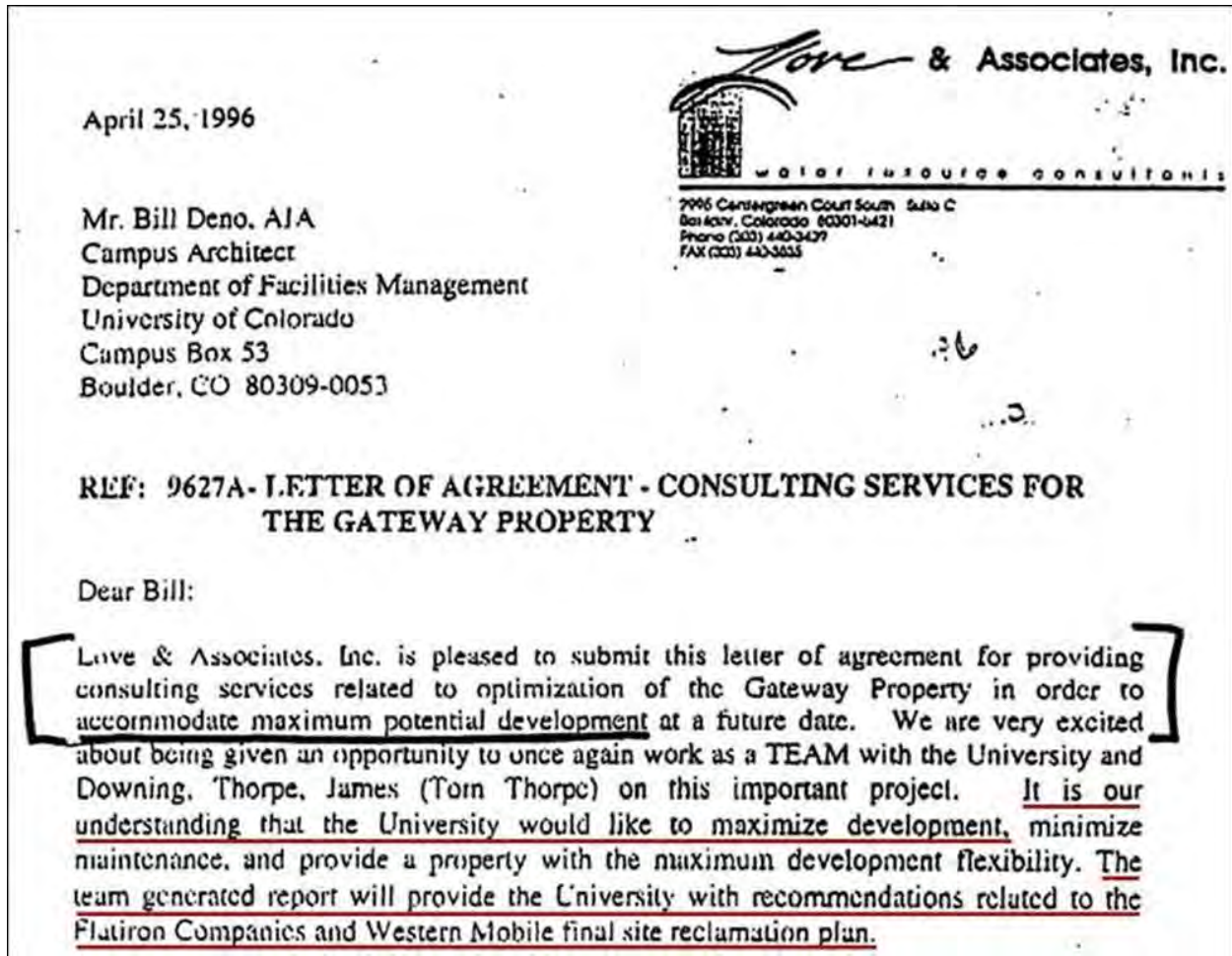
<https://kdvr.com/news/money/cu-south-denver-campus-will-close-and-be-sold/>

To avoid floods, universities, which plan to be around for centuries, wisely build on hills (think Old Main), but CU's South Campus is a floodprone depleted gravel pit in the historic streambed of South Boulder Creek and located at the foot of a major Front Range drainage basin.

When CU purchased the gravel pit, the county approved reclamation plan included three large ponds and riparian areas which could have been configured to mitigate downstream flooding. Only a small percentage of the property was developable.



But contrary to accepted practices and guidelines for resilient floodplain management, and ignoring the advice of the City of Boulder, the County of Boulder, and the late CU Distinguished Professor Emeritus Dr. Gilbert White, CU hired a consultant and successfully lobbied the State Mined Land Reclamation Board to revise the reclamation plan **to accommodate maximum potential development.**



The revisions to the reclamation plan included eliminating the ponds and riparian areas, which would attenuate floods, and adding a permanent 6,000 earthen levee around the pit to divert floodwaters onto neighboring properties.

As a result, instead of having an environmentally sensitive reclamation plan with ponds and riparian areas which would attenuate floods, this is what we wound up with. Please note the large earthen berm surrounding the excavated gravel pit to protect it from flooding.



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CU's plan worked as intended. During the 2013 flood, CU's vacant excavated gravel pit was dry, while the Frasier Meadows Retirement Community and hundreds of South Boulder residences were severely flooded.



CU claims experts determined the berm did not worsen neighborhood flooding. That is because CU gutted the reclamation plan and eliminated ponds and riparian areas from

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

the 308 acre site which would mitigate flooding and instead excavated a smooth bathtub shaped trough that would rapidly divert floodwaters directly into neighborhoods to the north.

At the April 12, 2021 "Listening Session" on CU South annexation, Derek Silva, stated that the proposed flood control detention pond will inundate a portion of CU's land that is now outside of the 500-year floodplain and that the \$10 million the city will spend to import 360,000 cubic yards of earthfill (enough dirt to fill an entire football field to the height of a 20 story building) will only restore the land to the condition it was in before construction of the flood control project.

How about the city requiring CU to restore the floodprone property to meet the requirements of the original County-approved gravel pit reclamation plan of which 220 acres were designated for open space.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Crystal Gray <graycrystal@comcast.net>  
Sent: Wednesday, April 7, 2021 3:44 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Land Consultation with Tribal Representatives on CU South lands

External Sender

Dear Council,

I would like to suggest you include a Tribal Consultation on CU South lands where you are considering development of flood structures as well as annexation and development agreements with CU. I will make this same suggestion to the CU Regents.

There is a similarity between the Settler's Park relationship to Boulder Creek as there are to higher lands to the west of South Boulder Creek in the CU South area and I think a Tribal Consultation would help guide your future decisions.

When I served on Council we were considering a compost facility east of Valmont Butte - which is also a high point in relation to nearby Boulder Creek. There was an extensive study group (Tom Eldridge and I were the council representatives) coordinated by the Planning Department and an analysis and report was presented to council and the public. Several Tribal Nation representatives served on the study group and were essential in pointing out the importance of these ancestral lands.

Council decided not to go forward with the compost facility based on what was learned from the Tribal representatives guidance.

Thank you for your work on the Indigenous Peoples' Day Resolution as well as the Land Acknowledgements. Please thank the representatives of the Tribal Nations that journeyed back to Boulder to give the city guidance on the important Land Acknowledgments.

Best,  
Crystal Gray  
Council Member 2003-2011  
303-906-5509

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Holly Wiese <holly@3dotsdesign.com>  
**Sent:** Monday, April 19, 2021 11:18 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Major Concerns About CU South Development

**External Sender**

Dear Council,

My husband and I are South Boulder residents and have been for over 20 years. I consciously choose this part of town many years ago due to the tremendous access to open space and trails. I, along with many other neighbors, use the CU open space frequently and the thought of it being developed is very upsetting. It offers so many opportunities for being active and out in nature and removing it's access would be yet another disappointing change in the lovely local community of Boulder that we're all watching slip away over the past few years with continuous developments right out our door.

This development on a flood plan seems like an absurd way to spend taxpayers dollars to the tune of \$25 million plus. My understanding is that it is estimated to cost approximately \$10 million for earth fill to build land that will be within the floodplan due to the mitigation project and another \$15 million or more for other infrastructure. It seems really irresponsible to choose this location for such a development instead of selecting an area OUT of the flood plain that is "high and dry", thus not costing taxpayers \$25 million that could be so much better spent elsewhere (traffic mitigation, roadway system improvements, homeless resident issues-growing every day, climate action, arts and cultural, affordable housing to name just a few).

The concern of increased traffic in South Boulder is also high. I live in Martin Acres and the backyard noise we experience from the 36 traffic has increased enormously since I first moved here when it was barely noticeable. There are times when it is difficult to talk with friends at the same table on our deck (during rush hour daily) due to the noise levels and I live a fair distance from 36. The traffic back ups on Baseline, Table Mesa and other surrounding areas for access to the highway and all the businesses at this end of town are already very cumbersome at certain times of the day and by adding this development right in our backyards, I cannot imagine how difficult it will be to simply run out to support local businesses on errands and getting around South Boulder. I have read an estimate of 7,000 VEHICLES PER DAY to Boulder's already most heavily trafficked area (South Boulder). I'm sure you'll agree that this type of traffic influx to our neighborhoods is unacceptable.

Finally, the residents of Boulder consistently vote to preserve open space. I believe it is the number one reason we live here. We purchased homes (at extremely high prices- some of the highest in the country as we all know), with the understanding that part of the "deal" is having such amazing Open Space access right out the door. To have those open spaces removed is incredibly disappointing and goes against the will and desires of the residents citywide. The displacements of migratory birds in the wetlands is also upsetting, as our constant city development continues to push native species further and further away from their habitats.

Based on all of these concerns, I would ask that a land exchange with the North Boulder "Area 3" planning reserve land be incorporated into the CU South Annexation Agreement. The planning reserve land sites "high and dry", that is, not in a flood plan, and thus won't cost the taxpayers \$25 million that could be better spent elsewhere.

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Thank you for your time and consideration. I truly do hope you will choose to do the right thing for ALL BOULDER RESIDENTS.

Best regards,  
Holly Wiese



Holly Wiese  
[holly@3dotsdesign.com](mailto:holly@3dotsdesign.com)  
303.588.0565

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Mary Eberle <m.eberle@wordrite.com>  
**Sent:** Monday, April 19, 2021 8:56 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** We need to own the CU South property

**External Sender**

Dear Mayor Weaver and Members of Boulder City Council,

To be brief: Please think outside the box when it comes to CU South. If we owned the property, would we think a wall along US 36 would be the best solution for protecting Frasier Meadows?

Many in Boulder would like the property to be owned by the City, possibly with co-owners such as Boulder County. Another possible co-owner would be Colorado Parks & Wildlife. CU's budget is in shambles, so now would be a good time to make an offer.

The thought of spending Boulder taxpayers' money to backfill a hole for CU's benefit seems ridiculous, but has become part of the negotiations. How can that be?

Times for CU are changing. Student housing is going to expand. Housing for junior faculty and staff is going to expand. Open space--which CU South currently is in fact if not in law--is not needed for these purposes.

Please slow the annexation agreement way down, to a crawl. Or even put it in "park." Let's get a better solution that we have more control of.

Thank you for all you do to make Boulder a better place.

Mary C. Eberle  
1520 Cress Court  
Boulder, CO 80304  
303 442-2164

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Laura Tyler <laura@amstec.com>  
**Sent:** Tuesday, April 20, 2021 2:20 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Yes and Thank You: CU South and Public Engagement

**External Sender**

Dear Council,

Thank you for the many opportunities to weigh in on the annexation of CU South for flood mitigation.

It's encouraging to see neighborhood concerns about light, noise and setbacks addressed in the updated Briefing Book.

CU's willingness to address these issues along with contingencies like de-annexation has sent a strong signal that the ongoing negotiations are responsive and productive.

Please know this project has my wholehearted support. Yes to annexing CU South for flood mitigation, workforce housing, habitat restoration, recreation and Open Space.

Thank you,

Laura

Laura Tyler  
South Boulder Creek Action Group  
[Laura@sbcreekactiongroup.org](mailto:Laura@sbcreekactiongroup.org)  
[www.SouthBoulderCreekActionGroup.com](http://www.SouthBoulderCreekActionGroup.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Sunday, April 18, 2021 11:19 PM

**To:** Council <council@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; OSBT <OSBT@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; plandevlop <plandevlop@bouldercolorado.gov>; plan boulder <advocate@planboulder.org>; Housing Advisory Board Group <HousingAdvisoryBoardGroup@bouldercolorado.gov>; hawksndragons1955@gmail.com; Taddeucci, Joe <Taddeucci@bouldercolorado.gov>; Coleman, Brandon <ColemanB@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; SaveSoBo Now <savesobonow@gmail.com>; sebna@googlegroups.com; Pomerance, Stephen <stevepom335@comcast.net>; Lesley K Smith <lesley.smith@cu.edu>; spiegel.ilana@colorado.edu; Callie Marie Rennison <Callie.Rennison@cu.edu>; Derek Silva <Derek.Silva@Colorado.EDU>; Abby Benson <abby.benson@colorado.edu>; norby.cw@gmail.com; braddsegal <braddsegal@gmail.com>  
**Subject:** Mark Wallach on CU South and Lynn's suggestion again on Alternative 6 flood mitigation.

**External Sender**

In response to Mark's commentary, first, upstream was not only never necessary, it was a waste of my tax dollars for a year, considering that the best mitigation is updated Alternative 6 from Highway 93 to Boulder Creek, which will protect the people living downstream from 36 on out to Boulder Creek. This is a channelization of SBC. There is a fence across the creek as it stands. I need to know Joe's response to my inquiry (and photo of the fence) sent months ago. Do you know the status of the 42 inch sanitary sewer interceptor which collects all of Boulder's sewage?

Excellent remarks about PILOT, where **did** \$200K come from?

Enough annexations already for Boulder. Gunbarrel itself was a mistake.

Flood mitigation and CU annexation are separate.

Stop private negotiations immediately.

I need to receive acknowledgement that you have read the attachment about Alternative 6, which is called "South Boulder Creek Flood Mitigation 6-15-20.

Lynn

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**From:** Wallach, Mark <[WallachM@bouldercolorado.gov](mailto:WallachM@bouldercolorado.gov)>

**Sent:** Sunday, April 18, 2021 6:15 PM

**To:** HOTLINE <[HOTLINE@bouldercolorado.gov](mailto:HOTLINE@bouldercolorado.gov)>

**Subject:** [BoulderCouncilHotline] CU South

**CU South Annexation Application (LUR2019-00010)**  
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On April 20, Council will again be discussing progress on the potential annexation of CU South, and provide our views on progress to date as well as remaining issues. As an initial matter, I want to thank staff and the negotiating committee for the manner in which they have resolved a number of difficult issues, and have attempted to be responsive to concerns from the community with respect to the ultimate development of the property. Among these are the following:

i) There has been great interest on the part of many members of the community for an exploration of upstream options for flood control as perhaps a superior alternative to the contemplated flood mitigation project. This analysis was done and the upstream alternative was demonstrated to be neither superior nor cost effective. I am grateful to the team for taking the time and effort to do the work necessary to get to this point.

ii) Introducing and finding agreement on the concept of limited development on the sloping, southwest hillside and the creation of buffer zones on the western boundary nearest the adjoining residential communities are both excellent; hats off for negotiating these provisions.

iii) The concept of “de-annexation” in the event that the project is ultimately not approved by the many regulatory authorities is highly creative and appropriate, given the uncertain regulatory process required for full approvals.

iv) The fact that we have proposed, and CU is considering, both a dog park and a track at the site is a welcome development.

v) Incorporation of the March 2021 recommendations of the Open Space Board of Trustees into our negotiating position.

vi) While CU does not yet agree to some form of Payment In Lieu of Taxes (PILOT payments) to compensate Boulder for the loss of real property tax income (as CU is exempt from payment of property taxes), even as Boulder will be required to provide municipal services to CU, I believe the continued discussion is important. I applaud staff for advocating for this.

Obviously, as this is a negotiation in progress, there are a number of unresolved issues still remaining. I am therefore taking the liberty of identifying several issues of concern to me, and expressing those concerns in a more detailed manner than would be possible at the Council meeting itself. These do not represent a comprehensive list of all issues remaining to be negotiated with respect to this project, merely the ones I find most substantial:

1) First, I believe that the concept of contingencies should be extended to a contingency that permits Boulder to opt out based on the overall cost of this project. We already know that the current estimates of cost are inaccurate because they were made in 2018, and do not represent the costs of construction in 2023 or 2024. We also know that some of these costs represent open-ended commitments to CU and that such costs cannot yet be known. And, most significantly,

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even the cost estimators have disclaimed any reliance upon their estimate. We remain a long way from drawings that can be used for an actual construction bid for the project.

This lack of precision as to cost raises the following issue: What if the \$66MM total cost should prove to be \$85MM? \$110MM? It is certainly possible for Council to take the position that, no matter the cost, the flood mitigation project is of such importance that it must be completed. If that is our view it should be clearly stated to the community. In response to my Hotline post of June, 2020, in which I raised the issue of our ability to bond this project in the face of rising cost, staff noted that “the city’s bonding capacity is limited by the city’s willingness to approve utility rate increases that result from bond debt payments.” This is correct, which leads me to ask: is there any limit to our willingness to approve utility rate increases? If the answer is no, end of discussion, and we move on. If there are such limits, I suggest that we identify them and build into the agreement the right to walk away if the cost of the project requires rate increases above our tolerance. In addition, I think it is past time for a more precise estimate of the cost of this project. Reliance upon a cost estimate that may not remotely reflect the actual cost of the project is not transparent governance.

2) One of the more contentious issues to date has been the concept that Boulder should, at its expense, pay for fill to be deposited on land to be used by CU in order to take that acreage out of the flood plain. Unless I missed it, I did not see this obligation specifically incorporated into this most recent version of the briefing book, although it remains included in the project budget. If this obligation is no longer part of the conversation with CU I think that is excellent, but if it is, I would make the following two comments: If this obligation survives the negotiating process (and I certainly hope it would not) it should be subject to a “not to exceed” limitation in terms of cost. In addition, if this obligation is ultimately incorporated into the agreement I would request that it be conditioned upon and subject to receipt of an opinion of bond counsel as well as an opinion from the issuer of our bonds that unequivocally states that this expense can be part of the bond to construct the project. At an estimated cost of \$10 million (and perhaps higher), this expense would substantially impair our budget if it had to come out of the General Fund, which is already stretched to provide essential services. These opinions should be in writing and in a form that the City can legally rely upon.

3) I would like to better understand the calculation that leads to the statement that, because CU is a tax-exempt entity, we are foregoing approximately \$200,000 per year in real property taxes. Using a value of \$250,000/unit, the 1,100 units to be built would have a market value of \$275,000,000. And we have not included any value for the 500,000 square feet of non-residential space. And all of this would generate only \$200,000/year in real estate taxes? Put another way, the total estimated tax of \$200,000 comes out to an annual tax burden of \$182 for each residential unit. But if you go to the Boulder MLS, the average real estate tax for the 6 units on the market between \$200-250,000 (4 of them part of our affordable housing program) is \$1,220/year; between \$250-300,000 the average tax jumps to \$1,890/year, more than 10x our estimated tax per unit. The importance of this calculation ties back into the discussion concerning

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PILOT payments. Are we foregoing only \$200,000/year or a much higher amount? The higher the amount of real estate taxes foregone, the more important is the need for some form of compensation from CU, whether it is called a PILOT payment or by some other name.

4) One more financial issue: to the extent that there are other work projects that we have identified as necessary to the successful completion of this project (such as work contemplated on Viele Channel), but that are not included in the cost estimate, it is appropriate that they be disclosed and incorporated into the total estimate cost of this project. What, if any, are these elements, and what is their cost?

5) In terms of height limits I urge a bit of caution with respect to unsightly rooftop mechanicals. It might be appropriate to require parapets or screening to soften the effect of their presence.

6) CU has proposed a sports facility with a capacity of 3,000 be part of the campus. I urge that some consideration be given to the noise and traffic implications of a facility of this size. 3,000 attendees is a very substantial number, almost four times the size of the estimated number of participants in the recent disturbances on the Hill, and more than adequate to permit this facility to serve as a venue for small outdoor music concerts. I urge that the size be reduced, or significant operating restraints be placed on the facility in terms of types of uses and hours of use. An all-day Heavy Metal Music Festival would probably not be warmly received by the adjacent residential neighborhoods.

7) It is wonderful that one of the guiding principles of this project is that buildings will be sited in a manner that protects views. However, I am concerned as to the substance of this provision. What will constitute a breach of this principle? From what vantage point will protection be judged? If we attempt to enforce this provision, how will we demonstrate that it has been violated? What will be the remedy if we succeed? Deconstruction of the offending structure?

8) I would make a similar comment with respect to the “goal” of constructing 1,100 housing units on the site. I would think we would want something a bit more concrete and enforceable, such as a fixed obligation to provide no less than x and no more than y units. Either that, or a cap on the square footage to be developed in the project, with a requirement that residential development be no less than x% of the total. Goals change as circumstances change, but the City’s objectives should not, and, at the end of the day, this project should be required to meet those objectives.

9) Finally, I applaud staff for addressing this critical issue: what happens if CU decides not to proceed with this project? What if they want to sell the property? The protective mechanism being discussed is a right of first refusal for the City to buy the property in the event that CU wishes to sell. I believe the motivation here is entirely correct, but I do not believe that this is a workable formula for us to adopt. Some of my concerns are as follows:

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i) Most rights of first refusal impose a fairly rigorous timetable on the party exercising that right: 60, 90, 120 days, etc. I am not convinced that Boulder could act so expeditiously on such a large transaction.

ii) Sale of the property could well exceed \$100MM. We do not have the funds to make the purchase, and are unlikely to match the resources of well-capitalized development companies with access to the public markets. And if we choose to enter into a mortgage or utilize our bonding capacity to make such a purchase, we will have extremely large debt service payments going forward, and limit our future capabilities to issue debt obligations.

iii) Even if we were able to purchase the property, we would need to get our money out, and this would probably require us to sell or partner with private sector development companies that will require us to maximize the density of market rate rentals and condominiums, and who will not have the willingness of CU to commit to the development standards that have been agreed to.

This is an extremely sensitive piece of land. If the current owner was the Acme Development Company our annexation conversations would have been very different, and if we could not get the terms we wanted we would have the freedom to condemn the 44 acres required for the flood mitigation project and leave the rest unannexed and undeveloped. The conversations now taking place are a reflection of the symbiotic relationship between CU and Boulder, and we are contemplating annexation both for the flood mitigation project and because of what CU intends to do with the property. We are doing this with CU and for CU. This is not a project in which we should confer value on presently valueless land, only to see it sold to a third party to generate capital.

In commercial lease transactions, for example, it is common for the tenant to agree to specific and limited uses of the space being leased. Any change in use is generally at the discretion of the landlord. Accordingly, the tenant operating a fine dining French restaurant is generally not free to change the use to that of a fast food hamburger joint. In addition, the tenant is not free to sell or assign the lease to a third party, and even a change in control of the tenant through sales of stock or bringing in new partners is subject to the full discretion of the landlord. That is the type of concept that should be applicable here. A CU South campus can be a great addition to the community, and will address the housing problem for graduate students and faculty. There should be no circumstances in which a change of use can occur, whether or not Boulder is in a position to acquire the land. Perhaps the provisions of the annexation agreement can be structured as a covenant running with the land in order to prohibit any change in the terms, but whatever mechanism we employ, the agreements to which all parties agree must be permanent and particular to CU, our partner in this enterprise.

As noted earlier this list of concerns is not exhaustive. In an act of mercy towards those who have read this far, I will not even touch upon the various transportation issues that need to be considered and resolved (although a quick shout out for introducing the concept of the “trip cap” as a means of monitoring and controlling traffic impacts), or issues relating to the remedial work

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necessary to mitigate the environmental impacts of the flood mitigation project. I simply want to acknowledge the hard and difficult work being conducted by staff and the negotiating team, and to highlight what I believe to be some of my remaining concerns as we move forward. Thank you for your consideration of these comments.

**ATTACHMENT**



**The City of Boulder has been updating the floodplain mapping for Bear Canyon Creek in south Boulder.**

***SOUTH BOULDER CREEK FLOOD MITIGATION***

***6-15-20***

***Photo: Bear Canyon Creek -***

***Boulder Files***

***To: Council - Sam Weaver, Bob Yates, Aaron Brockett, Rachel Friend, Junie Joseph, Mirabai Nagle, Adam Swetlik, Mark Wallach, Mary Young***

***Planning Board - Harman Zuckerman, David Ensign, Peter Vitale, John Gerstle, Lupita Montoya, Sarah Silver, Lisa Smith***

***WRAB - Kirk Vincent, Ted Rose, Trisha Oeth, Gordon***

***McCurry, John Berggren Director of Utilities - Joe Taddeucci***

***Project Engineer - Brandon Coleman***

***It has now been nearly seven years since the disastrous September flood in 2013. There were about 15 creeks that flooded affecting people, homes, schools, businesses, and city infrastructure. The flood also had a huge unseen impact on people's fears of the next flood, which could strike at any time.***

***FEMA's disaster reimbursement records show that flood water from South Boulder Creek caused the greatest amount of damage in the city, followed by Bear Canyon Creek and several other creeks.***

***Starting in January, 2014, people from the east side of the Frasier Meadows neighborhood (between Mohawk and Foothills Parkway) expressed to WRAB that they were intensely afraid of future floods. One photo showed glass embedded in a basement bedroom wall. The glass***

came from a broken window on the far side of the room where the flood water gushed in. Fortunately no one was sleeping in the bedroom that night. A woman demonstrated to WRAB that the sewage in her basement was up to her chin as she had to walk through it - sewage up to her chin. This was raw sewage, not just filthy creek water. According to city records the sanitary sewers in Frasier Meadows and in other neighborhoods backed up into **1,500 homes**, *primarily because **Bear Canyon Creek** overflowed into sanitary sewers. In doing so, it lifted off sanitary sewer manhole covers, which then allowed the creek to flow freely into sanitary sewers. This then overwhelmed the junction of sewer lines on Baseline Road east of Foothills Parkway resulting in sanitary sewers backing up and inundating many homes throughout Frasier Meadows and adjacent neighborhoods with **raw sewage containing all sorts of vile pathogens. This unbelievable sewage condition still exists today,*** in addition to the unmitigated non-capacity of creeks which flooded throughout the entire city. Utilities Engineering reported that it was **a fortunate event for the city that raw sewage was allowed to back up into homes** because that negligent destruction of our homes by raw sewage saved much damage to **city infrastructure**.

*Initially, in January, 2014, WRAB meetings were packed with anxious upset residents. A group from the east side of Frasier Meadows (between Mohawk and Foothills Parkway) urged WRAB to continue with the original mitigation plan for SBC because they wanted the flood protection to occur within months, and didn't want to change mitigation plan direction because that would take longer, possibly as long as a year. A year was not acceptable. They naturally tried hard to keep the existing plan on track. That was Plan D with Phases I, II, and III.*

*Another group, from Frasier Meadows west of Mohawk which was primarily devastated by **Bear Canyon Creek**, with advice from seven water engineers, asked WRAB to consider using Alternative 6 to keep SBC within its channel by primarily dredging, cleaning, and modifying the existing channel. Alternative 6 was a more natural and certainly less expensive mitigation strategy with far fewer jurisdictional problems, while creating a more complete **overall regional solution. This solution can be designed to create whatever year- level (100 to 500) of flood protection desired without interfering with Ladies Tresses Orchids or Jumping Mice.***

*When the concept of using SBC to mitigate SBC flooding was presented to WRAB starting in January, 2014, and cautiously many times thereafter, WRAB remained absolutely silent. It was curious to ponder why this topic was **untouchable, unthinkable, and was off-limits for discussion. Some searching of WRAB records found that **Alternative Mitigation Plan 6 (using SBC for Containment of Flood Flow)** as a mitigation plan was strangely quickly eliminated with very little discussion. The cost was initially slightly higher than plan Alternative 3, which was renamed Option D including Phases I, II, and III. The cost of Alternative 6 is much lower than the present dam plan which has been stripped of Phases II and III due to cost increases.***

*Later, other people with different ideas joined the fracas and the SBC mitigation project became chaotic. Engineering judgement and rational judgement were significantly replaced by the desire for walking dogs and practicing yoga at sunrise on the land proposed for a flood mitigation dam. Soon this chaos was joined by CU which then turned the chaos into a community firestorm, **where it stands today. The firestorm quickly overwhelmed the voices with differing suggestions, and unfortunately eliminated any focus on the many other dire creek flood mitigation necessities within the city, which are still ignored.***

*The renamed Option D Phase I, II and III, primarily related to Frasier Meadows east of Mohawk (Phase I) and the area northeast of South Boulder Road and Foothills Parkway (Phase II and III). Eventually, as the cost increased, **Phases II and III were scuttled**, leaving only Option D Phase I, which was then referred to as Option D. The name*

has since changed again. **There is no plan to protect the people and property in the areas designated as Phase II and III, many people in those areas are unaware of their ultimate exposure.**

**Mitigation Plan Alternative 6 eliminates the thorny problems of the current undefined SBC plans:**

- Flood water is no longer required to flow down the hill to RTD to give CU a bargaining chip for their utilities.
- CU utilities can be presented on it's own merit without holding the city hostage relative to flood mitigation.
- **The quantity of flood water which will need to be detained is unknown.** If that is undersized there will be many major disasters. Climate scientists are now recognizing "atmospheric rivers", where an adverse weather pattern remains in a location for an extended period of time creating huge amounts of rainfall.
- **The current mitigation plan utilizing a fixed size dam capacity would not be able to continuously convey rain from an atmospheric river, however, Alternative 6 could carry an unlimited quantity of flood water.**

- Alternative 6 does not affect Ladies Lillies and Jumping Mice, etc, and has many fewer unknowns.
- Technical engineering construction decisions would be far simpler with Alternative 6.
- There would be no annual dam inspection with Alternative 6.
- The jurisdictional agreements would be much fewer and simpler with Alternative 6.

The **negative reasons** found in city records for not considering Alternative 6 were:

- Baseline Reservoir may receive additional water as a result of a flood - a reservoir may receive water.
- The spillway of Baseline Reservoir may need to be repaired.
- The city of Lafayette may need to add a drinking water filter to remove excess turbidity during floods.

If Alternative 6 Mitigation Plan is chosen, obviously the main construction method would be to dredge the channel to contain the specified flood flow capacity. Existing trees, bushes, debris, in-fill under bridges, and other miscellaneous trash will need to be removed from the stream bed, this is normal maintenance which has not been done for a very long time.

Which of the choices for permit, annual dam inspection, and construction techniques is most logical, durable, least expensive, can convey the unknown quantity of flood water, and won't collapse?

Observing the overall egocentric gymnastic performances for almost seven years relative to all aspects of Flood Protection has been an unbelievably nauseating experience for many residents. Many residents are so completely disgusted with the entire fiasco that they have given up any hope of the likelihood of sensible flood prevention, and have chosen not to participate, some have even departed from the city.

Long term observation clearly demonstrates that there have been many failures and many obviously seriously unacceptable judgements by numerous city functions and other participants. Consequently, there is a need to look back to determine how we fell into this deep hole, and to determine what is really required to escape, then let competent engineering consultants guide the mitigation projects without interference, but, with adequate public transparency and guidance in order to be able to climb out of this life-threatening mess. Certainly we can no longer allow resident groups, individuals, dog walkers, or Council, to continue designing critical flood mitigation systems for which they have inadequate experience.

The city is in a vast paralyzing quagmire of overwhelmingly immense proportions with a multi-serially demonstrated inability from which to extract itself. WRAB is defined as the skilled board to ADVISE the City, City Council, and Residents, of existing and future flood related

catastrophes and solutions. There is an abundance of long standing complaints by residents relating to non-response, misdirection, inaction, and very strange peculiar actions by City functions as a whole, regarding Flood Mitigation. When coupled with the strong negative disaster warnings defined by engineering consultants, climate scientists, combined with the significantly adverse revelations exposed in the Team Tipton report, along with many disillusioned departed city employees, it's quite obvious that ***a different thought process must be wisely established.***

*Climate scientists have consistently indicated worsening world-wide weather conditions and specifically targeted Colorado. Details about the above strange referenced actions can be available as needed.*

***A sensible strategic evaluation of where we've been, how we got here, and where we want to go, is necessary.*** *It's recognized that a few good new employees have been hired, but, City Utilities is grossly understaffed and underfunded for the many fundamental tasks that need to be accomplished promptly.*

*One important noticeable part of the problem of not achieving a successful result is the fact that Council, WRAB, etc, seem to feel obligated to comply with the ineffective policy of allowing persons who may have something of significance to contribute, to speak for only two or three hurried disjointed minutes, followed by another person for two or three disjointed minutes, ad nauseam, along with frantic pleas by desperate residents for help. To avoid the obvious problem of too many people trying and failing to speak effectively at Council meetings, Council has suggested the use of email contacts to Council. Recognizing the humungous quantity of reading material Council is always confronted with for each meeting, and has seriously and accurately complained about in the past, this new load of reading material is likely to be impossible to be given much consideration. Probably the email contact gives the writer the feeling of getting the attention of Council. Considering that Council can only listen for two or three minutes at meetings, it seems unlikely that hundreds of emails will receive collective consideration by Council.*

*What intelligent city, corporation, or individual, would make major multi-million dollar decisions in this manner? This policy is far too limiting on presentation time and subject integrity. In the end this method obviously has taken far too much more time - without a solution. **Critical comprehensive meetings of stakeholders are needed to clearly state the problem, effectively evaluate ideas, define plans, and accomplish solutions in an urgent timely manner, without additional subcommittees.***

*Another issue in preventing flood mitigation from progressing is a significant lack of priority. There is considerable "talk priority", but, "sensible action priority" is completely missing. It's much like not wanting to do a task, so other trivial things are found to occupy the time space available, thereby successfully avoiding doing the undesirable task. This is simply denial of significant future flood devastation.*

*A third hindering factor is RESILIENCE. Resilience is traditionally considered as the ability to recover quickly from unexpected misfortune. Boulder frequently touts its resilience in presentations, newspaper articles, and in the City of Boulder, Colorado Community Newsletter. The Fall/Winter 2019 edition front cover of the Newsletter boasts a typical example by stating: "Ready and Resilient - **Ways** the city is preparing for natural disasters and other sudden, unexpected events". After reading the Newsletter cover to cover, it's difficult to find the "**Ways**". This exemplifies that it is much easier to find the "Talk" than it is to find the real "Walk". The Spring 2020 edition of Newsletter has similar resilient boasts. The seven year period since 2013 is not resilient.*

*Resilience has a factor of quickness in its definition. Boulder has a flood report in its files*

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written in **1934** which quite clearly describes: "The downhill bank of SBC is too low" (in the area near the current location of US 36) thereby causing flooding. Coincidentally, that's the same location and problem that is present today. The only difference in the 86 intervening years is the manner in which the problem is described.

Today, the description of the flood problem is: "What is the best way to allow flood water to flow down the hill onto CU property so that the city can needlessly use CU property to store flood water for three days in

exchange for the city providing CU with utility services?" Alternative 6 would use the existing creek as a basis for mitigation. This totally eliminates any involvement with CU, and allows CU to apply for utility service as would normally be done, without ridiculously holding the city and residents as hostages. It's curious how the SBC flood water traverses from highway 93 to US 36, then as it reaches a critical point near US 36 it strategically overflows out of SBC onto CU property thereby causing the flooding problem. Why does the same flood water in the creek not cause a major flood problem prior to reaching US 36?

*The Flood Mitigation Torch needs to be found, picked up, lit, evaluated, and carried*

*smartly to the goal.* Who better than WRAB to take on this heroic task and demonstrate

the necessary solutions to the city!

*To do this, the above comments urge WRAB to **start this task by examining the many strange, bizarre, and unorthodox situations which have occurred** in the past seven years relative to flood mitigation. Some of these situations speak of incompetence, others totally defy an explanation, but they do require inquiry. This would need to be done before proceeding with the next evaluation of mitigation plans. Boulder has 15 primary creeks which need attention, some of them have been bypassed. Some have their mitigation plans completed, but, are not implemented due to a lack of funds, and the plans are filed away gathering dust. The SBC/CU fractious flailings have overwhelmed the serious attention that should have been given to ALL flood areas in the city so that ALL flood areas could be mitigated much sooner than the present outrageous documented Utilities estimate that the city will not have funds available for flood mitigation for **at least 100 years**. 100 years was the most accurate estimate Utilities could provide as to when the city would be able to afford to mitigate many critical flood areas. This task is a matter of WRAB addressing the major task of critically reviewing ALL aspects of how we arrived at our present position, and then offering a clear, concise path out of this bewildering flood mitigation forest.*

*WRAB has the critical skills to create a strategical flood managerial masterpiece to end this meaningless nonsense of trying to find a scheme to keep CU in the game so CU can hold Boulder hostage to provide CU with utilities for CU South. WRAB has been given the responsibility to say YES and then take the blame for ill- conceived plans, but, WRAB has been denied the charter to speak authentically to challenge foolishness.*

*Utilities has accurately advised, in writing, that "We, the city, have grown accustomed to saying we don't have the funds to do a job, so we don't do it, and then the job doesn't get done". This is repeatedly true.*

*Members of WRAB: Please step up to the prior overall \$172,000,000 (now approaching \$200,000,000) city- wide 2013 flood mitigation disaster, and address ALL aspects of the solution for the flood safety of **ALL** Boulder residents. Please stop, start over, and complete the task quickly with common sense plans. Make a comprehensive offer to Council explaining how your skills can create the final resolution of the many overall flood problems. **The city***

***implies that lives and property near SBC are more valuable than elsewhere.***

*It is grossly negligent for us, the residents of Boulder, to allow these destined-to-occur natural flood disasters to threaten us unchallenged. Our failure of the Flood Mitigation process is significant and is amazingly negatively spectacular. Gilbert White advised us that **floods are a function of nature, but, flood damage is allowed by man**. We are on a fast track by allowing and accepting extreme disaster, but we apparently don't recognize that fact. It's not yet too late to act responsibly simply because the next flood hasn't yet inundated our city, lives, and homes. **We need to protect ALL people, homes, and infrastructure in Boulder.***

***We can't believe, after seven years of epic failure, that we are achieving our flood mitigation goals** when on April 20, 2020, WRAB verified to the community that "**The Emperor Has No Money**" for flood mitigation. However, we do have considerable funds for other less critical, lower priority, less necessary projects. But, we frequently, and incorrectly, are told we are resilient!!*

*The above comments may be considered unkind by some city functions, absolutely, they are unkind, they are necessary, they are also Tough Love, and they are true, simply waiting to be recognized.*

*However, **We Must Speak Truth***

***To Power.** Respectfully,*

*Carl Norby                      norby.cw@gmail.com*

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**From:** rmheg@aol.com <rmheg@aol.com>

**Sent:** Tuesday, April 20, 2021 9:34 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Moorhead and traffic going from CU south to campus ramp.....

**External Sender**

I agree with Mirabai. I never drive HW 36 once I enter Boulder. I always get off at Table Mesa and take Moorhead because it is quieter and feels safer because I hate driving on HW 36 and want to get off as soon as I can. Mirabai concerns about on ramp backup onto And it is much worse going north onto HW 36 if you are heading east on Table Mesa which anyone going from CU south. Where will that traffic sit wait? How will that be handled? What will be the cost? That is a real concern that I hope is addressed.

Adam are you really serious about proposing a 3 way stop at ever block along Moorhead? What would that do to emergency services going down Moorhead????

Rosemary

**CU South Annexation Application (LUR2019-00010)**

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**From:** Claudia Logerquist <clogerquist@gmail.com>

**Sent:** Wednesday, March 24, 2021 11:18 AM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Jim Logerquist <jloger@aol.com>; Britta Thomas <BrittaLogi@yahoo.com>; Erik Logerquist <ejlglobal@gmail.com>

**Subject:** Neighborhood Impact of CU South Campus

**External Sender**

Dear Council Members,

I live in Martin Acres on S41st St, between Table Mesa Drive and Martin Drive, and have owned my house here since 1975. Over these many years, we have experienced significant increases in traffic along Marin Dr, Moorhead, and Table Mesa Drive. In fact, if I want to make a left hand turn from S. 41st St toward US 36, it is not possible because of the traffic volume on Table Mesa. I have to wind my way through the neighborhood to Moorhead and then head east to the traffic light on Table Mesa to leave the neighborhood.

For years our neighborhood has attempted to slow down and reduce the commuter traffic coming through Martin Acres especially along Moorhead which ends on 27th Way and leads to S. Broadway and Baseline. Martin Drive, while smaller, is also impacted the same way, especially since it is also a school bus route. Any increase along Table Mesa toward US 36 and a proposed CU South Campus access would also shift cars shortcutting through our residential streets.

I have read an analysis of the Fox Tuttle Transportation Group LLC traffic report commissioned by the University of Colorado in preparation of making a proposal for expansion along Boulder's southeastern edge, also an area where many of us take walks and which includes a wetland area.

The issues with the report were analyzed by Michael Tuffy under the title CU South study problems and published in the Daily Camera on March 20, 2021.

The company collected data in December and November 2020, during the pandemic, when traffic was seriously reduced with people staying home. It is not representative of pre-pandemic times, nor can it be used to predict what will happen after the pandemic is behind us.

I also find the locations of the stations that sampled the car volume curious. Station 10, South Broadway north of Table Mesa Dr, in other words, north of the very busy Broadway–Table Mesa intersection where we have the Table Mesa Shopping Center. Station 18, on Table Mesa Dr east of 40st St, and Station 2404 on South Broadway to the city limits south of town. What happened to the section of 40th Street and 38th Street? Why were Martin Drive and Moorhead not included in this sampling?

Regardless of the flawed locations, every station showed increases in car traffic since 1982 and 1985, and projected increases in traffic up to the year 2035. Station 10: 12%, Station 18, 32%, Station 2404 a 110% increase. That did not include a projection of traffic increases (an estimated 7,000 more car trips per day) if the CU South Campus plan is put into place.

Is this the place to put such a large facility that equals the CU main campus? Why is the city being asked to underwrite such an expensive expansion? Why would we have to absorb some of that cost via our

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already high water bills? Why would our Darley fire station be moved to CU South Campus, likely adding to the homeowners insurance policies of some of our citizens who will now live farther away from a fire station?

I ask you to consider your citizens and not just CU's need for expansion. As a university town we are already overflowing.

Sincerely,

Claudia Logerquist  
S 41st St, Boulder

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Charles Brock <charles.a.brock@comcast.net>  
**Sent:** Tuesday, April 20, 2021 9:46 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** NYT opinion piece on zoning, housing, and equity

**External Sender**

Dear Members of City Council:

With a median single-family home price of \$1.55 million, Boulder is rapidly becoming Aspenized--white and upper class, with an underclass of in-commuting service and retail workers. I urge you to read [this opinion piece in the NYT](#) regarding the link between zoning policy and economic, racial, and social equity, and prioritize this issue in future deliberations.

The inclusiveness and economic diversity of our community is rapidly disappearing. I'm deeply concerned. Please act quickly and decisively.

Thank you for your service in these difficult times.

Charles Brock  
Member of PRAB, speaking on my own behalf  
717 Evergreen Ave  
Boulder  
303-887-2523

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Margaret Izzie Clinton <ma7gclinton@gmail.com>  
**Sent:** Sunday, April 18, 2021 5:38 PM  
**To:** Council <council@bouldercolorado.gov>; Yates, Bob <YatesB@bouldercolorado.gov>  
**Cc:** judy.amabile.house@state.co.us  
**Subject:** Op Ed says things that aren't true, needs to be corrected

**External Sender**

Councilmember Yates,

I was disappointed in your op-ed and the things it inaccurately said. I hope you will correct it, in full, promptly.

Thank you,  
Margaret Clinton  
Boulder, CO

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**From:** Hilary Martin <winedunce@gmail.com>

**Sent:** Monday, April 19, 2021 2:58 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Oppose CU South Development

**External Sender**

Dear Boulder City Council,

I am writing as a constituent and South Boulder resident since 2002 to register my strongest opposition to the annexation of the CU South property for CU's development. This property was originally in the natural floodplain for South Boulder Creek and now hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land. It is possible to preserve this land and create a safer South Boulder by adopting the 500 year flood-plan which was presented to the Council.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a 3rd campus.

There are many options for CU development that would not destroy natural habitat. Additionally, due to COVID – it is highly likely that many commercial buildings will not return to their original purposes and may sit vacant (and closer to the University). It seems to make more sense to explore repurposing buildings for student housing.

I do not support spending taxpayer dollars to fill in and raise CU's low-lying land and its tennis courts – above the 500 year floodplain when City residents are only being protected against a 100 year flood (since that is what the City decided to approve).

It is unfathomable that the City would give the University the ability to move forward with development without seeing the full scope of the site plan.

The University has not been the best partner to the City or Boulder Residents this past year. They brought 30,000+ students back from around the country and world in August and exploded our COVID rates here in our

small town. Their students had a riotous party on the Hill not long ago where students tipped over a car and assaulted police and emergency vehicles. And, yet, we continue to bow to the University and their demands time and again. It is bad enough that they want to develop and pave over this beautiful land, but they expect Boulder taxpayers to foot the bill. And, on top of that, the University assures us that the development is for non-freshman housing. I can assure you that living next to sophomores, juniors and seniors doesn't seem to be all that compelling. Just ask the residents who live on the Hill.

Why would the City contemplate giving CU a free ride on its utility services by letting it refuse to give the city payment in lieu of taxes for water, sewer, and flood protection? Which means that the city ratepayers will be paying for CU's utilities--something everyone else has to pay for.

Please, do NOT move forward with annexation at this time!

Thank you for your time,  
Hilary Martin  
940 Miami Way

**CU South Annexation Application (LUR2019-00010)**

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**From:** Eva D Korblova <eva.korblova@colorado.edu>

**Sent:** Monday, March 22, 2021 12:05 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Opposition to CU South Boulder Campus

**External Sender**

Dear Council:

This is to oppose building CU South Boulder Campus.

All reasons why not to build it are expressed by Martin Acres MANA association, especially traffic impact and overall

impact to the Martin Acres. I see negative impact on character of our neighborhood.

There are also concerns about flood problem.

I don't like the idea to build CU South Boulder Campus.

Best regards

Eva Korblova  
homeowner

Eva Korblova  
90 South Lashley Ln.

**From:** james martin <jimmymartin@comcast.net>

**Sent:** Tuesday, April 20, 2021 5:43 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Opposition to CU South

External Sender

Hello and thanks for your service to the City. I am a south Boulder resident and CU Alumni. I am opposed to the annexation of the CU South property into the City. It is far too expensive, and I oppose developing this beautiful tract of land. I am fine with flood control measures.

I like the idea of swapping land in the reserve area north of town with CU South and would support that. With the planned transit improvements along 28th Street, shuttles could easily travel from the main CU Campus to the north campus. I would like to support CU and its future plans, just not at CU South.

Thank you.

James Martin  
240 32nd St.  
Boulder

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**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Friday, April 23, 2021 3:34 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>

**Cc:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; Slatter, Gerrit <SlatterG@bouldercolorado.gov>

**Subject:** Vision Zero - New non-signalized intersection on SH 93

**External Sender**

Hi Phil,

While Boulder is promoting its Vision Zero transportation program to reduce traffic accidents, your Briefing Book shows that a major point of transportation access to CU's gravel pit will be via a new intersection with no traffic signal on a curve of State Highway 93.

In the vicinity of the new intersection, SH 93 currently has 20,000 Average Daily Trips per day. During the winter, SH 93 is one of the most dangerous highways in the state. I live near South Broadway and continually hear the sirens of emergency vehicles travelling south to accidents on SH 93.

-----  
The following is from the COLORADO DEPARTMENT OF TRANSPORTATION - REGION 1 **FINAL CORRIDOR CONDITIONS REPORT - APRIL 2017** for a short 1.9 mile section of SH 93 in the vicinity of the proposed new intersection.

**CO 93 from CO 128 to CO 170**

This 1.9-mile segment along CO 93 had a total of 57 reported crashes during the five-year analysis period. Of these, there were 17 injury collisions and one fatal collision; 24 injured and one person killed overall. The significant crash types were consistent with other segments along CO 93 that were evaluated and include: rear end, wild animal, fixed object, wind, and snow/sleet/hail crashes. Approximately 25 percent of all mainline crashes occurred adverse weather conditions (rain, snow or fog), roughly 12 percent in windy conditions, and approximately 35 percent in adverse road conditions (wet, icy or snowy pavement).

-----  
The proposed non-signalized intersection is just another example of a lack of good judgement and common sense on this project; and probably another example of poor coordination with the Colorado Department of Transportation. Past examples of poor communication with CDOT include false information that CDOT had agreed to the use of its ROW along US 36, when it did not; and plans for Variant 2, which restricted the US 36 bridge opening over South Boulder Creek. You may recall the city engineering staff rated Variant 2 as the best solution, sold it to the WRAB and tried to sell it to the city council. When asked, the CDOT Director emphatically declared CDOT did not want anything to do with Variant 2.

Traffic signals are expensive.

The following information was obtained on the Internet:

*It costs the taxpayer **\$250,000 to \$500,000** to purchase and install a traffic signal. Electric bills and routine maintenance amount to about **\$8,000** a year.*

My question to you is who will pay for construction of the new intersection? If traffic signals are required, who will pay for the construction and maintenance of the traffic signals?

Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Mike Marsh <mymarsh1@juno.com>  
**Sent:** Monday, April 19, 2021 6:08 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Problems with two CU South research efforts

**External Sender**

Dear City Council,

It's regrettable that two major processes associated with CU South were done in a manner that doesn't comport with proper, legitimate modern research techniques:

1) The "Be Heard Boulder" so-called questionnaire was a "self-selected" survey. Meaning, it is not anything approaching a representative survey. It's simply an index of the small percentage of residents who were lucky enough to know of the existence of said survey.

Even worse, it asked all its questions in the abstract. For example, "Do you view access to amenities as a positive?" without providing the survey-taker with any information about a) CU South's costs to Boulder residents, b) how much it will increase their water bills, or...c) the 7,000 additional trips per day that CU South will generate.

As such, Be Heard Boulder respondents naturally responded positively to all the questions that were asked in the abstract.

It's like asking someone, "Would you like \$50?" Of course everyone will say yes...in the abstract.

But if the "price of the deal," i.e., the "rest of the story," is an obligation to wash the outsides of all the windows of a downtown Denver skyscraper, most people will decide that \$50 isn't worth risking their lives for, dangling from a rope on the side of a building.

And the questioner has an obligation to provide the person with all of the pertinent "rest of the story" information. This is a fairly obvious point, I feel awkward even having to point it out. But the Be Heard Boulder failed, on this most basic point.

I think if you asked any legitimate research company, they would tell you that it's far more valuable to ask residents about the "trade offs." For example, asking, "Given a situation in which a South Boulder development adds 7,000 additional trips per day, but provides access to amenities...what would be your cost/benefit analysis of the situation?"

Then, you'd get answers that are actually useful, that would provide real insight into how residents evaluate trade-offs.

2) The CU South traffic study was so obviously timed to get the lowest traffic count possible. The problems with that study are too numerous to list here.

Challenge: I ask the City, if you truly feel that the Be Heard Boulder questionnaire and the CU South traffic study are legitimate...

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...would you be willing to submit both, to peer review from established, recognized professional research companies without ties to CU or the City of Boulder?

I believe you would be taken aback at the number of major errors such a research company would find with these two bodies of work associated with CU South. If I had the money to hire such a company to review the City's work, I would. But I don't.

Mike Marsh

Boulder resident

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jeanette Zawacki <jaeod3@yahoo.com>

**Sent:** Wednesday, March 31, 2021 9:39 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Proposed CU South campus

**External Sender**

As residents of south Boulder we are extremely concerned about the proposed Cu Boulder south campus.

Is it really needed? We feel during these times it is premature to expand the CU campus until the ramifications of the pandemic are fully played out and understood for the education system. There are too many future unknowns for the education system to move forward on this expensive project.

The south CU campus will have a great impact on the environment and infrastructure of the community. Air quality from the increased vehicle traffic, traffic noise, and potential increase in rental properties will have a negative impact to the residential area south Boulder

Why are we shouldering the cost through our monthly water bill? Water rates have tripled in the past 15 years and will continue to rise without the south campus. Moving of the fire department will also increase our home owners insurance.

If this proposal goes thru we will adds to the reasons for considering relocating out side of Boulder.

Dave & Jeanette Zawacki

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Julie Abel <julieabelhunt@gmail.com>

**Sent:** Tuesday, March 30, 2021 9:58 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Proposed CU South Campus

**External Sender**

Hi Boulder City Council,

Adding my concerns to the list, as a South Boulder homeowner, regarding the expansion of housing for CU students and the impact to my already congested neighborhood.

1. This property is so large and adding housing takes away one of the only open space areas left in Boulder
2. 7K vehicle trips per day is unimaginable in terms of how it will impact traffic flow.
3. I understand that Boulder will be asked to pay at least 66M to support CU south - so many of us are already struggling with economic downturns
4. South Boulder will become less desirable to families to live in, taking down home owner values
5. Monthly water bills will go up
6. Building impacts Boulder ecosystems. CU already impacts our community environment significantly. Please don't build yet another campus in our beautiful community.

Thanks,

Julie Abel

303-882-8906

**From:** Cheryl Yarusso <yarussocheryl@gmail.com>

**Sent:** Wednesday, March 24, 2021 10:40 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Proposed CU south campus

**External Sender**

As a long time resident of South Boulder, owning our home in Table Mesa since 1963, I see nothing but confusion and congestion re the CU south campus.

I strongly urge you to deny the building of this campus.

Cheryl Yarusso,

303-499-6399

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Alison Rogers <alilaurel@aol.com>  
Sent: Wednesday, March 24, 2021 4:17 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Proposed CU south campus

External Sender

Please do not go through with this development at south campus. South Boulder has gone through enough and this would be even further devastating to our community. There are so many reasons as to why this would impact us greatly including increased traffic, higher bills for utilities, and demolition of a land that is sacred to many animals and the people who enjoy it as open space.

Alison Rogers

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

From: Eve Ilsen <shesings@indra.com>  
Sent: Thursday, April 22, 2021 4:23 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Proposed CU South Campus

External Sender

Dear City Council members,

Trigger-warning: this is what students and faculty of Hogwarts would call “a Howler”.

I am appalled and outraged at the ill-considered intended “development”/takeover/despoiling of this South Boulder area with such flagrant disrespect for and disregard of the wishes of the residents of this area—the ones who pay the taxes that support you and the university.

We are NOT looking forward to an invasion of our harmonious and rather quiet neighborhood by the well-documented bad behavior of your students.

We do NOT look forward to the noise, alcohol and utter disrespect of neighbors, neighborhoods, nature and property both public and private that seems to be the hallmark of CU students, even though it may—perhaps—represent a minority with an outsized footprint. They have a big and nasty effect.

Many of us would be likely to support the university in maintaining this area as Open Space for wildlife, hikers and dog-walkers, and those of your students and faculty studying urban ecology and city planning.

We residents of South Boulder will be keeping close track of who votes for what, and will take it into account when it comes time for us to vote on representatives we consider trustworthy to represent the interests of the wider collective.

Warily,  
Eve Ilsen  
Resident of South Boulder since 1996

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Josh Medley <medleyjosh@gmail.com>  
**Sent:** Tuesday, March 23, 2021 10:06 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** proposed cu South

**External Sender**

To Whom It May Concern,

Regarding the proposed CU South Campus - why wouldn't the costs for this be borne by the state, rather than by Boulder residents? The notice we received says that \$66-\$99M would be paid by the city. This seems insane - for many city residents do not benefit personally from this new campus, while it is of service to the State.

Warmly,

Josh Medley, MA, LPC  
New Leaf Psychotherapy  
[newleafpsychotherapycenter.com](http://newleafpsychotherapycenter.com)  
cell: 720 263 0358  
fax: 303 328 2215

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Shirley Jin <shirleyjin1430@gmail.com>  
**Sent:** Saturday, March 27, 2021 5:24 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Proposed South Boulder South Campus

**External Sender**

Please do not go forward with the 308 acre CU South Campus!!! It will greatly adversely affect the quality of life in South Boulder for all the families living here and it will be costly for the city.

Shirley Jin  
1430 Ithaca Drive

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Brookie <brookiegal@gmail.com>

**Sent:** Wednesday, April 21, 2021 7:08 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Subject:** Questions from Council meeting

**External Sender**

Good day Phil,

I “attended” last night’s Council meeting. A couple of things came up during the discussion on housing that I wondered about. I have a couple of questions and a comment.

**Questions:** 1) Will residents be subject to paid parking at all times and will they have no designated parking?

2) Will community members using the open space, eg bringing dogs for dog walking, be paying for parking?

**Comment:** It seems a bit disingenuous that CU professional Derek Silva has claimed (at several meetings) that CU can’t provide affordable housing because CU doesn’t qualify to be reimbursed, and it took a council member, (Mayor) Sam Weaver, to inform him that there are in fact ways they could do this. (It seems CU doesn’t do anything if they can’t get someone else to pay for it...)

There was a lengthy discussion regarding residential housing, and it seemed many had strong feelings about housing being a priority, with a particular desire for affordable housing. Questions about parking came up for me--parking for future residents and also for community members who would access open space.

I believe I heard Derek say all parking would be paid parking all the time. And it would be multi use (I think he used some different terms like “bundled”, that I didn’t understand). I want to be sure I understand correctly. It sounds like residents would be paying for parking at their homes. Also, they may not have any designated parking at their residence. Is this correct?

Also, could someone come home during the day (or any time) and not be able to park at their residence because all spaces are occupied by someone else? If so, this doesn’t seem very desirable for potential residents. This doesn’t seem very conducive to potential staff or faculty family residents. It also may not contribute well to “affordable” housing being affordable.

It additionally occurred to me that when community access is being discussed, if all parking is paid parking all the time, this would mean that a future dog park, for example, would be a cost-for-use resource (most people use cars to transport their dogs to parks). If I misunderstood any of this, please clarify for me.

It would be important for the community to understand that future access may have a cost, if that is the case. This may affect thinking about community benefits. And, while I realize all of this is in the future, since we are talking about the future now, I’m just curious...

Thank you.

Sincerely,  
Brookie Gallagher

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Stanek, Cate <StanekC@bouldercolorado.gov> **On Behalf Of** Taddeucci, Joe  
**Sent:** Tuesday, June 1, 2021 12:40 PM  
**To:** Debbie Brinley <debbiebrinley.boulder@gmail.com>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Re: Annexation of area in Boulder South by CU

Hello Debbie,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

We recognize there are a wide range of viewpoints regarding the potential CU South annexation. There are many complex issues and choices. As staff works to craft the best possible draft annexation terms for consideration by City Council, it is both helpful and important for staff and decision-makers to hear your feedback. Thank you for taking the time to share your views.

Regarding the concerns you raised about traffic, we can assure that traffic is a key topic being carefully considered. We are receiving a significant number of emails about this project, which unfortunately prevents us from responding point-by-point in each response. We will include your email as part of the public comment record for the project and welcome your continued participation in the process. To that end, here are some resources that may be useful:

- A comment form can be [found here](#).
- Current information about the draft annexation terms can be found in the [Annexation Briefing Book](#) and within FAQs on the [project webpage](#).
- Current information about the South Boulder Creek flood mitigation project can be found on the [flood project webpage](#) and within the [flood project FAQs](#).
- You may sign up for email updates [here](#) (under "Contact & Newsletter Sign-Up").
- The CU South Process Subcommittee, chaired by two City Council members, meets monthly – details are available on the project page.

We encourage you to stay involved.

Thank you,  
Joe Taddeucci

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**From:** Debbie Brinley <[debbiebrinley.boulder@gmail.com](mailto:debbiebrinley.boulder@gmail.com)>  
**Sent:** Tuesday, May 25, 2021 9:36 PM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** Annexation of area in Boulder South by CU

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

External Sender

This needs to be decided by voters. We live here. CU is just another business. It is a good one but shouldn't be above the rules and not subject to the will of the people.

Let the residents decide. CU is cow towing to rich out of state students and their families.

Bummer.

Let us protect our open space, endangered species and peace.

Biggest question I have is how will traffic be handled? That area is one of the worse for ingress and egress. What is the plan there?

Best,

Debbie Brinley

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** George Weber <gw@gwenvironmental.com>  
**Sent:** Wednesday, April 21, 2021 4:40 PM  
**To:** Ben Binder <bbinder@ddginc.com>; tdadmin@bouldercounty.org  
**Cc:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** Re: CU South - new uncontrolled SH 93 intersection on curve

**External Sender**

And what about ice and snow on the hill slope between the South Boulder Creek floodplain and the mesa where it flattens out?

I assume that this will be a grid locked disaster like the rise between Boulder and Superior on 36, and the one on S. Boulder Rd as one enters and leaves Louisville. In the latter case, a stop lighted intersection is near, but not past the bottom. A brilliant location with especially the first inch of snow!

George Weber  
George Weber, Inc. Environmental  
[www.gwenvironmental.com](http://www.gwenvironmental.com)  
303-494-8572 - [gw@gwenvironmental.com](mailto:gw@gwenvironmental.com)  
1275 Chambers Drive, Boulder, CO 80305

**From:** [Ben Binder](#)  
**Sent:** Wednesday, April 21, 2021 1:58 PM  
**To:** [tdadmin@bouldercounty.org](mailto:tdadmin@bouldercounty.org)  
**Cc:** [council@bouldercolorado.gov](mailto:council@bouldercolorado.gov) ; [boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov) ; [Phil Kleisler](#)  
**Subject:** CU South - new uncontrolled SH 93 intersection on curve

Dear Boulder County Transportation,

CU is planning to develop CU South, the abandoned Flatirons gravel pit south of Table Mesa Drive between SH 93 and US 36.

CU says the project will generate 7,000 vehicle trips per day; which is probably a low estimate for a project with 1,150 dwelling units, 500,000 SF of office, academic and research facilities, 30 acres of playing fields, open space trails, and an athletic facility which will seat 3,000 spectators.

At the April 20, 2021 Boulder city council meeting, CU's traffic consultant announced that one of the two major access points to the site will be a new intersection on a curve on State Highway 93.

In the winter with blowing snow, SH 93 is one of the most dangerous highways in the state, but the traffic consultant stated the new intersection will be uncontrolled with no traffic lights. I can just imagine what it would take to make a left turn out of the site across two lanes of 45 MPH traffic during rush hours. Plain common sense leads me to believe that CU's plans are insane and will create a dangerous situation which will result in additional accidents on an already dangerous road.

**CU South Annexation Application (LUR2019-00010)**  
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The city will probably state the plans are only preliminary; But the city is entering into an annexation agreement which allocates development costs. CU's strategy is probably to develop the site without traffic lights and have the city pick up the cost when it is later determined traffic signals are needed.

1 - Has the county been consulted on the advisability of a new uncontrolled intersection on SH 93?

2 - Could you please provide me with a rough estimate of the cost of traffic signals for a 4 lane highway with two additional left turn lanes.

Thanks,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600



**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Stanek, Cate <StanekC@bouldercolorado.gov>

**Sent:** Thursday, April 22, 2021 11:13 AM

**To:** rmheg@aol.com

**Cc:** Council <council@bouldercolorado.gov>

**Subject:** Re: CU south cost new fire station

Hello Rosemary,

Thank you for writing to City Council about CU South. While you may hear directly from council members, the following information may also be helpful. I'd like to offer a few clarifications to your email as follows.

**Q: Will the Table Mesa – Darley Ave. Fire station to be moved to CU South?**

Not necessarily. The addition of a new fire station on the CU South campus does not commit Boulder to closing Station 4 (Table Mesa – Darley Ave.). More analysis is needed on public safety needs to know what coverage is needed. Regardless of the final decision, the city's objective would be to maximize all-hazards coverage for all community members. It is too soon to understand what response times will look like under a CU South scenario and any projections on impact are premature. Station 4, along with Station 2 at Baseline and Broadway, are both in serious need of upgrades and relocation because of service challenges and existing property constraints. To prepare location recommendations, staff models current and expected demand, types of risk, and response time as the main factors.

In your previous email you also asked about the cost, and we would like to clarify:

**Q: Are the City of Boulder and its residents being asked to pay \$66 to \$99 million for CU South?**

**A:** No. City stormwater and flood fees will be used to pay for [South Boulder Creek Flood Mitigation](#) – not a CU South Campus - at a total estimated project cost of \$66M. The \$99M figure is inaccurate and related to a previous project that is no longer being considered as of June 2020. Flood mitigation is aimed at preserving life safety in a currently at-risk area. The university currently owns the land needed to build the flood mitigation project, hence the related but separate annexation. Further information on costs is described in the flood project FAQ located [here](#). Annexation details are discussed further [here](#).

Regarding the concerns you raised about traffic, we can assure that traffic is a key topic being carefully considered. We are receiving a significant number of emails about this project, which unfortunately prevents us from responding point-by-point in each response. We recognize there are a wide range of viewpoints regarding the potential CU South annexation. There are many complex issues and choices. As staff works to craft the best possible draft annexation terms for consideration by City Council, it is both helpful and important for staff and decision-makers to hear your feedback. Thank you for taking the time to share your views.

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- You may sign up for email updates [here](#) (under "Contact & Newsletter Sign-Up").
- The CU South Process Subcommittee, chaired by two City Council members, meets monthly – details are available on the project page.

We encourage you to stay involved.

Thanks,

Joe Taddeucci

**From:** [rmheg@aol.com](mailto:rmheg@aol.com) <[rmheg@aol.com](mailto:rmheg@aol.com)>

**Sent:** Tuesday, April 20, 2021 10:28 PM

**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** CU south cost new fire station

**External Sender**

Again thinking about traffic... Is there going to have to be traffic lights added to deal with increased traffic, flow onto ramp onto HW 36.... who pays for that?

What is cost of new fire station and adding those personnel to the city?

Does not matter what fire station looks like... the location is very important. So you are saying that fire station on South Broadway will stay even if new fire station is built at CU south?

Rosemary

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Michael Tuffly <mtuffly@eriaconsultants.com>

**Sent:** Sunday, April 11, 2021 10:40 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** RE: CU South Project and the Traffic Report produce by Fox Tuttle Transportation Group, LLC

**External Sender**

4/11/2021

Dear City of Boulder Council Members,

I just became aware of the April 9<sup>th</sup> and April 12<sup>th</sup> 2021 meeting regarding the CU South Annexation project. Note, these events were posted on April 8<sup>th</sup> 2021 (<https://bulletin.colorado.edu/node/7134>). It is clear that the City of Boulder is not following the timelines for public input as outline in the 1970 National Environmental Policy Act (NEPA). Moreover, it is clearly evident that the Fox Tuttle Transportation Group (FTTG) is leading the way in the traffic study for the project.

The City of Boulder and the University of Colorado are setting themselves up for a lengthy litigation session. First, under the NEPA there is a 90-day public comment period on projects that impact the environment and human health. Second, I have clearly illustrated in my previously published traffic analysis that the FTTG is grossly incompetent when conducting statistical traffic studies.

In closing, I am requesting that the City of Boulder and the University of Colorado follow the rules and regulations clearly presented in the NEPA.

Dr. Michael Tuffly

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jenny Platt <jennyhavlickplatt@comcast.net>  
**Sent:** Monday, April 5, 2021 6:54 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Re: Do not approve development of CU South - PLEASE!

**External Sender**

Hello Boulder City Council:

Thank you for reading and addressing my letter regarding the expansion of CU South. I realize that the parcel of land that I referenced in my email yesterday was my error.

East Research Campus is occupied aside from the land that is also in the Bear Creek, Skunk Creek, and Boulder Creek floodplain. Would it be a viable solution to bring the fill dirt that is proposed at CU South to this location?

The University could freeze the review process for the two proposed hotels sites, on the hill, land owned by the University: Grand View Terrace, at Broadway and University as well as the lot across from *The Sink*, at Pennsylvania and Broadway. This land could be used as an alternative to the CU South development. It is already allocated for sewer and water and is not in any floodplain.

If these sites could be utilized in an efficient manner along with the vacant Millennium Harvest House Hotel, (which the state could acquire), it seems that the University could become more unified with their existing campus and would not need the infrastructure of moving earth fill to mitigate 129 acres of land in a flood zone.

The University does not pay property tax. Is it cost effective to add the development of CU South to the city? I hope that the council will consider the sprawl that this project would have which is against the Boulder Valley Comprehensive Plan (BVCP).

Thank you again for your time and consideration of these ideas.

Jenny Havlick Platt

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Lisa Fairman <lisacfairman@gmail.com>

Sent: Friday, April 9, 2021 9:02 AM

To: Riggin, Bradley <RigginB@bouldercolorado.gov>

Cc: Council <council@bouldercolorado.gov>

Subject: Re: Email is not for emergencies

Mr. Riggin,

I work at Pearl and 15th St. Yesterday a bomb squad was sent out due to a threat 2 blocks from us. There was no notice sent to our business, my phone, or any information given by the police. I received nothing and made the decision to evacuate my staff only after a customer called to let me know what was happening. This echoed what happened two weeks ago when there was an active shooter three blocks from my house and I only got an email and no text.

I understand that Boulder has had some extraordinarily horrible happenings lately. The system must be updated to help keep people informed and save lives. How can we be alerted in the quickest way possible going forward?

Thank you,  
Lisa Fairman

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Timothy Thomas <thomast@colorado.edu>

**Sent:** Thursday, April 1, 2021 9:39 AM

**To:** Bob Carmichael <bc@bobcarmichael.com>; Bob Carmichael <bcarmic@earthlink.net>; Corina <gaviotita11@yahoo.es>; George Gerstle <gerstleg@gmail.com>; Lisa Spalding <yanospalding@gmail.com>; Peter Mayer <peter.mayer@waterdm.com>; allyn feinberg home\_1\_06 <feinberga@comcast.net>; dick harris <rharris@indra.com>; john spitzer <jspitzer011@comcast.net>; ray bridge <rbridge@earthnet.net>; lisamorzel <lisamorzel@gmail.com>; Council <council@bouldercolorado.gov>; Deborah Swearingen <dswearingen@prairiemountainmedia.com>; Angela Evans <aevans@boulderweekly.com>; CUBoardofRegents@cu.edu

**Subject:** re: I support CU South housing and a request for video

**External Sender**

Good Morning Regent Board Members and others,

I am a CU alum who has lived in Boulder for over 28 years. I am also a Black man. I am actively working to convince the City of Boulder (COB) to end its Apartheid-like policies (see Massey and Denton's American Apartheid 1993 and Douglas Massey's 2020 paper "Still the Linchpin: Segregation and Stratification in the USA") which not only restrict the building of housing but also increase the prices of existing housing by purchasing land every year and leaving it vacant (COB Open Space Program). The COB Open Space program now owns or manages over 45,000 acres of land. This is over 70 square miles, an area over twice the size of Manhattan

Here is an animation from a COB website that illustrates the extent of their Land Acquisition Program up to 2005.

[osmp-4-1-201306261103.gif \(612×792\) \(bouldercolorado.gov\)](#)

I love nature and animals. But I also love Black people (and all kinds of people) and their lives matter.

A draft of the COB's recently enacted Racial Equity Plan states that "some of the ways that city government has strengthened and increased racial inequity include...Buying up the open space around Boulder in an effort to preserve nature". The document goes on to say that this program "creates restricted movement in and out of Boulder and drives up cost of the housing due to limited residential parcels". This program and many other COB policies adversely affect the ability of tens of thousands of CU's students, faculty and staff to find affordable housing. Doesn't CU want to foster a diverse educational community?

If you believe that Black Lives truly Matter, I urge you to continue to fight to build housing on the CU South property and enact other innovative solutions to increase the supply of affordable housing for students, faculty and staff in Boulder. Do not let City Council stop you. As a state entity, you have the power to follow through on your plans without Council permission. If they threaten to withhold water and sewer service, sue them.

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Many of us in this town, myself and groups like *Open Boulder* and *Bedrooms are for People* included, are fighting to change our City's Apartheid system.

I quote from Massey and Denton:

*"As in South Africa, residential segregation in the United States provides a firm basis for a broader system of racial injustice. The geographic isolation of Africans within a narrowly circumscribed portion of the urban environment – whether African townships or American ghettos – forces blacks to live where poverty is endemic, infrastructure is inadequate, education is lacking, families are fragmented, and crime and violence are rampant. Moreover, segregation confines these unpleasant by-products of racial oppression to an isolated portion of the urban geography far removed from the experiences of most whites. Resting on a foundation of segregation, apartheid not only denies blacks their rights as citizens but forces them to bear the social costs of their own victimization."*

Massey and Denton page 15

*"Until policymakers, social scientists and private citizens recognize the crucial role of America's own apartheid in perpetuating urban poverty and racial injustice, the United States will remain a deeply divided and very troubled society"*

Massey and Denton page 16

According to Google Scholar, this text has been quoted 12,932 times and Massey himself has been quoted almost 100,000 times. Massey is a highly regarded Princeton scholar. Another quote from Massey:

"Pettigrew (1979) identified black residential segregation as the 'structural linchpin of modern race relations' arguing that the spacial separation of African-Americans from whites was the core societal feature by which racial stratification was created and maintained in the USA...Segregation thus remains an important nexus in America's system of socioeconomic stratification".

Massey 2020

I was assigned to read American Apartheid as a CU student. I would also recommend Richard Rothstein's recent book, The Color of Law: A Forgotten History of How Our Government Segregated America.

I was excited when I read the draft of the city's Racial Equity Plan, especially so when I read the passage I quoted at the beginning of this email. But words without actions to back them up are just words. Black folks are sick of just hearing words. We want action and accountability, ladies and gentlemen.

A request please: As part of our fight to hold City Council accountable to their words we need access to the video of the March 9, 2021 (on or about) annual zoom meeting between Boulder City Council and the CU Regent. I assume that CU South was discussed at this meeting but in

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

contradiction to the spirit of the state's open meeting laws, the COB did not record video and post it on its website. I haven't even seen any minutes of the meeting.

I have been assured in an email by Mayor Weaver "that if CU staff did make a meeting recording of our gathering yesterday, that city staff will make that available as soon as they receive a link or the electronic record of the meeting from CU." They have yet to do so.

**A Direct question and request please and thank you:**

Did the Board of Regent staff record the Zoom meeting with the City Council? If so, please provide a link of this video to city staff (as well as myself please) so that city staff may post it to the COB website in accordance with state law for the public to review. If they did not record the meeting (that would be unfortunate), please provide myself and COB with minutes of the meeting.

Thank you for your consideration. More emails to come between now and the COB City Council elections in November.

Be well. Stay safe. Go Buffs!

Respectfully submitted,

Tim Thomas

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Kathy Hockett - Kramer <kathyhockettkramer@gmail.com>

**Sent:** Thursday, April 1, 2021 10:47 AM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; Kathy Kramer <southcreek7hoa@gmail.com>

**Subject:** Re: Response to webinar on CU South Development from South Creek Seven HOA

Phil and Jean,

It has been almost a month since we last heard a response concerning our meeting with you on CU South building problems. Not even ONE city council member has responded to our concerns and this is troubling. What CU proposes will destroy the beauty of the area (in addition to the problems discussed at the meeting) and is at odds with the promise of open space that tax payers pay for and that which has been a promise to the citizens of Boulder (and why many are OK with paying taxes for open space.)

Some additional information has come to our attention which adds to our deep concerns for how this development will have an affect on our community. That information is attached. We request a response from both city countil and the planning department on these new issues.

Thank you for your time,

Kathy Kramer

))

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Brookie <brookiegal@gmail.com>

**Sent:** Tuesday, April 20, 2021 1:18 PM

**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Subject:** Separating Flood mitigation from CU's Future Development Plans

**External Sender**

Dear Council Members,

Thank you for your serious consideration of a very complicated issue.

On tonight's Council meeting Agenda, Item 6A - CU South Discussion of Key Issues, on the bottom of Page 3, it states:

"significant flooding events in the area have prompted the city to expeditiously pursue a flood mitigation project that requires a portion of the CU South site; that portion of the property only becomes available to the city with annexation of the entire CU South site."

The portion of the property needed for flood mitigation is only being coupled with the rest of the property because CU is insisting on this in the negotiations with the city. It is NOT a given that the two portions must be annexed together. The two COULD be separated. Just as CU negotiators have taken the position that they won't separate the parcels--to help meet an imminent community need for flood protection--negotiators for the city could insist that the two parcels and two negotiations be separated. I urge you to advise that they be separated. I urge you to demand that city negotiators rigorously negotiate for the benefit of the community and not accept CU's negotiating stances as givens.

While it is to CU's financial benefit to take advantage of the situation and use the community's urgent need for flood mitigation to secure annexation of property that they will develop in the future, it is NOT to the benefit of the city. In fact, it will come at a great cost. The city should NOT capitulate. It is the city's responsibility to protect and advocate for the benefit of the community not to concede to CU's demands.

I am curious as to whether the use of eminent domain has been considered. If not, I suggest this approach be explored. CU refuses to actually cooperate to help protect the community from flood danger without demanding that they profit enormously from this so-called cooperation while the city must take on enormous unnecessary costs. The city must work harder to advocate for the benefit of its residents.

Again, thank you for your serious consideration.

Sincerely,

Brookie Gallagher

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jennifer Bohlin <mauigirlis48@gmail.com>  
**Sent:** Tuesday, July 6, 2021 9:36 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Annexation

**External Sender**

I am writing to urge you to vote for the annexation of the CU South Boulder property. This is purely and simply a health and safety issue for South Boulder residents.

Thank you,

Jennifer Bohlin  
4900 Thunderbird Dr. #710  
Boulder 80303

720-836-2371

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kylen Solvik <kysolvik@gmail.com>  
**Sent:** Tuesday, April 20, 2021 8:33 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Support for CU South annexation

**External Sender**

Dear City Council,

I am a graduate student and teaching assistant at CU Boulder and I support the annexation fo CU South because it would enable CU to build up to 1,100 housing units for students, faculty, and staff. Finding affordable housing is an enormous challenge for many of my fellow CU students and employees. Additionally, the extra housing units would help free up more housing throughout Boulder and be a small step towards addressing the housing crisis in the city.

Because the annexation would benefit the entire city through flood mitigation and housing, I ask you to support the annexation agreement.

Thank you,  
Kylen Solvik

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Katie Emaus <katieemaus@gmail.com>  
Sent: Wednesday, April 14, 2021 4:02 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Table Mesa Shopping Center

External Sender

To Whom it may Concern:

In the wake of the King Soopers shooting, their parking lot has remained blocked off. In an effort to support the businesses in this shopping center, I'd like to see the more eastern entrance (from Table Mesa) to the shopping center reopened. As long as it remains blocked off, it is very difficult to access shops in the area who may already be hurting due to proximity to the tragedy. The King Soopers parking lot could remain gated while opening the through way. Thank you for this consideration.

Kindly,

Katie Emaus  
S. Boulder Resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** pat carden <ptc39@comcast.net>  
**Sent:** Monday, April 19, 2021 7:00 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Thank you and CU South Annexation

**External Sender**

City Council letter 4.19.21

Subject: CU South Annexation agenda item 4-20-21

Message: Huge thanks and, Request for moving issue forward 4-20-21

Dear Mayor Weaver, Pro Tem Mayor Junie Joseph, and all other Council members,

I extend sincere thanks for the hard work on this issue since your June 2020 unanimous approval of a South Boulder Creek flood mitigation design and subsequent request for an engineering report to be heard tomorrow evening. The monthly Process Committee attended by Mayor Weaver, Rachel Friend and Bob Yates along with the outstanding participation and contribution of City engineers have arduously and comprehensively deliberated with CU to come to an Annexation agreement paving the way for moving this project into the next phase which, I am understanding, is at least permitting. And all during the challenges of COVID response, and most recently the King Soopers tragedy. I thank you for your dedication, and all efforts toward resolving this unrelenting yet well studied threat to the health and safety of South Boulder residents.

I write, therefore, to request that all of this hard work, millions of dollars, years of study, provision of endless opportunities for public engagement, and now even safe guards within current Annexation Briefing Book result in your decision to move this issue forward without further delay!

Most sincerely,

Pat Carden

350 Ponca Place, Boulder, 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Pomerance, Stephen <stevepom335@comcast.net>  
**Sent:** Monday, April 19, 2021 10:28 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** the CU South deal, and some work that needs to be done

**External Sender**

To the Council:

RE the CU South annexation terms and deal structure...

Right of First Refusal:

The right of first refusal issue is a big one. The city (meaning us citizens) will be paying for or taking the actions that create the value on the property. And then, under the proposed terms, we will be paying CU for the inflated value of the property. A nice double whammy, but totally unacceptable!

An obvious and much fairer outcome, though of course not preferred by CU, would be for CU to pay us back for every dime we invest in the property if they try to sell it. Basically, it should be as if CU was never there — the city would have condemned the property and got the relevant flood control areas for a relatively tiny amount, and that would have been that. And if someone wanted to develop it, they would have paid full freight for all improvements, etc., plus impact fees, transportation mitigation, etc.

And Even Better Deal:

An even a better way to deal with CU wanting to sell it would be as follows:

The city says no development is allowed if CU sells or leases or otherwise transfers any rights to a 3rd party before it is developed.

And CU cannot rent, lease, or transfer, any rights to use if it is developed.

And the City will not invest one dime in expanding the developable land (e.g. filling the gravel pit) until CU is ready to develop the site and use it itself, and signs in blood to that effect.

Then if CU wants to sell rather than develop for its own use, the city gives CU a decent return on its initial investment as follows:

CU paid \$11m in cash for the property in 1996. 25 years at 5% compounded is about \$37m. At 3%, it would be around \$22m. So somewhere in between those two numbers is what the City pays CU - - CU is made whole and the City saves a giant bundle...AND gets the land!!!

The Improvements Money:

I give it a very high probability that the city will be sued by its citizens under TABOR, since (1) much of the money is being spent to create value and not for flood protection, (2) the source of the flood waters are not from city residents' properties, (3) etc. So it should be considered a tax and voted on.

The legal foundation for the flood control fees was always a bit shaky, and these fees only have survived because the fees were pretty low and were spent for real protection, and not to subsidize CU's endowment or profit.

**CU South Annexation Application (LUR2019-00010)**  
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If the citizens win this case, then this whole process goes in the toilet, so to speak. So deal with this up front — and get some independent legal advice that you can trust.

Doing the Alternatives Analysis:

One thing that you should insist on — the City should immediately begin the process of analyzing the costs, etc. of serving the most accessible 100-150 acres of the city owned portion of the Planning Reserve with utilities.

This is a relatively trivial job, since all the city owned land is along or near the already existing N 26th Street or just north of it, and what is proposed to be built is known in size at least roughly (per CU's own statements).

If the council actually told the CM to tell the planning and utilities staff to get it done in a month, they could easily do it. You have somewhere upwards of \$100M riding on this, and paying a few thousand of overtime (if necessary) seems like a good investment.

You do not need the work done for the whole planning reserve, which the staff keeps claiming would take years, just a fraction of the fraction that is the City owned land near N 26th St.

And CU can handle its own transportation needs. All the City would need to do is install a traffic light at N 26th and US36, and impose reasonable requirements for transit to and from the main campus.

Then they city would have something to bargain with.

Scoping the Condemnation Potential:

The other thing that should get done is an independent review of the City's condemnation powers for this property.

As I have said before, the case law that I have reviewed supports one governmental entity condemning land of another similarly independent governmental entity IF the first entity has an immediate life/safety need AND the second entity has no immediate need for the land.

The council has the power under the charter to hire an independent legal team to do this, and for obvious reasons, if you want good, independent, accurate, complete advice, that would be the move of choice. A competent land use attorney could get this review done in a few weeks, if paid to do that. There is no lack of people to help sort this out.

Doing the proper analysis of the Planning Reserve city owned land, and the legal/condemnation situation, would give the City some real leverage, which right now it apparently doesn't have. Of course all this should have been done years ago, but better now than never.

Steve Pomerance

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Debra Biasca <dbiasca@gmail.com>  
**Sent:** Monday, April 19, 2021 6:31 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Traffic Planning around CU-South Annexation Petition

**External Sender**

Honorable Council Members,

I urge you to seriously question several aspects of the Fox, Tuttle traffic engineering report submitted in support of CU's annexation petition concerning the property at CU-South.

This is a **critical** step in light of the 7,000 daily additional cars (by CU's own calculations!) that would be routed through South Boulder from CU-South to the main campus if CU's current plans are implemented.

This is because the current traffic study by Fox, Tuttle traffic engineers suffers from serious methodological flaws that whitewash the harmful traffic impacts sure to flow from the development. Planning Department's own lengthy criticism of the report underscores these flaws.

Several years ago, citizens responded to a faulty report from the same firm concerning the "Baseline Zero" project which proposed a 4-story hotel-and-office-building complex **entirely** within the Martin Acres neighborhood, with no main street access and wiping out appropriately scaled, successful neighborhood retail. After the public input of those citizens pointed out serious gaps in that report, the project was withdrawn. **And** this same traffic engineering firm performed the study for the Folsom Street Right-Sizing fiasco.

The traffic impacts of the annexation proposal – doubling the size of CU's Main Campus -- are even more impactful.

Specifically, I'll address here the lack of a legitimate **baseline traffic count** that would become the foundation for **all** traffic planning related to development at CU-South.

- Nov. 13, 2020 was the last day of in-person learning before all CU classes went remote in the face of spiraling COVID cases.
- Nov. 16 was the last day of in-person learning for BVSD before **their** classes went remote
- On Nov. 17 – the traffic engineers hired by CU **begin** their **three-day** traffic study.

The broader context makes these facts even more salient:

CU South Annexation Application (LUR2019-00010)

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- This significant elimination of people from our roadways was **on top** of the already-reduced traffic due to COVID-19 beginning in March, 2020.
- From publicly available information, we tabulated the number of students, faculty and staff for CU and SoBo K-12 schools. 46,000 individuals are removed from the South Boulder roadways...
- ... **AND THEN CU begins** its **3-day** traffic study.

The fallout from this error would be serious indeed.

- This cannot possibly be considered a legitimate baseline traffic count for a development this size.
- And **all future traffic forecasting** based on this faulty count would be off by orders of magnitude.
- I also pose the question of whether three (3) days of data are anywhere **near** sufficient for this project] but note that one (1) day of data, badly timed (when students were not on campus, mid-summer) for Folsom Street was a serious mistake.

It's time, now, for the City to **fund** traffic analyses for which **the City** selects qualified, neutral engineers who **are financially independent of the developer** – definitely not Fox, Tuttle. And, in the meantime, Council should require comprehensive revision of the report before taking it into account for the CU-South annexation.

Sincerely,  
Debra Biasca, JD, PhD,  
Retired Faculty, University of Colorado

--

Debra Biasca,  
*Human Being*  
Dum inter homines sumus, colamus humanitatem.

**As long as we are among humans, let us cultivate humanity.**

Seneca

\*

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Scientific and Academic Writing, Editing, & Coaching . Translation of Archival Yiddish Documents

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Paul Dopp <pauldopp@gmail.com>  
**Sent:** Monday, April 19, 2021 2:36 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:**

**External Sender**

Dear City Council.

I wanted to write to you about your upcoming decision regarding CU South.

I have lived in Boulder for over 25 years and I currently live in South Boulder off of Table Mesa. CU South is a very important part of the trail system and 'Open Space' in South Boulder. We bike, walk the dogs, ski and run at CU South at least 3-5 times per week.

The entire community of South Boulder has been really upset for some time about the prospect of development on this land. First of all, it is a very beautiful and unique piece of land with wetlands, ponds and lots of migratory birds and other wildlife. You can't find anything similar anywhere in Boulder. Secondly, the traffic impact to our neighborhood will be overwhelming. I have heard that the traffic study that was done was during COVID so I don't believe that truly represents the traffic impacts to our community. Finally, This area is in a flood plain. It was never meant to be developed and it is my understanding that Boulder never wanted to develop this land but is being forced to by CU. I don't believe that is fair or appropriate and certainly does not warrant spending \$25M for floodplain mitigation expenses. I would like to ask the city to hold off on any decisions until a proper traffic study is done and then allow for community feedback in a non pandemic time.

I have heard that the city owns the land up in North Boulder Area 3 and that is being saved for future development. Has there been any studies on the viability of that property as a replacement for CU South? I don't know if that is a viable option but it certainly won't have the floodplain issues as well as the impact on wetlands and birds and wildlife. I also think that this issue could be solved with further density and development on CU Campus. Has that been discussed with CU?

Please let me know if you would like to discuss further.

Thank you so much for your time and consideration.

Best Regards,

Paul Dopp  
303-641-1126

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Pomerance, Stephen <stevepom335@comcast.net>  
Sent: Monday, April 12, 2021 5:57 PM  
To: Weaver, Sam <WeaverS@bouldercolorado.gov>  
Cc: Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>  
Subject: urban service study for the Planning Reserve

External Sender

Sam,

Re your final comment at the CU listening session about the urban service study for the Planning Reserve and that it will take a few years to get done...

That is NOT an accurate time line relative to the possibility of doing a land trade with CU.

The relevant area to study is in the land owned by the City near North 26th Street.  
That land that the City owns is a VERY MUCH smaller area than the whole Planning Reserve.  
And only a portion of that would be traded, so the area that would need to be studied would be a fraction of what the City owns.

The analysis is made easier yet because the location, kind, and amount of development could be restricted up front, once CU decides what it would want to do, and CU and the City agreed as to what chunk of land would actually be traded. So it wouldn't require alternatives analysis, e.g. for traffic. Basically water and sewer, and fire response, and a traffic light where 26th intersects US 36.

So...from my perspective, this argument for the need for such an extended timeline is bogus.

As to the time to get County approval for the BVCP stuff, I am virtually certain that if the County knew that CU would give up development plans for CU South and that land could be preserved, they would move heaven and earth to get their work done for the study in lightning speed.

BTW, if you remember, I pointed all this out when the staff first said this study would take years, and of course, received no reply. Pretty standard for the current "listening" process — speaking into the void.

Steve Pomerance

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Laura Tyler <laura@amstec.com>  
**Sent:** Tuesday, April 20, 2021 2:20 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Yes and Thank You: CU South and Public Engagement

**External Sender**

Dear Council,

Thank you for the many opportunities to weigh in on the annexation of CU South for flood mitigation.

It's encouraging to see neighborhood concerns about light, noise and setbacks addressed in the updated Briefing Book.

CU's willingness to address these issues along with contingencies like de-annexation has sent a strong signal that the ongoing negotiations are responsive and productive.

Please know this project has my wholehearted support. Yes to annexing CU South for flood mitigation, workforce housing, habitat restoration, recreation and Open Space.

Thank you,

Laura

Laura Tyler  
South Boulder Creek Action Group  
[Laura@sbcreekactiongroup.org](mailto:Laura@sbcreekactiongroup.org)  
[www.SouthBoulderCreekActionGroup.com](http://www.SouthBoulderCreekActionGroup.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Mary Eberle <m.eberle@wordrite.com>  
**Sent:** Monday, April 19, 2021 8:56 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** We need to own the CU South property

**External Sender**

Dear Mayor Weaver and Members of Boulder City Council,

To be brief: Please think outside the box when it comes to CU South. If we owned the property, would we think a wall along US 36 would be the best solution for protecting Frasier Meadows?

Many in Boulder would like the property to be owned by the City, possibly with co-owners such as Boulder County. Another possible co-owner would be Colorado Parks & Wildlife. CU's budget is in shambles, so now would be a good time to make an offer.

The thought of spending Boulder taxpayers' money to backfill a hole for CU's benefit seems ridiculous, but has become part of the negotiations. How can that be?

Times for CU are changing. Student housing is going to expand. Housing for junior faculty and staff is going to expand. Open space--which CU South currently is in fact if not in law--is not needed for these purposes.

Please slow the annexation agreement way down, to a crawl. Or even put it in "park." Let's get a better solution that we have more control of.

Thank you for all you do to make Boulder a better place.

Mary C. Eberle  
1520 Cress Court  
Boulder, CO 80304  
303 442-2164

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Margaret LeCompte <margaret.lecompte@gmail.com>  
**Sent:** Tuesday, July 13, 2021 3:31 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Unacceptable Annexation Process Cuts the Public Out

**External Sender**

Dear Members of City Council;

Save South Boulder members were informed last week that the draft CU South Annexation Agreement would be released and discussed Friday, July 9, at a "community briefing." That meeting was cancelled, moved to the 14<sup>th</sup>, and combined with an already scheduled "listening session." The draft Plan was supposed to be discussed by the Transportation Advisory Board on Monday night, July 12. However, the TAB only received an email link to the 80-page draft just an hour or so before their meeting began. That also is when Save South Boulder finally learned that the draft had been released.

Disclosing such weighty matters in such a hasty and chaotic manner is completely unacceptable. Equally unacceptable is the fact that the release to the community, and to Boards and Commissions whose task is to provide recommendations to City Council on the Draft's content and disposal, occurred on a just-released brand-new website, complete with glitches. Not only are the relevant Boards unable to read and process such a long and complex document virtually overnight, but these actions clearly assure that nobody in the public sphere, whether a duly appointed advisory Board or any members of the public, can provide meaningful contributions to the City Council's actions.

Furthermore, combining the original 60-minute briefing that was cancelled into a 90-minute briefing PLUS a "listening session" for the public is downright insulting. The staff briefing alone on such an expensive and complicated matter would need to be lengthy, just to cover the substance. Obviously, no time is left for citizen input, which remains, as always, an afterthought.

Notwithstanding that Council may have other community events scheduled---though to be clear, none have been announced---this entire "rush to judgment" regarding annexation is dismissive of the expertise that could be provided by input from Boards such as the Planning Board and the Transportation Advisory Board. It also shows utter contempt for input from concerned community organizations and expert citizens. We, the citizens, do not want to waste our time with such exercises in futility.

This is no way to conduct public processes. We can only assume that the City Council is hell-bent on ramming through the annexation of CU-South with as little annoying public interference as possible--regardless of the fiscal cost to citizens, the incompatibility of the annexation plan with Boulder's Climate and Sustainability Goals, or even the dictates of good science regarding the imperative to avoid development in known floodplains. It also is clear that the University's efforts to increase the value of its property investment in CU-South have encouraged it to hire traffic and transportation consultants who will see no problems, produce no viable solutions, and rely on data that has been collected only to support CU's willingness to destroy the already overcrowded infrastructure in South Boulder in pursuit of its own development aspirations.

Over 4500 citizens of Boulder signed a ballot initiative petition affirming that the public should be able to vote on the Annexation Agreement for CU South. If citizens and residents must pay for CU's development, and incur the deleterious impacts of increased congestion, pollution, noise, traffic, and destruction of open space and wetlands, they must be allowed to vote on whether or not to approve

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

it. All the delays, cancellations, and curtailing of public input can only be seen as a cynical and unconscionable attempt to prevent such a vote.

Save South Boulder includes over 400 members. We all ask you to change this compressed timeline so that the citizens of Boulder have an opportunity to find out exactly what CU has promised in its proposal and what that proposal's impact will be on us—financially and environmentally. We need to know exactly how annexation will affect our transportation network, our utility bills, the ability of the City to implement the long-awaited, much needed, and considerably delayed flood mitigation project for South Boulder, and possible—if illusory—promises regarding affordable housing. We need to assess whether or not the “agreement” negotiated with CU actually will become a signed contract to protect us and our City, or just a giveaway to CU.

Sincerely yours,

Margaret LeCompte, 290 Pawnee Drive, Boulder CO 80303

Harlin Savage, 1050 Tantra Park Circle, Boulder CO 80305

Co-Chairs for Save South Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** allyn s feinberg <feinberga@comcast.net>  
**Sent:** Tuesday, July 13, 2021 11:05 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CO South Annexation Public Process

**External Sender**

To the Council:

PLAN-Boulder County received the Draft CU South Annexation Agreement via an email link at about 5 pm yesterday (Monday, July 12). The Community Briefing and Listening Session are scheduled for Weds, July 14 from 4 pm to 5:30 pm. This document is 80 pages long and contains extensive and complex information. It is unacceptable to only allow this amount of time for the public to read and digest this document such that we could not make any informed contribution to your listening session. And that is in addition to the fact that the staff briefing of an 80 page document would probably be pretty lengthy, leaving very little time for public to provide input in any case.

While you may have planned for other community input via public hearings by related boards and commissions, and through the thoroughly discredited Be Heard Boulder surveys, this first event sets the perception of how you value the citizens' concerns — you don't.

This public process is completely unacceptable. It just reinforces the idea that Council is hellbent on getting the Annexation of CU South completed before the November election, and public process is only a time wasting hoop on the way to that goal. A large number of the citizens of Boulder have indicated their interest in voting on the Annexation Agreement for CU South, and this rollout of the Agreement appears as an unconscionable effort to thwart such a vote.

Please reconsider your compressed timeline in order to allow Boulder citizens an opportunity to be informed on exactly what your Draft Annexation Agreement might mean to us, financially, environmentally, for impacts to our transportation network, for future flood control on our other tributaries, on affordable housing, and many other concerns.

Peter Mayer  
Allyn Feinberg  
Co-Chairs, PLAN-Boulder County

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: GABRIELE SATTLER <gaby41@aol.com>  
Sent: Tuesday, July 13, 2021 9:56 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

Dear Council members;

A few days ago it was announced that we, the citizens had enough signatures collected to put CU South on the ballot. Today I read in the paper that a draft deal between CU and the city was released. No matter how often you list all the benefits the city will receive from this deal, it is NOT a good deal for the city. The CU sprawl will now reach into so far untouched areas, the people of Boulder will pay for the annexation, and nothing is guaranteed to save our houses from the next flood. CU comes out the big winner. I would like to know what will now happen to our signature collection to put this deal on the ballot. I live in East Boulder. We were very much impacted by the flood waters of 2013 and WE HERE IN THAT PART OF THE CITY DO NOT WANT THIS DEAL WITH CU TO GO THROUGH. There are no guarantees that CU will stick to its promises and I strongly object that my tax money is plowed into the CU annexation.

NO TO CU ANNEXATION!

Sincerely,  
Gabriele Sattler

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Pomerance, Stephen <stevepom335@comcast.net>  
**Sent:** Tuesday, July 13, 2021 8:52 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Gatza, Jean <GatzaJ@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** timing on draft agreement

**External Sender**

**To the Council:**

The draft CU South agreement went public late in the day on Monday (yesterday).

It does not work for an agreement of 80 pages (30+ pages in the agreement and the rest are attachments) to be sent out less than 48 hours before the public input session, which is Wednesday 4:00 to 5:30 PM.

Exactly how are people supposed to organize their input in that little time so that it is useful in a 1.5 hour "listening session" or whatever you call it? It will take days to really absorb and analyze this. And to do this, a LOT of questions will need to be asked and receive straight answers.

To make things even harder, the agreement has no index or table of contents, so it's almost impossible to find things without continually scrolling up and down through the myriad of pages.

And some of the attachments are quite lengthy and have no page numbers.

As to process, there are some obvious problems, irrespective of whether the content is worth anything or not. For example:

Exhibit D has 8 pages, and is completely unclear as to what legal power it has, since its intro (see below) contains conflicting statements and a lot of vague verbiage. Also, since the content is apparently somehow tied to the BVCP, it could change. Exactly what is the reader supposed to make of this and how it fits?

Exhibit D: Conceptual Design and Development Goals

A. PURPOSE AND INTENT To offer a conceptual framework of future development goals for CU Boulder South. These goals are not "set in stone" as the binding obligations of the University with respect to design and development are memorialized in the Agreement. Rather, these goals are offered by the University to inform qualitative aspects and intent for future development on the Property.

The agreement's last pages (pp. 29 and 30) the following verbiage. This is the final substantive part of the actual agreement document. This appears to be saying that this is a 3 year agreement, and no more than a 5 year agreement. Then what happens? Can CU do whatever it wants with its now annexed land? Or what? This is COMPLETELY UNCLEAR AND REALLY SCARY!

52. Extension of the Three-Year Anniversary. This Agreement will automatically extend for up to two successive terms of one year in the absence of either Party giving notice of 30 intent to not extend. Notice of the intent to not extend will be given at least 30 days prior to the Three-Year Anniversary date or the Four-Year Anniversary date if previously extended.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

I should also point out that the semi-final substantive section entitled "SECTION VI RIGHT OF FIRST REFUSAL; RIGHT OF FIRST REFUSAL" appears pretty bogus. Given Sec. 52 above, it appears that CU could wait a few days after the Agreement expires, say in 2024, and sell it with the City having no power to participate under Section VI

I should also point out that there is a serious question as to whether participating as per Section VI would have some value to the City, because the value that the City would be creating in the property is staggering, and we'd then have to pay CU for all of that. In other words, the citizens would be paying twice. Really? I'm also reminded of the tax scam that CU participated in when CU bought the property, so I'm pretty sure CU could come up with a way to inflate the apparent value even further for a deal with the private buyer, dissuading the City even further.

This is going to take a LOT of work to sort out all these scenarios, to say nothing of the rest of the document, and we have now maybe a few hours to get it done. Thanks a lot!

Steve Pomerance

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

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This is going to take a LOT of work to sort out all these scenarios, to say nothing of the rest of the document, and we have now maybe a few hours to get it done. Thanks a lot!

Steve Pomerance

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** mahon@nc.rr.com <mahon@nc.rr.com>

**Sent:** Monday, July 12, 2021 7:52 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South annexation pros and cons

**External Sender**

Dear City Council members,

I just returned from a beautiful walk on CU South and as always, am working through the issues surrounding the CU South annexation agreement and plans. I challenge myself to be open-minded, but the cons always far outweigh the pros of the decision to annex this large parcel of land. This is my skeletal outline, I know you know the details well and can fill in under each of the points.

Pros

1. Flood mitigation
2. Affordable housing

\*I have seen the list of pros including dog park, trails, etc. but that is a sales pitch that I do not buy.

Cons

1. Environmental impact
2. Neighborhood and transportation impact
3. Impact on democracy and citizen voice, in response to CU/City Council
4. Financial impact

We need flood mitigation and affordable housing. In what ways can we achieve those two very important goals without enduring the harsh negative impacts that a possible annexation will bring? We have a lot of creative thinkers and innovation groups around town. We can come up with a better solution. I hope you will keep working to this end.

Sincerely,

Liz Mahon

PS You probably already know this but the city website is a mess and it does not have a city council member contact link. This link came from an old e-mail I had. This makes me worry more about citizen input.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Nancy Matter <nmatr@yahoo.com>  
Sent: Monday, March 22, 2021 4:39 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South Campus

External Sender

In addition to the obvious insufficient infrastructure, the greenbelt was put into place to provide a physical limit on the city of Boulder's sprawl. What will the ripple effect be when you take a bite out of the historical and beloved ideal of keeping this physical limitation in place? The work of the founders of Boulder and Dwain Miller would all be for not if you allow for development within the greenbelt. If you allow this, it will only be a matter of time before another crack in the ideal is found for someone to try to break into and build on. This entire idea should be shut down immediately so that those salivating over the money that they can make in this process can turn their minds to something else.

That said, I do believe the visitors of that open space should have the same restrictions and guidelines as those using the city's trail system. Voice and Sight. Trail management and restoration.....

The city is in enough trouble right now with a drastic increase in theft and out of control riots. When I look back on how much this city has changed, and not for the better, in the last ten years, I am flabbergasted that this would even be a consideration.

I am just getting back to this email now because while I was writing it, there was a shooting going on at the King Sooper in my neighborhood.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

-----Original Message-----

From: Graham Oddie <odd-1@live.com>

Sent: Monday, March 22, 2021 2:34 PM

To: Council <council@bouldercolorado.gov>

Subject: CU South

External Sender

Dear Boulder Council

I am very concerned that the proposed development of CU South will have deleterious effects on South Boulder. I object to the City giving CU permission to go ahead with this in the absence of any outreach to the people who have built their homes and lives in this area. This development will impose heavy costs on the neighborhood and the City: in terms of traffic, finances, property taxes, potential flood damage, and fire hazards from the proposed relocation of the Fire station in Table Mesa.

That this should be pushed right now is bizarre. I remember when this plan was raised in the mid 1990s when the University was booming and projected growth in student numbers was extremely optimistic. Now the University is downsizing. It has shed up to a 100 senior faculty since last summer and there are no plans to replace them anytime soon. Further there is no guarantee that the Cruise Ship model of university education is going to prevail post-pandemic. In fact it already looks obsolete. Add to that the declining population of college-age students, and the economic uncertainty in general, and it pretty much looks like the height of folly for both the University and for the City. We cannot bank on the kind of growth that would make it remotely sensible to double the size of the CU campus.

sincerely

Graham Oddie  
1057 Yale Circle  
Boulder CO 80305  
303-817-6368.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** ChadDavis <chadmichaeldavis@gmail.com>  
**Sent:** Monday, March 22, 2021 11:23 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

I live in Boulder and am strongly opposed to large CU expansion. Why?

Damaging to the town due to traffic and unnecessary development. Also, didn't we just learn that online is the future?

I assume it's for money. Eventually, due to development minded policies like this, I'll probably just move away from boulder and convert my home back into the student rental it was when I purchased it.

Chad Davis  
530 S. Boulder

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Brian Buma <brianbuma@gmail.com>

**Sent:** Monday, March 8, 2021 6:59 PM

**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>

**Cc:** Brockett, Aaron <BrockettA@bouldercolorado.gov>; Wallach, Mark  
<WallachM@bouldercolorado.gov>

**Subject:** Comment: CU South - major concerns about the data used in the decision process

**External Sender**

Hello,

I am writing to respectfully voice my disappointment with the way the work has been done so far in regards to the impact of the proposed development at CU South. In particular I'm concerned about the research that has been solicited in support of the proposal. It is inherently and deeply flawed, and is a textbook example of poor data collection which undermines its legitimacy.

First, the survey that went out online was heavily biased. I've certainly used survey data before, and I would never consider using this particular survey to make a decision about development. Rather this survey assumed the development would happen and no options were available for the person taking the survey to express their dissatisfaction with the idea. What this means is the data that you're looking at is heavily biased – there was no way to express any opinion but support for the development. Supposedly the purpose of the survey was to get information about the community's acceptance of this idea. Clearly this will not do that, and I am concerned that the council is looking at data that doesn't do what it says it does. Rather, the data looks like everybody who took it is in support of the development, with only the details of what is to be preserved to iron out. That is a very different conclusion than the stated goal. Why not send out a survey that asks if CU South is wanted in the first place?

Second to my knowledge the public has not been informed of the 10s of millions of taxpayer dollars that will be spent on this. I live in an affected area, and I have not received any communication formally from the city. I have been told there were postcards, I have not seen one nor have any of my neighbors. I realize the purpose of this is protecting a single neighborhood from flooding, but other parts of the city flooded as well. Why just that one? Why are the impacts not spread more evenly? This was not on the survey. Again I am afraid that the council is making a decision with only biased data.

That brings me to the traffic study. The data are essentially worse than useless, because it does not do what it purports to do and makes conclusions that are skewed to an unknown degree as a result. (I should note that when I say bias I do not necessarily mean intentional or malicious bias, just some inherent flaw in the data that cannot be easily corrected). The problem with unknown bias is the data is worse than useless – because if you don't know how it's wrong, good decisions cannot be made in any direction.

In particular, the study does not assign any traffic to Moorhead Ave, the direct pathway from the proposed development to the main campus. It is quite literally the shortest and fastest way between the two points, but also through a neighborhood. It does not assign any traffic to Martin Dr, again a faster way to main campus than either of the directions that the study apparently considered. This one has an elementary school on it, with no stop signs by the elementary school. Lawsuit waiting to happen. I ask you to look at a map and decide how you would get from CU South to main campus. And then look at the traffic study, that apparently assumes

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

nobody will use the most direct, clearest, no stop sign route. Their line: "Side-Streets: Traffic on side streets in areas that are built out have been assumed to remain the same as existing traffic volumes." It's nonsensical.

I am concerned that we cannot use these data in any sort of honest, scientific fashion. And this of course does not get into the Endangered Species impacts, the open space impacts, the fact that our city's main entrance will be a CU campus...

There are other options. Pay more for upstream mitigation – yes it costs more in dollars (and I realize it has been dismissed once because of that), but it saves immensely more in the character of our town that can be more than just a college town. Or a land swap. Or simply say no, build on your own land. Please, don't rely on flawed data. We're an educated town, let's act like it. Let's use data like a modern, progressive town should – appropriately and well, not relying on flawed data to prove foregone conclusions.

Sincerely,

Brian Buma

South Boulder resident  
3715 Martin Drive

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** South Creek 7 HOA Board <southcreek7hoa@gmail.com>  
**Sent:** Monday, March 8, 2021 12:57 PM  
**To:** plandevlop <plandevlop@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Response to webinar on CU South Development from South Creek Seven HOA

**External Sender**

Attention: Planning City Planning Group

Thank you so much for taking the time to share with us information on the development plans for CU South Boulder. The webinar and discussion were very informative and greatly appreciated. The opportunity for questions was also greatly appreciated. The presentation, however, did raise further questions and issues that pertain directly to the Tantra Park community of 65 single family homes. Please see the attached letter from the SC7 HOA board that address these issues.

Thanks,

South Creek Seven Home Owners Association Board

<http://sc7hoa.org/>

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



**South Creek Seven Homeowners Association**

P.O. Box 3421  
Boulder, CO 80307

Southcreek7hoa@gmail.com

March 8, 2021

Planning Group  
City of Boulder  
Communication & Engagement  
P.O. Box 791  
Boulder, CO 80306

Cc: Jean Garza, Philip Kleisler

Cc: Boulder City Council Members

Dear Boulder City Planning Group,

Thank you so much for the webinar and discussion concerning the development plans for CU South Boulder. Your time, and the opportunity for questions were very much appreciated. We also appreciate receiving the notes from the meeting and the list of attendees. We collectively learned much about the history, motivations, and current state of the CU South development process.

In this letter we would like to address several issues clarified by or raised from the meeting that pertain directly to the Tantra Park community of 65 single family homes, and by extension to the broader Tantra Lake community. We believe that the South Creek Seven home owners area will be the most strongly impacted by any CU South Development because our neighborhood homes border directly the area that is being considered for construction of housing and office buildings.

From your presentation, and the documentation we reviewed, it was not clear to us that the City recognizes that South Creek Seven is a single family housing neighborhood. It was also not clear whether or how the needs of our community are being considered in the planning process. Yet, to us it seems obvious that the South Creek Seven area will be directly and strongly impacted by any development, because we border the CU property directly. We believe that the proposed infill in the property on the west side of the plot marked for building and the construction of up to 1100 new housing units and considerable office space immediately adjacent to our neighborhood would drastically impact the quality of life of our neighborhood by increasing the traffic, the noise, and urban density. It will also negatively affect the air quality and the wild life.

With these concerns in mind we propose the following:

- Assurances of a green buffer between the South Creek Seven neighborhood and any new building. This buffer needs to be sufficiently wide to offer sight and sound distancing and reinforce the separation of our neighborhood and any CU South development.
- Assurances that Tantra Drive will not be used as an access road into the CU South Area. The placement of

South Creek Seven HOA Letter – Page 1

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Summit Middle School to the south and west of Tantra Drive and the Bixby Elementary School to the north just off of Table Mesa and Tantra Drive as well as heavy foot traffic require that this remain a controlled speed, non-thoroughfare. It is also required to keep the single road through our community.

- Assurances of absolute Height restrictions to the development overall and "line of sight" limitations to buildings that will border the green buffer directly adjacent to South Creek Seven homes, and that will preserve views and perceived distance from new building.

Since its beginnings over 40 years ago, the South Creek Seven community has maintained height limits and other restrictions on building style, materials and color schemes for the single family homes in the neighborhood, has maintained a specific, open landscaping requirement in determining fencing and setbacks to keep the neighborhood coherent and attractive. We are concerned that without incorporating our three requirements, the CU development will destroy the intentional character, quiet and beauty of the community.

Because the size and needs of our single family home community may be easy to overlook, we would also like to develop a mechanism for active involvement as the process of discussion between the City and CU continues.

So that you can get a better perspective of how serious the implications and negative impact would be on our South Creek Seven neighborhood, we would like to invite members of the City planning office to pay a visit to the site area that borders the berm on the east. You will be able to see directly how the area will be impacted and why the buffer and height restrictions beyond the current berm are so necessary. The homes most directly impacted include the following on West Moorhead Circle: 4808, 4848, 4844, 4838, 4834, 4828, 4824, 4818, and 4814. However, the development touches on all of our homeowners.

Again, thanks for your time and attention to this matter.

Sincerely,

Richard Fey  
South Creek Seven HOA Board President  
1055 Tantra Park Circle

Merry Bullock  
South Creek Seven HOA Board Vice President  
1080 Tantra Park Circle

Kathy Kramer  
South Creek Seven HOA Board Secretary  
4838 West Moorhead Circle

Michael McMillan  
South Creek Seven HOA Board Treasurer  
1020 Tantra Park Circle

Massimo Buvoli  
South Creek Seven HOA Board Landscaping Coordinator  
1061 Tantra Park Circle

Jeremy Reynolds  
South Creek Seven HOA Board Member at Large  
4740 West Moorhead Circle

Mark Hafen  
South Creek Seven HOA Board Member at Large  
4712 West Moorhead Circle

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Diane Curlette <dcurlette25@gmail.com>

**Sent:** Sunday, March 7, 2021 3:33 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Annexation

**External Sender**

Dear Council Members,

Ruth Wright and Spence Havlick capture my views very accurately in the attached article. I feel the CU South property is a very poor location for university expansion and they should place their new campus elsewhere in Boulder in a more suitable location.

In addition, the proposed relocating of our South Boulder fire station far from existing neighborhoods will increase response time and reduce the usefulness of this facility to the south Boulder neighborhoods. (A more properly located site for a new fire station would be south of St. Martin de Poores Catholic Church on land owned by the Boulder Valley School District. Such a location would be less than a block south of Table Mesa — the main criteria for location mentioned in a public meeting with Boulder Fire personnel.)

The increase in traffic congestion on Table Mesa and Broadway arterials would be unmanageable. It would be practically impossible to turn left from east bound Table Mesa onto the ramp leading to west US 36 area, currently a most dangerous intersection. I can not fathom how the geography can accommodate an additional huge influx of traffic from CU South onto this already jammed thoroughfare area.

The “CU South” area should be acquired by the city for flood control and open space riparian protection, preserving our beautiful main entrance way to the city.

Please refuse to annex this property and help CU find another site. And please consider negotiating an enrollment cap with CU to help balance the housing needs in the city.

Thank you for your attention to this matter,

Diane Curlette  
South Boulder

<https://boulderdailycamera-co-app.newsmemory.com/?publink=16900e391>

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Kathy Hockett - Kramer <kathyhockettkramer@gmail.com>

**Sent:** Sunday, March 7, 2021 1:08 PM

**To:** Council <council@bouldercolorado.gov>; plandevlop <plandevlop@bouldercolorado.gov>

**Cc:** Weaver, Sam <WeaverS@bouldercolorado.gov>; Joseph, Junie <JosephJ@bouldercolorado.gov>; Brockett, Aaron <BrockettA@bouldercolorado.gov>; Nagle, Mirabai <NagleM@bouldercolorado.gov>; Friend, Rachel <FriendR@bouldercolorado.gov>; Swetlik, Adam <SwetlikA@bouldercolorado.gov>; Wallach, Mark <WallachM@bouldercolorado.gov>; Yates, Bob <YatesB@bouldercolorado.gov>; Young, Mary <YoungM@bouldercolorado.gov>

**Subject:** CU South Development

**External Sender**

I live in South Creek Seven on West Moorhead Circle which directly borders the CU South development area. As a matter of fact my back yard and nine other families' decks, are to the west of the tennis courts.

I attended a presentation of what CU has planned if they are annexed and I (and the others in my community who attended) were surprised and distressed that our quiet community of 65 single family homes is not being taken into account in ANY way via the planning. Nor is there any kind of buffer past the berm that will insure our views, privacy, and quietude.

Annexation without a building plan is like giving CU a blank check. Surely no one would want to have surgery without first seeing the Xrays!

SC7 Home owners, particularly the ones on West Moorhead Circle area, are "being thrown under the bus"! SC7 area has the most to lose of any of the other areas because it will bring a drastic change to not only the neighborhood but to the way of life, i.e. traffic, noise, crime, view, loss of wildlife. Air pollution.

SC7—through covenants-- has maintained height limits on houses, restrictions on building and additions, has kept color schemes in check, has determined what materials can be used for fences etc. in order to keep the neighborhood consistent and attractive. With the CU development right up against our area there is the risk of losing this benefit in addition to others. We are in fact the losers in this proposition with NO benefits to speak of.

Construction is not short term but could go on as long as 20 years with the noise, dust, and disruption.

As a three generation Boulderite I know first hand that CU has NOT kept its promises, such as the height of Williams Village dorms, and the CU campus on Colorado Avenue. In the past this has caused contention. And now my community faces the same.

Reference: [www.http://sc7hoa.org/](http://sc7hoa.org/)

March 6 the CU students tore up the hill area with partying which is not an isolated incident and will follow them to the CU South area. As a third generation Boulderite and CU alum I understand that unfortunately the event last night is not an isolated incident and it emphasizes just why our quiet community of 65 single family homes will be severely impacted (in addition to other reasons) if the city annexes the CU property.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

<https://www.9news.com/article/news/crime/boulder-police-cu-party-the-hill/73-a4c56a7d-ca37-4f20-86cc-316cc2f852ad?ref=exit-recirc>

<https://www.dailycamera.com/2021/03/06/boulder-authorities-working-to-respond-to-large-gathering-at-10th-street-and-pennsylvania-avenue/>

<https://meaww.com/isabella-sackheim-cu-boulder-student-destroys-and-flips-a-resident-car-after-college-party>

<https://news.yahoo.com/police-boulder-respond-riot-conditions-075918857.html>

<https://meaww.com/isabella-sackheim-cu-boulder-student-destroys-and-flips-a-resident-car-after-college-party>

We ask that you give our area consideration before you condemn it to total chaos! The residents of 4848, 4844, 4838, 4834, 4828, 4808, and 4824 invite you to come personally and take a look at the CU property from our back yards to personally see the impact we will all suffer.

Thanks for your time and attention,

Kathy Lynn Kramer

Author [www.kathrynkramer.com](http://www.kathrynkramer.com) [kathrynkramer.net](http://kathrynkramer.net)

Resident of South Creek Seven

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Zhenya <zhenyag@comcast.net>  
Sent: Sunday, March 7, 2021 11:58 AM  
To: Council <council@bouldercolorado.gov>  
Subject: I stand with Ruth Wright and Spense Havlick

External Sender

Please listen to the people who have worked with water engineers and floodplain managers for decades. Do not take actions now that we as a city will regret for generations.

“With so many unanswered questions, the city should not annex [CU South] .... [E]ven an annexation agreement is way too premature.”

I agree wholeheartedly with their reasoned, well-informed argument (at link below). So should all of Council.

I. Z. Gallon  
710 S. 42nd St.  
[zhenyag@comcast.net](mailto:zhenyag@comcast.net)

Guest opinion: Ruth Wright and Spense Havlick: Is Boulder being bulldozed by CU on South Boulder Creek flooding?  
<https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.dailycamera.com%2F2021%2F03%2F06%2Fguest-opinion-ruth-wright-and-spense-havlick-is-boulder-being-bulldozed-by-cu-on-south-boulder-creek-flooding%2F&data=04%7C01%7CKleislerP%40bouldercolorado.gov%7C09b5728d62df4d0a405b08d8e19b0172%7C0a7f94bb40af4edcafad2c1af27bc0f3%7C0%7C0%7C637507403161568996%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C1000&sdata=VHyDz69c3AHW9YdqazLSIT5QTBJoDaExzMQJ777C9qc%3D&reserved=0>

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Harlin Savage <harlin.savage@gmail.com>

**Sent:** Saturday, March 6, 2021 11:25 AM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>; City of Boulder Planning <planning@bouldercolorado.gov>; Meschuk, Chris <MeschukC@bouldercolorado.gov>

**Subject:** Tantra Park Transportation Study

**External Sender**

Dear City Council,

Attached please find comments from Tantra Park homeowners on the draft transportation study.

TO: Boulder City Council, et.al.

FROM: Tantra Park Homeowners

DATE: 3-6-2021

SUBJECT: CU and Fox Tuttle Hernandez draft transportation analysis

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This letter is from residents in the Tantra Park development, one of the closest housing communities near Boulder South. We are writing to voice our concerns that there is not sufficient due diligence given to the immediate and long term impacts of the CU South development plans on surrounding communities. Our specific topic in this note is the recent traffic impact report. In our reading of the report, the analysis is flawed and seriously misleading.

We believe that the City needs to pay strong attention to the negative impacts of congestion and increased traffic that CU's proposed development will create in the Tantra Park neighborhood and surrounding neighborhoods.

The Fox Tuttle Hernandez (FTH) draft transportation study, commissioned by CU, is inadequate and inaccurate in its conclusions. Their base measures of traffic density are not representative, the tools used to develop their conclusions are flawed, and their models of impact not only underestimate the impact, they fail to consider crucial variables.

As residents and homeowners in the Tantra Park neighborhood, we feel that it is important for the city to understand the study's flaws and that it may not be used to inform transportation decisions. We encourage the City Council to reject the draft study, which is biased in ways that significantly underestimate the negative quality-of-life, traffic, and safety impacts that CU's proposed new campus—with a footprint the size of main campus—will inflict on the Tantra Park neighborhood.

**Here is our list of concerns and questions.**

**Negative impacts are minimized**

The FTH draft study has serious methodological flaws that have led to false conclusions about the alleged minimal impacts of new roads, thousands of new residents, and their vehicles. These impacts

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cannot be termed “minimal.” Only if CU banned all vehicles from the proposed campus other than emergency vehicles could the impacts conceivably be considered minimal. However, if that is the plan, then why does CU want parking for hundreds of vehicles on the site?

We concur with comments from our Martin Acres neighbors as to the methodological flaws in the study. Here are paraphrases from the Martin Acres Neighborhood Association’s critique of the FTH document with which we agree:

- **PROBLEM 1: Biased traffic count methods:** The FTH study bases its estimates on a traffic count that seriously underestimates “normal” usage. FTH began its traffic count in South Boulder on November 17, 2020 and ended Nov. 19, 2020. Please refer to pages 94 - 192 of the FTH report, which document the traffic count data collected by FTH. If you look at the top of any and all of those pages, the only three dates you will consistently see are Nov. 17, 18, and 19, 2020.
- FTH's traffic count coincided *precisely* with the removal of **46,077 total individuals who normally travel** to schools located in South Boulder (CU + the named K-12 schools) because the pandemic caused schools to close.
- For reference, **46,077** is equivalent to nearly 43% of the total 108,000-person population of Boulder. While we don't assume that every one of these 46,077 individuals drive or are driven to these South Boulder learning institutions, even the most aggressive adjustments for alternate modes would have still placed tens of thousands of education-related commuters on the roadways, the week prior to the traffic count.
- Bottom Line: FTH not only did their traffic count during the general, already underlying, reduced traffic of COVID... *their traffic count appears to have been timed to occur amid an additional, extraordinarily acute further reduction in traffic, that went well beyond the generalized COVID impact.*
- **The problem?** This drastic undercount of traffic will be used as the "starting point baseline," onto which CU's further traffic projections will be superimposed. Obviously, the more CU can lower its "starting traffic number," the lower its "ultimate traffic number" will be, once the additional 7,000 vehicle trips per day from CU South\* are added. \*Source: FTH, in this same report.
- 
- **PROBLEM 2:** Understating the “multiplier” used to adjust for COVID-related traffic decreases and cherry-picking data to reduce negative impacts: FTH's study grossly under-stated the traffic "multiplier" that is supposed to a) recognize COVID -related diminutions of traffic during their November 17-19, 2020 traffic count and b) add a multiplier that takes into account the November 2020 COVID impact when projecting future traffic for future, non-COVID impacted years. Obviously, when the multiplier is grossly understated, the final number of projected traffic counts will be grossly under-stated.
- **The multiplier should have been 1.45,** according to the actual month FTH chose to count traffic in. FTH is obligated by every statistical imperative to pick a month, and stay with a month. Proper statistical science does not allow the practice of arbitrarily jumping from month to month; to cherry pick the most advantageous excerpts, for the client's case.
- In projecting future traffic totals, the difference between using a multiplier of 1.33 and 1.45 is huge. When dealing with thousands – potentially tens of thousands of vehicles – a multiplier error of this magnitude will result in significantly lower (and wildly inaccurate) traffic projections.

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- When you combine a low-ball multiplier, with an extraordinarily low-ball baseline starting traffic count, you wind up with a "double-whammy" underestimate, with errors of huge magnitude.
- In essence, FTH got the absolute lowest 2020 traffic count they could find, for an exceptionally low baseline onto which all future traffic increases would be superimposed, and they additionally (and incorrectly) assigned the lowest multiplier they could find (by using the least COVID impacted month they could find.) As such, this traffic study cannot be viewed as legitimate.
- **PROBLEM 3:** Failing to analyze impacts to major streets: - FTH asserts that absolutely none of the additional 7,000 vehicle trips per day due to CU South will impact Moorhead Ave., the obvious, diagonal shortcut route from CU South to Main Campus, which cuts straight through [our] the neighborhood of Martin Acres.
- On Page 17 (Page 20 by Google Chrome's page counter) of its CU South traffic study, FTH assigns "percentage distributions" of the traffic that will be generated by CU South. For example, it assigns 20% of the traffic to South US 36, 25% to North US 36, etc. *But 0% is assigned to Moorhead.*
- We cannot fathom how FTH can assume that no motorists traveling between CU South and CU's Main Campus would use the obvious, straight-as-an-arrow 1.5-mile diagonal shortcut of Moorhead Ave., right through Martin Acres. This is now the third element of FTH's traffic study that fails basic logic. Please see the screen shot below, that illustrates why Moorhead Ave., if anything, is likely to receive *more* CU South related traffic than any other roadway.
- The fact that Moorhead Ave. is not mentioned anywhere, in trip distribution, is a third reason to reject the CU South traffic study authored by FTH.

#### Traffic and safety are already big concerns

There is only one way for vehicles to enter the Tantra Park neighborhood and one way out. There is only one stop sign in the entire neighborhood—at West Moorhead and Tantra Drive. Excluding Tantra Drive, the other side streets and cul-de-sacs are narrow and hard to maneuver, especially when school buses, delivery trucks, recycling trucks, and super-sized pick-up trucks are on the streets. Cars are often parked bumper-to-bumper, and on Tantra Drive it is bumper-to-bumper on both sides of the street. This baseline of already dense traffic and traffic use needs to be considered.

#### Safety

The Tantra Park neighborhood includes a small shopping center, Summit Middle School, The Bixby School, a Morning Star Memory Care facility. A liquor store, which gets a lot of traffic in the late afternoon and evening, is located directly across Tantra Drive from the memory care facility, which itself has frequent ambulance, health care and delivery service traffic. Middle school students use the crosswalk on Tantra Drive just past the memory care facility 5 days a week, and there is additional foot and car traffic for soccer and ultimate Frisbee practices and games. And because this is Boulder, significant pedestrian traffic exists from senior citizens, kids, college students, cyclists, pets, and other residents, as well as people seeking to access the park and other recreational activities.

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Yet there is nothing in the draft FTH study about how an increase of 7,000 vehicle trips daily (according to FTH's own estimates), which is three times what we have now, will affect traffic density and safety, not to mention noise, congestion, and pollution in the neighborhood.

At the very least, the City's Transportation and Mobility Department, the Transportation Advisory Board, and staff in charge of implementing Vision Zero should review and provide comments on the draft study. It's their job is to protect Boulder residents and keep our roads safe.

Three recent safety risk examples are illustrative:

- At one point, a neighbor was so upset at the traffic density and inappropriate speeds, that she tried to get speed bumps installed.
- Leaving the neighborhood by its single exit can be difficult at high traffic times, leading to unsafe practices. While turning left from Tanta Drive to Table Mesa, a car hit my husband, who was riding by on his bicycle.
- One neighbor, who works for CU, moved to Superior, because she grew tired of finding people parked in front of her house all the time, blocking her driveway. One of them even hit her car while trying to back out.

**Additional Questions**

- Why does CU want a road connecting its property to SH 93? Does it anticipate thousands of commuters from Golden and Lakewood? How do we know that road will not become a short cut for people trying to avoid traffic on Table Mesa? How will cyclists and others who use the Marshall Road be affected?
- CU wants to connect Tantra Drive to South Loop Road and the report says that Tantra Drive will be a tertiary option only for drivers. What exactly does that mean and how will current residents be affected?
- Will heavy machinery use Tantra Drive? If so, who will pay for road damage?
- What safety precautions are being made to protect children, seniors, families, dogs, and other pedestrians who use Tantra Drive every day?

The issues and questions raised here must be addressed before any annexation agreement can be considered. We support staff's request to CU for a more much detailed traffic study, as well as MANA's request for an independent third party, which would not be paid by the developer, in this case CU, to step in. For all the reasons stated above, we ask the City of Boulder to reject the Fox Tuttle CU South traffic study that was commissioned by CU, and instead, hire an independent traffic study to be done by a firm not on CU's payroll.

CU's proposed south campus will be of little or no benefit to Tantra Park residents, nor will this neighborhood benefit from the city's flood mitigation project. Traffic will increase three-fold and probably above the 7,000 vehicle trips the study anticipates, with all of the safety hazards and inconveniences that entails. Our quality-of-life will be diminished, and even our property values may drop, at least during the 10-20 years of construction.

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Not only would the new campus negatively affect life for Tantra residents, it also would provide no compensatory benefits them. None. Zero. Further, even the proposed flood mitigation plan for the South Boulder Creek floodplain will fail to help our neighborhood, notwithstanding that it, too, suffered damage from the 2013 flood.

In addition to calling for better and less biased impact studies, we also call on the city to seriously consider and adopt a better option, which would not needlessly harm our neighborhood. This better option is for CU, with the city's support, to move its desired new campus to north Boulder. The city owns 500 acres within the North Boulder Planning Reserve, which is dedicated for housing, and CU could potentially have more room without having to contend with building in a major floodplain and disrupting the safety and quality of life for long term Boulder neighborhoods.

Thank you for your attention. We look forward to hearing from you.

Merry Bullock, 1080 Tantra Park Circle

Cindy and Michael Copeland, 1071 Tantra Park Circle

Mary Dinger, 1090 Tantra Park Circle

Susan Poersch Fey and Rich Fey, 1055 Tantra Park Circle

Mike Gurst and Michelle Kalesz, 1049 Tantra Park Circle

Richard Allen Hockett, 4838 West Moorhead Circle

Kathy Lynn Kramer, 4838 West Moorhead Circle

Taylor E. Reece and Jamie, 1037 Tantra Park Circle

Ellie and Thom Sandrock, 1095 Tantra Park Circle

Stephen Angus and Harlin Savage, 1050 Tantra Park Circle

Ellen Hogan, 1060 Tantra Park Circle

CC: Transportation Advisory Board, Planning Board, Phil Kleisler, Jean Gatz, Chris Meschuk, Jacob Lindsay, Joe Taddeucci.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Suzanne Dimond <s.dimond100@aol.com>

**Sent:** Tuesday, March 2, 2021 10:57 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Cu south development

**External Sender**

I would like to let the city know that I am against development of Cu south. I believe that it would be a huge mistake to allow cu to ruin this open space. As I understand the cu plan will cause huge problems for neighborhoods surrounding the area in south Boulder. Causing traffic congestion. Also what happened to the idea of trading with cu property in the north side of Boulder. It seems to me that would be a far better place for cu to develop. I live in Majestic Hight's neighbor hood and dread this development. I consider it a infringement on the quality of life for south Boulder. sincerely Suzanne Dimond

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Friday, February 26, 2021 8:19 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** SaveSoBo Now <savesobonow@gmail.com>; norby.cw@gmail.com; paul.culnan <paul.culnan@gmail.com>; ben binder <bbinder@ddginc.com>; plan boulder <advocate@planboulder.org>; plandevelop <plandevelop@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; TAB <TAB@bouldercolorado.gov>; Housing Advisory Board Group <HousingAdvisoryBoardGroup@bouldercolorado.gov>; sdwhitaker48 <sdwhitaker48@comcast.net>; Koehn, Jonathan <Koehnj@bouldercolorado.gov>; Haddock, Kathy <Haddockk@bouldercolorado.gov>; a\_burchell <a\_burchell@comcast.net>; WRAB <WRAB@bouldercolorado.gov>; lglustrom <lglustrom@gmail.com>; tom.asprey <tom.asprey@gmail.com>; norby.cw@gmail.com; Meschuk, Chris <MeschukC@bouldercolorado.gov>; Carr, Thomas <CarrT@bouldercolorado.gov>; braddsegal <braddsegal@gmail.com>; Koehn, Jonathan <Koehnj@bouldercolorado.gov>; sdwhitaker48 <sdwhitaker48@comcast.net>; Elam, Carolyn <ElamC@bouldercolorado.gov>; tim schoechle <timothyschoechle@yahoo.com>; rdwestby46 <rdwestby46@gmail.com>; tom.asprey <tom.asprey@gmail.com>

**Subject:** CU South negotiation team/committee. BDC piece 2-26-21

**External Sender**

"Commentary

***Committee or ‘committee’?***

When is a committee not a “committee”?

Based on the Boulder City Council’s discussion last Tuesday night, the answer is — whenever the council decides it isn’t. To understand why this is important, some background is necessary: Boulder has very stringent open meeting laws. Charter Section 9 provides the primary directive, “All meetings of the council or committees thereof shall be public.” So, **unlike under state law, the council cannot hold executive (closed door) sessions for any reason.** The citizens temporarily granted executive session power in 2014 for the Xcel negotiations occurring then. But it was abused, and in 2017, the citizens rejected the council’s request to extend that power. Section 9 also contains the only exception to Boulder’s requirement that all committee meetings be public. It allows a committee of not more than two council members and any number of non-council members to meet privately to screen applications for city manager, city attorney and municipal court judge; to evaluate their performance, and to recommend disciplinary actions. But the full council must still make the final decisions, and in public.

I also note that the council cannot grant its authority to a committee. Charter Section 16 makes it clear that only the council has authority to pass ordinances, resolutions and motions. And if a committee were to take an action that the majority of the council disagrees with, the council could reject it.

So what is a council committee? It’s basically a group of two or more council members who the council appoints one way or another to do something, whether that’s organizing a process, advising the city manager or planting tulip bulbs at the Municipal Building.

Another important distinction is that if three or more council members meet and discuss public business, then under state law, those meetings are public. But the **charter requires open committee meetings even if it's only two**. This becomes relevant, as you will see.

So what happened on Tuesday night? The first thing to know is that the online agenda had zero information. All it said was, "Update on CU South Annexation Negotiations." Nothing else. But watching the meeting, it appears as if the real agenda had been carefully orchestrated ahead of time. (To watch, go to [boulder.colorado.gov/city-council/watch-councilmeetings](https://boulder.colorado.gov/city-council/watch-councilmeetings). The relevant part starts at 3:00 into the meeting.) The apparent game plan was to have Mayor Sam Weaver and Council member Rachel Friend be "invited" by the interim city manager (who of course works for and takes direction from the council) to become his "advisers" in the CU South annexation negotiations, as Council member Bob Yates commented, similar to what he and Weaver did last year in the Xcel franchise negotiations. To do so, Weaver and Friend would resign from the CU South Process Committee and be replaced by council members Yates and Aaron Brockett.

Regarding Yates' comment, I should point out that Xcel franchises typically are just rubber-stamped by the Colorado Public Utilities Commission. But the results of the inadequate Xcel negotiations instead triggered interventions by both the PUC staff and by the Colorado Office of Consumer Counsel, apparently over money. (Also, only the franchise agreement was submitted for PUC approval, and not the linked settlement and partnership agreements, a big mistake in my opinion.) My bet is that Boulder will end up losing whatever financial benefits were in the deal, and will be left holding the bag for whatever our council can convince Xcel to do, since there's really not much agreed to other than talk.

Back to Tuesday night: The question is — are Weaver and Friend subject to Charter Section 9's requirement that their meetings with the city manager must be public? To me, the answer is clearly "yes"; otherwise the charter's open committee meeting requirement is meaningless: That Weaver and Friend have no real authority is not a relevant distinction, **since neither are not on any other committees**.

State law's requirement that meetings of three or more council members must be public is also irrelevant; the **charter's open committee meeting requirement does not distinguish between two versus three members**. As to Weaver and Friend not being "formally appointed," well, that's a distinction without a difference; if their roles were discussed and agreed to at a council meeting, that's good enough.

So what happens if citizens decide to legally challenge the council over this CU South advisory committee's closed meetings? Charter Section 151 states, in part, that a violation of the charter is a **misdemeanor, and shall be punished by the fine and imprisonment** applicable to a misdemeanor occurring within the city.

So you'd think council members would be more careful. Jail is not fun. *Steve Pomerance is a former Boulder City Council member. He can be reached at [stevepomerance@yahoo.com](mailto:stevepomerance@yahoo.com).*



CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

STeVe POMeRAnCe  
*For the Camera"*

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Suzy Gordon <suzygordon14@gmail.com>

**Sent:** Friday, February 26, 2021 10:37 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South

**External Sender**

Hello my name is Suzy Gordon and I own a home in Table Mesa. I am writing with concern about CU South Campus. As a homeowner in Table Mesa and a member of the community who remembers the loss and destruction of the 2013 flood I am extremely concerned about CU Boulder's desire for political expediency to build on this valuable community asset. I want flood mitigation for the South Boulder flood plain but we must take our time and get this right. Once the land is developed, it's gone. It's gone for the wildlife who currently occupy it and the community members who currently recreate there.

Personally, I take a walk here everyday and the regular users that recreate in this open space have created a community that is unlike any trail in Boulder. The wide flat trails offer unique accessibility to recreators who cannot access Boulder's steeper, rockier, and more demanding trails. Because this area is so popular with dog walkers, it diverts traffic from other trails that are already loved to death by our furry friends (last time I walked Shanahan ridge, I counted 19 poop baggies left trailside). Is it perfect? No, but it could be improved with community involvement and oversight. Would it be a tragedy if it was lost? Yes, and it would be foolish because we know better.

In our post - COVID 19 world, more university buildings are not needed. Why is there a push to build more university housing as enrollment at CU declines? Data shows that university learning will be forever changed as a result from this pandemic as students expect improved virtual learning and will seek off-campus housing that is safer for their health and more reliable in general (how many times have students been forced to moved in and out of their residence halls this year? Many times without warning or clear guidelines that has caused understandable anger and frustration). I also find the language used by the university in their plan to be problematic (<https://www.colorado.edu/cubouldersouth>). Future "resiliency and sustainability" are not supported by the destruction of of diverse grasslands to make way for buildings or the creation of recreational playing fields, which are a barren wasteland as far as the environment is concerned. There are 23 different species of mice found in Colorado and these are the basis of the food chain for our beloved Raptors. If we destroy the land in which these rodents live and replace them with large monocultures of grass fields that cannot house or feed them, we destroy the birds who rely on hunting them. A Daily Camera article titled *"Boulder County's Populations of Native Bird Species Decline in the Face of Development Indicate Further Environmental Degradation"* published 1/11/2020 lays out the clear connection between declining bird populations, a key marker for environmental health, and increased development.

University presence in South Boulder will also cause an increase in traffic in an area that is already a bottle neck with high air pollution. We have all seen the winter haze that settles over the foothills, trapped from escaping by heavy cold air above. If we allow this development to happen, we can only expect this to get worse, and we only have ourselves to blame. Our community needs protection of current open space for people to safely recreate, for sustainable flood mitigations, and for the protection of habitat diversity. Let's do the right thing, and we can tell future generations we finally chose to listen to science and glaring common sense.

Thank you for taking the time to read this,  
Suzy

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** clint Heiple <clitheiple.1@gmail.com>  
**Sent:** Thursday, February 25, 2021 1:22 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Public Engagement on CU South Annexation

**External Sender**

City Council, Boulder CO

Dear Council Member:

Great job engaging the public about CU South Annexation!

According to FEMA, Frasier Meadows Retirement Community was THE institution most impacted by the flood of 2013. Thus, seeing that future floods are mitigated is of utmost concern to the 500 folks who live here, and the 400+ people who work here too. As potential floodwater containment will occur on CU's South property, the annexation process is the next step to protect our neighborhood.

Many of the residents at Frasier have been diligently following the City's decision-making process. The latest step was public engagement on potential annexation of CU South. Many residents and our neighbors participated in a neighborhood meeting sponsored by the City. Many more residents and neighbors also responded to the questionnaire about the annexation components.

I do feel like the City takes a long time to do some things – but in this case, I am baffled that some members of the public complain about providing feedback. It's as if they have not repeatedly been asked to comment or participate. There are thousands of Boulder residents, and I am certain that gathering all this input and sifting through it is laborious. But I continue to hope that progress will continue.

Thank you for undertaking these time-consuming – yet thorough – steps to helping make our City safe for all.

Clinton Heiple  
4840 Thunderbird Dr., Apt 184  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Margaret LeCompte <margaret.lecompte@gmail.com>

**Sent:** Tuesday, February 23, 2021 12:57 PM

**To:** Council <council@bouldercolorado.gov>; Meschuk, Chris <MeschukC@bouldercolorado.gov>

**Subject:** Re: Failure of recent City Council actions to follow requirements of the Boulder City Chart

**External Sender**

To: Boulder City Council Members, Chris Meschuk

From: Margaret LeCompte, Co-Chair, Save South Boulder

Save South Boulder, a coalition representing neighborhoods in South Boulder, protests what appear to be new operating processes for the City Council and other city meetings. No longer do such processes seem to be meeting the requirements of the City Charter for eliciting public input, holding public hearings, requiring council votes, and maintaining open public meetings. Not meeting these requirements could constitute violations of the City Charter, which itself calls defines them as misdemeanor criminal offenses. Examples of lack of transparency include the following:

- Putting matters of policy and substance under consideration into the Council's consent agenda or "under matters" instead of on the regular agenda, in order to avoid the requirement of obtaining public input. These issues, such as that of flood mitigation, housing, and annexation, require that public hearings be held, that adequate advance notice of such hearings be provided to the community, and can only be acted upon by a Council vote.

Ignoring these requirements and evading them is a blatant end-run around the requirement of public participation. It violates both the spirit and letter of the Boulder City Charter.

- Interpreting rules about the composition of Council committees so as to facilitate their being closed to the public—as City Attorney Tom Carr has done—is a gross misinterpretation of statutes. The Boulder City Charter does not specify the number of elected officials who must be present in order to require the meeting to be public. Mr. Carr confuses **state** statutes that require meetings with 3 or more elected officials present to be open to the public, with the much more restrictive **city** Charter requirements, that simply require that ANY meeting in which city business is discussed be open to the public. Mr. Carr's advice to the City Manager and Council is dangerous and could lead to illegal actions.
- Creating negotiating "teams"—such as the City Manager's new CU-Annexation "team"—does not create a new kind of deliberative or negotiating entity. Regardless of what they're called, "teams" are still committees of Council which are discussing city business, and as such, cannot be excluded from the requirement that they hold open meetings, make their deliberations and conclusions known to the public, and actually include members of the public. To that extent, we are concerned that the deliberations of City Manager Meschuk's "team" will be in violation of Charter requirements for transparency, and we wish further to know who is representing the community's interest on Mr. Meschuk's "team."
- While not explicitly a violation of Charter requirements, other efforts to diminish public input contradict the spirit of transparency and openness enshrined in the Charter. These

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include repeatedly reducing the number of minutes during which citizens can provide public comment, open comment or other feedback to Council and the Boards and Commissions . They also include limiting the number of people who can speak by “running out of time” on the agenda or just randomly selecting a few people to speak. All these actions not only risk having Council not hear about the most pressing issues within the community, but also make delivery of thoughtful, often expert, feedback from the community on complex topics impossible. This eviscerates the whole process of public participation.

Given these and many other irregularities which impede meaningful information flow to the public, and concomitant feedback to policy makers from the public, we call for a return to transparency and openness. All such closed meetings and deliberations, and manipulation of procedures which silence the citizenry, must stop immediately. Should such a cessation not occur, we will pursue any and all avenues, up to legal action, to force them to cease.

Margaret D. LeCompte

290 Pawnee Drive

Boulder CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Edward Smutney <edward.smutney@gmail.com>  
**Sent:** Monday, February 22, 2021 11:29 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Concern over CU South annexation

**External Sender**

Hello,

First I would like to thank you for the work you have been putting in to creating a better Boulder for the community. I realize that there are a lot of different groups and interests to be considered in many of the issues and challenges that you work through.

I live in the High View neighborhood in south Boulder, and I am concerned and troubled by the prospect of annexing a big part of the CU South property. If I were to have my way, there would be no annexation and sufficient flood mitigation with an emphasis on environmental impact and maintaining wildlife habitat. Unfortunately that seems like a fantasy.

Through the bit of research and meetings that I have attended related to the flood mitigation and annexation, what puts a sour taste in my mouth is that CU is being very inflexible in tying flood mitigation, a public safety issue, to profit. They are not financially fit or have a present need for more building. And there is a real need for flood mitigation. This drought could easily shift to weeks of rain in this climate crisis we are experiencing.

You know all of this already, so I will simply make a plea asking that you put significant guardrails and limits on any annexation plan. I feel like CU may be doing this to improve the land for sale and profit, which would be very distasteful.

Furthermore, I have been made aware that there has not been a proper environmental impact analysis. Maybe that is not possible without a development plan, which CU does not have. Also, the taxpayers paying for CUs land to be brought to a 500 year floodplain seems backwards. Why don't they pay?

I'd like some sort of eminent domain used as this is a public safety issue that CU is holding up. They can request annexation when they have a plan.

Thank you for your time and efforts, and I apologize if some of my statements were inaccurate. My meeting notes are a bit sloppy

Best Regards,  
Ed Smutney  
4640 Macky Way

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Debra Biasca <dbiasca@gmail.com>  
**Sent:** Friday, February 19, 2021 12:34 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU-South SubCommittee Comments: Public engagement process issues

**External Sender**

February 19, 2021

To: [Council@BoulderColorado.gov](mailto:Council@BoulderColorado.gov)

Honorable Council Members,

I attended the CU-South Subcommittee meeting today, along with other members of the public, City staffers and subcommittee members Rachel Friend and Sam Weaver. The public comment portion was inadequate to allow all members of the public to speak in the available time, so we were invited to submit our comments in an email to you.

My comments follow.

\*\*\*\*\*

Annexation with no site-plan borders on the ludicrous and feels to many like the City is allowing itself to be bullied by CU; and that feels bad enough. But the City's poorly drawn Be Heard Boulder survey smacks of collusion with CU; and that looks like either incompetence or bad faith.

The survey provided a list of benefits that could flow from the project without any information about costs. Quote: "Do you feel that access to public amenities is a community benefit?" Who wouldn't feel that way??

So **where** were the questions that would permit a rational comparison of benefit with impacts such as these?

- 7000 new vehicle trips per day.
- Millions of City dollars in flood protection on the **University's** land?
- Loss of a firehouse on South Broadway (not an \*additional\* firehouse, as the survey implied)
- Landfill costs to raise CU's property out of the floodplain it sits on?
- Hazards to endangered species
- Virtually doubling the size of CU's campus?

**Nowhere.**

So, I will suggest that the only fair way to consider survey results is to hire a reputable independent research company, like NRC <https://info.polco.us/about-nrc> to review the questionnaire and openly share their findings. I have no doubt that such findings will

**CU South Annexation Application (LUR2019-00010)**  
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be dismissive of the survey instrument. The results of this kind of report will certainly help the Planning Department folks provide legitimate surveys going forward as the CU-South instrument is not the only non-impartial, push-poll survey I have taken @BeHeardBoulder.

And, most important, in that case, the City should either post a legitimate public survey or return the tainted survey data to the ether, where it will do no harm. Then we can limit this annexation proposal to those other fine opportunities for community engagement discussed at today's subcommittee meeting.

Sincerely,

Debra Biasca, JD, PhD  
230 S 38<sup>th</sup> St  
Boulder, Colorado 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>

**Sent:** Thursday, February 18, 2021 11:14 PM

**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** FW: Email from Joe Taddeucci stating he has nothing in writing to support his statements that CDOT will not approve a 500-year flood protection plan

Please carefully read my email to city project manager Joe Taddeucci and his one sentence reply.

Based on statements from Joe Taddeucci at a February 25, 2020 study session (audio clip attached), the city council directed staff to abandon plans to develop a 500-year flood protection plan for South Boulder Creek that was previously approved by the city council in August 2018 after a long public hearing.

The 500-year plan was developed by the city's consulting engineers, and there is nothing in the engineer's report or in voluminous documents obtained from CDOT that indicated CDOT would not approve the 500-year plan.

We are living in a world of climate change. Texas is now experiencing a horrific disaster because the Electric Reliability Council of Texas, ERCOT, cut corners and did not plan for extreme weather conditions. A 2017 report by the University of California at Berkeley stated that climate change impacts on the electric sector will account for a majority of global economic damages. Climate change will have a similar impact on flooding.

In 2018, the Boulder City Council was wise to design for a flood greater than the regulatory 100-year flood. But CU's Frances Draper did not like it.

Taddeucci's claim that CDOT would not approve the 500-year plan was instrumental in the city council's decision to abandon the plan. I have asked for, but have not received any written documentation to support that claim.

For obvious reasons, the city's unwise decision to abandon the 500-year plan should be well documented.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**From:** Taddeucci, Joe [<mailto:Taddeucci@bouldercolorado.gov>]

**Sent:** Thursday, February 18, 2021 11:25 AM

**To:** Ben Binder

**Subject:** RE: Please provide evidence to support staff concern about CDOT approval of Variant 1 500-year flood protection plan

Hi Ben,

I don't have any additional written information to share on the subject of CDOT's potential approval of various levels of flood protection, and I am comfortable with the statements I have made about feasibility.

Thanks,

Joe

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**Joe Taddeucci, P.E.**  
**Director of Utilities**  
(pronouns: He/Him/His) [What's This?](#)



C: (720) 635-6970  
[taddeucci@bouldercolorado.gov](mailto:taddeucci@bouldercolorado.gov)

Public Works - Utilities Department  
1739 Broadway | Boulder, CO 80302  
[bouldercolorado.gov](http://bouldercolorado.gov)

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>  
**Sent:** Monday, February 15, 2021 1:42 PM  
**To:** Taddeucci, Joe <[Taddeucci@bouldercolorado.gov](mailto:Taddeucci@bouldercolorado.gov)>  
**Subject:** Please provide evidence to support staff concern about CDOT approval of Variant 1 500-year flood protection plan

**External Sender**

Dear Mr. Taddeucci,

At last week's South Boulder Creek Public Engagement meeting you stated it would not be possible to provide 500-year flood protection as it would be impossible to meet existing US 36 bridge South Boulder Creek underpass flow conditions (audio clip attached), and therefore CDOT would not approve the plan. You used the same argument in February 2020 to persuade the city council that the SBC Variant 1 500-year flood protection plan, which was certified by the city's engineering consultants, supported by the public, and passed by the city council on August 21, 2018, would not be approved by CDOT.

After meeting with city councilmembers two at a time to avoid the need for public notice, the city council, at a February 25, 2020 study session with no public input, relied on sketchy information to eliminate the 500-year option from consideration.

CDOT, whose engineers are very easy to communicate with, provided me with copies of the original design documents for the US 36 bridge in which hydraulic information was provided in the General Layout sheet (2 of 29).

The opening of the US36 bridge underpass was sized for the full peak flows of South Boulder Creek unattenuated by any flood detention facility, and was designed to convey 6,300 CFS.

The following table from the RJH report shows that for the 500-year detention pond with three 60" diameter outlet culverts, Peak Flow at the US 36 bridge would be only 5,740 CFS, well below the 6,300 CFS design capacity of the bridge.

**TABLE 5.7**  
**OPTION 2 HYDRAULIC MODELING RESULTS (500-YEAR)**

Configuration	Max WSE at US36 Bridge (ft)	Max WSE in Pond (ft)	Peak Flow US36 Bridge (cfs)	Peak Flow S. Boulder Rd. (cfs)	Peak Outlet Flow (cfs)	Increase Downstream Flooding (Yes/No) <sup>(1)</sup>
Existing Conditions	5363.6	N/A	5,420	9,320	N/A	N/A
60-Inch-Diameter	5364.2	5366.7	6,500	7,010	380	No
108-Inch-Diameter (~3 – 60" Diameter)	5363.8	5365.6	5,740	8,070	1,380	No

Furthermore, the City's report, which did not look at the higher design specs of the US 36 Bridge, states that the 500-year plan may not cause any negative impacts.

*The 108-inch-diameter outlet would increase peak flows through the US36 bridge by about 6 percent but would not cause additional flooding downstream of South Boulder Road. It is possible that the increases in flow through the bridge may not cause negative impacts (i.e., scour) or that negative impacts could be mitigated by installing scour protection through the bridge.*

I have found nothing in the city's engineering studies nor in the dozens of documents I received from CDOT as the result of an open records request that would justify the city engineering staff's statements that it would not be possible to obtain CDOT approval for the 500-year option.

Based on my experience with this project going back to the faulty 1988 FEMA FIRM maps; obvious problems with the CH2M Hill 2015 Alternative D plan recommended by city engineering staff and the WRAB regarding Viele Channel, the groundwater cutoff wall, and CDOT ROW; false and misleading statements made by the city's engineering consultant and the city's past project manager to sell the hazardous Variant 2 plan to the WRAB and the city council (audio clips attached), I have learned to rely on hard evidence. I have asked several times for information to support statements that a 500-year flood control plan would not meet CDOT requirements and have received nothing.

**On the city's BeHeard Boulder website I requested *hard evidence that CDOT would not approve plans for protection from a 500-year flood.***

Instead of receiving the information I requested, I received the following senseless response:

*Asking permitting agencies to speculate in writing about specifics of what they might or might not approve before such detail is available to do so would be a dramatic departure from normal project process and would not be conducive to efficient agency approvals. If such out-of-process documentation will be a requirement of the project going forward, staff would not recommend proceeding. Conditions that will be fundamental to approval for any alternative presented to CDOT involving the US36 bridge cannot be met for the 200- and 500-year flood levels.*

Please provide me with evidence that CDOT would not approve the Variant 1 500-year plan and that the city made diligent efforts to implement the 500-year plan approved by the city council on

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

August 21, 2018 after a long public hearing on August 7th. And that statements that CDOT would not approve the plan were not simply used to sell the city council on the idea of abandoning the plan to meet the following demand made by Frances Draper in a May 20, 2019 letter to the city council:

***We are writing to you today to provide notice that the university, as the landowner, does not agree to Variant I 500. we are informing the city that any further expenditure for the development of preliminary designs for Variant I 500 should cease. Again, the university will not agree to that option. Neither of our organizations should expend further staff or financial resources to continue to pursue Variant I 500.***

Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Brookie <brookiegal@gmail.com>

**Sent:** Wednesday, February 17, 2021 9:53 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** Traffic Study for possible CU South Development

**External Sender**

Dear Council Members

I spoke last night (Feb. 16, 2021) during open comment. Because I was so nervous speaking for the first time online, I'm uncertain my delivery was as smooth and clear as I desired. Also, considering you have to listen to 20 people in succession trying to squeeze as much as they can into 2 minutes, I imagine it could be a challenge for you to digest all that you hear. So, I am following up with this note, which contains most of what I said last night plus a little bit more. Thank you for your thoughtful consideration.

I'm deeply troubled by the recently released CU South development related traffic study. Presented by CU's contractor, Fox-Tuttle, it contains at least several glaring problems, which call into question the validity of the entire study.

On page 11, Fox Tuttle states that traffic growth along the Table Mesa Drive corridor has been nearly flat over the past 20 years. I've lived in South Boulder for the past 13 years. My lived experience alone tells me this cannot be true. Looking at the historical data they used in drawing this conclusion, the numbers show an increase of over 30%. I wouldn't call that flat. They set up their graph with increments of 5000 vehicles on the y-axis. These oversized increments are bound to yield a flat graph. It does not take an advanced science degree to know that the type of graph used and the units chosen can dramatically influence the interpretation of the same data. Some might call this statistical malpractice.

It was highly inappropriate for the CU study to count South Boulder traffic the day after 46,000 people stopped traveling to schools in South Boulder, because CU and BVSD had just gone 100% remote. Perhaps this was coincidental. However, after Fox Tuttle counted traffic in November, 2020 - the month most impacted by covid, they used the multiplier for the month least impacted by covid (October). This skewed the data. Some would call that statistical malpractice.

If they use an extraordinarily low initial traffic count, and use an incorrect multiplier...once they add their projected 7000 additional vehicle trips per day, the ultimate number is going to appear far lower than it really will be.

Decisions made based on unsound data will be themselves unsound. The above examples of problems are just a couple that I was able to easily see in the 360 page study. I urge Council, and city staff, to take a close look at the information that is being used to make decisions that will affect the life of the city and Boulder residents for decades to come.

Thank you for your consideration.

Brookie Gallagher

Thank you for your consideration.

Brookie Gallagher

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Brookie <brookiegal@gmail.com>

**Sent:** Wednesday, February 17, 2021 9:53 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** Traffic Study for possible CU South Development

**External Sender**

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Decisions made based on unsound data will be themselves unsound. The above examples of problems are just a couple that I was able to easily see in the 360 page study. I urge Council, and city staff, to take a close look at the information that is being used to make decisions that will affect the life of the city and Boulder residents for decades to come.

Thank you for your consideration.

Brookie Gallagher

Thank you for your consideration.

Brookie Gallagher

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Doug Demos <doug.demos@yahoo.com>  
**Sent:** Wednesday, February 17, 2021 8:23 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** the impending annexation of the CU South property

**External Sender**

As a Boulder County resident I strongly oppose the impending annexation of the CU South property for CU's development. The natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, except for the floodplain mitigation.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a third campus.

Please, do NOT annex at this time!

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Helen Sinclair <helen@helensinclair.com>  
**Sent:** Wednesday, February 17, 2021 2:36 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please, do NOT move forward with annexation at this time!

**External Sender**

Dear Council Members

I am writing as a constituent and long-time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU to be developed and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, with the exception of flood mitigation.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a third campus.

Please, do NOT move forward with annexation at this time!  
Thank you for your time

Regards Helen Sinclair  
(4793 Tantra Dr)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Diana Sabreen <info@dianasabreen.com>

**Sent:** Wednesday, February 17, 2021 11:53 AM

**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>; commissioners@co.boulder.co.us

**Subject:** NO to Tantra/South Boulder Development

**External Sender**

I am writing as a constituent and long-time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU to be developed and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, with the exception of flood mitigation.

**This land is a South Boulder gem and an extremely cherished and highly-used resource of residents.**

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a third campus.

Please, do NOT move forward with annexation at this time!

Thank you for your time,  
Diana Sabreen

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Dona Knapper <donaknapper@gmail.com>  
**Sent:** Wednesday, February 17, 2021 11:42 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Annexation of South Boulder open space

**External Sender**

As a Boulder County resident I strongly oppose the impending annexation of the CU South property for CU's development. The natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, except for the floodplain mitigation.

Dona Knapper  
Lafayette registered voter

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Peggy Altschuler <peggyalt@gmail.com>

**Sent:** Wednesday, February 17, 2021 10:40 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Do NOT Annex!

**External Sender**

As a Boulder County resident I strongly oppose the impending annexation of the CU South property for CU's development. The natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, except for the floodplain mitigation.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a third campus.

Please, do NOT annex at this time!

--

Peggy Altschuler  
LegalShield/IDShield  
720-280-1068 cell

<https://peggygoehringer.wearelegalshield.com/>  
[www.linkedin.com/in/legalshieldpeggyaltschuler](https://www.linkedin.com/in/legalshieldpeggyaltschuler)  
[www.facebook.com/legalshieldindependentassociatePeggyAltschuler](https://www.facebook.com/legalshieldindependentassociatePeggyAltschuler)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jane Rich <janedayrich28@gmail.com>

**Sent:** Tuesday, February 16, 2021 6:07 PM

**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>; commissioners@co.boulder.co.us

**Subject:** Opposed to CU South Annexation

**External Sender**

To Whom It May Concern,

I am writing as a long-time Boulder County resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU to be developed and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, and tall grass prairie. It serves as a recreation for thousands of people weekly and is the entryway/gateway into Boulder. I am opposed to any and all development of this parcel of land, with the exception of flood mitigation.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a third campus.

**Please, do NOT move forward with annexation at this time!**

Thank you for your time,

Jane Rich

*Jane Day Rich*

[janedayrich28@gmail.com](mailto:janedayrich28@gmail.com)

[www.Linkedin.com/in/janedayrich](https://www.linkedin.com/in/janedayrich)

202.230.4300

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bruce Leaf LAST\_NAME <bruceleaf@comcast.net>  
**Sent:** Tuesday, February 16, 2021 1:29 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

We urge you not to allow CU South to be developed. It is a wonderful area used by walkers, dog walkers, runners and the occasional skier and cyclist. If CU develops the property, a wonderful part of Boulder would be lost and traffic and congestion in South Boulder would become worse than it already is.

Regards,  
Bruce and Barbara Leaf

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Brian Trumble <trumble.brian@yahoo.com>  
**Sent:** Tuesday, February 16, 2021 6:59 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** south boulder development

**External Sender**

hi city council

I am writing to let you know I am against any development by CU on the south boulder flood plain that is being considered at this time. I grew up in boulder and have seen much of this area stretching louisville and broomfield dissappear. Please preserve what little is left for our future generations. this is a diverse habitat for many species. And a besutiful pristine meadow to see as one comes into town.

please do not destroy this habitat

sincerely, Brian Trumble

[Sent from Yahoo Mail for iPhone](#)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Leyla Day <leyla.day.nomad@gmail.com>

**Sent:** Monday, February 15, 2021 6:53 PM

**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>; commissioners@co.boulder.co.us

**Cc:** G Taylor <gtworldone@gmail.com>; Jane Rich <janedayrich28@gmail.com>

**Subject:** Re: CU South - our Beloved backyard

**External Sender**

On Feb 15, 2021, at 8:52 PM, Leyla Day <[leyladay@yahoo.com](mailto:leyladay@yahoo.com)> wrote:

I am writing as a constituent and long-time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU to be developed and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, with the exception of flood mitigation.

I love CU South. I walk there with my dog all year long. It is beautiful - easily the most beautiful piece of land in Boulder.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a third campus.

**Please, do NOT move forward with annexation at this time!**

Thank you for your time

Leyla Day

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** BETSY CROPLEY <betsycrop@comcast.net>  
**Sent:** Monday, February 15, 2021 5:03 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder

**External Sender**

I am writing as a constituent and long-time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU to be developed and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, with the exception of flood mitigation.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a third campus.

Please, do NOT move forward with annexation at this time!  
Thank you for your time

BETSY CROPLEY  
736 Mohawk Drive  
Boulder, CO 80303  
720-352-5596

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Courtney Faust <courtneyfaust@gmail.com>

**Sent:** Monday, February 15, 2021 4:01 PM

**To:** Council <council@bouldercolorado.gov>; boulderplanningboard

<boulderplanningboard@bouldercolorado.gov>; commissioners@co.boulder.co.us

**Subject:** CU South

**External Sender**

I am writing as a constituent and long-time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU to be developed and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, with the exception of flood mitigation.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a third campus.

Please, do NOT move forward with annexation at this time! **My dog and I LOVE walking/hiking on this land.**

Thank you,  
Courtney Faust



**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Keith Martin-Smith <keith@keithmartinsmith.com>

**Sent:** Monday, February 15, 2021 3:06 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Opposition to CU South Property Development

**External Sender**

I am writing as a constituent and long-time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU to be developed and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, with the exception of flood mitigation.

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Please, do NOT move forward with annexation at this time!  
Thank you for your time

--

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Ellen DeMoney <ellen.demoney@comcast.net>

Sent: Monday, February 15, 2021 12:10 PM

To: Council <council@bouldercolorado.gov>

Subject: University of Colorado

External Sender

Hello Boulder City Council Members,

First, thank-you so much for all that you do. It is not an easy job and I appreciate all of you for giving it your best.

I am writing because there seems to be (from my perspective) a big elephant in the room, that we just never discuss: the University of Colorado and their goal of doubling the number of students attending CU Boulder. I have worked for CU, as a research Scientist, have had a child attend CU (mechanical engineering) and am not a person who does not appreciate the University. I am, however, not supportive of this huge increase in the size of this University in our fine city.

1. We do not have the water resources to handle 30,000+ more people in Boulder. (Note: this is just the number of students, I am not accounting for the increase in faculty, staff, groundskeepers, mechanical staff, etc.)

2. We do not and CU does not have the housing capabilities to account for such an increase of people. (Note: I am not accounting for the CU South Annexation, which I believe should not happen...many reasons are listed with this email)

3. If CU insists on doubling their enrollment, our affordable housing goals are a waste of time, we are already landlord heavy and this will only increase the value of rentals and increase the costs of homes in Boulder. The ramifications on housing are daunting when you really think about it. Where will these people live? If not in Boulder, then they will be commuting in and even if you allow CU south to be developed, it will not be enough housing for all of these people. They will all be commuting in, which leads me to number 4:

4. Climate change, global warming goals: if CU is allowed to expand by such a huge amount, our climate goals are also compromised. These students come with cars, they do, they come to Colorado to enjoy the outdoors, they like to ski, hike, camp, float etc and all of these activities require a vehicle. This is not going to change. How will our climate goals be attained if 30,000+ more cars are here being driven. The folks commuting in will more than likely not take a car, bus schedules are too erratic to allow staff, parents, people of weird shifts to get here any way but a car. Plus people like to drive, as seen by how many commuters we already have coming into Boulder. If we have not stopped this influx now, what make you believe that suddenly people will get out of their cars in take mass transit? I hate to be so realistic for you all, but honestly people are not going to get out of their cars. When my sons were in school, I needed a car, in case someone got hurt, etc and I needed to head to school asap. I could not have take a bus, ridden a bike, walked to the school, if there was an emergency. Most folks are in such a position if they are working at CU, the students, well they want a car and if they live in another town, most will drive to the university and park nearby.

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5. Resources, is our city capable of handling so many more people, remembering that you also want to add a TON of people and jobs in East Boulder (pearl parkway and that expansion). Do we have enough schools? Is our sewage system capable of handling oh let's be generous and say another 60,000 people in our community (I believe it would be far more). Transportation, how will our already crowded streets handle this many more people? For instance, CU South, where is the traffic from this development going to go? Table Mesa? Have you driven Table Mesa in the mornings, evenings? Tried to turn onto 28th (heading north) from Table Mesa? Try to turn onto Broadway heading South from Table Mesa? The traffic is terrible and it can take up to 4 lights to make the turn in the mornings. You surely cannot think about putting these people onto Broadway? What neighborhood are you willing to destroy? South Boulder is already taking the brunt of CU traffic and adding so many more people will make this area close to unliveable. I live in Frasier Meadows and before the pandemic, it was so stressful and frustrating to try and get into my neighborhood from Table Mesa, to get to the high school in the mornings, to leave the area during games. You cannot go down foothills, 30th, 28th, going Baseline, backed to 30th...like to to anywhere one would have to go east to 55th and then head north to Valmont...ridiculous. What will improve with adding so many more people to the area?

I could go on, but really I feel there is this elephant in the room and no one is discussing the ramifications of this elephant and it's goals.

My requests: do not allow the annexation of CU South to happen. We do not have the financial resources to pay for it, we do not have the resources for this many people added to our community. Have a public discussion about how big CU should be. Have a discussion about what resources it will take to allow so many more people in Boulder. (Because I am pretty darn certain, east Boulder is a go and it is just a formality the questionnaire put out by the city.). So have the discussion include East Boulder, CU, climate goals, traffic goals, water issues (biggest issue in the west and with climate change our water will become harder to keep and we will not have a vast supply, we are moving into more desert than ever before)

Thank-you for your time, I must put out that I am wary of even writing to council, I have yet to see any voices of the people being heard by this council or many previous councils. It seems that there is this prevalent thinking that you all know what is best and our opinions really do not matter, you minds are made up long before public comment is addressed. This we can see by the push poll done for the CU South expansion. The MOST RIDICULOUS POLL I have ever taken. As a scientist, I am appalled this poll was allowed to be presented, talk about getting the answers you want, rather than hearing what the people have to say. If I were you all, I would be a bit ashamed of this scam and redo this monstrosity of a poll. You can do better for the people you represent.

A citizen of Boulder since 1985.

Ellen De Money  
4220 Eutaw Dr.  
Boulder, CO 80303  
3035549499  
[ellen.demoney@comcast.net](mailto:ellen.demoney@comcast.net)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lyra Mayfield <lyramayfield@gmail.com>

**Sent:** Monday, February 15, 2021 8:56 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South opposition

**External Sender**

Dear Members of Boulder City Council,

I am writing, once again, as a constituent and long time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city.

Now that the City will be developing a 100yr flood dam (concurrent with the impending acceleration of climate change, the destructiveness of wildfires, erosion and future flooding) we will be jeopardizing the safety of residents when a 500yr flood event happens. (When...not "If") I understand that the City has researched this and is practically inhibited by a budget shortfall to construct a 500yr flood dam, as CU hangs onto their demands. However, flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a 3rd campus, or engage in a land swap with the city. (i.e. Planning Reserve)

So why are annexation and development of a riparian floodplain and flood mitigation even in the same sentence???

It is irresponsible for CU to develop this land to begin with, placing housing in a floodplain. But to hold the citizens of Boulder responsible (hostage?) for the cost of bringing in fill dirt, make us pay for the development of new tennis courts, and relocating and developing a new warehouse...cost to the taxpayers: \$50-100 million dollars, is unconscionable. NO!!!! NO!!!! Requiring an annexation deal in order to move forward with flood mitigation while increasing traffic, noise, irreparably changing the greenbelt and diminishing the quality of life for South Boulder residents...NO!!!! NO!!!!

Please, do NOT move forward with annexation at this time!

Thank you for your time,  
Lyra Mayfield

*Lyra Mayfield*

[lyramayfield@gmail.com](mailto:lyramayfield@gmail.com)

720-352-2631 / cell

*In silence we heard our hearts, In isolation we found community, And in darkness we are reminded that beauty is in everything ~Mickey (Fortuny)*

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** ILONA DOTERRER <ild17@comcast.net>

**Sent:** Sunday, February 14, 2021 6:12 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>;

Huntley, Sarah <Huntleys@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** Public Comment re CU South Annexation

**External Sender**

I am a 14-year resident of South Boulder. Thank you for the opportunity to voice concerns about the CU South annexation.

As an initial matter, I agree with the several citizens who object to the biased survey questions. As one resident noted, the survey seems geared to generate only one result: public agreement that the annexation is supported by a proper public purpose. I did not complete the survey because of the obvious one-sided result.

The City's website seems similarly slanted towards one result. For example, consider the following misleading statement: "The university has offered, at no cost to the city, 80 acres of land for flood mitigation and open space. The city anticipates needing 36 acres of land for flood mitigation, leaving 44 acres of land in the Open Space – Other area to be conveyed to the city at no cost." How is "no cost" true if CU expects the City to pay millions to elevate portions of the property to its 500-year flood standards? Seems like a cost to me.

The annexation terms raise red flags for the City, as follows:

- No agreement on development standards. I understand that CU refused to provide a detailed site plan. As well, CU is exempt from the City's development standards. The City apparently can only enforce only standards specifically detailed in the annexation agreement, which at this point appear to be only the height of buildings. Although it is exempt, CU could, in a show of good faith, agree to comply with the City's development standards.
- No agreement on CU Master Plans. CU graciously has agreed to allow the City to review and comment on the Campus Master Plan, CU South Master Plan and conceptual development plans for CU South, but has not agreed to implement any of the City's recommendations or requirements, which renders this offer illusory and lacking in good faith.
- Refusal of Payment in Lieu of Taxes: Although the website quaintly states the university is "not open" to this concept, CU's refusal has huge impacts on the City that will last for decades. It is remarkable that CU expects residents to pay

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

millions to rehabilitate CU's flood-prone land and but refuses to pay a single PILT penny. CU essentially forces residents to shoulder the financial burden of more beat-up roads, more fire and police protection, and other financial costs of housing 1,100 residents, but refuses to be a good neighbor and shoulder its share of these significant responsibilities. Again, CU's flat-out refusal to negotiate any PILT indicates a lack of good faith. CU's offer to two acres of land for public safety facility in lieu of PILT is disingenuous at best because the City must pay to build the facility and the facility will most likely serve the CU South complex. As well, CU's offer to pay "its share of any off-site impacts" is so vague at this point as to be worthless. The annexation agreement must describe in detail the categories of impacts, when they will be assessed, and CU's share.

A comprehensive annexation agreement is required by the Boulder Valley Comprehensive Plan (BVCP). The BVCP requires the City and CU to include transportation, city utilities, infrastructure planning, site development standards, massing, total amount of development and protection of open space values, floodplain, wetland and other environmental topics in any annexation agreement for CU South. The BVCP states CU and the City should engage in discussions concerning specific standards and metrics and identify community benefits as part of annexation agreements. I urge the City to comply with the BVCP directive and negotiate a comprehensive annexation agreement. In doing so, Council should stand firm on annexation negotiations. Resist CU's exorbitant demands (millions to restore their gravel pits) and their petty demands (rehabilitate tennis courts and a warehouse). Confront CU's bad faith refusal to pay PILT and comply with the City's development and building standards. (One wonders how CU managed to pay for a multi-million dollar state-of-the-art athletic facility a few years ago but suddenly lacks the resources to fill in some gravel pits.)

I respectfully suggest an option for Council's consideration. Put annexation to one side for now. Offer to buy the 36 acres required for the flood mitigation project from CU at fair market value or a negotiated price. In my humble opinion, residents would strongly support this option rather than bow to CU's unreasonable demands to rehabilitate acres of CU's property for very little in return.

Thank you for your time and attention.

Ilona Dotterer  
2705 Regis Drive  
Boulder

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Charlie Stein <charlies1340@gmail.com>

**Sent:** Sunday, February 14, 2021 3:45 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Lyra Mayfield <Lyramayfield@gmail.com>

**Subject:** CU South Annexation

**External Sender**

Dear Council,

I am writing as a constituent and long-time Boulder resident to register my opposition to the impending annexation of the CU South property for CU's development.

I have trouble coming up with a good answer to the following:

- How does a bigger university campus with more students and more teachers bring benefit to the City Of Boulder? (or to CU for that matter)
- After aggressively protecting Boulder's north, south, and east flanks (with lots of my and others tax dollars) does developing this gem of open space right at our South entry make any sense?
- While the Covid pandemic is still raging and the promise of herd immunity uncertain, is now a good time to lay the groundwork for more in-person student growth?
- With our own university scientists telling us that climate change projections are trending worse than expected, does putting a major development in a floodplain make sense?

Sincerely,

*Charlie*

Charlie Stein  
303-478-5010

*As you begin to live more seriously within, you begin to live more simply without.*  
.....Ralph Waldo Emerson

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Hildy Kane <hildykane@yahoo.com>  
**Sent:** Sunday, February 14, 2021 8:00 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South property

**External Sender**

Dear Boulder City Council Members,

I am writing as a constituent and long-time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU to be developed and originally the natural floodplain for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city. I am opposed to any and all development of this parcel of land, with the exception of flood mitigation.

Flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a 3rd campus.

Please, do NOT move forward with annexation at this time!

Thank you for your time,  
Hildy Kane  
3037171257

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Thursday, February 11, 2021 5:08 PM  
**To:** Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** RE: February 3rd Frasier Meadows Retirement Community and South Boulder Creek Action Group Meeting

**External Sender**

Thanks Jean.

with respect to the note:

***There appears to be a general acknowledgement of, and appreciation for, the city and university's collaborative relationship.***

By refusing to cooperate with the city when CU gutted the original County approved reclamation plan for the gravel pit, and by ignoring the City's letter that its tennis courts would be constructed in an area that would likely be needed for flood control, CU created a real mess on the property that now needs to be addressed.

As an engineer and land surveyor working for developers, I have participated in large annexations where the municipalities drove hard bargains. The municipalities we negotiated with realized the value of their water and sewer utilities and would never in a million years consent to things such as paying \$10 million for 360,000 cubic yards of earthfill to raise the developer's land out of a 500-year floodplain and paying \$5 million to move tennis courts that were negligently constructed in an area that would likely be needed for flood control.

I suggest you read my recent Daily Camera guest opinion.

<https://www.dailycamera.com/2021/01/28/guest-opinion-ben-binder-cu-souths-design-against-nature/>

In one of her guest opinions, CU's PR rep Frances Draper accused me of providing "intentional disinformation". For that reason, I have attached documents to support my statements.

Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**From:** Gatza, Jean [<mailto:GatzaJ@bouldercolorado.gov>]  
**Sent:** Thursday, February 11, 2021 04:03 PM  
**To:** Ben Binder  
**Subject:** RE: February 3rd Frasier Meadows Retirement Community and South Boulder Creek Action Group Meeting

Hi Ben,

The notes and copy of the presentation from the Feb. 3 meeting are posted on the project website under past meetings and meeting summaries:

Notes: [2021.02.03\\_Frasier Meadows meeting notes\\_final-1-202102100836.pdf](https://www-static.bouldercolorado.gov/docs/2021.02.03_FrasierMeadows_meeting_notes_final-1-202102100836.pdf) ([bouldercolorado.gov](https://www-static.bouldercolorado.gov/docs/2021.02.03_FrasierMeadows_meeting_notes_final-1-202102100836.pdf))

Pres: [https://www-static.bouldercolorado.gov/docs/2021.02.04\\_FrasierMeadows-1-202102100837.pdf?\\_ga=2.138356535.680487274.1612810390-1667301241.1606934553](https://www-static.bouldercolorado.gov/docs/2021.02.04_FrasierMeadows-1-202102100837.pdf?_ga=2.138356535.680487274.1612810390-1667301241.1606934553)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Best regards,  
Jean

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lyra Mayfield <lyramayfield@gmail.com>  
**Sent:** Thursday, February 11, 2021 11:43 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South opposition

**External Sender**

Dear Members of Boulder City Council,

I am writing, once again, as a constituent and long time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU and originally the natural flood plane for South Boulder Creek, hosts rare and endangered species, wildlife, riparian habitat for bird migrations, tall grass prairie, recreation for thousands of people weekly and is the entryway/gateway into our beautiful city.

Now that the City will be developing a 100yr flood dam (concurrent with the impending acceleration of climate change, the destructiveness of wildfires, erosion and future flooding) we will be jeopardizing the safety of residents when a 500yr flood event happens. (When...not "If") I understand that the City has researched this and is practically inhibited by a budget shortfall to even consider a 500yr flood dam, as CU hangs onto their demands. However, flood mitigation for the downstream residents of South Boulder Creek and CU Annexation should not be coupled together. Taking as much land as needed for the protection of residents should be our city's priority, along with protecting our open spaces and green beltway. Encourage CU to let go of this plan to develop a 3rd campus, or engage in a land swap with the city. (Planning Reserve)

So why are annexation and development of a riparian flood plane and flood mitigation even in the same sentence???

It is irresponsible for CU to develop this land to begin with, placing housing in a flood plane. But to hold the citizens of Boulder responsible (hostage?) for the cost of bringing in fill dirt, make us pay for the development of new tennis courts, and relocating and developing a new warehouse...cost to the taxpayers: \$50-100 million dollars, is unconscionable. NO!!!! NO!!!! Requiring an annexation deal in order to move forward with flood mitigation, increasing traffic, noise and diminishing the quality of life for South Boulder residents...NO!!!! NO!!!!

Please, do NOT move forward with annexation at this time!

Thank you for your time,  
Lyra Mayfield

*Lyra Mayfield*

[lyramayfield@gmail.com](mailto:lyramayfield@gmail.com)  
720-352-2631 / cell

*In silence we heard our hearts, In isolation we found community, And in darkness we are reminded that beauty is in everything ~Mickey (Fortuny)*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** MANA Steering Committee <manasteeringcommittee@gmail.com>  
**Sent:** Thursday, February 11, 2021 1:08 PM  
**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** Re-sending MANA objections to CU South traffic study: Problem #3

**External Sender**

Dear Boulder City Council and Staff:

We apologize that the screen shot was garbled, in the original sending of this email. In this email, we have instead included the graphic as an attachment.

Our Martin Acres Neighborhood Association (MANA) steering committee has reviewed CU's CU South traffic prediction study, prepared for them by Fox-Tuttle-Hernandez (FTH). This is the third of three emails to you, each of which deals separately with a particular objection.

We'd like to submit the following comments for the record:

PROBLEM 3 - FTH asserts that absolutely none of the additional 7,000 vehicle trips per day due to CU South will impact Moorhead Ave., the obvious, diagonal shortcut route from CU South to Main Campus, which cuts straight through our neighborhood of Martin Acres.

On Page 17 (Page 20 by Google Chrome's page counter) of its CU South traffic study, FTH assigns "percentage distributions" of the traffic that will be generated by CU South. For example, it assigns 20% of the traffic to South US 36, 25% to North US 36, etc. *But 0% is assigned to Moorhead.*

We cannot fathom how FTH can assume that no motorists traveling between CU South and CU's Main Campus would use the obvious, straight-as-an-arrow 1.5 mile diagonal shortcut of Moorhead Ave., right through Martin Acres. This is now the third element of FTH's traffic study that fails basic logic. Please see the screen shot below, that illustrates why Moorhead Ave., if anything, is likely to receive *more* CU South related traffic than any other roadway.

The fact that Moorhead Ave. is not mentioned anywhere, in trip distribution, is a third reason to reject the CU South traffic study authored by FTH.

For all the reasons stated above, we ask the City of Boulder to reject the Fox Tuttle CU South traffic study that was commissioned by CU, and instead, hire an independent traffic study to be done by a firm not on CU's payroll.

Thank you,

The Martin Acres Neighborhood Association Steering Committee

Jan Trussell, President

Wendy Ferrara, Vice President

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Dorothy Cohen, Secretary

Bennett Scharf, Treasurer

Samir Singh, Special events committee chair

Mike Marsh, Zoning committee chair

Ron DePugh, Communications committee chair

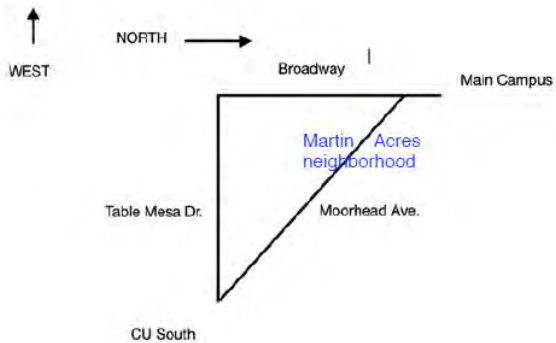
The resulting trip distribution pattern is illustrated on **Figure 6** and summarized in **Table 4**.

**Table 4: Trip Distribution Summary**

To/From	Distribution	To/From	Distribution
East S. Boulder Road	3%	North US 36	25%
West Table Mesa Drive via Loop Drive	7%	South US 36	20%
West Table Mesa Drive via Tantra Drive	3%	North Broadway	20%
North Foothills Parkway	20%	South Broadway	2%

Using these distribution assumptions, the projected site traffic was assigned to the study area roadway network and appropriate accesses for the weekday AM and PM peak hour periods. The site-generated volumes are shown on **Figure 7**.

*Question; Why isn't Moorhead Ave. assigned a percentage of traffic???*



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** MANA Steering Committee <manasteeringcommittee@gmail.com>  
**Sent:** Thursday, February 11, 2021 10:08 AM  
**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** MANA objections to CU South traffic study: Problem #2

**External Sender**

Dear Boulder City Council and Staff:

Our Martin Acres Neighborhood Association (MANA) steering committee has reviewed CU's CU South traffic prediction study, prepared for CU by their contractor Fox-Tuttle-Hernandez (FTH). This is the second of three emails to you, each of which deals separately with a particular objection.

We'd like to submit the following comments for the record:

PROBLEM 2 - FTH's grossly under-stated the traffic "multiplier" that is supposed to a) recognize covid-related diminutions of traffic during their November 17-19, 2020 traffic count and b) add a multiplier that takes into account this Nov., 2020 covid impact, when projecting future traffic for future, non-covid impacted years. Obviously, when the multiplier is grossly understated, the final number of projected traffic counts will be grossly under-stated.

The Problems with FTH's Multiplier:

- FTH timed its traffic counting to occur on three Nov., 2020 days that were among the absolute lightest traffic days of the year. As you saw in our previous email, the traffic count coincided precisely with two massive external events that radically reduced roadway traffic *on the exact dates of FTH's traffic count*. Both CU and all South Boulder K-12 schools had just shifted to 100% remote instruction, when FTH commenced its traffic counting.
- This alone is enough to disqualify this study. Because the initial traffic count is used as the "baseline" starting point of traffic assessment. Any projected increases are projected onto this initial count. So, the lower your starting number, the lower the eventual traffic prediction will be.
- But in addition, in this email, we will document a second, equally problematic error in the FTH report: For their year-over-year comparison (to understand the "covid impact"), FTH inexplicably failed to use the actual month in which they counted traffic. Why is this important? Because the year-over-year comparison is used to establish the "covid handicap," to use golf terms. (That is, the percentage reduction due to the pandemic.) Obviously, if FTH counted traffic in Nov. 2020, that's the month they should have used for year-over-year comparison to 2019. But FTH appears to have gone out of its way to "cherry pick" a different month for the year-over-year comparison. In fact, as you can see on Page 93 of the FTH report, FTH chose *the least-covid-impacted month of Fall 2020 - (October) - for their "covid impact percentage."*
- Why is this important? Because the covid impact percentage is then used to establish the "multiplier" to predict traffic in future, non-covid years. The multiplier is the

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

inverse of the impact percentage. In other words, given that the Nov. 2020 traffic count was 69% of Nov. 2019, FTH's multiplier **should have been  $1/.69 = 1.45$** . Based on FTH's own chosen month for traffic counting, 1.45 should be the multiplier, to predict future traffic in non-covid years. The multiplier essentially recognizes how covid suppressed the data during the traffic count period.

- But for whatever reason, as you can see on Page 93 of the report, FTH used Oct. 2020 - *the least covid impacted month* - as the basis for their multiplier. Oct. 2020's traffic was 75% of Oct. 2019's traffic. So FTH erroneously used the formula of  $1/.75 = 1.33$ , to establish a future multiplier of 1.33.
- The multiplier should have been 1.45, according to the actual month FTH chose to count traffic in. FTH is obligated by every statistical imperative to pick a month, and stay with a month. Proper statistical science does not allow the practice of arbitrarily jumping from month to month, to cherry pick the most advantageous excerpts, for the client's case.
- In projecting future traffic totals, the difference between using a multiplier of 1.33 vs. 1.45 is huge. When dealing with thousands - potentially tens of thousands of vehicles - a multiplier error of this magnitude will result in significantly lower (and wildly inaccurate) traffic projections.
- When you combine a low-ball multiplier, with an extraordinarily low-ball baseline starting traffic count, you wind up with a "double-whammy" underestimate, with errors of huge magnitude.
- In essence, FTH got the absolute lowest 2020 traffic count they could find, for an exceptionally low baseline onto which all future traffic increases would be superimposed, and they additionally (and incorrectly) assigned the lowest multiplier they could find (by using the least covid impacted month they could find.)
- As such, this traffic study cannot be viewed as legitimate.

For all the reasons stated above, we ask the City of Boulder to reject the Fox Tuttle CU South traffic study that was commissioned by CU, and instead, hire an independent traffic study to be done by a firm not on CU's payroll.

Thank you,

The Martin Acres Neighborhood Association Steering Committee

Jan Trussell, President

Wendy Ferrara, Vice President

Dorothy Cohen, Secretary

Bennett Scharf, Treasurer

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Samir Singh, Special events committee chair

Mike Marsh, Zoning committee chair

Ron DePugh, Communications committee chair

Lisa Harris, Martin Acres VOICE newsletter committee chair

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** MANA Steering Committee <manasteeringcommittee@gmail.com>

**Sent:** Thursday, February 11, 2021 9:53 AM

**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>

**Subject:** MANA objections to CU South traffic study: Problem #1

**External Sender**

Dear Boulder City Council and Staff:

Our Martin Acres Neighborhood Association (MANA) steering committee has reviewed CU's CU South traffic prediction study, prepared by CU's contractor Fox-Tuttle-Hernandez (FTH). We'd like to submit the following comments for the record:

We discovered three major errors with the FTH traffic study. In an effort to keep emails to a reasonable length, we will deal with each problem in a separate email. This is the first of three emails to you.

PROBLEM 1 - The curious timing of CU's traffic count:

FTH's South Boulder traffic counting was done on Nov. 17-19, 2020. This timing is extraordinarily curious: It precisely coincided with when both CU and BVSD had just shut down all in-person instruction. Both educational entities had just gone 100% remote online learning. Consider the following:

- Nov. 13, 2020 was the final day of in-person instruction in 2020 for CU Boulder and the 42,061 individuals directly associated with the campus. (35,411 students + 6650 employees). Tens of thousands of CU students, faculty and staff *who would normally be traveling to and from campus had just been removed from South Boulder roads just as FTH started its traffic counting.*
- Nov. 16, 2020 was the final day of in-person instruction in 2020 for 4,016 South Boulder K-12 students and teachers. We researched the student enrollment and faculty for all South Boulder K-12 schools, including Fairview High School, Summit Middle School, Mesa Elementary, etc. We found that *thousands of teachers, and parents of students who would normally be dropping off and picking up students had just been removed from South Boulder roads just as FTH started its traffic counting.*
- Nov. 17, 2020 - FTH began its traffic count in South Boulder. The final day of traffic counting was Nov. 19, 2020. Please refer to pages 94 - 192 of the FTH report, which document the traffic count data collected by FTH. If you look at the top of any and all of those pages, the only three dates you will consistently see are Nov. 17, 18, and 19, 2020.
- FTH's traffic count coincided precisely with the removal of **46,077 total individuals who normally travel to schools located in South Boulder (CU + the named K-12 schools).**
- For reference, **46,077** is equivalent to nearly 43% of the total 108,000 person population of Boulder. While we don't assume that every one of these 46,077 individuals drive/are driven to these South Boulder learning institutions, even the

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most aggressive adjustments for alternate modes would have still placed tens of thousands of education-related commuters on the roadways, the week prior to the traffic count.

- Bottom Line: FTH not only did their traffic count during the general, already underlying, reduced traffic of covid... *their traffic count appears to have been timed to occur amid an additional, extraordinarily acute further reduction in traffic, that went well beyond the generalized covid impact.*
- The problem? This drastic undercount of traffic will be used as the "starting point baseline," onto which CU's further traffic projections will be superimposed. Obviously, the more CU can lower its "starting traffic number," the lower its "ultimate traffic number" will be, once the additional 7,000 vehicle trips per day from CU South\* are added. \*Source: FTH, in this same report.

For all the reasons stated above, we ask the City of Boulder to reject the Fox-Tuttle-Hernandez CU South traffic study that was commissioned by CU, and instead, hire an independent traffic study to be done by a firm not on CU's payroll.

Thank you,

The Martin Acres Neighborhood Association Steering Committee

Jan Trussell, President

Wendy Ferrara, Vice President

Dorothy Cohen, Secretary

Bennett Scharf, Treasurer

Samir Singh, Special events committee chair

Mike Marsh, Zoning committee chair

Ron DePugh, Communications committee chair

Lisa Harris, Martin Acres VOICE newsletter committee chair

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**From:** lynnsegal7 <lynnsegal7@hotmail.com>  
**Sent:** Monday, February 8, 2021 8:21 PM  
**To:** Council <council@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; OSBT <OSBT@bouldercolorado.gov>; Jim McMillan <jmc1277@gmail.com>; Carl and Wan Norby <norby.cw@gmail.com>; SaveSoBo Now <savesobonow@gmail.com>  
**Subject:** Flood monitoring. Fw: geography colloquium 2-12 Elizabeth Tellman

**External Sender**

What would Gilbert say about "CU South"?

Separate annexation from flood mitigation.

Visualize post-event satellite imagery that will leave CU high and dry and the city inundated. Will insurance cover it? Will CU pay?

Lynn

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**From:** Karen L Weingarten <[karen.weingarten@colorado.edu](mailto:karen.weingarten@colorado.edu)>  
**Sent:** Monday, February 8, 2021 1:18 PM  
**To:** Alex Goetz (<[agoetz@du.edu](mailto:agoetz@du.edu)> <[agoetz@du.edu](mailto:agoetz@du.edu)>); Alex Standen <[alexstanden@gmail.com](mailto:alexstanden@gmail.com)>; Alicia Cowart <[Alicia.Cowart@colorado.edu](mailto:Alicia.Cowart@colorado.edu)>; Alyssa Whitcraft (UMD) <[alyssakw@umd.edu](mailto:alyssakw@umd.edu)>; Amber Bosse (UK grad student) <[amber.j.bosse@uky.edu](mailto:amber.j.bosse@uky.edu)>; Andrea Ray (<[andrea.ray@noaa.gov](mailto:andrea.ray@noaa.gov)> <[andrea.ray@noaa.gov](mailto:andrea.ray@noaa.gov)>); Andrew Nicholas Grant <[anr2662@colorado.edu](mailto:anr2662@colorado.edu)>; Ann Parker (<[Aparker@naropa.edu](mailto:Aparker@naropa.edu)> <[Aparker@naropa.edu](mailto:Aparker@naropa.edu)>); Anna Hermes <[Anna.Hermes@Colorado.EDU](mailto:Anna.Hermes@Colorado.EDU)>; Annie Shattuck <[ashattuck@berkeley.edu](mailto:ashattuck@berkeley.edu)>; anthro <[anthro@colorado.edu](mailto:anthro@colorado.edu)>; ashwinra@gmail.com (<[ashwinra@gmail.com](mailto:ashwinra@gmail.com)> <[ashwinra@gmail.com](mailto:ashwinra@gmail.com)>); Laurie B. Conway <[laurie.conway@colorado.edu](mailto:laurie.conway@colorado.edu)>; Betsy Brick <[betsy.brick@Colorado.EDU](mailto:betsy.brick@Colorado.EDU)>; Bruce Van Haveren <[bruce.vanhaveren@colorado.edu](mailto:bruce.vanhaveren@colorado.edu)>; buninj@hotmail.com (<[buninj@hotmail.com](mailto:buninj@hotmail.com)> <[buninj@hotmail.com](mailto:buninj@hotmail.com)>); C. Tchozewski (<[tchozewski@gmail.com](mailto:tchozewski@gmail.com)> <[tchozewski@gmail.com](mailto:tchozewski@gmail.com)>); Carol A Wessman <[carol.wessman@colorado.edu](mailto:carol.wessman@colorado.edu)>; Chet Tchozewski (<[chet@tchozewski.com](mailto:chet@tchozewski.com)> <[chet@tchozewski.com](mailto:chet@tchozewski.com)>); Christian Carlson (ESRI) <[CCarlson@esri.com](mailto:CCarlson@esri.com)>; CIRES (<[info@cires.colorado.edu](mailto:info@cires.colorado.edu)> <[info@cires.colorado.edu](mailto:info@cires.colorado.edu)>); Clint Carroll <[clint.carroll@Colorado.EDU](mailto:clint.carroll@Colorado.EDU)>; Colleen Mary Scanlan Lyons <[colleen.scanlanlyons@colorado.edu](mailto:colleen.scanlanlyons@colorado.edu)>; Patricia E. Paige (<[patricia.paige@colorado.edu](mailto:patricia.paige@colorado.edu)> <[patricia.paige@colorado.edu](mailto:patricia.paige@colorado.edu)>); Ctr for the Amer. West (<[info@CenterWest.org](mailto:info@CenterWest.org)> <[info@CenterWest.org](mailto:info@CenterWest.org)>); CU-Denver-Geog/Envir Studies Dept <[GES@ucdenver.edu](mailto:GES@ucdenver.edu)>; Daniel Poirot Fernandez <[daniel.fernandez@colorado.edu](mailto:daniel.fernandez@colorado.edu)>; David C. Folch <[david.folch@colorado.edu](mailto:david.folch@colorado.edu)>; David Spaght <[davidspaght@live.com](mailto:davidspaght@live.com)>; David William Sparkman <[david.sparkman@Colorado.EDU](mailto:david.sparkman@Colorado.EDU)>; Denise Yogerst <[denise.yogerst@colorado.edu](mailto:denise.yogerst@colorado.edu)>; Dennis B McGilvray <[Dennis.Mcgilvray@colorado.edu](mailto:Dennis.Mcgilvray@colorado.edu)>; INFOAdmin <[infoadmin@colorado.edu](mailto:infoadmin@colorado.edu)>; dhavlick@uccs.edu (<[dhavlick@uccs.edu](mailto:dhavlick@uccs.edu)> <[dhavlick@uccs.edu](mailto:dhavlick@uccs.edu)>); Dylan Connor (IBS) <[dyl1289@gmail.com](mailto:dyl1289@gmail.com)>; Maria Oliveras (<[maria.oliveras@colorado.edu](mailto:maria.oliveras@colorado.edu)> <[maria.oliveras@colorado.edu](mailto:maria.oliveras@colorado.edu)>); edward.finger@colorado.edu (<[edward.finger@colorado.edu](mailto:edward.finger@colorado.edu)> <[edward.finger@colorado.edu](mailto:edward.finger@colorado.edu)>); Eileen Brown <[Eileen.Brown@Colorado.EDU](mailto:Eileen.Brown@Colorado.EDU)>; Elizabeth J Pike (<[pikee@Colorado.EDU](mailto:pikee@Colorado.EDU)> <[pikee@Colorado.EDU](mailto:pikee@Colorado.EDU)>); English Dept. Graduate Studies Program Assistant <[gsengl@colorado.edu](mailto:gsengl@colorado.edu)>; CU Environmental Center <[ecenter@colorado.edu](mailto:ecenter@colorado.edu)>; Ethnic Studies Department <[ethnicst@colorado.edu](mailto:ethnicst@colorado.edu)>; Fletcher Berryman <[fletcher.berryman@colorado.edu](mailto:fletcher.berryman@colorado.edu)>; Frank D Witmer <[witmer@Colorado.EDU](mailto:witmer@Colorado.EDU)>; Barbara Easter <[Barbara.Easter@Colorado.EDU](mailto:Barbara.Easter@Colorado.EDU)>; George Taylor (individual) (<[taylorsofthefrontrange@gmail.com](mailto:taylorsofthefrontrange@gmail.com)> <[taylorsofthefrontrange@gmail.com](mailto:taylorsofthefrontrange@gmail.com)>); German Dept (<[sara.quehrn@colorado.edu](mailto:sara.quehrn@colorado.edu)> <[sara.quehrn@colorado.edu](mailto:sara.quehrn@colorado.edu)>); gogreen <[gogreen@colorado.edu](mailto:gogreen@colorado.edu)>; Gregory Simon

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**Subject:** geography colloquium 2-12 Elizabeth Tellman

Department of Geography Colloquium

**Understanding flood risk from space: opportunities to adapt to changing risk with improved monitoring and accessible insurance**

CU South Annexation Application (LUR2019-00010)  
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Dr. Elizabeth Tellman,

Earth Institute, Columbia University and Cloud to Street

Friday, February 12<sup>th</sup> at 12:00PM MT (2:00PM ET, 11:00AM PT)

Add the livestream link to your Calendar: [Outlook](#), [Google](#), [iCal](#)

Join the livestream: <https://youtu.be/eBGOckXDn4Y>

**Abstract**

Floods affect more people than any other hazard, and the frequency and magnitude of exposure is growing with demographic and climatic changes. Yet the ability to predict and monitor floods from local to global scales remains a challenge and limits access to financial protection for vulnerable populations. The increasing **availability, frequency, and spatio-temporal resolution of both satellite and news media data provides new opportunities to monitor floods locally and globally. Advances in cloud computing and machine learning techniques enable increasingly accurate flood event monitoring by fusing observations from multiple sensors.** I will show how new methods and data enabled by machine learning, satellites, and online media improve our ability to understand and adapt to flood risk from global to local scales. This talk will demonstrate how improved flood observations yield insight into where populations are moving into flood plains, inform decisions to relocate refugee camps, and underpin innovation insurance schemes in Bangladesh. Despite the potential benefits of satellite flood data, unequal access to flood information could further exacerbate vulnerability for the most marginalized and may already be reshaping housing markets in the U.S. I conclude with the ethical consideration of how to ensure these new technological and scientific advances reduce rather than deepen existing inequalities in who loses most when a flood hits.



## Bio

Beth Tellman is a human-environment geographer whose research addresses the causes and consequences of global environmental change in vulnerable populations, with a focus on access to water, flood risk, and **land use change**. She engages in a wide array of disciplines and methods from land system science, to hydrology, to the social sciences. Her field work focuses on Mexico and Central America, where she has studied informal urban settlements, vulnerability and adaptation to water risk, and the role of narcotrafficking in forest loss. She is currently a Postdoctoral Scientist at the Earth Institute at Columbia University, working on index-based flood insurance in Bangladesh. She is a co-founder of Cloud to Street, a public benefit corporation that leverages remote sensing data to build flood monitoring and mapping systems for low- and middle-income countries. Beth will be an Assistant Professor of Geography at the University of Arizona in August 2021.

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**Public Comments Through September 14, 2021**

**From:** Margaret LeCompte <margaret.lecompte@gmail.com>

**Sent:** Monday, February 8, 2021 2:26 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Taddeucci, Joe <TaddeucciJ@bouldercolorado.gov>; Lindsey, Jacob <lindseyj@bouldercolorado.gov>; Meschuk, Chris <MeschukC@bouldercolorado.gov>; TABSecretary <TABSecretary@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; Robert Hutchinson <hutchtab2020@gmail.com>; Mark McIntyre <mark@markmcintyre.me>; Tila Duhaime <tilabouldertab@gmail.com>; Alex Weinheimer <Weinheimer.TAB@gmail.com>; Lauren Lambert <lauren Lambert.tab@gmail.com>

**Subject:** Shortcomings of and Omissions From the Fox Tuttle Hernandez Traffic Study

**External Sender**

To: Members of the City Staff, the Transportation Advisory Board, and Members of City Council:

I am writing to express serious concerns with the credibility of the Fox Tuttle Hernandez traffic study done by CU in support of its proposal to annex CU's 308 acres property in South Boulder. The City staff's response to the FTH report correctly calls out the document for failing to address the feasibility of some of its mitigation suggestions, and notes as well, omissions from the report of traffic and congestion concerns already noted by members of the public. I fully concur with the staff's call for more specificity than mere statements such as that "a tertiary access point will be provided at Tantra" or "improvements will be made" various intersections; as far as I can see, most of the "improvements" consist of lengthening turn lanes to accommodate long vehicle queues and changing the timing of stoplights, which, as my comments below indicate, will do little to mitigate the problems.

My comments below are both my own and those shared with me from members of the community who live adjacent to the proposed campus site. I want to call attention to some of what appear to me to be faulty and questionable assumptions upon which FTH is basing its report. And I also want to second the staff's request for FTH to provide some description of feasibility, especially given the issues I raise below about the engineering difficulties of access in general to the site. I first address the issue of accessibility and how FTH inappropriately minimizes the potential increase in traffic that CU's development would create.

The FTH report does admit that development of CU-South is predicted to bring 7000 more vehicle visits daily to CU-South. However, the report fails to mention at all the problem of how those vehicle visits will enter and leave from the campus. This is of crucial importance to increased traffic congestion in the area. First, those 7000 visits must go through ONE entry point---at South Loop Road--to get into the campus. This is a traffic jam waiting to happen, as would be trying to exit the campus. Vehicles must either turn right or left onto Table Mesa to proceed east or west, and to go north or south, they must turn either northbound onto Hwy 36 atop the Table Mesa bridge, an exit already so crowded that even FTH has identified it as a problem, or southbound onto Hwy 36 by the bus stop.

This brings me to one point actually identified by FTH--the NB exit to Hwy 36 from Table Mesa--and one NOT mentioned, the SB exit from Foothills Parkway to Table Mesa east and west bound at the park-n-ride. Please note that these two points are the ONLY access and egress points into the south end of the Frasier Meadows neighborhood. These two points also will provide access to the CU-South campus, with consequent increased jamming up, wait times, and potentially,

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more accidents. NB off Table Mesa provides access into the neighborhood from the south, via a turn onto Apache Drive. One block further east on Table Mesa, the SB exit from Foothills Pkwy provides a dangerous egress point from the north, via Thunderbird Drive and the Foothills access road SB ramp. Traffic piles up there all day long.

This entire area, Table Mesa between Foothills and Moorehead, not only is a headache for drivers; it is a pedestrian and bicyclists' nightmare. It simply isn't safe to walk or bicycle anywhere near there to get to CU-South. I know; I live in Frasier Meadows, close enough to walk to CU-South for hiking, but I don't. I drive there. I don't want to get hit by a car in any of the numerous crossings, narrow sidewalks, raised bike lanes, and other hazards. And then I have to wait, often for long periods, to get through that NB exit from Table Mesa to get back home. FTH's report calls for increased use of bikes and pedestrian travel, but makes no mention of how to make that happen, given the tangle of roadway spaghetti at Table Mesa. Hence, the need for feasibility assessments.

The report also makes some unsupported (and probably unsupportable) assumptions about the future of transportation use and potential increases in vehicular traffic--which it generally minimizes. It also omits any comments about mitigating impacts on key streets and intersections of grave concern to area residents. Another issue is that its key metric, the "trip budget", is not defined, not, at least, in any way comprehensible to even a research-savvy and well-informed member of the community--and there are many such people in our community. Additionally, its use and display of statistics, as I explain below, are of questionable validity in places.

FTH's report minimizes the possibility that traffic in the CU-South area will increase noticeably as a consequence of buildout of the property into CU's aspirational campus. With rosy predictions that post-pandemic traffic will not spring back to pre-pandemic levels, FTH states that people will decrease their use of automobiles as they continue to work and attend school from home, ride bicycles, use mass transit, implement car pools and ride-shares, and walk to the campus. and so on. Given that Boulder actually has less and less public transportation, and that neither RTD, the City, nor CU itself are talking about increasing bus and other transit options, this is pretty amazing. Equally questionable is the idea that traffic will decrease because people (and their children and students at CU) will continue to go to school from home. Mass remote education already has been shown to be socially, emotionally, and cognitively bad for children, worse for teens and college students, and a costly and debilitating burden on parents, especially mothers. Working from home also already is demonstrably impossible for the vast majority of lower-income workers who constitute nearly 1/3 of the workforce. So I find it not credible for FTH to say that traffic will decrease in the foreseeable future.

Some of the statements in the FTH report actually defy logic. There is a particularly astonishing statement on p. 11 (depending on the pagination), where the FTH report actually argues that traffic will **decrease** as the CU-South project approaches build-out. That makes no sense at all. There is no way that adding several thousand residents, hundreds of faculty and staff, plus service workers and the like to the area, will NOT greatly increase traffic!! Similarly, they "prove" their demonstrably false claim that "traffic growth on Table Mesa Dr. has relatively flat remained flat for the past 20 years" by using a common visual trick to "lie with statistics:" FTH made the units on the "Y" axis (# of vehicles) of the graph that depicts the increase so large, that the rise only appears flat--in comparison with the "X" axis. But it's an optical illusion. Surely they didn't think the City would fall for such a cheap trick.

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The report also fails to mention important impacts on key neighborhood streets leading to and from the CU-South area. This is a crucial concern of residents in Martin Acres and the Tantra area, because these hitherto residential streets will become primary access points--with consequent dramatic increases in traffic and parking congestion--to CU-South. This is especially true of Moorehead Avenue and Tantra Drive. Moorehead, which surely will become a heavily trafficked cut-through in a completely residential area from the main campus to CU South, is particularly problematic. Its access to and egress from CU-South will require a turn onto Table Mesa Drive plus a turn onto South Loop Road within one block, surely a cause for slow-downs, accidents, and general mayhem. Tantra Drive also will become an alternative to South Loop Drive, despite that it of course, has no actual road access into the property at this time. It, too will require several turns off Table Mesa before a vehicle can get to the proposed campus. Both of these streets and all their residential side streets are likely to become de-facto parking lots for people trying to use the new campus. It is possible that Hanover and Ludlow also will become access points and places to park for CU-South users. Also of note is the increasing difficulty of getting onto both Table Mesa from its adjacent neighborhoods and onto Broadway north and southbound from neighborhoods on the east and west side of South Broadway. Access is limited to a few stoplights, and wait times getting through these intersections can last through several lights during peak travel times.

None of these potential impact points are mentioned in the report, but they are certainly a major preoccupation of residents in the area.

The report makes much of how to control a new access point from CU-South's SW corner onto Broadway/Hwy 93, just south of Chambers Road. However, CDOT controls permissions to build such new access points. That part of the FTH report is moot at this point because CDOT has given no such permission either to create a new access point, or for use of any of its land for the right-of-way near and into the CU property. Furthermore, CU itself has said that though, on the one hand, it must have an access point to Hwy 93 in order to develop the property, it also has firmly declared, on the other hand, that it does not want roads through the campus to be used as a shortcut from the eastern end of Table Mesa through to Hwy 93. Since it will be difficult to prevent such short-cutting, this apparent contradiction by CU should be examined carefully.

NB: I attach a link below to analysis by statistician and DU professor Michael Tuffly--a resident of Martin Acres--that shows pre-CU South, historical, traffic growth on Table Mesa Drive of 255 more cars per day each year. That's with NO addition of CU-South impacts or even of the inevitable populations growth we know to be occurring in Boulder. The report also calls into question a number of other procedures and calculations made by FTH in its report. Should anyone be interested in the analysis, here it is:

<http://www.eriaconsultants.com/documents/cityofboulder2.pdf> Michael Tuffly Ph.D., ERIA Consultants, LLC, 165 South 32<sup>nd</sup> Street, Boulder, CO, 80305

With best regards,

Margaret D. LeCompte, PhD

290 Pawnee Drive

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Boulder CO 80303

For Save South Boulder

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Carol Kampert <outlook\_2EED161A023A3D5B@outlook.com>

**Sent:** Monday, February 8, 2021 11:03 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** NO to CU South development

**External Sender**

Dear Boulder City Council Members,

I am writing to tell you of my strong opposition to the current, ill-conceived proposal to annex and develop CU South. I am opposed to the development of a campus equal in size to the existing main CU campus, bringing with it an exponential increase in traffic to Martin Acres, Table Mesa, Broadway and other adjacent streets. Moorehead Ave. would become a parking lot when CU students and staff start using this street as a shortcut between Table Mesa Drive and Baseline and when using it for parking when taking classes, working or living at CU South.

CU has petitioned the city to annex this 308-acre property so it can receive city water, sewer, and storm water services required for an unconfirmed building plan. No one really knows what CU will build out there, and they won't get started planning until late 2021 at the earliest, but probably not until 2022.

CU is demanding \$25 TO \$99 million dollars of tax money from the City to haul in fill dirt to raise the level of the this land, making it possible to build 1,000 housing units, service facilities, academic buildings, sports fields, and parking lots on this floodplain. But building housing and developing floodplains destroys habitat, and increases risk for flood damage, congestion, noise, pollution and the traffic that development would create.

Also, the City would be losing a wetlands area adjacent to South Boulder Creek that is designated as a Natural Area and is crucial habitat for riparian vegetation, birds, mammals, amphibians, reptiles, insects and other wildlife.

Please consider moving CU's development to the North Boulder Planning Reserve. It is high, dry, not in a floodplain, and has ample space to accommodate the university!

CU is using Boulder's need for 80 acres of CU's South Boulder land for the currently chosen flood mitigation plan as a lever to demand that Boulder annex the entire 308 acres. Don't let CU blackmail you into approving this proposal.

Thank you for your consideration,

Carol Kampert  
3060 Ash Ave.  
Boulder, CO 80305

Sent from [Mail](#) for Windows 10

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Rik McAuliffe <rik.mcauliffe@gmail.com>  
Sent: Monday, February 8, 2021 7:52 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South annexation -- bad idea

External Sender

After reading many of the citizens thoughts in the Daily Camera, regarding the plan to annex the CU South property into the city, I too feel this is a bad idea.

I live in the south part of Boulder and frequent the South Boulder Creek trail and Marshal Road areas. It makes no sense to me as a taxpayer to annex this property and have to spend significant money and effort on a massive flood control project. Add to this the fact that only a portion of this property can be used for development and it makes less sense.

The secondary effect of CU developing the property and adding significant traffic to Hwy 93 and Broadway will have a deleterious impact to that entrance to the city that is currently rural and open.

I agree with the recommendation that a land swap with CU would make much more sense. Even if it meant open space land. This land should never have been sold to CU, it was meant to be open space instead.

After reading that city "staff" recommended the annexation, I think it's time for the council to take leadership on this issue and reject the annexation of CU South!

Sincerely,  
Richard McAuliffe  
2960 Lafayette Dr

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Harlin Savage <harlin.savage@gmail.com>

**Sent:** Sunday, February 7, 2021 10:48 AM

**To:** Council <council@bouldercolorado.gov>; Meschuk, Chris <MeschukC@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatz, Jean <GatzJ@bouldercolorado.gov>

**Subject:** Advice from the Father of Floodplain Management

External Sender

Dear All,

I thought the excerpts from Gilbert White's biography would be of interest. As some of you may already know, Gilbert White was a world-renowned expert on flood management and widely respected as the Father of Modern Flood Management. In addition to his extensive research and public service, he was an enthusiastic and energetic professor at the University of Colorado Boulder for many years.

From his biography, we have two insightful case studies from Boulder, Colorado and Tulsa, Oklahoma, two very different communities, both with flood management challenges. White worked extensively with Boulder and with Tulsa, which implemented his recommendations to the great benefit of the community. The take home message is that communities are best served by working with Mother Nature, making the most of existing floodplains and using land-use planning, zoning, and other tools to keep people and structures out of harm's way.

I have scanned and attached the two studies below, which were copies from "Living With Nature's Extremes: The Life of Gilbert Fowler White."

Sincerely,

Harlin Savage  
Tantra Park Circle  
Boulder CO

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lee Rozaklis <lee.rozaklis@rozaklis.com>

**Sent:** Sunday, February 7, 2021 9:47 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South

**External Sender**

Council Members:

Given unprecedented uncertainties that COVID has inflicted upon CU in terms of its future financial viability and educational configuration, as well as to the City's financial situation, it seems obvious that the City should call for a four-year moratorium on any further discussions or commitments regarding annexation or future land uses on the CU South property. I worry that, following annexation and in response to financial straits and political pressures, CU could decide to open up the property to unlimited market-rate development, using its State government status and lawyers to ignore/circumvent any commitments it may have made to Boulder. It's been more than 20 years since CU acquired the property. Given COVID, there should be no rush to decide anything for another four years.

Regarding flood control along South Boulder Creek, that issue has been present ever since development began encroaching into the South Boulder Creek floodplain more than 50 years ago. If that issue cannot be resolved to Boulder's and CU's mutual satisfaction independent of any development or annexation commitments, it can also wait four more years for resolution.

Lee Rozaklis

520 Concord Avenue

Boulder, Colorado 80304

303-648-1235

[Lee.Rozaklis@Rozaklis.com](mailto:Lee.Rozaklis@Rozaklis.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Kay Forsythe <mikekayforsythe@gmail.com>  
Sent: Saturday, February 6, 2021 3:56 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Flood mitigation

External Sender

Council members,

Please, please continue to forge ahead on flood mitigation for our South Boulder neighborhoods. Since 2013, the City has dilly dallied on keeping our citizens safe. Good progress is finally being made, due diligence is occurring, CU is being very cooperative and annexation terms are very reasonable! Make a decision in our favor and finally relieve this anxiety for those of us in the floodplain, now. The nay-sayers should not stop action on keeping us protected from another devastating flood.

We care about our neighbors and hope you'll agree to complete this plan so we are protected.

Kay and Mike Forsythe  
4840 Thunderbird Drive #82  
Boulder

**From:** Michael Tuffly <mtuffly@eriaconsultants.com>  
**Sent:** Saturday, February 6, 2021 10:04 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Project and the Traffic Report produce by Fox Tuttle Transportation Group, LLC

**External Sender**

Michael Tuffly. Ph.D  
165 South 32<sup>nd</sup> Street  
Boulder, CO 80305  
Phone/Fax: (303) 449-5146  
Cell (720) 841 - 6188  
Email: [mtuffly@eriaconsultants.com](mailto:mtuffly@eriaconsultants.com)  
URL: <http://www.eriaconsultants.com>

**RE: CU South Project and the Traffic Report produce by Fox Tuttle Transportation Group, LLC**

Dear City of Boulder,

I just finished reviewing the traffic study report produced by Fox Tuttle Transportation Group, LLC. I found some issues in the data collection methods and statistical analysis contained in the report and I thought I should bring these issues to the City of Boulder's attention. Note, I am not a traffic study expert; rather, I am a scientist that specializes in spatial and temporal modeling of natural resources. That is, I hold a Ph.D. in spatial statistics. Furthermore, I am a professor at the University of

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Denver where I teach graduate courses in spatial and temporal statistics. Finally, I have a 15-year-old viable consulting company where I serve as an expert witness reviewing and analyzing data for lawyers for various civil court cases. Thus, concluding I am somewhat competent in statistical analysis.

The city of Boulder is well aware there is a COVID-19 pandemic. This has been occurring since March 2020. During the one-year COVID-19 pandemic the three dominate oil companies (i.e. Chevron, Shell, and BP) have posted record losses in revenue. These record revenue losses are due directly to a reduction in people driving their cars. The reduction in vehicle use is clearly present in the City of Boulder. Therefore, any traffic volume measurements taken during this time period (i.e. March 2020 to February 2021) should be rejected due to the misrepresentation of the true number of cars. This misrepresentation of the true number of cars is called a statistical bias and should be avoided.

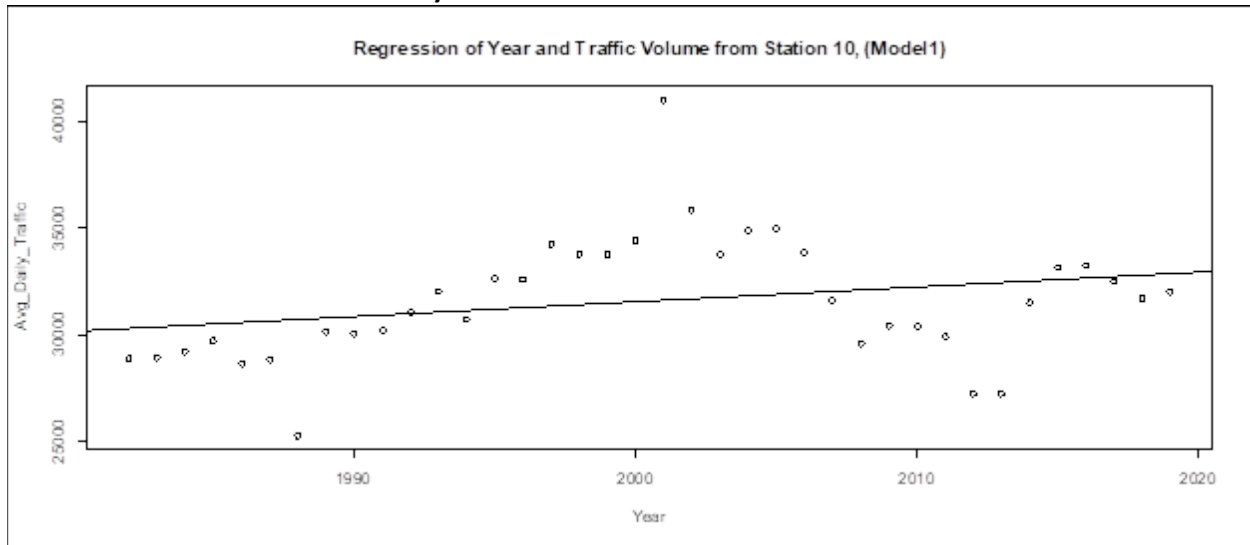
Fox Tuttle Transportation Group, LLC collected traffic volume data at various locations in Boulder during the month of November and December of 2020 and used these data in their report (beginning on page number 95 of the appendix and continuing for over 100 additional pages). I am sure that Fox Tuttle Transportation Group, LLC did not maliciously and intentionally try to mislead the University of Boulder, the City of Boulder, or the people of Boulder by including these bias traffic data in their report. Rather, Fox Tuttle Transportation Group, LLC are just statistically incompetent on this topic.

I have a second issue with the traffic report produced by Fox Tuttle Transportation Group, LLC. Page labeled number 11 states: "**Table Mesa Drive:** *Traffic growth along this corridor has been nearly flat over the past 20-years (see historic data in the **Appendix**).*"

As a spatial statistics expert I reviewed these data and generated some similar results as Fox Tuttle Transportation Group, LLC. However, Fox Tuttle Transportation Group, LLC interpretation of the results from the three traffic sites (**Station Number 10 South Broadway North of Table Mesa, Station Number 18 Table Mesa Drive East of 40<sup>th</sup> Street, and Station Number 2404 Broadway South of City Limits**) is a gross misrepresentation of the data. I am sure that Fox Tuttle Transportation Group, LLC did not maliciously and intentionally try to mislead the University of Boulder, the City of Boulder, or the people of Boulder by the misrepresentation of the data for these three traffic stations in their report. Rather, Fox Tuttle Transportation Group, LLC are just statistically incompetent on this topic. Concluding that the traffic report produced by the Fox Tuttle Transportation Group, LLC be rejected by the City of Boulder due to the blatant statistical incompetency of the company. The following pages of this document illustrate the correct, unbiased computation, for the traffic volumes at the three aforementioned stations.

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

Station Number 10 South Broadway North of Table Mesa



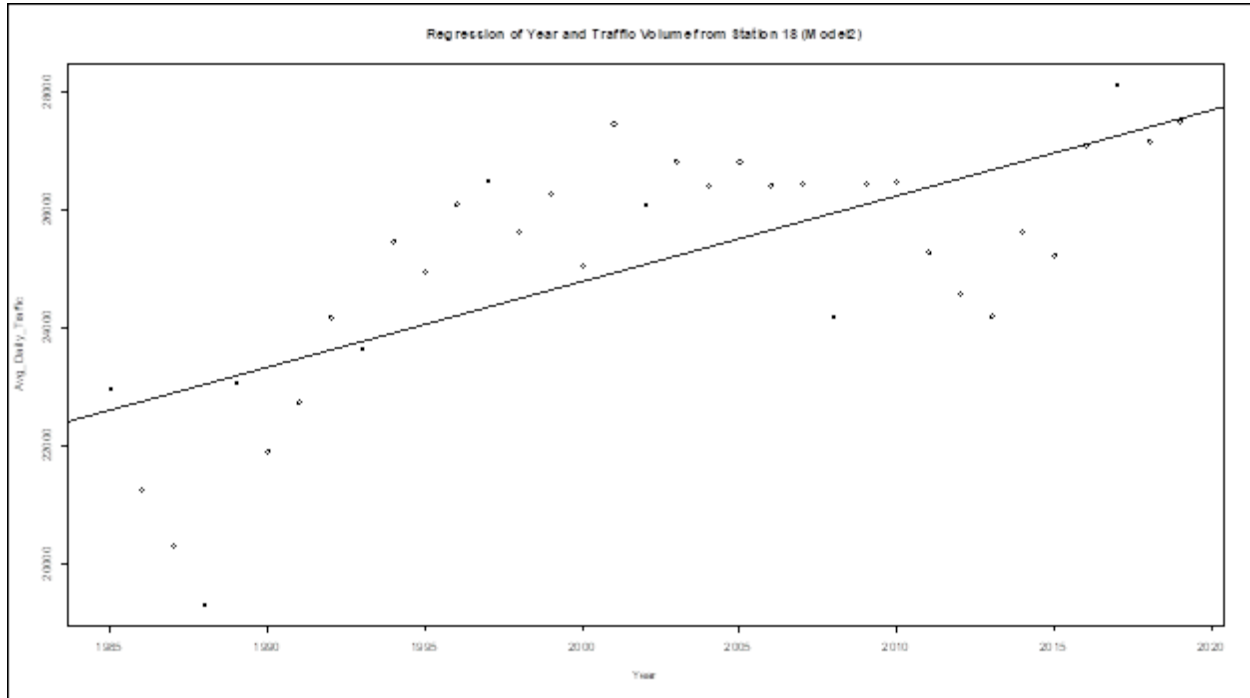
(Intercept) -107605.17, Standard Error = 83435.48,  $t\_value = -1.290$ ,  $p=0.205$   
slope = 69.58 Standard Error = 41.71,  $t\_value = -1.668$ ,  $p=0.104$

What does this mean? Every year since 1982 for this particular station there has been an increase of 70 more cars per year on average. Therefore, in the year 2035 **without CU South** there will be an estimated daily average of 33,990 cars at this station. That is, there will be an estimated increase of 3,688 cars or a 12% estimated average increase from 1982 to 2035 without implementing the CU South project.

Data for this regression analysis come from page 89 out of 360. Page 89 is not paginated and is contained in the appendix.

Station Number 18 Table Mesa Drive East of 40<sup>th</sup> Street

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

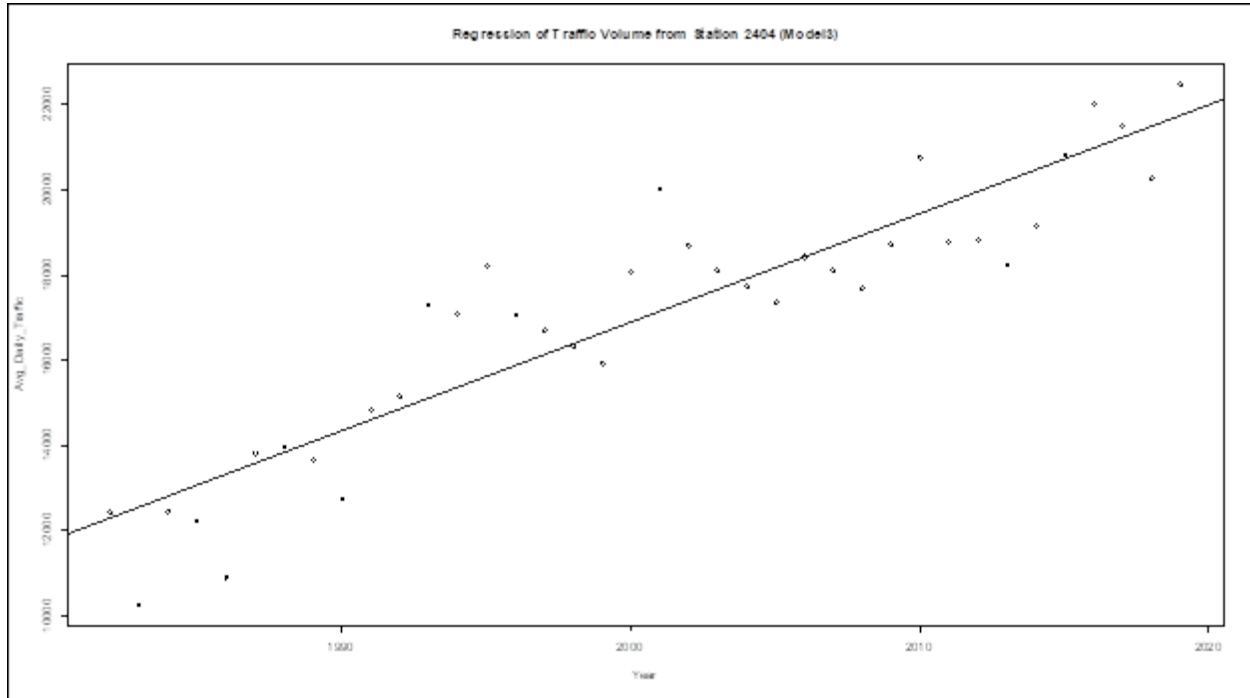


(Intercept) -266215.0, Standard Error = 50443.7,  $t_{\text{value}} = -5.277$ ,  $p=8.14\text{e-}6$   
slope = 145.5 Standard Error = 25.2,  $t_{\text{value}} = 5.775$ ,  $p=1.87\text{e-}6$

What does this mean? Every year since 1985 for this particular station there has been an increase of 146 more cars per year on average. Therefore, in the year 2035 **without CU South** there will be an estimated daily average of 29,878 cars at this station. That is, there will be an estimated increase of 7,275 cars or a 32% estimated increase from 1985 to 2035 without the CU South project. Data for this regression analysis come from page 90 out of 360. Page 90 is not paginated and is contained in the appendix.

**Station Number 2404 Broadway South of City Limits**

**CU South Annexation Application (LUR2019-00010)**  
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(Intercept) -492677.45, Standard Error = 37793.86,  $t_{\text{value}} = -13.04$ ,  $p=3.36\text{e-}15$   
slope = 254.79 Standard Error = 18.89,  $t_{\text{value}} = 13.49$ ,  $p=1.21\text{e-}15$

What does this mean? Every year since 1982 for this particular station there has been an increase of 255 more cars per year on average. Therefore, in the year 2035 **without CU South** there will be an estimated daily average of 25,820 cars estimated at this station. That is, there will be an estimated increase of 13,504 cars or a 110% estimated increase from 1982 to 2035 without the CU South project. Data for this regression analysis come from page 90 out of 360. Page 90 is not paginated and is contained in the appendix.

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Michael Tuffly Ph.D.  
ERIA Consultants, LLC  
165 South 32<sup>nd</sup> Street  
Boulder, CO, 80305 USA  
Office (303) 449 5146  
Cell (720) 841- 6188  
Email: [mtuffly@eriaconsultants.com](mailto:mtuffly@eriaconsultants.com)  
URL: <http://www.eriaconsultants.com>  
Linkedin profile: [www.linkedin.com/in/michaeltuffly](http://www.linkedin.com/in/michaeltuffly)  
SKYPE: michael.tuffly

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** jennifer mabry <jennifermabry@outlook.com>

**Sent:** Thursday, February 4, 2021 5:30 PM

**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>

**Subject:** Residential opposition letter to CU Boulder South

**External Sender**

Dear Council - Attached is a letter that I would like entered into the public record opposing CU Boulder South.

Thank you,

Jennifer E. Mabry

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

February 4, 2021

Dear Council,

I am writing to express my strong opposition to the proposed annexation of CU South by CU Boulder, which would further degrade an already fragile quality of life in the adjoining neighborhoods of Table Mesa, Majestic Heights, Tantra, and Martin Acres, and encroach on the natural beauty and open space that Boulder has long advocated to preserve.

As a native of Boulder, I have witnessed the extreme growth and overdevelopment of CU's main campus, in the last 40 years, as the administration has worked at a frenetic pace, like Pac-Man to gobble up nearly every available inch of greenspace on its 313-acre main campus with ginormous building after ginormous building accessorized by ginormous parking lots to accommodate student traffic and athletic events.

In its race to [commodify and amenitize](#) the university the administration has failed to seek or strike a balance between growth and development and what is reasonably sustainable for itself and the community writ-large.

Boulder resident Jan Trussell, who lives in the Martin Acres neighborhood, laid out a thorough and sound [argument](#) why Council must reject CU South (Daily Camera, Guest Commentary, Jan. 9, 2021). I will try not to rehash her remarks but add the following points, which cannot be disputed, based on the realities of our economy and the current public health emergency:

- If we've learned anything from the pandemic it is that the current model for institutions of higher education will need to be more nimble and malleable, moving forward. According to EducationData.Org more students are foregoing four-year college institutions, with enrollment peaking in 2010.
- Some combination of in person and remote learning will likely be the new normal for many public and private colleges, universities and community colleges as budgets contract, enrollment continues to decline, and students way the costs, including student debt, versus [return on investment](#).
- Approximately 74 percent of all undergraduates are "[nontraditional](#)" students. Meaning they're not 18-year-old social butterflies seeking to spread their wings outside the watchful eyes of their parents through a 20<sup>th</sup> century-style college experience filled with partying, drinking, attending weekend football games, and hanging out on the Hill. They're more likely to be financially independent, have children, and hold a full or part-time job.
- There are too many [existing vacant rental properties](#), both residential and commercial, in Boulder for lease, sale, sit vacant, may soon be vacated or never inhabited, given the present state of the economy (WeWork, Google and its existing and former offices, as well as the Peloton, Two Nine North, the ginormous luxury developments on Pearl and 30<sup>th</sup> Streets, and a cluster of vacant office parks on Valmont, immediately spring to mind). With a little imagination and ingenuity the university could repurpose and rehab these sites to meet their needs, including to create affordable housing. Naropa University serves as a model for how an organization, regardless of size, can efficiently manage growth, with little to no disturbance to the community writ-large, environment, and infrastructure of our city.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

- Even as a new administration that believes in science is working diligently to distribute vaccines, students – whether self-supporting or supported by parents – will continue wrestle with the financial and psychological impacts of the virus for the foreseeable future. This will lead many to attend school closer to home (90 % of CU's student population comes from out of state. Including international students, an aggregate that many public institutions depend on to pay full tuition. International students may also be hesitant to return to the United States, at least in the immediate future, based on COVID-related travel restrictions and any general concern they may harbor for their personal safety and security following the far-right white extremists attacks on the United States Capitol last month. As white nationalists and supremacists are the No. 1 domestic terror threat to the country.
- Finally, there is **NO community benefit** to CU South for the residents of Boulder that do not already exist because of the pre-planning and thought of our forebearers with regard to open space, building height and density: Boulder has three state-of-the art recreational facilities that are supported by taxpayer dollars, which are available to the public for year-round use. Boulder also has a YMCA, an abundance of private gyms and yoga studios and, at least, two wholly adequate dog parks; and the running tracks at Fairview and Boulder High have always been accessible to the public.

What do these facts add up to? That there is no logical, environmental, sustainable or communal need for CU South. If CU wants to be a good neighbor to the community of Boulder then it will need to modify and adjust the institution to meet the needs of a changing environment. In other words, be a solution not part of the ongoing problem.

I **implore** you not to feed the beast and **reject** the proposed annexation. I have read numerous letters to the editor and guest commentaries in the Daily Camera, during the many years this proposal has been discussed and having talked to neighbors and friends I know my opinions are shared by those in our community.

Jennifer E. Mabry  
South Boulder resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bill Pollauf <willapjr@hotmail.com>  
**Sent:** Thursday, February 4, 2021 2:14 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Council Members,

CU South has become a real "can of worms". Boulder wanted the property for what it should be, open space and flood control.

CU outbid the city and believed they had the pull to remake the area and obtain water and sewer service. Now it's projected to cost millions of dollars to raise 129 acres for development. And the city is supposed to pay for this? This is crazy! The city should have no part in this. CU purchased the property with no guarantee it could do what it wished. The city has no obligation to adhere to CU's wishes. Refuse to cooperate and let them live with the purchase. OR, offer to buy the property or trade for it and let the property be left to be what it should be--open space and floodplain. I believe the citizens of this city should have a voice in this decision. Let there be a vote!

William Pollauf  
Boulder

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** rmheg@aol.com <rmheg@aol.com>  
**Sent:** Wednesday, February 3, 2021 7:03 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south

**External Sender**

I have so many concerns about this project

Cost for Boulder!

Is there \$\$ in Open Space budget to put # of appropriate rangers on the new open space that has been a free for all, dogs completely with no voice and sight control. We don't have enough rangers on open space now!

Does CU really need to expand- College age population is decreasing not increasing. With covid will colleges ever really go back to normal or will more zoom classes become more the norm... - hopefully less students in town!

Who is going to pay for restoration of wet lands destroyed by off leash dogs

What neighborhoods will be protected by dam and what ones will not

How will move of fire station affect southwest Boulder fire risk/response time?

What will affect on traffic on Moorhead and Table Mesa with these new homes on CU South! It will affect them a lot I am sure and both streets are already a mess with NO speeding mediation. There is no services in the area of CU south so people will always have to travel to go to stores etc. I was told recently by Boulder Traffic police that unless a car was going 10 plus miles over speed limit they wouldn't be stopped! She was specifically referring to South Broadway past Baseline.. So a car had to be going over 50 for police to ticket for speeding!

So many concerns!!! Please address these!!

Rosemary Hegarty PT, APT, CCRT  
303-499-4602 office  
[rmheg@aol.com](mailto:rmheg@aol.com)  
[www.rosemaryhegarty.com](http://www.rosemaryhegarty.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

-----Original Message-----

From: Marsha McClanahan <marshamccl@icloud.com>

Sent: Tuesday, February 2, 2021 5:09 PM

To: Council <council@bouldercolorado.gov>; chancellor@colorado.edu

Subject: Don't approve the CU development of south Boulder area

External Sender

I recently filled out the CU questionnaire about the CU South Property which deceptively only asked questions about the benefits of developing the property. As I answered the questions I saw that none of what CU is offering is better than leaving the property undeveloped as it is now. I have lived in the Frasier Meadows neighborhood for almost 30 years and have regularly enjoyed walking on the trail through that property. The openness of the land, the birds, the creek, the incredible view of the whole of our mountains has been a constant source of enjoyment for me. To think of all that being gone forever is such a loss that I can barely imagine it.

Over the years the traffic on Foothills and highway 36 has become more and more horrific with traffic stopped and creeping for hours every weekday morning, afternoon, and evening. Table Mesa, which used to have no period of slow traffic, has slowed to stop and go in the morning and evening. When I want to leave Frasier Meadows to go to the recreation centers or to the grocery store, I have to time it to late morning in order to be able to get out of my neighborhood and to other parts of Boulder. The noise in our neighborhood has become almost intolerable not to mention the awareness of the pollution created by this traffic. Only the pandemic has made this temporarily better. Now CU wants to add to this mess with addition of buses, cars, and bicycles moving between CU South and the main campus. As a member of the Boulder community and a resident of south Boulder I say no. We will sacrifice way too much and will have absolutely no benefit from this development. The land, once destroyed, will be "developed" forever. In Boulder where we value open space and getting outdoors we cannot let CU double their area. More students. More staff. More tall buildings blocking any enjoyment of the mountain views. Please say no to this. Boulder doesn't want it. There is no benefit for the people of Boulder.

Marsha McClanahan

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gatzaj, Jean <Gatzaj@bouldercolorado.gov>  
**Sent:** Tuesday, February 2, 2021 5:08 PM  
**To:** sp153@yahoo.com; Council <council@bouldercolorado.gov>  
**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatzaj, Jean <Gatzaj@bouldercolorado.gov>  
**Subject:** RE: CU South

Hello Stanley and Pamela,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

We recognize there are a wide range of viewpoints regarding the potential CU South annexation. There are many complex issues and choices. As we work on the draft annexation terms, it is both helpful and important for staff and decision-makers to hear your feedback. Thank you for taking the time to share your views.

Regarding the concerns you raise about flooding, you can more information on the [South Boulder Creek Flood Mitigation Project](#) website and the most current information about the draft annexation terms in the [Annexation Briefing Book](#) and within FAQs on the [project webpage](#).

We encourage you to provide your feedback about the CU South Annexation on [Be Heard Boulder](#) through Feb. 15, 2021. Feedback received will help guide how the project moves forward.

Sincerely,  
Jean

**Jean H. Gatzaj, AICP**  
**Engagement Specialist & Senior Planner**  
*Pronouns: She/Her/Hers\_What's This?*



**City of Boulder**  
**Communication & Engagement**

O: 303-441-4907  
[gatzaj@bouldercolorado.gov](mailto:gatzaj@bouldercolorado.gov)

City of Boulder, CO

P.O.Box 791 | Boulder, CO 80306  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

**From:** [sp153@yahoo.com](mailto:sp153@yahoo.com) <[sp153@yahoo.com](mailto:sp153@yahoo.com)>  
**Sent:** Friday, January 29, 2021 8:20 AM

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** CU South

**External Sender**

Mayor and Members of the City Council.

As longstanding home owners in the Table Mesa area – a home that was severely affected by the flooding – we stand with those objecting to the expansion of CU Boulder into the Southern portion of our city.

It is clearly not in the interests of our citizens or the environment that our Council is so rightly engaged in overseeing.

We say this as staunch supporters of CU Boulder and all the beautiful benefits it bestows on our community.

Stanley Brown  
Pamela Barsam Brown  
310 Overlook Drive  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim Hill <jimdrjhill@msn.com>  
**Sent:** Monday, February 1, 2021 3:41 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU south

**External Sender**

After many tries, I have finally found the new email link to you. I hope you have seen the many thoughtful, intelligent letters to the editor in the Daily Camera and the latest guest editorial from Peter Mayer. All residents in Boulder have been told, appropriately, that they cannot build in the floodplains around here due to the potential devastating effects that can result on surrounding and downstream businesses and neighborhoods.

I value CU as much as others here, but their proposed location for building in the floodplain at the south edge of Boulder is a bad one. Aside from the obvious destruction of wetlands and open space on our border, the traffic congestion with associated increased air pollution will be inevitable there, and will be felt throughout the city when CU greatly expands its student population. I strenuously object to spending millions of OUR tax dollars to truck in dirt to build in a floodplain. Please work with CU to find a more suitable location, and do a land swap if needed, to create a win-win resolution to this problem. Thanks for your consideration. James Hill, M.D.

Sent from [Mail](#) for Windows 10

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jonathan Bruneau <jb.mtbsb@gmail.com>

**Sent:** Monday, February 1, 2021 8:37 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Annexation

**External Sender**

Dear City Council,

I recently received a pamphlet concerning the continuing efforts towards CU south annexation. I have a great deal of trepidation with regards to the annexation, more specifically towards the development expectations from the university.

Namely, thanks to being an ecotone, the 308 acres currently harbors a diverse range of fauna. During my many day (and night) visits in this region I've personally seen:

- Bobcats
- Bears
- Foxes
- Coyotes
- Big Horned Owls
- Barn Owls
- Bald Eagles
- Cooper's Hawk
- Sharp shinned Hawks
- Kestrels
- Ospreys
- Albert's Squirrels
- Prairie Dogs (no surprises here).

I can't help but wonder what impacts to the ecotone the current annexations plans will incur, especially as the land is cut in half down the middle [as shown on your site](#).

It's especially heartbreaking to hear CU wanting to add over 1000 units of housing on undeveloped land when there's an already large amount of city land that only serves a handful of airplane pilots at the Boulder airport. Wouldn't it make more sense to redevelop low density spaces first (such as the airport) instead of breaking new grounds?

I'm looking forward to attending this February 19th event. The impetus to moving forward with this annexation aren't clear to me, and it would be most unfortunate to improperly designate this land that would otherwise best be zoned as open-space.

Regards.

Jonathan

**From:** Kenneth Nova <kgnova9@mac.com>

**Sent:** Monday, February 1, 2021 7:35 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South

**External Sender**

8 REASONS WHY CU SOUTH IS A TERRIBLE IDEA

8. The promised fire station at CU South would mean that the current station at Darley Ave would be closed. With the new location being on the eastern edge of SoBo, this would mean increased distances and elapsed time of service for many residents.

7. Two endangered species would be in serious jeopardy from CU South construction.

6. The residential units in CU South could be built on the East Campus, which is far closer to main campus.

5. Instead of building CU South in a floodplain, there could be a swap of 129 acres of the City's Planning Reserve high and dry land for 129 acres of the CU South land.

4. The flood mitigation work that needs to occur should not be coupled with CU South. Separate the two projects.

3. Current budgetary estimates include the City of Boulder paying between 66 and 91 *million* dollars including depositing many tons of fill dirt to raise the area for CU South housing up in a floodplain, which is absurd! That huge range of costs – with no CU South site plan – should not be acceptable!

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2. Where will the traffic from CU South go to get to campus? Skip the traffic jam at Table Mesa and Broadway and take Moorhead instead? Turn Moorhead into a major traffic corridor? Or take Martin, which recently was “closed” to thru traffic because it’s used by so many pedestrians and bikers, not to mention the elementary school?

1. Have you ever tried to drive through the intersection of Table Mesa and Broadway at rush hour? Or tried turning left onto Table Mesa from Martin Acres or Majestic Heights? It’s nearly impossible! Add in CU South traffic and we’ll have a giant bottleneck for SoBo residents.

Kenneth Nova

355 S 44<sup>th</sup> St

Boulder, CO 80305

303-478-6467

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Michael Dominick <mpdominick@gmail.com>  
Sent: Sunday, January 31, 2021 2:45 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU south development project

External Sender

Recent guest commentaries and a letter to the editor in The Boulder daily camera about the CU south development have been extremely persuasive about what a bad idea it is to go forward with this project. The negatives, and the cost, seem to significantly outweigh the benefits. After all, the 2013 flood was the result of a 1000 year rainfall, which was augmented by street run off. I see very little benefit to the city to caving in to the university of Colorado on this issue. I urge you to rethink this project. Sincerely, Michael Dominick

Sent from my iPhone  
Michael Dominick

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Michael Tuffly <mtuffly@eriaconsultants.com>

**Sent:** Sunday, January 31, 2021 8:20 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Concerns

**External Sender**

**RE: CU South Annexation**

Dear Boulder City Council,

I have lived in Boulder for over 20-years. Boulder is a wonderful place to live, work, and play. The open spaces are fantastic areas to relax, think, and exercise.

Over the last two decades traffic has increased in Boulder and for that matter in most places in Colorado. Yet, for the most part, Boulder has remained somewhat responsible when it comes to traffic.

The annexation of the property known as CU South is not a good idea for many reasons. Here are some examples:

- 1) Existing traffic on Table Mesa and South Broadway (Highway 93) are at maximum capacity.
- 2) There is no area to widen Table Mesa west of Foothills Parkway and Broadway also cannot be widened north or south of Table Mesa within Boulder City limits.
- 3) The overflow of traffic from CU South will highly impact the residential streets of Moorhead, Martin Drive, and Ash. Also, these streets cannot be widened. Other residential streets could also be impacted over time.
- 4) By adding 1,100 "Units" in a floodplain will significantly reduce the water permeability function of the land. That is, reducing ground water recharge (i.e. water permeability) is one of the components of the City of Boulder's Green Points Program. Moreover, reducing ground water recharge is something that is not a good idea under climate change.
- 5) Under Climate Change, frequent and cataclysmic floods are expected. Flood insurance will be very costly for the residents in CU South. Flood damage costs, such as the damages that occurred in 2013, should not be passed on to the people of the City of Boulder, County of Boulder, or the State of Colorado just because the University of Colorado wants to build in an existing flood plain.
- 6) Since it is known that mining has occurred on the proposed annex property an abandoned mine assessment under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) needs to be implemented and reports need to be published. The liability to the responsible parties could be substantial if hazardous materials are found on site.
- 7) The City of Boulder water supply and sewage treatment are already at maximum capacity. The additional strain from 1,100 new units will require costly infrastructure upgrades which is something CU is unlikely to pay. This will require shifting the cost for upgrades to the City of Boulder residents. In addition, under climate change cities should be reducing water consumption not increasing water use.
- 8) Shopping centers in the South Boulder area are already at maximum capacity. Adding the additional 1,100 units will impact these shopping areas resulting in parking congestion, excessive crowds, and difficulty navigating within the store themselves.

In closing, I am not sure that the City of Boulder can stop the Annex of CU South. Moreover, the tone of the questions and statements propagated by CU at this website [www.beheardboulder.org](http://www.beheardboulder.org) clearly indicate

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that the annexation is going forward. Therefore, if the City of Boulder cannot stop the annexation; perhaps, the City can prevent the access to services such as water and sewer to the annexed property.

Thank you for your time.  
Michael Tuffly

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Michael Tuffly Ph.D.  
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Cell (720) 841- 6188  
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Linkedin profile: [www.linkedin.com/in/michaeltuffly](http://www.linkedin.com/in/michaeltuffly)  
SKYPE: michael.tuffly



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lindsay Meeks <lindsaylmeeks@gmail.com>  
**Sent:** Saturday, January 30, 2021 1:37 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South in the Daily Camera

**External Sender**

Councilmembers,

I wanted to ensure you have all seen the most recent news articles, opinion pieces and letters to the editor published in the Camera about CU South. I came up with this list by reading letters to the editor daily, and searching for CU South on their website. If I missed anything, my apologies.

Note that every single one of these is *against* the current plan. The reasons vary from increased traffic and the city spending millions for CU's development, to protecting endangered species, and the basic science behind the flood mitigation plans. The articles below will speak eloquently on each subject.

I have also read that the Darley fire station would be moved farther away from the Table Mesa neighborhood which would increase response time. In addition to obvious safety concerns that would *raise insurance rates* for hundreds of us.

I trust that each of you will read each article carefully and use your positions to get a response from CU for each concern before proceeding further.

Lindsay Meeks  
1260 Edinboro Dr

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**CU South Articles, Opinions, and Letters to the Editor**

*11/15/2020 to 1/29/2021. Most recent on top.*

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**Guest opinion: Peter Mayer: Filling the floodplain at CU South is a bad idea. Why are we planning to do it?**

By Daily Camera guest opinion | [openforum@dailycamera.com](mailto:openforum@dailycamera.com) | Boulder Daily Camera  
January 29, 2021 at 4:00 p.m.

By Peter Mayer

Flood mitigation in the South Boulder Creek watershed is needed, but why must we fill in the floodplain and build on top of the fill to get it accomplished? A central planning principle in Boulder (and around the world) is that building in the floodplain is a bad idea and should be avoided wherever possible. Filling in the floodplain and building on top of the fill is also a bad idea, yet that is exactly what the City of Boulder and the University of Colorado Boulder are planning to do.

The city wants to construct flood mitigation, but CU insists it must have 129 developable acres for its land to be used. To satisfy CU and construct flood mitigation, current plans call for

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360,000 cubic yards of earth fill costing \$10 million to be dumped into the South Boulder Creek floodplain to elevate CU's land.

In 1996, CU bought the Flatirons Gravel Mine in the South Boulder Creek floodplain — a property that was then properly designated at the time for rehabilitation and flood mitigation; and which had a state and county-approved restoration plan in place. The city's open space department made an offer to buy the property in 1996, but CU managed to get an appraisal that valued the property for much more, so the city was outbid. Then, against the advice of experts and the objections of citizens, CU managed to get the gravel mine restoration and flood mitigation plan retired and thus kept its development aspirations alive.

To truly achieve its development goals, CU needs city services like water and sewer. For 20 years, the City of Boulder had no interest in annexing the site and was enabling CU to foolishly develop in the floodplain — until now. Ironically, it was the torrential rains of September 2013 that caused flooding across Boulder that provided CU the opportunity to insist that it receive 129 developable acres at the CU South site.

After 2013, neighbors in the West Valley and Frasier Meadows have been particularly vocal in their call for flood mitigation and protection, and Boulder City Council candidates including Rachel Friend ran on platforms that included a call for flood protection. The combination of CU's insistence that it receives developable land and political will at the city to move forward on flood mitigation at all costs have combined to create the denial of basic flood mitigation principles and climate science.

Adding insult to irony, CU's 129 acres are planned to be elevated above the 500-year flood level while the current flood mitigation design will only protect Boulder citizens up to the 100-year flood level. Then there is the fact that the 2013 flooding of the West Valley came not only from South Boulder Creek, but also from street flooding down Table Mesa Avenue as well as other streets via Bear Creek and the Viele Channel. The proposed flood mitigation for South Boulder Creek with the planned earth fill may cost more than \$100 million and could leave the city with limited capacity to fund other needed flood mitigation projects.

Boulder must refuse to annex CU South under forced conditions that require 360,000 cubic yards of earth fill to be dumped in the floodplain so that CU's former gravel mine can be elevated and built upon. CU should shape up, practice what it teaches, be a good neighbor and cooperate with flood mitigation without conditions.

If this happens, then the city could be in a position to work with CU to identify and potentially swap for an alternative location for CU's future expansion that is not in the floodplain.

*Peter Mayer is the co-chair PLAN-Boulder County.*

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**Guest opinion: Ben Binder: CU South's design against nature**

By Daily Camera guest opinion | [openforum@dailycamera.com](mailto:openforum@dailycamera.com) | Boulder Daily Camera  
PUBLISHED: January 28, 2021 at 9:28 p.m. | UPDATED: January 28, 2021 at 9:29 p.m.

By Ben Binder

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In 1969, distinguished landscape architect Ian McHarg recognized the devastating effects of bulldozed, machine-dominated development on natural systems and authored the pioneering book “Design With Nature,” which revolutionized planning and landscape architecture to harmonize with natural features of the environment.

The City of Boulder has been exemplary in adopting the concepts of McHarg and Dr. Gilbert White, “The Father of Floodplain Management.” Development is permitted in areas where topography, geology and hydrology are suitable; and flood-prone riparian areas are reserved for wildlife habitat, open space, bike paths and flood control.

This engenders a resilient community and eliminates the high costs, flood risks and expensive resources required to bulldoze and maintain unsuitable land to accommodate development.

Unfortunately, the University of Colorado Boulder’s actions on its CU South Campus have violated the most basic principles of sound environmental design; and by insisting that the city annex and agree to provide water and sewer utilities to CU South before allowing the city to use land needed for flood control, CU has significantly delayed implementation of a flood control project needed to protect the lives and property of South Boulder residents.

To avoid damage from major floods, universities and other institutions that plan to be around for centuries wisely build on hills; but the CU South Campus is comprised of a depleted gravel pit in the historic streambed of South Boulder Creek at the foot of a 136 square-mile Front Range drainage basin.

While CU asserts it has cooperated with the City of Boulder to address flooding and other problems associated with this troubled site, the following examples refute that claim.

In 1996, CU developed a confidential strategy to obtain approval from multiple state agencies to purchase the property while keeping the deal secret from the city.

When CU purchased the gravel pit, the reclamation plan for the flood-prone property stated: “After reclamation, the mine site will become suitable for wildlife habitat. Three lakes will be created accounting for approximately 41.5 acres of water surface.”

Instead of cooperating with the city to modify the plan to use the lakes to mitigate known downstream flooding, CU hired consultants to revise the reclamation plan to “accommodate maximum potential development at a future date.” Richard Byyny, who was the CU chancellor at the time, successfully petitioned Colorado’s Mined Land Reclamation Board to amend the plan to eliminate 40 acres of lakes and add an expensive 6,000-foot earthen levee to divert floodwaters around its gravel pit onto neighboring properties.

Both the City of Boulder and Boulder County objected to the amendments. In a letter to Colorado’s Division of Minerals and Geology, the city stated: “The City is struck by the total disregard for previous reclamation commitments that the proposed amendment reflects.”

Knowing the area would likely be needed for flood control, in 2002, when CU applied to Boulder County for a permit to construct tennis courts, the county referred the application to the city, which responded:

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“As expressed in the city’s October 19, 2001, letter to Paul Tabolt, Vice Chancellor for CU Administration, the CU Boulder South Campus property is a key element in developing opportunities to mitigate west valley overflow flooding from South Boulder Creek. It is critical that South Boulder Creek issues be addressed before such opportunities are eliminated by development activities.”

CU intentionally chose to ignore the city’s warning that the tennis court location would likely be needed for flood control.

Now, to correct a problem that could have easily been avoided, the city has agreed to spend \$10 million on an insane plan to move 360,000 cubic yards of earthfill to refill the gravel pit to elevate CU’s tennis courts above the level of a 500-year flood, and another \$5 million to demolish and reconstruct the tennis courts. The 360,000 cubic yards is enough dirt to fill a football field to the height of a 20-story building.

The public should be outraged that our City Council has agreed to raise our stormwater utility fees \$15 million to protect tennis courts and vacant land from 500-year floods, while providing the lives and property of existing Boulder residents a much lower level of flood protection.

When CU purchased the 308-acre property in 1996, because of topography, geology, hydrology, wildlife habitat and other factors, the Boulder Valley Comprehensive Plan designated 220 acres for open space and 88 acres for development.

Now, CU demands 129 developable acres outside the 500-year floodplain — 129 acres is equivalent to 52 city blocks, the size of downtown Boulder.

*Ben Binder is a professional engineer and land surveyor who lives in Boulder.*

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1/27/2021

**Kimman Harmon: CU South: What is Boulder gaining?**

Do we need flood control on the CU South property? Of course we do. Do we need to sell our souls to get it? Of course we don’t.

What is the City of Boulder gaining from this arrangement in which we annex the property into the city? Eighty acres for flood control? That’s it?

The University of Colorado Boulder wants to build on a flood plain and force us, the citizens of Boulder, to make it possible, by paying \$66 to \$99 million for the mitigation as well as hauling in material to raise the level of an unsuitable place to build.

I’m pretty sure if this were a homeowner asking for this, the Planning Department would say no way.

Why is it that, because it’s CU, the city forgets everything it stands for?

And don’t forget the traffic impacts from at least 2,300 new residents at CU South. Most Boulder City Council members live in north Boulder. They don’t experience south Boulder’s traffic.

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Table Mesa Drive and South Broadway now experience lengthy morning and afternoon backups, as U.S. 36 in-commuters exit and head west toward major employers and schools like NCAR, NIST and CU Boulder. CU is by far the biggest component of this traffic. And now we're expected to just take on more?

Is this a done deal? They sure act like it is. But it's not. Let the City Council know that we, the citizens of the City of Boulder, will not be the doormat for the University of Colorado Boulder.

*Kimman Harmon*

*Boulder*

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**Brookie Gallagher: CU South: Decouple annexation and flood mitigation**

The University of Colorado Boulder is using Boulder's need for 80 acres of CU's South Boulder land — for the currently chosen flood mitigation plan — as a lever to demand that Boulder annex the entire 308 acres (similar size as main campus).

Annexation means Boulder would provide services, support and \$66 to \$99 million taxpayer dollars for future undisclosed development. Boulder shouldn't allow itself to be forced into doing the work, and bearing the cost, of readying property for CU to develop and profit from.

CU representatives are negotiating strongly for their economic benefit and future development interests in this property. Understandable. I'm concerned that Boulder city staff are not negotiating as vigorously for us, the citizens of Boulder, and what's in the best interests of our community. This is their duty and hopefully their desire.

The flood mitigation plans and CU's desires for annexation and future development of its property have been tied together. They do not have to be linked. It's not to the community's advantage that they be considered together. It's only to CU's benefit. CU says they're uninterested in treating the two as separate issues. However, Boulder sits across the negotiation table and doesn't have to share CU's negotiating position.

Additionally, as discussions have progressed and new information has come to light, potential problems and concerns regarding previous flood mitigation choices have emerged. Maybe it's prudent to reexamine positions currently considered as "givens," rather than continuing down a path that may not be most beneficial.

The urgency of flood mitigation is inarguable. As a cooperating community partner, CU must agree. Negotiations for flood mitigation should proceed. Negotiations regarding CU's future development plans, and the city's involvement, should occur only when CU proposes specific, binding development plans.

*Brookie Gallagher*

*Boulder*

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1/22/2021

**Ron DePugh: CU South: How much is enough?**

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How much is enough, in CU's insatiable appetite for growth? The University of Colorado Boulder already has its sprawling 313-acre Main Campus, 197-acre East Campus, the main Williams Village towers (violating Boulder's height limits and blotting out views and sunlight) and Williams Village East.

Apparently, these four Boulder locations aren't enough. Enter CU South, the University's coveted 308- acre South Campus (roughly equal to 313-acre Main Campus).

The question Boulderites should ask is: CU, when is enough, enough? Is Boulder's real purpose and destiny to be subsumed and subordinated to CU's never-ending growth? Evidently, yes.

People living in South Boulder, west of U.S. 36, regularly experience acute impacts from CU. It's impossible to get onto South Broadway or Baseline during CU home football games, and "dorm move in/move out" dates. Traffic backs up for miles. South Boulderites are essentially trapped in their neighborhoods during these events. Forget about trying to go anywhere in town.

Now the Table Mesa, Majestic Heights, Tantra, Chautauqua and Martin Acres neighborhoods will face even more traffic impacts from the "theoretically" proposed 2,300 new residents of CU South. Theoretically, because CU won't disclose its specific plans with any certainty. It could be twice that many residents.

The only viable routes between CU South and Main Campus already have major traffic backups: Martin Acres, Majestic Heights and Table Mesa residents already can't turn onto Table Mesa Drive or South Broadway during morning and evening rush hours of NCAR, NIST, CU and multiple K-12 schools.

Moorhead Avenue will become a high-speed, cut-through shortcut for students late for class.

The further absurdity is that the City of Boulder and its taxpaying residents will be expected to pay tens of millions of dollars to prepare the CU South site for CU.

*Ron DePugh*

*Boulder*

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1/21/21

**Kenneth Nova: CU South: Protect threatened species**

Jan Trussell brings up many salient points about the potential CU South project in her commentary, "The hard truth on CU South" (Camera Commentary, Jan. 9). She elucidates the numerous impacts of this huge project on the lives of the residents in surrounding neighborhoods that must not be ignored by Boulder decision-makers.

There's one other issue that nature-minded residents of Boulder should know. The CU South area is home to two threatened species, both of which would become even more threatened if CU significantly impacts the area known as CU South.

The Preble's meadow jumping mouse lives in heavily vegetated streamside habitats and adjacent meadows in a very limited range from southeastern Wyoming to Colorado Springs.

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Growing to about 9 inches in length, including a 5½-inch tail, they have large hind feet adapted to jumping. These nocturnal animals eat grass seeds, fungi, invertebrates and insect larvae. They hibernate in burrows over the winter. Due to extensive human development in their habitat range, they are listed as threatened both by the U.S. Fish and Wildlife Service and in Colorado as a Tier 1, Species of Greatest Conservation Need.

Ute ladies' tresses orchids grow in three Western regions, including the Front Range, from southeastern Wyoming to central Colorado. Its riparian (streamside) habitat includes moist meadows adjacent to and in the floodplains of year-round streams like South Boulder Creek. Eight to 20 inches tall, with long, narrow leaves that get progressively shorter up the stalk, they have many white flowers clustered into a spike shape at the top of the plant. Again, due to riparian habitat destruction by humans, this unique orchid is listed as globally imperiled.

CU South would result in a reduction of habitat for two threatened species. One more reason to reject the CU South project!

Kenneth Nova

*Boulder*

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1/20/2020

**Opinion: Steve Pomerance: Honesty, the first step toward unity**

Steve Pomerance For the Camera

By Steve Pomerance | [stevepomerance@yahoo.com](mailto:stevepomerance@yahoo.com) | Boulder Daily Camera

PUBLISHED: January 20, 2021 at 4:54 p.m. | UPDATED: January 20, 2021 at 4:55 p.m.

With the events in Washington over the last weeks stacked on top of COVID-19, it's been hard to focus on local politics. But there is some good news.

For example, our state senator, Steve Fenberg, said he'd push the Legislature to revise (and hopefully eliminate) the limit on rooftop solar panels, currently at what will generate no more than 120% of the last year's energy use.

Steve PomeranceFor the Camera

And critically important, the Legislature will also look at the rate structure and (hopefully) fix it so that owners who generate more energy than they use can directly share with their neighbors, rather than being forced to sell their excess to Xcel, and then their neighbors having to buy it back.

If the Legislature also addresses similar issues with local solar gardens, we will finally get to where we should have been years ago when solar gardens were first legalized. (By the way, although Boulder included the 120% rule itself in its Partnership Agreement list of items to work on with Xcel, it failed to include these other issues.)

In addition to the benefits of more and cheaper renewable energy, Fenberg's commitment honestly faces up to something that was not done properly in the past, and attempts to fix it. I call it the "Three Up Rule": When you screw up, you own up, and then you clean it up. This is critically important when a mistake is made on a law or policy. But there seems to be a lot of

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resistance currently on the Boulder City Council to dealing with such errors, as I've outlined in recent op-eds. And another one just showed up — the survey that the city staff is promoting on the annexation of CU South

This survey has got to be the worst one I've ever seen. To call it a push poll supporting annexation and development is a gross understatement. There simply is no way to respond to the survey questions that gets at the real issues. Here are some of the many questions that could have been asked, but weren't:

**Should the city annex** the property at all, or should it condemn the property, as it apparently has the legal right to do?

**Should the city push** the University of Colorado Boulder to restrict its growth so as to not have a continuing negative impact on housing prices and eliminate the need for more land?

**What should happen** when climate change makes the currently proposed flood control measures much less effective?

**Who will pay** our Open Space Fund to replace the critical habitat lost to flood control?

**Should all the housing** be permanently affordable, traffic restricted to prevent more congestion, and no sale allowed to a private entity?

So, I have a suggestion for the council for their upcoming retreat. How about taking an hour at some point and doing a very quick review of recent policy decisions? They could use the standard format of "What worked? What didn't? What could we have done better?" Someone could draw up a list of all the items, and then the mayor could just start down the list. The rules would be "no speeches," a sentence or two at the maximum, but a comment expected from each member.

The goal here is to clear some mental space, so as to not have to continually defend bad decisions. Of course it won't work unless councilmembers are honest and straightforward, and make sure that problems don't remain buried and continue to fester.

One issue should be the charter amendment petition process debacle, which continued for months before being addressed. (It was never really resolved, because there has been no formal review of state law's clearly laid-out rules, and of the city's legal wiggling done to evade this reality.)

Another one would be the Xcel franchise process, and its disregard of the charter requirements. It seemed that the council considered the charter to be advisory, rather than definitive. So another recommendation would be for councilmembers to actually read through the charter. Even just knowing what's in there makes a big difference. There was also a notable lack of opportunity for early public review and input by knowledgeable citizens; including them might have avoided many of the shortcomings.

Doing this might create a model for policy discussions that involves a true back and forth of ideas and perspectives. It might also help reduce the disaffection that a lot of people feel nowadays that comes from the increasing distance between the council and the public they serve.

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*Steve Pomerance is a former member of the Boulder City Council. He can be reached at [stevepomerance@yahoo.com](mailto:stevepomerance@yahoo.com).*

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1/17/21

**Wendy Rochman: CU South: Just say no to proposed plan**

Just say no to the current, ill-conceived proposal for the development of CU South. You know we can do that, right? Say no to the University of Colorado Boulder?

Say no to the vague promises of affordable housing in their proposal. CU's other housing prices are above the average for Boulder. Say no to unnecessarily increasing traffic on Table Mesa Drive, which will turn Moorhead Avenue, an already-overused vehicle corridor, into a parking lot for CU students and a danger zone for elementary kids in their own neighborhood.

Say no to CU's unconfirmed building plan. No one really knows what CU will build out there, and they won't get started planning until late 2021 at the earliest, but probably not until 2022.

Say no to eliminating a key habitat for two endangered species that reside at the property, Preble's jumping mouse and Ute ladies' tresses orchid. These species are protected.

Say no to forking up \$25 to \$99 million of our own city tax dollars to haul in fill dirt to raise the level of the land for supposed flood mitigation. This flood zone is going to flood! Say yes to more sensible proposals that work better than the current proposal. (Yup, they exist, but CU doesn't want you to know about them)

Say no to CU's plan, written and proposed by people who do not live in the area, and have no stake in the effects their plan will have on those of us who do live here. We lived through the flood, and we are stuck in the traffic every day.

Just say no to committing to a highly controversial plan that would damage the wetland ecosystem, threaten two native endangered species, cost taxpayers millions, increase neighborhood traffic and add overpriced housing in a flood plain.

This is a bad plan. Just say no.

Wendy Rochman

*Boulder*

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1/9/21

**Guest opinion: Jan Trussell: The hard truth on CU South**

By Jan Trussell

Claudia Hanson Thiem's recent warm and fuzzy opinion piece on CU South (Insight, Dec. 12) managed to leave out many of the hard truths regarding the CU South proposal. Apparently

**CU South Annexation Application (LUR2019-00010)**  
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Thiem does not live in Martin Acres, Majestic Heights, Tantra or Table Mesa, as these neighborhoods would bear the brunt of this massive development.

Here are some facts surrounding this issue that the people of Boulder, especially those who live in South Boulder should be aware of. There's a reason this is one of the longest planning projects in Boulder's history.

As always, the premise of affordable housing is mentioned, saying this could be the urban eco-village Boulder seems to want. Thiem neglects to mention the proposed CU South Campus is 308 acres, roughly the size of CU's 313-acres main campus.

Fact: As far as affordability goes, there is absolutely no guarantee any housing CU builds will be affordable. Recent housing added at Williams Village is well above the average market rents. It is misleading to suggest this would be the case when recent evidence suggests the contrary.

Many of us in South Boulder are still reeling from the devastation of the flood. Martin Acres came together as a community, throwing sandbags in waist-deep water on Martin Drive to divert the water away from residential properties and the school. In what world does adding thousands of new residents and buildings on a flood plain make any sense? It seems those who weren't impacted from the 2013 flood have learned nothing.

Thiem says the university is willing to donate the necessary land, plus additional acreage, in exchange for access to city utilities.

Fact: Saying that the university is offering 80 acres of land at no cost for the city's flood mitigation project is wildly false, since CU is expecting the city to kick in anywhere from \$25 million to \$99 million for fill dirt to raise this proposed development above the flood plain. The taxpayers of Boulder are on the hook for this amount, as it's part of the deal.

The statements that adding 2,200 to 2,300 residents will not have any impact on traffic is severely misleading. Thiem also fails to address the concern on many South Boulder residents' minds: CU's seemingly unquenchable thirst for more students, campuses and growth.

Fact: We live in a reality that most new residents bring their vehicles with them, oftentimes multiple vehicles. Table Mesa Drive and South Broadway are already largely impacted with heavy traffic at peak hours. It is almost impossible to make a left turn out of Martin Acres onto Table Mesa at most times of the day. It is certain that Moorhead Avenue, among other neighborhood streets, would be used as a cut-throat shortcut for those traveling to the main campus.

Suppose CU allows no vehicles at this development? Where will all the vehicles end up? Parked in our surrounding neighborhoods, of course.

Fact: With new developments, there is always the promise of reduced or no parking. When Brookside apartments were built, it came with reduced parking requirements. Many of those residents park their vehicles on the neighborhood streets bordering this development. In addition to that, students, visitors and football fans parking their vehicles in Martin Acres to access the main campus often park across our driveways, preventing us from getting out. The city rarely enforces their own rules regarding parking, so nothing is ever done. One can only imagine a repeated scenario should this development become reality.

**CU South Annexation Application (LUR2019-00010)**  
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Finally, according to Thiem, we can't stop myths about the project from spreading and we can't satisfy everyone, particularly, the "core of committed opponents." I guess this includes open space supporters, everyday residents trying to navigate South Boulder's increasing traffic jams and those who were impacted by the 2013 flood. Believe me when I say I am all of the above.

No, Ms. Thiem, you can't stop myths or conspiracy theories, but you can reveal the whole truth as opposed to leaving "certain glaring facts" out of the discussion as you have creatively managed to do in your opinion piece. The conversation has been toxic and exclusionary, to be sure. If I were to make a guess, I would say that it is the residents of Table Mesa, Martin Acres, Majestic Heights and Tantra neighborhoods who have been excluded from this conversation and have the most to lose should this development see the light of day.

*Jan Trussell lives in Martin Acres in Boulder.*

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12/12/2020

**Opinion: Claudia Hanson Thiem: Looking forward at CU South**

*By Claudia Hanson Thiem*

It's one of the longest-running planning projects in a city known for glacial rates of change. But the 308-acre property known as CU South is now being formally considered for annexation, with Boulder aiming to ratify an agreement by summer of 2021.

And so the public conversation needs to shift from whether – where it's been mired for nearly a quarter century – to how this parcel might eventually be developed. For pragmatists and dreamers, many of whom might have avoided the intense politics thus far, now is the time to engage.

Because of its complicated reputation, it might help to review the broad contours of the annexation debate.

As part of an extensive flood mitigation plan for the South Boulder Creek watershed, the City of Boulder hopes to construct a levee and water detention facilities on what is currently University of Colorado Boulder-owned property west of U.S. Highway 36 as it enters town. When complete, these structures will protect South Boulder neighborhoods that suffered serious flooding in 2013.

The university, for its part, is willing to donate the necessary land, plus additional acreage, in exchange for access to city utilities. While CU Boulder has no timeline for constructing a south campus, connections to municipal water and sewer systems will be essential for any future development on the property.

It's not that simple, of course. Open space activists had eyed the CU Boulder parcel for preservation before the university purchased the land from a private seller in 1996, and many still rue the loss. Meanwhile, the undeveloped land has become an environmental and recreational amenity for neighboring residents. And anti-growth sentiments and strained town-and-gown relationships are never far from the surface.

**CU South Annexation Application (LUR2019-00010)**  
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As the city now invites input on final terms, it has to counter a conversation that has been both toxic and exclusionary. Previous rounds of public engagement have been marked by high emotions and accusations of bad faith.

And in recent years, most battles have been fought in the highly technical languages of water engineering and ecosystem management. It's enough to make a noncombatant or newcomer, of which there are many since CU acquired the land, want to avoid the entire affair. I speak here from experience.

But a future campus deserves a fresh look from a larger set of eyes. Annexation terms can help advance housing and transportation goals citywide, and will codify beliefs about land use, urban design, and the place of young adults – to say nothing of an economic and cultural lifeblood – in the fabric of the community. Given these stakes, it's both prudent and powerful to think about a possible CU South imaginatively, and not just defensively.

It could – and likely will, given guiding principles adopted in 2015 – absorb a significant portion of housing demand currently carried by central Boulder neighborhoods and commuter suburbs. CU Boulder has floated the possibility of 1,100 housing units for students and staff, and that may not reflect the site's full capacity.

It could become a model green settlement with requirements for energy efficiency and production, and a commitment to minimizing car use and parking. If ever built, CU South could be the urban eco-village Boulder seems to want, but has struggled to permit within city limits.

A south campus agreement could accelerate costly ecosystem restoration on undeveloped acres, and provide recreational facilities for adjacent Boulder neighborhoods.

And it could be used to leverage desired changes on CU Boulder's main campus, such as infill development and investments in traffic reduction.

Any of these outcomes would provide benefits beyond the centerpiece flood mitigation project. But envisioning them requires thinking beyond a reflexive "no."

City staff have tried to reset the conversation by collecting project history, current conditions, and open questions in one place. An annexation briefing book ([https://www-static.bouldercolorado.gov/docs/Briefing\\_Book-Reduced-1-202012021303.pdf](https://www-static.bouldercolorado.gov/docs/Briefing_Book-Reduced-1-202012021303.pdf)) summarizes where the parties are aligned on terms, and addresses common community concerns. It assures readers, for example, that CU Boulder has agreed to abide by Boulder's charter height limit, and that it will forgo constructing large research facilities or sports venues at the south campus site.

These materials can't stop myths about the project from spreading, and they'll never satisfy a committed core of opponents. But they can provide a shared foundation for people willing to look forward, or who can trust a hazy future with significant guardrails in place. And I suspect there are more Boulderites in those latter groups than the years of filibuster suggest.

The City of Boulder is conducting public engagement on the proposed CU South annexation through February 2021. Learn more at <https://bouldercolorado.gov/flood/cu-south>.

*Claudia Hanson Thiem lives and parents in Boulder, and is a member of the steering committee of Boulder Progressives.*

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12/4/2020

**Kurt Nordback: CU South: City should address flood safety**

Boulder clearly needs to address flood safety on South Boulder Creek soon, and not let the perfect become the enemy of the good. And CU may, at some time in the future, need space to grow. Both of these points argue for proceeding expeditiously with the annexation of CU South.

However, CU South is clearly not the ideal place for new development. Growing within the current bounds of the city, to the extent possible, is preferable, as it wouldn't disturb habitat, and would put new housing and facilities closer to campus, shopping and jobs.

CU has plenty of space for infill development on surface parking lots on main campus, East Campus and at Williams Village. East Campus and Will Vill also have undeveloped land that's less ecologically valuable than land adjacent to open space.

So I'd like to suggest that in its negotiations with CU over annexation, Boulder should add a condition that CU prioritize development of its existing campuses before building at CU South. For instance, the annexation agreement could require that CU develop some minimum amount of housing — perhaps 2,000 units — within the current city limits before starting any construction at CU South.

It's in Boulder's interest that CU give first priority to expanding close-in, so as to minimize demands on our transportation system and make parts of campus that are currently rather dead more lively. That is also in the university's interest, since infrastructure — sidewalks and streets, sewers, water and electric connections — needed at CU South will be extremely expensive.

We need to come to an agreement quickly, to allow flood mitigation work to progress with all due haste. But we can, at the same time, ensure growth happens first where it makes the most sense.

Kurt Nordback

*Boulder*

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11/30/2020

**News**

**Boulder beginning CU South community engagement**

By Deborah Swearingen | [dswearingen@prairiemountainmedia.com](mailto:dswearingen@prairiemountainmedia.com)

Boulder is this week kicking off community engagement on the CU South project, which would annex the 308-acre parcel, south of U.S. 36 and Foothills Parkway, into Boulder city limits and designate a portion of it for the South Boulder Creek flood mitigation project.

**CU South Annexation Application (LUR2019-00010)**  
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The University of Colorado Boulder, which has owned the land since 1996, is planning to use the parcel for university housing and some academic facilities. Some of it would remain open space. Boulder City Council will have a chance to vote on the annexation in 2021 after a public hearing.

The city on Wednesday will host the first in a series of office hours, which will be small sessions for no more than 10 people to ask questions of Boulder staff and a CU Boulder representative. The other sessions will be Dec. 7, 8 and 15.

Following that, a questionnaire will be released on BeHeardBoulder.org and the city will host its first community briefing on Dec. 11. It will be recorded and shared online for those who cannot attend.

Boulder recently created a briefing book with more information on the project, including its history and the terms of the agreement between Boulder and the university.

Sign up for office hours online at [boulder.colorado.gov/flood/cu-south](https://boulder.colorado.gov/flood/cu-south).

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11/18/2020

**NEWS**

**Monthslong CU South community engagement process underway**

By Deborah Swearingen | [dswearingen@prairiemountainmedia.com](mailto:dswearingen@prairiemountainmedia.com)

Boulder is beginning a monthslong community engagement process on a project that would annex the 308-acre parcel known as CU South into Boulder city limits and designate a portion of it for the South Boulder Creek flood mitigation project.

Additionally, Boulder City Council on Tuesday approved a motion to request input from the city's Transportation Advisory Board, considering transportation is one of the remaining key issues left to be settled. Results from a transportation study, coordinated by the University of Colorado Boulder, will be out in early 2021.

A dilapidated gate and barbed wire fence stand around a building on the CU South campus site on Wednesday in Boulder. (Timothy Hurst/Staff Photographer)

If approved, Boulder has acknowledged the annexation would be a unique one, given that the size makes it the largest undeveloped site within Area II of the Boulder Valley Comprehensive Plan, and CU Boulder has not developed a site plan for the project on the land it owns.

CU Boulder is planning to use the parcel for university housing and some academic facilities, but university master planning is still years away from finalizing the project, according to the project briefing book released by the city.

"We know there's been a lot of contention about what could happen out there from our lack of commitment to a specific development plan," CU Boulder Assistant Vice Chancellor for Business Strategy Derek Silva said in Tuesday's meeting. "But we really do see this as being a great addition to the community in Boulder."

**CU South Annexation Application (LUR2019-00010)**  
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Boulder wants to move fast on the 100-year South Boulder Creek flood mitigation plans approved earlier this year, though its ability to do so is contingent on the annexation of the entire site.

The CU South parcel, south of U.S. 36 and Foothills Parkway, was among the hardest hit in 2013 during the catastrophic flood that killed four people, destroyed 345 homes and damaged hundreds more.

The project is a contentious one with a lot of history. Though it's owned the land since 1996, CU Boulder submitted its annexation application in February 2019 and an amended term sheet Oct. 5.

Proponents say it's the best way to protect the area from future natural disasters and they're grateful for the added amenities and preservation of open space. Those against the project, on the other hand, fear it will do more harm than good.

Margaret LeCompte, a member of Save South Boulder, said in open comment that she questions the haste in which the project is moving forward and asked the city to "slow this train down" until CU Boulder has provided a more comprehensive plan. She worried approving the annexation would have unintended consequences.

"In fact, (CU's) annexation proposal makes it clear that it's not ready for authentic negotiation over annexation details," LeCompte said.

Save South Boulder would prefer a 500-year flood mitigation plan, rather than the 100-year plan approved by Council in June. Local political group PLAN-Boulder County also opposes the annexation in its current form. The group earlier this year attempted to push forward a ballot measure that, if approved, would have guided the annexation terms.

Several others, including a number of South Boulder Creek Action Group members, on Tuesday spoke favorably about the project. South Boulder Creek Action Group is a neighborhood group that advocates for those whose lives and property are threatened when South Boulder Creek tops U.S. 36.

"One of the many benefits annexation would bring is to allow CU to build housing, a small step toward solving the housing crisis our community is facing," said Jon Carroll, who lives adjacent to the CU South site.

Jeremy Reynolds agreed, noting it's crucial to fight misinformation as the project moves forward. He referenced an ad that ran in the Daily Camera that portrayed buildings much taller than what would be allowed.

As part of engagement, the city created a 67-page briefing book that outlines the project, and Boulder hopes it will help present the facts in a succinct and understandable manner. In Tuesday's meeting, it was the source of praise from many.

"It's tremendously helpful to see, on a project with as much history as this one has, the chronology of issues and how positions have evolved," Council member Mark Wallach said. "This makes life so much easier for anyone who is attempting to understand where we are, where we've been and hopefully where we're going on this project."

**CU South Annexation Application (LUR2019-00010)**  
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Senior Planner Jean Gatza said she's hopeful the engagement process will provide the community with the right amount of information as well as a variety of means to share feedback. That feedback will then be collected for decision-makers to use when making the final call on annexation.

Council member Adam Swetlik agreed that it was vitally important to make a decision based on feedback from every possible avenue.

"Annexation is not a bell we can unring," he said.

The city will host its first community briefing sometime in December. There also will be office hours available next month for small group discussions with staff. When community engagement concludes, likely in February 2021, City Council will provide direction that could lead to a revised annexation application followed by the official public hearings in front of the Planning Board and City Council.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Maribel Williams <maribel.williams2@icloud.com>

Sent: Friday, January 29, 2021 9:02 PM

To: Council <council@bouldercolorado.gov>

Subject: CU south

External Sender

For your consideration; maybe the best approach to the CU South problem would be for the city to buy the land back from CU. For the price the city is willing to pay for the earth moving, dam building, environmental damage, water and utilities, etc. just save money and buy it back. There is still this vacant land off north 28th that is NOT in a flood plain.

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

-----Original Message-----

From: Cara Anderson <cara.boulder@gmail.com>

Sent: Friday, January 29, 2021 3:31 PM

To: Council <council@bouldercolorado.gov>

Subject: CU South Property

External Sender

Esteemed council members:

I am writing to weigh in on the issue of CU South. I am in agreement with what Kimman Harmon expressed in her letter to the Camera today: What is the city of Boulder gaining from the arrangement to annex the property needed for flood control onto the city? 80 acres for flood control?

As many others have pointed out, it seems insane to start with that CU wants to build on a flood plain. Then to ask the citizens of Boulder to pay \$66-99 million for the mitigation, along with hauling in material to raise the level of an unsuitable place to build just adds insult to injury. From what I have gathered from reading about this issue for months, it's not a done deal.

If CU feels that they need to build a whole additional campus in addition to the one already here in Boulder, maybe they should find a different place for it. If this expansion goes through, it's going to be a disaster in so many ways that I am at a loss to understand why it's even being considered.

Sincerely,

Cara Anderson

Boulder resident since 1967

M.A. from CU Boulder 1970

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Zhenya <zhenyag@comcast.net>  
Sent: Friday, January 29, 2021 1:22 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Stop the CU South folly before it's too late

External Sender

Floodplains flood. The late great father of floodplain management, CU-Boulder's own Gilbert F. White could not have been clearer. The commentary in today's Camera by engineer and surveyor Ben Binder also could not be clearer. Required reading for every member of council. If CU with its exemptions from local rule has the city over a barrel, contact a really good environmental law firm (those at Earth Justice might be a good start).

The CU folly must not be permitted to go on. Enough is enough is enough.

PLEASE READ and then respond using all your powers of reason:

Guest opinion: Ben Binder: CU South's design against nature  
<https://na01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.dailycamera.com%2F2021%2F01%2F28%2Fguest-opinion-ben-binder-cu-souths-design-against-nature%2F&data=04%7C01%7CKleislerP%40bouldercolorado.gov%7C461a5fe46baa4ccc154f08d8c493a2d7%7C0a7f94bb40af4edcafad2c1af27bc0f3%7C0%7C0%7C637475486091465006%7CUnknown%7CTWFPbGZsb3d8eyJWljojMC4wLjAwMDAilCjQljojV2luMzliLCJBTil6lk1haWwiLCJXVCI6Mn0%3D%7C2000&psdata=tASUF3%2Faq3SMYPoHjtKzFMcVX20n5auoVwk0%2FK14I3U%3D&reserved=0>

The CU South folly must STOP now.

Thank you for your attention.

I. Z. Gallon  
Former staff, CU Natural Hazards Center  
710 S. 42nd St.  
Boulder CO 80305

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Sent from my mobile

You cannot conclude that moving forward with current 100-year pipe dreams can go forward

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Sent from my mobile

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jon and Cathy Swanson <jncswanson@gmail.com>  
**Sent:** Friday, January 29, 2021 11:20 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** C.U. South

**External Sender**

Council Members:

We have long been disturbed by CU's plans for CU South. However, with recent excellent

Camera articles from Ben Binder, Wendy Rochman and Kimman Harmon shedding light on negative impacts

of CU's negotiating demands, we are fervently against this. The history of CU's actions convey's a bullying

attitude. That they refuse to separate the flood mitigation project with their demand for city water and utility

services and \$66 - \$99 **million** for landfill paid by city taxpayers is outrageous!

We urge you to stand up to CU for city taxpayers and come up with a better plan. Were this to be on a local

ballot issue for vote, we predict a significant majority of citizens would say **NO**.

Cathy and Jon Swanson  
2288 Kincaid Place  
Boulder 80304  
303.440.0436

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Richard Kraemer <richard.kraemer@gmail.com>  
**Sent:** Friday, January 29, 2021 10:41 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

The outrageously dangerous and expensive CU South plan for Boulder citizens to pay for CU's needs in building on this property is totally wrong!!

Under no circumstances should our city government agree to any such idea. The thought that you would add this cost to our already large water bills is beyond understanding.

I urge you to rethink this entire stupidity.

Richard J. Kraemer, PhD  
Boulder Resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Linda Norris <lnorris1722@gmail.com>  
Sent: Friday, January 29, 2021 10:11 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

Hello City Council Members,

I am indeed outraged that you have approved spending our money to “spend \$10 million on an insane plan to move 360,00 cubic yards of earth fill.....”

This is beyond irresponsible and terribly bad public policy.

I submit that you do everything possible to stop this in its tracks IMMEDIATELY!!

Thank you,  
Linda Norris  
Boulder Native

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** sp153@yahoo.com <sp153@yahoo.com>  
**Sent:** Friday, January 29, 2021 8:20 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Mayor and Members of the City Council.

As longstanding home owners in the Table Mesa area – a home that was severely affected by the flooding – we stand with those objecting to the expansion of CU Boulder into the Southern portion of our city.

It is clearly not in the interests of our citizens or the environment that our Council is so rightly engaged in overseeing.

We say this as staunch supporters of CU Boulder and all the beautiful benefits it bestows on our community.

Stanley Brown  
Pamela Barsam Brown  
310 Overlook Drive  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lyra Mayfield <lyramayfield@gmail.com>

**Sent:** Monday, February 15, 2021 4:06 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>;

Taddeucci, Joe <TaddeucciJ@bouldercolorado.gov>; Coleman, Brandon

<ColemanB@bouldercolorado.gov>

**Subject:** CU South annexation Opposition

**External Sender**

Dear City of Boulder Staff Members,

I am writing as a constituent and long-time Boulder resident to register my strongest opposition to the impending annexation of the CU South property for CU's development. This property, bought by CU and originally the natural floodplain for South Boulder Creek, hosts wetlands, rare and endangered species, wildlife, riparian habitat for bird migrations, rare tall grass prairie and is the entryway/gateway into our beautiful city.

Why are "annexation and development" of a "riparian floodplain" even in the same sentence???

- CU has proven to be a bad neighbor as it developed it's second campus and Williams Village in wetlands, destroying prime habitat
- CU has not conducted an environmental impact statement on the CU South Campus as has been requested
- Open Space that protects rare and endangered species and prime Tall Grass Prairie will be destroyed
- CU has not researched how Open Space will be protect, preserved and restored ....to name a few reasons to NOT annex
- It is irresponsible for CU to develop this land to begin with, destroying prime wetlands and Open Space and placing housing in a floodplain. But to hold the citizens of Boulder responsible (hostage?) for the cost of bringing in fill dirt, make us pay for the development of new tennis courts, and relocating and developing a new warehouse...cost to the taxpayers: \$50-100 million dollars, is unconscionable. NO!!!! NO!!!!
- Requiring an annexation deal in order to move forward with flood mitigation while increasing traffic, noise, irreparably changing Open Space and the greenbelt, destroying prime Tall Grass Prairie, and diminishing the quality of life for South Boulder residents NO!!! NO!!!

I don't want \$1 of my taxes to pay for ANY of this!

Please, do NOT move forward with annexation at this time!

Thank you for your time,

Lyra Mayfield

*Lyra Mayfield*

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

[lyramayfield@gmail.com](mailto:lyramayfield@gmail.com)  
720-352-2631 / cell

*In silence we heard our hearts, In isolation we found community, And in darkness we are reminded that beauty is in everything ~Mickey (Fortuny)*

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Dan Hunter <sheryldan@me.com>

**Sent:** Monday, January 18, 2021 3:40 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>

**Subject:** South CU

**External Sender**

To Whom it May Concern:

I'm sure you've heard many opinions concerning CU South. We have read over the questionnaire concerning use of the property from the city's Planning and Development Services.

The whole questionnaire seems totally biased toward the approval of development. It's disconcerting from the start that CU doesn't have to follow any of the city's requirement for property expansion, and there is no reason to believe that they even care. We've lived in HyView for over 45 years, and have enjoyed the wildlife and a haven of that property from an ever-growing busy city. We experience

many days indoors due to the increasing poor air quality, and backed up traffic on all the major arteries in town is certainly not helping with clean air. We don't need to spend millions of taxpayers dollars to help develop this

property. Just to see all the growth happening around is alarming enough. Looking ahead, it seems like water shortages would be a major concern for our whole city as well.

Lastly, I was reminded of how expansion of a city would affect all services when two years ago I brought my spouse into ER. He needed emergency surgery. Unfortunately this was Saturday night and about the time there seemed to be an abundance of CU students with drug related issues. We had to wait from 10:00 p.m. until 6 a.m. due to the backup.

We just hope you'll not spend taxpayers' dollars on the expansion of CU South.

Sincerely,

Sheryl Hunter

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Sent:** Friday, January 22, 2021 7:02 PM  
**To:** Mary Eberle <m.eberle@wordrite.com>; Council <council@bouldercolorado.gov>  
**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** RE: before your retreat: a better solution needed for CU South property

Hello Mary,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

We recognize there are a wide range of viewpoints regarding the potential CU South annexation and many complex issues are being explored. As we move through this exploration, it is both helpful and important for staff and decision-makers to hear your feedback.

Regarding the concerns you raised about environmental protection, open space, and flood mitigation, you can find responses to FAQs and more information in the [Annexation Briefing Book](#) and on the [project webpage](#).

We encourage you to provide your feedback about the CU South Annexation on [Be Heard Boulder](#) through Feb. 15, 2021. Feedback received will help guide how the project moves forward.

Sincerely,  
Jean

**Jean H. Gatza, AICP**  
**Engagement Specialist & Senior Planner**  
*Pronouns: She/Her/Hers\_What's This?*



**City of Boulder**  
**Communication & Engagement**

O: 303-441-4907  
[gatzaj@bouldercolorado.gov](mailto:gatzaj@bouldercolorado.gov)

City of Boulder, CO

P.O.Box 791 | Boulder, CO 80306  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

**From:** Mary Eberle <[m.eberle@wordrite.com](mailto:m.eberle@wordrite.com)>  
**Sent:** Thursday, January 21, 2021 9:48 PM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** before your retreat: a better solution needed for CU South property

**External Sender**

Dear Boulder City Council,

The CU South property, if developed by CU, will just amount to urban sprawl. In today's Daily

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

Camera, Steve Pomerance mentions the possibility of condemning the property. I like that idea better than any solution I have heard regarding the property. It should be part of our Open Space inventory. Perhaps it could be shared by and partly paid for by Boulder County.

The thought of a large wall between the property and U.S. 36 is distressing. We need a better solution to prevent flooding.

The loss of the environmental values goes against everything Boulder has stood for. I know we are trying to expand our priorities, but that effort should not be at the expense of environmental values.

Please condemn the property, and let's find a better solution.

Thank you for your work on behalf of Boulder. Please stay safe on your retreat.

Respectfully,  
Mary C. Eberle  
1520 Cress Court, Boulder, CO 80304  
303 442-2164

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Gatz, Jean <GatzJ@bouldercolorado.gov>  
**Sent:** Friday, January 22, 2021 7:07 PM  
**To:** Joshua Firestone <Joshua.Firestone@Colorado.EDU>; Council <council@bouldercolorado.gov>  
**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** RE: CU South Development

Hello Joshua,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

We recognize there are a wide range of viewpoints regarding the potential CU South annexation and many complex issues are being explored. As we move through this exploration, it is both helpful and important for staff and decision-makers to hear your feedback. Thank you for taking the time to share your views.

You can find more information in the [Annexation Briefing Book](#) and on the [project webpage](#). We encourage you to provide your feedback about the CU South Annexation on [Be Heard Boulder](#) through Feb. 15, 2021. Feedback received will help guide how the project moves forward.

Sincerely,  
Jean

Jean H. Gatz, AICP  
Engagement Specialist & Senior Planner  
*Pronouns: She/Her/Hers\_What's This?*



**City of Boulder  
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**From:** Joshua Firestone <[Joshua.Firestone@Colorado.EDU](mailto:Joshua.Firestone@Colorado.EDU)>  
**Sent:** Friday, January 22, 2021 12:08 PM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** CU South Development

**External Sender**

Greetings,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

I have read many of the public comments regarding the annexation and development of CU South; because they are overwhelmingly opposed to it I wanted to write in support.

CU Boulder is the largest employer in the city of Boulder, and indeed it is one of the largest employers in the state. Yet most of CU's employees cannot afford to live in the same city where they work. The median annual salary for a full-time staff member working for CU Boulder is about \$56,000 while the median sales price of single-family homes in Boulder as of December 2020 is \$985,000, increasing 50% in the last five years

(<https://www.bouldercountyrealty.com/statistics/>). Only about 1/3 of CU's staff employees live within the city of Boulder

(<https://public.tableau.com/profile/university.of.colorado.boulder.ir#!/vizhome/GeographicArea/byCBSA>). This results in more people commuting into Boulder, meaning more cars on the roads. The development of CU South for residential purposes will help to alleviate some of Boulder's housing needs and may even reduce some traffic.

Boulder and its residents like to pride themselves on their progressivism, including environmentalism. But it can seem that folks hide behind the badge of environmentalism to pursue their own ends. Many of the comments I have read strike me as the clear examples of NIMBYism. Sure, it's great that the current residents in South Boulder have and can afford million dollar homes and don't want others encroaching on what they own. But one has to ask, "how was your property developed?" Surely, at one point, South Boulder was undeveloped and sustained grasses and wildlife, just like many argue today. Yet those lands were developed. If we were really interested in environmental impact, then consider all of the cars taken off the roads or at least those who will have shorter commute times as a result of living where they work. Furthermore, surely one of the ideals of progressivism is equitable treatment. Unaffordable housing is known to be one of the leading culprits in inequity and poverty in America. If Boulder is as progressive as it claims, then it should welcome the inclusion of more affordable housing.

I have read about a possible land swap for the Northern Planning Reserve. If there is truly a better option for CU to develop, then by all means that should be allowed. But I can't help but think that Boulder residents would find a way to oppose that too. Furthermore, the current plan has been years in the making. It would be quite a substantial loss to have to go back to the drawing board and start all over. As it stands the CU South property probably wouldn't be developed for at least another five years.

As others have mentioned, traffic is a real concern. All of the major arteries in Boulder can become very congested during peak hours. I agree that with this much additional housing greater strain could be put on the area. But that's not a reason to deny housing to people, it is an opportunity to improve roadways and increase the public transit available. I lived in family housing while in grad school at UW Madison. They had busses that ran through the neighborhood to campus about every 10 minutes. I virtually never drove to campus and the busses were always highly utilized. CU could implement something similar.

To sum up, I firmly support the annexation and development of CU South, as it will make Boulder a more affordable and accessible city.

Thank you,

**Joshua**

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Sent:** Friday, January 22, 2021 7:05 PM  
**To:** Dennis W Richards <Dennis.Richards@colorado.edu>; Council <council@bouldercolorado.gov>  
**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** RE: University of Colorado South Boulder developments

Hello Dennis,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

We recognize there are a wide range of viewpoints regarding the potential CU South annexation and many complex issues are being explored. As we move through this exploration, it is both helpful and important for staff and decision-makers to hear your feedback. Thank you for taking the time to share your views.

You can find more information in the [Annexation Briefing Book](#) and on the [project webpage](#). We encourage you to provide your feedback about the CU South Annexation on [Be Heard Boulder](#) through Feb. 15, 2021. Feedback received will help guide how the project moves forward.

Sincerely,  
Jean

**Jean H. Gatza, AICP**  
**Engagement Specialist & Senior Planner**  
*Pronouns: She/Her/Hers\_What's This?*



**City of Boulder**  
**Communication & Engagement**

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City of Boulder, CO

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-----Original Message-----

From: Dennis W Richards <[Dennis.Richards@colorado.edu](mailto:Dennis.Richards@colorado.edu)>  
Sent: Friday, January 22, 2021 10:18 AM  
To: Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
Subject: University of Colorado South Boulder developments

External Sender

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

I completely reject the plans for South Boulder development by the University of Colorado Boulder. This is a high-risk area and deserves to remain floodplain as originally planned in the Boulder regional plan. It would be nuts to develop and reduce floodplain space. I wish to deny CU Boulder access to utilities at this area. This is a foolish and damaging plan.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Sent:** Friday, January 22, 2021 7:00 PM  
**To:** Eric <ericdec@hotmail.com>; Council <council@bouldercolorado.gov>  
**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** RE: CU South

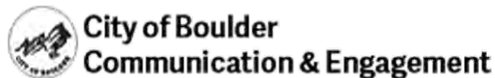
Hello Eric,  
Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

We recognize there are a wide range of viewpoints regarding the potential CU South annexation and many complex issues are being explored. As we move through this exploration, it is both helpful and important for staff and decision-makers to hear your feedback. Thank you for taking the time to share your views.

If helpful, you can find more information in the [Annexation Briefing Book](#) and on the [project webpage](#). We encourage you to provide your feedback about the CU South Annexation on [Be Heard Boulder](#) through Feb. 15, 2021. Feedback received will help guide how the project moves forward.

Sincerely,  
Jean

**Jean H. Gatza, AICP**  
**Engagement Specialist & Senior Planner**  
*Pronouns: She/Her/Hers\_What's This?*



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City of Boulder, CO

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-----Original Message-----

From: Eric <[ericdec@hotmail.com](mailto:ericdec@hotmail.com)>  
Sent: Wednesday, January 20, 2021 3:30 PM  
To: Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
Subject: CU South

External Sender

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

I am writing this email to express my opposition to development of the CU south property.

I would prefer the area be preserved as it is currently.

Thank you,

Eric Dec  
Boulder CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Sent:** Friday, January 22, 2021 6:59 PM  
**To:** Lexi Ruskin <lexi.ruskin@gmail.com>; Council <council@bouldercolorado.gov>  
**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** RE: CU South

Hello Lexi,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

We recognize there are a wide range of viewpoints regarding the potential CU South annexation and many complex issues are being explored. As we move through this exploration, it is both helpful and important for staff and decision-makers to hear your feedback. Thank you for taking the time to share your views.

Regarding the concerns you raised about congestion, floodplain, flood mitigation and open space, you can find more information in the [Annexation Briefing Book](#) and on the [project webpage](#).

We've corresponded earlier this week about the Be Heard Boulder questionnaire. Again, thank you for providing your feedback to guide how the project moves forward. We encourage you to stay involved.

Sincerely,  
Jean

**Jean H. Gatza, AICP**  
**Engagement Specialist & Senior Planner**  
*Pronouns: She/Her/Hers\_What's This?*



**City of Boulder**  
**Communication & Engagement**

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[Bouldercolorado.gov](http://Bouldercolorado.gov)

**From:** Lexi Ruskin <[lexi.ruskin@gmail.com](mailto:lexi.ruskin@gmail.com)>  
**Sent:** Tuesday, January 19, 2021 10:41 AM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** CU South

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**External Sender**

Hello,

I do not support CU's plans to build a new campus at the CU south site. CU south is located in a congested part of Boulder with a high water table in the middle of a floodplain. The cost of this development would be expensive for Boulder residents to cover in flood protection assessment fees. CU south should be used for a cost-effective flood mitigation project for South Boulder Creek to maximize open space and endangered habitat protection. There is another land in Boulder that would be a better environmental fit than CU South.

Thank you for your time.

Warm regards,  
Lexi

[Lexi Ruskin](#)  
435-210-0255

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Sent:** Friday, January 22, 2021 6:53 PM  
**To:** Anne <annegallagerwest@gmail.com>; Council <council@bouldercolorado.gov>  
**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** RE: Opposing CU South

Hello Anne,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

Thank you for taking the time to attend meetings and provide feedback in the questionnaire. The purpose of this phase of engagement is to share the current status of the negotiation of terms and to gather feedback to further inform the development of an annexation agreement that City Council and our community can consider later. Therefore, this questionnaire is designed to gather feedback specifically about possible annexation terms.

We're pleased that over 300 community members have taken the time to learn more about the project and respond to the questionnaire. So far the majority of the responses are from those who live nearby and those that recreate on the property. While a lot of the feedback affirms views that have been expressed throughout this process, there is benefit to seeing the results of what people most value and reading about what most concerns them - like the concerns you raise about traffic congestion, limited access and future costs to the city. As we move through this exploration, it is both helpful and important for staff and decision-makers to hear your feedback.

We encourage you to stay involved. More information is available on the [project website](#) where any upcoming engagement opportunities will be shared.

Sincerely,  
Jean

**Jean H. Gatza, AICP**  
**Engagement Specialist & Senior Planner**  
*Pronouns: She/Her/Hers\_What's This?*



**City of Boulder**  
**Communication & Engagement**

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City of Boulder, CO

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[Bouldercolorado.gov](http://Bouldercolorado.gov)

-----Original Message-----

From: Anne <[annegallagerwest@gmail.com](mailto:annegallagerwest@gmail.com)>  
Sent: Monday, January 18, 2021 8:55 PM

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

To: Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
Subject: Opposing CU South

External Sender

Hello City Council Members,

I live in Martin Acres, drive to work down South Boulder road and recreate on the CU south land.

I attended a zoom meeting in December led by the city planning department and am upset with how the city is acting towards the annexation of the CU south property.

Additionally, the questionnaire sent out recently was a completely disingenuous questionnaire that is leading people to answer with a positive response. Of course we want open space and recreational access, but not at the expense of massive amounts of traffic congestion, limited access to this area and a 30 million + bill for the citizens of Boulder to foot for putting in flood mitigation.

I am upset with how the city of Boulder, who is supposed to be working for its citizens, NOT CU, is handling this!

You can still offer a land swap with CU.

Thank you,  
Anne Gallagher-West

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Sent:** Friday, January 22, 2021 6:50 PM  
**To:** Dan Hunter <sheryldan@me.com>; Council <council@bouldercolorado.gov>  
**Cc:** Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** RE: Regarding SOBO

Hello Sheryl,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

Thank you for taking the time to provide feedback in the questionnaire and send your thoughts by e-mail. The purpose of this phase of engagement is to share the current status of the negotiation of terms and to gather feedback to further inform the development of an annexation agreement that City Council and our community can consider later. Therefore, this questionnaire is designed to gather feedback specifically about possible annexation terms.

We're pleased that over 300 community members have taken the time to learn more about the project and respond to the questionnaire. So far the majority of the responses are from those who live nearby and those that recreate on the property. While a lot of the feedback affirms views that have been expressed throughout this process, there is great benefit to seeing the results of what people most value and reading about what most concerns them - like the concerns you raise about air quality, traffic, water and other city services. As we move through this exploration, it is both helpful and important for staff and decision-makers to hear your feedback.

We encourage you to stay involved. More information is available on the [project website](#) where any upcoming engagement opportunities will be shared.

Sincerely,  
Jean

**Jean H. Gatza, AICP**  
**Engagement Specialist & Senior Planner**  
*Pronouns: She/Her/Hers\_What's This?*



**City of Boulder**  
**Communication & Engagement**

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City of Boulder, CO

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[Bouldercolorado.gov](http://Bouldercolorado.gov)

**From:** Dan Hunter <[sheryldan@me.com](mailto:sheryldan@me.com)>  
**Sent:** Monday, January 18, 2021 3:37 PM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** Regarding SOBO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**External Sender**

To Whom it May Concern:

I'm sure you've heard many opinions concerning CU South. We have read over the questionnaire concerning use of the property from the city's Planning and Development Services.

The whole questionnaire seems totally biased toward the approval of development. It's disconcerting from the start that CU doesn't have to follow any of the city's requirement for property expansion, and there is no reason to believe that they even care. We've lived in HyView for over 45 years, and have enjoyed the wildlife and a haven of that property from an ever-growing busy city. We experience

many days indoors due to the increasing poor air quality, and backed up traffic on all the major arteries in town is certainly not helping with clean air. We don't need to spend millions of taxpayers dollars to help develop this

property. Just to see all the growth happening around is alarming enough. Looking ahead, it seems like water shortages would be a major concern for our whole city as well.

Lastly, I was reminded of how expansion of a city would affect all services when two years ago I brought my spouse into ER. He needed emergency surgery. Unfortunately this was Saturday night and about the time there seemed to be an abundance of CU students with drug related issues. We had to wait from 10:00 p.m. until 6 a.m. due to the backup.

We just hope you'll not spend taxpayers' dollars on the expansion of CU South.

Sincerely,

Sheryl Hunter

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gatza, Jean <GatzaJ@bouldercolorado.gov>  
**Sent:** Friday, January 22, 2021 6:47 PM  
**To:** mahon@nc.rr.com; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Huntley, Sarah <Huntleys@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** RE: CU South survey

Hello Liz,

Thank you for your message about the CU South Annexation. All nine council members have received your correspondence and you may hear from them individually. In addition, you may find the below information from city staff helpful.

We've received some feedback that this questionnaire focuses too much on promoting the terms of the annexation and doesn't give community members a vehicle to express their opposition to annexation. The purpose of this phase of engagement is to focus on the current status of the negotiation of terms and to further inform the development of an annexation agreement that City Council and our community can consider later. Therefore, this questionnaire is designed to gather feedback specifically about possible annexation terms. While there are several open-ended questions that allows for any response, you are correct that it was not designed to collect additional feedback related to whether the city should annex the property. To be transparent, we have received a significant amount of input on that issue already and we anticipate other opportunities for the community to weigh in on that question.

We're pleased that over 300 community members have taken the time to learn more about the project and respond to the questionnaire. So far the majority of the responses are from those who live nearby and those that recreate on the property. While a lot of the feedback affirms views that have been expressed throughout this process, there is benefit to seeing the results of what people most value and reading about what most concerns them.

We encourage you to share your feedback on the topics and terms that would be most important to you in any potential annexation proposal. By filling out this questionnaire, you are in no way waiving your right to continue to object to annexation.

We encourage you to stay involved. More information is available on the [project website](#) where any upcoming engagement opportunities will be shared.

Sincerely,  
Jean

**Jean H. Gatza, AICP**  
**Engagement Specialist & Senior Planner**  
*Pronouns: She/Her/Hers\_What's This?*



**City of Boulder**  
**Communication & Engagement**

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City of Boulder, CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

P.O.Box 791 | Boulder, CO 80306  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

**From:** [mahon@nc.rr.com](mailto:mahon@nc.rr.com) <[mahon@nc.rr.com](mailto:mahon@nc.rr.com)>  
**Sent:** Monday, January 18, 2021 10:59 AM  
**To:** Kleisler, Philip <[KleislerP@bouldercolorado.gov](mailto:KleislerP@bouldercolorado.gov)>; Gatz, Jean <[GatzJ@bouldercolorado.gov](mailto:GatzJ@bouldercolorado.gov)>;  
Huntley, Sarah <[Huntleys@bouldercolorado.gov](mailto:Huntleys@bouldercolorado.gov)>  
**Cc:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** CU South survey

**External Sender**

Hello,

I filled out the CU South survey yesterday and it has been on my mind ever since. The survey pushes people to make choices which legitimize the annexation of CU South and does not give room for residents to express dissent with the annexation process. Do you really want to know the opinions of Boulder residents? This survey does not lead me to believe you are truly interested in our opinions but rather you are checking the box that says you gathered public input.

This is my second time trying to participate in Be Heard Boulder. Both times I have felt that the city has an underlying agenda and that the decisions on issues have already been made. I sincerely hope that the public input process can be improved in the future.

Thank you for your consideration to this issue.

Sincerely,

Liz Mahon

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Margaret LeCompte <margaret.lecompte@gmail.com>

**Sent:** Thursday, January 14, 2021 4:03 PM

**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>; Gatza, Jean <GatzaJ@bouldercolorado.gov>;

Huntley, Sarah <Huntleys@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** Be Heard Boulder Questionnaire: A Flawed Survey with an Obvious Agenda

**External Sender**

Dear Phil and Friends;

I want to let you know that I appreciate your continued efforts to engage the public with the processes involved in annexation and flood mitigation. That's why, back in December, I shared with you two documents criticizing, from my own professional background, the format and slant of a draft of the Be Heard Boulder questionnaire. I wanted to take seriously that you really did want a valid instrument. In my critique, I emphasized the need to make sure that the instrument would not be structured in a way that would elicit only a specific set of responses. This was important to reassure the Boulder community that the City really wanted meaningful public participation, and thus, that members of the public would be willing to invest the time and energy needed to provide the City with their honest feedback. Failure to do so, I warned, would have the undesirable consequence that people would come to believe that City requests for "public participation" and input were simply meaningless public relations efforts and window dressing, or a step in the required process of checking off boxes. More importantly, such an approach by the City would indicate that it was not serious in soliciting feedback that disagreed with decisions that basically had already been made.

This morning, I received an email from a Boulder resident who is on our mailing list, but not particularly active on this issue. He was asking for guidance as to how to respond to the Be Heard Boulder survey. Here is the email verbatim:

Hi Marki,

I've opened this survey, and my quick assessment of it is that it is written to obtain a particular answer -- one that agrees that more housing, flood control, and public space access are all great to have.

However, it does not address the underlying, fundamental issue that if annexed, the City will have no fallback in determining future use of the South Campus.

Given this (if you agree), how do you think opponents of South Campus annexation should respond to this survey? Should we simply put "no opinion" on all the questions and insert in the "comments" section why this survey is essentially fraudulent?

That's my inclination, but having a lot of people take the same response will be more powerful than a single voice crying out in the wilderness.

Given that the survey had just gone live, I hadn't yet perused it myself yet. I have now done so, and find that I share the community member's concern. Unfortunately, this survey will waste the public's time....unless it was deliberately structured as a "push poll."

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

How can I answer questions that omit any mention of important background and context, or hide gaping holes in the information provided? And how can I tell you how I really feel if you don't ask? There is a great deal of opposition to CU's annexation, in part generated by the lack of information being disseminated about it and in part because of the evasive responses and non-answers being given by CU to the community's questions. And there also is rather widespread distrust of CU's assertions that it wants to be a partner to, and a "good citizen" in, the community. CU's past history doesn't inspire confidence. As written, the current survey will not enable the City to tap into this opposition. In fact, this survey-with-an-agenda simply suggests that the City only is looking for feedback that affirms actions it already plans to take—not substantive input from residents and other stakeholders.

Given that the survey is already on line, I'm not going to provide a detailed, question-by-question analysis of its failings. One, however, merits particular attention: The Likert scale questions about public benefit all address vague topics that are like "motherhood and apple pie"--things that nobody in their right mind would find undesirable. For example, asking whether "housing is a public good or not" has nothing to do with CU or the proposed South Campus annexation issue. Of course I think housing is a good idea – but it depends on where, how much, for whom and by whom it is built--and how much it will cost. The problem is that none of the issues in the Likert format questions are tied to anything that CU might or might not do if the property were annexed.

Furthermore, anything that CU has hinted it would do--or not--in the annexation proposal has been hedged with conditions that would still allow CU *NOT* to do what it affirmed it would do. A case in point is not building in a floodplain. CU's proposed annexation agreement, in fact, clearly states that it *WILL* build in the floodplain if any of the 129 acres of "Public" land out of the floodplain is taken by the flood mitigation project. Additionally, CU's proposal also requires that if CU will have to use acres within the floodplain (in order to have the 129 acres it says, without justification, that it *MUST* have for development), the City, at its expense (meaning taxpayers and utility ratepayers), will have to pay CU for those acres and also raise the level of that land out of the floodplain by bringing in and spreading out hundreds of thousands of tons of earth fill. So yes, I am happy that CU says it won't build in the floodplain. Except that I also know it *WILL* build in the floodplain, *IF* certain conditions obtain. Furthermore, I know that I and my fellow Boulder residents will end up footing the bill for raising CU's project out of the floodplain for a higher level of flood protection than is being promised to Boulder residents in the South Boulder Creek Floodplain. So, I don't believe in the basic premise underlying the question—or trust that CU actually will do what it has promised.

And do you really think that CU will allow an off-leash dog park on the property? The annexation proposal says that dogs on the new campus will be subject to the same rules that prevail on the Main campus: Dogs *MUST* be leashed!!! This is neither what people are currently experiencing at CU-South nor what they expect. Again, this is a matter of how important it is to use language that means the same thing to all parties. Without agreed-upon definitions (dog park=leashed dogs within fenced-in areas vs dog park=free space and unleashed dogs running free), the responses you get will be invalid. Of course I want a dog park (just like what's at CU-South now, and that's a public good). But if what I get is what's on the Main Campus, I will feel defrauded and be very unhappy.

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I could provide other specific failings of the Be Heard Boulder survey, but the email I received this morning (as above) clearly expresses the problem. You will get "answers," and you will be able to tabulate them and congratulate yourselves on creating "public engagement," but none of the information you receive will be valid or helpful in guiding the City in potential discussions and negotiations with CU. None will help you achieve an annexation proposal that will protect the City and its residents adequately. None will answer the question you said you were going to ask: "What do people really think about the annexation proposal?" In fact, only the very last question even begins to address that issue. That it came so late in the questionnaire only suggests that you were attempting to lead the respondents to a specific conclusion: that annexation of CU's South Campus would lead to all the perceived public benefits that are raised in earlier questions.

Suffice it to say, I'm very disappointed. I would really like to see you pull the survey off-line right away and re-do it. I'm still available to help you with further efforts, but though I know you worked hard to revise your first draft, this next version isn't much of an improvement.

With best wishes,  
Margaret LeCompte, PhD  
Professor Emerita  
University of Colorado-Boulder  
290 Pawnee Drive, Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Pomerance, Stephen <stevepom335@comcast.net>  
**Sent:** Thursday, January 14, 2021 2:05 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South survey -- a waste of time and money

**External Sender**

To the Council,

You really should look at this survey:

<https://www.beheardboulder.org/cu-south-annexation>

It may be the worst one I've ever seen. Just a bunch of "how much do you like our wonderful project?" questions.

It's basically a sales job on a decision already made, with no real information provided or options available.

It ought to be pulled.

Steve Pomerance

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lynn B <klgmanecer@gmail.com>

**Sent:** Thursday, January 14, 2021 12:49 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Points to consider when making decisions about CU South

**External Sender**

- There is abundant opportunity to accomplish the needed flood mitigation further upstream, i.e., further up the South Boulder Creek drainage system, on land not owned by CU.
- Accomplishing needed flood mitigation here, rather than on CU South's property, would accomplish life/safety goals without having to enter into a terribly one-sided annexation agreement with CU.
- If we can avoid being strong-armed into an annexation agreement, it will save the City of Boulder, and all of us taxpaying residents, tens of millions of dollars.
- Flood mitigation is needed now. CU does not need a 3rd campus now. Upstream flood mitigation is the way to de-couple these two wildly different circumstances that CU is trying to artificially conflate and force together.
- A number of professional, PhD hydrologists and engineers feel that City water utility staff's resistance to upstream flood mitigation is ill-informed, close-minded, and by now has simply become a matter of stubbornness and trying to justify previous poor analysis and decisions by staff.
- Many in the community are beginning to question what appears to be an overly cozy relationship between CU and City water utility staff. Staff are almost acting like legal counsel/representation for CU, rather than protecting our City budget and the majority of residents, who oppose annexation.

I appreciate your thoughts on this.

Many thanks!

Warm regards,

Karen

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Thursday, January 14, 2021 3:07 AM

**To:** Council <council@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; landmarksboard <landmarksboard@bouldercolorado.gov>; Housing Advisory Board Group <HousingAdvisoryBoardGroup@bouldercolorado.gov>; Human Relations Commission <HRC@bouldercolorado.gov>; City of Boulder Planning <planning@bouldercolorado.gov>; OSBT <OSBT@bouldercolorado.gov>; Meschuk, Chris <MeschukC@bouldercolorado.gov>; Koehn, Jonathan <KoehnJ@bouldercolorado.gov>; SaveSoBo Now <savesobonow@gmail.com>; sebna@googlegroups.com; norby.cw@gmail.com; paul.culnan <paul.culnan@gmail.com>; braddsegal <braddsegal@gmail.com>; plan boulder <advocate@planboulder.org>; KenCairn, Brett <KenCairnB@bouldercolorado.gov>; ben binder <bbinder@ddginc.com>; Laura Tyler <laura@amstec.com>; PW PHS Communications <PWPHSCommunication@bouldercolorado.gov>; Carr, Thomas <CarrT@bouldercolorado.gov>; russel concord henricksen <russellhenriksen@hotmail.com>; jonathan hondorf <jonathanhondorf@aol.com>; marilyn runner <dynapse@yahoo.com>; frances.draper@colorado.edu; Huntley, Sarah <Huntleys@bouldercolorado.gov>; timothy <timothy@schoechle.org>; tim schoechle <timothyschoechle@yahoo.com>

**Subject:** Lynn's take on Fw: CU South Annexation Questionnaire and Engagement Opportunities

**External Sender**

(Laura, I don't have Kathy Joiner's e-mail so maybe you could forward this to her. My advice? Don't drink the Kool-aid.)

Here's my input on the "Bribeonaire" from the COB. Be careful how you answer. It's a set up. I do not provide my intellectual capital for surveys since, as in the case of this one, I am sure it will be misused from their not so sneaky, quite obviously leading questions, notably about the dog-walking benefits, but I did give them a piece of my mind in the open comment options on the "questionnaire", which I copied below.

Handily, one doesn't have to answer the questions to complete the "survey", however I wonder if they don't pad the ballots like in Arizona (if you leave the multiple choice ones unchecked). But I'm antifa, not QAnon.

If the providers don't publicize the "survey", here's a copy of what I contributed:

I don't like to tell folks what to do, however CU is contracting, not expanding, due to basically the closure of the main campus. More importantly, they can "expand" on their 3 other campuses, which have a far smaller proportion of students to community residents populations than Boulder. Don't even think of NB, that's a landmine. I disagree with those opposing annexation that suggest that relocation, but infill on the Boulder campus is an option for CU, especially W of Jenny Small Carothers Biotech on the E campus and that area, which has a lot of sprawl. If the COB is serious about flood mitigation, they ought not support CU when CU has decades of impact and repairs in arrears to Boulder, due to the effect on the land use patterns and urban fabric from their expansions that have made housing costs and land value inflate irreparably ALL OVER THE CITY. It's all we can do to begin to flatten that

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curve. "Affordable" housing on "CU South" cannot be considered in a vacuum and without it's own impact.

All this expansive activity spilling over into Boulder has, for example, rendered Google empty, that and all the other office spaces approved but not even yet built in the east office park and Macy's and 21st/Pearl (finished). Let them "expand" at Google. What's more, in the atmospheric sciences capital of the area, all these jobs (3/1 jobs to housing) have contributed greatly to climate change since the transportation sector is the most impactful and rises with service sector jobs that tag along with all the high-end jobs and yes, those service jobs generated from affordable housing too. The translation to transportation's contribution to carbon footprint is through in-commuting service workers that can't afford to live here, and so the cycle of despair spirals upward. Another CU campus the size of the present one ought not be subsidized by the COB, on the contrary, the IOU is the other way around. On top of this, the city, taxpayers and residents should be burdened in the greatest global pandemic and economic crisis in history?

What follows is a formulating guest opinion I entered into their survey:

Boulder's population is 107 K with 36 K CU students including only 6549 post graduates. The whole population of Boulder in 1950 was 20 K.

There are 67K students in CU's system in 2020. Breaking that down, Colorado Springs has 668 K pop. with 12 K students. Denver has 2.827 M pop. with 15 K students and the sprawled Anschutz Medical Campus, 15.3 miles away in Aurora, has 4.5K students. These are where the campuses should expand, if at all.

At a 15 Dec. '20 "CU South" annexation office hours meetup, I argued the need for resolution of this disproportion between city population and student population. Francis Draper, senior strategic advisor for Public Policy and Community Relations at CU responded that Boulder is the Flagship campus, which means it is the first, most known and gathers most support from the state. She said it is the research campus. Therefore, CU could repurpose the Boulder campus to it's true research status.

CU South is not necessary, the Boulder campus needs a demographic update and to move the vast majority of undergraduates (numbering 29 K) those not in research, to Denver or the Springs. The post graduate architecture and environmental design campus which is presently separated, could be relocated from Denver to Boulder. An Institute of Integrated Land Use, Architecture and Urban Design, Building and Atmospheric Sciences/ Climate Change could be initiated, in acknowledgement of the international demand for affordable housing in an unprecedented global economic crisis. There would be plenty of room once the non-research undergraduate space is vacated. These are the kind of changes Boulder should concern itself regarding negotiations with CU.

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Ironically, "affordable housing" is precisely what CU wants on the alleged "CU South" property. Unfortunately, it is Boulder's job growth and compensatory affordable housing demand that continues a cycle of creating more service low paying jobs generated from that very affordable housing that drives up the jobs/housing imbalance and commute and transportation impacts to carbon footprint. More importantly, they could create a full campus the size of the present one on "CU South". In any case, the city has no rights so far, extending further than the height limit and utilities on "CU South".

CU is revising their budget post-COVID. A better use of their funds would be to sell this property. There's no remote reason CU should be expanding at all in a contracted economy, much less at a place as tiny as Boulder. And the COB should not be inflating the value of that property with another annexation when they are already burdened with Gunbarrel where they are hard-pressed to fund adequate infrastructure and services. Also they could buy the Goggle offices, deserted because of the pandemic.

At a CU South "community briefing" on 11 Dec. an official from CU said that **it was the City that came to CU for annexation** ahead of any intended development because they (the City) want some of the property for flood mitigation. The City would do well to re-think Alternative 6, keeping the stream in the stream for a 500 + yr. event by dredging out and channelizing the alluvium instead of the invasive, expensive and risky 100 yr. event upstream study and dam or Variant 1 that the citizens are paying for. **This would relieve any misguided perception that it is the City that wants annexation at "CU South". The city wants flood mitigation. CU's and the City's objectives are mutually exclusive.**

Most importantly, it's outrageous that the COB should spend many millions on a quantity of fill dirt taking up the height of a 20-story building with a footprint the size of a football field so that CU can expand. It's not so ironic that Dick Tharp, who was at the time CU's athletic director and director of Liquor Mart actually served as counsel with Flatirons Gravel that resulted in a \$5.4 M discount from \$16.4 M on the appraisal for the purchase of the property in 1996 for \$11 M, already inflated from a true value of \$9 M. We've plenty more demand on funds for the other 15 drainage points of flood risk and potential permanent damage from backup to the main sewer treatment plant in the next flood event. That wouldn't fare well for CU either. The taxpayers should not be burdened with already high water bills soon to be further inflated from upcoming citywide clay pipe infrastructure retrofit needs due to deferred maintenance. This adventure at CU should now amend our bills with a stormwater increase? Many millions.

Keeping the stream in the stream starts on SBC between Highway 93 and US 36 where the flow would be redirected from the low spot where, in a flood it diverts from the main stream along the west side of US 36. Some endangered jumping mice are in that juncture but could be relocated up the hill south of the stream, a simple flood-proof safe area in the neighborhood and of much less impact to them as well as many mice below this point that would be saved.

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These alternative studies like the upstream detention soon to be discarded cost the city itself in times of a pandemic. Keeping the water in the stream is intuitively cheaper and allows for phasing and adapting for future climate change impacts. A composite revised Alternative 6 would carry the floodwaters from 93/S.Broadway to Boulder Creek in the area of Valmont Rd. This saves a lot of homes along the corridor that ideally would never have even been built due to flood risk, and nevertheless, now need mitigation.

Post your "survey" for all the public to see, but you better have a good rebuttal because I can guarantee you that my reflections will be spread all over town into every nook and cranny. Annexation is a terrible idea and adds insult to injury. Boulder can go fix Gunbarrel before it digs another hole for itself. Literally.

Long live Boulder, what's left of it!

Lynn Segal  
538 Dewey  
Boulder CO 80304  
303-447-3216

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Joy Rohde <boulderjoy@gmail.com>  
**Sent:** Wednesday, January 13, 2021 6:42 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South follow up

**External Sender**

Hi Council,

About 5 days I sent a letter to you, but I don't believe I saw a response. Perhaps because I previously sent this from my business email it may have gone to spam? I was hoping that I would receive an acknowledgement and potentially a response to some of the points that I raised. In case you didn't get a chance to read it, here's what I wrote:

Dear Boulder City Council Members,

Thanks for allowing me the opportunity to speak during Open Comment this past week. While the 2 minute time period was very helpful in addressing some of my concerns, it's difficult to fully outline these considerations in such a short time frame at the end of a long meeting.

In order to reiterate some of my key points and elucidate some of the reasoning behind them, I thought it might be helpful to put them in writing.

1. Open space in Boulder is at a premium. Even with CU South currently being used in that capacity, engagement with Boulder's open spaces is exceeding the ability to accommodate everyone who wants to enjoy it.
  - Almost every day this week I have found parking lots overflowing at Dry Creek, Eagle Trail, the back of Baseline Reservoir, Marshall Mesa, Dowdy Draw and other locations. We have been turned away from our favorite off-leash trail, Dry Creek, most days as cars fill the lot, the entrance road, and even the side of Baseline. CU South serves the same open space purpose today, and the lot there is completely full most days as well, with cars pushing back up the road.
  - Removing CU South from the mix of Open Space will displace hundreds of Boulderites to other locations, further degrading our beautiful resources.
  - Trading the CU South property for a similar parcel in North Boulder that does not currently serve in that capacity would make infinitely more sense. Not only would the North Boulder campus NOT disrupt a fragile ecosystem or require significant work to accommodate the floodplain requirements (paid for by our citizens on behalf of CU) it would ensure the reputation of Boulder as a city that values its open space. Property values in Martin Acres and Majestic Heights would not suffer from the loss of this resource and the increase in traffic.
2. In Colorado a prescriptive easement applies when someone has made use of access to a property continuously, without the owner's consent, with no attempt of concealment of the use or access, for a period of 18 years. Most commonly, this is applied to thoroughfares crossing over someone's property. CU South certainly falls in this category, at very least for the loop, the pond and trails around its periphery, and the parking lot. I think the citizens of Boulder have a

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good case that CU would be required to maintain these easements, including the parking required to access the property.

3. For Council members who don't spend a lot of time at the confluence of 36, 157, Broadway and Table Mesa, I suggest you analyze the traffic patterns further before approving 2200 more residents and countless more 24/7 visitors (not just students, but food service trucks, maintenance, etc) in the mix. While the hub and spoke pattern emanating from our neighborhoods is wonderful in allowing S Boulder residents to get to Denver, skiing, downtown and Louisville/Lafayette/Longmont easily, it also bottlenecks inbound traffic. The traffic study that was considered for this project is in no way analogous to this unique intersection of major traffic routes.
  - Martin Acres neighbors such as myself use Moorhead to exit the neighborhood during daytime hours, as it is the only street with a light allowing residents to safely make a left turn. The light at Moorhead already frequently backs up to the post office entrance. With the addition of a South CU campus traffic will become even more congested and Moorhead and Martin residents will suffer as a consequence.
  - Schools such as Creekside and Horizon rely on access to neighborhood streets adjacent to CU South and will suffer as the increased traffic exacerbates congestion and endangers pedestrians and bicyclists dropping their kids off for school.
  - Parking for CU will invariably spill out into these neighborhoods as well, and the character of the neighborhoods will change as they become thoroughfares between campuses.
  - Ambient light from the campus will eliminate the night sky for nearby residents and noise levels will be difficult to control.

I hope you will take these points into consideration when weighing the impact of CU South. Because CU has not yet shared its full plans for campus design, we truly have no visibility into how much of a nightmare this could become. Even the construction phase could make access into Boulder a true nightmare for years. I looking forward to any comments or questions you may have regarding the points that I've made.

Sincerely,

Joy Rohde  
4195 Martin Dr  
Boulder, CO 80305

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Debra Biasca <dbiasca@gmail.com>  
**Sent:** Wednesday, January 13, 2021 4:32 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU-South annexation Issues to Address

**External Sender**

Honorable Council Members:

I appreciated the recent opportunity to listen to the City's presentation to my neighborhood, Martin Acres, on the issues surrounding the University's annexation proposal for CU-South. Citizen engagement is obviously an important part of any project, and even more so for a proposed annexation like this one.

Many important questions were raised at that meeting; if you have not already, you may want to take a look: <https://vimeo.com/486870558/c1083d2ba6>. You are sure to find the Q & A portions particularly thought-provoking.

I'd like to point out a few issues which merit closer attention long before the matter proceeds too far to change course:

- 1) The City's willingness to move ahead on the annexation despite the lack of a concrete development plan. I can think of no justification for allowing the University carte-blanche (in spite of any currently proposed "constraints" on their development plans). I know of no other project allowed this kind of free-reign over property the City is being asked to annex and provide costly services for. The lack of transparency in this kind of non-planning does not support the optics the City is usually dedicated to in such matters and which citizens have come to expect.
- 2) It is my understanding that a second point of access to the property will be required from US 36, in addition to the current Table Mesa exit. Already, the approach to Broadway and the rest of South Boulder can be clogged with bumper-to-bumper rush traffic during the work-week (perhaps not as much during the pandemic, and not as much when CU is operating remotely or in recess, of course).

For decades, a plan for an additional exit to the southeast of Table Mesa Drive has been discussed at various stages of comprehensive planning. I'm curious about the plans for that project now, in light of the annexation proposal, what the costs are and how those costs will be shared between the governmental units such an exit would serve, including the University, because the need for it would be seriously enhanced if CU-South is developed.

- 3) Shouldn't a massive development in a flood plain be a last resort?? When the question about a land-swap for City property in the northern reserve area was posed at the meeting, the City planner did not really have a good answer other than that he thought it was "too late" to go in that direction. That answer falls flat for many of us living in South Boulder if the approach would avoid wreaking havoc on our transportation resources and air-quality or having to raise the ground level of CU-South at a cost to the City now only *loosely* estimated from \$25–99M—in order to protect CU's investment in their proposed structures. With extreme costs of the pandemic at play, this is *\*exactly\** the time to entertain a better, less costly and less hazardous option than the proposed annexation.

Sincerely,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Debra Biasca  
230 S 38<sup>th</sup> St  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jenny Primm <primmgirl@gmail.com>

**Sent:** Wednesday, January 13, 2021 4:17 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Annexation

**External Sender**

Good afternoon council members.

I am writing to you today as a concerned resident of Martin Acres, parent of two young children (one who attends Creekside), employee of CU Boulder and frequent user of CU South for recreation. I attended the presentation made in December to our neighborhood giving me a better sense of what the intended usage for the property currently is thought to be. I am concerned on many levels but my biggest concern is the increase in traffic that this development would bring to my neighborhood.

The traffic in and around Martin Acres has become increasingly higher. More and more students from CU are parking along our streets and walking to campus. The lack of speed deterrents make it a quick alternative to get to Broadway or Table Mesa at all times of the day. I am confident the traffic will only increase should the property at CU South be annexed and permitted to move forward with the proposed build out.

The proposed development which includes additional housing and academic buildings will strain Morehead, Martin Dr, Broadway even more at all times of day and night. This will include not only additional cars but buses running from Main Campus to East and South Campus. Additional precautions for bike safety will also need to be addressed.

I do not think that the proposed ingress/egress to the property will be enough to safely accommodate or mitigate the additional traffic of faculty, staff and students during peak travel times. The congestion in Martin Acres during school drop off/pick up and after work is dangerous under normal circumstances.

I am concerned for the safety of not only my family's safety but for the safety of all my neighbors, their families and our pets. I think an alternative to this build should be sought out.

Thank you for your time and consideration.

Jenny Primm  
Martin Acres Resident

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jan <janalan80305@gmail.com>  
**Sent:** Sunday, January 10, 2021 2:00 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Upstream flood mitigation options

**External Sender**

Dear City Council Members,

This letter is regarding your upcoming discussion on Tuesday the 12th on the subject of upstream flood mitigation options for CU South. I would encourage you to read my Guest opinion in the Daily Camera, published on January 9th in response to Claudia Hanson Thiem's CU South guest opinion that was full of inaccuracies.

I would encourage Council to consider options other than annexation. There is abundant opportunity to accomplish the needed flood mitigation further upstream, i.e., further up the South Boulder Creek drainage system, on land not owned by CU.

Most people would like to see flood mitigation for this area sooner than later and unfortunately, some citizens don't care how it's put into place, regardless of the impacts it would have on Martin Acres, Majestic Heights and Tantra neighborhoods here in South Boulder. Many of those impacts are listed in my OP ED.

Upstream flood mitigation on property other than CU would accomplish life/safety goals without having to enter into a very one-sided annexation agreement with CU. It would save the city millions in tax payer dollars because we would no longer be on the hook for providing fill dirt for this Annexation agreement.

It should also be brought to Council's attention that a number of professional, PhD hydrologists and engineers are concerned that City water utility staff's resistance to upstream flood mitigation is ill-informed, close-minded, and by now has simply become a matter of stubbornness in trying to justify previous poor analysis and decisions by staff.

Many Martin Acre residents, as well as other people in Boulder are beginning to question what appears to be an overly cozy relationship between CU and City water utility staff. Infact, many residents I have spoken with believe that annexation with CU is already a done deal.

Ultimately, when it come down to hard truth, we need flood mitigation now. CU does not need a third campus now. In my opinion, upstream flood mitigation is the best way to accomplish this in the long run.

Regards,

Jan Trussell  
Martin Acres.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Joy Rohde <Joy.Rohde@ingomoney.com>  
**Sent:** Friday, January 8, 2021 10:00 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Development

**External Sender**

Dear Boulder City Council Members,

Thanks for allowing me the opportunity to speak during Open Comment this past week. While the 2 minute time period was very helpful in addressing some of my concerns, it's difficult to fully outline these considerations in such a short time frame at the end of a long meeting.

In order to reiterate some of my key points and elucidate some of the reasoning behind them, I thought it might be helpful to put them in writing.

1. Open space in Boulder is at a premium. Even with CU South currently being used in that capacity, engagement with Boulder's open spaces is exceeding the ability to accommodate everyone who wants to enjoy it.
  - Almost every day this week I have found parking lots overflowing at Dry Creek, Eagle Trail, the back of Baseline Reservoir, Marshall Mesa, Dowdy Draw and other locations. We have been turned away from our favorite off-leash trail, Dry Creek, most days as cars fill the lot, the entrance road, and even the side of Baseline. CU South serves the same open space purpose today, and the lot there is completely full most days as well, with cars pushing back up the road.
  - Removing CU South from the mix of Open Space will displace hundreds of Boulderites to other locations, further degrading our beautiful resources.
  - Trading the CU South property for a similar parcel in North Boulder that does not currently serve in that capacity would make infinitely more sense. Not only would the North Boulder campus NOT disrupt a fragile ecosystem or require significant work to accommodate the floodplain requirements (paid for by our citizens on behalf of CU) it would ensure the reputation of Boulder as a city that values its open space. Property values in Martin Acres and Majestic Heights would not suffer from the loss of this resource and the increase in traffic.
2. In Colorado a prescriptive easement applies when someone has made use of access to a property continuously, without the owner's consent, with no attempt of concealment of the use or access, for a period of 18 years. Most commonly, this is applied to thoroughfares crossing over someone's property. CU South certainly falls in this category, at very least for the loop, the pond and trails around its periphery, and the parking lot. I think the citizens of Boulder have a good case that CU would be required to maintain these easements, including the parking required to access the property.
3. For Council members who don't spend a lot of time at the confluence of 36, 157, Broadway and Table Mesa, I suggest you analyze the traffic patterns further before approving 2200 more residents and countless more 24/7 visitors (not just students, but food service trucks, maintenance, etc) in the mix. While the hub and spoke pattern emanating from our neighborhoods is wonderful in allowing S Boulder residents to get to Denver, skiing, downtown and Louisville/Lafayette/Longmont easily, it also bottlenecks inbound traffic. The traffic study

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**Public Comments Through September 14, 2021**

that was considered for this project is in no way analogous to this unique intersection of major traffic routes.

- Martin Acres neighbors such as myself use Moorhead to exit the neighborhood during daytime hours, as it is the only street with a light allowing residents to safely make a left turn. The light at Moorhead already frequently backs up to the post office entrance. With the addition of a South CU campus traffic will become even more congested and Moorhead and Martin residents will suffer as a consequence.
- Schools such as Creekside and Horizon rely on access to neighborhood streets adjacent to CU South and will suffer as the increased traffic exacerbates congestion and endangers pedestrians and bicyclists dropping their kids off for school.
- Parking for CU will invariably spill out into these neighborhoods as well, and the character of the neighborhoods will change as they become thoroughfares between campuses.
- Ambient light from the campus will eliminate the night sky for nearby residents and noise levels will be difficult to control.

I hope you will take these points into consideration when weighing the impact of CU South. Because CU has not yet shared its full plans for campus design, we truly have no visibility into how much of a nightmare this could become. Even the construction phase could make access into Boulder a true nightmare for years. I looking forward to any comments or questions you may have regarding the points that I've made.

Sincerely,

Joy Rohde  
4195 Martin Dr  
Boulder, CO 80305



Joy Rohde | VP, New Business Development  
INGO MONEY | Instant Money & Disbursements Marketplace  
p 720-209-1721 e [Joy.Rohde@ingomoney.com](mailto:Joy.Rohde@ingomoney.com)



**In the News:** [Distributed Banking Gives Banks Opportunity To Redesign The Customer Experience](#)

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**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Bloom, Joanna <BloomJ@bouldercolorado.gov>

**Sent:** Thursday, January 7, 2021 1:34 PM

**To:** Kimman Harmon <kimman@kimmanharmon.com>; Council <council@bouldercolorado.gov>

**Cc:** Taddeucci, Joe <Taddeucci@bouldercolorado.gov>

**Subject:** RE: CU South

Hello Ms. Kimman,

Thank you for writing to City Council about CU South Annexation and flood mitigation. I am Joanna Bloom, Utilities Business Relations Manager. While you may hear directly from council members, the following information may also be helpful.

We appreciate your input and know that others share your concerns, while others feel flood mitigation is overdue. The city Utilities Department does not own the land or have utility easements for the proposed flood project. The university owns a portion of the property. The university has committed to convey at no cost to the city up to 80 acres of the site for construction of a flood mitigation project or to be used for open space mitigation related to the project. However, the land is only available if and when the entire CU South property is annexed. In other words, the flood mitigation project and annexation must happen together.

As a point of clarification, the South Boulder Creek (SBC) flood mitigation project has a current estimated cost of \$66M, of which \$10M is estimated for soil fill to offset land use impacts from creation of flood detention. Funding sources for project components are the subject of ongoing negotiation as the project proceeds.

As part of the annexation application process, the university has recently commissioned a traffic study related to the proposed annexation, which is anticipated to be publicly available in Feb. 2021. There will be opportunities to provide input on university's proposal, including a questionnaire on [Be Heard Boulder](#) in the coming days. More information can also be found on the [annexation project website](#). The university has acknowledged that they are not ready to develop the CU South property and that further site planning is needed before understanding its organizational needs.

Thanks,  
Joanna

**Joanna Bloom**  
**Utilities Business Relations Manager**

(pronouns: she/her/hers) [What's This?](#)



c: 303-817-1742

[bloomj@bouldercolorado.gov](mailto:bloomj@bouldercolorado.gov)

Department of Public Works

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

1739 Broadway| Boulder, CO 80306  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bloom, Joanna <BloomJ@bouldercolorado.gov>  
**Sent:** Thursday, January 7, 2021 1:30 PM  
**To:** Mike Marsh <mymarsh1@juno.com>; Council <council@bouldercolorado.gov>  
**Cc:** Taddeucci, Joe <Taddeucci@bouldercolorado.gov>  
**Subject:** RE: CU South: suggesting better solutions

Hello Mr. Marsh,

Thank you for writing to City Council about CU South Annexation and South Boulder Creek Flood mitigation. I am Joanna Bloom, Utilities Business Relations Manager. While you may hear directly from council members, the following information may also be helpful.

We appreciate your input and know that others share your concerns, while others community members feel flood mitigation is overdue.

Regarding the university's campus needs, we understand the university is undergoing a campus master planning process that has an associated engagement process and opportunities for public comment.

Regarding the flood mitigation relationship to annexation, the city Utilities Department does not own the land or have utility easements for the proposed flood project. The university owns a portion of the property. The university has committed to convey at no cost to the city up to 80 acres of the site for construction of a flood mitigation project or to be used for open space mitigation related to the project. However, the land is only available if and when the entire CU South property is annexed. In other words, the flood mitigation project and annexation must happen together.

Regarding the land swap concept, city council had an initial discussion about this potential during a [Study Session](#) last year. That discussion focused on the area known as "Area III – Planning Reserve", which is about 500 acres of land in North Boulder on the north side of US36 (area around and including Atlas Flooring and the Gateway Park Fun Center). Although council recognized that the Planning Reserve concept might have potential when looked at separate from other factors, when considered alongside impacts to the flood mitigation timeline, the university's interests, and impacts to other city priorities, the idea seemed less of a viable option. Specifically, the university indicated that they are unable to realistically consider the Planning Reserve as a potential alternative without the land first becoming eligible for annexation (which could take several years). The Planning Reserve was not deemed a realistic alternative because of related delays to the flood mitigation process and the numerous unknown factors in the review process for the Planning Reserve.

Lastly, as a point of clarification, South Boulder Creek flood mitigation will be funded through Flood and Stormwater Utility fees and in partnership with the Mile High Flood District. The South Boulder Creek (SBC) flood mitigation project has a current estimated cost of \$66M, of which \$10M is estimated for soil fill to offset land use impacts from creation of flood detention. Funding sources for project components are the subject of ongoing negotiation as the project proceeds.

Hope this information helps.  
Thanks,  
Joanna

**Joanna Bloom**

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

**Utilities Business Relations Manager**  
(pronouns: she/her/hers) [What's This?](#)



c: 303-817-1742  
[bloomj@bouldercolorado.gov](mailto:bloomj@bouldercolorado.gov)

Department of Public Works  
1739 Broadway| Boulder, CO 80306  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** LI Frain <ms.l.frain@gmail.com>  
**Sent:** Thursday, January 7, 2021 10:20 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South and Flood Mitigation

**External Sender**

To The City Council Members

With respect to my Eastern neighbors, including Frasier Meadows, who have been dealing with flooding issues connected to the flooding mitigation on CU's South property, I am writing to state my concerns around how the city is proceeding with this endeavor. This has been an ongoing issue since CU purchased the property, no quick fix was ever in site. I do not think pushing a quick fix to satisfy Frasier Meadows, and other Eastern neighbors along with CU's desire to move forward with utilizing this property is the way to go. I say this because it seems the City will take away one problem, but add many more to the residents of Boulder, especially those that reside in South Boulder. Traffic, environmental impacts and high cost to taxpayers with minimal benefit or return. What do you consider the benefits for South Boulder residents, and the City residents that I may not be aware of?

First off, CU has not submitted their official plans for the property. Why then is the City moving forward with their annexation plans? What is being done to assure the citizens that the property will remain in the state's hands, and not be sold to a private owner after the fact of annexation? Will the City request the first option to buy including a value placed on the CU South property that takes into consideration the dollars the residents will have already provided to annex along with the flood mitigation efforts? 22 million dollars is a lot of money to expect taxpayers to pay for a state owned property. I am having a hard time coming up with benefits, only how the South Boulder area will be impacted.

Traffic issues, environmental impacts, residents quality of life, and the high costs being assessed for this project require me to write and give voice to my concerns. Please reconsider how the city approaches this very important boundary change, and flood mitigation costs before moving forward with this plan. We trust the city officials to not put unnecessary financial hardships on the residents of Boulder. I welcome a response to my questions.

Thank you,  
Laurie Frain  
Martin Acres resident

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lynn B <klgmanecer@gmail.com>  
**Sent:** Tuesday, January 5, 2021 10:50 AM  
**To:** Karen Beesley <karen\_goubleman@yahoo.com>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Re: CU South: suggesting better solutions

**External Sender**

Dear City Council,

We, in Martin Acres, have discussed alternatives for the immense tax burden building on CU South will create for Boulder residents, and as well the threat it will cause to the local species that live there. There is a much more sensible solution. I completely second Mike Marsh's recommendations as follows:

Dear Boulder City Council:

I have some suggestions regarding CU South. I largely agree with Kurt Nordback's excellent letter to the editor (Daily Camera, Dec. 5, 2020). To pick up on some thoughts he expressed:

East Campus in particular has significant undeveloped land. And this land is much better suited for development, compared to CU South's multiple flood risk exposures. (Evidently the only safe way of building at CU South is to have many thousands of truckloads of fill dirt brought in - at enormous costs and impacts to the City of Boulder and its residents - in order to raise CU South's construction area above flood height.)

This would not be the case at East Campus. Please recall that when CU constructed its massive East Campus, they did not build any student housing at that site. CU now has an opportunity (on East Campus land) to correct that major oversight.

I'll add a suggestion of my own, which many others have also supported: If, for some reason, CU is unwilling to expand within its current in-town borders, a land swap with the City's Planning Reserve (Area 2) land at 28th St. and Jay Rd. is the next best option.

Consider the two very different, divergent situations running in parallel at CU South: On one hand, flood mitigation for Frasier Meadows is a current need. In contrast, CU does not have an urgent, current need for a third campus. These two situations are being artificially forced together, in CU's request for CU South to be annexed into Boulder.

The better solution would be to de-couple the two situations, by exchanging 129 acres of the City's Planning Reserve land for 129 acres of the CU South land. In this manner, the City could construct flood mitigation now, on part of the area currently

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

known as CU South. And CU would gain land at the Planning Reserve that's much better suited and safer for construction - if and when it determines that a third campus is necessary.

The land swap would save the City and all of us residents from spending \$25 million to \$99 million in fill dirt, trucking/transporting it, and earth moving/grading at CU South. The fact that such a wide cost range is being suggested by City staff merely underscores the extremely difficult nature of construction at CU South.

Thank you for considering these thoughts,

Karen Goubleman

Boulder resident

On Sun, Jan 3, 2021 at 11:18 AM Mike Marsh <[mgmarsh1@juno.com](mailto:mgmarsh1@juno.com)> wrote:

Dear Boulder City Council:

I have some suggestions regarding CU South. I largely agree with Kurt Nordback's excellent letter to the editor (Daily Camera, Dec. 5, 2020). To pick up on some thoughts he expressed:

East Campus in particular has significant undeveloped land. And this land is much better suited for development, compared to CU South's multiple flood risk exposures. (Evidently the only safe way of building at CU South is to have many thousands of truckloads of fill dirt brought in - at enormous costs and impacts to the City of Boulder and its residents - in order to raise CU South's construction area above flood height.)

This would not be the case at East Campus. Please recall that when CU constructed its massive East Campus, they did not build any student housing at that site. CU now has an opportunity (on East Campus land) to correct that major oversight.

I'll add a suggestion of my own, which many others have also supported: If, for some reason, CU is unwilling to expand within its current in-town borders, a land swap with the City's Planning Reserve (Area 2) land at 28th St. and Jay Rd. is the next best option.

Consider the two very different, divergent situations running in parallel at CU South: On one hand, flood mitigation for Frasier Meadows is a current need. In contrast, CU

does not have an urgent, current need for a third campus. These two situations are being artificially forced together, in CU's request for CU South to be annexed into Boulder.

The better solution would be to de-couple the two situations, by exchanging 129 acres of the City's Planning Reserve land for 129 acres of the CU South land. In this manner, the City could construct flood mitigation now, on part of the area currently known as CU South. And CU would gain land at the Planning Reserve that's much better suited and safer for construction - if and when it determines that a third campus is necessary.

The land swap would save the City and all of us residents from spending \$25 million to \$99 million in fill dirt, trucking/transporting it, and earth moving/grading at CU South. The fact that such a wide cost range is being suggested by City staff merely underscores the extremely difficult nature of construction at CU South.

Thank you for considering these thoughts,

Mike Marsh

Boulder resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kimman Harmon <kimman@kimmanharmon.com>  
**Sent:** Monday, January 4, 2021 9:33 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Council Members;

I am writing to express my dismay with the current CU South plan in so far as it involves the City of Boulder.

First of all, after living through 2020, needs will be different for universities (and for us all for that matter). As Angie Paccione, Executive Director of the Colorado Department of Higher Education, said in an article in the Daily Camera Friday Jan 1, 2021, "gone are the days when colleges and universities prioritize 'building pretty buildings' when students can't put food on the table or don't know where they're going to sleep at night." With the city agreeing to annexation, we are complicit in shutting the door to students' actual needs. Will there be as many students enrolling? Will they prefer to learn online? Or will there be some hybrid type of learning? These are the unknowns and for the university to ask for annexation before they know what their needs are is unreasonable. And for you as Council members to agree to annex them into the city is, in my mind, unconscionable.

And for the City to lay out millions and millions of dollars (\$25-99 million) to make the property suitable for CU to build their third campus is an unreasonable expectation of us citizen taxpayers. Do we need flood control? Of course we do. Do we need to allow CU to build a third campus when they have not used the property they do have? I, and many others, say no thank you. Not only will we put pressure on endangered species and our remaining Open Space (which is stressed to its limits since the pandemic), we will create a myriad of traffic problems for Table Mesa Drive, Moorhead, Broadway and US 36.

The City of Boulder should focus the money from its taxpayers on the following priorities: the needs to take care of the streets it does have that are in disrepair, the businesses that make Boulder what it is and are struggling, and the amenities like parks and recreation centers that keep Boulderites sane.

Can the City of Boulder build the flood mitigation without having to annex the property? I would think there would be a way around it. Let's look into this as a city.

Thank you for your consideration.

Kimman Harmon  
Boulder, CO

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Mike Marsh <mgmarsh1@juno.com>  
**Sent:** Sunday, January 3, 2021 11:18 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South: suggesting better solutions

**External Sender**

Dear Boulder City Council:

I have some suggestions regarding CU South. I largely agree with Kurt Nordback's excellent letter to the editor (Daily Camera, Dec. 5, 2020). To pick up on some thoughts he expressed:

East Campus in particular has significant undeveloped land. And this land is much better suited for development, compared to CU South's multiple flood risk exposures. (Evidently the only safe way of building at CU South is to have many thousands of truckloads of fill dirt brought in - at enormous costs and impacts to the City of Boulder and its residents - in order to raise CU South's construction area above flood height.)

This would not be the case at East Campus. Please recall that when CU constructed its massive East Campus, they did not build any student housing at that site. CU now has an opportunity (on East Campus land) to correct that major oversight.

I'll add a suggestion of my own, which many others have also supported: If, for some reason, CU is unwilling to expand within its current in-town borders, a land swap with the City's Planning Reserve (Area 2) land at 28th St. and Jay Rd. is the next best option.

Consider the two very different, divergent situations running in parallel at CU South: On one hand, flood mitigation for Frasier Meadows is a current need. In contrast, CU does not have an urgent, current need for a third campus. These two situations are being artificially forced together, in CU's request for CU South to be annexed into Boulder.

The better solution would be to de-couple the two situations, by exchanging 129 acres of the City's Planning Reserve land for 129 acres of the CU South land. In this manner, the City could construct flood mitigation now, on part of the area currently known as CU South. And CU would gain land at the Planning Reserve that's much better suited and safer for construction - if and when it determines that a third campus is necessary.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

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Thank you for considering these thoughts,

Mike Marsh

Boulder resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Spenser W Havlick <spenser.havlick@Colorado.EDU>

Sent: Thursday, December 17, 2020 12:13 PM

To: Council <council@bouldercolorado.gov>

Subject: CU South pleas

External Sender

Dear Council members,

I have a simple request, even a thoughtful plea.

Do all you can to prevent sprawl in the old gravel pit in south Boulder, increase flood protection to the 500 year level, and avoid excess traffic through Martin Acres.

Encourage CU to have its growth on underdeveloped East Campus.

Cordially,

Spense Havlick

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** jeff rifkin [jkchinkin@gmail.com](mailto:jkchinkin@gmail.com); Steven Telleen [stelleen@comcast.net](mailto:stelleen@comcast.net); Steve tuber [tubersteve@gmail.com](mailto:tubersteve@gmail.com); robert.sachs [robert.sachs@wanadoo.fr](mailto:robert.sachs@wanadoo.fr); Margaret Jobe [jobemm@gmail.com](mailto:jobemm@gmail.com)

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU-South must NOT receive a higher level of flood protection than Boulder residents.

**External Sender**

As a resident of South Boulder, who will benefit from an effective flood mitigation project at CU-South, I am opposed to any agreement that commits the City of Boulder to shoulder the costs of protecting the CU portion of the property against a 500-year flood event while only protecting the city's residents, who will be paying these costs, against a 100-year flood event. At its foundation, this agreement must not commit to a higher protection level for the CU property than the proposed flood mitigation portion provides for the downstream residents.

Sincerely, jeff rifkin

**Staff Response**

**From:** Taddeucci, Joe <Taddeucci@bouldercolorado.gov>

**Sent:** Tuesday, December 22, 2020 12:18 PM

**To:** jeff rifkin <jkchinkin@gmail.com>; Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>

**Subject:** RE: CU-South must NOT receive a higher level of flood protection than Boulder residents.

Hi Jeff,

Thank you for writing to City Council about South Boulder Creek flood mitigation. My name is Joe Taddeucci, and I am the city's Director of Utilities. While you may hear directly from council members, the following information may also be helpful. Policy guidance for CU's future annexation plans is set by the Boulder Valley Comprehensive Plan [CU South guiding principles](#), a document that was approved following extensive public process and a four-body review in 2017. Below are applicable excerpts of the guiding principles as they relate to the level of flood protection provided by the project and development associated with floodplains on the CU South property.

- The city recognizes that storm events larger than a 100-year event can occur and may be more probable in the future due to the impacts of a changing climate. In designing the South Boulder Creek Phase 1 flood mitigation facility, the city's goal is to mitigate to at least a 100-year flood, and the city will consider larger events, including the 500-year flood as adopted by FEMA and a probable maximum flood as determined by the State Engineer. The mitigation facility will be designed to accommodate larger events per the requirements of the State Engineer.
- All enclosed academic structures, offices or residential uses will be constructed outside of the FEMA 500-year floodplain.

Regarding the level of flood protection provided by the project, staff and consultants evaluated events ranging from 100- to 500-year protection and determined that only the 100-year-flood was feasible given the unique features of the South Boulder Creek floodplain. I can appreciate the different perspectives around the flood project and annexation, but I did want to clarify that the project as proposed is a function of both feasibility and the requirements of current policy.

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

Sincerely,

Joe

**Joe Taddeucci, P.E.**  
**Director of Utilities**  
(pronouns: He/Him/His) [What's This?](#)



C: (720) 635-6970  
[taddeucci@bouldercolorado.gov](mailto:taddeucci@bouldercolorado.gov)

Public Works - Utilities Department  
1739 Broadway | Boulder, CO 80302  
[bouldercolorado.gov](http://bouldercolorado.gov)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Wednesday, December 16, 2020 3:40 PM

**To:** OSBT-Web <OSBT-Web@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Subject:** Disposal of Open Space Land for South Boulder Creek Flood Mitigation

**External Sender**

The city's South Boulder Creek Variant 1 100-year flood mitigation plan requires the disposal of Open Space lands.

The plan includes refilling a portion of CU's gravel pit with 360,000 cubic yards of earthfill to meet CU's demand for 129 developable acres. Even though tennis courts are a suitable use for infrequently flooded land, this will raise CU's tennis courts above the level of the 500-year flood.

360,000 cubic yards is equivalent to 28,000 large 13 cubic yard truckloads. It is also equivalent to filling a football field with a 202 foot (20 story high) pile of dirt.

The city has budgeted \$10 million to acquire and move the earthfill and another \$5 million to demolish and reconstruct the tennis courts.

Not only is this insane idea costly, it will also fill a portion of the gravel pit that is below the surface water level of the adjacent floodwater detention pond. This will decrease the volume of the pond available for floodwater detention and increase the risk of downstream flooding. If the city was satisfied with 100-year flood protection and the area was not filled, this would decrease the footprint of the detention pond on open space land.

CU knowingly constructed its tennis courts on land that might be needed for flood mitigation, and studies have shown the land is in fact needed for floodwater detention.

When CU applied to the County in 2002 for a permit to construct tennis courts in the old Flatiron gravel pit, the County referred the application to the City which responded: (Please see attached documents)

*South Boulder Creek Floodplain Study*

*Staff has reviewed the Boulder County Land Use Referral (Docket 51.02-02) and the March 22, 2002 letter issued by Jeffrey S. Lipton, Executive Director of CU Facilities Management. There is critical interest in how the tennis court proposal will impact the ongoing South Boulder Creek floodplain management and mitigation planning activities between the City, Boulder County, University of Colorado and Urban Drainage and Flood Control District. A great deal of time and effort has gone into this cooperative planning process and it is important that the tennis court proposal not interfere with or adversely affect the South Boulder Creek activities.*

*As expressed in the city's October 19, 2001 letter to Paull Tabolt, Vice chancellor for CU Administration. The CU-Boulder South Campus property is a key element in developing opportunities to mitigate west valley overflow flooding from South Boulder Creek. With the CU-Boulder South Campus property currently being held in public ownership with an undeveloped status **it is critical that South Boulder Creek issues be addressed before such opportunities are eliminated by development activities.** We request that the University address these concerns and incorporate appropriate assurances that continued cooperation and coordination on the multiple agency South Boulder Creek effort will not be impaired by the current proposal.*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Before the Open Space Board of Trustees agrees to dispose of our Open Space lands, and before the City spends \$10 million of our stormwater utility fees to refill a gravel pit and worsen downstream flooding, the city needs to eliminate the area of fill from its South Boulder Creek flood mitigation plan.

Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Brian Buma <brianbuma@gmail.com>

**Sent:** Tuesday, December 8, 2020 5:10 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South - proposed development

**External Sender**

I'm writing in regards to the proposed CU South annexation. I want to thank the city for providing the Zoom call with residents of my neighborhood in South Boulder last week. Although we did receive substantial information on the plans, I remain unconvinced that this is a good deal for South Boulder or the city.

I understand that the benefits that the city involved the acquisition of some small floodplain areas as a trade for annexation and the University being allowed to build residence halls and sports facilities. The question is if the tradeoff is worth it. This is a small city-wide benefit vs. a very intensive South Boulder negative. Although many "mitigation" angles were talked about, we of course know that the impacts of thousands of more residents and employees in the CU South property cannot be truly mitigated. Alleviated in some fashion perhaps, but it is clear the impacts will be substantial.

Impacts will be negative for the city as well. The property is an incredible resource for South Boulder and makes a strong impression on people coming into town on 36, specifically the result of the excellent wetlands and floodplains that have slowly been developing in response to the mining operation. If anything it is an exceptional example of ecosystem recovery and community adaptation to what was prior a heavily impacted area, complete with strong carbon sequestration potential and exceptionally strong wildlife habitat. The loss of this landscape would further pack other trailheads around the city and lower the perception of Boulder as a leader in Environmental Protection and climate science.

Development of this area would add upwards of 2000 people. It is already true that during rush hour Broadway and the highway are stop and go. People already use local neighborhood streets as part of their commute during that time, rushing through the area and endangering children who walked to school. In particular Morehead and Martin Drive are overflow thoroughfares, and one of them has an elementary school on it. This is another lawsuit waiting to happen. I live on Martin, and already the street experiences substantial through traffic at rush hour (pre-covid).

I understand there is a traffic study underway. However, those results are not in, and any planning at this stage seems premature. In particular, we were informed that the comparison location does not seem appropriate and in fact is chosen by the University, a clear conflict of interest. In general the annexation plan has few details from the University, and making such a momentous decision at this point is extremely premature – especially without considering other options with less impact.

There is a clear other option here, the North planning reserve. As residents we all have a stake in both landscapes, and the North planning reserve does not have that many downsides associated with building in CU South. Further, building in the North would provide some substantial resources to that area without all the negative environmental impacts of building in South Boulder. It would also force the University to develop a more comprehensive transportation plan. As it is now, they seem to suggest that students will mostly bike. Anyone who lives here knows that's not necessarily the case (students drive from Williams Village to campus).

I don't see the need to allow the University to push around the city. It's clear they're not leaving. We, as citizens, have little to gain and a lot to lose. To give up the impressive gateway to our city for essentially nothing, because preventing the annexation will preserve the floodplain area just fine, seems like

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

capitulation for no reason. The costs associated to the city are immense, with little benefit that we are not already receiving that I can see. In fact, I specifically asked that question at the meeting, and was told it primarily came down to floodplains – ecosystem benefits already being rendered. Again, we can address future concerns in better ways, better for the city. This is all without considering the sheer dollar cost to the city – again, for what? As city council, you are elected to serve the good of the city, not the University. I know you are aware of this, and do thank you for your service broadly. Here I'm urging you to consider the net costs and benefits of this deal to all residents in all neighborhoods.

The leaders who step up to protect our open space will be hailed as visionaries, preserving this incredibly large threat to both the perception and reality of our city as an environmental leader in the country. This is another of those potential turning points that Boulder has negotiated so successfully in the past, setting up our identity as environmental leaders. Let's not screw this up.

I strongly urge the council to look at the swap for the North planning reserve if CU must be accommodated. Another option is simply asking them to build more densely on campus. There's no reason to sacrifice our neighborhood and city for the benefit of see you. This is a heavily, heavily tilted proposed annexation deal. It will destroy both the resource for South Boulder and several neighborhoods will be strongly impacted.

Sincerely,  
Brian Buma

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Joy Rohde <Joy.Rohde@ingomoney.com>  
**Sent:** Tuesday, December 8, 2020 12:36 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Development of CU South - traffic impacts

**External Sender**

To Whom it May Concern,

I attended the meeting on Dec 5<sup>th</sup> where the plans to develop CU South were laid out. It seemed like you haven't yet completed your traffic study, and I'm really concerned that it's just not thorough enough.

As it stands, it is impossible to exit Martin Acres during the weekdays onto Table Mesa – it requires a left turn with two directions of traffic to navigate. Therefore, many residents head down to Moorhead where there's a light. Already, this light occasionally backs up to the post office. With the addition of more cars and buses (which will likely have to happen) this back up will effectively limit Martin Acres' resident ability to exit the neighborhood or to access their post office. Furthermore, as CU loves to charge for parking, these students will find Martin Acres to be a more affordable parking alternative, exacerbating the challenges we have today.

In addition to the very significant environmental impacts and costs to the city for this development, this is yet another reason why I think Boulder should take a step back and reassess whether turning this property into open space might not be a better bet. I believe that you should revisit exchanging this well-loved community resource for the plot of land in North Boulder that does not provide such critical services as flood plan relief and walking/biking.

Best Regards,

Joy Rohde  
4195 Martin Dr  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Donna Marino <donna@donnamarino.com>

**Sent:** Tuesday, December 8, 2020 12:08 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South development

**External Sender**

As a long-time Boulder resident and property owner I am vehemently opposed to the plan to allow CU to develop "CU South." This development will drastically alter the quality of life in S. Boulder by increasing population and traffic. I urge you to prohibit this development from going forward.

Donna Marino

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Laura Johnson <johnson.laura.anne@gmail.com>  
**Sent:** Thursday, December 3, 2020 8:21 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Boulder City Council,

I have been a resident in South Boulder for 12 years. I arrived in the summer of 2008 and began CU's chemistry PhD program. In this program I met my husband, and after we received our PhDs in 2013 & 2014, we were fortunate enough to find jobs in Boulder. We are thrilled to be able to continue living in this beautiful town. We love the trails and outdoor access. We love the restaurants. We love living near to my sister, who also attended graduate school at CU, and her husband. We love this town's love for dogs as manifested in the multitude of pet stores, the community's shared endearment towards them, and the ability to bring our best friends with us on the trails.

Since 2008, I began combining my two biggest passions, running and dogs, by taking my black lab Daisy with me on runs around the CU South trails. Few daily activities bring me as much joy as watching my dog frolic off leash while we run together. She was a huge fan of swimming, as most labs are, and happily plunged into the pond on warm summer days after completing a lap around the 2 mile course. Eventually Daisy got too slow to keep up. We'd still enjoy outings at CU South. In recent years I'd tow her in a bike trailer from our house to the trail, where Daisy would enjoy a short walk to the pond. Even on the day before Homes to Heaven helped her ease her suffering, she stepped out of her bike trailer and plodded straight into that pond, while her new brother, Helix, sprinted around playing with all the other dogs also off leash and splashing around in the water.

These days, Helix and I continue Daisy and my tradition of daily forays to CU South. There is no way that a 4-mile on-leash run would tire out this 1 year old lab mix we adopted from the Mile High Lab Mission. CU South is a godsend because, while I do get a workout from the 4 mile jog, Helix plays with almost every dog we encounter along the trail — sprinting in the tall grass adjacent to the trail, chasing sticks, and wrestling with the most exuberant. By the end of our loop we've almost always seen a friend we've met and played with before. I know the dog's names, and their parents know Helix's name. We humans may recognize each other, but really we've come here to let our fur babies play. This brings us joy and makes our lives whole. It's a healthy activity for us all, and without it, the quality of our lives would be diminished.

I hope only that my story is heard, and that it is understood that it isn't a unique story but is shared by hundreds if not thousands of residents of this beautiful town, Boulder.

Thank you.

Laura

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Brian Buma <brianbuma@gmail.com>

**Sent:** Monday, November 23, 2020 2:06 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South, proposed expansion

**External Sender**

Hello,

I heard that CU and the city are finalizing negotiations for the development of CU South. As a Boulder resident, and specifically one from Martin Acres, I'm really concerned about the impacts should that development be implemented, and note that the larger neighborhood here, and Tantra/further south are also concerned. That's a lot of people.

First, the area is a well used recreation location by most of the southern half of the city. It is a wetlands, with incredible biodiversity value, unique habitat, and floodplain value. Development would destroy much of that.

Second, the development by CU would be a major problem for traffic in south Boulder. I know the university will mention bussing, but lets be honest - students will drive from CU South to campus. They will move through neighborhoods with mostly families and an elementary school, taking the obvious through-routes, Martin Dr. and Moorhead. Unless the city is going to truly implement restricted traffic for these streets (e.g., residents only) that will be a disaster for the kids and families that play in these areas. Parking will also be an issue, again unless the city implements and enforces neighborhood parking permitting or something.

It appears both of these would be alleviated by trading for the north reserve near Jay Rd that the city owns. Students would be more inclined to use public transport, reducing their carbon footprint, because of the distance. More importantly, it's not in a floodplain and valuable wildlife/plant habitat.

This is Boulder. Let's not sacrifice what makes it great just for CU. Our city level carbon plan, flood issues, and open space are all impacted by this decision. They shouldn't push the city around. Don't let them build in the CU South area; trade land.

Brian Buma

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lynn B <klgmanecer@gmail.com>  
**Sent:** Thursday, November 19, 2020 9:37 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Development

**External Sender**

Good morning Council Members,

I have just spent the early morning, as I do every morning, taking a walk with my kids and my dog at CU South. With my kids sitting in front of their computers all day for remote learning, it is the thing that keeps us sane and gets our day off to a good start. It is the only Open Space close enough for us to get to in the morning before school starts. There were dozens of other people out enjoying the fresh air and gorgeous scenery, my kids and dog could run and throw a ball. It's always a great opportunity (one of the few these days) to chat with neighbors as they are walking their dogs. I never tire of the beauty of that area.

I am writing to request that you not take this away from us and the Boulder community. Imagine if the Open Space around Chautauqua and NCAR was allowed to be developed? That is what makes Boulder so special. There is such a limited amount of Open Space ....once it is developed it is gone forever. You are in a position to keep this amazing land as a sacred space for the community. Have you ever taken a stroll there at sunrise or sunset? Have you seen the sky turn pink and seen its reflection on the ponds with our gorgeous Flatirons as a backdrop? If not, I suggest you do so. It is breathtaking. Take a moment while there, and know that you can be the one to protect it for generations to come, or you can be the one to take it away.

Fortunately, a win-win situation is not only possible, but very plausible, and it would allow \$20 million of our much needed tax dollars to go towards more meaningful endeavors.

The annexation proposal asks the City to spend \$20 million or more of our tax dollars for landfill and other infrastructure work to develop in a ridiculously inappropriate location -- instead of saving that money and directing CU to the reserve.

It's that simple.

Study the reserve, negotiate a land exchange and protect our riparian floodplain. An urban services extension study is needed at the planning reserve on Jay Road to evaluate if a North Campus might work. If so, annex the reserve instead of CU South.

The first step is for the City to authorize and the County to support an urban services study for the reserve.

Please, do your part to protect this land for generations to come, and help us come to a win-win result.

Thank you.

Sincerely,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Karen Goubleman  
4505 Martin Drive

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Caroline Schutrumpf <cschutrumpf@gmail.com>

**Sent:** Wednesday, November 18, 2020 9:38 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Proposal Opposition

**External Sender**

Hello,

I'm writing to add my voice to the opposition to the proposed CU South development. There are so many reasons that this should not go ahead. In no particular order:

- A large part of Boulder's open space is flood plain. We know the flooding will happen. We know that this is a sensitive and endangered environment. The land is vital and irreplaceable. CU must build elsewhere.

- This is one of the most popular open space areas. I used it for a safe bike ride that is accessible for my child but it is always busy with hikers and dog walkers. It is important to maintain this space as a place that is easily accessible for many users with gorgeous views. It is a delight to feel the power of nature right in town. Not everyone is able to climb a mountain but this flat and wide trail is useable by most of the population.

- South Boulder Creek trail wraps around CU South. Development of CU South would turn this into a suburban bike trail rather than the Open Space experience it is.

- It's a terrible location. While the views are stunning, why build between a highway and a major arterial? The surrounding roads are already busy, even during Covid. There is no more capacity. That corner of town has very little to offer in terms of businesses. Dense development should occur in a place with access to businesses as well as transportation.

- Boulder's reputation is built on the location and views. It is important that the road into town maintains that character. Massive buildings in that location would make us look like any other town along 36.

Housing in Boulder is an issue for many people but this is not the solution.

It is also worth noting that the world may be a different place after Covid, with less land assigned to office use. Other alternatives are available. Please use one.

Thank you,

Caroline Schutrumpf

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Joy Rohde <Joy.Rohde@ingomoney.com>  
**Sent:** Wednesday, November 18, 2020 11:57 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South and traffic

**External Sender**

Hi,

The decision to greenlight CU South is significant enough that I hope you'll wait for the results of your traffic study before diving in. As a resident of Martin Acres, I am concerned about this impact on my neighborhood as people commute between the two campuses – it's going to add a lot of additional traffic.

As you're probably aware, noise has already increased in our neighborhood due to the freeway, and I'm also finding that parking has gotten quite tight with the new ADU rules; it feels like the neighborhood has become denser as the 3 spots on the side of my corner lot, which were never taken, are now always full and there's always a car parked on the other side of my driveway as well. How much will that light at Moorhead back up? As Table Mesa is far too busy these days to make a left turn, Moorhead is basically our exit from the neighborhood.

Furthermore, while many of side streets in Martin Acres were recently repaved, the main streets of Martin and Moorhead were not. The potholes are getting progressively worse even with yearly fills. What happens when you double the traffic?

Thanks,

Joy Rohde



Joy Rohde | VP, New Business Development  
INGO MONEY | Instant Money & Disbursements Marketplace  
p 720-209-1721 e [Joy.Rohde@ingomoney.com](mailto:Joy.Rohde@ingomoney.com)



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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Ron DePugh <rondp@rockymountainmoggers.com>

Sent: Wednesday, November 18, 2020 10:37 AM

To: Council <council@bouldercolorado.gov>

Subject: CU South

External Sender

Hi, Council-

Do not go forward with any decisions on the CU South project before a comprehensive traffic study is completed, not by CU, but by the City of Boulder.

Considering the probable effects this development will have on traffic through Martin Acres, since it is right between the two campuses, this needs to be done professionally. Using the CU study is invalid, since they compare with a site within walking distance,

Thank you.

--

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Sage <Sage@libertypuzzles.com>  
Sent: Tuesday, November 17, 2020 5:16 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU south

External Sender

I oppose any building on this wonderful piece of property, home to many wildlife species and a place where many Boulder people Enjoy the outdoors Furthermore when meeting were held about this property, CU reported they would not be build anything but a few fields and faculty dorms Thx Sage Wirth

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Wallach, Mark <WallachM@bouldercolorado.gov>  
**Sent:** Tuesday, November 17, 2020 1:49 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

One of our constituents, Ben Binder, has been trying to send the following letter to us, but seems to be having some technical difficulty in doing so. He has asked me to assist him in communicating with you, and, as we are graduates of the same high school back East (several years apart), I am morally obliged to do so. The content is entirely Ben's. Please see his letter below:

Dear City Council Members,

In August 2018, after twenty years of studies and a great deal of public input, the Boulder City Council approved a \$35 million South Boulder Creek flood mitigation plan that would protect residents from a 500-year flood. But CU, being more interested in increasing the development potential of CU South than in protecting the lives and property of Boulder residents, did not like that plan.

In a May 20, 2019 letter to the Boulder City Council, CU's Frances Draper wrote:

***"We are informing the city that any further expenditure for the development of preliminary designs for Variant I 500 should cease. Again, the university will not agree to that option. Neither of our organizations should expend further staff or financial resources to continue to pursue Variant I 500."***

At a June 16, 2020 city council meeting, without objecting to CU's demands, the city council readily caved in and agreed to a revised plan to appease CU. The revised plan is estimated to cost \$66 million, \$31 million more than the original plan.

To raise portions of CU South above the level of a 500-year flood, the revised Variant 1 100 year plan requires \$10 million for 360,000 cubic yards of earthfill to replace the sand and gravel previously excavated from CU's gravel pit. Since the added earthfill will bury CU's tennis courts, the project also includes millions to demolish and rebuild the tennis courts.

Furthermore, to provide CU with more land above the level of a 500-year flood, the size of the flood control detention pond was decreased so that flood protection to downstream residents was reduced from a 500-year flood to a 100-year flood. Absurdly, paying \$10 million to fill the pit with 360,000 cubic yards (28,000 truckloads) of earthfill actually decreases the volume of the pond available for flood detention. To put things in perspective, 360,000 cubic yards is equivalent to 223 acre-feet while the volume of the Variant 1 100-year flood control detention pond is only 469 acre-feet.

Simply put, the \$66 million plan approved by the city council in June 2020 to appease CU protects CU's tennis courts and future residents of CU South from a 500-year flood, while placing 1,600 existing Boulder residents in the 500-year floodplain.

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

Based on this, I fear the city council will also readily cave in to CU's demands pertaining to the annexation agreement.

-----  
At a time the city is facing severe budget shortfalls as a result of the Coronavirus, and when there are tens of millions of dollars of unmet needs for critical flood control projects, the city should not be using our limited stormwater utility fees to refill CU's gravel pit.

Furthermore, the city intends to use stormwater utility "**fees**" to pay off the millions of bonds needed to finance the project.

To qualify as a fee, as opposed to a tax which requires a vote of taxpayers, the fee needs to be "***reasonably designated to offset the overall cost of services for which the fee is imposed.***"

Boulder' stormwater utility fees are determined from the anticipated use of drainage facilities based on the runoff from impervious surfaces on developed properties.

Since South Boulder Creek floodwaters largely originate from rainfall outside of the city and not from runoff from impervious surfaces for which fees are charged, and since refilling CU's gravel pits actually worsens flooding, one might question whether the Variant 1 100-year plan satisfies the legal requirements for the use of "fees". It would be prudent to get a thoughtful legal opinion before attempting to issue bonds.

Apparently, there has been some careless work performed on this issue by the Mile High Flood District.

The Mile High Flood District's ***Urban Storm Drainage Criteria Manual*** Volume 1 , Chapter 2, Page 2-17 states:

A service charge is neither a tax nor a special assessment but is a fee for the sole purpose of defraying the cost of establishing and maintaining a storm drainage and flood control utility. Western Heights Land Corp. v. City of Fort Collins, 146 Colo. 464, 362 P.2d 155 (1961). See, also, City of Aurora v. Bogue, 176 Colo. 198, 4-9 P.2d 1295 (1971); Brownbriar Enterprises v. City and County of Denver, 177 Colo. 198, 493 P.2d 352 (1972); and City of Boulder v. Arnold, 978 P.2d 149 (Colo. App. 1976) **which upheld the City of Boulder's flood control fee.** Counties in Colorado have similar powers pursuant to 30-20-402 (1) C.R.S.

I researched this issue and received the following correspondence from an attorney.

*The case you cited and reported at 978 P.2d 149 is actually called Arnold v. Colorado Department of Corrections. It was decided in 1999, not 1976. Believe it or not, I was one of the judges on the division in that case. However, it does not appear that the decision had anything to do with either Boulder or the difference between fees and taxes.*

<https://udfcd.org/wp-content/uploads/uploads/vol1%20criteria%20manual/USDCM%20Volume%201%202016.pdf>

Sincerely yours,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Conrad Walls <cwsemco@aol.com>  
**Sent:** Tuesday, November 17, 2020 11:08 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South annexation

**External Sender**

I know it's way too late for my comments, but I think Boulder should have purchased this land for Open Space. Have you ever walked there? Many people use this South Boulder gem. It would be so easy to link it with the existing trail system.

A wonderful community opportunity wasted. More development. More density. No one cares, I guess.

Conrad Walls

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: karen goubleman <karen\_goubleman@yahoo.com>  
Sent: Tuesday, November 17, 2020 10:28 AM  
To: Council <council@bouldercolorado.gov>  
Subject: Development at CU South

External Sender

Dear City Council Members,

I am writing to express my concern over the development of CU South. This wetland area is home to two endangered species, and is part of the single largest stand of a particular prairie tall grass species in the state of Colorado. This would be destroyed if this development is allowed.

It is already nearly impossible to make a left turn onto Table Mesa from Martin Drive or any of the numbered streets. Traffic on Table Mesa comes to a stand still at busy times of day going towards Broadway; it would not move at all if a development of this scale is allowed. Good City Planning requires that a thorough study be conducted before a development is allowed to begin. A thorough study has not been conducted on how this development will affect traffic on Table Mesa. I urge you to consider the irreversible damage that will be done before you approve this plan. You have the power to make good decisions for the residents of Boulder; I hope you will do so.

Thank you.

Karen Goubleman  
4505 Martin Drive

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Vera Frajzyngier <vfraczyngier@gmail.com>  
**Sent:** Tuesday, November 17, 2020 10:17 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Open Space

**External Sender**

To whom it may concern,

I beg you not to approve the development plans at CU South. This is a precious area of open space - just this morning I saw two herons, a number of hawks, and large wild cat in the area. Developing this area will be a huge loss to Boulder and the surrounding community that has grown to love this piece of land.

Vera Frajzyngier

--

Vera Frajzyngier, PhD, MPH  
ph: 347.628.1016  
skype: vfraczyngier

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mahon, Elizabeth <ELIZABETH.MAHON@UCDENVER.EDU>  
**Sent:** Tuesday, November 17, 2020 9:03 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Annexation conversation

**External Sender**

Dear City Council Members,

Thank you for your service to the Boulder community. I am concerned about the discussions regarding annexation of the CU South property. We need to move ahead with flood mitigation in a way that does not jeopardize the future of the rest of the CU South property and the surrounding neighborhoods. I agree with the issues laid out in [Feedback on CU's Annexation Terms](#) for CU-South by Plan Boulder and Save SoBO. As stated in the report: "The City should try to negotiate in good faith....but it must back up every single issue in writing in an airtight annexation agreement first." I remember Frances Draper saying in a city council meeting that CU could not decouple annexation from flood mitigation because CU knows that the Boulder community does not want the land to be annexed under the terms that CU proposes. CU is forcing the annexation issue, so please do due diligence and make sure we are not selling the soul of our community with the agreement.

Sincerely,

Liz Mahon

Sent from [Mail](#) for Windows 10

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Nick Lenssen <nklmll@hotmail.com>  
**Sent:** Tuesday, November 17, 2020 8:41 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Ensuring Boulder signs a good deal of CU South Boulder campus annexation

**External Sender**

Dear Council,

I am writing to encourage you to ensure that the City of Boulder represents the interests of the citizens of Boulder (instead of CU) in its negotiations with CU regarding the annexation of the CU South Campus property.

**\*\* CU should have to pay the full cost of annexation, and not have the citizens and businesses of Boulder subsidize their planned development.**

**\*\* All conditions need to be in writing and legally enforceable prior to the signing of an annexation agreement.**

From the beginning of the South Campus saga, CU has taken advantage of the City of Boulder to pursue CU's interests, not Boulder's. Only I only need to remind you of how in 1995, CU swept in under the cover of night to out-bid Boulder Open Space for the property. CU has not been a partner of Boulder's at all in regards to the South Campus, and Boulder simply should not trust CU's word. Get CU's commitment in writing prior to any vote on annexation.

**\*\* If an annexation agreement is eventually agreed to, Boulder should insist that any and all development be for low- and middle-income housing for CU staff and students. This would help alleviate Boulder's housing problems. Other development, whether academic, support, or athletic buildings, should be severely limited if not prohibited.**

**\*\* Boulder should ask tough questions of CU Boulder regarding the institution's future given the radical changes underway -- and likely to continue -- regarding higher education post-Covid-19. We are likely at a major turning point in terms of what the future university would look like. The City of Boulder could offer a great service to CU and the state by asking tough questions as to what this future might look like, and whether CU really does need to develop the South Campus per its current plans.**

Thank you for your attention to this email and for your response,

Nick Lenssen  
1195 Albion Road  
Boulder, CO 80305  
[nklmll@hotmail.com](mailto:nklmll@hotmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Crystal Gray <graycrystal@comcast.net>  
**Sent:** Monday, November 16, 2020 4:22 PM  
**To:** Wallach, Mark <WallachM@bouldercolorado.gov>; Council <council@bouldercolorado.gov>  
**Subject:** Re: [BoulderCouncilHotline] CU South

**External Sender**

Hello Council,

Council member Mark Wallach's questions are excellent - and here are a few comments I would add:

CU South can have benefits for the community - especially with flood control and housing- and I think it is important to clearly define the agreement and who pays for what so that future councils, staff and CU Administration are very clear on what was agreed and not just be left interpreting intent.

I would start by reviewing some of the larger past annexations for examples of:

- 1) community benefit (usually a goal of 50% permanently affordable housing (it varies between 40 to 50%) and/or Open Space dedication and often both);
- 2) infrastructure costs such as water/Sewer and lift stations and costs to extend or enlarge lines (even off site) to the project to meet the increased demand,
- 3) transportation costs such as roadway/intersection widening to accommodate R/L turn lanes, bus stops, stoplights, bike/ped infrastructure, EV charging etc
- 4) Most annexations are approved with a site plan to clearly define the major categories in Title 9 of our land use code including uses. Since you will not have a site plan it is very important to define how this annexation will proceed to submitting building permits and how they will meet all our codes - especially as they address uses, energy, fire safety, policing responsibility, parks for the residents (think kids) etc. Will they be grandfathered into our 2020 codes or the codes that are adopted when they submit a building permit?

All you have to do is ask staff for a summary of what an annexation agreement might usually cover as a result of their impact. Staff is very good at identifying community benefit, impacts, responsibilities and costs -even for non-profit housing developments. .

It is important that regular development costs are not passed on to the city and ultimately have an impact on the general fund or the enterprise utility funds. Worse case is everyone's utility rates go up and the 51% of city renters, many who are low income, will get this passed on via rent increases.

What I learned after serving on council, as well as 6 years on planning board, is that annexation agreements will vary but all will have clear definitions of what is expected of each party.

Good luck and keep involving the public - many of your constituents came to Boulder because of the university and we care deeply about the university, and how it evolves and grows and meets future challenges.

Best,  
Crystal Gray  
303-906-5509  
Council member 2003-2011

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Planning Board 2013-2019

Sent from my iPhone

On Nov 16, 2020, at 10:50 AM, Wallach, Mark <[WallachM@bouldercolorado.gov](mailto:WallachM@bouldercolorado.gov)> wrote:

I want to thank all those who had a hand in preparing the presentation on CU South for Tuesday's Council meeting. I am very encouraged to see the progress that has been made on a number of the key issues regarding this project. Nevertheless, the memo does leave me with a number of questions that I will raise here:

1) The document anticipates that a revised draft Annexation Agreement was to be received from CU by this time. Has the term sheet in fact been received? I do not recall seeing it, and that is, of course, a critical document for moving forward. If it has been received, might I request that a copy be forwarded to me (if it has already been forwarded, and I have somehow failed to register that fact, my apologies)? And if there is a new term sheet for annexation, would it be possible to see a slide highlighting the differences between the February, 2020 draft and the new one?

2) At the last meeting on this subject, there was discussion of researching the feasibility of an upstream option for flood mitigation. Has this process been completed, and what were the results? I did not see any discussion of this subject in the staff memo.

3) As CU has recommitted to a primary use of the site for housing (of which I am supportive), I remain perplexed by the use of qualifying language concerning this objective: a "target" of 1,100 residential units, housing as a "predominant" use (Key Issue 42). What is the actual discretion being provided for lower targets? At what level would a reduction in housing be deemed to be a breach of the Annexation Agreement? As we have seen, CU has gone back and forth on this issue several times; as it is a core value in connection with annexation, how do we protect the City from further changes in the primary development purpose supporting annexation?

4) I note that the community engagement plan includes a meeting on December 2 with the Martin Acres Neighborhood Association, and this is useful. However, is this the only neighborhood that will be impacted by this project? Will special

community meetings be scheduled for other neighborhoods as well? At the very least, the residential neighborhoods adjacent to the project have a substantial stake in the outcome, and those concerns should be addressed. The Martin Acres meeting appears to be the only one specifically scheduled for a community (although there are a number of general meetings scheduled as part of the engagement process).

5) The documents prohibit the construction of large sports venues (e.g. football stadiums). As every other venue is diminutive compared to a football stadium, is anything short of that permitted? Is there any content to the definition of “large” with respect to what is prohibited? I am encouraged that staff will propose definitions regarding this subject, and I urge you to address the number of spectators that may be accommodated for any permitted use.

6) The adoption of the concept of a “height ceiling” is excellent, as is the agreement on development on sloping land of 15% or more. I encourage staff to continue to push for the concept of a “limited impact zone” to deal with issues of noise and light mitigation for the adjacent residential neighborhoods.

7) Paragraph 1(B) of the Briefing Book (p. 22) is confusing to me. It requires that, prior to final agreement we conduct “a groundwater assessment which verifies the feasibility and provides the basis for design and construction of implementing measures to convey groundwater through the dam in a manner that replicates existing flow patterns.” Is there even a remote possibility that this will not be feasible? And, if so, how would we then proceed? Should not this study be the predicate for further work on this project, rather than something that occurs somewhere down the line?

8) Perhaps staff can explain why CU is pushing back on our request for 90-day review of **all** plans relating to the development of this project. I do not understand why this should even be an issue. In addition, the position of CU is that they will give “strong consideration” to the City’s “Discretionary Comments” on future development plans. Can we all agree that this is essentially a commitment to hear our comments with no obligation whatsoever to incorporate them into their planning?

9) CU rejects our request for PILOT payments (Payments in Lieu of Taxes) on the grounds that they are a tax-exempt entity. This is a response that has no meaning. PILOT exactions are done precisely **because** the paying entity is not subject to taxes and they are a substitute for the obligation to pay taxes that would be required of a non-exempt entity. The tax-exempt status of CU is not a justification not to pay some form of PILOT to compensate Boulder for the expense of City services that will be provided to CU over the next 50 years, it is the very reason that those payments should be made via a PILOT program. In this regard, has there been any analysis of the value of the 2 acres of land to be donated for a public safety facility vs. the amount of revenue that would be generated by a reasonable PILOT program over 50 years vs. the projected expense to Boulder of providing City services to CU South during this period?

10) CU has requested that the entire property be zoned initially as “Public” with adjustments to be made later (page 80 of the memo). This is a bit confusing. Why would we do this and what are the advantages/disadvantages of doing so?

11) I remain troubled by the concept of the potential relocation of tennis courts to OS-O land at CU’s sole discretion (both as to the decision to relocate, as well as where to relocate on OS-O land, subject only to the criterion that it be contiguous to CU’s retained property), and at the City’s expense with no cap on the specifications – and thus, the cost – of the tennis courts. Why are we agreeing to such an open-ended expense, which we do here and in a number of other areas? Are we certain that this expense will be covered by a bond issue, or will this require use of General Fund revenues? Are there no environmental issues that should limit CU’s right to select its site for relocation?

12) CU proposes that the City can purchase additional OS-O land subject to appraisal. Appraised as what: Wetlands? Open space? High density residential? I think it is important that any such appraisal be based on current and projected zoning for the land, not the highest and best use that could conceivably be applied to it.

13) Key Issue 16, the removal of the levee and proposed compensation to CU for the dirt in the levee, keeps returning like a bad meal. If the levee is part of the 80 acres conveyed to the City, the dirt on that land belongs to the City. If we desire to remove the levee and have no constructive use for the fill, it would be appropriate

to offer it to CU for their use (and, unlike the first draft of the Annexation Agreement, I would not seek to extract payment for it), but that is the extent of it. If it is our land, it is our dirt.

14) How do we move forward if the water rights to Dry Creek Ditch #2 is an important component of the overall transaction, and CU is not prepared to address it? We should not enter into an Annexation Agreement without a satisfactory resolution of this issue.

15) Back in June I wrote a Hotline post raising a number of issues relating to annexation; at the time it was not appropriate to address those as we were discussing flood mitigation. Of the issues raised then, and not previously discussed in this post, I have particular concerns with respect to the following:

i) The City is responsible for the cost of access and egress road improvements satisfactory to CU. How firm is our understanding of these costs?

ii) With respect to the services the City is to provide (power, water, stormwater, waste water), the City is to cover “any additional costs caused by the flood mitigation project to access those services.” What does this mean? How will that determination be made? What are the potential costs to the City?

iii) The City is responsible for any utility upgrades necessary as a result of the flood mitigation project. Do we know what these are, what is the likelihood that they will be necessary, and, if so, what they will cost?

vi) Apparently, the University has an expectation that there will be an “aesthetically pleasing finish” to the flood wall, the expense of which will be borne by the City. Has the cost of this been calculated? What constitutes an aesthetically pleasing finish?

16) The strongest concern I raised in my prior post is such that I will repeat it below in its entirety:

“What will be the protection against creating an entitlement for development via annexation, and then having CU sell the land for another use or to another user? Particularly now, in light of the pandemic, all plans and projected plans must be regarded as a bit fluid. It is one thing to annex the land for CU (desirable); it is another to do so and end up with Bob Jones University on the site (not so much). Will there be any reversion to the City of Boulder in the event that financial considerations make it impossible for CU to actually build the campus? If not, and

in the event of CU's election not to proceed (presumably based on financial capability), what is the protection for the City of Boulder against the sale of the property to another educational institution, or even a non-educational user? Since annexation will occur without reference to a site plan, even a conventional "successors and assigns" clause will not protect us from potentially dramatic changes to whatever development we would have expected from CU."

This is an extraordinarily complex project, and I want to thank all staff working on it for their diligence and hard work in helping to move it towards fruition. I greatly look forward to Tuesday's conversation, and the opportunity to get clarity on some of these topics.

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bouldercouncilhotline mailing list

[bouldercouncilhotline@list.ci.boulder.co.us](mailto:bouldercouncilhotline@list.ci.boulder.co.us)

<http://list.bouldercolorado.gov/mailman/listinfo/bouldercouncilhotline>

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**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Debra Biasca <dbiasca@gmail.com>  
**Sent:** Friday, November 13, 2020 5:07 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** We Must Not Rush CU South Annexation!

**External Sender**

I am writing to urge Council not to rush an annexation process for the University @ theCUSouth property.

Please confront CU's evasions, obfuscations, and lack of cooperation over this annexation. I seriously question CU's assertions about its desires for cooperation; beware of faux good faith efforts. CU is a corporation with its own fiscal goals that may easily supersede its outward display of "good citizenship". Be certain that everything CU promises is backed up **in writing** in an enforceable annexation agreement before any annexation deal is considered final.

I support the suggestions and analysis of SaveSoBo, the coalition of neighborhoods most affected by such an annexation, that negotiations must achieve the following conditions to ensure that the City of Boulder **only** annex CU South if:

- a) There is a legally enforceable Annexation Agreement between the University and the City that will be binding on all future owners which
  - b) includes a flood management plan that
    - (1) mitigates up to a 500-year flood, as defined by the Federal Emergency Management Agency, both on-site and downstream of CU South, for all lands and property that are at risk of flooding by South Boulder Creek and its tributaries, or Viele Channel, and
    - (2) includes removal of the existing levee;
    - (3) includes specific design provisions that will preserve existing groundwater flows in the South Boulder Creek Floodplain, and
    - (4) conforms, to the extent possible, with the philosophy of flood management articulated by Dr. Gilbert White.
  - c) requires that all flood mitigation improvements located on CU South included in this flood management plan are implemented **prior to the construction of any buildings or other facilities** on CU South;
  - d) requires that the University of Colorado and any future owner/s provide and pay for all public infrastructure and services, both on-site and off-site, necessary and adequate to serve any on-site development on CU South and to prevent any diminution of current levels of service or service standards for off-site city residents and businesses;
  - e) includes a plan for mitigating adverse traffic impacts in the areas adjoining CU South.

**CU South Annexation Application (LUR2019-00010)**  
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It is my utmost concern that I and the other non-University tax-payers not be required to contribute financially to the University's project beyond any tax contributions made by non-Boulder residents. I have always been grateful for and happy to contribute to public education, but I think it is distinctly unfair to require me to suffer undue pollution, flood damage, or undue financial impacts in order for CU to make money off their property that should have, by all rights and considerations, remained in the public domain.

Thank you for reading my input concerning CU South annexation and development. PLEASE do not rush to a decision. CU may be in a hurry, but you need to deliberate carefully and you have all the time you need for that.

Sincerely,

--

Debra Biasca  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Tim M Hogan <Tim.Hogan@colorado.edu>

**Sent:** Tuesday, November 10, 2020 4:38 PM

**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Cc:** MeschuckC@bouldercolorado.gov; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Burke, Dan <BurkeD@bouldercolorado.gov>; Potter, John <PotterJ@bouldercolorado.gov>

**Subject:** South Boulder Creek Floodplain

**External Sender**

Friends and Colleagues (including senior staff of Planning, Open Space, and City Manager's office)

In comments submitted to the Daily Camera in early summer (6/21/2020) I wrote: "For many Boulder residents, CU's proposal to annex 308 acres of the South Boulder Creek floodplain for additions to their real estate portfolio and for flood mitigation stirs up a host of reservations. The more one delves into the details, the greater those reservations become."

We the people now find ourselves in a position where annexation will be discussed by council under the rubric of "Legislative agenda; CU South annexation process" on November 17<sup>th</sup>. This will be followed by the beginning of public comments and engagement in December and January. We have no more reason to be sanguine now than we did in June.

PLAN-Boulder and Save South Boulder (SOBO) have laid out talking points and strategies. The bottom line is "The **only way** to enforce any agreement between the City and CU on annexation is the signed, legally enforceable annexation agreement. It has to be very specific and airtight. CU does not have to abide by any other promises, statements in the Boulder Valley Comprehensive Plan, guiding principles, state and City codes, and regulations, or agreements to "agree after an annexation agreement is signed." CU's "**sovereign status**" renders it exempt from any and all such agreements ... CU doesn't have to do anything it doesn't want to do unless it's specified in the annexation agreement."

Further points in their document includes the prioritizing of flood mitigation, the necessity of the university to supply a site plan as a condition of annexation, the point that annexation is a privilege and not a right, the fragility of the natural environment (wetlands, etc.) and the human context (i.e. traffic and cars), the unacceptable financial burdens CU will impose upon the city, and more.

Annexation is occurring behind the scenes and not necessarily with the best interests of the citizens of Boulder in mind. I have worked at CU for over thirty years and in that time have witnessed the gradual diminution of an honorable academic institution into a corporate conglomerate clamoring for funds and real estate to maintain its prestige. Neither the university nor the City of Boulder is in any position to invest untold millions of dollars at this point in our nation's economic straits.

The university may imagine they have the upper hand in these negotiations, but they should not get ahead of themselves. Boulder's citizenry has been known to raise their hands and heads before.

We, the Citizens Campaign on Consideration for Annexation of CU-South is a collaboration between PLAN-Boulder and Save South Boulder, a coalition of South Boulder neighborhoods. We believe the City of Boulder must confront CU's evasions, obfuscations and lack of cooperation over annexation. Further, the City must drop a good faith belief in CU's assertion about its desires for cooperation. CU is a corporation and its own fiscal and other goals trump its good citizenship behavior. The City should try to negotiate in good faith ... but it must back up every single issue in writing in an air-tight annexation agreement first.

Please find several attachments in this missive that cover annexation, environmental impacts and values, and the full PLAN-Boulder and Save South Boulder perspectives.

Tim Hogan

2540 6<sup>th</sup> Street

Boulder, CO 80304

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

303.444.5577

## Commentary

### *Develop CU South responsibly*

By George Gerstle

The July 3 Daily Camera editorial page included commentary from Editorial Advisory Board members regarding PLAN-Boulder County's concerns with the current plans for CU South. A number of the comments misrepresent our group's position, which we would like to correct.

PLAN-Boulder County believes that development of CU South should be treated as would any other annexation of similar magnitude in Boulder: through an enforceable annexation agreement, vetted through a public process, which ensures that the University of Colorado Boulder, or any future owner of the property, be responsible for infrastructure and transportation costs necessary to offset traffic and climate impacts of the development, and provide affordable housing, responsible flood protection, and open space protection, all consistent with Boulder's regulations.

We recognize that the City Council must now contemplate extreme measures to achieve even a minimal solution to mitigate flood impacts since CU continues to put the safety of residents, the quality of life of adjacent neighborhoods, critical open space, and the fiscal health of the city at risk by demanding that annexation of CU South be completed, without revealing what it intends to do with the property, before allowing any flood mitigation efforts to move forward.

South Boulder Creek is one the highest risk watersheds in Boulder. Flood experts, including the internationally esteemed Dr. Gilbert White, whose foresight is honored with a sculpture in Central Park, have been telling us for years that we should be planning for more extreme flooding events. His 2001 report for the city, titled "South Boulder Creek, Boulder, CO – Independent Review Panel Report," recommended planning "for floods up to 500-year frequency."

The current plan under consideration by the City Council for 100-year flood mitigation fails to meet this measure of protection and leaves many prone to flood risk, risk that is increasing as a result of climate change.

While we believe it is preferable for the university to find alternative sites and strategies for its future development while allowing appropriate flood mitigation, should the council decide to move forward with annexation because it is necessary for any flood protection, the following issues should be addressed in an enforceable annexation agreement that:

- Limits development of buildings to the 87 contiguous acres that were designated for development on this site when the university purchased the property;

- Ensures that development meets the requirements of the Boulder Valley Comprehensive Plan, the city charter, and the Boulder Revised Code, including current development review processes and a plan for development that identifies the type, location, size, and height (limited to 55 feet) of all future development and infrastructure;

- Requires that any housing built on site be permanently affordable to low-, medium- and middle-income residents, as defined by the City of Boulder's Affordable Housing Program;

- Protects critical South Boulder Creek open space property adjacent to CU South, and ensures impacts associated with the flood mitigation and development of CU South, are fully addressed to the satisfaction of the Open Space Board of Trustees;

- Ensures that Infrastructure and mobility improvements necessary to mitigate the increased traffic, congestion, safety and climate-related emissions associated with the development are identified and the costs of all infrastructure and service improvements (utilities, roadway, transit, bike and pedestrian) associated with the development of CU South are borne by the university and not imposed on Boulder taxpayers.

The costs of such mitigation will likely be tens of millions of dollars, funds that the city does not now have and will likely not have for many years, given the current fiscal challenges and other priorities such as affordable housing, open space, climate change, and transportation. The city must immediately start involving residents in the site development planning, since they are who will be most impacted by whatever happens on CU South.

To date, there has been little outreach to residents who live adjacent to the property. No other annexation and development of this magnitude would ever receive approval without a detailed development plan that identified where development and access would occur, without significant public outreach to affected neighborhoods.

An annexation agreement that includes these elements is the only mechanism available to legally bind CU, and the city, to follow their commitments. Indeed, until a development plan is proposed, impacts identified, public comment received, and commitments to pay for the necessary mitigation specified, moving forward with annexation that the university is insisting be a precursor to inadequate flood protection is fiscally, environmentally, and socially irresponsible.

*George Gerstle is on the board of directors of PLAN-Boulder County, a Boulder native and retired Boulder County transportation director.*

Guest commentary

# Be wary of floodplain plans

By Tim Hogan

For many Boulder residents, the University of Colorado's proposal to annex 308 acres of the South Boulder Creek floodplain for additions to its real estate portfolio and for flood mitigation stirs up a host of reservations. The more one delves into the details, the greater those reservations become.

Floodplains and riparian areas are the wrong places to locate buildings and infrastructure. Have we already forgotten September 2013? Boulder avoided many of the more dire effects of flooding due to planning that placed open spaces and parks into floodplains. Along with natural protection for flood control, wetlands and riparian areas are excellent habitat for plants and wildlife.

Frederick Olmstead and Gilbert White were prescient in forecasting and promoting such land use. In large part, that is why the 2015 Boulder Valley Comprehensive Plan placed 220 acres of the South Boulder Creek property into open space.

The site is comprised of the old Flatirons gravel pits. Original restoration plans for the Flatiron quarry included 42 acres of ponds and wetlands, and removal of levees built to channel water around the pits. In 1996, CU purchased the property under veiled circumstances, and enlarged the levees – for which it was reprimanded by Boulder County. Successive augmentations reduced the floodplain by roughly 75 percent, diverting hazardous floodwaters downstream.

CU has proposed various versions of its intentions if the city annexes the area, including a campus the size of greater downtown Boulder with eight academic buildings, 1,125 housing units, and parking lots for 700 vehicles. This vision presumes a 30-foot-tall, high-hazard dam along U.S. Highway 36 at a

conservative cost of \$22 million to \$35 million. CU submitted amendments on Jan. 21, including a caveat that it will need to determine to what degree housing remains suitable and feasible behind the dam for the city's current proposal. This challenges a principal criterion (affordable housing) in the Boulder Valley Comprehensive Plan for annexation into the city.

Any dam must be designed not to cut off groundwater flow providing unique habitat for two species listed under the Endangered Species Act, the Preble's meadow jumping mouse and Ute ladies' tresses orchid, as well as sensitive species like the northern leopard frog. Hydrologists say the dam could impede groundwater flow and de-water the wetlands on Boulder Open Space and Mountain Parks' property with major implications for two state natural areas proximate to the site on open space lands.

The proposed timeline is ambitious and more aspirational than realistic. Understandably, residents north of the site are frustrated with the process. Certain decisions could accelerate the pace of effective mitigation plans.

A creative plan put forth by Mike Chiropoulos addresses the conundrum of the South Boulder Creek floodplain, proposing an exchange with CU for 130 acres in the planning preserve northeast of the city, offering a viable off-ramp "better suited for development than the riparian, wetlands, prairie ... habitat proximate to South Boulder Creek." Chiropoulos continued: "an exchange will expedite the approval and implementation of the best possible engineering approach to protect Frasier Meadows and other downstream properties from future floods." (Taken from the Daily Camera, Dec. 29, 2019)

The most economic, effective,

and elegant solution for the property in the South Boulder Creek floodplain is to restore the entire 308 acres to open space, remove the illegal berm so floodwaters could once again be absorbed into the wetlands and ponds within the site, and employ the abandoned quarry as a detention pond to ameliorate extreme flood events.

Finally, profound moral choices must be made concerning our decisions on the South Boulder Creek floodplain. A Daily Camera story on the annual Christmas bird count in Boulder and what it portends concerning environmental degradation should give us pause. Despite the wealth of protected lands in the county and a citizenry attuned to conservation values, we are failing in our efforts to preserve wild nature.

The advent of COVID-19 has highlighted the impacts of humanity across the planet, opening our eyes to the plight of Mother Earth. A recent memo from an OSMP trustee reminds us that "79 percent of master plan survey respondents (2019) indicated that ecosystem health and resilience is of the 'highest importance' for the future of our OSMP system ... Without this habitat in the South Boulder Creek drainage – the soils, diverse plants and underground water flow that nourishes them, and the thousands of species that depend on the plants and soils will be lost. And no matter what we do or how many millions of dollars and decades of effort we spend, we will not be able to re-create this unique wet meadow in another place."

*Tim Hogan has served as a collection manager at the University of Colorado Museum of Natural History Herbarium for more than 30 years. In this role, he has explored our public lands in Boulder and across Colorado as both a botanist and citizen conservationist.*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Margaret LeCompte <margaret.lecompte@gmail.com>  
**Sent:** Wednesday, November 4, 2020 3:11 PM  
**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>; Spence, Cindy <SpenceC@bouldercolorado.gov>  
**Subject:** Comments and Feedback on CU's Terms for Annexation of CU-South

**External Sender**

To: Members of the Boulder Planning Board,  
City Council, Boulder City Staff

From: The Citizens' Campaign on  
Considerations for Annexation of CU-South

Re: Feedback on CU's Annexation Terms for  
CU-South

Date: November 4, 2020

The Citizens' Campaign on Considerations for Annexation of CU-South is a collaboration between PLAN-Boulder and Save South Boulder, a coalition of South Boulder neighborhoods. We present the following discussion of the University of Colorado's "terms for annexation," the City's response to CU's initial proposal, and CU's counter-response, delivered to the City on October 5, 2020, with a promise to deliver additional information regarding specific topics on November 1, 2020.

### Statement of Guiding Principles and Conditions

We believe that the City of Boulder must confront CU's evasions, obfuscations and lack of cooperation over annexation. Further, the City must drop a good faith belief in CU's assertions about its desires for cooperation. CU is a corporation and its own fiscal and other goals trump its good citizenship behavior. The City should try to negotiate in good faith....but it must back up every single issue in writing in an air-tight annexation agreement first. We suggest that the negotiations should achieve the following conditions—as stated in the charter amendment document we circulated in the summer, 2020.

The City of Boulder shall only annex CU South in whole or in part, and if annexed only provide services for CU South in whole or in part, under the following conditions:

- a) There is a legally enforceable Annexation Agreement (hereinafter "the Agreement") agreed to by both the University of Colorado and the City of Boulder and binding on all future owners;
- b) The Agreement shall include a flood management plan that (1) mitigates up to a 500-year flood, as defined by the Federal Emergency Management Agency, both on-site and downstream of CU South, for all lands and property that are at risk of flooding by South Boulder Creek and its tributaries, or Viele Channel, and (2) includes removal of the existing levee; (3) is designed so as to preserve existing groundwater flows in the South Boulder Creek Floodplain, and (4) conforms, to the extent possible, with the philosophy of flood management articulated by Dr. Gilbert White.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

- c) The Agreement shall require that all flood mitigation improvements included in this flood management plan that are located on CU South are implemented prior to the construction of any buildings or other facilities on CU South;
- d) The Agreement shall require that the University of Colorado or any future owner or owners provide or pay for all public infrastructure and services, both on-site and off-site, necessary and adequate to serve any on-site development on CU South and to prevent any diminution of current levels of service or service standards for off-site city residents and businesses, all as reasonably determined and calculated;
- e) The Agreement shall include a plan for mitigating adverse traffic impacts in the areas adjoining CU-South;
- f) The Agreement shall include a plan for mitigating negative impacts on wetlands and wild lands in accordance with local, state, and federal guidelines;
- g) The Agreement and any development allowed on CU South shall conform to the requirements of the Boulder Valley Comprehensive Plan, the Boulder City Charter, and the Boulder Revised Code, including development review processes;
- h) The Agreement shall include a plan for development that identifies the allowed uses, square footage by use, and location of all future development and infrastructure;
- i) Heights of buildings shall be limited to no more than 55 feet as defined and regulated by the Boulder City Charter and the Boulder Revised Code;
- j) Any housing on CU South shall be permanently affordable to low-, medium- and middle-income residents, as defined by the City of Boulder's Affordable Housing Program.

### **Enforceable Provisions and the Dangers of CU's Sovereign Status**

It is crucial to realize that the only enforceable stipulations regarding annexation will be those that are specifically stated in the annexation agreement. Only the annexation agreement has the force of law. Any limitations, conditions, or rules the City wishes for CU to follow cannot be decided at a later date "after annexation agreement is signed." That is because CU's status as a sovereign entity leaves it completely immune to any sorts of state and local regulations. Thus, anything CU is not specifically forbidden to do by the agreement will be permissible. CU makes this clear repeatedly in its proposed annexation terms, stating flatly, for example, that "CU will not be subject to city zoning, inclusionary housing, or affordable housing programs"—regardless of the City's stated response requiring such compliance.

This is the key danger in the current rush to annex the CU-South property. The Citizen's Campaign holds that it is absolutely imperative that any annexation agreement signed by the City with CU include extensive and specific details as to what CU may and may not do on the property. Any detail not clearly stipulated in the annexation agreement can, and will, be ignored by CU, as its sovereign status can be trumped only by an air-tight, legally enforceable annexation agreement. Right now, this key danger is both poorly understood and being ignored in the City's negotiations.

### **A Non-Starter**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

The current annexation terms presented by CU are replete with topics whose resolution of differences between the City and CU are dealt with by saying they are “to be addressed after the annexation agreement is signed.” **That phrase must be a complete non-starter for City negotiations.** Absolutely every point of disagreement between the City and CU must be settled and enshrined in the annexation agreement prior to signing. For the City to accede to CU’s demands without so doing would be total capitulation; it would fail to protect residents and property downstream of CU-South from flooding, impose an undue financial burden on Boulder taxpayers, dramatically increase negative impacts of traffic and environmental degradation, and destroy the iconic mountain viewscape at Boulder’s southern gateway. Crucially, there is no need at all to rush into a flawed annexation agreement.

### **Flood Mitigation Must Be Prioritized**

The rush to annexation is premature because CU repeatedly has declared that it has no immediate plans to begin development, or even to make public an initial plan for its proposed development. And the City and CU have conflicting priorities for CU-South. It is clear that CU’s priority is construction of its third campus, regardless of its impact on the City and its infrastructure. It also seeks to shift as much of the cost of developing its campus to the City’s taxpayers as possible. This is clear in the CU’s terms for annexation. However, the Citizens’ Campaign holds that the number one priority for the South Boulder Creek floodplain—and the CU-South property—must be to mitigate flooding. Boulder residents should pay for costs attendant only to design and implementation of an effective, environmentally sensible flood mitigation project.

### **CU’s Refusal to Provide a Site Plan as a Condition of Annexation**

CU has repeatedly has stated that it is not ready to provide a site plan prior to signing an annexation agreement. This, however, is asking the City to sign a blank check. This demand must not be agreed to by the City. If CU is NOT ready to produce a site plan, it is NOT ready to begin annexation negotiations. This is especially true since many of CU’s annexation terms require the City to assume responsibility, and provide compensation to the University, for potential damages to very specific buildings and recreational facilities. This is unreasonable; the City cannot assume risks for as-yet-unplanned buildings and facilities without even knowing what purposes these buildings and facilities will serve, their dimensions, and, importantly, where they will be located.

Such details must include what will be built, for which purposes, and where the locations will be, as well as absolute commitments by CU to follow all requirements of the Boulder Valley Comprehensive Plan, the Boulder City Charter, and the Boulder Revised Code, as well as state and federal regulations concerning building size, height, aesthetics, provisions for access and egress, and maintenance of all roads and infrastructure.

If CU does not sign off on such a specific set of stipulations in the annexation agreement, it will argue that sovereign status allows it to do anything at all it wishes on the CU-South property—even engaging in acts and practices inimical to life and safety of Boulder citizens and the City’s fragile

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

environment. Only the annexation agreement is legally enforceable, and CU's assurances to the contrary, without such an agreement, mean nothing.

### **Annexation Is a Privilege, Not a Right**

CU seems to have forgotten that being annexed to the City of Boulder is a privilege, not a right. No entity has a right to be annexed. The City is neither required to provide water and sewer services to CU's property nor to accede to any of the other demands CU has inserted in its annexation proposal. CU has not demonstrated sufficient community benefit of annexation to the City of Boulder to warrant the costs and risks included in the proposal—other than that of having a first tier university in the community. However, CU already exists in Boulder. Annexation will not alter or improve on that fact nor will it enhance CU's contributions. Growth does not improve quality.

Additionally, the wisdom and viability of CU's aspirational plans for expansion increasingly are called into question by CU's current and future precarious financial position, and the reduced need for more and bigger institutions of higher learning in Colorado. Finally, serious attention needs to be given to the carrying capacity of the City's existing resources and infrastructure. The Citizens' Campaign holds that Boulder can neither accommodate nor afford to have an entire third campus built at its south end, and should not agree to any project of the magnitude proposed by CU.

### **Stalelated Negotiations**

It is clear that the current annexation negotiations are stalelated over a number of issues, despite efforts to portray them otherwise. The Citizens' Campaign believes that this is because

1. Priority in annexation negotiations has not been given to designing and implementing a sensible, cost-effective and best-practice flood mitigation project for the South Boulder Creek floodplain. Flood mitigation should be constrained only by what's most effective for Boulder residents and least environmentally damaging to the sensitive habitat of the South Boulder Creek floodplain. It should neither prioritize nor subsidize CU's development aspirations.
2. CU's intransigence in requiring the City of Boulder to assume all risks, costs and liabilities for any aspects of the flood mitigation project and its construction. These demands, as well as the requirement that the City pay CU compensation for said risks, costs and liabilities in perpetuity, are non-starters. The City should never accede to them.
3. CU's refusal to provide a site plan for its development, a component required by all other major annexation proposals submitted to the City, makes it impossible for the City to assess impacts, risks, liabilities and other damages that CU's development plans will pose to the City of Boulder, and especially South Boulder's densely populated neighborhoods and already over-taxed infrastructure.
4. CU's refusal to provide information needed to assess non-compliance with state and local regulations and codes protecting city aesthetics and viewsapes, and protected and sensitive habitats, as well as codes enforcing quality of life issues such as building sizes, heights, and population density are a clear danger to the quality of life in Boulder. Similar refusals pose a threat to increased traffic, noise, air, light and water pollution in South Boulder.

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5. CU's insistence in ignoring issues of increased traffic, light, noise and water pollution attendant to its development, requiring that these will be addressed "after an annexation agreement is signed" or once a "transportation study" – which decidedly does NOT address traffic issues – is completed.
6. CU's demands that 129 +36+30 acres land—whether within or outside of the 500 year floodplain—be made of fully developable at City expense. These demands pose an unacknowledged and unacceptable tax and fee burden on City residents without compensatory benefits.
7. CU's willingness to give the city 80 acres of land for flood mitigation complicates lack of certainty over how much land actually would be required for flood mitigation, where such land should be located, and how CU would apportion its 80 acre donation. First, CU specifies that the donated land should be in the NE portion of CU-South, the low-lying PKU-O portion closest to Hwy 36. At the same time, CU divides use of the 80 acres as 36 acres for flood mitigation, and 44 for the City to convey to Open Space as compensation for loss of five acres of open space required for the flood mitigation project. The PKU-O land may be inappropriate for Open Space restoration, and neither its location nor its size may be adequate for floodwater detention.
8. Finally, the flood mitigation project most likely will require from 90-120 acres, not the 80 acres CU is willing to donate. CU says any additional land the City needs, whether for the flood project or open space compensation or any other purpose, must be purchased by the City (ratepayers) from CU at a cost per acre agreeable to CU—estimated by CU to be from \$1-\$2 million per acre.

Below we dissect the negotiations between CU and the City to date, pointing out the gaping holes in any presumed fabric of agreement. Differences between CU's position and that of the City must cease being masked and smoothed over by phrases such as "needs more discussion", "more information needed" and "will be addressed after annexation." Those phrases disguise real and consequential unresolved conflicts which require resolution before an annexation agreement is signed, not after. Anything postponed will simply be trumped by CU's sovereign status, which it already has said it will invoke.

### **Hard Negatives, not Missing Data, from CU**

Moreover, CU's annexation terms demonstrate that CU has no intention of providing the needed information or engaging in more discussion prior to an annexation agreement. **That's because these issues are not simple matters of missing information. They are topics in which CU's responses constitute a hard "no" to the City's requests.** CU has said it won't, can't, or doesn't have to, provide more information because

- It **will not** follow local regulations or guidelines because it has its own guidelines and will follow them instead of the City's;
- It **cannot** provide any more information because it has not yet developed a site plan for developing CU-South;

- It **does not have to** provide more information because it is a “sovereign entity” not governed by any local regulations or guidelines.

This is not a framework for negotiation.

### CU's Demands Will Impose Unacceptable Financial Burdens on the City

We have discussed above the danger of CU's demand that it not be required to provide a site plan as a condition of annexation, and how this demand prevents the City from adequately protecting residents from damage caused by CU's future development, either because the City cannot devise protection when CU won't reveal what it plans to do, or because the City cannot devise protection against the University's outright refusal to follow rules, comply with guidelines, or insistence on substituting its own internal guidelines for what it calls “local” rules of the BVCP or the City of Boulder. Or, because, when all else fails, CU hides behind its “sovereign status.” CU could NOT use that status as protection against non-compliance if an annexation agreement explicitly required compliance in specific, clearly described issues.

CU's demands, furthermore, blatantly impose unacceptable financial burdens on the City's taxpayers without any compensatory community benefit. We explore this issue more fully below.

- CU demands that the City provide cash compensation in perpetuity for any damage to CU's future buildings or properties as a consequence of failure of the flood mitigation project—but refuses to describe where those buildings might be located
- CU demands that the City provide compensation if any of its playing fields don't drain and become usable within 24 hours of a flood event—but will not state where those playing fields will be located, or promise they won't be located within detention areas
- CU demands that the City pay \$1-\$2 million per acre for any additional acreage (beyond the 80 acres in the low-lying PKU-O property which CU has said it will “give”) needed for the flood mitigation project.
- CU says that the City may take down the levee around CU-South if it wishes, but must do so at the City's expense. And then it requires that CU retain ownership of the resulting removed earth and fill. If the City wants to use that fill, it must buy it back from CU at a price CU will determine. CU wants to have its cake and eat it, too.

### Loopholes for Non-Compliance Riddle the Annexation Terms

CU has built loopholes throughout its annexation “terms.” These loopholes mean that CU can renege on any of the promises made in the annexation proposal if everything it asks for doesn't go exactly as CU wants. These loopholes also are often identifiable with the phrase “more information needed.” For example:

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- CU says it will “prioritize” housing in its development....UNLESS CU deems that the configuration of the flood mitigation project and dam make it undesirable to build housing at all.
- CU says it only will build residential housing, BUT that housing also would include “local convenience retail, food services, student services, personnel facilities” and other amenities, needed for daily on-site resident needs.” These also would include parking, maintenance buildings, even academic facilities.
- CU says it will not build anything within the 500-year floodplain....UNLESS the flood mitigation project requirements take some of the 129 acres (construction) and 36+30 acres (playing fields and facilities) CU “requires” for its development. If that happens, CU says it WILL build in the 500 year flood plain, and furthermore,
- CU will require that the City fill in and re-grade needed chunks of the OS-O designated property (aka, the 500 year flood plain) to raise it out of the floodplain—at the expense of Boulder City utility ratepayers.
- This includes relocating the existing tennis courts and raising its new location out of the floodplain with earthfill, at City expense.
- CU says it will not build any academic buildings at CU-South....UNTIL a sufficient number of residential buildings already have been constructed and inhabited. However, CU has not specified how many a “sufficient number” would be, how long that would take, and where such buildings, whether residential or otherwise, would be located.
- CU says that the City must pay (unspecified) compensation to the University if FEMA changes the boundaries of the floodplain after flood mitigation so as to increase the amount of CU-South property that thereby resides within the floodplain—DESPITE that the City has no control, either over FEMA actions or future flooding impact in an era of climate change
- CU says that it does not have to comply with BVCP and City guidelines and codes regulating the size, height, and environmental impact of buildings, or guidelines requiring playgrounds for residential buildings housing families, or rules enforcing consistency in plantings and open spaces—all because CU has its own guidelines and will follow them. A mere glance at CU’s most recent enormous construction project will make clear that CU does what it wants to do, not what the City would like our urban environment to resemble.
- CU flatly refuses to provide “payment in lieu” of paying taxes to support City services which CU wants for its proposed development—BECAUSE it is a “sovereign entity.” These are services such as police, fire, water and sewer services and flood protection, which all residents must pay for, either in taxes or in fees. THUS, the extra cost of providing such services to CU’s new campus will fall to Boulder taxpayers—who have not had a chance to vote on whether or not they even want CU’s campus to be built.

Taken altogether, even this limited list of the loopholes in CU’s annexation terms render it useless as a framework for agreement. Each promise contains an escape hatch which negates it.

**CU’s Annexation Proposal Will Affect Both**

## **the Natural and the Human Environment.**

CU's annexation will not occur in a vacuum. CU-South is surrounded on three sides by the South Boulder Creek Floodplain and open space, and on three sides by densely populated adjoining neighborhoods of single-family dwellings, townhomes and apartment complexes, and trailer parks. But CU's annexation terms are curiously silent about any plans either to protect the sensitive natural environment and wetlands of the South Boulder Creek Floodplain or mitigate the negative impact of its massive development on the surrounding neighborhoods. Nor have any of the neighborhoods—including, at least, Martin Acres, Majestic Heights, Hyview, Tantra Park, Frasier Meadows, Greenbelt Meadows and Lower Chautauqua--concerned been kept apprised of CU's intentions or the City's responses.

### **The Natural Environment**

CU's annexation terms seem virtually to ignore the natural environment. Very little attention is given in the annexation proposal to mitigation of impacts to the natural environment other than stating that CU will attend to principles in the BVCP and will obtain required permits regarding building in the floodplain and in and near wetlands on its own property. Impacts specifically on water quality, sustainability of sensitive habitat, or viability of plant and animal populations are not addressed. Neither the impact of increased hardscaping in the South Boulder Creek floodplain on runoff from normal precipitation, nor increased water pollution in that runoff and its impact on the creek's habitat, flora and fauna are mentioned. Light, noise, and increased particulate pollution will have negative impacts on the entire floodplain and are not addressed. Neither is the adverse impact of greatly increased human presence on the natural environment, its soils, plants, animals and water mentioned at all. In fact, the large portion of CU-South designated as Open Space-Other is treated—as described below—as a reservoir or piggy bank to be filled in to above flood-plain status and built out according to CU's development aspirations, as needed.

Not addressed is the probable negative impact which will occur if, as CU demands, parts of the OS-O land in the floodplain are filled in to raise them out of the floodplain for development. This land already has a very high water table, as is evidenced by the existing permanent ponds, which never dry up, even during severe droughts. If the floodplain is filled, it will be less absorbent. Where will the excess run off go, and what will be the impact on existing wetlands, the adjacent and downstream neighborhoods, and Open Space? Nowhere in the annexation terms is any mention of mitigating negative impacts caused by such earthfill.

### **The Human Environment**

#### **Traffic and Cars—A Key Concern for Adjoining Neighborhoods**

One of the most important topics and completely ignored topics is the expected increase in vehicular traffic in South Boulder neighborhoods caused by annexation of CU-South and its subsequent development. The annexation terms never even use the word "car." They mention no plans to mitigate any of the issues of access, egress, traffic and congestion of concern to adjoining neighborhoods, and the "transportation study" currently underway completely misses the point. A study of transportation is not the same as a study of existing and future traffic, and a transit plan is not a plan to manage fully predictable increased traffic congestion into and out of the CU-South site and within the existing, and

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already overtaxed, streets and intersections. CU's annexation proposal discusses provision of and safe access to "multi-modal transit" facilities such as bike and pedestrian paths to and through the property. However, given CU-South's location in the far southeast of the City, bikes and feet will not suffice to get people to and from the new campus. Able-bodied students may be able to walk, run, use skate boards and bicycles for transportation, but people with disabilities can't, and neither can older persons. Nowhere is addressed how cars and buses for human transportation, as well as trucks and other vehicles providing services and maintenance, will be accommodated. CU also makes no mention of how people would get from one CU campus to another.

CU's advocacy for a multi-modal transportation hub is no solution to the expected, highly predictable, negative traffic impacts on South Boulder neighborhoods. Further, the metrics being used in the transportation study to measure what is needed are completely opaque. The annexation terms call for "performance based transportation," which is undefined, and using as a metric "trip budgets" which seem to be estimates of how many individual visits to the proposed campus can be optimally handled (or perhaps allowed). Neither of these provide an estimate of actual projected use. Aspirational ideas such as bus and transit passes, autonomous vehicles, pedestrian walkways and bike paths are no substitute for the real and adequate bus service needed to bring humans to and from academic buildings and residences. Unfortunately no such services exist and none are being planned for, either by the City or the University. Parking for employees is not mentioned at all, and only small parking lot (700 spaces) for residents has been ever noted--and not at all in the annexation proposal.

### **Access to the Site**

CU and the City are in agreement that they do not want access points to the CU-South property to facilitate its use as a "by-pass" from Table Mesa to Hwy 93. However, this is all they agree upon. CU demands that there be an emergency access point to the campus from Hwy 93, as well as "multiple access points" to the property, without which, CU says it cannot consider constructing housing. However, it's virtually impossible to imagine where those access point could be placed, given the population density and topography of the site. And neither CU nor the City express any desire to pay for them. Requiring the City to pay for these "improvements" means taxpayers will be paying for them, and they will be enormously expensive.

Tantra Park and E. Morehead, one of the current access points, cannot accommodate even their own existing traffic, much less that of an entire additional campus. Designating them as primary access points would require ripping through the Tantra subdivision to widen its very narrow streets. South Loop Road, the only other existing access point, is narrow, poorly paved and sandwiched between the RTD bus stop, the Hwy 36/Table Mesa on-ramp, several permanent ponds, and the Bridgewalk apartment complex. Something would have to be torn down or moved to accommodate access by several thousand additional users. The road would have to be re-routed over the flood mitigation project dam; both realities would be expensive and neither party wants to pay for it. Cutting a new access to Broadway through the Majestic Heights and Hyview neighborhoods also seems prohibitively expensive—in the millions of dollars. Putting an access point at Hwy 93, right at the hill marking the east "toe" of Table Mesa, also will be very expensive; each party wants the other to pay for it.

### **Noise, Dust, Light**

The construction phase of CU's new campus can be expected to last at least a decade, profoundly disturbing the quiet neighborhoods around it. No mention in the annexation proposal is made of how

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these impacts might be mitigated. Even after the construction phase, negative impacts of the added development will continue, with increased traffic noise, light and water pollution. The addition of 1100 residences, each housing multiple individual residents, will add exponentially to the noise, congestion, and accumulation of wastes and trash. The proposed playing fields and recreational facilities will include evening lighting and feature bleachers, concessions, locker rooms and storage facilities that will draw spectators and attendant noise and disruption. Lighting the playing fields will disturb not only human inhabitants, but wildlife and plants as well. No mention of mitigation for these diseconomies to the neighborhoods are mentioned in CU's annexation proposal.

## **Who Pays for What? And Who Holds Ownership**

### **The Levee**

CU says that if it wants to, the City can remove the levee around the old quarry pit which CU reinforced—at its own expense. The City has stated this as a priority. After that, agreement between the parties ceases. The City says it will retain ownership of any removed levee material. However, CU has made clear it must retain ownership of any material removed from the levee, whether or not the land under the levee has been purchased by the City. CU also demands the City compensate CU for damage to its property if removal of the levee leads to flood damage in the future. This issue has not been resolved.

### **Additional Acres, Additional Costs, and Repurposing OS-O Land as a Piggy Bank for Development**

CU says that if the City needs any acreage beyond the stated 80 acres, mostly in the PKU-O, that CU has agreed to donate, it must purchase that land from CU at fair market value. Land that might be needed by the City—and which CU requires the City to purchase from CU-- could include acres needed to compensate for loss of open space or wetlands during construction of the flood mitigation project, any land needed to compensate CU for any of the 129 acres of Public land needed for the City's flood project and therefore, not available to CU for housing and development, and any land needed for moving the existing tennis courts and facilities to a new location.

CU's development plans encompass all the land currently designated as Public. Most of the land CU is willing to donate to the City is in the PKU-O land next to Hwy 36. The only land remaining is OS-O, all of which is within the 500 year floodplain. This land has been discussed in the BVCP as suitable for protection, restoration, and preservation of open space. The BVCP argues for maximizing the amount of land used for Open Space. However, CU is ignoring this guiding principle in its request that the entire CU-South site be reclassified as Public, thus facilitating its use for other purposes. Effectively, CU would reclassify the OS-O land to Public, creating a kind of piggy bank to be swapped out for CU's development needs. This would occur, as described above, if CU's still unexplained "need" for 129 acres for buildings and some 36 additional acres for recreational facilities-- plus 30 other acres whose specific uses are alluded to but not described—cannot be met without such an "internal land swap."

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An additional costly wrinkle is that CU requires that any OS-O land that would be swapped for the Public acres needed for the flood mitigation project not only must be purchased by the City from CU, but then raised out of the floodplain—at the City’s expense—with trucked-in earth fill and then graded for development. The estimated cost of that earth fill already has been added to the cost of the flood mitigation project, so that City taxpayers will, in effect, be paying tens of millions of dollars for CU’s land to be made developable.

Resolution of these issues has not been reached and must be determined prior to annexation.

### **The Public Safety Facility**

The City proposed, and CU agrees in principle, to locate a new fire and police facility on 2 acres of CU’s property at CU-South. However, no mention is made of environmental hazards posed by placing such a facility both in a flood plain near South Boulder creek and its tributaries and near fragile habitat and threatened species. Prior to annexation, appropriate studies of feasibility, access, hazard and the ability to obtain permits for such a facility must be completed.

### **Requiring the City to Assume Risks and Liability for Matters Over Which It Has No Control**

CU’s annexation terms include requiring the City to indemnify the University for any damage to its property and its facilities, in perpetuity, caused by any failure of the flood mitigation project. That project is only designed for a 100 year flood. The City cannot assume responsibility for events that are larger, even though their occurrence is certain, given climate change-induced increasingly severe storms. Further, CU demands the City indemnify the University for any changes FEMA might make in floodplain boundaries, and as well, any changes to Dry Creek Ditch 2 that would place more of CU’s property within the floodplain. The City has responded that it does not control decisions made by FEMA nor can it anticipate environmental changes caused by acts of God, and therefore, cannot accede to these demands.

### **In Conclusion**

We are heartened to have learned recently that the City Council no longer is planning to hold a vote on annexation for CU-South by the end of December 2020. While the new date for such a vote now appears to be in June 2021, we still hold that any such negotiations are premature. We also are heartened to learn that the City staff are doing technical studies of upstream detention for the flood mitigation project as a possible means to reduce its impact on the environment and Open Space. We do not know yet what the result of these studies will be, but we applaud Council and the Advisory Boards for pushing to have them implemented. That said, no annexation agreement should be negotiated until AFTER a sensible, cost-effective and minimally invasive flood project design has been developed and approved by all relevant regulatory bodies. Only then will the parameters constraining CU’s vision of a new campus be known. And only then will it be possible for CU to come up with a site plan that conforms to the realities of life in a floodplain. That is the point at which an annexation agreement can be negotiated.

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**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Monday, August 24, 2020 11:52 AM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Pomerance, Stephen <steppom335@comcast.net>; hawksndragons1955@gmail.com; Firnhaber, Kurt <FirnhaberK@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; plan boulder <advocate@planboulder.org>; macon <macon.cowles@gmail.com>; lglustrom <lglustrom@gmail.com>; Cosima Cunningham <cardamomseed@aol.com>; Housing Advisory Board Group <HousingAdvisoryBoardGroup@bouldercolorado.gov>; Sugnet, Jay <SugnetJ@bouldercolorado.gov>; Brautigam, Jane <BrautigamJ@bouldercolorado.gov>; a\_burchell <a\_burchell@comcast.net>; hunter lovins <hlovins@natcapsolutions.org>; Carr, Thomas <CarrT@bouldercolorado.gov>; burchell.alison <burchell.alison@gmail.com>; timothy <timothy@schoechele.org>; braddsegal <braddsegal@gmail.com>; adrien1234 <adrien1234@yahoo.com>; nigel segal <nigel1743@yahoo.com>

**Subject:** Fw: Fw: Community Benefit Issues

**External Sender**

This is another Steve (Telleen, the other being Pomerance) I agree with. Highlight this e-mail. It is stellar. It may actually solve this housing dilemma, and much more, once and for all. It uses the integration of the micro-life sciences with the structural world of macro-life sciences. It is so cool!

Lynn

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**From:** Steven Telleen <[stelleen@comcast.net](mailto:stelleen@comcast.net)>

**Sent:** Monday, August 24, 2020 11:19 AM

**To:** Lynn Segal <[lynnsegal7@hotmail.com](mailto:lynnsegal7@hotmail.com)>

**Subject:** Re: Fw: Community Benefit Issues

What I would really like to see is actual tracking of the effectiveness of any program at actually increasing *the percentage* (**not** the raw number) of affordable housing units. The current programs seem to be based on theoretical (one might say speculative) projections applied to vaguely defined goals. The first question should be: what is our affordable housing percentage goal for Boulder? Once we agree on that metric we can begin to actually measure the effectiveness of policies.

Currently planners, developers, and our elected officials come up with, and act on, these policy ideas without a measurable goal or any mechanism for accountability tracking of the actual effect on the problem they are purportedly trying to solve. What actual outcomes (changes) on *percentage* of affordable housing have resulted from implementing these proposed policies in the past?

I am more interested in residential affordability, although affordable small business and non-profit space also is important. Just as with market-rate housing, **these policies seem to be relying on the theory that building new market-rate units is the only way to pay for the affordable units. I contend that this creates a positive feedback**

loop where the new market-rate units actually create a *need* for more affordable units, which then is used to justify a need to build more market-rate units, *ad infinitum*.

The only way to break these positive feedback loops is with *real planning*: setting goals for sustainable percentages (or ratios) of housing and businesses at different income levels. Then making sure all current and proposed policies are evaluated and monitored based on their actual effect on moving toward or maintaining these measurable goals.

**As an aside, I always taught my physiology students that in biological systems positive feedback loops are essential for containing an emergency (e.g. sealing broken blood vessels or eliminating bacterial or viral infections), but they are not sustainable over time. If they do not have a mechanism to stop the positive loop and return to a homeostatic (negative feedback) loop, the result is first illness and then death of the system.**

As the product of biological organisms, social and economic activities also are biological systems and subject to the same rules. Setting ideal percentage goals for housing (or retail) affordability then tracking current status relative to those goals is the first step in putting a homeostatic feedback loop in place.

Steve

On 08/23/2020 10:19 PM Lynn Segal <[lynnsegal7@hotmail.com](mailto:lynnsegal7@hotmail.com)> wrote:

Steven-

#5 stands out to me from our discussions following the "Peacock House". Only it is applied to commercial. I'll read closer and see about residential affordable inclusionary zoning 20 or 25% fee or in lieu, and that's inadequacy. You said it should be about 50%, if I recall.

#7, 9, 10 and 11 too.

Lynn

**From:** Wallach, Mark <[WallachM@bouldercolorado.gov](mailto:WallachM@bouldercolorado.gov)>

**Sent:** Sunday, August 23, 2020 8:58 PM

**To:** HOTLINE <[HOTLINE@bouldercolorado.gov](mailto:HOTLINE@bouldercolorado.gov)>; Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** [BoulderCouncilHotline] Community Benefit Issues

In connection with Tuesday's discussion of the Community Benefits program, I have a number of questions relating that I hope can be addressed at our meeting. In no particular order I hope that we can discuss the following:

1) What is the impetus for this program when community outreach indicates that 74% of respondents do not wish to see it go forward? And if it does go forward the bulk of the requested criteria for a program of this type are enhanced setbacks, limitations on upper floor use and special protections for important view corridors. Are any of those criteria being built into the program? In light of these responses, what is the argument for expanding Appendix J beyond the current area, which can now at least be treated as an experiment to see how the proposed policies will work?

2) I am a bit confused about the distinction between small businesses, arts organizations and human services organizations. Are they not all being treated similarly, or will the latter two categories be receiving more substantial discounts from market rents? If not, will landlords be receiving a special bonus for providing affordable commercial space to an arts group or human services provider? Is there a distinction in how we will treat non-profits vs. for-profit small businesses? If none of these are the case, why the separate categories for what should simply be potential users of affordable commercial space?

3) As we do not return cash in lieu payments after 15 or 20 years, or let affordable housing return to market rate housing after a fixed period of time, what is the rationale for even considering having affordable commercial space return to market rate?

4) If I correctly remember the covenant at 30 Pearl (and my memory may be untrustworthy here), there were provisions that if the developer could not obtain an affordable commercial tenant within a specified period of time he could lease to a market rate tenant. If my recollection is correct, do we contemplate a similar structure, and, if so, would this not be defeating the purpose of the program?

5) Two critical questions: i) What is the contemplated discount to market rents that will be required to be considered affordable commercial space? ii) How will market rents be calculated? Will high-end office space, the most expensive space in Boulder, be a component of the calculation of market rents, thereby driving up the

base rent figure? As a hypothetical: if market rate is defined as \$50 per square foot due to the inclusion of high-end offices, a discount of 25% would leave an “affordable” commercial space rent of \$37.50, which is hardly affordable for most of the users contemplated by this program.

6) The issue of the eligibility of national chains is difficult. While we do not want to exclude businesses owned by women or people of color, do we really want to give height bonuses for a Burger King or another Walgreen’s? Is this consistent with what most people would consider to be community benefit? Please discuss.

7) What will be the relationship between the amount of discounted rent for the affordable commercial space, versus the additional rent generated by one or two floors of valuable top floor and penthouse space? What will be the correlation between what we receive and the extra benefit the developer receives? I would argue that the rent relief received should be at least 50% of the additional rent generated, but I think there should be some guiding principle here, whatever the number.

8) Would it not make sense to exclude arts groups and perhaps human services groups from the 3,000 square foot limitation? A performing art facility needs a bit of room. Has this been considered?

9) Will outdoor arts facilities be in addition to, or a component of the open space the developer is required to provide? If the latter, we are granting a valuable height bonus for open space that would be provided anyway. In addition, I find it difficult to believe that we are getting good value by exchanging up to two floors of additional residential space for an open-air sculpture park. It is not that they are not desirable or beneficial, it is a question of whether the benefit is commensurate with what we are giving away in additional height and revenue. Please discuss.

10) In order to incentivize the provision of on-site affordable commercial space and/or affordable housing, do we not need to take another look at cash in lieu, to put this option on an equal footing with this proposed program, and to ensure that it is not the automatic default option?

11) There was not too much discussion of purely commercial buildings other than to suggest that linkage fees could be increased to compensate for additional height.

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Housing, both market and affordable, is a demonstrated need in Boulder. What is the rationale for applying this program to commercial structures, and what is the contemplated increase in the linkage fees if we were to do so?

12) On the theory that, despite the desirability of affordable commercial space, affordable housing remains the top priority in Boulder, is there any way to weight the program so that on site affordable housing is the most likely choice, not the least?

Thanks for your time and hard work on this complex subject. I look forward to our conversation on Tuesday.

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**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Wednesday, August 19, 2020 1:31 AM

**To:** 'Brinkman Consulting' <heidi@brinkmanconsulting.com>

**Subject:** Comments on the South Boulder Creek mitigation plan summary document

**External Sender**

The following are some brief comments on the **South Boulder Creek mitigation plan summary document**.

The document summarizes the twenty years of work leading up to the City Council's June 16, 2020 decision to proceed with the \$66 million Variant 1 100-year South Boulder Creek flood mitigation plan, a plan which places a higher priority on protecting CU's tennis courts than on protecting the lives and property of Boulder residents. The plan provides 500-year flood protection for CU's tennis courts, but only 100-year protection for downstream Boulder residents.

\$10 million of our monthly stormwater utility "fees" will be used to add 360,000 cubic yards of fill to replace the sand and gravel previously quarried from the CU South gravel pit, and another \$5 million to demolish CU's tennis courts and rebuild them on top of the fill.

The consultant's report stated: ***Placing earthfill on a portion of the CU Boulder South campus would be required for all of the options to provide CU with 129 acres of buildable area. The top of the earthfill would be placed at the 500-year Water Surface Elevation in accordance with the BVCP update, which requires all buildings on the CU Boulder South Campus to be located outside of the 500-year floodplain.***

For years, city engineering staff wrongly believed that the Variant 1 2,500 foot floodwall along US 36 could be constructed in CDOT ROW. Testimony of past city project engineer Kurt Bauer falsely testifying that CDOT had agreed to the use of its ROW is attached.

In fact, CDOT will not allow above-ground flood mitigation facilities to be placed in its ROW, and staff proposes moving the floodwall to the environmentally sensitive Open Space State Natural Area lands.

In parallel with pursuing the Variant 1 100-year option, staff has been directed to analyze "upstream options" that would eliminate the need to locate a long floodwall on Open Space land.

The south end of CU's bathtub-shaped depleted gravel quarry is the ideal location for a detention pond to mitigate downstream flooding. Four million cubic yards of sand and gravel were mined from the flood prone quarry before it was unloaded on CU. Four million cubic yards is equivalent to 2,500 acre-feet. In comparison, the volume of the Variant 1 100-year detention pond is only 469 acre-feet.

The **mitigation plan summary document** leads one to believe that upstream options on CU property were thoroughly studied. Page 3 of the report states: ***Three of these seven layouts looked to capture flows that spill out of South Boulder Creek at SH93 in detention upstream of US36 on the CU South property***, but that these alternatives were not recommended.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

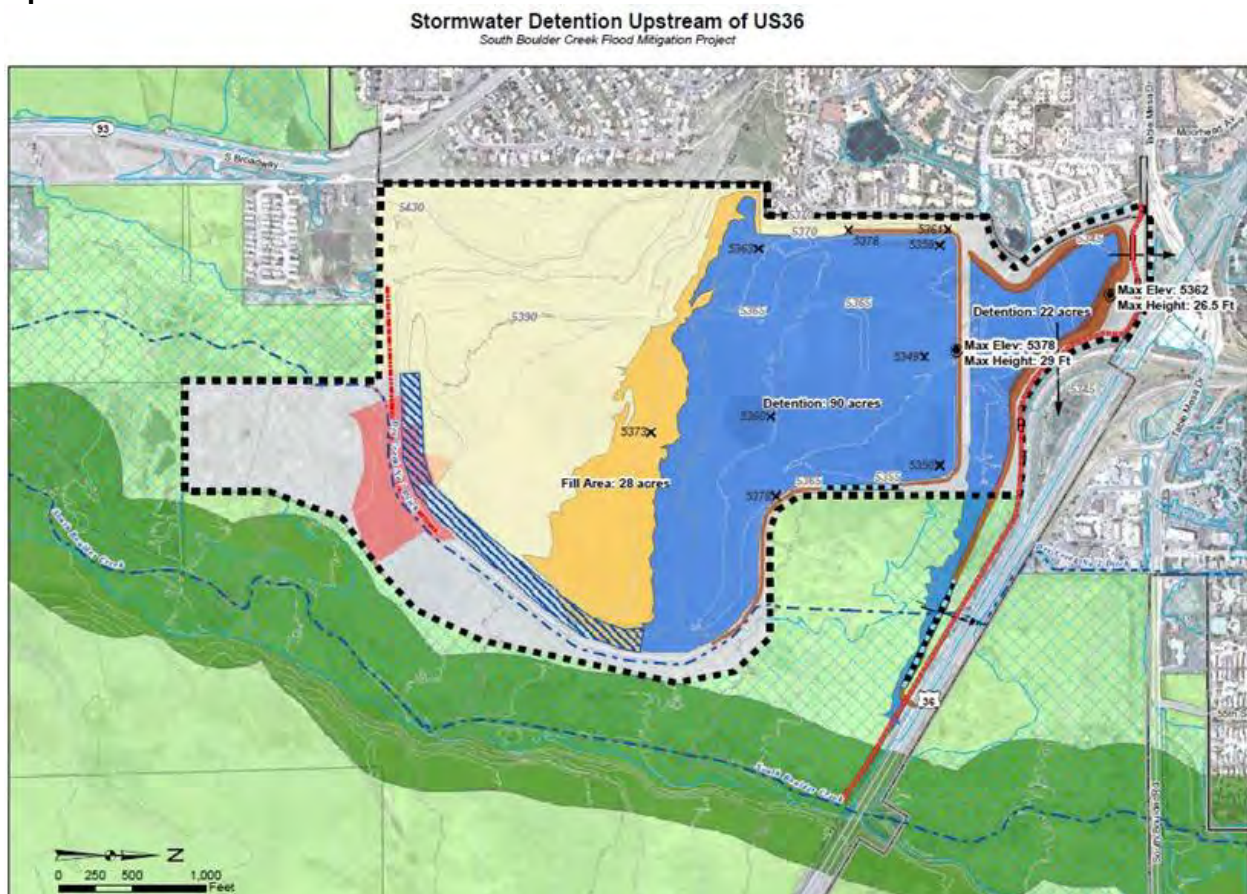
The three alternatives referred to are Options E, F, and G. Even though you may not be a hydrologist, please take a look at Option E shown below and see if it makes any sense at all.

Instead of using a series of low terraced levees in the south end of the CU gravel pit, which could be constructed to the same safety standards as high-hazard dams, and eliminating the need for a floodwall along US 36, Option E channels the floodwaters to the north end of the gravel pit and uses a 29 foot dam on the CU property in addition to a 27 foot dam along Table Mesa Drive and a long floodwall along US 36 from Table Mesa to South Boulder Creek. The design makes NO sense at all. The other two options referred to in the summary report are also shown below and make little sense.

I attached an audio clip of past City of Boulder Director of Public Works for Utilities Jeff Arthur absurdly stating that ***"We want to catch the water at the low point because that's where gravity is going to take it"***.

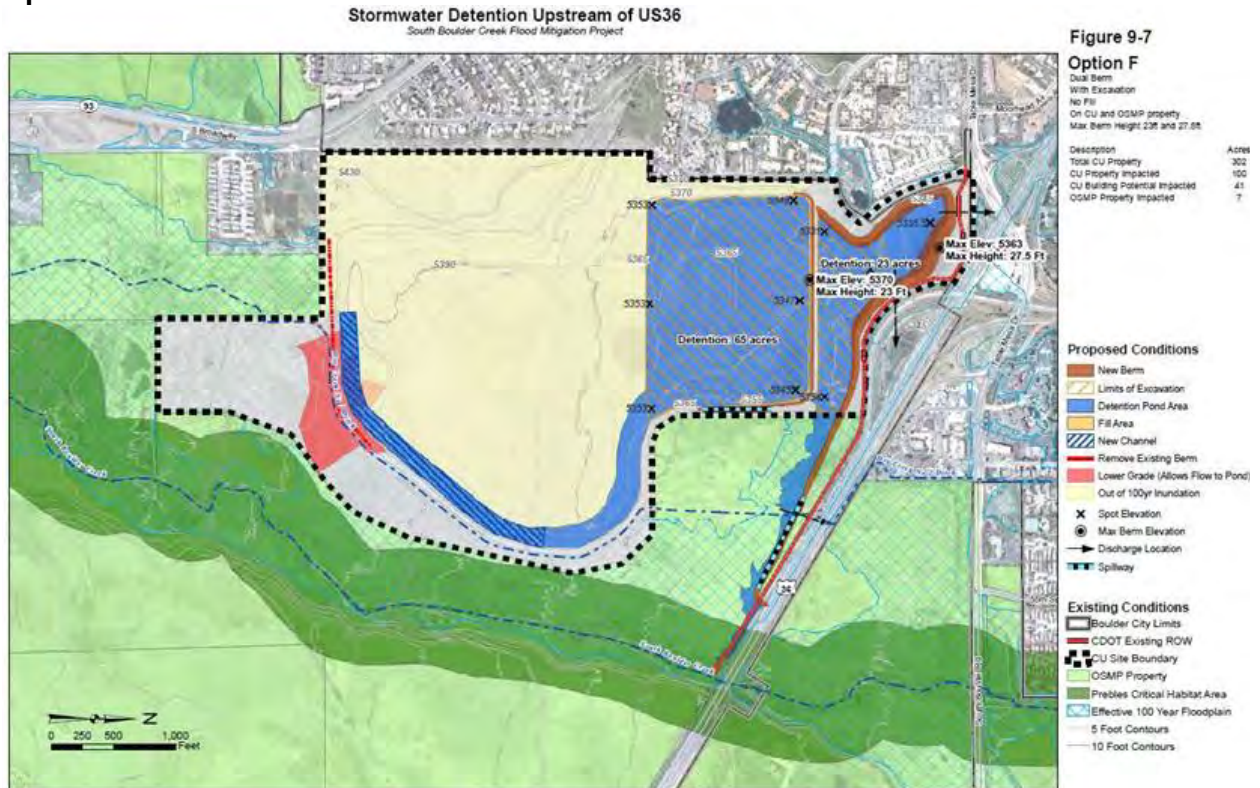
The summary report documents that upstream options were studied, but it raises the question as to whether the past studies of upstream options we competently performed by individuals with the skills needed to perform such studies.

### Option E



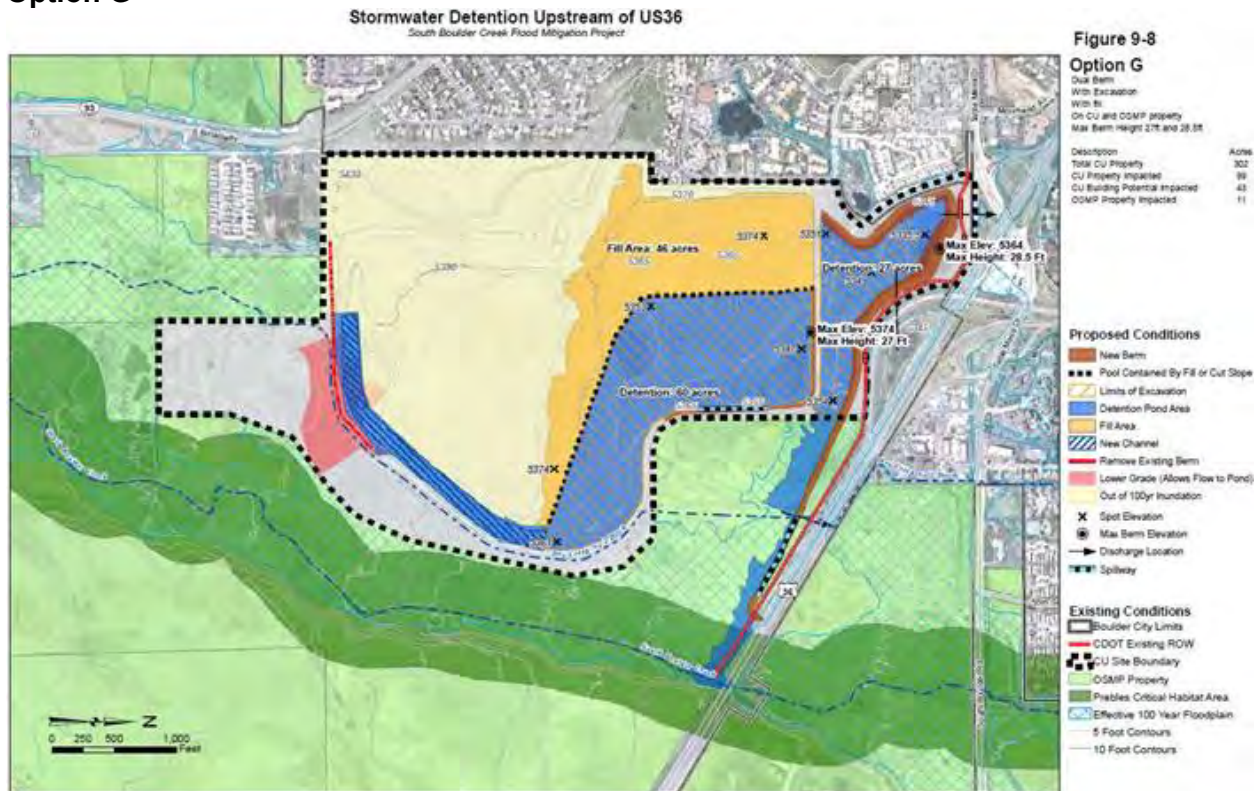
CU South Annexation Application (LUR2019-00010)  
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Option F



CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

Option G



Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** allyn s feinberg <feinberga@comcast.net>

**Sent:** Tuesday, August 4, 2020 4:13 PM

**To:** Huntley, Sarah <Huntleys@bouldercolorado.gov>; bloomj@bouldercolorado.com

**Cc:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; Tim M Hogan <Tim.Hogan@colorado.edu>; Gordon McCurry <gmccurry@mccurryhydro.com>; Ruth Wright <ruthwright1440@gmail.com>; Pomerance, Stephen <stevepom335@comcast.net>; Gary Wockner <gary@garywockner.com>; Crystal Gray <graycrystal@comcast.net>; Ray Bridge <rbridge@earthnet.net>; Mike Chiropoulos <mike@chiropouloslaw.com>; Peter Mayer <peter.mayer@waterdm.com>; Jim McMillan <jmc1277@gmail.com>; Cindy Carlisle <cacarlisle@msn.com>; lisa spalding <yanospalding@gmail.com>; John Spitzer <jspitzer011@comcast.net>; Marki LeCompte <margaret.lecompte@gmail.com>; Helen Burnside <helencburnside@gmail.com>

**Subject:** Re: Query about the meeting August 5

Hi Sarah and Joanna:

I would strongly urge you to allow the public to virtually attend the August 5th advisory committee meeting on upstream issues referred to below. This is an area with which the public has had a great degree of involvement and interest and the meeting should be open to us. Also, any meeting of a city advisory group or committee of the council or board is considered a public meeting and is open to the public. Please advise as to how you will rectify your position of having the meeting closed (although I understand that you may be willing to let us read minutes or possibly hear a recording sometime in the future) with the requirement that all city meetings are public meetings.

Allyn Feinberg

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Max Gould-Meisel <max@layinggroundwork.org>

**Sent:** Tuesday, July 28, 2020 2:31 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Save CU South Open Space

**External Sender**

To Whom It May Concern:

Save South Boulder Now considers Variant 1 100-year flood design to be problematic because we need 500 year flood protection a design that protects groundwater flows to wetlands, endangered species, and open space. To ensure that we have a voice in changes that directly affect our neighborhoods and our families, we are working to inform and engage other residents and neighbors in these decisions.

Covid-19 has irreversibly affected our world, and reconsidering this collegiate land annexation, the plans for development, and deeper yet the need for such an expansion at all, must take place to save our resources, safety, and quality of life.

Nobody knows what the fall semester will entail, and the wise choice for ensuring a happy and healthy community might just be in the preservation and maintenance of the open space as it is. If any buildings must be built, CU, CDOT, BCOS, and COB needs to reconsider the location for such a structure. As seen in this [website](#) there are dozens of reasons to reconsider the plans for development and move away from what has been approved, towards a decision that truly takes Covid-19 health concerns, and the human/environmental health, into the top priorities.

Thank you very much,

<http://www.savesouthboulder.com/>

--

Max Gould-Meisel

*Environmental Action Manager*

720.470.3330

[max@layinggroundwork.org](mailto:max@layinggroundwork.org)

<https://sites.google.com/view/groundwork-experimental-action/home?authuser=0>

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** allyn s feinberg <feinberga@comcast.net>

**Sent:** Thursday, July 23, 2020 4:38 PM

**To:** Davis, Pamela <DavisP@bouldercolorado.gov>; Toro, Luis <ToroL@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Cc:** Cindy Carlisle <cacarlisle@msn.com>; Margaret LeCompte <margaret.lecompte@gmail.com>; Harlin Savage <harlin.savage@gmail.com>; Peter Mayer <peter.mayer@waterdm.com>; Allyn Feinberg <feinberga@comcast.net>

**Subject:** Re: CU South Annexation Charter Amendment

Dear Ms. Davis:

I see that responding to you regarding your updated comments has put you in the position of having to act as go-between with our Committee and the City Attorney's office. Since your document containing the comments from the City Attorney, acting through you, has legal implications for our ability to proceed with placing our initiative on the November 2020 ballot, we feel that one last communication is required.

First, we are not asking for legal advice, since that has proved to be of dubious value. You and the City Attorney' office assert that, and I quote your comment, "initiatives are limited to legislative matters. Much if not all, of your proposed amendment is administrative in nature and, therefore, inappropriate for the initiative process. The city reserves the right not to place it on the ballot for this reason." We are simply asking that you cite the authority for this assertion with respect to charter amendment initiatives. Since this is a proposed charter amendment, presumably you found it in the State Constitution, the State statutes, or in relevant case law. We believe you have the responsibility to give us the basis for your assertion.

Second, our proposed Charter amendment is entirely related to conditions to be required of the Annexation Agreement between the City and the University of Colorado regarding the annexation of the land know as CU South. Conditions for annexation are entirely legislative. The City Council may set conditions on annexation that they choose, and they do so in every case. Even assuming that your assertions are valid, our proposal meets that standard.

Third, we have suffered damage from your illegal rejection of our petition over a month ago denying the ability to collect signatures in a timely manner. All your updated comments have done is create a threat of further damage.

We would like this response from our Committee to serve as notice that we protest your assertions. We again request that you cite their legal basis. Without you providing any legitimate legal basis for your assertions, we will have no choice but to again appeal to the City Council for relief.

Very truly,

Ally Feinberg  
for the Committee of Petitioners  
CU South Annexation Charter Amendment

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

On Jul 23, 2020, at 9:03 AM, Davis, Pamela <[DavisP@bouldercolorado.gov](mailto:DavisP@bouldercolorado.gov)> wrote:

Good morning Ms. Feinberg,

Thank you for your message. After consulting with our attorney's office, I have been advised that I cannot give you legal advice regarding your proposed initiative. I encourage you to discuss this issue with your own counsel.

**Pam Davis**  
**Assistant City Manager/Acting City Clerk**  
(pronouns: She/Her/Hers) [What's This?](#)

<image001.png>  
O: 303-441-1965  
C: 303-912-8016  
[davisP@bouldercolorado.gov](mailto:davisP@bouldercolorado.gov)

City Manager's Office  
1777 Broadway | Boulder, CO 80302  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

**From:** allyn s feinberg <[feinberga@comcast.net](mailto:feinberga@comcast.net)>  
**Sent:** Wednesday, July 22, 2020 3:58 PM  
**To:** Davis, Pamela <[DavisP@bouldercolorado.gov](mailto:DavisP@bouldercolorado.gov)>  
**Cc:** Cindy Carlisle <[cacarlisle@msn.com](mailto:cacarlisle@msn.com)>; Margaret LeCompte <[margaret.lecompte@gmail.com](mailto:margaret.lecompte@gmail.com)>; Harlin Savage <[harlin.savage@gmail.com](mailto:harlin.savage@gmail.com)>; Peter Mayer <[peter.mayer@waterdm.com](mailto:peter.mayer@waterdm.com)>; Allyn Feinberg <[feinberga@comcast.net](mailto:feinberga@comcast.net)>; Toro, Luis <[ToroL@bouldercolorado.gov](mailto:ToroL@bouldercolorado.gov)>  
**Subject:** CU South Annexation Charter Amendment

**External Sender**

Dear Ms Davis:

The Committee of Petitioners has received your updated comments that are based on direction from the July 21, 2020 city council meeting that states that our petition is certified and we may collect signatures until August 5, 2020.

Regarding the paragraph from your updated comments quoted below, you state the city reserves the right to not place our initiative on the ballot for the reason noted in this paragraph. Would you please cite the section of the State Constitution, State statutes and/or relevant case law that make this distinction. We note numerous initiated charter amendments that have requirements very similar in nature to those we specify in our initiative, so after our previous experience with the actions of the City Attorney and City Clerk, we would like to see the legal basis for this claim.

"Please note that initiatives are limited to legislative matters. Much if not all, of your proposed amendment is administrative in nature and, therefore, inappropriate for the initiative process. The city reserves the right not to place it on the ballot for this reason."

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Very truly,

Allyn Feinberg  
for the Committee of Petitioners  
CU South Annexation Charter Amendment

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>

**Sent:** Wednesday, July 22, 2020 9:53 AM

**To:** Friend, Rachel <FriendR@bouldercolorado.gov>

**Cc:** Carr, Thomas <CarrT@bouldercolorado.gov>; Toro, Luis <ToroL@bouldercolorado.gov>; Davis, Pamela <DavisP@bouldercolorado.gov>; Cindy Carlisle <cacarlisle@msn.com>; Allyn Feinberg <feinberga@comcast.net>; Harlin Savage <harlin.savage@gmail.com>; Marki LaCompte <margaretlecompte@gmail.com>; Council <council@bouldercolorado.gov>

**Subject:** Re: REQUEST FOR IMMEDIATE APPROVAL OF CU SOUTH PETITION TO FORM

Rachel,

We submitted our petition on June 18. For what period of time is it acceptable for the City to violate our constitutional rights? We are prepared to complete any back and forth required today on an expedited time frame. We have been requesting that our petition be approved to form for months.

You seem perfectly willing to follow the rules in the instances that suit you. In this instance we followed the rules to the letter and we expect the City to perform its duties immediately. We have been denied our constitutional right to collect signatures for more than 1 month because of your staff.

Sincerely,

Peter

On Wed, Jul 22, 2020 at 9:46 AM Friend, Rachel <[FriendR@bouldercolorado.gov](mailto:FriendR@bouldercolorado.gov)> wrote:

Hi Peter,

I believe most Petitions generally undergo a period of back and forth, and are not given the green-light to begin collecting on the very day they file. (Additionally, this petition was voluntarily withdrawn for some period of time.)

Wishing you all safe health as you undertake the signature collecting process.

Warmly,

Rachel Friend

Boulder City Council Member

[friendr@bouldercolorado.gov](mailto:friendr@bouldercolorado.gov)

Mobile: 720-601-0163

Office: 303-441-3002

she/her

Boulder City Council

1777 Broadway

Boulder, CO 80302

<http://www.bouldercolorado.gov>

Subscribe to Rachel's newsletter: <https://mailchi.mp/e4d8f6fd362b/rachelfriendsubscribe>

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Peter Mayer <[peter.mayer@waterdm.com](mailto:peter.mayer@waterdm.com)>

**Sent:** Tuesday, July 21, 2020 11:11:39 PM

**To:** Carr, Thomas <[CarrT@bouldercolorado.gov](mailto:CarrT@bouldercolorado.gov)>; Toro, Luis <[ToroL@bouldercolorado.gov](mailto:ToroL@bouldercolorado.gov)>; Davis, Pamela <[DavisP@bouldercolorado.gov](mailto:DavisP@bouldercolorado.gov)>

**Cc:** Cindy Carlisle <[cacarlisle@msn.com](mailto:cacarlisle@msn.com)>; Allyn Feinberg <[feinberga@comcast.net](mailto:feinberga@comcast.net)>; Harlin Savage <[harlin.savage@gmail.com](mailto:harlin.savage@gmail.com)>; Marki LaCompte <[margaretlecompte@gmail.com](mailto:margaretlecompte@gmail.com)>; Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** Re: REQUEST FOR IMMEDIATE APPROVAL OF CU SOUTH PETITION TO FORM

**External Sender**

Dear Council:

Regarding the discussion of due dates and extra time. Our petition was submitted on June 18 and denied on June 29. It is now July 22. If you want to be fair and provide us with extra time to collect signatures, it should be the number of days from June 18 when we submitted. We should have been allowed to collect signatures starting that date.

Thank you.

On Tue, Jul 21, 2020 at 10:51 PM Peter Mayer <[peter.mayer@waterdm.com](mailto:peter.mayer@waterdm.com)> wrote:

Dear Ms. Davis, Mr. Carr, and Mr. Toro,

The City Council has given clear instruction that state law governs and you have incorrectly denied our request to approve the Citizens Conditions for the Annexation of CU South petition to form.

We have already supplied you with our formal request on June 18. Please approve our petition immediately so that we may begin collecting signatures today. Your unconstitutional and illegal delays have cost us more than a month already.

Sincerely,

Peter Mayer  
on behalf of the 5 petitioners  
Allyn Feinberg  
Cindy Carlisle  
Margaret LeCompte  
Ann Harlin Savage

--

Peter Mayer, P.E.  
Principal  
[Water Demand Management](http://www.waterdm.com)  
720-318-4232 (office/mobile)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

--

Peter Mayer, P.E.

Principal

[Water Demand Management](#)

720-318-4232 (office/mobile)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>

**Sent:** Tuesday, July 21, 2020 10:52 PM

**To:** Carr, Thomas <CarrT@bouldercolorado.gov>; Toro, Luis <ToroL@bouldercolorado.gov>; Davis, Pamela <DavisP@bouldercolorado.gov>

**Cc:** Cindy Carlisle <cacarlisle@msn.com>; Allyn Feinberg <feinberga@comcast.net>; Harlin Savage <harlin.savage@gmail.com>; Marki LaCompte <margaretlecompte@gmail.com>; Council <council@bouldercolorado.gov>

**Subject:** REQUEST FOR IMMEDIATE APPROVAL OF CU SOUTH PETITION TO FORM

**External Sender**

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on behalf of the 5 petitioners  
Allyn Feinberg  
Cindy Carlisle  
Margaret LeCompte  
Ann Harlin Savage

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Harlin Savage <harlin.savage@gmail.com>  
**Sent:** Tuesday, July 21, 2020 2:49 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Re: charter amendment mess

**External Sender**

July 21, 2020

Dear City Council,

I write to you this afternoon to concur with my Save South Boulder co-leader Margaret LeCompte and PLAN Boulder on the mistakes that have put our local democracy in jeopardy

At a time when our nation's democracy faces its biggest threat ever, Boulder should be a shining example to the state and the nation of how direct democracy works. Sadly, city staff led by City Attorney Tom Carr have mislead the voters, provided incorrect information about how to get on the ballot, and generally made a mockery of the process. These are the supposed experts, yet they can no longer be trusted.

Tom Carr has the lion's share of responsibility here. His arbitrary and capricious decisions relating to the proposed charter amendment affecting annexation and flood mitigation are inexcusable, pandemic or no pandemic. We are already paying him an outrageous amount of money to either do nothing or to do something harmful. Boulder residents, who actually follow local issues, do not trust or respect Mr. Carr. In my opinion, he should be fired or at the very least he should recuse himself from any discussions and decisions about our electoral process in the future.

So far Council has let this disaster continue, and only tonight will Council make decisions. Will you save direct democracy? Will you allow Tom Carr to continue to run amok?

This is a critically important issue that goes to the core of our democratic process. I don't think Council made the right decision not to call for a public hearing. Clearly people care as nearly 100 signed up to comment but will not be heard tonight.

Apparently, no one from PLAN Boulder or Save South Boulder will be allowed to speak about our proposed ballot measure, which would set much needed parameters on annexation and provide greater flood protection. Yet Mr. Carr's actions have already delayed our effort to collect signatures for more than a month. That is intolerable.

At least two attorneys, who are not city staff, have provided you with detailed information to aid your decision. I would also suggest that you provide a strong rationale, for whatever decision you make, to the public.

Sincerely,

Harlin Savage, co-lead for Save South Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

1050 Tantra Park Circle

Boulder 80305

**From:** Harlin Savage <harlin.savage@gmail.com>

**Sent:** Tuesday, July 21, 2020 2:49 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Re: charter amendment mess

**External Sender**

July 21, 2020

Dear City Council,

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At least two attorneys, who are not city staff, have provided you with detailed information to aid your decision. I would also suggest that you provide a strong rationale, for whatever decision you make, to the public.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Sincerely,

Harlin Savage, co-lead for Save South Boulder

1050 Tantra Park Circle

Boulder 80305

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>

**Sent:** Tuesday, July 21, 2020 2:01 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Allyn Feinberg <feinberga@comcast.net>; Dick Harris <rharris@indra.com>; George Gerstle <gerstleg@gmail.com>; John Spitzer <jspitzer011@icloud.com>; Lisa Spalding <yanospalding@gmail.com>; Raymond Bridge <rbridge@earthnet.net>; Robert Carmichael <bc@bobcarmichael.com>; lisamorzel <lisamorzel@gmail.com>

**Subject:** PLAN-Boulder comments on Ordinance 8406 - The issue is Tom Carr

**External Sender**

Dear Council Members,

PLAN-Boulder prefaces the statement below with the following: In decades of advocating for issues involving the city of Boulder, PLAN-Boulder has focused on the specific issue and never on the personality. But in this case, this issue is Tom Carr.

PLAN-Boulder has reviewed the memo describing Ordinance 8406 to allow the City Council to suspend certain Charter provisions under specified emergency conditions. We would normally be very cautious about allowing any suspension of Charter provisions; however, given PLAN Boulder's recent experience with having the certification of our Charter amendment initiative illegally rejected by the City Clerk and Tom Carr, we have lost all confidence in the legal advice being provided to the Boulder City Council, and will not support Ordinance 8406 as long as Tom Carr is City Attorney and making rulings on our election process.

We respectfully request Mr. Carr be removed from all duties pertaining to city election matters, effective immediately. He has shown that he cannot be trusted to do his job (or guide others) promptly and fairly. He has shown that he is unable and unwilling to follow the State Constitution and to treat citizens equally and fairly. He has shown complete ignorance to Charter Sec. 137 which unequivocally states the Constitution governs the charter petition process.

Mr. Carr's failures are of great significance for the citizens of Boulder and impacts our constitutionally guaranteed right to petition the government. We firmly believe that Boulder should no longer accept Mr. Carr's authority in any election matters.

Sincerely,

Peter Mayer & Allyn Feiberg  
Co-Chairs  
PLAN-Boulder

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>

**Sent:** Tuesday, July 21, 2020 11:58 AM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Harlin Savage <harlin.savage@gmail.com>; Margaret LeCompte <margaret.lecompte@gmail.com>;

Cindy Carlisle <cacarlisle@msn.com>; Allyn Feinberg <feinberga@comcast.net>

**Subject:** CU South petitioners demand fair, equal, and Constitutional treatment from City; Carr must be removed from election duties

**External Sender**

Dear Council,

On June 16, 2020 you voted to ignore years of expert advice and proceed with expensive and inadequate flood mitigation at the property known as CU South. On June 18, 2020 our group of five petitioners (which includes two former city council members) submitted a charter amendment petition titled "Citizen's Conditions for the Annexation of CU South" to the City Clerk requesting approval as to its form so that we could collect signatures for the 2020 election.

We submitted our petition based on information published in the Colorado Constitution that establishes rules for charter amendment petitions AND based on information published on the City of Boulder's web site at the time. Both of these sources indicated that the deadline for submitting signatures was Aug. 5, 2020 and we acted in good faith that our request would be honored promptly according to established and published rules. As petitioners we realized that we would not have the full 90 days to collect signatures granted in state statute, but with a ready group of 25 volunteers we were ready to try. Unfortunately, we were never even granted the opportunity to collect signatures.

The City of Boulder Charter (Section 137 – Amendments) states unequivocally that the charter may be amended based on provisions in the Colorado Constitution. There are no exceptions. The City Attorney has acted in an arbitrary and capricious manner granting some citizens rights to collect signatures under special rules while denying the same privilege to others following the same published rules. He has also violated the City Charter and State Constitution. In doing this the City Attorney has cast great confusion over our election process. His behavior and attitude towards the petitioners (as he was violating our constitutional rights) was condescending and purposefully unkind from the outset and his reading of Colorado Law is a disgrace.

City Attorney Thomas Carr has proven that he cannot be trusted to be a fair and independent arbiter of city election processes. He has produced rules that do not conform to the Colorado Constitution and relevant state statutes, and he has shown favoritism towards certain petitions and groups, approving their petitions as to form and putting them before the city council for ballot consideration. His decisions have been arbitrary, capricious, and blatantly unfair.

To rectify this situation, we respectfully request that Mr. Carr be removed from all duties pertaining to city election matters, effective immediately. He has shown that he cannot be trusted to do his job (or guide others) promptly and fairly. This is a failure of great significance for the citizens of Boulder that impacts our constitutionally guaranteed right to petition the government. We firmly believe that Boulder should no longer accept Mr. Carr's authority in these matters.

The City of Boulder should follow the Colorado Constitution and relevant state statutes when it comes

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

to charter amendment petitions. If as a result of Mr. Carr's egregious behavior, the City Council chooses to place measures on the 2020 ballot, we respectfully request that our petition be considered along with all others as our good faith effort to legally collect signatures was illegally denied by City Attorney Tom Carr.

Sincerely,

5 Petitioners for Citizen's Conditions for the Annexation of CU South

Peter Mayer  
Allyn Feinberg  
Margaret LeCompte  
Harlin Savage  
Cindy Carlisle

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jacqueline Trump <jacquetrump@gmail.com>

**Sent:** Tuesday, July 21, 2020 2:40 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** University plans for CU South and the proposed annexation of the University of Colorado into the City of Boulder

**External Sender**

Respected Members of Boulder Council,

I've written a few times to express my concern regarding the University of Colorado, Boulder's plans for their CU South property and their request for annexation.

I am dismayed that Council appears to be swayed by the demands of the University rather than the good of Boulder citizens. CU intends to build resident student housing and research facilities on property in a flood plain on land with a high water table. This is both short sighted and dangerous. I believe that the 100 year flood plan recently approved by Council will prove to be inadequate to protect the lives and property of CU students/staff as well as the surrounding community. Why would Council allow such endangerment?

I feel that Council's willingness to consider CU's annexation into the city without the vote of the people borders on criminality. Council is endangering not only our lives but our monetary stability. By annexing CU into the city Council would force us to pay for the massive infrastructure costs which such a project would demand. Why would Council even consider approving annexation without the approval by vote of Boulder citizens? What is the advantage of annexation to the city and citizenry? The disadvantages are obvious.

I expect, as would the majority of Boulder citizens, to have Council clearly and simply state the advantages and disadvantages of annexation then put that decision in the hands of the people into whose pockets Council intends to dip.

A citizen request to put these issues on the November ballot was recently denied for conflicted reasons by City of Boulder Attorney Tom Carr. Why? A decision which would change the face and character of Boulder should not be made by Council without public approval.

Please answer my questions. In addition I ask Council to pause and consider the temperament of the people of Boulder in these trying times and the effect CU's project and annexation would have on the citizens of Boulder.

Sincerely,

Jacqueline Trump,  
Boulder resident

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

-----Original Message-----

From: Gabriele Sattler <gabysat8@gmail.com>

Sent: Monday, July 20, 2020 11:44 AM

To: Council <council@bouldercolorado.gov>

Subject: South Boulder

External Sender

Whom it may concern;

I very much feel that Boulder residents should have an opportunity to vote on what they would like to see happen at CU South. What I DO NOT want to see happen is: a massive new campus in a floodplain. Instead: a floodplain mitigation plan that makes sense AND PROTECTS GREENBELT MEADOWS, restoration and protection of open space where ever possible, a State Natural Area and safety for wildlife. You approved Plan 1, which does not include the necessary work to upgrade the ditches which run through the Greenbelt Neighborhood and therefore leaves us as vulnerable after plan 1 has been put into place, as we are now.

I also would like to know why the city attorney nixed the submitted a charter amendment petition titled "Citizen's Conditions for the Annexation of CU South" to the City Clerk requesting approval as to its form so that we could collect signatures for the 2020 election. We submitted our petition based on information published in the Colorado Constitution. Please, explain without lawyer talk in an open letter in the newspaper.

By now I am thoroughly angered with what's going on. I feel strongly that the deal with the university is very much to our detriment, unless the city starts fighting in our interest and for our safety and does not bend to what the University likes to have happen.

Sincerely,  
Gabriele Sattler  
68 Huron Ct.  
Boulder, CO 80303

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Saturday, July 18, 2020 1:51 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** SaveSoBo Now <savesobonow@gmail.com>; Koehn, Jonathan <Koehnj@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; plan boulder <advocate@planboulder.org>; Margaret LeCompte <margaret.lecompte@gmail.com>; Steven Telleen <stelleen@comcast.net>; WRAB <WRAB@bouldercolorado.gov>; Fran Sheets <fran.sheets@colorado.edu>; judynogg31147@gmail.com; burchell.alison <burchell.alison@gmail.com>; a\_burchell <a\_burchell@comcast.net>; barbara.farhar <barbara.farhar@colorado.edu>; braddsegal <braddsegal@gmail.com>; Catanach, Steve <CatanachS@bouldercolorado.gov>; clare.shemeta <clare.shemeta@gmail.com>; conorjmay <conorjmay@gmail.com>; Crystal Gray <graycrystal@comcast.net>; sarandan1 <sarandan1@gmail.com>; the.dragons.be.here <the.dragons.be.here@gmail.com>; drozinus <drozinus@yahoo.com>; duncan <duncan@indra.com>; duncandbg <duncandbg@gmail.com>; Elam, Carolyn <ElamC@bouldercolorado.gov>; eric.lombardi <eric.lombardi@gmail.com>; Haddock, Kathy <Haddockk@bouldercolorado.gov>; hoopandtree <hoopandtree@aol.com>; jim <jim@hartmanelyinvestments.com>; drjoebre <drjoebre@yahoo.com>; Joyce, Heidi <JoyceH@bouldercolorado.gov>; mjzahniser <mjzahniser@gmail.com>; Kalish, Debra <KalishD@bouldercolorado.gov>; regelson <regelson@mac.com>; larry <larry@lafenergy.org>; Lehrman, Matthew <LehrmanM@bouldercolorado.gov>; lglustrom <lglustrom@gmail.com>; lili.francklyn <lili.francklyn@comcast.net>; mary <mary@ampersand-design.com>; micahparkin <micahparkin@gmail.com>; paul.culnan <paul.culnan@gmail.com>; npjsw84 <npjsw84@gmail.com>; Pomerance, Stephen <stevepom335@comcast.net>; rick.tazelaar <rick.tazelaar@comcast.net>; rdwestby46 <rdwestby46@gmail.com>; Sandoval, Emily <SandovalE@bouldercolorado.gov>; sdwhitaker48 <sdwhitaker48@comcast.net>; suzanne.spiegel2@gmail.com; tom.asprey <tom.asprey@gmail.com>; timothy <timothy@schoechle.org>; Harlin Savage <harlin.savage@gmail.com>; Carl and Wan Norby <norby.cw@gmail.com>; OSBT <OSBT@bouldercolorado.gov>; hawksndragons1955@gmail.com; jeff rivkin <jkchinkin@gmail.com>; Jeff McWhirter <jeff.mcwhirter@gmail.com>; cindy carlisle <cacarlisle@msn.com>; Firnhaber, Kurt <FirnhaberK@bouldercolorado.gov>; Stafford, Edward <StaffordE@bouldercolorado.gov>; Stevens, Jessica <stevensj@bouldercolorado.gov>; Marin, Corina <MarinC@bouldercolorado.gov>; Sugnet, Jay <SugnetJ@bouldercolorado.gov>; Fran Sheets <fran.sheets@colorado.edu>; landmarksboard <landmarksboard@bouldercolorado.gov>; Housing Advisory Board <HousingAdvisoryBoard@bouldercolorado.gov>; Susan Peterson <bigtinysue@gmail.com>; Martin Hoerling <mhoerling@yahoo.com>; KenCairn, Brett <KenCairnB@bouldercolorado.gov>; Steven Telleen <stelleen@comcast.net>

**Subject:** SBC Flood Mitigation Final Solution

**External Sender**

Hi Council.

If you want a solution to your woes of decision that is wrong no matter what you do, between all ballot measures, no ballot measures, or pick and choose, the first priority you need to focus on is eliminating Tom Carr and Jane Brautigam, because they are the reason you were put in this dilemma.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Now I have an alternative solution for you. SBCFP Alternative 6 depicted in the PDF. To activate that you need to reverse your infected decision of the 100 yr. mitigation. There is a virus and it is in Janes and Tom's offices. You need a clean slate.

Summarize:

- 1) Fire Jane and Tom.
- 2) Reverse your 100 yr. mitigation decision.
- 3) Apply Alternative 6 to the SBCFP. Now.

De-politicize and reject the call to put any ballot measures up to vote in 2020.

Yours most sincerely.

Lynn

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**From:** Carl and Wan Norby <[norby.cw@gmail.com](mailto:norby.cw@gmail.com)>  
**Sent:** Saturday, July 18, 2020 1:13 PM  
**To:** Lynn Segal <[lynnsegal7@hotmail.com](mailto:lynnsegal7@hotmail.com)>  
**Subject:** SBC Flood Mitigation -x

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



The City of Boulder has been updating the floodplain mapping for Bear Canyon Creek in south Boulder.

**SOUTH BOULDER CREEK FLOOD MITIGATION**

6-15-20

Photo: Bear Canyon Creek - Boulder Files

To: Council - Sam Weaver, Bob Yates, Aaron Brockett, Rachel Friend, Junie Joseph, Mirabai Nagle,  
Adam Swetlik, Mark Wallach, Mary Young  
Planning Board - Harman Zuckerman, David Ensign, Peter Vitale, John Gerstle, Lupita Montoya, Sarah  
Silver, Lisa Smith  
WRAB - Kirk Vincent, Ted Rose, Trisha Oeth, Gordon McCurry, John Berggren  
Director of Utilities - Joe Taddeucci  
Project Engineer - Brandon Coleman

It has now been nearly seven years since the disastrous September flood in 2013. There were about 15 creeks that flooded affecting people, homes, schools, businesses, and city infrastructure. The flood also had a huge unseen impact on people's fears of the next flood, which could strike at any time.

FEMA's disaster reimbursement records show that flood water from South Boulder Creek caused the greatest amount of damage in the city, followed by Bear Canyon Creek and several other creeks.

Starting in January, 2014, people from the east side of the Frasier Meadows neighborhood (between Mohawk and Foothills Parkway) expressed to WRAB that they were intensely afraid of future floods. One photo showed glass embedded in a basement bedroom wall. The glass came from a broken window on the far side of the room where the flood water gushed in. Fortunately no one was sleeping in the bedroom that night. A woman demonstrated to WRAB that the sewage in her basement was up to her chin as she had to walk through it - sewage up to her chin. This was raw sewage, not just filthy creek water. According to city records the sanitary sewers in Frasier Meadows and in other neighborhoods backed up into 1,500 basements, primarily because **Bear Canyon Creek** overflowed. In doing so, it lifted off sanitary sewer manhole covers, which then allowed the creek to flow freely into sanitary sewers. This then overwhelmed the junction of sewer lines on Baseline east of Foothills Parkway resulting in sanitary sewers backing up and inundating many homes throughout Frasier Meadows and adjacent neighborhoods with raw sewage containing all sorts of vile pathogens. This unbelievable sewage condition still exists today, in addition to the unmitigated non-capacity of creeks which flooded throughout the entire city. Utilities Engineering reported that it was **a fortunate event** for the city that raw sewage was allowed to back up into homes because that negligent destruction of homes by raw sewage saved much damage to city infrastructure.

Initially, in January, 2014, WRAB meetings were packed with anxious upset residents. A group from the east side of Frasier Meadows (between Mohawk and Foothills Parkway) urged WRAB to continue with the original mitigation plan for SBC because they wanted the flood protection to occur within months, and didn't want to change mitigation direction because that would take longer, possibly as long as a year. A year was not acceptable. They naturally tried hard to keep the existing plan on track. That was Plan D with Phases I, II, and III.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Another group, from Frasier Meadows west of Mohawk which was primarily devastated by Bear Canyon Creek, with advice from seven water engineers, asked WRAB to consider using Alternative 6 to keep SBC within its channel by primarily dredging, cleaning, and modifying the existing channel. Alternative 6 was a more natural and certainly less expensive mitigation strategy with far fewer jurisdictional problems, while creating a more complete overall regional solution. This solution can be designed to create whatever year-level (100 to 500) of flood protection desired without interfering with Ladies Tresses Orchids or Jumping Mice.

When the concept of using SBC to mitigate SBC flooding was presented to WRAB starting in January, 2014, and cautiously many times thereafter, WRAB remained absolutely silent. It was curious to ponder why this topic was untouchable, unthinkable, and was off-limits for discussion. Some searching of WRAB records found that Alternative Mitigation Plan 6 (using SBC for Containment of Flood Flow) as a mitigation plan was strangely quickly eliminated with very little discussion. The cost was initially slightly higher than plan Alternative 3, which was renamed Option D including Phases I, II, and III. The cost of Alternative 6 is much lower than the present dam plan which has been stripped of Phases II and III due to cost increases.

Later, other people with different ideas joined the fracas and the SBC mitigation project became chaotic. Engineering judgement and rational judgement were significantly replaced by the desire for walking dogs and practicing yoga at sunrise on the land proposed for a flood mitigation dam. Soon this chaos was joined by CU which then turned the chaos into a community firestorm, where it stands today. The firestorm quickly overwhelmed the voices with differing suggestions, and unfortunately eliminated any focus on the many other dire creek flood mitigation necessities within the city, which are still ignored.

The renamed Option D Phase I, II and III, primarily related to Frasier Meadows east of Mohawk (Phase I) and the area northeast of South Boulder Road and Foothills Parkway (Phase II and III). Eventually, as the cost increased, Phases II and III were scuttled, leaving only Option D Phase I, which was then referred to as Option D. The name has since changed again. There is no plan to protect the people and property in the areas designated as Phase II and III, many people in those areas are unaware of their ultimate exposure.

Mitigation Plan Alternative 6 eliminates the thorny problems of the current undefined SBC plans:

- Flood water is no longer required to flow down the hill to RTD to give CU a bargaining chip for their utilities.
- CU utilities can be presented on it's own merit without holding the city hostage relative to flood mitigation.
- The quantity of flood water which will need to be detained is unknown. If that is undersized there will be many major disasters. Climate scientists are now recognizing "atmospheric rivers", where an adverse weather pattern remains in a location for an extended period of time creating huge amounts of rainfall.
- The current mitigation plan utilizing a fixed dam capacity would not be able to continuously convey rain from an atmospheric river, however, Alternative 6 could carry an unlimited quantity of flood water.
- Alternative 6 does not affect Ladies Lillies and Jumping Mice, etc, and has many fewer unknowns.
- Technical engineering construction decisions would be far simpler with Alternative 6.
- There would be no annual dam inspection with Alternative 6.
- The jurisdictional agreements would be much fewer and simpler with Alternative 6.

The negative reasons found in city records for not considering Alternative 6 were:

- Baseline Reservoir may receive additional water as a result of a flood - a reservoir may receive water.
- The spillway of Baseline Reservoir may need to be repaired.
- The city of Lafayette may need to add a drinking water filter to remove excess turbidity during floods.

If Alternative 6 Mitigation Plan is chosen, obviously the main construction method would be to dredge the channel to contain the specified flood flow capacity. Existing trees, bushes, debris, in-fill under bridges, and other miscellaneous trash will need to be removed from the stream bed, this is normal maintenance which has not been done for a very long time.

Which of the choices for permit, annual dam inspection, and construction techniques is most logical, durable, least expensive, can convey the unknown quantity of flood water, and won't collapse?

Observing the overall egocentric gymnastic performances for almost seven years relative to all aspects of Flood Protection has been an unbelievably nauseating experience for many residents. Many residents are so completely disgusted with the entire fiasco that they have given up any hope of the likelihood of sensible flood prevention, and have chosen not to participate, some have even departed from the city.

**CU South Annexation Application (LUR2019-00010)**  
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Long term observation clearly demonstrates that there have been many failures and many obviously seriously unacceptable judgements by numerous city functions and other participants. Consequently, there is a need to look back to determine how we fell into this deep hole, and to determine what is really required to escape, then let competent engineering consultants guide the mitigation projects without interference, but, with adequate public transparency and guidance in order to be able to climb out of this life-threatening mess. Certainly we can no longer allow resident groups, individuals, dog walkers, or Council, to continue designing critical flood mitigation systems for which they have inadequate experience.

The city is in a vast paralyzing quagmire of overwhelmingly immense proportions with a multi-serially demonstrated inability from which to extract itself. WRAB is defined as the skilled board to ADVISE the City, City Council, and Residents, of existing and future flood related catastrophes and solutions. There is an abundance of long standing complaints by residents relating to non-response, misdirection, inaction, and very strange peculiar actions by City functions as a whole, regarding Flood Mitigation. When coupled with the strong negative disaster warnings defined by engineering consultants, climate scientists, combined with the significantly adverse revelations exposed in the Team Tipton report, along with many disillusioned departed city employees, it's quite obvious that a different thought process must be wisely established. Climate scientists have consistently indicated worsening world-wide weather conditions and specifically targeted Colorado. Details about the above strange referenced actions can be available as needed.

A sensible strategic evaluation of where we've been, how we got here, and where we want to go, is necessary. It's recognized that a few good new employees have been hired, but, City Utilities is grossly understaffed and underfunded for the many fundamental tasks that need to be accomplished promptly.

One important noticeable part of the problem of not achieving a successful result is the fact that Council, WRAB, etc, seem to feel obligated to comply with the ineffective policy of allowing persons who may have something of significance to contribute, to speak for only two or three humed disjointed minutes, followed by another person for two or three disjointed minutes, ad nauseam, along with frantic pleas by desperate residents for help. To avoid the obvious problem of too many people trying and failing to speak effectively at Council meetings, Council has suggested the use of email contacts to Council. Recognizing the humungous quantity of reading material Council is always confronted with for each meeting, and has seriously and accurately complained about in the past, this new load of reading material is likely to be impossible to be given much consideration. Probably the email contact gives the writer the feeling of getting the attention of Council. Considering that Council can only listen for two or three minutes at meetings, it seems unlikely that hundreds of emails will receive collective consideration by Council.

What intelligent city, corporation, or individual, would make major multi-million dollar decisions in this manner? This policy is far too limiting on presentation time and subject integrity. In the end this method obviously has taken far too much more time - without a solution. Critical comprehensive meetings of stakeholders are needed to clearly state the problem, effectively evaluate ideas, define plans, and accomplish solutions in an urgent timely manner, without additional subcommittees.

Another issue in preventing flood mitigation from progressing is a significant lack of priority. There is considerable "talk priority", but, "sensible action priority" is completely missing. It's much like not wanting to do a task, so other trivial things are found to occupy the time space available, thereby successfully avoiding doing the undesirable task. This is simply denial of significant future flood devastation.

A third hindering factor is RESILIENCE. Resilience is traditionally considered as the ability to recover quickly from unexpected misfortune. Boulder frequently touts its resilience in presentations, newspaper articles, and in the City of Boulder, Colorado Community Newsletter. The Fall/Winter 2019 edition front cover of the Newsletter boasts a typical example by stating: "Ready and Resilient - Ways the city is preparing for natural disasters and other sudden, unexpected events". After reading the Newsletter cover to cover, it's difficult to find the "Ways". This exemplifies that it is much easier to find the "Talk" than it is to find the real "Walk". The Spring 2020 edition of Newsletter has similar resilient boasts. The seven year period since 2013 is not resilient.

Resilience has a factor of quickness in its definition. Boulder has a flood report in its files written in 1934 which quite clearly describes: "The downhill bank of SBC is too low" (in the area near the current location of US 36) thereby causing flooding. Coincidentally, that's the same location and problem that is present today. The only difference in the 86 intervening years is the manner in which the problem is described. Today, the description of the flood problem is: "What is the best way to allow flood water to flow down the hill onto CU property so that the city can needlessly use CU property to store flood water for three days in

**CU South Annexation Application (LUR2019-00010)**  
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exchange for the city providing CU with utility services?" Alternative 6 would use the existing creek as a basis for mitigation. This totally eliminates any involvement with CU, and allows CU to apply for utility service as would normally be done, without ridiculously holding the city and residents as hostages. It's curious how the SBC flood water traverses from highway 93 to US 36, then as it reaches a critical point near US 36 it strategically overflows out of SBC onto CU property thereby causing the flooding problem. Why does the same flood water in the creek not cause a major flood problem prior to US 36?

The Flood Mitigation Torch needs to be found, picked up, lit, evaluated, and carried smartly to the goal.

Who better than WRAB to take on this heroic task and demonstrate the necessary solutions to the city!

To do this, the above comments urge WRAB to start this task by examining the many strange, bizarre, and unorthodox situations which have occurred in the past seven years relative to flood mitigation. Some of these situations speak of incompetence, others totally defy an explanation, but they do require inquiry. This would need to be done before proceeding with the next evaluation of mitigation plans. Boulder has 15 primary creeks which need attention, some of them have been bypassed. Some have their mitigation plans completed, but, are not implemented due to a lack of funds, and the plans are filed away gathering dust. The SBC/CU fractious flailings have overwhelmed the serious attention that should have been given to ALL flood areas in the city so that ALL flood areas could be mitigated much sooner than the present outrageous documented Utilities estimate that the city will not have funds available for flood mitigation for at least 100 years. 100 years was the most accurate estimate Utilities could provide as to when the city would be able to afford to mitigate many critical flood areas. This task is a matter of WRAB addressing the major task of critically reviewing ALL aspects of how we arrived at our present position, and then offering a clear, concise path out of this bewildering flood mitigation forest.

WRAB has the critical skills to create a strategic flood managerial masterpiece to end this meaningless nonsense of trying to find a scheme to keep CU in the game so CU can hold Boulder hostage to provide CU with utilities for CU South. WRAB has been given the responsibility to say YES and then take the blame for ill-conceived plans, but, WRAB has been denied the charter to speak authentically to challenge foolishness.

Utilities has accurately advised, in writing, that "We, the city, have grown accustomed to saying we don't have the funds to do a job, so we don't do it, and then the job doesn't get done". This is repeatedly true.

Members of WRAB: Please step up to the prior overall \$172,000,000 (now approaching \$200,000,000) city-wide 2013 flood mitigation disaster, and address ALL aspects of the solution for the flood safety of ALL Boulder residents. Please stop, start over, and complete the task quickly with common sense plans. Make a comprehensive offer to Council explaining how your skills can create the final resolution of the many overall flood problems. The city implies that lives and property near SBC are more valuable than elsewhere.

It is grossly negligent for us, the residents of Boulder, to allow these destined-to-occur natural flood disasters to threaten us unchallenged. Our failure of the Flood Mitigation process is significant and is amazingly negatively spectacular. Gilbert White advised us that floods are a function of nature, but, flood damage is allowed by man. We are on a fast track by allowing and accepting extreme disaster, but we apparently don't recognize that fact. It's not yet too late to act responsibly simply because the next flood hasn't yet inundated our city, lives, and homes. We need to protect ALL people, homes, and infrastructure in Boulder.

We can't believe, after seven years of epic failure, that we are achieving our flood mitigation goals when on April 20, 2020, WRAB verified to the community that "The Emperor Has No Money" for flood mitigation. However, we do have considerable funds for other less critical, lower priority, less necessary projects. But, we frequently, and incorrectly, are told we are resilient!!

The above comments may be considered unkind by some city functions, absolutely, they are unkind, they are necessary, they are also Tough Love, and they are true, simply waiting to be recognized.

However, We Must Speak Truth To Power.

Respectfully,

Carl Norby                      norby.cw@gmail.com

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Nick Lenssen <nklmll@hotmail.com>  
**Sent:** Friday, July 17, 2020 11:06 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Re: Update on Charter Amendment Ballot

**External Sender**

Dear City Council,

In following up the below email (to which only your colleague Bob Yates replied), we are still awaiting a formal council response to the (either) ineptitude or nefarious actions of city staff, not least the City Attorney in failing to provide accurate information to petitioners seeking to place a Charter ballot initiative on the 2020 ballot.

I further request that the council:

- Call for the recusal by City Attorney Tom Carr on future matters related to CU South campus given the petitioners' experience
- Deny approval of any annexation agreement should be approved before the voters have had their say
- Provide Boulder residents with the opportunity to **vote** on what they would like to see happen at CU South

Thinking over the longer term, higher education has been undergoing an evolution in the past couple decades due to its high cost. This transformation is likely to become radical given Covid-19. Boulder should not sell its soul to the University of Colorado for a highly questionable future; instead, we should take great caution before signing away all City rights to CU South campus.

Recall that 25 years ago how great a "partner" CU was when it swept in to secretly outbid the City's Open Space program for the (now called) CU South property. CU couldn't be trusted then, and it still can't be trusted today, to do what's best for the City of Boulder.

Respectfully,

Nick Lenssen  
1195 Albion Road  
Boulder, CO 80305

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**From:** Nick Lenssen <[nklmll@hotmail.com](mailto:nklmll@hotmail.com)>  
**Sent:** Thursday, July 9, 2020 9:23 AM  
**To:** Boulder City Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** Fw: Update on Charter Amendment Ballot

Dear City Council,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

My family and I are (only) 25-year residents of Boulder, yet proud of the City we live in. As such, we implore you to respond directly to the below accusations.

The Council's future credibility depends on a full accounting of what happened with these organizations' attempt to proceed with a charter amendment ballot initiative.

Thank you for both your *public* and *personal* responses to this email.

(It seems like your colleague, Bob Yates, is the only Council member who responds to emails, but I imagine you do peruse them occasionally.)

Nick Lenssen  
1195 Albion Road (or Way, depending on which gov't entity you ask or what sign is currently posted)  
80305

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**From:** Save SoBo <[savesobonow@gmail.com](mailto:savesobonow@gmail.com)>  
**Sent:** Thursday, July 9, 2020 8:57 AM  
**To:** SaveSoBo Now <[savesobonow@gmail.com](mailto:savesobonow@gmail.com)>  
**Subject:** Update on Charter Amendment Ballot

Dear Friends, Save South Boulder Members and PLAN-Boulder;

You may have seen the article in the July 8 *Daily Camera*, stating that the charter amendment ballot initiative collaboration between PLAN-Boulder and Save South Boulder regarding use of the CU-South property has been withdrawn. However, the article is misleading. We want you to understand that the collaboration between Save South Boulder and PLAN-Boulder continues. However, our charter amendment petition was derailed by the actions of the City Clerk and the City Attorney, who posted erroneous, misleading and contradictory information on the City's website regarding the procedures for filing ballot initiative petitions. They then used those incorrect procedures to deny us the right to collect signatures. We had followed the procedures as posted and adhered to the stated deadlines, but then were told we'd missed the requisite deadlines and therefore were denied the right to begin collecting signatures. Further, on July 7, all the webpages describing the initiative procedures disappeared from the City's website. We don't know why. These actions by the City Attorney and the City Clerk have greatly confused the ballot initiative procedure, a direct democratic process available by law to all citizens. We are trying to get to the bottom of this obstruction of what should be a straightforward and transparent process. We want to reassure you that Save South Boulder and Plan-Boulder have no intention of ending our fight to protect the South Boulder Creek floodplain against the massive development CU wants to build there. We will continue our fight to limit the use of the property to flood mitigation and open space-related purposes by all lawful means. We believe the

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

best option is a land swap that would move the site for CU's desired new campus elsewhere, freeing the City to use the land in the South Boulder Creek floodplain for flood mitigation, recreation, wildlife habitat and other natural values. Stay tuned!

Marki LeCompte, Save SOBO Co-chair

<http://www.savesouthboulder.com/>

[\*Follow us on Facebook\*](#)

*Learn more at [Boulder Neighborhood Alliance](#)*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: SANDY HUME <sandy80305@aol.com>  
Sent: Friday, July 17, 2020 10:28 AM  
To: Council <council@bouldercolorado.gov>  
Subject: SOBO BALLOT ISSUE

External Sender

Council Members

Denial of access to the 2020 ballot by SOBO Petitioners represents the most serious breach of the ideals of self-government and Citizen Activism that I have ever witnessed since my arrival in Boulder in 1946.

Sandy Hume  
330 S. 38th Street  
Boulder

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Candice Brown <candy.bartholomew@mac.com>

**Sent:** Thursday, July 16, 2020 7:41 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** steven.s.brown@noaa.gov

**Subject:** Petition for the "Citizen's Conditions for the Annexation of CU South"

**External Sender**

To Boulder City Council;

Why did you deny citizens their petition for November ballot? I want to know do that I can tell my 18 year old daughter who will vote for the first time this November. I'd like to tell her why the City of Boulder Council is above the Law. She cares about this because she grew up running in South Boulder. She knows the wildlife and plants here at CU South and is aware of what annexation means for the future of this land and its habitants. She helped us bail our home in Majestic Heights during the devastating 2013 flood. And she, like so many others, knows that not just one neighborhood flooded that year. What can I tell the young 18 year old voters? One finished a marathon last weekend on Saturday and then did a half marathon on Sunday. What can I tell these honest young people who are strong, intelligent and eager to do good to protect to our environment? Why is the council not allowing citizens to circulate the above mentioned petition? Really. What is the truth of the matter?

Sincerely,

Candice Bartholomew Brown  
4535 Darley Ave  
Boulder

\*\*\*\*\*

On June 18, 2020 petitioners submitted a charter amendment petition titled "Citizen's Conditions for the Annexation of CU South" to the City Clerk requesting approval to collect signatures for the 2020 election.

The submission was based on information published in the Colorado Constitution that establishes rules for charter amendment petitions AND based on information published on the City of Boulder's web site at the time. Both of these sources indicated that the deadline for submitting signatures was [Aug. 5, 2020](#). Petitioners acted in good faith and requesting council act according to established and published rules.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>

**Sent:** Tuesday, July 14, 2020 9:22 AM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Allyn Feinberg <feinberga@comcast.net>; Harlin Savage <harlin.savage@gmail.com>; Cindy Carlisle <cacarlisle@msn.com>; Marki LaCompte <margaretlecompte@gmail.com>; Shay Castle <boulderbeatnews@gmail.com>; Sam Lounsberry <slounsberry@prairiemountainmedia.com>; Leora Frankel <leoquill@gmail.com>; johnfrank@coloradosun.com; Maeve Conran <maeve@kgnu.org>

**Subject:** Letter to City Council and Boulder community from CU South petitioners

**External Sender**

Boulder City Council and the Boulder community,

Attached please find a letter from the petitioners for the "Citizen's Conditions for the Annexation of CU South" regarding the City Attorney's arbitrary, capricious, and unconstitutional behavior.

We respectfully request that the City Attorney Thomas Carr be removed from all duties pertaining to city election matters, effective immediately.

Sincerely,

Peter Mayer  
Cynthia A. Carlisle  
Allyn Feinberg  
Margaret LeCompte  
Ann Harlin Savage

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

July 14, 2020

To: Boulder City Council and the Boulder community

From: Petitioners for the "Citizen's Conditions for the Annexation of CU South"

RE: The City Attorney's Arbitrary, Capricious, and Unfair Petition Disaster

Council Members:

On June 16, 2020 you voted to ignore years of expert advice and proceed with expensive and inadequate flood mitigation at the property known as CU South. On June 18, 2020 our group of five petitioners (which includes two former city council members) submitted a charter amendment petition titled "Citizen's Conditions for the Annexation of CU South" to the City Clerk requesting approval as to its form so that we could collect signatures for the 2020 election.

We submitted our petition based on information published in the Colorado Constitution that establishes rules for charter amendment petitions AND based on information published on the City of Boulder's web site at the time. Both of these sources indicated that the deadline for submitting signatures was Aug. 5, 2020 and we acted in good faith that our request would be honored promptly according to established and published rules. As petitioners we realized that we would not have the full 90 days to collect signatures granted in state statute, but with a ready group of 25 volunteers we were ready to try. Unfortunately, we were never even granted the opportunity to collect signatures.

On June 29 we received a letter from Acting City Clerk Pam Davis that stated:

*"Thank you for submitting your charter amendment initiative petition for review. Our comments are as follows:*

- *Please note that initiatives are limited to legislative matters. Much, if not all, of your proposed amendment is administrative in nature and, therefore, inappropriate for the initiative process.*
- *The deadline for submitting initiative petitions was June 5.*

*The petition form is not approved for circulation for the 2020 November ballot. You may submit your initiative for consideration for the 2021 ballot.*

*We would advise that you seek independent legal advice from an attorney admitted to practice in Colorado and competent to advise on election matters."*

We were taken aback by this letter because we had simply requested that our petition be approved for form, a standard procedure. The response from Ms. Davis not only had a completely different due date than the state constitution and the city's own web site, but she also chose to comment on the content of our measure and refused to approve it to form. Our responses and questions were answered not by Ms. Davis, but by City Attorney Thomas Carr who it became apparent was actually the one making the decision, not Ms. Davis.

Mr. Carr ultimately explained in an email dated June 30, "The memo on our website is incorrect." Despite this admitted error and obvious unequal treatment given to other groups actively collecting petitions for charter amendment measures, Mr. Carr refused to change his mind and refused to approve our petition as to form for the 2020 ballot.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Even though the petition process should be easily navigable by competent citizens such as ourselves, we did consult with several attorneys and initially filed an appeal of the City's decision. We were granted a hearing date of July 15, but we ultimately (and with great regret and consternation) decided to drop the appeal because even if we were to prevail there simply will not be enough time to collect the approximately 9,000 signatures by Aug. 5 as required by state statute for the 2020 election.

The City of Boulder Charter (Section 137 – Amendments) states unequivocally that the charter may be amended based on provisions in the Colorado Constitution. There are no exceptions. The City Attorney has acted in an arbitrary and capricious manner granting some citizens rights to collect signatures under special rules while denying the same privilege to others following the same published rules. He has also violated the City Charter and State Constitution. In doing this the City Attorney has cast great confusion over our election process. His behavior and attitude towards the petitioners (as he was violating our constitutional rights) was condescending and purposefully unkind from the outset and his reading of Colorado Law is a disgrace.

City Attorney Thomas Carr has proven that he cannot be trusted to be a fair and independent arbiter of city election processes. He has produced rules that do not conform to the Colorado Constitution and relevant state statutes, and he has shown favoritism towards certain petitions and groups, approving their petitions as to form and putting them before the city council for ballot consideration. His decisions have been arbitrary, capricious, and blatantly unfair.

To rectify this situation, we respectfully request that Mr. Carr be removed from all duties pertaining to city election matters, effective immediately. He has shown that he cannot be trusted to do his job (or guide others) promptly and fairly. This is a failure of great significance for the citizens of Boulder that impacts our constitutionally guaranteed right to petition the government. We firmly believe that Boulder should no longer accept Mr. Carr's authority in these matters.

The City of Boulder should follow the Colorado Constitution and relevant state statutes when it comes to charter amendment petitions. We can and must do much better in 2021.

Sincerely,

Cynthia A. Carlisle  
411 Spruce Street  
Boulder, CO 80302  
[cacarlisle@msn.com](mailto:cacarlisle@msn.com)

Allyn Feinberg  
335 17<sup>th</sup> Street  
Boulder, CO 80302  
[feinberga@comcast.net](mailto:feinberga@comcast.net)

Margaret LeCompte  
290 Pawnee Drive  
Boulder, CO  
[margaret.lecompte@gmail.com](mailto:margaret.lecompte@gmail.com)

Peter Mayer  
1339 Hawthorn Avenue  
Boulder, CO 80304  
[peter.mayer@waterdm.com](mailto:peter.mayer@waterdm.com)

Ann Harlin Savage  
1050 Tantra Park Circle  
Boulder, CO  
[harlin.savage@gmail.com](mailto:harlin.savage@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Wednesday, July 1, 2020 12:29 PM

**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Subject:** 1998: CU to Public - Butt Out; 2020: Rachel Friend & Bob Yates to Public - Butt Out

### **External Sender**

The City of Boulder has a long history of benefitting from the participation and concerns of its many well-educated and informed citizens.

But please listen to the insulting comments made in the first two attached audio clips.

I do have to give Rachel Friend and Robert Yates, two patronizing attorneys on the city council, credit for honesty stating their dislike of public comments.

Apparently they both prefer advice from professional engineering staff and experts, and do not want to "torment" themselves and staff with public scrutiny.

The South Boulder Creek flood mitigation project is rife with examples where the city's professional staff and highly-paid consultants provided false and misleading testimony to the City Council, Planning Board, and Water Resources Advisory Board, resulting in wasted time and money.

Here are two examples:

The first is an audio clip of city Project Engineer Kurt Bauer falsely testifying during a joint City Council/Planning Board hearing that CDOT agreed to the use of its US 36 right-of-way for the location of a several thousand foot long floodwall. After expensive engineering plans were developed, the city realized CDOT would not allow the above-ground structure in its ROW, and relocating the long floodwall on city open space land with threatened and endangered species has become a challenging issue.

The next audio clip is of the city's engineering consultant, Rodney Eisenbraun, testifying in support of a flood mitigation plan referred to as "Variant 2". Variant 2 would have significantly constricted the opening of the US 36 bridge over South Boulder Creek to the point there would be no freeboard to allow floating debris to pass under the bridge.

Eliminating freeboard will cause floating debris to accumulate upstream of the opening and significantly increase the risk of blockage. If the constricted US 36 bridge opening was blocked with debris, South Boulder Creek floodwaters would be diverted into the neighborhoods and the result would be catastrophic. For these reasons, CDOT's bridge and drainage design specifications require freeboard, as does the Mile High Flood District manual.

But the city's engineering expert used a single study, which he falsely testified was ***an analysis of many many structures throughout the world***, to convince the city's Water Resources Advisory Board that blockage was not a problem. Without reading the study, the city's Water Resources Advisory Board bought the story hook, line and sinker.

One would have hoped that in matters of public safety where a consultant recommends a design that violates fundamental common sense engineering standards, that members of the Water Resources Advisory Board would have read the single study used to determine that eliminating freeboard is not a concern.

If they did, they would have learned that the study was not a study of many many structures throughout the world, but of only a single 1998 flood in Wollongong Australia. Furthermore, if the WRAB and city staff asked some obvious questions, they would have learned that all bridges in the study were required

to be constructed with adequate freeboard. The city's highly-paid engineering consultant used a study in which all bridges had freeboard to conclude that freeboard was not needed! This is the type of engineering blunder that results in catastrophes. Fortunately, public input was not prohibited, and Variant 2, which was supported by both Rachel Friend and Robert Yates, was rejected by a majority of the city council. CDOT put the final nail in the coffin of Variant 2 when the agency stated it would not permit a Variant 2 flow restrictor to be located anywhere within the CDOT ROW.



# CU to public: Butt out

Chancellor says feedback at every turn slows down process

By BECKY O'GUIN

Colorado Daily Staff Writer

Saying that too much public input will delay the project, a CU chancellor is balking at the amount of citizen feedback the city wants in the final phase of the South Boulder Creek floodplain master plan study.

In a letter to Scott Tucker, the executive director of the Urban Drainage and Flood Control District, Boulder Campus Chancellor Richard Byyny said that the scope of the study should be primarily left to the partners, which are Boulder, the county, CU and the flood-control district, and their technical consultants.

Negotiations between the city, the county and

CU have yet to yield a final agreement, though the city has agreed to pay \$15,000 for its share of the study, based on certain conditions.

One of those conditions is allowing the public to be involved with all stages of the study, including the study's scope.

Bill DeGroot, with the flood-control district, SEE CHANCELLOR PAGE 2



Chancellor Richard Byyny

## ...CU wants less public input

CHANCELLOR FROM PAGE 1

which is playing the intermediary role in the negotiations, said that public involvement is normal in floodplain studies.

He did say the amount of public involvement that Boulder wants is greater than normal, but that there may be more at stake here.

"Public involvement is not a problem," he said.

Byyny argues in his Feb. 12 letter that public involvement in all phases of the study will "result in an inordinate amount of time, delays, and rapidly diminishing public funds." He also states that the process and results should be "driven by sound flood-engineering objectivity, not from political pressures exerted by individuals who may wish to further other goals outside the scope of this particular flood

study and who may elect to use the study process to accomplish those goals."

Paul Tabolt, vice chancellor for administration, confirmed that the university is interested only in having technical experts define the scope of the study. However, he did say that if the city wants to involve the public on its side it is more than welcome to do so.

Acting City Manager David Rhodes said the city will solicit public comment regardless of what CU does. He said the input can be helpful to technical experts who may overlook some problems.

"I see no downsides to a public process," Rhodes said.

Boulder resident Ben Binder said it is typical of the university to want to conduct its business in secret, but objected to secrecy in the floodplain study because of the effect of properties up- and downstream from the CU Flatirons property.

"It is a public decision, and they should be involved in making the decision," Binder said. He said if the scope of the study is restricted in the beginning, it will affect the results of the study, too.

Meanwhile, CU continues to build up the berm, an earthen wall used to help control floodwaters, on the Flatiron property despite objections from the city. The city and residents have opposed work on the berm because they say CU cannot be going into the study objectively when it is spending money beforehand on strengthening a berm that could affect the floodplain.

"I'm disappointed that we seem to be building something when we don't know whether it is a solution or a problem," Rhodes said.

After months of negotiations to fund and begin the floodplain study, the project has not moved forward, and no one involved in it seemed sure of when progress would be made.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
 (303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Nicholas Fiore <nick@flowerarchitecture.com>  
**Sent:** Tuesday, June 30, 2020 10:56 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Annexation and PLAN

**External Sender**

Hello Council

Good on all of you for selecting a flood control plan for CU South. A 100 yr flood is the event we design virtually all structures to withstand in Boulder and beyond, and it is a wise choice. People will be safer, sooner. Thank you.

PLAN Boulder has had undue influence in this town and county for far too long. We can thank them for some of our open spaces. We can also condemn them for the past two decades of shortsighted and close-minded anti-growth and anti-density fear mongering. To them I say "next!". We need open minds, open hearts, open spaces, open zoning, open housing. Five decades of the same old song from PLAN Boulder. Change the station.

Peace  
Nick

---

Nicholas Fiore  
Studio 720 515 7749  
Mobile 434 531 6837  
[nick@flowerarchitecture.com](mailto:nick@flowerarchitecture.com)

**FLOWER**  
2304 Pine Street  
Boulder, CO 80302  
[flowerarchitecture.com](http://flowerarchitecture.com)  
@flowerarchitecture

Typos courtesy of iPhone X ™

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

**From:** Barbara Hanst <bhanst@gmail.com>  
**Sent:** Saturday, June 27, 2020 8:26 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Vote on 6/16

**External Sender**

Dear Council members,

Apologies for such a tardy THANK YOU for your vote for Variant 1/100 yr. flood design. I fell asleep while watching the mtg (sorry!) but awoke the next morning ELATED that you voted to move this plan forward.....and unanimously!!! Thank you soooooo much!! What a relief. Now for the next steps.

Gratefully,

--

**Barbara Hanst**

"Another world is not only possible, she is on her way." Arundhati Roy

Barbara Hanst  
350 Ponca Place, Apt. 122  
Boulder, CO 80303  
720-562-8090  
720-667-8321 (cell)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Philip Schreiber <philipschreiber@yahoo.com>  
**Sent:** Sunday, June 21, 2020 8:37 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood mitigation

**External Sender**

Hello City Council,

I am writing to urge each of you to vote in favor of proceedings with the variant 1/100 year flood plan, as long as it does not further interfere with the whitewater run in Boulder Canyon (above Ebin G. Fine Park). CDot road construction has already done enough damage to the natural state of this Class IV run.

Thanks and Regards,

Philip Schreiber  
1950 King Ave  
Boulder, CO 80302

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Bert's Comcast Email <gnw1942@comcast.net>

**Sent:** Friday, June 19, 2020 10:57 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Todays' Camera column about floodplain south of town

**External Sender**

I hope all of you read today's Guest Commentary in the Daily Camera about the south floodplain, written Tim Hogan, botanist, conservationist, CU faculty member, and concerned citizen. I know Tim from having also worked at CU – at the museum of Natural History – and know him to be far-sighted, knowledgeable, and a person who deeply cares about the future of our city, its wetlands and their purpose in absorbing water during a flood. From his years of living in Boulder and his work as a botanist, Tom knows the value of preserving this south Boulder site for the safety of Boulder's citizens, as well as providing habitat for wildlife and plants. No other place close to Boulder, other than Sawhill Ponds, provides such a habitat that absorbs excess water during a flood.

Tim writes that "In 1996, CU purchased the property *under veiled circumstances* (my italics), and enlarged the levees – for which it was reprimanded by Boulder County."

You may know Spence Havlick, an elderly Boulder citizen who writes a column occasionally for the Camera and who was on the city council many years ago. He also wrote, within the last six months, a column about his (what I consider) reasonable objections to CU's building on this property

I truly think it behooves you, as a new City Council, to again research this 1996 possibly questionable purchase of this property (more than anything else), what an inestimable loss of its wetlands would mean to this area, the danger it would pose, particularly to south Boulder, if/when we experience another 100-year flood.

I plead with you, before you allow any building on it to go forward, to further research this project. I know there have already been many studies done on the feasibility of developing this land, but I think the you as a new council should look into it with new eyes, integrity, and with open minds.

Sincerely,

Hope Steffens-Nett, 303-494-8335, [hope.steff47@gmail.com](mailto:hope.steff47@gmail.com)

150 So. 34<sup>th</sup> St. (Martin Acres), Boulder 80305 (the above email is my husband's email.)

Sent from [Mail](#) for Windows 10

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Michael Chapman <michaeljchapman@gmail.com>

Sent: Wednesday, June 17, 2020 5:22 PM

To: Council <council@bouldercolorado.gov>

Subject: South Boulder Flood Mitigation

External Sender

I am really disappointed that Boulder has not moved on this issue. Frasier Meadows is a significant part of our Boulder Community, but the city government seems to have written it off. Please take action on this. And no, I do not live in Frasier Meadows.

Michael Chapman

Mobile: 720-272-8329

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Krista R <soadchika1@gmail.com>

**Sent:** Wednesday, June 17, 2020 7:03 AM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; CUBoardofRegents@cu.edu; frances.draper@colorado.edu; Derek Silva <Derek.Silva@Colorado.EDU>; meadowlarkopenspace@gmail.com

**Subject:** Save Save South Boukdr Creek

**External Sender**

Hello:

I request that you honor the federal and state protections of one of Colorado's most sacred wetlands - the South Boulder Creek State Natural Area.

Kind regards  
Krista Rugar

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: John A Jenkins <jenkinscapu@verizon.net>  
Sent: Monday, June 15, 2020 4:07 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Flood control

External Sender

I write because of a report that a former City Council member recently made remarks concerning the flood control in South Boulder being urged by residents of the Frasier Meadows (FM) retirement community, to the effect that 'no one lives on the ground floor there anyway, so why are they so afraid of flooding, age perhaps?'. One wonders if the speaker would care to live in a residence with a flooded ground floor.

I hope this report is untrue, or if is, that the City Council will disregard it entirely. First, there are residents on ground floors. Second, flooding in any part of a building is dangerous, ruins electrical and other building systems, promotes mold, destroys cars and bikes, and can easily render the entire building uninhabitable-- as the Council should well aware from the flood of 2013. Third, FM residents are rightly concerned about all of South Boulder, not merely their own residences. Fourth, such remarks are a blatant example of the worst sort of age-ism. It is no more acceptable to dismiss the concerns of older people than it is dismiss the concerns of the disabled, the poor, minorities or LGBT persons, all of whom Boulder purports to care about. I hope the Council does not harbor such an attitude.

I urge you to adopt Variant 1/100 without delay.

Nancy Stiles

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Brian Highland <brian.highland@cleanenergyaction.org>

Sent: Tuesday, June 16, 2020 7:44 PM

To: Council <council@bouldercolorado.gov>

Subject: Please protect the South Boulder Floodplain

External Sender

Dear Council,

More and more information is being presented that building in the South Boulder Floodplain is a Bad Idea and that city-owned reserve land is a viable alternative. Thank goodness we have the opportunity to avoid such a disastrous plan and save resources, save money, save critical habitat, and save CU from itself and its narrow focus on convenience and money already spent. I feel so much better when we have the foresight to divert a bad idea before it happens rather than scramble to fix a crisis we didn't do anything to prevent.

Thank you,

Brian Highland  
South Boulder, 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Graham Prather <prather.graham@gmail.com>  
**Sent:** Tuesday, June 16, 2020 6:37 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Opposition to the development of CU South

**External Sender**

I am opposed to the development of the land known as CU South by CU Boulder for housing. As a southeast Boulder resident, my family uses this sensitive wetland area for recreational purposes several times a week, primarily due to its terrain, wildlife, and open access to dogs. We have also lived through the monstrosity of CU developing the Williams Village housing, with it's giant, view blocking boondoggle of buildings. Please don't make us live through this again. CU is large enough, and dominates the city, good and bad. I do not see a need for another housing complex that will impact the south Boulder Creek open space, when a study from CU shows that Williams Village students are much less likely to graduate from CU. If we can't keep students engaged with what already exists, I see no need for CU to develop further housing.

Graham Prather  
910 Waite Dr, Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Crystal Gray <graycrystal@comcast.net>  
**Sent:** Tuesday, June 16, 2020 4:28 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** 3 short ideas re CU South

**External Sender**

- 1). Provide state of the art warning system for the West Valley Overflow residents of S. Boulder Creek - including water sensing devices in basements- paid for by storm water fees. Flood detention won't be funded and build for a 1/2 decade.
- 2) Respond to the OSBT and give them the information they have requested so they can vote on disposal.
- 3). Inform your selves about the details of past annexation agreements- FourMile Creek, Northfield Commons etc. If you leave out requirements for CU as part of future development the burden of paying will be shifted to the utility rate payers - and landlords will shift that to the 51% of renters - many are low income residents. Think of equity, social justice and who will pay. Read the City web page on Race and Equity <https://bouldercolorado.gov/racial-equity>

Thank you and good luck tonight.  
Crystal Gray  
303-906-5509

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Betina Mattesen <bmattesen26@gmail.com>

**Sent:** Tuesday, June 16, 2020 4:25 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** South Boulder Creek Area

**External Sender**

I don't get why we are potentially dam building in this beloved natural area of wetlands and protected species. Big green Boulder - what?

Please look for other options so we can walk our talk. It would be so uplifting, and just what we need right now, if you could rally and say "let's find another way".

Thank you.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bill KNOX <BILNOX@msn.com>  
**Sent:** Tuesday, June 16, 2020 4:12 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Variant 1/100 year plan

**External Sender**

I urge the council to move forward with the subject plan to provide flood protection to South Boulder residents! Sincerely, Bill Knox, living at 350 Ponca Place Boulder 80303 at Frasier Meadows retirement community. Thank you.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mike@chiropoloslaw.com>  
**Sent:** Tuesday, June 16, 2020 4:04 PM  
**To:** Council <council@bouldercolorado.gov>; Taddeucci, Joe <Taddeucci@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** CU South - Brief notes on Joe's responses to Mark

**External Sender**

Council:

Regarding Joe's responses to items 7) and 8) as pasted below:

First, for 7) -- upstream mitigation. 100-year protection is a highly risky strategy, which is why Council previously committed to 500-year floodplain mitigation. As Joe's response brings out, upstream mitigation would be expensive and uncertain.

A better approach is to forego development on the 308-acre CU South site, so that additional mitigation and detention can be considered on that location if determined necessary in the future. That will also allow us to take full advantage of natural ecosystem processes that absorb water and lessen risk downstream from flooding events. Resilience, adaptation, caution and intelligent land use planning counsel keeping our options open in the undeveloped floodplain. Let's listen to experts dating back to Olmstead and including former WRAB member Prof. Liz Payton.

Second, on 8) - timing currently projects bidding "at the end of 2023". The history of the project, now almost 20 years into planning, is that this might be optimistic. In any case, it underlines the urgency of moving forward with an urban services extension assessment for City lands in the Planning Reserve. We have three years to assess annexation. If expedited, one year might suffice. That will allow for informed decisions.

It makes no sense to proceed with annexation without taking a hard look at the reserve. That starts with the services study. This Council has the ability to take the path of informed decision-making consistent with the BVCP, climate science, our climate commitments, OSMP vision and community support. Let's get that done.

If further study establishes that the reserve is not a viable option, that will help unite the community around a responsible approach at CU South. We will have performed our due diligence consistent with the BVCP Guiding Principles.

The extra costs of developing at CU South would take money away from social services and other programs that are more important than ever for our most vulnerable and at-risk communities. Thousands of residents are out of work, without health insurance and struggling to make rent payments or afford food and other bills. With budgets being cut to the bone for all departments and programs, now is not the time to commit to tens of millions of dollars in discretionary spending. It will take years to recover from the pandemic. Focusing on core services and essential programs is a must at this unprecedented time.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

\$10 million is a lot of money. \$50 million or more is an enormous amount. Let's make wise budget decisions informed by equity and social justice as well as intelligent land use planning and our commitment to environmental protection and climate action.

Mike

###

From Joe's Response:

7) Can 100-year protection be coupled with any other, smaller upstream solutions to enhance and leverage the degree of protection provided by selecting the 100-year alternative? If so, what might those be, what would they cost, and what would be the extent of the additional protection provided?

*Additional upstream storage could be provided for supplemental protection, but in order to function would require significant additional infrastructure and cost (generally similar in scale to variant 1 or past Variant 2 designs), additional property acquisition, and additional environmental impacts beyond what is proposed for Variant 1/100. The additional level of flood protection possible would need to be determined, but the analysis would not likely result in a feasible combined variant 1/upstream solution.*

8) Whichever alternative we select, what is the timeline for producing biddable documents, so that we can understand the actual cost of the project, not the current guesstimates?

*The current schedule estimates bidding at the end of 2023.*

Mike Chiropolos  
Attorney & Counselor, Chiropolos Law  
3325 Martin Drive - Boulder CO 80305  
[mike@chiropoloslaw.com](mailto:mike@chiropoloslaw.com)  
303-956-0595

"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

*Please contact sender immediately if you may have received this email in error, because this email may contain confidential or privileged information*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Terri Walters <terri\_walters@q.com>  
**Sent:** Tuesday, June 16, 2020 2:42 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Re: Flood photos to accompany public comments tonight on

**External Sender**

Apologies - the previous e-mail didn't include the attachment. Here it is.

---

**From:** "Terri Walters" <[terri\\_walters@q.com](mailto:terri_walters@q.com)>  
**To:** "council" <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Sent:** Tuesday, June 16, 2020 2:21:38 PM  
**Subject:** Flood photos to accompany public comments tonight on

Dear council members:

I look forward to speaking to you tonight in support of approval of Variant I on the South Boulder Creek Flood Plain mitigation. I have attached some photos from my home from the September 2013 floods since visuals cannot be shared during the meeting.

Thank you,  
Anne "Terri" Walters  
46 Qualla Ct  
Boulder, CO 80303

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

Flood Impact Sep 2013  
46 Qualla Drive, Boulder, CO 80303

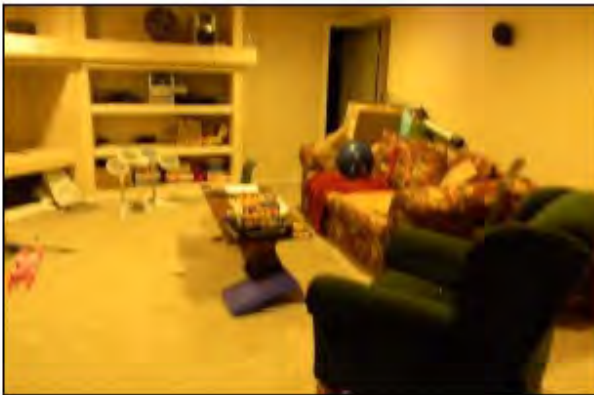
Bedroom (Before)



Bedroom (After)



Family Room (Before)



Family Room (After)



Clean Up



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Terri Walters <terri\_walters@q.com>  
**Sent:** Tuesday, June 16, 2020 2:22 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood photos to accompany public comments tonight on

**External Sender**

Dear council members:

I look forward to speaking to you tonight in support of approval of Variant I on the South Boulder Creek Flood Plain mitigation. I have attached some photos from my home from the September 2013 floods since visuals cannot be shared during the meeting.

Thank you,  
Anne "Terri" Walters  
46 Qualla Ct  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Angela <angelica1951@earthlink.net>

**Sent:** Tuesday, June 16, 2020 2:09 PM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; CUBoardofRegents@cu.edu; frances.draper@colorado.edu; Derek Silva <Derek.Silva@Colorado.EDU>; meadowlarkopenspace@gmail.com

**Subject:** Save MeadowLark OpenSpace

**External Sender**

Dear Authorities,

Just a quick note asking you to vote down the destruction of Meadow Lark Open Space; and

please preserve the area for our precious wildlife and for human sanity. Open Space and nature are greatly needed for social distancing, fresh air and to enhance our health.

Thanks for Your NO Vote!

Angela Green

Boulder 80301

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Rebekah Dumouchelle <rebekahrld@gmail.com>  
**Sent:** Tuesday, June 16, 2020 2:02 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Move Forward on Flood Mitigations for CU South

**External Sender**

Dear Council,

Thank you in advance for prioritizing CU Boulder South flood mitigation plans.

**The 100-year flood mitigation plan (v1) is the best option** with the least impact to the environment while offering flood protections sooner to our South Boulder neighbors. The continued delays by some members of the community are putting residents in the 100 year floodplain at continued risk. The city has spent years studying and re-studying all of the possible options.

The best time to protect our neighbors would have been before the 2013 floods, the second best time is now.

Please support the 100 year plan.

Thank you,  
Rebekah Dumouchelle  
80301

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mike@chiropouloslaw.com>  
**Sent:** Tuesday, June 16, 2020 1:51 PM  
**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Subject:** CU South Comment

**External Sender**

Dear Council,

Before proceeding with uninformed decisions to annex CU South based on an annexation petition that would cost tens of millions of dollars to develop an unsuitable and inappropriate location, the City needs to explore whether city-owned land in the Planning Reserve is a potential alternative. That requires expediting an urban services extension assessment for the reserve.

On top of \$25-50 million in direct costs to the City to allow CU to develop at CU South on its terms, CU's annexation proposal would make taxpayers liable for any unforeseen costs or damages resulting from CU development in the floodplain, notwithstanding known risks. That should be a non-starter. Before making irreversible decisions, we need to collect enough information to make an informed cost-benefit comparison between a CU South and North Campus.

The well-founded concerns raised by Councilperson Wallach need to be considered. Mayor Weaver's remarks at a recent meeting disposed of the canard that the reserve is too far from Main Campus to work. PLAN Boulder and others note that the reserve is out of the floodplain/flood risk area, adjacent to the 28<sup>th</sup> Street corridor, more suitable for development ("appropriate" per the BVCP), and only 1 mile further than CU South from Main Campus.

As previously explained, the reserve can meet all four of the reasonable questions raised by CU: it is proximate and comparable (it actually has many advantages vis a vis CU South), and it will be developable and annexable if recommended for an exchange after a City-led public planning process under the BVCP.

**The time to act is now.**

**1. The Packet is wrong about the lack of options to annexing CU South under the BVCP.**

According to the packet:

A portion of the land needed for flood mitigation is owned by the university. The land needed for flood mitigation is only available if and when the entire CU South property is annexed. There are no options to proceed with the flood mitigation dam without annexing CU South according to the Boulder Valley Comprehensive Plan [guiding principles](#) associated with the project.

Packet at 302.

BVCP Guiding Principle 6 specifically provides for a land exchange and encourages the City and County to explore alternatives to "CU South".

CU's most recent position on North Campus states has expressed concern that land proposed for a swap be annexed at the same time CU conveys CU South land to the city for flood control. Flood control is still a few years out – so the City has ample time to analyze city-owned lands at the reserve for annexation – if it acts now.

**CU South Annexation Application (LUR2019-00010)**  
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**Council must prioritize an urban services extension study to set the annexation process in motion.**

**2. The Packet is incorrect that City Council decided that an exchange for city-owned lands in the reserve is not a viable alternative.**

According to the packet:

City Council had an initial discussion about a potential "land swap" during its Feb. 25, 2020 Study Session. That discussion focused on a large area known as "Area III – Planning Reserve", which is about 500 acres of land in North Boulder on the north side of US36 (area around and including Atlas Flooring and the Gateway Park Fun Center). Although council recognized that the Planning Reserve concept might have potential when looked at separate from other factors, when considered alongside impacts to the flood mitigation timeline, the university's interests, and impacts to other city priorities, the idea seemed less of a viable option. Specifically, the university indicated that they are unable to realistically consider the Planning Reserve as a potential alternative without the land first becoming eligible for annexation (which could take several years). The Planning Reserve was not deemed a realistic alternative because of related delays to the flood mitigation process and the numerous unknown factors in the review process for the Planning Reserve.

Packet at 296.

First, City Council made no decision on the Planning Reserve. In fact, the February 25, 2020 meeting was a study session so no decision could have legally been made.

The Council has not formally discussed or voted on the potential suitability of the reserve for a land swap.

Second, the response omits the fact that the City owns approximately 235 acres at the reserve. This means a value to value land swap at no cost to the City or taxpayers is possible.

Third, it is true that City Council has failed to expedite an "urban services assessment" that would be the first step towards possible annexation of a portion of the reserve. That assessment needs to be prioritized and expedited. It is not anticipated that any significant hurdles to extending urban services to the reserve will be identified. We do not know until we conduct the study.

Fourth, eligibility for annexation can be expedited by Council. Now is the time to collect information needed for informed decision-making on whether a North Campus makes more sense than CU South. As of now, the Council is proceeding on a land use decision of enormous significance without assessing viable alternatives.

If eligible for annexation, CU can and will fully assess the reserve for a North Campus. Let's work with CU instead of at cross-purposes with citizens, neighborhoods and the University. Because a North Campus at the reserve is a better scenario for CU and future residents of CU housing, a land exchange is a win-win for both parties.

**3. PLAN Boulder and scores of individual citizens have recently joined Save South Boulder's request to assess the reserve – consistent with BVCP Guiding Principles.**

PLAN Boulder's position statement argues that "CU and the City should aggressively pursue a trade of CU South land for Area 3 property in the Planning Reserve":

Area 3 property in the Planning Reserve would be out of floodplain/flood risk area and adjacent to 28th Street corridor making it more suitable for development. The site is only 1 mile further

**CU South Annexation Application (LUR2019-00010)**  
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than CU South from Main Campus and the City must decide if it is worth making a trade for this important piece of land reserved for the future needs of the City.

See <https://planboulder.org/uncategorized/plan-boulder-position-on-cu-south/> .

The individual comments on CU South from the City webpage includes 78 references to an exchange at the reserve, from approximately 50 individual commenters. Most of these comments were informed, personalized, articulate and intelligent. These examples are representative of scores of citizen comments supporting for a land exchange consistent with Guiding Principle No. 6 of the CU South section in the updated BVCP:

- “Can the Planning Reserve (north of Jay Road and east of 36) be a viable alternative for CU's long term wish list? - In a climate change world, this Council and community understand that 500-year flood planning needs to be non-negotiable.” – Kathy Kramer, Secretary South Creek Seven Homeowners Association
- “I am in favor of a land swap between the City of Boulder and CU as the best solution to this problem. The Planning Reserve would be the obvious choice for all of the development that CU plans, and the CU South campus could become what it naturally is: a flood plain and detention pond for 500yr flooding runoff. The City would be free to build the dam that would best suit this property while protecting wetlands, endangered species, wildlife and current Open Space. \*\*\* The time for this land swap to be negotiated is at hand so that flood mitigation can proceed without CU’s intervention.” -- Lyra Mayfield
- “As a community member living in south Boulder, I believe the Boulder community at large supports exchanging the CU-South property for city-owned land in the Planning Reserve \*\*\*. Doing so would provide CU with sufficient land for the housing it says it needs and, as well, academic buildings. It also protects the environment and makes flood mitigation possible by eliminating CU’s ill-advised plans to construct 1250 residential units, 8 academic buildings, parking lots, playing fields, athletic facilities and other infrastructure on its mined-out quarry pit with a high water table in the middle of a floodplain on unstable and slumping soil--and in an already overly-congested part of Boulder. \*\*\* It could be a win-win for all. \*\*\* -- Anne Gallagher-West
- I am a huge supporter of the land swap proposal where the City would swap land within Boulder's Planning Reserve with the CU South property. This would meet the needs of the University without having an irreversible impact on beautiful open spaces and the natural flood plain that exists at CU South. It also allows for better solutions on the flood mitigation than were originally proposed a few years ago. Thank you for your time and consideration. -- Hilary Martin Boulder, CO 80305
- [I]f there is a viable alternative that can meet CU’s needs at a location that doesn’t undermine climate change adaptation efforts and unnecessarily impinge on vulnerable wetlands and open space, then there seems to be a moral imperative which the City should readily

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embrace. Given CU's desire to be seen as a leader in the environmental/ climate arenas, one would hope that they would also embrace the planning reserve as an alternative location — or at least be receptive to persuasion by the City. Thank you for your efforts on our behalf.  
Sincerely, Steve Tuber

- “As a daily visitor to the CU South property on Table Mesa Drive, I cherish the value that 300 acres of open space has for the community. To have this vast wetlands with all of its flora and fauna within the city limits is a precious resource that will provide immense pleasure for generations of Boulderites to come. The land in the Boulder Planning Reserve north of Jay Rd. is a much better alternative for the university to develop. Although stakeholders in this part of the city will doubtless have objections to development of open space and the resultant traffic implications, the Planning Reserve does not have the complex wetlands issues that have plagued CU in developing this property for the past 2 decades. I appreciate your consideration of this issue, John Joseph -- John Joseph Phoenix Remodeling.

These comments are representative of an outpouring of community support for pursuing a land exchange with city-owned lands at the reserve in 2020 – *before* the fiscal challenges posed by the pandemic added to the rationale.

The time to act to allow informed decision-making based on a comprehensive cost-benefit and impacts assessment is now. Now is *not* the time to blithely ignore the BVCP.

**4. Pursuing alternatives on higher, dryer ground rather than compromising resiliency, adaptation and ecosystem health in the South Boulder Creek floodplain is required by the City's climate plans and commitments.**

Developing the floodplain is contrary to Boulder's Climate Plan and Climate Commitment. We need to integrate climate policies into land use decision making. The discussion starts with climate science predicting more frequent and more severe extreme weather events such as floods, which we are already seeing.

Boulder's climate commitment provides (underlining added throughout below):

For our community, climate action is about resilience and transformation: we need to adapt to the climate changes that are already in motion, as well as reduce the emissions-heavy activities that drive future climate change. We face a great challenge but also a great opportunity to make Boulder better-- to create a healthier, safer and more prosperous community.

Our climate action priorities include:

Protecting and sustaining wildland ecosystems is essential to address the city's emission reduction objectives and its climate adaptation and resilience strategy. In many ways, these strategies are closely integrated. To maintain the climate stabilizing services provided by wildland ecosystems, the city will need to manage their adaptation to the changing climatic conditions already underway, particularly species conservation. To this end, it will be necessary to convene a multidisciplinary team that includes hydrologists, conservation planners, geographers and biologists. Ongoing strategies should include:

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- Incorporating climate change into all levels of planning. In particular, invest in scenario planning, focusing on novel future conditions so that recommendations for land management reflect the best available and most current science and potential range of impacts.
- Manage landscapes to support ecosystem transitions. [. . .]

See [https://www-static.bouldercolorado.gov/docs/City\\_of\\_Boulder\\_Climate\\_Commitment\\_5.9.2017-1-201705091634.pdf?\\_ga=2.54204328.1437700290.1592243594-596527266.1565375465](https://www-static.bouldercolorado.gov/docs/City_of_Boulder_Climate_Commitment_5.9.2017-1-201705091634.pdf?_ga=2.54204328.1437700290.1592243594-596527266.1565375465)

For the CU South Project, none of this has been done. That must be rectified. The packet (at 205) establishes that Option 1-100 has the “least flood protection” and is the “least adaptable” for climate change.

For Wildland Ecosystems: “In 2050, the city will continue to be surrounded by vibrant, diverse natural ecosystems. The city and a broad consortium of partners are engaged in stewardship and restoration activities that enhance the resilience of these systems, enabling them to continue to thrive and provide the wide range of climate buffering services the community enjoys.”

That looks great on the screen, but City Council is poised to ensure that South Boulder neighborhoods and the gateway to our city are surrounded by massive new development on the scale and density of Williams Village and East Campus. This is because the Council is failing to pursue a land swap that would protect and expand the vital wildland ecosystem adjacent to the State Natural Area and OSMP lands in the South Boulder Creek corridor between 93 and Baseline Road. Riparian areas are the beating heart of biodiversity and healthy, diverse, sustainable, resilient ecosystems.

Under “Resilient Ecosystems Supporting the Climate” the Climate Plan commits to “reducing the impact of large rainfall events.” Restoring the natural floodplain and fostering its ability to soak up and detain floodwaters is the path to resilience.

Boulder’s “resiliency” page specifically cites the 2013 flood as the type of “shock” we need to prepare for. But absent from “CU South” planning to date is any acknowledgement that CU’s annexation plan will compromise resiliency and adaptation at the expense of our climate goals. Instead of planning for larger floods, we are hoping a 500-year flood doesn’t happen. It will. The question is when, not if.

Resilience is the ability of a community to prepare for and respond effectively to shocks and stressors. The shocks will come on suddenly, like the 2013 flood, wildfires, violence or illnesses. The stressors take their toll over time, such as economic hardship, social inequality, or the declining health of a community and its members. Resilient communities prepare for, survive, adapt and learn to thrive under new conditions.

Being able to adeptly respond to disturbances and changes (e.g., *Resilience*) is a key aspect of achieving long term social, economic and environmental *Sustainability*.

*Let's oversimplify this:*

*RESILIENCE: The acknowledgement that the future isn't static.*

*SUSTAINABILITY: Doing things in the present with an eye toward the future.*

[https://www-static.bouldercolorado.gov/docs/COB\\_Resilience\\_Progress\\_Report-1-201712081130.pdf](https://www-static.bouldercolorado.gov/docs/COB_Resilience_Progress_Report-1-201712081130.pdf)

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Resiliency means new growth should be directed to high and dry lands with stable soils that are suitable for development, and away from 500-year floodplains, riparian ecosystems, and complex groundwater hydrology that raises a host of concerns.

The City's Flood Management website declares that "The City of Boulder has the highest risk of flash flooding in the state of Colorado." That further supports developing appropriate locations.

Ecosystem values and potential for a greater South Boulder Creek Open Space are impressive. According to Dan Damico of OSMP (recently posted video), we have wetlands that are some of the highest quality wetlands that we have in the system, including wet meadows, willow shrublands, freshwater marshes, and riparian wetlands along South Boulder Creek; and xeric tallgrass prairie which is a globally rare plant community, and most of these systems are supported by alluvial groundwater as well as flood irrigation. Prebles occurs throughout the floodplain and surveys have found very high densities of Prebles along the creek and ditches. The wet meadows contain some of the highest populations of Ute Ladies Tresses in the region.

Under active restoration, CU South lands would have enormous ecosystem values that complement recreational and quality of life values which support a healthy, vibrant community and further the principles of resiliency, adaptation and sustainability. The woodlands, springs, waterways, and marshes in the western section of the landscape slated for development are significant ecological features warranting protection.

"CU South" planning to date has ignored the science and commitments in our climate charters, as well as our planning charter, the BVCP. That needs to change. Compliance and consistency between land use decisions and our climate commitment requires leadership from Council.

**5. The extra costs of developing at "CU South" were always unjustified and should be non-starters today given the City's current fiscal crisis.**

Initial projections for unique and extraordinary costs associated with annexation to develop CU South start at \$40 million: \$10 million for fill; \$15 million for infrastructure impacts to CU buildings and tennis courts; and \$15 million for new access and other infrastructure allowing site development. Actual costs are likely to be far higher.

There are questions about whether these costs would be paid from Utilities assessments or general funds. The packet provides that "the future funding source for project components such as fill will be the subject of further evaluation and negotiation as the project proceeds."

According to the Flood Master Plan, flood management fees appear to be intended "to cover operations, maintenance and replacement costs of the existing system and construction of new storm drainage and flood management facilities." [https://www-static.bouldercolorado.gov/docs/cfs-master-plan-1-201310020929.pdf?\\_ga=2.8008242.1437700290.1592243594-596527266.1565375465](https://www-static.bouldercolorado.gov/docs/cfs-master-plan-1-201310020929.pdf?_ga=2.8008242.1437700290.1592243594-596527266.1565375465)

Earth-fill and access roads to support development are unrelated to flood mitigation or flood management systems. The budget section of the Flood Master Plan supports that conclusion. Development expenses to support growth are not contemplated. At a minimum, serious questions are raised about using water bill increases to pave the way for CU's planned development.

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Regardless of whether the City seeks to fund the project through utilities assessments on water bills or general funds, money spent to allow CU to develop is money not available for other purposes – whether that means urgent flood mitigation work in other drainages or city services.

Applicable policies from the Flood Plan include supporting “the preservation or reclamation of the creek corridors for natural ecosystems, wildlife habitat and \*\*\* for recreation or trails” (POLICY 2.27); preservation of natural ecosystems and open space (POLICY 3.10); “Incorporating Natural Ecosystems into Planning” including watersheds (POLICY 4.01); “Maintain and restore Ecological Processes (POLICY 4.08); and Wetlands Protection by developing programs to “protect and enhance wetlands” (4.09). Plan at 2-2. These are currently being ignored.

Flood control costs are necessary to public safety and have overwhelming support. Spending \$40 million or more to develop an inappropriate site – and indemnifying CU against future damages -- without assessing the suitability of alternative sites or conducting a cost-benefit comparison with the reserve is irresponsible.

**Conclusion**

In ten words or less, assessing the suitability of the reserve is supported by dollars and sense, science and math, planning and logic.

The City needs to take a hard look at extending urban services to the reserve to determine whether annexation and a land swap can save \$40 million at the same time it harvests the other major benefits of protecting the CU South site.

Thank you to Council and Staff for your hard work and consideration. Let’s get this right by gathering the information needed to reach informed decisions with community-wide support.

Sincerely,

Mike

Mike Chiropolos  
Attorney & Counselor, Chiropolos Law  
3325 Martin Drive - Boulder CO 80305  
[mike@chiropoloslaw.com](mailto:mike@chiropoloslaw.com)  
303-956-0595

"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

*Please contact sender immediately if you may have received this email in error, because this email may contain confidential or privileged information*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Joan Cardone <joanie\_2753@yahoo.com>

Sent: Tuesday, June 16, 2020 1:03 PM

To: Council <council@bouldercolorado.gov>

Subject: CU South development and 5691 south Boulder Rd. Concept plan

External Sender

Dear Council. I want to address two issues on your agenda tonight.

1. 5691 south Boulder Rd development - this property owned by joe and karri kent is part of the original hogan pancost property and thus faces the very same issues that led to a more than 25 year fight to prevent development on the hogan pancost property. In fact they are closer to the wetlands with so many environmental issues, groundwater issues and flooding issues and will have grave impact on Greenbelt Meadows to the south. I can not believe that the planning board is pushing for development here after the long and arduous discussion over the hogan pancost land. Please allow the kents to be annexed so that they can obtain water and sewer like the garter road folks (after the 2013 flood) and leave this pristine land alone. And leave the surround communities alone so maybe we can live in peace without the constant threat of development that will cause real flooding in our neighborhoods.

2. I read with amazement at the cost that the city must incur at tax payers expense to assist CU in developing the CU South property. Why are we on the hook for so much expense. Because CU is gifting us land we the taxpayers must pay for infill, put up a dam (which is old technology and will be a hideous entry point to the city) and pay for water and sewer not to mention the traffic impacts to table mesa drive. Stop this now and walk away. It is not worth it. We should find another way to protect the downstream communities.

Thank you for listening.....Joanie Cardone  
84 Huron Ct

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Alan Taylor <outlook\_3A40E91F404943DB@outlook.com>  
**Sent:** Tuesday, June 16, 2020 12:56 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Brautigam, Jane <BrautigamJ@bouldercolorado.gov>  
**Subject:** South Boulder Creek at CU South and US 36 Flood Mitigation

**External Sender**

What is the fundamental purpose of the South Boulder Creek flood mitigation plan at US 36? As the former City of Boulder floodplain administrator involved in this issue in 1996, the primary objective was to eliminate west valley flooding where the flood risk was greatest.

Why was the west valley at risk? The alignment of US 36 diverts flood waters away from the creek and into the west valley. An ample bridge was constructed over the creek to carry all flooding but the bridge is not at the low point of the valley because of the highway alignment. CDOT is responsible for the highway and its impacts yet they are not a party to the flood solution. US 36 improvements in the floodway/conveyance zone have been approved and facilitated by the City as recently as three years ago without any conditions to address flood mitigation.

Why isn't CDOT accountable? Without US 36 as is South Boulder Creek would be a wide-braided shallow floodplain over natural lands without the need for a protection dam. A different alignment of the highway could have directed flooding to the bridge and creek, not away. CDOT responsibility for addressing the west valley flood risk created for today could offer effective, more environmental and far less costly options for eliminating west valley flooding than a massive structural detention dam. Diversion of flood waters alone could greatly reduce the risk.

Keep in mind that a detention dam to protect the west valley will not mitigate the extensive groundwater flood damages that many in Frasier and Keewaydin Meadows experienced in 2013. There is a reason the term "flood control" was amended to "floodplain management" since the 1970s.

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Laura Melling <melling.laura@gmail.com>  
**Sent:** Tuesday, June 16, 2020 12:01 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek State Natural Area

**External Sender**

Boulder City Council,

As a resident of the City of Boulder, I am writing to urge you to protect the South Boulder Creek State Natural Area. Open Space wetlands and low earthen berms can provide 500 year flood protection for the community and protect the State Natural Area. Therefore, I request that you immediately implement the CU North land swap and create the OSMP Meadowlark Open Space.

Thank you,

Laura Melling

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**From:** MacKenzie Dove <cmdove@gmail.com>  
**Sent:** Tuesday, June 16, 2020 11:54 AM

**From:** Joseph Christianson  
<joseph.t.christianson@gmail.com>  
**Sent:** Tuesday, June 16, 2020 12:07 PM

**From:** Dorian Merrill <dorian.merrill@gmail.com>  
**Sent:** Tuesday, June 16, 2020 12:08 PM

**From:** Sarah Stegmiller <Steg27@outlook.com>  
**Sent:** Tuesday, June 16, 2020 12:15 PM

**From:** Kenya Gates <gateskenya0@gmail.com>  
**Sent:** Tuesday, June 16, 2020 12:22 PM

**From:** Adam Wascholl <adam.wascholl@gmail.com>  
**Sent:** Tuesday, June 16, 2020 12:23 PM

**From:** Gabrielle Gibson  
<gabby.meadowlarkopenspace@gmail.com>  
**Sent:** Tuesday, June 16, 2020 12:49 PM

**From:** Lisa Sleeth <lisasleeth@hotmail.com>  
**Sent:** Tuesday, June 16, 2020 12:57 PM

**From:** Núria Catalán <ncatalangarcia@gmail.com>  
**Sent:** Tuesday, June 16, 2020 1:10 PM

**From:** peggy muldoon <peggymuldoon@yahoo.com>  
**Sent:** Tuesday, June 16, 2020 1:37 PM

**From:** Mary Smith <mary@pmsmith.net>  
**Sent:** Tuesday, June 16, 2020 4:00 PM

**From:** Katie Braun <braun.kate@gmail.com>  
**Sent:** Tuesday, June 16, 2020 4:50 PM

**From:** JP <jphughes777@gmail.com>  
**Sent:** Tuesday, June 16, 2020 5:33 PM

**From:** Joel Lenorovitz <joel\_lenorovitz@yahoo.com>  
**Sent:** Wednesday, June 17, 2020 10:23 AM

**From:** mary shabbott <mshabbott@sbcglobal.net>  
**Sent:** Tuesday, June 16, 2020 12:56 PM

## **External Sender**

### **Boulder City Council:**

I request that you honor the federal and state protections of one of Colorado's most sacred wetlands - the South Boulder Creek State Natural Area.

### **CU and the City of Boulder are on the brink of violating:**

- their sustainability policies
- the federal Endangered Species Act
- the Clean Water Act
- and the Boulder Valley Comprehensive Plan

**The 45 page legal document at the link below shows the depth of the proposed infractions that City Council is about to commit.**

<https://www.meadowlarkopenspace.org/wp-content/uploads/2020/06/20200612-FINAL-CC-6-16-Comment-Full-Packet.pdf>

Building a \$66 million dollar almost 1 mile long - 100 year flood dam starting in a state natural area is also a reckless waste of taxpayer money. A 100 year dam could be swept away in a wall of water a few years after it is built - along with the lives in the downstream community below.

**Council member - as a decision maker and guardian of Boulder, if you choose weak 100 year flood protection tonight - how will you feel every time a bad storm hits Boulder?**

**Michigan and Houston have been hit by 500 year floods FOUR times in the last 5 years.**

**When lightning roars over the Flat Irons, will you sleep well?**

**When you hear a news story on climate change and worsening storms, will you feel you have done your best? Will you be proud of tonight's choice? Will children look up to you with pride?**

**5 years from now, who will you see when you look in the mirror?**

City Council - I request that you delay tonight's vote or immediately implement the CU North land swap and create the OSMP Meadowlark Open Space. Only Open Space wetlands and low earthen berms can provide 500 year flood protection for the community and protect the State Natural Area.

Yes - you can be proud of your vote for 5 times the safety at 1/3 the cost.

The \$40 million dollar savings from creating the OSMP Meadowlark Open Space and CU North Land Swap can protect 3 additional Boulder communities from flooding. This is the right path.

**Please - watch this 9 News Video. Observe the start of a national media campaign to defend one of Colorado's most important State Natural areas against the University of Colorado.** <https://www.9news.com/article/tech/science/environment/cu-south-campus-expansion-boulder-city-council-public-hearing/73-ff7e219c-4fc1-4598-9466-f80c132ed1e1>

**City Council - to honor your duty you MUST protect the lives of Boulder community members with powerful 500 year flood protection at CU South.**

City staff have told many lies in this fake public process - **especially that there is NO other choice.**

**City staff have firmly ignored public comments and alternatives from the both the community and the Open Space Board of Trustees.** City Staff have ignored in writing OBST requests for cost/benefit studies of alternatives.

**In reality, City Staff are not blessed with a magic charm that will shoo away 500 year storms.**

However - there is a simple and practical alternative that you as a City Council Member can say YES to.

**Please have courage to say NO to the powerful and the life threatening political influence of CU Boulder.**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**Please say Yes to a simple practical solution.**

As our leaders, the well being of the community and the fate of the State Natural Area are in your care.

**In closing please:**

**1) Use Eminent Domain to condemn the CU South mega campus. Public safety is at stake.**

**2) Make the CU North land swap happen at NO COST to the taxpayer other than traded land.**

Developers must pay their own way.

Create a win for the University of Colorado by providing dry land for the new campus.

**Help CU avoid a public relations nightmare.**

**3) Create the City of Boulder - OSMP Meadowlark Open Space to provide 500 year flood protection using wetlands and low earthen berms.**

**This will ensure that the State Natural Area is forever protected.**

Use the massive \$40 million cost savings to protect three additional Boulder communities from flooding.

**Thank you deeply Council for voting tonight with heart, courage, and logic.**

*(insert your name here)*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Dave Kuntz <KuntzD@bouldercolorado.gov>  
**Sent:** Tuesday, June 16, 2020 11:27 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Curt Brown <cbrown1902act@gmail.com>; Burke, Dan <BurkeD@bouldercolorado.gov>  
**Subject:** 6/15/2020 Review of 2015-2020 SBC Upstream Options

Members of City Council:

As Trustees of the city's Open Space and Mountain Parks Program, we take seriously our responsibilities to provide recommendations to City Council on options for mitigation of South Boulder Creek floods in a way that causes the least impact to OSMP lands and upholds the City Charter.

The attached short summary tracks the Open Space Board of Trustees recommendations and actions taken by Council and staff from 2015 to 2020 regarding the merits and impacts of proposed flood mitigation options and decisions. As you review the summary, you will see that at each step the Board has built on previous work and is now seeking new information to make a final decision.

We appreciate the complexity and urgency of the requisite decisions related to accomplishing goals of reducing flood hazards on residents and property and on minimizing or eliminating impacts from the project on the significant natural lands that the city owns. We want to ensure that whatever decisions are ultimately made are based on the best information we can get and, as the federal regulatory agencies require, have considered the LEDPA (least environmentally destructive project alternative).

Thank you for your attention to this matter and consideration of the Board's June 3 recommendations.

Karen Hollweg, Trustee  
Dave Kuntz, Trustee

Open Space Board of Trustees

**OSBT'S 2020 MOTION REQUESTS NEW INFO, NOT PREVIOUSLY PROVIDED**

**The Record shows that OSBT has asked Council to investigate upstream storage concepts 3 times – July 2018, Sept. 2019, June 2020. The staff + consultant Project Team has provided very preliminary upstream concepts 2 times – July 2018, Sept 2018 – but these have never been analyzed and developed to the same level as the other flood mitigation concepts.** Using City Council and OSBT documents, the following list shows significant flood mitigation decisions 2015 to 2020 underlined; requests for and work on upstream options are highlighted.

On May 13, 2015, the OSBT recommendation to council:

- Accept the SBC Flood Mitigation Plan, for regional stormwater detention at US36 using CDOT right-of-way and requiring no disposal of OSMP land,
- This recommendation was conditioned upon staff returning to the OSBT in the event staff determined construction could result in non-trivial impacts to Open Space.

On July 11, 2018, OSBT recommended that City Council advance one or both of Variant 1 & 2 with conditions, providing a statement of • preference for Variant 1, stressing concerns re the groundwater conveyance system required by the floodwall to bedrock, recommending numerous conditions for advancing either the Variant 1 or Variant 2 concepts, and • recommending that City Council direct staff to

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investigate an upstream storage concept, based on a concept that was recommended by community members at the July 11 board meeting.

**In Aug 7 2018** Council Packet shows - The project team developed an upstream storage concept that stores more stormwater in the southern portion of the CU South parcel to, among other objectives,

- increase the likelihood that the US36 floodwall on CDOT ROW could be eliminated and replaced by an earthen embankment (eliminating the need for a cutoff wall and groundwater conveyance system), and
- try to avoid flood mitigation structures on OSMP land with a piped outlet to drain the upstream storage area.

- Stormwater flow in the South Boulder Creek main stem downstream of the project would be reduced as compared to the existing condition, which may provide additional benefits.

- Although *this variation does not propose structures* on OSMP land the inflow rundown structure needed to channel floodwaters from the creek into the upstream detention areas would impact wetlands, Preble's mouse habitat and Ute-ladies'-tresses orchid habitat.

"Should council direct staff to develop an upstream storage concept... to the same level as the other concepts... it is estimated that the consultant's development and evaluation of this new upstream storage concept would take approximately 8 weeks to complete. Tasks would include: multiple hydraulic model runs, including evaluation of the 100-year, 500-year, and long-duration storms and Probable Maximum Flood; to confirm concept layout, environmental analysis to identify likely impacts; development of concept-level cost estimates; and completion of the evaluation matrix."

**City Council Memo, August 21, 2018**, notes that the Upstream Concepts presented at the Aug. 7, 2018, Council meeting as being "very preliminary" and further states ... "if ... an upstream concept, is developed and evaluated, it would need to be refined to the same level of detail as the other project alternatives. This would allow for an understanding of the potential environmental impacts in

**CU South Annexation Application (LUR2019-00010)**  
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relationship to the other project alternatives and the likelihood the new alternative would be considered the LEDPA [least environmentally destructive project alternative].”

On **Aug. 21, 2018**, City Council directed staff to proceed with preliminary design and landowner negotiations for the Variant 1, 500-year concept (without CU levee) and, within that concept, evaluate ways to minimize flood detention on the Public (PUB) land use on CU South. Council directed staff to explore combining the Variant 1, 500-year concept with upstream storage to see if that could reduce the impact on the “Public” land on CU South. Council also provided additional considerations for evaluating potential modifications to the concept.

The **Sept. 20, 2018** options and analyses are “based on a very preliminary engineering analysis and professional judgement. ...all the new options would still require a floodwall located on the south side of US36 in the CDOT right-of-way with a cutoff wall underneath and a groundwater conveyance system to maintain current groundwater conditions. As noted in past project discussions, an agreement with CDOT will be required to construct the floodwall in CDOT ROW. The original Variant 1, 500-year concept, will also need a perimeter groundwater cutoff wall to control pooling of water in the excavated area and may also require a groundwater conveyance system to maintain current groundwater conditions.”

Variant 1, 500-year Option C (dual storage areas)

This figure presents Option C, which keeps the Variant 1, 500-year dam and floodwall configuration in place but includes additional flood storage in the southern portion of the CU South parcel. ...some of the water would be captured and stored in an upstream storage area -- a horse-shoe shaped dam located within the OS-O ...relies on the existing topography

If a cutoff wall is required in this area, this could pose significant risk to the maintenance of groundwater flows to existing OSMP lands in the State Natural Area by surrounding it on three sides with groundwater maintenance systems.

“If council would like more information before confirming the Variant 1, 500-year modification and before moving into preliminary design, the project team could conduct additional analysis ... This could include confirming the layouts provided in this memo through hydraulic model runs, providing more information on the potential direct environmental impacts, estimating project costs, ...”

**Feb. - July 2019** -- City Council learned that CDOT will not allow a floodwall to be built in the US-36 Right-of-Way and asked OSBT for feedback re placing the floodwall on OSMP/State Natural Area.

**Sept. 2019** -- **OSBT** provided detailed feedback, and requested that Council do an analysis of the Upstream Option, providing the additional information needed to assess whether it’s possible to avoid or reduce impacts of the floodwall and the accompanying groundwater conveyance system.

**June 3, 2020 OSBT** packet included

- the first technical data re peak flows and cumulative volumes of SBC flood flows – on Map B-1 – showing a larger westerly flow separated from the creek channel that goes directly to CU South OS-O, &
- contradictory data about the amount of floodwater that the Project Team’s July 2018 upstream concept or other variations could store in the OS-O area.

This led OSBT, once again, to unanimously ask Council to direct the Utilities Department to provide answers to specific questions re an upstream option. Previous preliminary upstream concepts and the new technical flood flow data could result in a new design concept with significant project benefits.

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**From:** Karen Powell <ka\_pow42@yahoo.com>  
**Sent:** Tuesday, June 16, 2020 10:45 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please support Variant 1/100 to preliminary design today!

**External Sender**

Dear Council,

Thank you, Council, for your past support of solutions to the issues we in Frasier Meadows neighborhood experienced during the 2013 storm. Please again support the Variant 1/100 year South Boulder Creek flood plan they selected at their study session on February 25th tonight in your discussion. . Remember that WRAB also recommends the Variant 1/100 solution.

Also, request to disregard OSBT's recommendation because OSBT has acted outside their purview by weighing in on engineering (WRAB's domain) in a detailed way.

Good leaders protect their communities by acting clearly and decisively when healthy safety is at stake. As we've seen with the COVID-19 crisis, clear action trumps dithering and delay.

Thank you for your support.  
Best regards,  
Karen Powell  
4930 Ricara Dr  
Boulder, CO

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Suzanne De Lucia <sdelucia@frontrangebusiness.com>

**Sent:** Tuesday, June 16, 2020 9:49 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South

**External Sender**

Dear City Council,

Thank you for your attention to the CU South project. While I feel a bit overwhelmed by all the engineering options in front of you, it's obvious that people on both sides of Foothills need to be protected and while there is urgency for this project, it also has to be done right. From what I have seen walking the area, the people in Greenbelt Meadows and Keewaydin are overly exposed.

It also seems that there are some existing attributes of the property which should be used, such as the already excavated gravel pits. Limiting the size of the campus or moving it to another location and planning for a 500 year event are all must haves as well in my opinion.

Sincerely,

Suzanne De Lucia



Suzanne M. De Lucia, CBI  
Fellow Of The IBBA  
President  
Front Range Business, Inc.  
5353 Manhattan Circle, Suite 101  
Boulder, CO 80303  
Office: 303-499-6008  
Fax: 1-888-521-8219

[sdelucia@frontrangebusiness.com](mailto:sdelucia@frontrangebusiness.com)

[www.frontrangebusiness.com](http://www.frontrangebusiness.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ed Dwulet <edwulet@yahoo.com>  
**Sent:** Tuesday, June 16, 2020 9:06 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Clueless

**External Sender**

Dear Council Members

So in the fall CU plans to bring students here from all over the country, mix them together in dorms and University Hill housing, somehow force them to wear masks and practice social distancing on campus, do lots of testing, and then somehow enforce a quarantine on those found positive as well as all they came in contact with! Clueless.

And of course the "mandatory safety training" will surely include "risk mitigation," "reducing density of people," "reducing person-to-person interactions," "greater sanitization measures, including ensuring surface hygiene" at the daily drunken parties on University Hill! Clueless.

Most sensible universities have already announced plans for remote online learning for fall 2020.

**The City of Boulder should begin preparing for an explosion of COVID 19 in our community this fall.**

Ed Dwulet  
759 11th St

[From the Chancellor - COVID-19 Update: CU Boulder to welcome students back to campus for a COVID-19-ready fall semester](#)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lisa White <lwhite.nd09@gmail.com>  
**Sent:** Tuesday, June 16, 2020 8:02 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Delay causes harm

**External Sender**

Hello City Council,

I ask that you please use your positions of power to move forward with the flood mitigation recommendation in order to protect the health and safety of the residents of South Boulder without further delay. Further delay causes harm.

Thank you,  
Lisa White  
2134 S Walnut St, Boulder, CO 80302

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** elena <elena@indra.com>  
**Sent:** Tuesday, June 16, 2020 12:23 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood plan and South Boulder

**External Sender**

Dear City Council members, I am a longtime resident of Boulder County, formerly in the city of Boulder, and a dedicated environmentalist. I urge you to vote in favor of proceeding with the Variant 1/100-year flood plan, in order to protect South Boulder residents. I have quite a number of friends living in south Boulder, including Frasier Meadows, and many single family residences. I am also very concerned with CU's plan to destroy the natural environment in south Boulder, even if it is legal and considered part of some plan that exists on paper. Thank you for your consideration.

Elena Holly Klaver  
United States Court Certified Interpreter  
Conference Interpreter English < > Spanish  
303.475.5189  
Member:  
Colorado Association of Professional Interpreters (CAPI)  
American Translators Association  
Colorado Translators Association

I acknowledge that I live in the territory of Hinóno'éí (Arapaho), Cheyenne and Ute nations, according to the 1851 Treaty of Fort Laramie, and that Colorado's Front Range is home to many Native peoples. Reconozco que vivo en el territorio de las naciones Hinóno'éí (Arapaho), Cheyenne y Ute, según el 1851 Tratado de Fort Laramie, y que el estado de Colorado al este de las Montañas Rocosas es territorio de muchos pueblos indígenas.

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**Public Comments Through September 14, 2021**

**From:** Claudia Hanson Thiem <thiem.claudia@gmail.com>

**Sent:** Tuesday, June 16, 2020 12:12 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** South Boulder Creek flood mitigation - please continue with Variant 1/100 year plan

**External Sender**

Dear Councilmembers,

Having watched discussions of the South Boulder Creek flood mitigation project from a distance for the last two years, I'm concerned that further delays have unacceptable costs for both residents in the flood zone, and for the city as a whole.

My first concern is for the residents of the flood zone - the two thousand-plus people that have been waiting years for flood mitigation, and with whose lives we roll the dice with every decision deferred. They deserve progress and a timeline for safety in their homes.

But as a person who follows a wide range of issues across the city, I'm also concerned about how much time, energy, and community goodwill this project has burned through. We don't need more knock-down, drag-out public hearings where the personalities and talking points rarely change. Additional studies consume precious staff, board, and Council time. And while it's never in direct competition with other projects, the countless hours spent on CU South slow work on other hairy issues.

The Variant 1 - 100 year plan faces considerable opposition, but remains the most viable option identified through an exhaustive process of study and public engagement. Please reaffirm it at your 6/16 meeting, and resist the many requests to punt a decision on this critical project.

Thank you,  
Claudia Hanson Thiem

**CU South Annexation Application (LUR2019-00010)**

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**From:** Ken Beitel <meadowlarkopenspace@gmail.com>

**Sent:** Monday, June 15, 2020 11:44 PM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; CUBoardofRegents@cu.edu; frances.draper@colorado.edu; Derek Silva <Derek.Silva@Colorado.EDU>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Cc:** Carr, Thomas <CarrT@bouldercolorado.gov>

**Subject:** Legal Document re: State Natural Area potential violations

**External Sender**

Boulder City Council:

I request that you honor the federal and state protections of one of Colorado's most sacred wetlands - the South Boulder Creek State Natural Area.

**CU and the City of Boulder on the brink of violating:**

- their sustainability policies
- the federal Endangered Species Act
- the Clean Water Act
- and the Boulder Valley Comprehensive Plan

**Read this 45 page legal document attached and at link below to understand the depth of the proposed infractions.**

*\*City Attorney Tom Carr is cc'd on this note to ensure full understanding of potential legal consequences of tonight's vote.*

<https://www.meadowlarkopenspace.org/wp-content/uploads/2020/06/20200612-FINAL-CC-6-16-Comment-Full-Packet.pdf>

Building a \$66 million dollar almost 1 mile long - 100 year flood dam starting in a state natural area is also a reckless waste of taxpayer money. A 100 year dam could be swept away in a wall of water a few years after it is built - along with the lives in the downstream community below.

**As a decision maker and guardian of Boulder, if you choose weak 100 year flood protection tonight - how will you feel every time a bad storm hits Boulder?**

**Michigan and Houston have been hit by 500 year floods FOUR times in the last 5 years.**

**When lightning roars over the Flat Irons, will you sleep well?**

**When you hear a news story on climate change and worsening storms, will you feel you have done your best?**

**Will you be proud of tonight's choice? Will children look up to you with pride?**

**5 years from now, who will you see when you look in the mirror?**

City Council - I request that you delay tonight's vote or immediately implement the CU North land swap and create the OSMP Meadowlark Open Space. Only Open Space wetlands and low earthen berms can provide 500 year flood protection for the community and protect the State Natural Area.

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Yes - you can be proud of your vote for 5 times the safety at 1/3 the cost.

The \$40 million dollar savings from creating the OSMP Meadowlark Open Space and CU North Land Swap can protect 3 additional Boulder communities from flooding. This is the right path.

**Please - watch this 9 News Video. Observe the start of a national media campaign to defend one of Colorado's most important State Natural areas against the University of Colorado.**

<https://www.9news.com/article/tech/science/environment/cu-south-campus-expansion-boulder-city-council-public-hearing/73-ff7e219c-4fc1-4598-9466-f80c132ed1e1>

**City Council - to honor your duty you MUST protect the lives of Boulder community members with powerful 500 year flood protection at CU South.**

City staff have told many lies in this fake public process - especially that there is NO other choice.

City staff have firmly ignored public comments and alternatives from the both the community and the Open Space Board of Trustees. City Staff have ignored in writing OBST requests for cost/benefit studies of alternatives.

**In reality, City Staff are not blessed with a magic charm that will shoo away 500 year storms.**

However - there is a simple and practical alternative that you as a City Council Member can say YES to.

**Please have courage to say NO to the powerful and the life threatening political influence of CU Boulder.**

**Please say Yes to a simple practical solution.**

As our leaders, the well being of the community and the fate of the State Natural Area are in your care.

**In closing please:**

**1) Use Eminent Domain to condemn the CU South mega campus. Public safety is at stake.**

**2) Make the CU North land swap happen at NO COST to the taxpayer other than traded land.** Developers must pay their own way.

Create a win for the University of Colorado by providing dry land for the new campus. **Help CU avoid a public relations nightmare.**

**3) Create the City of Boulder - OSMP Meadowlark Open Space to provide 500 year flood protection using wetlands and low earthen berms.**

**This will ensure that the State Natural Area is forever protected.**

Use the massive \$40 million cost savings to protect three additional Boulder communities from flooding.

Thank you deeply Council for voting tonight with heart, courage, and logic.

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Best Regards,

*Ken*

Ken J. Beitel

Chair of Wilderness Conversation

***proposed Meadowlark Open Space***

web: [www.MeadowlarkOpenSpace.org](http://www.MeadowlarkOpenSpace.org)

e. [meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com)

m. 720 436 2465

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Laura Tyler <laura@amstec.com>  
**Sent:** Monday, June 15, 2020 11:26 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Kathie <joynermcguire@comcast.net>  
**Subject:** Garden Level

**External Sender**

Dear Council,

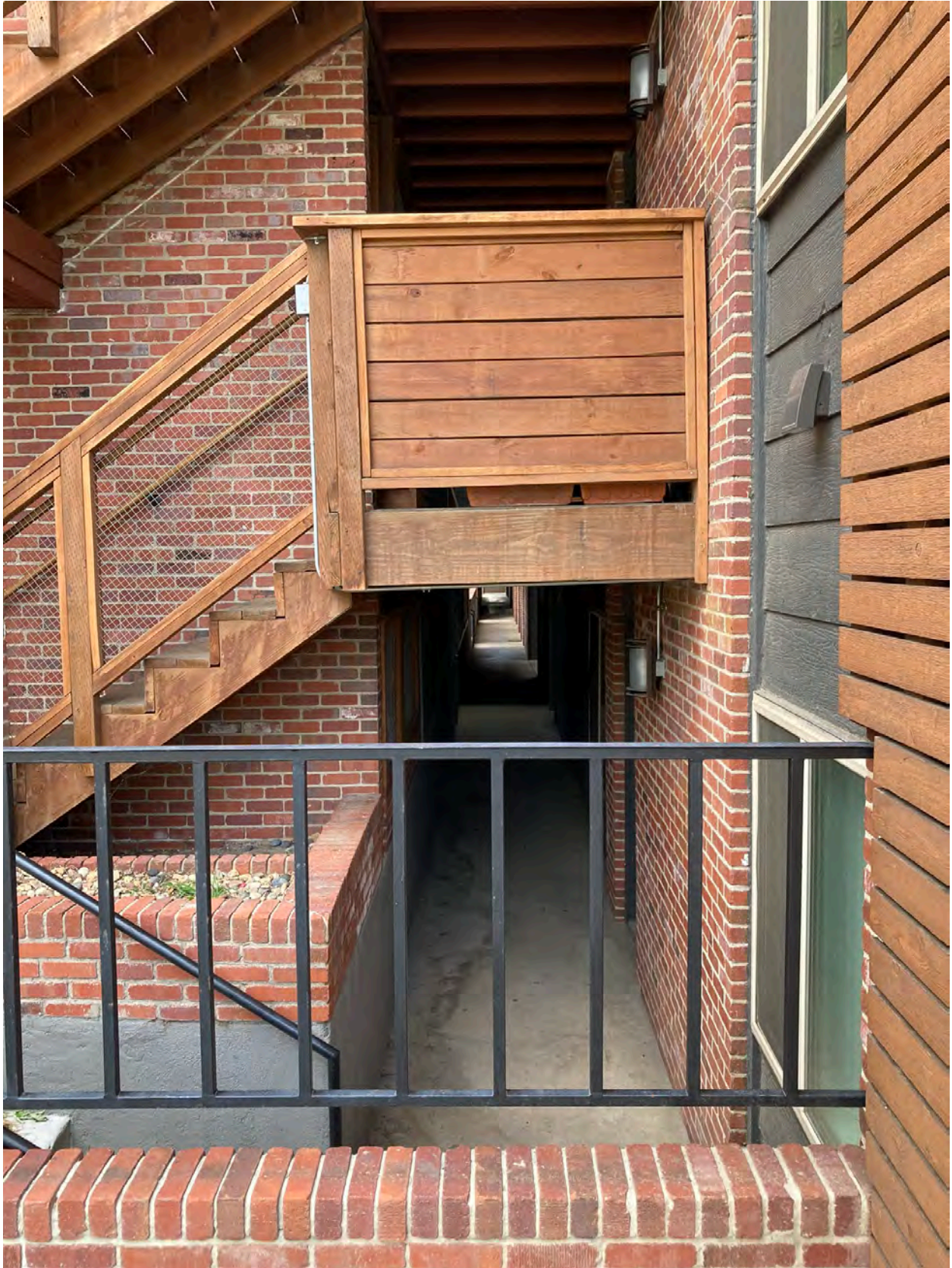
Here are some snapshots of a few of the NEST, Section 8 buildings that the City of Boulder owns in the South Boulder Creek flood plain. These buildings, located at 4917 and 4927 Thunderbird Drive, are just a few blocks south of the Frasier Meadows Retirement Community parking garage, also on Thunderbird. View dramatic video of the Frasier garage flooding here. [https://www.youtube.com/watch?time\\_continue=6&v=R-NAO-Y9I1E&feature=emb\\_logo](https://www.youtube.com/watch?time_continue=6&v=R-NAO-Y9I1E&feature=emb_logo).

Check out the tunnel-like garden level hallways. The whitewater flooding that happened at Frasier also happened here.



Picture taken from ground level looking down into the garden level corridor

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In the enclosed garden level corridor looking west. The City of Boulder owns this corridor. As a councilperson, you are responsible for caring about what happens here.



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Many places for water to come in. None to drain out. Imagine a 2-foot wall of water flooding down those stairs.



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Another Section 8/NEST building in the flood plain with garden level apartments at 4917 Thunderbird Drive.



Bikes on left are parked at ground level.

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I had the pleasure of running into Mr. Bill Smith when I took these snapshots today. He told me that he worked as maintenance tech in this complex from 2000 to 2015. He witnessed the flood and was involved in flood cleanup in 2013. Of the garden level units pictured above, he told me the doors buckled in the flood. Water rose rapidly to a depth of two feet. Inside some units the water rose to 5 or 6 feet (just below level of living room ceiling fan). In at least one unit floodwaters floated a refrigerator and blocked egress door. Within 48 hours mold started colonizing flooded drywall. Sometimes, he said, he gets a whiff of the flood smell when he is walking through these buildings: a mix of wet building materials, landscaping debris and raw sewage. Property manager has testified at previous hearings that some families were forced to exit their units via broken windows.

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Laura Tyler  
South Boulder Creek Action Group  
[laura@sbcreekactiongroup.org](mailto:laura@sbcreekactiongroup.org)  
<https://www.southboulder creekactiongroup.com/boulder-flood-2013/>

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Ann Murtha <ammtsnow@gmail.com>  
**Sent:** Monday, June 15, 2020 10:59 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Frasier Meadows and the flood

**External Sender**

Hello, my husband and I moved into Frasier Retirement Community 6 years ago. We were overwhelmed by hearing the tales of the staff's and residents' tragic experiences of being moved in the middle of the night without electricity to safe quarters amidst the raging waters. We were horrified at the levels of fear and trauma experienced during that fateful time and got somewhat involved in efforts to work towards making improvements through the city council meetings, etc. so that our facility would never again have to go through another traumatic and dangerous flood threatening the lives of our vulnerable population.

Act now to organize, plan and vote for measures to preserve the lives of our community, many of whom have been associated with the University and have contributed to the welfare, growth and preservation of Boulder at large during their elder years as they did during their more active youthful lives.

PLEASE CONSIDER TAKING ACTION NOW REGARDING FLOOD MITIGATION PLANNING AND IMPLEMENTING MEASURES TO KEEP FRASIER MEADOWS SAFE FROM YET ANOTHER DISASTER AND POTENTIAL LOSS OF LIFE.

Thank you, Ann Murtha, recently widowed.

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**From:** JOHN BALASSA <jbalassa@comcast.net>  
**Sent:** Monday, June 15, 2020 8:11 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Variant 1/100

**External Sender**

Please move forward with the flood mitigation plan Variant 1/100.

Thank you for your consideration.

John Balassa  
Maryann Suggs-Balassa  
350 Ponca Place Apt. 258  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Walt Petersen <wnpete@gmail.com>  
**Sent:** Monday, June 15, 2020 7:15 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Understanding your vote

**External Sender**

Dear City Council members: Please distribute.

I would like to appeal to you for a answer to the following Subjects. I am resident of Frasier Meadows Retirement and I am concerned about the safety of the residents of Frasier Meadows. Please let me know where you stand with Variant 1/100 year flood design. I would like to understand where you stand to ensure the safety of the residence of Frasier Meadows.  
Walt Petersen 303-818-7304

**CU South Annexation Application (LUR2019-00010)**  
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-----Original Message-----

From: Don Kellum <djkellum@comcast.net>  
Sent: Monday, June 15, 2020 6:48 PM  
To: Council <council@bouldercolorado.gov>  
Subject: The Flood Plan for S. Boulder/FMM area

External Sender

Dear Friends,

It has been too long with too much discussion, and now we understand there will be another VOTE. There has been no plan for 7 years that has been satisfactory to everyone, and yet the whole subject drags on and on, and our buildings remain unprotected. Please make a decision this time for the well designed and supported Variant 1/100-year flood plan. Your vote for this plan will be reassuring and bring some security for those of us who saw the devastation and destruction of the Health Care Center. We are prayerful that a little security will be brought to the residents of the lower floors. However, we are grateful there were no deaths last time, but the pain and disruption will never be forgotten, and the financial costs have been enormous.

Thanks for your good judgement and flexibility on the issue.

Donald L. Kellum, M.D.

Judith A. Kellum

Frasier Meadows Manor Apt. 393  
4840 Thunderbird Drive, Boulder, CO 80303

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**From:** bouldercitycouncil.devoiced@aleeas.com <bouldercitycouncil.devoiced@aleeas.com>  
**Sent:** Monday, June 15, 2020 6:44 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Variant 1/100-year flood plan

**External Sender**

Dear Boulder City Council,

I write as a Boulder County resident who works in Boulder. I understand that you will be voting on the **Variant 1/100-year flood plan** this Tuesday evening, June 16, 2020. **I urge you as strongly as possible to approve the plan.** Climate change is real and pressing. There is no telling how soon we will have another "100-year" flood. Let's plan wisely.

Plan approval and implementation will provide much needed security to residents of the Frasier Meadows community--not just the retirement community and its senior-citizen occupants but also the larger residential area. Let's take care of our seniors and others we care about!

Thank you for your time.

Elizabeth Fenn

**CU South Annexation Application (LUR2019-00010)**  
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-----Original Message-----

From: Kay <kay77negash@gmail.com>  
Sent: Monday, June 15, 2020 6:37 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Variant 1/100 year flood plan

External Sender

PLEASE proceed with the flood plan. I am 82 and live in the flood plain. My condo's garden-level floor (just off of 55th Street between Baseline and Arapahoe), got one foot of ground water, which cost me thousands of \$\$\$ for replacing insulation, dry wall, flooring painting and labor to make it livable again. I woke up one morning and stepped out of bed into squishing water-soaked carpet. I still feel panic when it rains.

Please move forward with this for the sake of your most vulnerable constituents in the city of Boulder.

Thank you.

Kay Negash  
5445 White Place  
Boulder, CO 80303  
303 444-8355  
Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Louise & Bill Bradley <wbbradley@comcast.net>

**Sent:** Monday, June 15, 2020 6:01 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Variant 1 for 100 year flood plan

**External Sender**

Dear Council Persons,

My husband and I lived at Frasier during the Flood event of 2013. We lost only a couple cars that wet night but fear for lives should it happen again. We still live on the ground floor, now better protected by a flood wall but the neighborhood remains unprotected. Nine years is a long time to dither. It is time to act. We urge you to move ahead with Variant 1/100 year flood plan.

Louise (Alice L.) and Bill Bradley

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Elaine Hiebert <edwhavalanche@earthlink.net>

**Sent:** Monday, June 15, 2020 5:50 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Flood Status

**External Sender**

I have lived at Frasier Retirement Community since the flood but have been to many, too many, council meetings regarding the flood plan for south Boulder. Whatever has happened in the past you have it in your power to be the ones to address this problem now. Please do it now with Variant 1 -100 year plan. When a major flood happens you and all past council members will be responsible if deaths occur. This is serious business and you must do your first duty to protect the southern residents of this city.

Sincerely,

Elaine Hiebert

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Carl and Wan Norby <norby.cw@gmail.com>  
**Sent:** Monday, June 15, 2020 5:45 PM  
**To:** Council <council@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>  
**Subject:** SOUTH BOULDER CREEK FLOOD MITIGATION

**External Sender**

Council - Sam Weaver, Bob Yates, Aaron Brockett, Rachel Friend, Junie Joseph, Mirabai Nagle, Adam Swetlik, Mark Wallach, Mary Young  
Planning Board - Harman Zuckerman, David Ensign, Peter Vitale, John Gerstle, Lupita Montoya, Sarah Silver, Lisa Smith  
WRAB - Kirk Vincet, TedRose, Trisha Oeth, Gordon McCurry, John Beerggren  
Director of Utilities - Joe Taddeucci  
Project Engineer - Brandon Coleman

Hello All:

Please open the attached info relative to SOUTH BOULDER CREEK FLOOD MITIGATION.

Thanks,

Carl Norby  
[norby.cw@gmail.com](mailto:norby.cw@gmail.com)

**SOUTH BOULDER CREEK FLOOD MITIGATION 6-15-20**

*To: Council - Sam Weaver, Bob Yates, Aaron Brockett, Rachel Friend, Junie Joseph, Mirabai Nagle, Adam Swetlik, Mark Wallach, Mary Young Planning Board - Harman Zuckerman, David Ensign, Peter Vitale, John Gerstle, Lupita Montoya, Sarah Silver, Lisa Smith WRAB - Kirk Vincent, Ted Rose, Trisha Oeth, Gordon McCurry, John Berggren Director of Utilities - Joe Taddeucci Project Engineer - Brandon Coleman*

*It has now been nearly seven years since the disastrous September flood in 2013. There were about 15 creeks that flooded affecting people, homes, schools, businesses, and city infrastructure. The flood also had a huge unseen impact on people's fears of the next flood, which could strike at any time. FEMA's disaster reimbursement records show that flood water from South Boulder Creek caused the greatest amount of damage in the city, followed by Bear Canyon Creek and several other creeks. Starting in January, 2014, people from the east side of the Frasier Meadows neighborhood (between Mohawk and Foothills Parkway) expressed to WRAB that they were intensely afraid of future floods. One photo showed glass embedded in a basement bedroom wall. The glass came from a broken window on the far side of the room where the flood water gushed in. Fortunately no one was sleeping in the bedroom that night. A woman demonstrated to WRAB that the sewage in her basement was up to her chin as she had to walk through it - sewage up to her chin. This was raw sewage, not just filthy creek water. According to city records the sanitary sewers in Frasier Meadows and in other neighborhoods backed up into 1,500 basements, primarily because **Bear Canyon Creek** overflowed. In doing so, it lifted off sanitary sewer manhole covers, which then allowed the creek to flow freely into sanitary sewers. This then overwhelmed the junction of sewer lines on Baseline east of Foothills Parkway resulting in sanitary sewers backing up and inundating many homes throughout Frasier Meadows and adjacent neighborhoods with raw sewage containing all sorts of vile pathogens. This unbelievable sewage condition still exists today, in addition to the unmitigated non-capacity of creeks which*

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flooded throughout the entire city. Utilities Engineering reported that it was a **fortunate** event for the city that raw sewage was allowed to back up into homes because that negligent destruction of homes by raw sewage saved much damage to city infrastructure. Initially, in January, 2014, WRAB meetings were packed with anxious upset residents. A group from the east side of Frasier Meadows (between Mohawk and Foothills Parkway) urged WRAB to continue with the original mitigation plan for SBC because they wanted the flood protection to occur within months, and didn't want to change mitigation direction because that would take longer, possibly as long as a year. A year was not acceptable. They naturally tried hard to keep the existing plan on track. That was Plan D with Phases I, II, and III. Another group, from Frasier Meadows west of Mohawk which was primarily devastated by Bear Canyon Creek, with advice from seven water engineers, asked WRAB to consider using Alternative 6 to keep SBC within its channel by primarily dredging, cleaning, and modifying the existing channel. Alternative 6 was a more natural and certainly less expensive mitigation strategy with far fewer jurisdictional problems, while creating a more complete **overall regional** solution. This solution can be designed to create whatever year-level (100 to 500) of flood protection desired without interfering with Ladies Tresses Orchids or Jumping Mice. When the concept of using SBC to mitigate SBC flooding was presented to WRAB starting in January, 2014, and cautiously many times thereafter, WRAB remained absolutely silent. It was curious to ponder why this topic was untouchable, unthinkable, and was off-limits for discussion. Some searching of WRAB records found that Alternative Mitigation Plan 6 (using SBC for Containment of Flood Flow) as a mitigation plan was strangely quickly eliminated with very little discussion. The cost was initially slightly higher than plan Alternative 3, which was renamed Option D including Phases I, II, and III. The cost of Alternative 6 is much lower than the present dam plan which has been stripped of Phases II and III due to cost increases. Later, other people with different ideas joined the fracas and the SBC mitigation project became chaotic. Engineering judgement and rational judgement were significantly replaced by the desire for walking dogs and practicing yoga at sunrise on the land proposed for a flood mitigation dam. Soon this chaos was joined by CU which then turned the chaos into a community firestorm, where it stands today. The firestorm quickly overwhelmed the voices with differing suggestions, and unfortunately eliminated any focus on the many other dire creek flood mitigation necessities within the city, which are still ignored. The renamed Option D Phase I, II and III, primarily related to Frasier Meadows east of Mohawk (Phase I) and the area northeast of South Boulder Road and Foothills Parkway (Phase II and III). Eventually, as the cost increased, Phases II and III were scuttled, leaving only Option D Phase I, which was then referred to as Option D. The name has since changed again. There is no plan to protect the people and property in the areas designated as Phase II and III, many people in those areas are unaware of their ultimate exposure. Mitigation Plan Alternative 6 eliminates the thorny problems of the current undefined SBC plans: - Flood water is no longer required to flow down the hill to RTD to give CU a bargaining chip for their utilities. - CU utilities can be presented on it's own merit without holding the city hostage relative to flood mitigation. - The quantity of flood water which will need to be detained is unknown. If that is undersized there will be many major disasters. Climate scientists are now recognizing "atmospheric rivers", where an adverse weather pattern remains in a location for an extended period of time creating huge amounts of rainfall. - The current mitigation plan utilizing a fixed dam capacity would not be able to continuously convey rain from an atmospheric river, however, Alternative 6 could carry an unlimited quantity of flood water. - Alternative 6 does not affect Ladies Lillies and Jumping Mice, etc, and has many fewer unknowns. - Technical engineering construction decisions would be far simpler with Alternative 6. - There would be no annual dam inspection with Alternative 6. - The jurisdictional agreements would be much fewer and simpler with Alternative 6. The negative reasons found in city records for not considering Alternative 6 were: - Baseline Reservoir may receive additional water as a result of a flood - a reservoir may receive water. - The spillway of Baseline Reservoir may need to be repaired. - The city of Lafayette may need to add a drinking water filter to remove excess turbidity during floods. If Alternative 6 Mitigation Plan is chosen, obviously the main construction method would be to dredge the channel to contain the specified flood flow capacity. Existing trees, bushes, debris, in-fill under bridges, and other miscellaneous trash will need to be removed from the stream bed, this is normal maintenance which has not been done for a very long time. Which of the choices for permit, annual dam inspection, and construction techniques is most logical, durable, least expensive, can convey the unknown quantity of flood water, and won't collapse? Observing the overall egocentric gymnastic

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*performances for almost seven years relative to all aspects of Flood Protection has been an unbelievably nauseating experience for many residents. Many residents are so completely disgusted with the entire fiasco that they have given up any hope of the likelihood of sensible flood prevention, and have chosen not to participate, some have even departed from the city. Long term observation clearly demonstrates that there have been many failures and many obviously seriously unacceptable judgements by numerous city functions and other participants. Consequently, there is a need to look back to determine how we fell into this deep hole, and to determine what is really required to escape, then let competent engineering consultants guide the mitigation projects without interference, but, with adequate public transparency and guidance in order to be able to climb out of this life-threatening mess. Certainly we can no longer allow resident groups, individuals, dog walkers, or Council, to continue designing critical flood mitigation systems for which they have inadequate experience. The city is in a vast paralyzing quagmire of overwhelmingly immense proportions with a multi-serially demonstrated inability from which to extract itself. WRAB is defined as the skilled board to ADVISE the City, City Council, and Residents, of existing and future flood related catastrophes and solutions. There is an abundance of long standing complaints by residents relating to non-response, misdirection, inaction, and very strange peculiar actions by City functions as a whole, regarding Flood Mitigation. When coupled with the strong negative disaster warnings defined by engineering consultants, climate scientists, combined with the significantly adverse revelations exposed in the Team Tipton report, along with many disillusioned departed city employees, it's quite obvious that a different thought process must be wisely established. Climate scientists have consistently indicated worsening world-wide weather conditions and specifically targeted Colorado. Details about the above strange referenced actions can be available as needed. A sensible strategic evaluation of where we've been, how we got here, and where we want to go, is necessary. It's recognized that a few good new employees have been hired, but, City Utilities is grossly understaffed and underfunded for the many fundamental tasks that need to be accomplished promptly. One important noticeable part of the problem of not achieving a successful result is the fact that Council, WRAB, etc, seem to feel obligated to comply with the ineffective policy of allowing persons who may have something of significance to contribute, to speak for only two or three hurried disjointed minutes, followed by another person for two or three disjointed minutes, ad nauseam, along with frantic pleas by desperate residents for help. To avoid the obvious problem of too many people trying and failing to speak effectively at Council meetings, Council has suggested the use of email contacts to Council. Recognizing the humungous quantity of reading material Council is always confronted with for each meeting, and has seriously and accurately complained about in the past, this new load of reading material is likely to be impossible to be given much consideration. Probably the email contact gives the writer the feeling of getting the attention of Council. Considering that Council can only listen for two or three minutes at meetings, it seems unlikely that hundreds of emails will receive collective consideration by Council. What intelligent city, corporation, or individual, would make major multi-million dollar decisions in this manner? This policy is far too limiting on presentation time and subject integrity. In the end this method obviously has taken far too much more time - without a solution. Critical comprehensive meetings of stakeholders are needed to clearly state the problem, effectively evaluate ideas, define plans, and accomplish solutions in an urgent timely manner, without additional subcommittees. Another issue in preventing flood mitigation from progressing is a significant lack of priority. There is considerable "talk priority", but, "sensible action priority" is completely missing. It's much like not wanting to do a task, so other trivial things are found to occupy the time space available, thereby successfully avoiding doing the undesirable task. This is simply denial of significant future flood devastation. A third hindering factor is RESILIENCE. Resilience is traditionally considered as the ability to recover quickly from unexpected misfortune. Boulder frequently touts its resilience in presentations, newspaper articles, and in the City of Boulder, Colorado Community Newsletter. The Fall/Winter 2019 edition front cover of the Newsletter boasts a typical example by stating: "Ready and Resilient - **Ways** the city is preparing for natural disasters and other sudden, unexpected events". After reading the Newsletter cover to cover, it's difficult to find the "**Ways**". This exemplifies that it is much easier to find the "Talk" than it is to find the real "Walk". The Spring 2020 edition of Newsletter has similar resilient boasts. The seven year period since 2013 is not resilient. Resilience has a factor of quickness in its definition. Boulder has a flood report in its files written in 1934 which quite clearly describes: "The*

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downhill bank of SBC is too low" (in the area near the current location of US 36) thereby causing flooding. Coincidentally, that's the same location and problem that is present today. The only difference in the 86 intervening years is the manner in which the problem is described. Today, the description of the flood problem is: "What is the best way to allow flood water to flow down the hill onto CU property so that the city can needlessly use CU property to store flood water for three days in exchange for the city providing CU with utility services?" Alternative 6 would use the existing creek as a basis for mitigation. This totally eliminates any involvement with CU, and allows CU to apply for utility service as would normally be done, without ridiculously holding the city and residents as hostages. It's curious how the SBC flood water traverses from highway 93 to US 36, then as it reaches a critical point near US 36 it strategically overflows out of SBC onto CU property thereby causing the flooding problem. Why does the same flood water in the creek not cause a major flood problem prior to US 36? The Flood Mitigation Torch needs to be found, picked up, lit, evaluated, and carried smartly to the goal. Who better than WRAB to take on this heroic task and demonstrate the necessary solutions to the city! To do this, the above comments urge WRAB to start this task by examining the many strange, bizarre, and unorthodox situations which have occurred in the past seven years relative to flood mitigation. Some of these situations speak of incompetence, others totally defy an explanation, but they do require inquiry. This would need to be done before proceeding with the next evaluation of mitigation plans. Boulder has 15 primary creeks which need attention, some of them have been bypassed. Some have their mitigation plans completed, but, are not implemented due to a lack of funds, and the plans are filed away gathering dust. The SBC/CU fractious flailings have overwhelmed the serious attention that should have been given to ALL flood areas in the city so that ALL flood areas could be mitigated much sooner than the present outrageous documented Utilities estimate that the city will not have funds available for flood mitigation for at least 100 years. 100 years was the most accurate estimate Utilities could provide as to when the city would be able to afford to mitigate many critical flood areas. This task is a matter of WRAB addressing the major task of critically reviewing ALL aspects of how we arrived at our present position, and then offering a clear, concise path out of this bewildering flood mitigation forest. WRAB has the critical skills to create a strategical flood managerial masterpiece to end this meaningless nonsense of trying to find a scheme to keep CU in the game so CU can hold Boulder hostage to provide CU with utilities for CU South. WRAB has been given the responsibility to say YES and then take the blame for ill-conceived plans, but, WRAB has been denied the charter to speak authentically to challenge foolishness. Utilities has accurately advised, in writing, that "We, the city, have grown accustomed to saying we don't have the funds to do a job, so we don't do it, and then the job doesn't get done". This is repeatedly true. Members of WRAB: Please step up to the prior overall \$172,000,000 (now approaching \$200,000,000) city-wide 2013 flood mitigation disaster, and address ALL aspects of the solution for the flood safety of ALL Boulder residents. Please stop, start over, and complete the task quickly with common sense plans. Make a comprehensive offer to Council explaining how your skills can create the final resolution of the many overall flood problems. The city implies that lives and property near SBC are more valuable than elsewhere. It is grossly negligent for us, the residents of Boulder, to allow these destined-to-occur natural flood disasters to threaten us unchallenged. Our failure of the Flood Mitigation process is significant and is amazingly negatively spectacular. Gilbert White advised us that floods are a function of nature, but, flood damage is allowed by man. We are on a fast track by allowing and accepting extreme disaster, but we apparently don't recognize that fact. It's not yet too late to act responsibly simply because the next flood hasn't yet inundated our city, lives, and homes. We need to protect ALL people, homes, and infrastructure in Boulder. We can't believe, after seven years of epic failure, that we are achieving our flood mitigation goals when on April 20, 2020, WRAB verified to the community that "The Emperor Has No Money" for flood mitigation. However, we do have considerable funds for other less critical, lower priority, less necessary projects. But, we frequently, and incorrectly, are told we are resilient!! The above comments may be considered unkind by some city functions, absolutely, they are unkind, they are necessary, they are also Tough Love, and they are true, simply waiting to be recognized. However, **We Must Speak Truth To Power**. Respectfully, Carl Norby  
norby.cw@gmail.com

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: William R Smythe <Rod.Smythe@colorado.edu>  
Sent: Monday, June 15, 2020 5:33 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Flood

External Sender

Please vote FOR the 100 year variant flood plan. I live in a ground floor apartment at Frasier. I survived the first, PLEASE act.

Judy Smythe

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** carol atkinson <abwlabu@yahoo.com>

**Sent:** Monday, June 15, 2020 5:15 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** South Boulder Creek Flood Mitigation

**External Sender**

Dear Council Members:

The 2013 flood was traumatic for my husband and me. Since then I have followed the city's proposals to prevent or mitigate future flooding in our neighborhood with great interest and growing dismay. The variant plans I saw in the first public meeting were alarming! I am not an engineer, but I am observant and I have seen a number of flash floods elsewhere. The assumptions underlying the original plans were clearly faulty. Since then the plans have undergone changes, but they still do nothing to give me confidence that the city is addressing this life or death issue with clear eyes and open minds.

The following is a brief list of my main concerns:

1. Considering climate change and the increase in extreme storm events, why are you limiting your plans to preventing flooding in a 100 year storm flood event rather than a 500 year event?

2. The Viele Channel is critical to protecting our neighborhood, but no plans for its improvement and maintenance are included in the current proposal. Viele Channel will also be critical to protect our neighborhood in case of a severe cloud burst over Table Mesa. Likewise, there is no plan included for improvement of Dry Ditch #2, which is also critical for protecting our neighborhood.

3. The plan suggested by Gordon McCurry makes so much sense, but I have seen no serious consideration of it by the city, or reason for not considering it other than, "Oh, that won't work."

4. Having the city perform so much work for the benefit of the CU property, when the university is doing so little for the city in this project seems ridiculously overly generous.

Another issue not mentioned in any of the discussions I have read is the effect of sloppy planning and poor decision making on such a significant project on the relationship of the citizenry to the city government. Lives are at risk here and you have precious little to show for the past seven years.

Yours truly,

Carol Atkinson, 255 Cimmaron Way

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Elizabeth Black <elizabeth@elizabethblackart.com>

**Sent:** Monday, June 15, 2020 5:12 PM

**To:** OSBT-Web <OSBT-Web@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>;

Council <council@bouldercolorado.gov>; boulderplanningboard

<boulderplanningboard@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>

**Subject:** South Boulder Creek Flood protection and cost of fill; a solution

**External Sender**

Hi Council, OSBT, Planning Board and WRAB,

I have heard that you all are very concerned about the cost of fill for the CU South flood control and annexation agreement. Well I have a possible solution.

Up here on Four Mile Canyon Creek, we have TONS of sand and mud that washed into our creek channel in 2013, and in previous floods as well. Four Mile Canyon Creek experienced over 100 landslides into the creek in 2013, and much of that dirt ended up here in North Boulder City limits. I and my neighbors all learned that damage from debris and mud is much harder to deal with than damage from water alone. That is why we want some debris detention ponds constructed along the Four Mile Canyon Creek channel, so that in the next flood, the mud and gravels can settle out in the detention ponds instead of strewn through our yards, schools, drainage ditches and streets.

Utilities has already made some initial plans for detention ponds along Four Mile. They just need to be excavated. (Locations include the undeveloped park site at Violet just west of 19<sup>th</sup>, and just west of Ponderosa Mobile Home Park.) Additionally, the creek channel west of the Elks has been silted in over the years and needs to be cleared to keep homes in Palo Park out of the next flood. So we actually have LOTS of fill we need to get rid of here in North Boulder. We would love to give it to CU!

My guess is that there are other creeks in Boulder in a similar situation. So instead of seeing only lemons, I suggest that you look for ways to make lemonade. We REALLY want to get those detention ponds excavated and our creek channel cleared ASAP. You could kill two birds with one stone, and maximize your flood control dollars. Think about it.

Elizabeth Black

Elizabeth Black

## **The Citizen Science Soil Health Project**

**Helping you PROVE you are IMPROVING your soil.**

4340 N 13<sup>th</sup> St. Boulder CO 80304 303-449-7532w 720-839-5576c

[Elizabeth@ElizabethBlackArt.com](mailto:Elizabeth@ElizabethBlackArt.com)

To Unsubscribe, click on [Elizabeth@ElizabethBlackArt.com](mailto:Elizabeth@ElizabethBlackArt.com) and tell me to remove you.

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Harriet Boonin <harriet.boonin@gmail.com>

**Sent:** Monday, June 15, 2020 4:50 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Hundred Year Flood Plan

**External Sender**

I hope you will please pass this flood plan at tomorrow night's meeting.

We remember that flood well, and how many of our friends had to move in with us and with other friends and how much they lost in property.

Not sure why this hasn't been passed yet.

Thank you,

Harriet Boonin

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Catherine Holzer <chholzer@comcast.net>

**Sent:** Monday, June 15, 2020 4:22 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Variant 1/100-year flood plan

**External Sender**

As a 30 year resident property owner in Boulder and now a Frasier Retirement Community resident, I think it is time for the City Council to take action on flood mitigation for the South Boulder residents that were critically impacted by the 2013 flood tragedy. Please vote to pass the Variant 1/100-year flood plan.

Thank you for your attention to this life and property saving issue.

Catherine Holzer

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Brandon Fields <brandon@elderlawboulder.com>

**Sent:** Monday, June 15, 2020 3:46 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Flood Plan

**External Sender**

Please vote in favor of proceeding with the Variant 1/100-year flood plan.

--

Brandon Fields  
8011 Fox Ridge Court  
Boulder, CO 80301

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Edith Stevens <ediest1@me.com>  
**Sent:** Monday, June 15, 2020 3:38 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** OS land for flood control?

Almost two years ago, and, again, one year ago, the Open Space Board of Trustees requested that the Utilities Department provide them with an analysis of upstream options for flood mitigation to reduce or eliminate the need to construct a flood wall on Open Space and State Natural Area lands that are the habitat of two threatened species and other ecologically significant native plants and animals.

To date, Utilities has failed to respond to OSBT's requests, apparently misled by City Council's preference to go forward with Variant 1.

This dual disregard for OSBT's efforts to preserve valuable, and, at least in one case, irreplaceable, habitat comes at a cost.

In order to build on this Open Space land, OSBT must go through the process of disposal set forth in the Open Space Charter.

OSBT has repeatedly stated that it will not consider disposal until Utilities provides the analyses they requested in 2018 and 2019.

I suggest that it would be prudent for City Council to direct Utilities to respond thoroughly and professionally-- with expertise-- to OSBT's requests for analyses of upstream alternatives to environmental and ecological destruction.

Edie Stevens  
2059 Hardscrabble Drive  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Carolyn Zeiger <czeiger@aol.com>  
**Sent:** Monday, June 15, 2020 3:36 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** flood protection

**External Sender**

To Boulder City Council  
From Carolyn Allen Zeiger, Ph.D.  
Boulder resident since 1961

For 7 years now, the Council has been dithering endlessly without taking action while the flood danger remains—not just for those of us at Frasier Meadows but even more so for residents of other even more vulnerable South Boulder neighborhoods. You have a plan approved by experts, and endorsed by other governmental entities: act on it!

Carolyn A. Zeiger, Ph.D.  
4840 Thunderbird Dr. Apt. 188  
Boulder, CO 80303  
[czeiger@aol.com](mailto:czeiger@aol.com)  
720-562-8011

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** jeff grove <jeff1.grove@gmail.com>  
**Sent:** Monday, June 15, 2020 3:28 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood mitigation

**External Sender**

Boulder City Council,

I don't know the source of this fallacious and somewhat insulting message excerpt, but it was sent to me by "this guy", Frasier resident Bill Wood. Although our new residential building has no apartments on the ground floor, the existing facility has about 60 apartments on the ground floor, including our entire assisted living section of about 30 apartments. Assisted living residents may have serious mobility difficulties.

*“ . . . This guy and his partner, Marilyn Krysl, . . . moved to Frasier last year, maybe two years ago. **Nobody lives on the ground, floodable, floors now, I believe, so I wonder why they're so afraid. Age?**”* (italics and bold face by BW)

The Frasier Meadows Retirement Community strongly supports Variant 1 of the 100 Year Plan, and I urge you to adopt this and start implementation on it as soon as possible.

Jeff

Jeff Grove  
[jeff1.grove@gmail.com](mailto:jeff1.grove@gmail.com)  
350 Ponca PL Apt. 424  
Boulder CO 80303-3882  
(h) 303-581-9017

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jody Berman <jberman@bermaneditorial.com>  
**Sent:** Monday, June 15, 2020 3:21 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Proceed with Variant 1 500-year plan

**External Sender**

Dear Council Members,

I urge you to allow the Variant 1 500-year flood plan to proceed expeditiously on the CU South campus.

Variant 1, compared to CU's self-serving plans, could save millions of dollars, and will ensure greater, necessary protection to downstream residents. Restrictions for development must be adhered to on the flood-prone parcels in question.

Thank you for your consideration.

Jody Berman  
Boulder resident since 1985

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Alex Herzog <aherzog@aol.com>  
**Sent:** Monday, June 15, 2020 3:17 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** SE Boulder Flood Mitigation

**External Sender**

It is imperative that Council discuss and do something reasonable after nearly seven years of inaction.

Alex Herzog,  
Frasier Meadows Retirement Community.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Susan Marine <swdkm321@comcast.net>  
**Sent:** Monday, June 15, 2020 3:06 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please support Variant 1/100-yr. flood design

**External Sender**

Council members,

I urge you to vote “yes” in support of Variant 1/100-yr. flood design. This design will best protect the safety of many Boulder residents who live on the south end of town. This issue has been unresolved for years and needs to be settled so that mitigation can move forward. The video taken at Frasier Meadows (where I now live) shows how devastating the last flood was; it was only because of the heroic efforts of staff that residents did not die. Please vote yes.

Thank you.

Susan Marine

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim Ferguson <jim@csswa.com>  
**Sent:** Monday, June 15, 2020 3:00 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** 100 Year Flood Plain Plan Voe

**External Sender**

Please vote in favor of the 100 Year Flood Plain plan.

Sincerely,  
James S. Ferguson

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Sara Fardi <sara.fardi@colorado.edu>

**Sent:** Monday, June 15, 2020 2:56 PM

**To:** Brockett, Aaron <BrockettA@bouldercolorado.gov>; Friend, Rachel <FriendR@bouldercolorado.gov>; Joseph, Junie <JosephJ@bouldercolorado.gov>; Nagle, Mirabai <NagleM@bouldercolorado.gov>; Swetlik, Adam <SwetlikA@bouldercolorado.gov>; Wallach, Mark <WallachM@bouldercolorado.gov>; Young, Mary <YoungM@bouldercolorado.gov>; Weaver, Sam <WeaverS@bouldercolorado.gov>; Yates, Bob <YatesB@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; Homeownership <Homeownership@bouldercolorado.gov>

**Subject:** Police reform & tangible steps

**External Sender**

Dear council members,

I am writing again to discuss police reform in Boulder.

Having followed along with last week's meeting, I am eager to see how you intend to deepen the conversation regarding police funding and what immediate changes will be made regarding policing and strategies towards community safety—I am not sure a strong argument can be made right now that the police are in service of community safety, at least, not the whole, Black, brown, and low-income community so many on council seem ready to drop out of the conversation. If you have never felt threatened by the police, never been harassed, never been unable to pay a bill, pay a car repair, pay rent—then this probably isn't about you. As representatives of this city it is however your job to know that it is not about you, inform yourself of the lived experiences of your neighbors and listen when they speak. We are speaking.

We want immediate changes. We want the police budget lessened and funding reallocated to housing and human services, to services that support the *whole* community such as libraries, social welfare programs, mental health services, and nonprofits that care for the most vulnerable in our community.

We want trained, non-armed professionals to take all non-criminal calls (mental health, the homeless, school discipline, and neighbor disputes)—because according to the police chief a police officer cannot go to these calls unarmed, then they should not go at all. San Francisco has made a commitment too, can you? <https://www.businessinsider.com/san-francisco-police-will-no-longer-respond-non-criminal-calls-2020-6>

While I appreciate Chief Herold's verbal commitment to reform, unless the entire institution of policing in Boulder County is going to undergo an intentional destruction and restructuring with a complete change in training, mission, resources, and policies—it is not going to be enough. Officers who follow the law still penalize the poor. Officers who follow the law still make Black and brown and low-income communities unsafe. These are structural problems. These are problems with the law, with the way class and race are entangled in the social, political, and economic systems. These are problems that will not get better without *systemic* change. So please, change the system. (for reading, I recommend The End of Police by Alex Vitale, here is an excerpt of his work <https://www.yesmagazine.org/social-justice/2020/06/02/police-reform-training/>).

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If you think these are not issues within our community, you are wrong. From income disparity to the camping ban (a straight up euphemism for a ban on houselessness), Boulder is rife with inequities we like to avoid. We have a culture of intellectualizing, of prioritizing data over the value of lived experiences, of centering the needs of the upper middle class and white comfort (from limits on house occupants to what areas can be developed), using the environment to perpetuate racist policies (green belt), to educational achievement gaps in grade-school students (<https://www.coloradoindependent.com/2017/10/05/denver-boulder-schools-home-to-the-states-largest-achievement-gaps-based-on-race-new-data-shows/>) to residents of boulder (fig. 12, <https://www.towncharts.com/Colorado/Education/Boulder-County-CO-Education-data.html>). These disparities are evident even in which students are referred to law enforcement (the NAACP of Boulder has compiled info on this).

Boulder is not some utopia. Boulder is not exempt.

There are tangible steps that can be made that are not outrageous demands, idealistic, or 'too much'—unless you find yourself unwilling to deal with discomfort in order to save lives and improve the quality of life for people of Boulder.

Stop sending police officers to non-criminal calls, meaning calls concerning mental health, individuals navigating houselessness, school discipline, or neighborhood disputes.

Pull what funding is needed from the police to hire actual professionals who are trained for these situations, not armed enforcers.

Sincerely and insistently,  
Sara Fardi

On Mon, Jun 8, 2020 at 1:01 PM Sara Fardi <[sara.fardi@colorado.edu](mailto:sara.fardi@colorado.edu)> wrote:  
Dear Council Members,

My name is Sara Fardi. I am a resident of South Boulder. I am writing to inquire about the status of the Police Oversight Committee, the promises made for reform, and ask that a serious reduction in funds be made to the Boulder Police Department. Based on the 2020 budget approved in October, BPD is receiving more than 38 million dollars, an 8% increase compared to the previous year while the funds being given to Housing and Human Services have undergone a 28% decrease. Now, given the camping ban, the appalling apologist and centrists stances many on this council have been want to take--I can't say I am surprised to see those values reflected in Boulder's budget.

This is a city most consider progressive, most would pride themselves on their progressive ideals and equity work, but philanthropic spending, health and educational disparities, police biases, and the narratives of every Black, Indigenous, and Person of Color who live, work, interact, and often leave Boulder would suggest otherwise. As a born and raised "Boulderite"

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myself, I can attest to the pervasive lip service this community gives it's BIPOC residents while tokenizing, marginalizing, and erasing their experiences. I would like to see Boulder's polices align with its spoken values, as representatives of the people--that becomes your job.

Can we commit to dismantling systems of white supremacy in our community (I assume ya'll are familiar with the history of policing in the US)? Can we imagine a city that actually takes care of its houseless instead of persecuting them and hiding behind a camping ban? Can we stop providing loopholes that minimize affordable housing? Can we provide safety and resources for those with mental illness? Can communities of color become empowered and able to build tools and access resources that will address issues of health inequity? Can we prioritize restorative justice and education?

If you can't imagine it, I'd like to provide the link to the MPD-150 website. I recommend reading both the Enough is Enough report and their frequently asked questions as a place to start (<https://www.mpd150.com/faq/>).

If you can--I'd like to see action. I'd like to see funding go to people, to communities, to education, not to the police, who have proven quite ineffective at preventing crime. Here's an excerpt from a Government Accountability Office's report (2005):

[The office] concluded that while there was a 26% decline in overall crime from 1993 to 2000, only 1.3% of the decline could be attributed to additional police officers. The majority of that decrease, the office said, came from other, unspecified factors; smaller studies have found that everything from preschool to job programs for young people decreases crime rates (read more at <https://www.nytimes.com/2019/09/26/opinion/the-police-cant-solve-the-problem-they-are-the-problem.html>).

If it's still unclear, I am writing to say that I strongly support the Boulder Police Department being defunded and seeing those resource reallocated to community programs, restorative justice, mental health, youth programs, and affordable housing. I'd like to see an end to performative progress and actually see the real thing happen in Boulder.

Thank you,  
Sara Fardi

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Jo Ferguson <jo@csswa.com>  
**Sent:** Monday, June 15, 2020 2:54 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please vote...

**External Sender**

in favor of proceeding with the Variant 1/100-year flood plan.

I am a new voter in Boulder, having moved here from Arvada in March, and am concerned about the devastation caused by the previous floods. Our Rotary Club raised money to help people impacted by that 100-year flooding event, and we strongly support the Variant 1/100-year flood plan.

As members of our city council, we urge you to act on this very important issue.

Thank you for your attention to this matter.

--

-Jo Ferguson  
350 Ponca Pl #722  
Boulder, CO 80303  
Home Phone: (720) 836-2380  
Jo's Cell Phone: (509) 539-2298  
Jim's Cell Phone: (509) 628-1989  
E-mail: [jo@csswa.com](mailto:jo@csswa.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Peter Wood <phwgourds@gmail.com>  
**Sent:** Monday, June 15, 2020 2:54 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please proceed with the Variant 1/100-year flood plan

**External Sender**

Dear City Council Members,

I am a Boulder County resident with a brother living at Frasier Meadows. With a family member living there, I am concerned that for years the City and the University have not been able to agree on a flood mitigation plan to protect that vulnerable facility. **I urge all of you to vote in favor of proceeding with the Variant 1/100-year flood plan.**

I was particularly shocked to see the recent message of a former member of the City Council and of the CU Board of Regents. Regarding Frasier, she was callous and ignorant enough to say: **"Nobody lives on the ground, floodable, floors now, I believe, so I wonder why they're so afraid. Age?"**

Surely, you can do better than THAT! Please vote to proceed with the Variant flood plan.

Sincerely, Peter H. Wood

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

**From:** Leanne Lestak <lestakl@yahoo.com>  
**Sent:** Monday, June 15, 2020 2:25 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek flood mitigation hearing

**External Sender**

To the Boulder City Council,

I want my voice to be heard about the hearing for the South Boulder Creek flood mitigation happening during your council meeting tomorrow. **Please move the Variant 1/100 year flood concept into preliminary design.**

I also want to give a shout out to all of the kind and hard working engineers who have recently become the target of verbal abuse by project opponents. A big thank you for all that they do!!

Kind Regards,

Leanne Lestak  
Walter Eckhardt

4790 Shawnee Place  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mike Leahy <gmichael.leahy@gmail.com>  
**Sent:** Monday, June 15, 2020 2:14 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** 1/100 Concept

**External Sender**

Dear Council,

It has been seven years since the flood of 2013, and we still do not have a positive vote on the flood mitigation. Please go with the Yariant 1/100 Flood Concept. We do not want to wait any longer for a positive vote, to move on to the work to provide an answer to floods in Boulder.

Vote YES on 1/100 Flood Concept

Mike & Ruth Leahy  
1315 Lodge Lane  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** JAMES WOLF <jnwolf2860@comcast.net>

**Sent:** Monday, June 15, 2020 1:47 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** South Boulder Flood Control

**External Sender**

Dear Council Members,

I don't want us to wait a hundred years for the next hundred year flood. I lived through the last one at Frasier seven years ago, and I have heard the previous council debate what to do, and postpone doing anything. I know there are those in the Boulder community that want to keep the south CU campus open space and others that just don't trust CU, but it is up to you elected council members to protect our neighborhood from another disaster. Thank you.

Jim Wolf  
4875 Sioux  
Drive #105  
Boulder 80303

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jean Aschenbrenner <jeanasch@hotmail.com>

**Sent:** Monday, June 15, 2020 1:22 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** South Boulder Creek Flood Mitigation

**External Sender**

Wisdom says that it is best to keep development out of floodplains and marshy areas, and instead use those areas for open space, recreation, parks. Boulder wisely followed that direction when it designated areas in the South Boulder Creek floodplain as open space. And considered this in its Boulder Valley Comprehensive Plan. WHY THEN, are we considering changing that????

Why are we considering allowing CU to build lots of stuff in the area, and to make changes to the ground water level and floodplain area. We are just asking for trouble. And when trouble comes, it will be my taxes that go to solving the problems. It is OK to say NO to unwise development.

Near the area is the Tallgrass Prairie State Natural Area. Open space protects that area. Large unfragmented areas are important. So putting major development nearby threatens the effectiveness of the Natural Area. If we allow development there, it CANNOT BE UNDONE. The State, in its wisdom, considers the area important. Boulder should be supportive.

CU South is a great place for recreation and serves many people. We need a quiet, open place to walk and hike. We will need this more, as the world becomes more crowded and life gets crazier. Please do not sacrifice this area to development.

I have lived in Boulder since 1984 and have been voting for Open Space and paying taxes for Open Space since then. I am losing faith in Open Space. Decisions were made in the past and now pressures from money and influential people are allowing those decisions to be changed.

I now live near the area which has been suggested for CU development near 28<sup>th</sup> & Jay. I am OK with development there, where there is less potential for Open Space.

Please save CU South!

Jean Aschenbrenner

2695 Kalmia Ave.

Boulder, CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ruth WRight <ruthwright1440@gmail.com>  
**Sent:** Monday, June 15, 2020 12:33 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek - Flood Mitigation Project

**External Sender**

Dear Members of the City Council,

Attached please find items to be included in my previous email to you dated June 14, 2020 at 9:23 p.m.

In addition, I recommend that you reject the present options and go back to Variant 1 500-Year concept approved by the City Council in 2018. At the time, I opposed it since once again it was excavating into the land with the high groundwater and it would not be available for additional detention. However, since such excavation has become the norm in all the projects and there is recognition that the excavation must be surrounded by an impervious wall to bedrock, I think it is the best concept of the whole bunch.

Best wishes,

Ruth Wright  
303-443-8607

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Steve Tuber <tubersteve@gmail.com>  
**Sent:** Monday, June 15, 2020 11:32 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Gordon McCurry <gnmccurry@gmail.com>; Steven Telleen <stelleen@comcast.net>; Sullivan, Douglas <sullivanand@bouldercolorado.gov>; sebna@googlegroups.com  
**Subject:** Fwd: South Boulder Creek Flood Mitigation

**External Sender**

Dear Council Members - I have made a few edits to my previous email for clarity's sake. Apologies. Steve Tuber

Dear Council Members - I am providing formal comments in lieu of attending the June 16, 2020 Council meeting regarding Phase 1 option discussion for the S. Boulder Creek (SBC) flood mitigation project. I am a resident of southeast Boulder. My home was directly impacted by the September, 2013 flood, with 2 feet of water in the basement as a result of groundwater intrusion. I live a stone's throw away from Dry Creek Ditch #2 which overflowed its banks and caused local flooding issues and elevated groundwater levels at that time. I have participated in multiple open houses, town halls, Board and Council meetings. In addition, I, with several of my neighbors, hosted City staff on two occasions for field trips to view the local drainages, ditches and channels over the past two years.

**My BIG ask:** Please direct City Staff to formally include planning for the conveyance of the detention discharge back to SBC as part of Phase 1.

**Background:** Initially at the April 2018 town hall meeting regarding options for Phase 1, the City's contract engineer announced, in response to an audience question, that Dry Creek Ditch #2 (DCD) would carry the detention discharge back to SBC. After follow up questions and discussion with the staff, it became apparent to me that the City had not focused on the discharge of detention waters. Ultimately, the staff acknowledged that the Viele Flood Channel would be a better choice to convey the detention discharge since it was 5-10 times larger than DCD, designed to carry flood surges, a shorter, more direct route to take detention waters to SBC with far fewer homes being exposed to 5 or more days of maximum flows and flooding *from the detention discharge*.

**Current Status:** To my knowledge, the City staff now understand that Viele Channel should be the detention discharge conveyance. But Viele Channel, especially the stretch between US 36 and S. Boulder Road, is choked with debris and growth, having not been adequately maintained. In addition, DCD will be inundated by the detention pool on the southwest side of US 36. So it will become a *de facto* conveyance unless steps are taken to prevent that from happening. Despite these issues, the City has yet to formally include the detention discharge as part of Phase 1.

**Action Requested:** The detention discharge to the east and north of US 36 must be fully integrated into Phase 1; planning must include needed improvements to Viele Channel and Dry Creek Ditch #2. FEMA regulations require that no existing structures be put in greater jeopardy by flood mitigation projects. Failure to take these actions would cause the City to violate this requirement.

- **Specifically, for Viele Channel:** engineering plans and funding are needed to restore the Channel to its full carrying capacity to prevent waters from flooding into the neighborhoods north of S. Boulder Road. Also, the berm on the north side of the Channel should be extended north of the confluence with SBC to protect the east side of Greenbelt Meadows from elevated flows from Viele Channel that will raise the levels of flooding at and north of the confluence.

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- **Specifically, for Dry Creek Ditch #2:** engineering plans and funding are needed to ensure that DCD does not become a *de facto* conveyance of the detention discharge: i.e., that only legally required flows be allowed into the ditch from the detention pool. DCD contributes directly to ground water levels along its path. Many of the homes in the Greenbelt Meadows and Keewaydin 2 and 3 developments were impacted by groundwater intrusions in 2013. While the direct effects of flooding on groundwater levels will be hard to control, the City must ensure that the impact is not prolonged and worsened because of the discharge of flood detention waters to DCD.

As for the overall principles that I hope you will adopt to drive your decisions regarding SBC flood mitigation, I strongly suggest that protecting public safety and welfare should be your highest priority. If it is, then I believe the following are the outcomes upon which you should insist:

- 500 year detention capacity.
- Moving the CU South development in part or in whole, or limiting the size of the development, to make maximum use of the existing floodplain for detention.
- Using whatever combination of soft (e.g, detention ponding) and hard (e.g., a flood wall) engineering achieves the 500 year detention capacity.
- Open Space should be protected as much as possible, BUT that it should NOT be considered untouchable.
- The detention discharge to the east and north of US 36 must be fully integrated into Phase 1; including improvements to Viele Channel and Dry Creek Ditch (to ensure the discharge stays out of the latter) as discussed previously.

Sincerely, Steve Tuber  
5375 Kewanee Drive  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lori Vest <gglagdm@gmail.com>

**Sent:** Monday, June 15, 2020 11:24 AM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; meadowlarkopenspace@gmail.com

**Subject:** DELAY THE JUNE 16, 2020 CITY COUNCIL VOTE ON CU SOUTH

**External Sender**

I am writing to urge you to delay the city council vote on approval of flood control to protect the CU South Mega Campus.

Ultimately, the project must be rejected. 500 year flood protection for downstream Boulder is a requirement of public safety. Allowing a private developer to build in a flood plain is a violation of the official Natural Area. City Staff broke Colorado law on Friday June 12 2020 by refusing to respond to the June 9, 2020 freedom of information request from the community seeking the backroom deal emails between City Staff and the University of Colorado. Staff emails must be made public before City Council can vote on protection or development of CU South. I support a civil lawsuit against city staff to obtain these secret emails.

Sincerely,

Lori Vest  
Potter Valley, CA

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Anne Remley <agr1@me.com>  
Sent: Monday, June 15, 2020 9:38 AM  
To: Council <council@bouldercolorado.gov>  
Subject: Flood plan please!!!

External Sender

Yes, please do establish that flood plan. You can adjust it later, but please get it going at last NOW.

Thanks!!!

Anne Remley

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Brown, Curt <BrownC@bouldercolorado.gov>  
**Sent:** Monday, June 15, 2020 9:29 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Burke, Dan <BurkeD@bouldercolorado.gov>; Bloom, Joanna <BloomJ@bouldercolorado.gov>  
**Subject:** Our OSBT Motions on the South Boulder Creek Flood Mitigation Project

Dear Council:

I've attached a copy of our OSBT motions that retains their original formatting and the order in which they were adopted. Thank you for your consideration!

Curt Brown  
*City of Boulder Open Space Board of Trustees*  
303-886-7083

**OSBT Motion #1 6-3-2020 made by Karen Hollweg, seconded by Dave Kuntz. Passed unanimously.**

When the proposed Variant I US-36 floodwall was moved onto OSMP/State Natural Area critical habitat, the environmental impact of the project was dramatically increased, and Council requested feedback from OSBT on the revised project. On September 11, 2019, the Board provided detailed feedback including a request to take a new look at the Upstream Option as a possible means to avoid or reduce these new impacts. We are still looking for this requested side-by-side analysis/comparison.

On May 22, 2020, OSBT began receiving new information on the Upstream Option. This included a map (#B-1) of the South Boulder Creek 100-year Flood Flows indicating that two-thirds of the peak flow and more than one-half of the flood volume occurs west of South Boulder Creek and is only prevented from flowing into the CU South gravel pit by the existing levee. This raises the questions: **Once the levee is removed (where the western flow encounters it), how much of this flow could be stored in the gravel pit via berms and excavation within the OS-O area? And, how would that reduce the Variant I storage and excavation requirements at the northern part of CU South (PK-U/O) and thereby reduce or eliminate the need for the US-36 floodwall?**

OSBT will **not** vote on disposal until we have the answers to these questions, in addition to others in our 2018 and 2019 recommendations to Council (attached). To get those answers, OSBT asks Council to direct the Utilities Department to, within the next few weeks:

- \* use existing mapping and data and work with two or more volunteer engineer/hydrologist professionals from the community to do model simulations to analyze what happens to the flood flows if the levee is breached and floodwater is stored in the gravel pit (see attachment),
- \* use results from the models to generate preliminary cost estimates for the modeled concept(s),
- \* work with OSMP to assess the environmental impacts, and then present the modeling, cost estimates, and environmental impact results to OSBT and the public, and
- \* enable OSBT to hold an open, data-based discussion and public hearing leading to the Board's final recommendation to Council regarding a 100-year Upstream Concept vs. the existing Variant I Concept.

Detention of 100-year flows on CU-South's OS-O land has the potential to: (1) reduce environmental impacts and thereby reduce the time and risk inherent in regulatory permitting; (2) limit intrusive construction to CU-South OS-O lands; (3) provide flexibility to detain larger than 100-year flows; and (4)

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improve cost effectiveness. With these potential benefits and the possibility of reducing the current \$66M to \$93M estimated probable construction costs, OSBT considers it prudent to take a month to answer these questions.

-----  
Attachment

**Initial List of Questions/Model Runs Requested by OSBT, based upon the information received May 29, 2020, to be revised through conversations with staff.**

The principal objective is to determine what fraction of the 100-year flood could be stored upstream. As a starting point, there is no need to do cost estimating, detailed conceptual design, or to assess collateral impacts to environmental resources until it is demonstrated that a sufficient fraction of the flood might reasonably be stored away from US-36, allowing for significant changes in the Variant I scheme which would directly benefit OSMP resources or provide other enhancements to the project. These analyses will enable OSBT to host with staff and the public, a data-driven discussion of upstream options.

1. Use existing mapping, flow data, and flood models to analyze what happens to the flood flows shown in B-1 if the levee is removed:
  - a. The levee at the south end of the CU-South property is removed along with any levee outside the Dry Creek Ditch in that area.
  - b. The land in the vicinity of the removed levee(s) continues the downward slope toward the north found immediately to the South of the CU South and Dry Creek Ditch levees, encouraging flow into the gravel pits.
2. Develop staff's best concept for storing that flow in the gravel pit/OS-O using both existing and new structures and excavation to reasonably maximize storage. Only constrain storage above the 500-year flood elevation inside the levee.
3. Estimate the stored volume and how that storage reduces peak flows and volumes downstream. Using professional judgment, consider how those reductions could be translated into reduced impacts on OSMP lands.
4. Repeat these steps adding staff's best concept for directing a greater fraction of the westerly flow into the gravel pit using inlet excavation or a berm, or both. Extend the berm only south to the South Boulder Creek trail area.
5. If those assumed concepts have resulted in significant reductions to the Variant I adverse impacts on OSMP resources, proceed to characterize the key assumptions and vulnerabilities. Characterize broadly the collateral consequences for OSMP resources incorporating information from the existing staff analysis. Proceed with staff and Board discussions, leading to the public forum.
6. If not, stop, and document analyses for a public forum.

**OSBT Motion #2 6-3-2020 made by Curt Brown, seconded by Dave Kuntz. Passed unanimously.**

If Council ultimately chooses to proceed with the existing Variant I options, it appears that the 100-year flood protection option has the greatest flexibility for reducing or avoiding direct project impacts to the environment. Under any of the proposed versions of Variant I, it will be critical to both remove the CU South levee and to restore, including but not limited to, all 119 acres of OS-O land, as part of a comprehensive mitigation plan. This provides the best

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opportunity to reconnect those lands with the floodplain and to accomplish mitigation in the immediate project area, something that is always desirable, and in many cases, mandatory for regulatory compliance.

**OSBT Motion #3 6-3-2020 made by Curt Brown, seconded by Dave Kuntz. Passed unanimously.**

The Board supports the Utilities Department installing a flood early warning system for South Boulder Creek.

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**From:** Jon Stabile <bikesmith01@yahoo.com>  
**Sent:** Monday, June 15, 2020 9:26 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please vote for the Variant 1/100 year plan

**External Sender**

Dear Boulder City Council Members,  
I am writing to ask that you please vote yes on the Variant 1/100 year flood mitigation plan that is supported by the Boulder Water Resources Advisory Board.

I greatly appreciate the support that you have shown for this plan so far (most recently at your study session on February 25th) and ask that you take continued positive action so that this plan can be moved forward into preliminary design.

Please disregard OSBT's recent recommendation as OSBT has acted outside their purview by weighing in on engineering (WRAB's domain) in a detailed way.

Flood risk remains a health and safety issue and I ask that you act without delay to protect our community.

Jon Stabile  
4935 Qualla Dr.  
Boulder, 80303

--

\*\*\*\*\*  
Jon Stabile  
Boulder Bikesmith  
1668 30th Street  
Boulder, CO 80301  
303-443-1132  
\*\*\*\*\*

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

: Steven Telleen <stelleen@comcast.net>

**Sent:** Monday, June 15, 2020 9:18 AM

**To:** Council <council@bouldercolorado.gov>; sebna@googlegroups.com

**Subject:** Flood mitigation on CU South

**External Sender**

SEBNA (Southeast Boulder Neighborhood Association) has a number of concerns about the flood mitigation proposal you are considering that use the CU South and Boulder Open-Space properties. Our concerns fall into four categories:

1. Continuing to spend taxpayer money on engineering designs that require waivers of federal highway regulations when CDOT has made it clear that they do not intend to even pursue those waivers. We ask that no more taxpayer money be spent examining options that require any floodwall connection to U.S. 36 until a formal written approval to do so is obtained from CDOT.
2. Currently the Viele Channel cannot safely handle any outflow without upgrades and ongoing maintenance. The proposal you are being asked to approve still does not include *any* plans or costs (let alone detailed ones) for these essential efforts that will be necessary to protect the residents in our neighborhoods. This cost must include needed improvements to the area immediately east of Greenbelt Meadows where the Viele Channel is intercepted by South Boulder Creek. During 2013 the floodwater came within feet of these homes. Without needed improvements along this section, the outflow into Viele Channel from the proposed mitigation option will likely exacerbate the 2013 water levels and directly impact not only these homes, but also the adjacent open space
3. The current Guiding Principles for CU-South state that no classrooms, residence halls or labs can be below the 500-year flood level. The residential flood mitigation parameters should not give citizens less protection than that given to CU, particularly if the City agrees to pay to refill the gravel pits for CU's extra protection. Since the Council currently has directed staff not to pursue the 500-year option, we suggest that the Council revise the Guiding Principles to make the protection level required for CU reflect the same level the Council approves for the residential areas.
4. Expecting Boulder taxpayers to pay for refilling the gravel pits to create an area CU can use for building.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

- First, a private company is allowed to remove and sell the gravel to make a profit – promising Boulder County it will restore the area to a natural state once the gravel has been removed.
- Instead, the gravel company sold the land to CU for development rather than restoration, and Boulder County either waived its original requirement that the area be restored to a natural state or did not contest the revised terms of the sale.
- Now the City of Boulder is proposing that CU use the gravel pit area for their projected campus buildings. In order to meet the flood protection requirement for CU buildings, the City of Boulder is proposing to spend tens-of-millions of taxpayer dollars to put back the gravel that was removed.

With these concerns in mind, we ask you again to consider the upstream options as posed by Dr. Gordon McCurry and Ben Binder – **not** the option as suggested by RJH. The upstream options, as proposed by McCurry and Binder, have never had any serious study, in spite of a request to that effect, six months ago by OSBT. Perhaps an engineering firm that has experience designing “natural flow” flood mitigation solutions should be engaged to evaluate upstream options rather than utilizing a firm whose experience is in dam solutions. Regardless, from studies already done, the McCurry and Binder upstream options should be more than adequate for detention of the current 100-year flood objective and has three distinctly positive attributes:

1. It could utilize the existing gravel pit and levee, no longer requiring the gravel pits to be refilled for CU buildings and thus save a significant amount of remediation monies.
2. It requires no construction near U.S. 36, avoiding the need for CDOT approval as well as complicated construction on the most sensitive habitat along South Boulder Creek.
3. It does not preclude adding additional detention downstream at some future date should the city decide to do so.

Additionally the upstream options provide solutions that are more in line with the requirements of the original permit granted to Flatirons Gravel specifying that once the gravel was removed the area would be restored to its native geography providing an environment that complements the adjacent open space. And they are more in line with Boulder’s stated goal of resiliency and with the Best Practice Guidelines on Sustainable Flood Prevention (UN/ECE).

Sincerely,  
Steven Telleen  
President, Southeast Boulder Neighborhood Association

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>  
**Sent:** Monday, June 15, 2020 9:10 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** PLAN-Boulder comments to City Council regarding CU South

**External Sender**

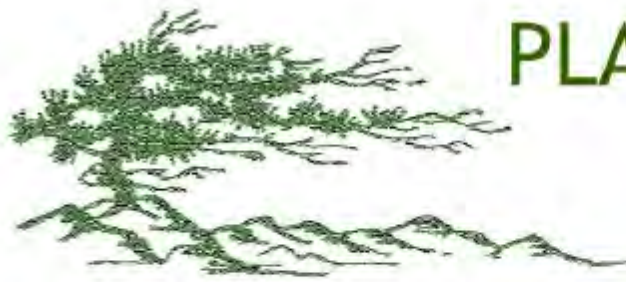
Dear Council Members,

Attached please find comments from PLAN-Boulder County regarding the CU South flood mitigation and annexation. We ask that the City Council not ignore the years of advice of experts from Gilbert White to Ruth Wright to Ben Binder to Gordon McCurry. Please do not proceed with an expensive and inadequate flood mitigation plan that puts the interests of the University above the interests of the citizens of Boulder and the environment.

Sincerely,

Peter Mayer and Allyn Feinberg  
Co-Chairs, PLAN-Boulder County

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



PLAN-Boulder  
County

planboulder.org

P.O. Box 4682 Boulder, CO 80306

June 15, 2020

Dear City Council Members:

Boulder, Colorado is one of the most flood prone cities in America and the South Boulder Creek watershed is one of the highest risk watersheds in Boulder, with the 2013 flood on South Boulder Creek resulting in significant damage to downstream residents. Flood experts, including the internationally esteemed Dr. Gilbert White, have been telling us for years that we should be planning for more extreme flooding events. His 2001 report for the City about CU South titled "South Boulder Creek, Boulder, CO – Independent Review Panel Report" recommended planning "for floods up to 500-year frequency". The current plan under consideration by City Council for 100-year flood mitigation fails to meet this measure of protection.

Because the property owner, the University of Colorado, has rejected any flood mitigation until this site is annexed for future development, PLAN-Boulder views the City's flood protection project and the annexation of CU South as inextricably linked. PLAN-Boulder believes that annexation and development of CU South should be treated the same as any other annexation of similar magnitude in Boulder, through an enforceable annexation agreement, vetted through a robust public process, which ensures that the University, or any future owner of the property, be responsible for infrastructure and transportation costs necessary to offset impacts of the development and is consistent with Boulder's development regulations.

Because the City Council and City staff have indicated willingness essentially do a blind annexation of the CU South property, without a clearly delineated development plan and commitment by the University to pay the costs of the annexation and development, as well as what has been an inadequately considered flood protection plan due to the University's resistance, we have prepared a Charter Amendment that will define the annexation agreement for CU South in the following ways:

- includes a management plan for floods up to the 500-year frequency as defined by FEMA, both on site, upstream, and downstream of CU South, and that includes removal of the existing levee;
- requires that the University of Colorado or any future owner or owners provide or pay for all public infrastructure and services, both on and off site, necessary to serve any on site development on CU South and to prevent any diminution of current levels of service or service standards for off site city residents and businesses as reasonably determined and calculated;
- limits development of buildings to 87 contiguous acres of the land, 87 acres being the amount of land allowed for development on this land in the 1990 Boulder Valley Comprehensive Plan that was in effect when the University of Colorado purchased the property. The location of these 87

**CU South Annexation Application (LUR2019-00010)**  
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acres must be out of the floodplain, and must not interfere with the establishment of flood protection required in the Agreement.

- the agreement and any development allowed on the property shall conform to the requirements of the Boulder Valley Comprehensive Plan, the City Charter, and the Boulder Revised Code, including development review processes;
- includes a plan for development that identifies the allowed uses, square footage by use, and location of all future development and infrastructure;
- heights of buildings shall be limited to 55 feet as defined and regulated by the Boulder City Charter and the Boulder Revised Code.
- housing that is part of the development plan must be permanently affordable to low- medium- and middle-income residents, as defined by the City of Boulder's Affordable Housing Program.

An annexation agreement that includes these elements is the only mechanism available to legally bind the University and the City to follow their commitments. Indeed, until a development plan is proposed, impacts identified, public comment received, and commitments to pay for the necessary mitigation specified, moving forward with the annexation that the University is insisting be a precursor to inadequate flood protection is fiscally, environmentally, and socially irresponsible.

We ask that the City Council not ignore the years of advice of experts, from Gilbert White to Ruth Wright to Ben Binder to Gordon McCurry, and to not proceed with an inadequate flood mitigation plan that puts the interests of the University above the interests of the citizens (and utility rate payers) of Boulder. It will take a number of years for all the regulatory approvals to be obtained for a well designed flood plan, so there will be adequate time for a real examination of the details of an annexation agreement with the appropriate involvement of Boulder citizens. This would also allow for in-person engagement of the public rather than the limited engagement offered by the virtual environment we are in now.

Sincerely,

Peter Mayer and Allyn Feinberg

Co-Chairs, PLAN-Boulder County

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ted Rose <tedrosehere@gmail.com>  
**Sent:** Monday, June 15, 2020 8:42 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Form Letter on CU South

**External Sender**

Council Members,

I don't know who is responsible for the form letter filling up in-boxes accusing staff of lying to Council regarding CU South, but I find it deeply disturbing and unhelpful.

Anyone who has followed the CU South debate understands it is complicated and involves many difficult tradeoffs. The factual inaccuracies in these emails are too numerous for me to address at this moment, but as a member of the Water Resources Advisory Board, I will highlight one close to my Board's purview:

500 year flood protection for downstream Boulder communities is not 'a nice to have' - it is a requirement of public safety.

This position is not supported by the City's Master Planning documents or reality. In fact, there is no part of Boulder that has received flood mitigation for 500 year events. It would be an impossibly expensive standard to make a requirement of public safety across our City.

More importantly, disingenuous ad-hominem attacks against individuals serving our community only aggravate the process and hurt morale. I have watched Staff work on this issue for years and they've approached it with diligence and care. I would say this particularly about Joe Taddeucci who was singled out in this chain letter. Joe is working hard to identify and advance actual solutions that can solve the real risk to life presented by the South Boulder Creek flood plain. He recognizes that delay, like the one advocated in this form letter, may sound good if you don't know the issues at stake but in fact is an expensive option that brings no benefit to the Community.

We must not conflate the future development of CU South with the health and safety of our neighbors. I urge you to move forward with the Variant 1 100 year design so we can protect the lives of people in Frasier Meadows and surrounding areas.

Thank you,

Ted Rose

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: cecilia casey <ceciliacasey@comcast.net>

Sent: Monday, June 15, 2020 8:33 AM

To: Council <council@bouldercolorado.gov>

Subject: South Boulder Creek Flood Mitigation

External Sender

Dear Council Members,

As a resident of Boulder, I urge you to pursue the 500 year option for flood protection. It will offer protection to the largest number of citizens in a future of climate change..

Cecilia Casey

4818 W Moorhead Circle

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kelly Murphy <bouldernatural@gmail.com>  
**Sent:** Monday, June 15, 2020 8:32 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Time and flooding waits for no one - Vote Yes on Variant 1/100

**External Sender**

Good Morning,

First, thanks for all the time you've taken on the So Boulder Flooding issue.

As you can imagine, as a homeowner in this flood zone - and having experienced catastrophic flooding just a few years ago, this issue is of high interest. I am still wondering who will be our Hero of Haarlem (the Dutchboy (Hans Brinker ??) who put a finger in the dike to save his town).

As a town, Boulder is essentially going against science and doing so without insurance - Why?  
Do we think a 100 yr flood is unlikely?  
A spectacularly bad bet these days.

Please vote YES on Variant 1/100 - before we cry out for "all Hans on deck".

Kelly Murphy

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ken Beitel <meadowlarkopenspace@gmail.com>

**Sent:** Sunday, June 14, 2020 10:19 PM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; Gatza, Jean <Gatzaj@bouldercolorado.gov>

**Subject:** Bob Yates - Conflict of Interest Recusal from June 16 CU South Vote

**External Sender**

**Boulder City Council,**

City Staff needs to be respectful of the community, needs to listen to community solutions and be in service to the community who pay them. The same applies to City Council. Instead it seems like Council and staff are taking advantage of Covid 19 to accelerate Boulder development at a time when the community can not gather at public meetings or effectively gather ballot initiative signatures.

City Staff rejection of years of community effort to establish protection of wildlife habitat at Twin Lakes was a literal slap in the face to hundreds of Boulder and Gunbarrel residents who have worked for years and followed the Boulder Valley Comprehensive Plan Process to achieve protection. Shame on council for meekly following the staff recommendation to reject protection at Twin Lakes due to "lack of resources" while having the resources to advance numerous development projects.

**I am also deeply concerned about Bob Yates' deep business, volunteer and social ties with the University of Colorado Boulder - I ask that City Council mandatorily recuse Bob Yates from any vote or discussions regarding CU or negotiations with CU.** City Council members are like officers who must act when one of their own is about to commit a wrongdoing or if there is a perception by the community that a wrongdoing is about to be committed.

I notice that the City of Boulder no longer has a conflict of interest policy that applies to Council members or city staff. In fact, the city volunteer policy has a conflict of interest policy that is disturbingly more rigorous than the one that covers Bob Yates as a council member even as Bob votes to provide CU with \$10 million dollars to fill in wetlands and meadows habitat and \$15 million dollars for advancing the CU south project per staff presentations. Bob Yates is an active executive level volunteer with the CU Conference of Global Affairs and was employed and paid as an adjunct law professor from Jan 2018 to May 2018 during advancement of the CU South Project.

A man who displays the CU logo on his linked in profile should not be voting to advance CU development projects on June 16, 2020 as a council member.

<https://www.linkedin.com/in/bob-yates-b189224a/>

I am also shocked and disturbed that Boulder City Staff has lied and deceived Boulder City Council, the Open Space Board of Trustees and the community by stating there are no alternatives to protecting Boulder communities from flooding.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

In Sept 2019, the Open Space Board of Trustees directed City Council and Staff in writing to study alternatives that would help protect the environment and potentially provide 500 year flood protection for the community. City Council and staff refused to conduct these studies. For the last three years, the Boulder community has called upon Boulder Council and staff to conduct a CU North land swap - OSMP Meadowlark Open Space cost/benefit study.



Yet on May 20, 2020 city staff lied at a public hearing and stated there was no alternative - only because the city refused to study alternatives demanded by the public and the Open Space Board for the last three years.

***“We've kind of been going through a 17 year process of elimination and umm we're about out of alternatives that we can look at. And so one of the things that staff is focused on is trying to drive this to closure”***

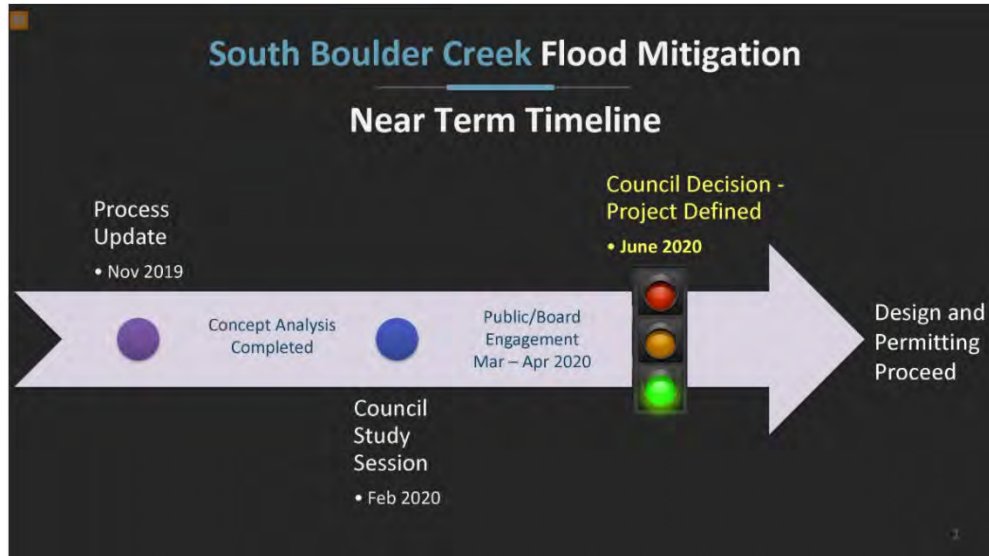
Joe Taddeucci, City Engineer & City of Boulder Director of Utilities - April 20, 2020  
Public Hearing (Audio link: <http://www.meadowlarkopenspace.org/wp-content/uploads/2020/06/FalseStatement-CityStaff-April20-2020.mp4>)

Once again, city staff on their own initiative or at the direction of City Council has conducted a fake public process with a predetermined outcome.

**In fact right now City Staff on the City of Boulder website has arrogantly placed a greenlight graphic on the June 16 Council vote indicating approval of the massive dam to protect construction at CU South despite massive public outcry and opposition.**

<https://bouldercolorado.gov/flood/south-boulder-creek-flood-mitigation-project>

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



For the three reasons below I hereby demand of Boulder City Council and the State of Colorado:

- A) **Delay the June 16th, 2020 vote by Boulder City Council** to approve flood control to protect the CU South Mega Campus
- B) **OR Boulder Council must immediately reject the CU South development proposal as a threat to public safety.**

I make this demand of city and state because:

**1) 500 year flood protection for downstream Boulder communities is not 'a nice to have' - it is a requirement of public safety.** Anything less than 500 year flood protection is a betrayal of the Boulder community in favor of CU interests.

**2) Violation of the Boulder's federally protected wetlands to allow a private developer to build in a flood plain is not OK.** Yes - city staff wants to advance development BUT violation of the South Boulder Creek State Natural area is NOT acceptable.

**3) As well, City Staff broke Colorado law on Friday June 12 2020 by refusing to respond to the June 9, 2020 freedom of information request from the community seeking the backroom deal emails between City Staff and the University of Colorado.**

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

Staff emails must be made public before City Council can vote on protection or development of CU South. **I also support a civil lawsuit against city staff to obtain these secret emails.**

Going forward, without the need to protect CU South buildings in a flood plain, the CU North land swap and OSMP Meadowlark Open Space, will provide 500 year flood protection - essentially five times the safety of the proposed 100 year dam- at one third the cost using enhanced wetlands habitat and low earthen berms to channel and retain water flows.

These cost savings would be used to protect three additional Boulder communities hit hard in 2013 from flooding. The State Natural area will remain intact. CU North will be a safe, dry and welcoming home for students.

**In closing, I demand that Boulder City Council listen to the community and delay the Tues June 16th vote and reject development at CU South for reasons of public safety and to protect the environment.** Development at CU South must be condemned using eminent domain.

Best Regards,

*Ken*

Ken J. Beitel

Chair of Wilderness Conversation

***proposed Meadowlark Open Space***

web: [www.MeadowlarkOpenSpace.org](http://www.MeadowlarkOpenSpace.org)

e. [meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com)

m. 720 436 2465

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** pmo@mediationnow.com <pmo@mediationnow.com>  
**Sent:** Sunday, June 14, 2020 10:12 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Fwd: Fw: South Boulder Creek Flood Mitigation

**External Sender**

Dear Council. I'd like to "second" the points made in Steve Tuber's missive to you on June 13 regarding South Boulder Creek Flood Mitigation (provided below). I too am a resident of east Boulder and my home and neighborhood was directly affected by the 2013 flood. I have been following the City's South Boulder Creek flood mapping and then flood mitigation efforts for over 10 years.

Several points I'd like to highlight include the following:

The City needs to address discharges from the proposed retention pond into Dry Creek Ditch #2 and/or Veile Channel - neither of which appear to be able to handle what they would be expected to handle in the event of a flood. These downstream issues are directly related to the proposed mitigation and should not be offloaded to a subsequent phase that may never get funded.

Since the scope of the proposed mitigation option is constantly changing, I propose that the City focus on maximum protection for least buck. A 500 year flood protection goal is more important than locking into the current geographic configuration. If smaller upstream impoundments help increase the degree of flood protection for relatively modest costs, those should be explored. I am NOT a fan of more delay, but it appears that this project is not moving ahead in its current configuration (which is itself a moving target), has gotten extremely expensive, and therefore other options need to be explored (or revisited).

The following was not discussed by Mr. Tuber: I do not know the nature of the City's discussion or agreement with CDOT. Right after the 2013 flood, there appeared to be an atmosphere of cooperation between the City and CDOT. If that is no longer the case (and I believe it was no longer the case as of a couple of years ago which adversely affected the City's flexibility to develop options), then it is time to elevate this issue to the Governor (e.g. a phone call from the Mayor to the Governor) to align CDOT's and Boulder's interests.

Thank you.

-----  
Peter Ornstein  
5265 Centennial Trail  
Boulder, CO 80303  
[pmo@mediationnow.com](mailto:pmo@mediationnow.com)

----- Forwarded Message -----

From: "Stephen Tuber" <[tubersteve@gmail.com](mailto:tubersteve@gmail.com)>  
To: "Council" <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
Cc: "Steven Telleen" <[stelleen@comcast.net](mailto:stelleen@comcast.net)>; [sebna@googlegroups.com](mailto:sebna@googlegroups.com); "Douglas Sullivan" <[sullivan@bouldercolorado.gov](mailto:sullivan@bouldercolorado.gov)>; "Gordon McC" <[gnmccurry@gmail.com](mailto:gnmccurry@gmail.com)>  
Sent: 6/13/2020 5:22:40 PM  
Subject: South Boulder Creek Flood Mitigation

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Dear Council Members - I am providing formal comments in lieu of attending the June 16, 2020 Council meeting regarding Phase 1 option discussion for the S. Boulder Creek (SBC) flood mitigation project. I am a resident of southeast Boulder. My home was directly impacted by the September, 2013 flood, with 2 feet of water in the basement as a result of groundwater intrusion. I live a stone's throw away from Dry Creek Ditch #2 which overflowed its banks and caused local flooding issues and elevated groundwater levels at that time. I have participated in multiple open houses, town halls, Board and Council meetings. In addition, I, with several of my neighbors, hosted City staff on two occasions for field trips to view the local drainages, ditches and channels over the past two years.

**My BIG ask:** Please direct City Staff to formally include planning for the conveyance of the detention discharge back to SBC as part of Phase 1.

**Background:** Initially at the April 2018 town hall meeting regarding options for Phase 1, the City's contract engineer announced, in response to an audience question, that Dry Creek Ditch #2 (DCD) would carry the detention discharge back to SBC. After follow up questions and discussion with the staff, it became apparent to me that the City had not focused on the discharge of detention waters. Ultimately, the staff acknowledged that the Viele Flood Channel would be a better choice to convey the detention discharge since it was 5-10 times larger than DCD, designed to carry flood surges, a shorter, more direct route to take detention waters to SBC with far fewer homes being exposed to 5 or more days of maximum flows and flooding *from the detention discharge*.

**Current Status:** To my knowledge, the City staff now understand that Viele Channel should be the detention discharge conveyance. But Viele Channel, especially the stretch between US 36 and S. Boulder Road, is choked with debris and growth, having not been adequately maintained. In addition, unless steps are taken, DCD will be inundated by the detention pool on the southwest side of US 36. So it would become a *de facto* conveyance unless steps are taken to prevent that from happening. Despite these issues, the City has yet to formally include the detention discharge as part of Phase 1.

**Action Requested:** The detention discharge to the east and north of US 36 must be fully integrated into Phase 1; planning must include needed improvements to Viele Channel and Dry Creek Ditch #2. FEMA regulations require that no existing structures be put in greater jeopardy by flood mitigation projects. Failure to take these actions would cause the City to violate this requirement.

- **Specifically, for Viele Channel:** engineering plans and funding are needed to restore the Channel to its full carrying capacity to prevent waters from flooding into the neighborhoods north of Baseline Road. Also, the berm on the north side of the Channel should be extended north of the confluence with SBC to protect the east side of Greenbelt Meadows from elevated flows from Viele Channel that will raise the levels of flooding at and north of the confluence.
- **Specifically, for Dry Creek Ditch #2:** engineering plans and funding are needed to ensure that DCD does not become a *de facto* conveyance of the detention discharge: i.e., that only legally required flows be allowed into the ditch from the detention pool. DCD contributes directly to ground water levels along its path. Many of the homes in the Greenbelt Meadows and Keewaydin 2 and 3 developments were impacted by groundwater intrusions in 2013. While the direct effects of flooding on groundwater levels will be hard to control, the City must ensure that the impact is not prolonged and worsened because of the discharge of flood detention waters to DCD.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

As for the overall principles that I hope you will adopt to drive your decisions regarding SBC flood mitigation, I strongly suggest that protecting public safety and welfare should be your highest priority. If it is, then I believe the following are the outcomes upon which you should insist:

- 500 year detention capacity.
- Moving the CU South development in part or in whole, or limiting the size of the development, to make maximum use of the existing floodplain for detention.
- Using whatever combination of soft (e.g, detention ponding) and hard (e.g., a flood wall) engineering achieves the 500 year detention capacity.
- Open Space should be protected as much as possible, BUT that it should NOT be considered untouchable.
- The detention discharge to the east and north of US 36 must be fully integrated into Phase 1; including improvements to Viele Channel and Dry Creek Ditch (to ensure the discharge stays out of the latter) as discussed previously.

Sincerely, Steve Tuber  
5375 Kewanee Drive  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gail Storey <gailstorey@gmail.com>

**Sent:** Sunday, June 14, 2020 5:18 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Please Support Moving Variant 1/100 Year Plan into Preliminary Design

**External Sender**

Dear Council Members:

We very much hope you'll proceed with the Variant 1/100 year plan, so we as a City can move forward with flood mitigation. We ourselves suffered horribly during the flood of 2013 with the loss of our entire downstairs (half-basement) of five rooms in 40 inches of water and backed-up sewage. Ultimately, we were reimbursed through insurance including FEMA for only \$25,000 of **\$100,000** in damage to our home and landscape. The five rooms had to be ripped down to the studs from floor to ceiling and rebuilt over the next six months, and all of the contents (bedroom, bathroom, furniture, bookshelves and books, 500-gallon solar tank, pellet stove, carpets, tile flooring, clothing, everything) were destroyed.

We've been struggling to sort out the flood mitigation issues under consideration so that we (and many of our neighbors) don't have to go through that again. Our home is in East Boulder on Euclid Avenue off 55th, between Baseline and Arapahoe. It seems that the Variant 1/100 Year Plan, which you have supported (thank you) and Boulder's WRAB recommends, while not ideal, is the best that can be done at this time (in site of OSBT's recommendation to the contrary).

Thank you for all your efforts to sort out the best option for flood mitigation, the sooner the better.

Gail and Porter Storey

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Florence Anderson <flodie.andy@gmail.com>  
**Sent:** Sunday, June 14, 2020 5:17 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** City Council Meeting re Flood Mitigation

**External Sender**

Dear Council Members:

Three and one-half years ago we moved into Frasier. Tales of the '13 flood were woven into everyone's greeting package, including descriptions of all the City's and Frasier's plans to keep such a horrible event from damaging this community again. Our Frasier plans slowly evolved and we now have constructed our portion of preventive structures. But the government share, shifting over the years, shows no progress beyond a few alternative plans on the drawing board.

We sincerely hope Council will move forward with the Variant 1/100yr. flood design at this meeting to provide the next step toward greater flood protection for the 1,000s of residents currently in danger of flooding.

Thank you for your concern,

Flodie Anderson

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** aslind@aol.com <aslind@aol.com>  
**Sent:** Sunday, June 14, 2020 5:00 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood protection for South Boulder residents

**External Sender**

Dear Mayor Weaver and Council members,  
I am writing to urge your endorsement of Variant /100 year flood mitigation for my South Boulder neighborhood. I also want to thank you for all the work that you have done to study this so carefully. However, we have been vulnerable far too long and it is past time to move this forward for permitting and final design. I hope I can count on you for doing this.

Sincerely,  
Evie Lindquist  
[350 Ponca Place](#)  
[Boulder, CO 80303](#)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Don Cote <doncote07@gmail.com>  
**Sent:** Sunday, June 14, 2020 3:53 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek Flood Mitigation

**External Sender**

I wish to thank each of you for giving your time and effort to serve on the Council. I know you have labored for quite some time on the South Boulder Creek Flood Mitigation. Again next week, you will again face a crucial decision on how best to protect the lives and property of the Boulder Citizens in the West Valley. I believe that the Water Resources Advisory Board pick of Variant 1, 100 year Plan is the best choice and has the best chance of success. The other choices sound good but because of their much higher cost and contentiousness; the probability of actual beginning brought to reality is extremely low. Therefore, I urge you to support WARB's decision as the one that meets the needs of the citizens under threat.

Thank you, for your consideration

Don Cote, President  
Frasier Resident Council

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Andy Schwarz <ams@amstec.com>  
**Sent:** Sunday, June 14, 2020 2:58 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South flood mitigation

**External Sender**

Hello council members,

Stop the delay and move forward with the Variant 1/100 year flood plan for South Boulder Creek.

Thank you,  
Andy Schwarz

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Karen Dombrowski-Sobel <kadsphoto@mac.com>

**Sent:** Sunday, June 14, 2020 2:04 PM

**To:** WRAB <WRAB@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; meadowlarkopenspace@gmail.com

**Subject:** DELAY THE JUNE 16, 2020 CITY COUNCIL VOTE!!

**External Sender**

**Boulder City Council,**

Please do not give away the open space!! I am shocked and disturbed that Boulder City Staff has lied and deceived Boulder City Council, the Open Space Board of Trustees and the community by stating there are no alternatives to protecting Boulder communities from flooding.

In Sept 2019, the Open Space Board of Trustees directed City Council and Staff in writing to study alternatives that would help protect the environment and potentially provide 500 year flood protection for the community. City Council and staff refused to conduct these studies. For the last three years, the Boulder community has called upon Boulder Council and staff to conduct a CU North land swap - OSMP Meadowlark Open Space cost/benefit study.

Yet on May 20, 2020 city staff lied at a public hearing and stated there was no alternative - only because the city refused to study alternatives demanded by the public and the Open Space Board for the last three years.

---

Karen A Dombrowski-Sobel

[www.kadsphoto.com](http://www.kadsphoto.com)

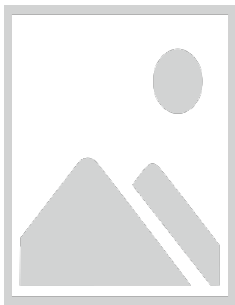
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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**The following recipients sent the email below to City Council.**

**From:** Deedee Kaplan <dkaplan17@gmail.com>  
**Sent:** Sunday, June 14, 2020 1:20 PM

**From:** Angela <angelica1951@earthlink.net>  
**Sent:** Sunday, June 14, 2020 7:26 PM

**From:** Janet Robinson <bocacatlover@gmail.com>  
**Sent:** Sunday, June 14, 2020 2:05 PM

**From:** Kristine Chrappa <kmchrappa@gmail.com>  
**Sent:** Sunday, June 14, 2020 8:06 PM

**From:** Holly Krivjansky <hkrivjansky@comcast.net>  
**Sent:** Sunday, June 14, 2020 2:06 PM

**From:** Roo Veitch <rooveitch@gmail.com>  
**Sent:** Sunday, June 14, 2020 9:51 PM

**From:** mary shabbott <mshabbott@sbcglobal.net>  
**Sent:** Sunday, June 14, 2020 2:07 PM

**From:** Melissa Brashers  
<melissabrashers@gmail.com>  
**Sent:** Monday, June 15, 2020 6:12 AM

**From:** Kelli Clark <kellieclark77@yahoo.com>  
**Sent:** Sunday, June 14, 2020 2:09 PM

**From:** materi44@bresnan.net  
<materi44@bresnan.net>  
**Sent:** Monday, June 15, 2020 8:09 AM

**From:** Michelle Hayward  
<michellehayward1313@gmail.com>  
**Sent:** Sunday, June 14, 2020 3:27 PM

**From:** Julio Masip <jmasipgarcia@gmail.com>  
**Sent:** Monday, June 15, 2020 8:12 AM

**From:** Julie Zumhofe <jzumhofe1@gmail.com>  
**Sent:** Sunday, June 14, 2020 4:00 PM

**From:** Lisa Sleeth <lisasleeth@hotmail.com>  
**Sent:** Monday, June 15, 2020 8:51 AM

**From:** Egan Sanders <sanders.egan@gmail.com>  
**Sent:** Sunday, June 14, 2020 4:01 PM

**From:** mary shabbott  
<mshabbott@sbcglobal.net>  
**Sent:** Sunday, June 14, 2020 10:56 PM

**From:** Marella Colyvas <marcel2124@gmail.com>  
**Sent:** Sunday, June 14, 2020 4:59 PM

**From:** joevillan2@gmail.com  
<joevillan2@gmail.com>  
**Sent:** Monday, June 15, 2020 9:12 AM

**From:** Jared Leggett  
<jared.tyler.leggett12@gmail.com>  
**Sent:** Sunday, June 14, 2020 7:13 PM

**External Sender**

**Boulder City Council,**

I am shocked and disturbed that Boulder City Staff has lied and deceived Boulder City Council, the Open Space Board of Trustees and the community by stating there are no alternatives to protecting Boulder communities from flooding.

In Sept 2019, the Open Space Board of Trustees directed City Council and Staff in writing to study alternatives that would help protect the environment and potentially provide 500 year flood protection for the community. City Council and staff refused to conduct these studies. For the last three years, the Boulder community has called upon Boulder Council and staff to conduct a CU North land swap - OSMP Meadowlark Open Space cost/benefit study.

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Yet on May 20, 2020 city staff lied at a public hearing and stated there was no alternative - only because the city refused to study alternatives demanded by the public and the Open Space Board for the last three years.

***“We've kind of been going through a 17 year process of elimination and umm we're about out of alternatives that we can look at. And so one of the things that staff is focused on is trying to drive this to closure”***

Joe Taddeucci, City Engineer & City of Boulder Director of Utilities - April 20, 2020  
Public Hearing (Audio link: <http://www.meadowlarkopenspace.org/wp-content/uploads/2020/06/FalseStatement-CityStaff-April20-2020.mp4>)

Once again, city staff on their own initiative or at the direction of City Council has conducted a fake public process with a predetermined outcome.

In fact right now City Staff on the City of Boulder website has arrogantly placed a greenlight graphic on the June 16 Council vote indicating approval of the massive dam to protect construction at CU South despite massive public outcry and opposition.

<https://bouldercolorado.gov/flood/south-boulder-creek-flood-mitigation-project>



**For the three reasons below I hereby demand of Boulder City Council and the State of Colorado:**

**A) Delay the June 16th, 2020 vote by Boulder City Council** to approve flood control to protect the CU South Mega Campus

**B) OR Boulder Council must immediately reject the CU South development proposal as a threat to public safety.**

**I make this demand of city and state because:**

**1) 500 year flood protection for downstream Boulder communities is not 'a nice to have' - it is a requirement of public safety.** Anything less than 500 year flood protection is a betrayal of the Boulder community in favor of CU interests.

**2) Violation of the Boulder's federally protected wetlands to allow a private developer to build in a flood plain is not OK.** Yes - city staff wants to advance development BUT violation of the South Boulder Creek State Natural area is NOT acceptable.

**3) As well, City Staff broke Colorado law on Friday June 12 2020 by refusing to respond to the June 9, 2020 freedom of information request from the community seeking the backroom deal emails between City Staff and the University of Colorado.**

Staff emails must be made public before City Council can vote on protection or development of CU South. **I also support a civil lawsuit against city staff to obtain these secret emails.**

Going forward, without the need to protect CU South buildings in a flood plain, the CU North land swap and OSMP Meadowlark Open Space, will provide 500 year flood protection - essentially five times the safety of the proposed 100 year dam- at one third the cost using enhanced wetlands habitat and low earthen berms to channel and retain water flows.

These cost savings would be used to protect three additional Boulder communities hit hard in 2013 from flooding. The State Natural area will remain intact. CU North will be a safe, dry and welcoming home for students.

**In closing, I demand that Boulder City Council listen to the community and delay the Tues June 16th vote and reject development at CU South for reasons of public safety and to protect the environment.** Development at CU South must be condemned using eminent domain.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** A Adams <adams\_amanda1@yahoo.com>  
**Sent:** Sunday, June 14, 2020 1:10 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** once more with feeling - please vote for the Variant 1/100 year plan

**External Sender**

Dear Boulder City Council Members,  
I am writing to ask that you please vote yes on the Variant 1/100 year flood mitigation plan that is supported by the Boulder Water Resources Advisory Board.

I greatly appreciate the support that you have shown for this plan so far (most recently at your study session on February 25th) and ask that you take continued positive action so that this plan can be moved forward into preliminary design.

Please disregard OSBT's recent recommendation as OSBT has acted outside their purview by weighing in on engineering (WRAB's domain) in a detailed way.

Flood risk remains a health and safety issue and I ask that you act without delay to protect our community.

Thank you,  
Amanda Adams  
4935 Qualla Drive

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** CLINT HEIPLE <clinth.1@comcast.net>  
**Sent:** Sunday, June 14, 2020 12:58 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Flood Mitigation

**External Sender**

Dear Council,

One more time you have a chance to vote for a flood mitigation plan for South Boulder which has a realistic chance of actually being built; the 100 year flood, variant 1 plan. Please do so. We have now waited longer for some protection from the next flood since the last flood than it took the United States and its allies to win WW II, and not one shovel full of dirt has been moved. Please act now.

Thank you,

Clinton Heiple  
4840 Thunderbird Dr., apt 184  
Boulder, CO

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** techapps@ix.netcom.com <techapps@ix.netcom.com>  
**Sent:** Sunday, June 14, 2020 12:55 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** 1\100 variaiant flood plan.

**External Sender**

Please vote yes and move the project to the design phase.

Thanks

Robert Pressey  
190 Inca Parkway  
Boulder 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ruth Sachnoff <rrsachnoff@gmail.com>

**Sent:** Sunday, June 14, 2020 11:43 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:**

**External Sender**

PLEASE move ahead with the Variant 100 year Flood Plan. No one can understand why you have not moved to implement this plan. This is Boulder for heavens sake!!

Ruth Sachnoff 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lauren Noyes <laurenmnoyes@gmail.com>  
**Sent:** Sunday, June 14, 2020 8:38 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** June 16 SBC Flood Mitigation public comments

**External Sender**

Dear Council Members,

I am providing formal comments in lieu of attending the [June 16, 2020](#) Council meeting regarding Phase 1 option discussion for the S. Boulder Creek (SBC) flood mitigation project.

I am a resident of southeast Boulder and my home was directly impacted by the September 2013 flood. My home back up to Dry Creek Ditch #2 (DCD) which overflowed its banks and caused local flooding issues and elevated groundwater levels.

I fully support all of the ideas raised by Steven Tuber in his Saturday, June 13 email to City Council. To restate:

1. I implore City Staff to formally include planning for the conveyance of the detention discharge back to South Boulder Creek as part of Phase 1.
2. Viele Channel engineering plans and funding are needed **in Phase 1** to restore the Channel to its full carrying capacity to prevent waters from flooding into the neighborhoods north of Baseline Road.
3. Dry Creek Ditch #2 engineering plans and funding are needed **in Phase 1** to ensure that DCD does not become a *de facto* conveyance of the detention discharge: i.e., that only legally required flows be allowed into the ditch from the detention pool. DCD contributes directly to ground water levels along its path. **To prevent leakage and subsequent ground water issues that many homes along the DCD path experience (including my own), I ask council to explore sealing this ditch in residential areas, particularly if you are planning to direct any more water into it (even as a backup).**
3. Failure to take these actions would cause the City to violate FEMA regulations stating that no existing structures be put in greater jeopardy by flood mitigation projects.

I also support:

- Using whatever combination of soft (e.g, detention ponding) and hard (e.g., a flood wall) engineering achieves the 500 year detention capacity.
- Moving the CU South development in part or in whole, or limiting the size of the development, to make maximum use of the existing floodplain for detention.

Best regards,  
Lauren Noyes  
445 Oneida St.  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Mike Forsythe <mikekayforsythe@gmail.com>

Sent: Sunday, June 14, 2020 6:39 AM

To: Council <council@bouldercolorado.gov>

Subject: More pleas for keeping us safe

External Sender

Council Members,

We continue to be worried about the safety of our neighbors in the Frasier Meadows neighborhood and those who will be effected by another flooding from the South Boulder Creek. Please keep us safe! The Variant 1/100 flood mitigation plan would allay our concerns and frustrations. Do your job — decide. Please protect us, starting now.

Kay Forsythe  
4840 Thunderbird Drive  
Boulder 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** George Craft <gcrafty@yahoo.com>  
**Sent:** Saturday, June 13, 2020 9:12 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please move forward on the South Boulder Creek flood plan

**External Sender**

Dear City Council:

It really is time for us to move forward with a flood plan to protect the people of South Boulder. It's been 7+ years since South Boulder Creek ravaged our neighborhoods. All the discussions and plans and engineering studies in the world are not going to protect us if it starts raining hard again. We believe that if the Variant 1/100 plan is accepted and acted on, it will. Other plans should be rejected and we should move forward as quickly as possible. It is time to stop talking and start doing.

Thank you for your past efforts and we hope for your continuing support.

*Thanks,*  
*George & Deb Craft*  
[gcrafty@yahoo.com](mailto:gcrafty@yahoo.com)

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Stephen Tuber <tubersteve@gmail.com>

**Sent:** Saturday, June 13, 2020 5:23 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Steven Telleen <stelleen@comcast.net>; sebna@googlegroups.com; Sullivan, Douglas <sullivan@bouldercolorado.gov>; Gordon McC <gnmccurry@gmail.com>

**Subject:** South Boulder Creek Flood Mitigation

**External Sender**

Dear Council Members - I am providing formal comments in lieu of attending the June 16, 2020 Council meeting regarding Phase 1 option discussion for the S. Boulder Creek (SBC) flood mitigation project. I am a resident of southeast Boulder. My home was directly impacted by the September, 2013 flood, with 2 feet of water in the basement as a result of groundwater intrusion. I live a stone's throw away from Dry Creek Ditch #2 which overflowed its banks and caused local flooding issues and elevated groundwater levels at that time. I have participated in multiple open houses, town halls, Board and Council meetings. In addition, I, with several of my neighbors, hosted City staff on two occasions for field trips to view the local drainages, ditches and channels over the past two years.

**My BIG ask:** Please direct City Staff to formally include planning for the conveyance of the detention discharge back to SBC as part of Phase 1.

**Background:** Initially at the April 2018 town hall meeting regarding options for Phase 1, the City's contract engineer announced, in response to an audience question, that Dry Creek Ditch #2 (DCD) would carry the detention discharge back to SBC. After follow up questions and discussion with the staff, it became apparent to me that the City had not focused on the discharge of detention waters. Ultimately, the staff acknowledged that the Viele Flood Channel would be a better choice to convey the detention discharge since it was 5-10 times larger than DCD, designed to carry flood surges, a shorter, more direct route to take detention waters to SBC with far fewer homes being exposed to 5 or more days of maximum flows and flooding *from the detention discharge*.

**Current Status:** To my knowledge, the City staff now understand that Viele Channel should be the detention discharge conveyance. But Viele Channel, especially the stretch between US 36 and S. Boulder Road, is choked with debris and growth, having not been adequately maintained. In addition, unless steps are taken, DCD will be inundated by the detention pool on the southwest side of US 36. So it would become a *de facto* conveyance unless steps are taken to prevent that from happening. Despite these issues, the City has yet to formally include the detention discharge as part of Phase 1.

**Action Requested:** The detention discharge to the east and north of US 36 must be fully integrated into Phase 1; planning must include needed improvements to Viele Channel and Dry Creek Ditch #2. FEMA regulations require that no existing structures be put in greater jeopardy by flood mitigation projects. Failure to take these actions would cause the City to violate this requirement.

- **Specifically, for Viele Channel:** engineering plans and funding are needed to restore the Channel to its full carrying capacity to prevent waters from flooding into the neighborhoods north of Baseline Road. Also, the berm on the north side of the Channel should be extended north of the confluence with SBC to protect the east side of Greenbelt Meadows from elevated flows from Viele Channel that will raise the levels of flooding at and north of the confluence.
- **Specifically, for Dry Creek Ditch #2:** engineering plans and funding are needed to ensure that DCD does not become a *de facto* conveyance of the detention discharge: i.e., that only legally required flows be allowed into the ditch from the detention pool. DCD contributes directly to ground water levels along its path. Many of the homes in the Greenbelt Meadows and

**CU South Annexation Application (LUR2019-00010)**  
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Keewaydin 2 and 3 developments were impacted by groundwater intrusions in 2013. While the direct effects of flooding on groundwater levels will be hard to control, the City must ensure that the impact is not prolonged and worsened because of the discharge of flood detention waters to DCD.

As for the overall principles that I hope you will adopt to drive your decisions regarding SBC flood mitigation, I strongly suggest that protecting public safety and welfare should be your highest priority. If it is, then I believe the following are the outcomes upon which you should insist:

- 500 year detention capacity.
- Moving the CU South development in part or in whole, or limiting the size of the development, to make maximum use of the existing floodplain for detention.
- Using whatever combination of soft (e.g, detention ponding) and hard (e.g., a flood wall) engineering achieves the 500 year detention capacity.
- Open Space should be protected as much as possible, BUT that it should NOT be considered untouchable.
- The detention discharge to the east and north of US 36 must be fully integrated into Phase 1; including improvements to Viele Channel and Dry Creek Ditch (to ensure the discharge stays out of the latter) as discussed previously.

Sincerely, Steve Tuber  
5375 Kewanee Drive  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Pete Palmer <allison.palmer@comcast.net>

**Sent:** Saturday, June 13, 2020 5:01 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** 'South Boulder Creek Action Group' <laura@sbcreekactiongroup.org>

**Subject:** South Boulder Creek flood mitigation

**External Sender**

Dear Council members:

Please move mitigation forward and approve the Variant 1/100 flood plan for South Boulder Creek. I respectfully request that you disregard the continuing attempts by selfish interests (represented by frequent columns by Ben Binder in the Camera) to slow or block the production of a flood berm and lower the risk of serious human problems in SE Boulder in a perhaps not-too-far-in-the-future flood.

I hiked the entire area of the 2013 flood immediately afterward, where it was estimated that South Boulder Creek and the parallel and distinct stream that flowed around the CU South berm each had an equivalent of a 50-year flood (the rainfall was much higher, but the water depths of SBC stayed near its channel and the damage to us was the flash flood that came down Dowdy Draw as a result of the blowout of a railroad causeway). It jumped to the north to overwhelm the already-saturated terrain of the Dry Creek drainage and flood the area that crossed the Boulder turnpike and devastated the neighborhoods west of Foothills Parkway and north of the turnpike.

A 100-year scenario is probably sufficient to keep most of a future flood from causing similar devastation. The 500-year flood idea (and other Binder ideas) was deliberately pushed by the selfish interests, as you already know, who want only to screw CU.

Realistic mitigation has already been approved by Open Space and the Water Board, and I hope that Council will move forward and join those agencies in making the berm happen ASAP. Thanks.

A. R. (Pete) Palmer, Frasier Meadows Apt. 206

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Roddy Hibbard <bldrroddy@yahoo.com>  
**Sent:** Saturday, June 13, 2020 4:57 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please make me and my family feel safe

**External Sender**

Council,

Please VOTE YES on the Variant 1/100 year flood mitigation plan that was selected at your study session February 2020 so we can finally move the project into preliminary design. Human life is important and right now there are THOUSANDS at risk by not moving forward with this plan. Act now.

Roger Hibbard

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: pat carden <ptc39@comcast.net>  
Sent: Saturday, June 13, 2020 4:17 PM  
To: Council <council@bouldercolorado.gov>  
Subject: A Legacy in the making!

External Sender

Dear Mayor Weaver and devoted City Council Members,

I am writing to request that on June 16, 2020 you each continue to support the Variant 1/100 year flood mitigation plan for the safety and protection of South Boulder residents.

You have tirelessly met the sudden challenges of this undoubtedly historic term of office, thank you. Now, after so many years and dollars spent on ways to protect this continuing vulnerable area, it is time to move forward with this plan, also supported by WRAB, to allow the remaining questions to be answered, and a realistic timeframe for resolution to emerge.

Please add this this accomplishment to your legacy for 2020 accomplishments.

Sincerely,

Patricia Carden  
350 Ponca Place  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Janet Klemperer <jmklemperer@gmail.com>  
**Sent:** Saturday, June 13, 2020 3:22 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** flood mitigation

**External Sender**

Dear City Council members, Those of us who live in the area flooded in September, 2013 are eager to see some progress in selecting a flood mitigation plan after all these years. I live at Frasier Meadows Retirement Community, and this is a personal issue for me because my husband was in the Health Care building that night and had to be pushed in his wheel chair through the high water in the building and into the heavy rain into our main building, along with about 50 other Health Care residents. They all had to be placed the next day in other Health Care facilities, mostly outside Boulder. Frasier has built a flood wall protecting part of our campus, but hundreds of our neighbors in this area are still in danger of being flooded out of their homes.

I realize that you Council members have spent a lot of time over the years looking into various flood mitigation plans, and we appreciate your work. But it is time for some action! Variant 1, the 100-year plan, has been endorsed by the University of Colorado, by WRAB in May, and by your members on 2/25/2020. I urge you to vote for this plan at the next Council meeting and begin the process of making our neighborhood safe from flood danger. Thank you.

Janet Klemperer

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** GABRIELE SATTTLER <gaby41@aol.com>

**Sent:** Saturday, June 13, 2020 3:13 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Sattler Gabriele <Gaby41@aol.com>

**Subject:** Save South Boulder

**External Sender**

Whom it may concern;

I read with alarm the following:

Two issues that are the most salient to Keewaydin Meadows and Greenbelt Meadows are:

"1. The current proposal still has no explicit, written cost or plan for upgrading and maintaining Viele Channel as part of the project. Viele Channel is where the water behind the proposed flood wall will be discharged, and in its current condition it has a high likelihood of spilling over at several points. One is into Dry Ditch 2, which it crosses and which will increase potential flooding in both greenbelt Meadows and Kewaydin Meadows. The other is where it flows back into South Boulder Creek behind Greenbelt Meadows.

2. The current plan is to contain a 100 year flood volume. If we have a 500 year flood volume it will overtop the flood wall and spill into the same neighborhoods that were flooded in 2013. You might think that a 500 year flood volume is not that likely, but consider that we have had three 100 year flood volume foods since the late 1970s. Note, I am using the term flood volume, because a flood event is only classified as a "100 year flood" if the source (type of storm and drainage basin) match their model. The actual flooding area of a given flood event is not the core of the definition."

I live in Greenbelt Meadows and have experienced the 2013 flood which put my basement under water. Nowhere did I read or was informed that the Viele Channel or the Dry Ditch 2 will receive upgrades to the point that they will be able to carry the extra water which might be dumped into their environments. Which would mean that we, besides paying for millions of dollars in flood protection will still be prone to be overrun by flood waters. How could this part of planning be so overlooked? Please, inform me what plans you are developing, that the above scenario will not take place.

Sincerely,  
Gabriele Sattler  
68 Huron Ct.  
Boulder, CO 80303  
303 554 6308

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** William B Wood <wood@colorado.edu>  
**Sent:** Saturday, June 13, 2020 3:07 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Time to act on flood mitigation

**External Sender**

Dear Council members,

More than 6 years after the 2013 flood, we at Frasier are still languishing in the S. Boulder Creek floodplain, still vulnerable to major destruction and possible loss of life when there is another major flood. I urge you to vote for the Variant 1/100-year plan so that the effort to protect us can proceed beyond the planning stage.

Thank you,  
Bill Wood

---

William B. Wood, Ph.D.  
Distinguished Professor of MCD Biology, Emeritus  
University of Colorado, Boulder, CO 80309

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** External-Howe-Charles <charles.howe@colorado.edu>

**Sent:** Saturday, June 13, 2020 3:03 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Support for variant 1/100 SBC flood protection.

**External Sender**

Good Council: after decades of studies & debates, moving ahead with a SBC flood protection plan is strongly justified. I recommend that Council move ahead with one of the top 3 plans, each of which has been carefully vetted. Cheers! Chuck Howe (Economist).

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bob Coleman <rgcoleman3@gmail.com>

**Sent:** Saturday, June 13, 2020 2:05 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Please APPROVE Variant 1/100 !!!!

**External Sender**

**Dear Council,**

**Please get Variant 1/100 approved and into design !!**

**Public safety is your primary and enduring responsibility.**

**Bob Coleman**

**Registered Professional Civil Engineer**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mark Gelband <markgelband@gmail.com>  
**Sent:** Saturday, June 13, 2020 12:59 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** NO MORE DELAYS - SUPPORT Variant 1/100 yr NOW

**External Sender**

Dear Council -

Based on former Mayor Leslie Durgin's telling the city had ample opportunity to purchase the gravel pit next to the freeway in 1996. But it was so damn undervalued at the time, the open space director at the time kept telling the owner, NO!. And kept telling council and the city manager: don't worry, we can just wait it out and get this land real cheap.

Those delay tactics didn't work out well.

Getting flood protection for South Boulder residents in the South Boulder Creek floodplain has been an "urgent" issue since 2000. How is it that we're here 20 years later at the same place we were 20 yrs ago? More failure. And even worse, we saw the devastation unleashed on those in the South Boulder Creek floodplain in 2013.

Then it purportedly became even more "urgent."

Yet in August of 2018 (how many years have Sam Weaver and Mary Young failed on this issue) we decided to delay even further and study an upstream solution that WRAB and city paid consultants (\$1.1 Million) said was unfeasible and would do more damage to open space. Great when we spend \$1.1 Million on experts we decide to ignore. Wonder what we could do with that cash now? Hmmm.

In that same meeting Sam Weaver became a water flow engineer and poo-pooed the recommended 500 year variant, and lambasted staff as noted in Tipton Report problems. Like hey, do this for us, give us your expert opinion, STFU. That's a great work environment for professional city staff.

Mirabai had the audacity to say: she didn't need to hear from experts. OMG. LOL.

Then all of sudden based on private meetings between then mayor Suzanne Jones and new CDOT director Shoshana Lew, that plan was off the table. No transparency. No reporting back to the public. Just some private meetings that we still don't know about?

And in that time the cost to do anything has grown significantly. The very people who were saying a 500 yr plan was too expensive are the ones saying: how come we're settling on a 100 yr plan. Some other bullshit from Binder/Pomerance anti-CUSouth anything mafia.

- CU played dirty on a 1996 land deal (why are we still talking about this)?
- Upstream solution (we've studied it now for 4 years and KNOW it is not a "solution.")
- Land swap that is another diversion and delay tactic.

And beyond all this bullshit is the very hypocritical 20 yr + nonsense we've heard about CU needs to do a better job housing its students and employees. Here we are with an amazing opportunity to protect the

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

health and safety of our community *and* get CU to provide housing and affordable housing for a community in dire need of it.

Think about that.

STOP THE DELAYS. STOP GIVING INTO A SHRILL MINORITY OF NAYSAYERS.

Kind regards,

Mark Gelband

303-522-1192 (lucky to have no flood damage in 2013 or I would really be upset about this.)

PS - We know the city houses its most vulnerable at the nest in this floodplain. No worries. Who cares about social equity? If the previously unhoused die in a flood. No biggie.

PPS - Aren't Mark Wallach and Ben Binder highschool friends? If Mark Wallach had any sense of ethics he would recuse himself. He would be honest that having a long-time best friend as the leading anti-CU South voice creates a conflict of interest in the outcome of his vote.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** hoopandtree <hoopandtree@aol.com>  
**Sent:** Saturday, June 13, 2020 11:51 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South flood protection

**External Sender**

To the Council,

I respectfully urge you to follow the recommendations Ben Binder makes in his guest column in the *Daily Camera* on June 11:

Guest column: Ben Binder: City may spend \$31 million more for less flood protection  
<https://www.dailycamera.com/2020/06/11/guest-column-ben-binder-city-may-spend-31-million-more-for-less-flood-protection/>

Thank you,

Chris Hoffman

1280 Fairfield Drive  
Boulder, CO 80305 USA  
303-513-3621 (mobile)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** judyrothe37@gmail.com <judyrothe37@gmail.com>

**Sent:** Saturday, June 13, 2020 11:10 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** flood mitigation

**External Sender**

My husband and I were not in the country during the flood of 2013, but we know the terrible devastation caused at Frasier Meadows Retirement Center where we now live.

We want to strongly encourage you to proceed with the flood mitigation plan and stop putting off a decision.

Judy Rothe

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Nicole Speer <nicole.speer@gmail.com>  
**Sent:** Saturday, June 13, 2020 7:57 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please move forward quickly with Variant 1/100-yr design

**External Sender**

Dear Council,

As a homeowner in the SouthCreek7 neighborhood that is just west of the CU South space, I would like to thank you for your past support of the Variant 1/100 year flood mitigation plan you informally selected at your Feb 2020 study session. It is urgent that we finally move the project into preliminary design.

In May our Water Resources Advisory Board voted in favor of your selection of the Variant 1/100 plan. There is no reason to delay, and in fact further delay is a dereliction of your duty to our city and community.

Your quick action saved our residents from COVID-19. When public health and safety are at risk, quick and decisive action to protect Boulder residents is paramount.

You may have seen my recent Letter to the Editor in the Daily Camera about this issue. If not, I have copied it below. I use the CU South space and surrounding open space almost daily, and my experience is always with regret that, after 7 years, my neighbors are still at risk from a flood event.

Please stop delaying. Those in South Boulder who are trying to confuse this issue are concerned about their recreation. Those who are encouraging you to action in moving forward with the Variant 1/100 year plan are concerned about saving lives.

As our elected officials, I believe you share my belief that people's lives should be weighted more heavily than people's recreation options. Please move forward with the Variant 1/100-yr plan so we can finally start this critical work to save lives.

Sincerely,

Nicole Speer

80305

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June 3, 2020 Letter to the Editor (Daily Camera)

Nicole  
Speer:  
CU  
South:  
Lives  
still at  
risk in  
neighb  
orhood

During this pandemic, one of my family's coping mechanisms has been making use of the University of Colorado Boulder South land. Having a beautiful, familiar space next to our home in which to walk and run helps us all better manage our stress.

Watching spring emerge in this area has been a particular treat this year.

I am so grateful to CU for letting my neighborhood enjoy this land at a time when we need to balance staying close to home with our need to be outdoors.

While I have always found a release from my anxiety and fear at CU South, my enjoyment comes at the expense of increased anxiety and fear for thousands of my neighbors on the north side of Table Mesa.

Seven years after our devastating 2013 floods, my neighbors' lives are still at risk due to the City of Boulder's lack of progress on essential flood mitigation efforts.

The city now has the option to approve a flood design plan (Variant 1/100-year) that will help ensure residents' safety at the lowest cost and with the least environmental impact.

This project has been studied for 17 years. Waiting any longer to make a decision is grossly negligent.

We do not need more plans or studies.

Flood mitigation designs above the 100-year flood design are impractical, unaffordable, likely not permissible and unprecedented from a health and safety standpoint for Boulder.

As Jan Burton recently noted, continued delays risk not only lives in south Boulder, but also tens of millions of dollars in added expenses for the city.

It is urgent that the City Council move forward with the Variant 1/100-year plan as quickly as possible.

Then, we can all enjoy our time on the CU South property without paying the cost of our neighbors' well being.

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

**Nicole Speer**  
*Boulder*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Janet Brewer <dtbjhb@aol.com>  
**Sent:** Friday, June 12, 2020 4:41 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** A Matter of Great Importance

**External Sender**

June 12, 2020

To: the members of the Boulder City Council:

Thank you for your assistance in addressing South Boulder Creek flood mitigation. I am asking for your specific support of Varient 1/100 yrs flood mitigation plan, which has been approved by WRAP. Please disregard the Open Space Board of Trustees' input on detailed engineering matters, which are more appropriately the domain of WRAP.

There are thousands of people currently at risk. Among them are the residents of Frasier, whose facilities were severely damaged by the 2013 flood. We have attended Council meetings and many of us have spoken personally to you on Frasier's behalf. In seven years we have totally rebuilt our campus; I think the City of Boulder has had more than enough time to move the project into preliminary design!

Please take this necessary step to ensure the safety of your residents.

Sincerely,  
Janet H. Brewer  
Frasier Resident

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Anne Bliss <anne.bliss@gmail.com>

**Sent:** Friday, June 12, 2020 4:09 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Flood Mitigation ...NOW is the overdue me to do something about flood danger.

**External Sender**

Dear Mayor and Council Members:

On June 16 you have the opportunity to finally determine how to save lives and property from another disastrous flood, one that could happen at any time. It has been six years since the flood of 2013, which was especially disastrous for those in the path of South Boulder Creek and its tributaries. Six years is MANY too many years to study, propose new plans, study more, postpoine, dawdle, and keep pushing important flood mitigation further down the table.

Please take this opportunity, next Tuesday June 16, and vote to mitigate future floods in the southern part of our city. Vote to approve and implement immediately the mitigation plan titled "Variant 1/100 Year Plan". This plan may not be perfect, but we will not know whether any plan works to full expectations until a flood hits. At the very least, this plan begins to address a serious weakness in our flood control measures in Boulder.

"Variant 1/100 Year Plan" is feasible and could be fairly quickly implemented; it's economical by comparison to other plans that have been presented; and "Variant 1/100" is environmentally sensitive. Please wait no longer. Vote to implement this plan and help to mitigate future flooding and protect South Boulder residents, property, and the environment..

I look forward to your passage of flood mitigation.

Anne Bliss  
350 Ponca Place  
Boulder 80303  
7205628292

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ken Beitel <meadowlarkopenspace@gmail.com>

**Sent:** Friday, June 12, 2020 3:40 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Fwd: City Council 6/16 Public Comment -additional note CU South legal report

**External Sender**

Honorable Sam Weaver and Council Members,

To support the courageous choice you will need to make on Tuesday evening, the attached detailed legal report considers the CU South proposal in light of the BVCP, the federal Endangered Species Act and the Clean Water Act.

Page 2 of the report calls upon Boulder City Council to consider utilizing eminent domain to acquire the CU South parcel and designation of the OSMP Meadowlark Open Space as a suitable path forward to achieve 500 year flood protection for the community and protection of the South Boulder Creek State Natural Area.

Sometimes the best path forward is the path of courage and simplicity.

The dry land of CU North will provide a win and a welcoming home for our friends with the University of Colorado.

Deep Regards,

*Ken*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Alexa Carreno <acarreno@eadefense.org>  
**Sent:** Friday, June 12, 2020 2:53 PM  
**To:** Council <council@bouldercolorado.gov>; CUBoardofRegents@cu.edu;  
frances.draper@colorado.edu; Derek Silva <Derek.Silva@Colorado.EDU>  
**Cc:** Ken Beitel <meadowlarkopenspace@gmail.com>; Jeremy Mckay <jmckay@eadefense.org>  
**Subject:** City Council 6/16 Public Comment

**External Sender**

Hello,

Please find attached Environmental and Animal Defense's public comment for the June 16, 2020 City Council meeting.

Thank you,

Alexa Carreno, Esq.  
Environmental and Animal Defense | Executive Director  
W. [www.eadefense.org](http://www.eadefense.org)  
P. 1.720.722.0336

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** allyn s feinberg <feinberga@comcast.net>

**Sent:** Friday, June 12, 2020 2:29 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Agenda Item 5A - South Boulder Creek Flood Mitigation Plan approval

**External Sender**

To the Council:

In reading the Agenda Item 5A memo - South Boulder Creek Flood Mitigation Plan Approval I have run into some difficulties:

Most importantly, the motions that the OSBT made regarding this plan at their June 3, 2020 meeting is garbled beyond understanding (see pages 23 through 25 of Agenda Item 5A). All the formatting has been lost in the version that was provided to you. The order of the motions has been changed for some reason, and the maker of the main motion is only identified as Karen. I am attaching a copy of these motions in their original form below so that the council may better understand what the OSBT is requiring before an approval. This understanding will be important to the council's deliberations since any use of Open Space land for flood mitigation would be a disposal of Open Space land and under the City of Boulder Charter, will require OSBT approval.

The memo states that the 129 acres that Frances Draper specifies as what the University must retain is in the Guiding Principles. I cannot find that in any part of the Guiding Principles document. Has there been an amendment to the Guiding Principles that specify that amount of acreage?

There is a section on the questions that the public submitted to the staff through the Be Heard Boulder web site entitled "Ask Staff Questions About the Flood Design, in which all the questions are noted, but the only answer that is provided is Public Answer in a separate column. Is there a location where the public can actually see the Public Answers?

Respectfully submitted,

Allyn Feinberg

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

To members of the Boulder City Council:

June 12, 2020

Here at Frasier Meadows Retirement Community we have been in lockdown for three months, staying in our apartments the whole time, wearing a mask if we stepped out our door, not allowed to walk the halls, having meals delivered to our apartments, having our trash collected at our door, taking short walks around our campus and the small lake across the street. Only two of our residents have come down with the virus; they recovered.

This coronavirus scare is horrific. But it doesn't hold a candle to the scare we felt during the 2013 flood! What an unimaginably terrifying time it was here at Frasier! Thank God there were enough staff available (many were in therapy afterward) to lift residents from their low beds over in Health Care, place them in wheelchairs and in total darkness with water swishing up to their knees, found their way outside their building, across the outdoor court to our Independent Living building. Utter chaos! There were folks lined up in the hallways in their wheelchairs trying to sleep. The dinning rom was full. As a precaution, residents on the ground floor of our independent building were advised to leave their space and move up somewhere. An appeal went out for our residents to take some of them into our apartments, which we did. A woman slept on our sofa. We saw a couple in our hallway sleeping sitting up on a bench. We took some bedding out so they could sleep on the floor. The woman had just had surgery. The staff called on the fire department for help, to be told they were swamped; you're on your own.

My husband and others went around waking people to notify them to get their cars out of the garage, sometimes taking their car keys and doing it themselves. We were fortunate that our apartment is in the North of Frasier, on higher ground. Water on our garage floor only reached a couple of feet. But in the South garage, the water flooded in pushing all the cars clear up bumping into the ceiling! Perhaps you saw the picture in the Camera of all the ruined cars removed from that garage. Some staff members stayed with us for several days, sleeping under their desks. That first night our CFO walked the halls all night to make sure everyone was all right.

What a miracle no lives were lost! Later, in the telling of it, our CEO tearfully recalled a woman from Health Care who had not been able to speak for two years, sitting in her wheelchair in the hall that night amidst all the chaos of people dashing here and there, began to sing hymns; she remembered all the words.

Many South ground floor apartments were ruined, family treasures soaked. Those people had to take up residence at a nearby retirement facility for many months until repairs could be made.

I understand you will take a vote on the Variant 1/100-year flood design. It does seem to be the best option to ensure the safety of life and property of all the people living down here in the South of our city.

I have lived in many university towns and cities (my dad was a college prof. and a minister), so I'm familiar with the "Town and Gown" issue. Some places have better relations than others. It's important to listen to each other. I beg of you, on this question, please stand up for our town.

Elaine Waggener

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ken Beitel <meadowlarkopenspace@gmail.com>

**Sent:** Friday, June 12, 2020 11:27 AM

**To:** CROpenRecordRequests <CROpenRecordRequests@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; Carr, Thomas <CarrT@bouldercolorado.gov>; Coleman, Brandon <ColemanB@bouldercolorado.gov>; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>; denverpostnewsroom <newsroom@denverpost.com>; Gatza, Jean <GatzaJ@bouldercolorado.gov>; frances.draper@colorado.edu; CUBoardofRegents@cu.edu

**Cc:** John Fryar <jfryar@times-call.com>; tips@nytimes.com; martin.baron@washpost.com; cameron.barr@washpost.com; scoops@huffpost.com; chdavis@gannett.com; EIC@usatoday.com; Investigations@npr.org; 60min@cbsnews.com; investigates@cbsnews.com; newstips@cbs4denver.com; Managing.Editor@nbcuni.com; Global.Head.News@nbcuni.com; politics@theatlantic.com; science@theatlantic.com; ideas@theatlantic.com; feedback@time.com; news.tips@abc.com; hector.becerra@latimes.com; tips@nypost.com; grant.marek@sfgate.com; support@apnews.com; OSBT-Web <OSBT-Web@bouldercolorado.gov>; OSMPMasterPlan@bouldercolorado.gov; WRAB <WRAB@bouldercolorado.gov>; boulderplanningboard <boulderplanningboard@bouldercolorado.gov>; tips@denverpost.com; Fox31TipsDesk <tips@kdvr.com>; rmaak@prairiemountainmedia.com; Sam Lounsberry <slounsberry@prairiemountainmedia.com>; dkrause@aspentimes.com; rcarroll@aspentimes.com; boulderbeatnews@gmail.com; Boulder Weekly <editorial@boulderweekly.com>; Colorado Daily Editor <editor@coloradodaily.com>; CU Independent Tips <tips@cuindependent.com>; joe.hight@gazette.com; newstips@9news.com; 7NEWS@thedenverchannel.com; Susan Greene <greeneindenver@gmail.com>; btrollinger@summitdaily.com; Kyle Horan <kyle.horan@kmgh.com>; tips@kwgn.com; Tips@coloradoindependent.com; Gail OBrien <gail.obrien@kdvr.com>; erin.otoole@kunc.org; Channel 9 <desk@9news.com>

**Subject:** Media Release: City of Boulder Set to Betray Environment and Public Safety with Controversial June 16, 2020 Vote on University of Colorado South Mega Campus

**External Sender**

**For Immediate National Release - June 12, 2020**

**City of Boulder Set to Betray Environment and Public Safety with Controversial June 16, 2020 Vote on University of Colorado South Mega Campus**

**America's Friend of the Environment Poised to Violate Colorado State Natural Area**



*Proposed Meadowlark Open Space (left). South Boulder Creek State Natural Area- area of dam construction (right) Elk Photo Credit: Elza Cooperman*

*Press Kit and Download this release at: <https://tinyurl.com/y74vb4sb>*

**(Boulder, Colorado)** In one of Colorado's hottest environmental and public safety controversies, the

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

City of Boulder is poised to vote on Tuesday June 16th to violate a federally protected State Natural area and wetlands just south of Boulder with a massive dam project required to protect a proposed University of Colorado mega campus planned for the South Boulder Creek floodplain.

Environmentalists and city taxpayers are outraged. Kenny Beitel, Chair of Wilderness Conservation, for the proposed Meadowlark Open Space, questions, "How can Boulder, Colorado - which is supposed to be one of the most environmentally conscious cities in America - be voting for and paying for destruction of federally protected wetlands so the University of Colorado can build a 129 acre campus mega expansion in an area prone to flooding?"

Home to the rare Preble's Jumping Mouse, the South Boulder Creek State Natural Area also supports one of Colorado's richest concentrations of the Ute's Ladies tresses Orchid. Both are protected by the Federal Endangered Species Act. A June 3, 2020 Environmental and Animal Defense (eaDefense) report presented to the Boulder Open Space Board of Trustees questions the legality of the CU South project. (<https://www.meadowlarkopenspace.org/press-kit/>)

Political pressure from the University to maximize buildable acreage and an attempt to minimize cost and environmental impact has also caused Boulder City Council to reduce proposed flood safety for downstream communities that were hit hard in 2013. What was originally planned as 500 year flood protection will now only be 100 year flood protection to satisfy CU demands and decrease environmental harm to the State Natural Area. Last month's failure of dams in Michigan, designed for less than 500 year protection, led to unprecedented flooding. [www.eptail.com/2019/05/21/cu-boulder-rejects-city-plan-for-south-boulder-creek-flood-mitigation/](http://www.eptail.com/2019/05/21/cu-boulder-rejects-city-plan-for-south-boulder-creek-flood-mitigation/)

Kenny Beitel is also concerned for the safety of the community, "At best, Boulder City Council building an outdated 100 year flood protection dam that could fail a few years after it is built - is a waste of \$66 million taxpayer dollars. At worst, this sweetheart deal with the politically powerful University of Colorado, could lead to catastrophic flooding and deaths of senior citizens and families in downstream communities." For unknown reasons, the City of Boulder also plans to pay CU \$10 million to fill in wetlands and meadow habitat at CU South in the floodplain adjacent to the State Natural area.

Without the need to protect CU South buildings in a flood plain, community advocates believe a CU North land swap and the creation of a City of Boulder protected area, called the Meadowlark Open Space, could provide 500 year flood protection - essentially five times the safety of the proposed 100 year dam- at one third the cost using enhanced wetlands habitat and low earthen berms to channel and retain water flows. The cost savings would be used to protect three additional Boulder communities hit hard in 2013 from flooding. The State Natural area would remain intact.

City staff - accused of conducting a fake public process leading up to the June 16 Boulder City Council vote - has refused to study alternatives despite vast public comment calling for 500 year open space based flood control protection.

In order to halt the June 16, 2020 Boulder City Council vote, a Colorado Open Records Act (<https://www.meadowlarkopenspace.org/press-kit/>) demand for information has been filed by the Meadowlark Open Space Organization against the City of Boulder and city staff requesting all current year emails and documents related to the project and negotiations between Boulder city council, city staff and University of Colorado executives including Frances Draper.

To be in compliance with Colorado law, the City of Boulder has until the end of day Friday June 12, 2020 to provide the emails requested by the community.

- 30 -

**Interview Contacts & On-Site State Natural Area/Meadowlark Open Space Tours**

Kenny Beitel

## CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

### Chair of Wilderness Conversation - proposed Meadowlark Open Space

web: [www.MeadowlarkOpenSpace.org](http://www.MeadowlarkOpenSpace.org) email: [meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com) cell. 720 436 2465

**Press Video/Photo Tours: 9:30am Friday June 12, 2020 or on request:**

[meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com)

**Press Kit** with high res images for publication: [www.meadowlarkopenspace.org/press-kit](http://www.meadowlarkopenspace.org/press-kit)

### About the Meadowlark Open Space

*"Boulder City Council has found that the goal of maximizing buildable land for the 129 acre CU South mega-campus, providing 500 year flood protection for the Boulder community and protecting the South Boulder Creek State Natural Area are mutually incompatible. The only solution to achieve these goals is to proceed with the CU North land swap discussed in February 2020 by Boulder Mayor Sam Weaver and Council member Mark Wallach." Kenny Beitel, Chair of Wilderness Conversation, proposed Meadowlark Open Space*

The CU North land swap and creation of the proposed 308 acre Meadowlark Open Space would also protect the South Boulder Creek State Natural area which is home to the Preble's Jumping Mouse and one of Colorado's richest populations of the rare Ute's Ladies Tresses Orchid - both are protected by the Federal Endangered Species Act.

The Boulder Meadowlark Open Space organization ([www.meetup.com/MeadowLarkOpenSpace](http://www.meetup.com/MeadowLarkOpenSpace)) has more than 950 members calling for the protection of the South Boulder Creek State Natural Area. Creation of the proposed Meadowlark Open Space will allow enhanced wetlands and low earthen berms to provide 500 year flood control protection for Boulder downstream communities and the cost savings will enable flood protection for three additional Boulder communities impacted by severe flooding in 2013 . More info at: [www.MeadowlarkOpenSpace.org](http://www.MeadowlarkOpenSpace.org)

### Environmental and Animal Defense (eaDefense)

eaDefense is a registered 501(c)(3) nonprofit, public interest law firm that provides the Boulder and Colorado Front Range communities with legal services for environmental and ecosystem issues, as well as engaging in federal Endangered Species Act compliance consulting and litigation to protect wildlife and habitats. More information at: <https://eadefense.org/>

View the most recent eaDefense legal reports on the City of Boulder - June 16, 2020 vote here: [www.MeadowlarkOpenSpace.org/Press-Kit](http://www.MeadowlarkOpenSpace.org/Press-Kit)

### References

#### Should Boulder Condemn CU South?

*Boulder Daily Camera - Steve Pomerance - past City Council Member*

<https://www.dailycamera.com/2020/02/20/opinion-steve-pomerance-should-boulder-condemn-cu-south/>

#### History of CU South (immediately south of the Boulder City limits - planned for annexation)

<http://www.savesouthboulder.com/resources.html>

*Key Powerpoint Presentation - includes history and wetlands destruction already undertaken by the University of Colorado at CU South. Pictures can be re-published.*

[https://docs.google.com/presentation/d/1\\_-CtHR1KUofdwLzehIBmle2AvHEKqv2yTIESY1SxOA/edit#slide=id.p33](https://docs.google.com/presentation/d/1_-CtHR1KUofdwLzehIBmle2AvHEKqv2yTIESY1SxOA/edit#slide=id.p33)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** William Long <billlongventas@yahoo.com>

**Sent:** Thursday, June 11, 2020 8:26 PM

**To:** Ben Binder <bbinder@ddginc.com>; Council <council@bouldercolorado.gov>

**Subject:** Re: Boulder may spend \$31 million more for less flood protection

**External Sender**

Thanks for sharing.

Keep on going Mr Ben!!

[Sent from Yahoo Mail for iPhone](#)

On Thursday, June 11, 2020, 8:33 PM, Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)> wrote:

<https://www.dailycamera.com/2020/06/11/guest-column-ben-binder-city-may-spend-31-million-more-for-less-flood-protection/>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Thursday, June 11, 2020 7:33 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Boulder may spend \$31 million more for less flood protection

**External Sender**

<https://www.dailycamera.com/2020/06/11/guest-column-ben-binder-city-may-spend-31-million-more-for-less-flood-protection/>

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: David Chernikoff <davidchernikoff@icloud.com>

Sent: Thursday, June 11, 2020 4:54 PM

To: Council <council@bouldercolorado.gov>

Subject: Variant 1/100-yr. Flood Plan

External Sender

Dear Boulder City Council Members,

As the owner of a home near Frasier Meadows in the South Boulder Creek flood plain, I am very eager to see a flood mitigation plan put in place to protect our neighborhood to the extent possible. Given the number of years that have passed since the 2013 flood that was so damaging to our area, I think it's clearly time to make a decision and to implement an appropriate mitigation program.

While the Variant 1/100-yr. Flood Plan may not be perfect, its cost is reasonable, it's environmentally appropriate, and its design is realistic. It's a clear step in the right direction and it is very likely to be somewhat effective in accomplishing its purpose. Please look at this situation through the eyes of those of us who live in this vulnerable area.

I strongly urge you to support this mitigation plan and to move it into the implementation stage as expeditiously as possible.

Thank you for considering my concerns.

David Chernikoff

David Chernikoff, M.Div., LCSW

255 Pawnee Dr.

Boulder, CO 80303-3730

303-499-7592

[davidchernikoff@icloud.com](mailto:davidchernikoff@icloud.com)

[www.davidchernikoff.com](http://www.davidchernikoff.com)

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

**From:** Barbara Hanst <bhanst@gmail.com>  
**Sent:** Thursday, June 11, 2020 3:16 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Council mtg 6/16; VOTE ABOUT FLOOD MITIGATION

**External Sender**

Dear Council members,

I'm writing you today to urge you to PLEASE vote for Variant 1/100 yr flood design next Tuesday. Discussions on this topic have gone on way too long and ACTION is needed!

From what I've read this is the least expensive of the plans considered and has the least negative impact on the environment. But as important as these two factors are, most important of all is that **lives are in danger** while discussions go on and on and on. It's TIME to MOVE!

I'm counting on you to do the RIGHT THING and vote for **Variant 1/100 Year Flood Design**.

With hope and expectation,  
**Barbara Hanst**

"Another world is not only possible, she is on her way." Arundhati Roy

Barbara Hanst  
350 Ponca Place, Apt. 122  
Boulder, CO 80303  
720-562-8090  
720-667-8321 (cell)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** kt4kt@aol.com <kt4kt@aol.com>  
**Sent:** Wednesday, June 10, 2020 3:30 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Variant 1/100-yr. Flood Plan

**External Sender**

As a relative of residents of the Frazier Meadows retirement community in South Boulder, I am urging you to approve the Variant 1/100-yr. Flood Plan when you meet next week. The residents of Frazier Meadows and so many others are currently at unnecessary risk if South Boulder Creek floods again as it did in 2013. Please don't leave them in harm's way any longer.

Respectfully,  
Katrina Stevens

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: adyni@earthlink.net <adyni@earthlink.net>  
Sent: Tuesday, June 9, 2020 2:29 PM  
To: Council <council@bouldercolorado.gov>  
Subject: flood mitigation design

External Sender

Dear Members of Boulder City Council.

I urge you to select Variant 1/100-yr.flood design as your choice at the upcoming council meeting on flood mitigation. It is the wisest choice for solving the flood mitigation issue which has gone unresolved far too long. The safety and protection of the lives and property of the citizens of South Boulder and Frasier Meadows should be of paramount importance. Anne Dyni

4840 Thunderbird Drive, #194  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Peter Dawson <peter\_dawson1@yahoo.com>

Sent: Tuesday, June 9, 2020 9:10 AM

To: Council <council@bouldercolorado.gov>

Subject: flood mitigation

External Sender

As a Frasier resident, I urge you to vote for the Variant 1/100-year flood plan. We've been waiting too long.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Marsha McClanahan <marshamccl@icloud.com>

Sent: Tuesday, June 9, 2020 8:50 AM

To: Council <council@bouldercolorado.gov>

Subject: Please approve Variant 1/100-yr Flood Plan

External Sender

I live in Frasier Meadows neighborhood where in 2013 my house and all of my immediate neighbors experienced flooding and damage. After 7 years of research and planning, I urge you to go ahead and approve the flood plan for this area. Weather is getting more extreme each year.

Marsha

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Dave Kuntz <KuntzD@bouldercolorado.gov>

**Sent:** Friday, June 5, 2020 3:14 PM

**To:** Ben Binder <bbinder@ddginc.com>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** Re: South Boulder Creek - Upstream Option for Floodwater Detention

Ben-

Thanks much for your explanation of the past efforts to evaluate the flood mitigation potential of using the mined gravel pits on the OS-O portion of the CU South property for an "upstream alternative " for flood water storage and mitigation for South Boulder Creek.

Is your description and graphic of your proposal similar to the so-called "Community Upstream Concept Presented to WRAB July 12, 2018" (Attachment B-2) and/or the "community members' upstream storage concept evaluated by the project team" graphic (Attachment B-3) in the South Boulder Creek Flood Mitigation Project Technical Data Packet (May 2020) provided to the OSBT two weeks ago and as "analyzed" on pages 294-296 of the packet?

As you know, the OSBT at its June 3, 2020, meeting recommended to Council that staff make a more detailed evaluation and more complete analysis of this specific upstream alternative before proceeding to a decision on selection of a flood project option for final design. Since it is unclear what assumptions and hydrologic and other pertinent data were used in analyzing various flood scenarios for upstream alternatives, it will be most helpful if you can provide staff and the public with any additional specific information you have or are aware of that can clarify and enumerate the relative flood mitigation benefits, project design, necessary structural requirements, potential environmental impacts and cost estimates associated with this upstream option. And, as you also know, time is of the essence.

Thanks for your help and commitment on this project.

Sincerely,  
Dave Kuntz

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Friday, June 5, 2020 2:14 PM

**To:** OSBT-Web <OSBT-Web@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** South Boulder Creek - Upstream Option for Floodwater Detention

**External Sender**

### **South Boulder Creek - Upstream Option for Floodwater Detention**

In 2014, I studied the unwieldy South Boulder Creek Phase I flood mitigation plan which consisted of a 25' high dam along Table Mesa Drive and a several thousand foot long floodwall in the CDOT ROW along US 36.

City staff and its consultant made the inexcusable error of assuming CDOT would approve the demolition of its recently constructed concrete bike path and the use of its US 36 ROW for the floodwall. During a city council meeting, the city's project engineer falsely testified that CDOT agreed to the use of its ROW.

In fact, CDOT did not want the floodwall in its ROW. This resulted in the expenditure of tens, if not hundreds, of thousands of dollars on plans which would need to be significantly modified to place the floodwall on city open space.

As an engineer and surveyor, I questioned whether CDOT would be willing to part with critical ROW along one of its most heavily traveled thoroughfares, and recognized that CU's bathtub-shaped excavated gravel pit was the natural location for a series of inexpensive terraced detention ponds to mitigate flooding along South Boulder Creek.

Spending my own money, I worked with a GIS firm to accurately compute the detention pond volumes that could be provided by a series of low terraced berms, and the amount of material that would be needed to construct the berms. Using CH2M Hill's unit costs, my proposed plan provided 20% more volume than the city's Alternative D at 80% of the cost.

With respect to the volume of South Boulder Creek floodwaters that could be captured in the south end of the gravel pit, I followed CH2M Hill's lead where the firm developed three options that diverted peak floodwaters into the south end of the gravel pit and detained those waters in the gravel pit.

### **CH2M Hill 2015 Alternative E plan for stormwater detention**



But because CU did not want to use the south end of its gravel pit for stormwater detention, CH2M Hill's plan unwisely channeled the floodwaters to the north end of the property. This resulted in the need for a floodwall along US 36 and a large dam in the north end of CU South along Table Mesa Drive. CU's refusal to allow the south end of its property to be used for

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

stormwater detention resulted in the large dam along Table Mesa Drive that CU is now grumbling about and wants the city to pay \$5 million address.

The inlet structure in my proposed plan would be designed at a height that will allow flows below 3,500 cfs to continue to flow in South Boulder Creek. Flows greater than 3,500 cfs will spill into the detention pond.

There are many benefits to the plan shown below which uses a series of low terraced berms across CU's bathtub-shaped gravel pit to detain floodwaters.

- No large dam along Table Mesa Drive;
- No long floodwall on sensitive Open Space land along US 36;
- Greater detention volumes providing more flood protection;
- Low berms are less expensive to construct and easier to permit than tall dams;
- Does not block Viele Channel;
- Does not require expensive excavation to create additional detention;
- No excavated detention areas that would fill with groundwater;
- No expensive fill to raise areas out of the floodplain;
- Does not require \$500,000 to demolish and reconstruct the concrete bike path;
- Construction will not occur in areas of high groundwater, reducing costs;
- Berms are constructed on bedrock in areas where gravel operations removed alluvial deposits, reducing the need for groundwater cutoff walls;
- Berm location & orientation reduces interference w groundwater flows;
- Does not require variances from the State Engineer's Office for access and inspection easements;
- Construction will not occur in the busy US 36 ROW, reducing costs and construction time;
- Would not inundate CU tennis courts;
- Level areas between the berms could be used for playing fields;
- The sloped sides of the berms could be designed for bleachers;
- Berms are low enough that roads could easily be designed to cross them.



CU South Annexation Application (LUR2019-00010)

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In a 9/11/2014 email to me, Boulder Director of Public Works for Utilities Jeff Arthur stated: ***We looked at the concept you identified in more detail and felt like there was enough merit to have CH2MHill do some additional modeling.***

In a 9/24/14 email from Jeff Arthur to city Project Manager Kurt Bauer and cc'd to me Mr. Arthur asked: ***Do you have an ETA on modeling results from CH2MHill for the mitigation concept on CU South that I had passed along from Ben Binder?***

Having heard nothing, In October 2014, I called Kurt Bauer and asked about CH2M Hill's analysis of my concept. Bauer told me that the land I recommended using is not owned by the city; it is owned by CU, and CU does not want to use that portion of their property for detention - end of discussion.

I take satisfaction in knowing I did my best advise the city of obvious flaws in the 2015 Alternative D plan; alerted the city to the dangers of the Variant 2 plan, which was recommended by the WRAB but subsequently soundly rejected by CDOT; and attempted to help the city develop a simple cost-effective flood mitigation plan using the natural topography of CU's excavated gravel pit.

The city missed an opportunity to seriously consider this option, and now, after spending years and millions on other designs, it is too late to do so. But it should not be forgotten that CU's refusal to allow the southern portion of its property to be used for flood detention resulted in the large dam along Table Mesa Drive that CU is now grumbling about and wants an additional \$5 million to deal with.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Gail Promboin and Bob Burnham <burnboin@msn.com>  
Sent: Monday, June 1, 2020 9:46 AM  
To: Council <council@bouldercolorado.gov>  
Subject: South Boulder Creek Flood Mitigation

External Sender

Dear Council:

We write in support of moving forward with urgency on the Variant 1 100-year flood mitigation plan. Let us tell you why. Council has taken action to implement flood mitigation in most of the watersheds affected by the 2013 flood, but not in the one with the worst damage and greatest ongoing risk.

In 2013, we lived in the Fourmile Canyon Creek watershed, which damaged most of the homes in our neighborhood and even more downstream. We now live at Frasier, in the South Boulder Creek watershed. Out of the frying pan.....

In the Fourmile Canyon Creek area, the City moved fairly quickly to approve and fund plans to address the Broadway underpass as part of the currently in-process North Broadway reconstruction project, using a 50-year flood as the design standard, and the 19th Street underpass, with design under way and completion scheduled for next year. A broader Fourmile and Wonderland flood mitigation plan was adopted in 2011 and updated in 2017.

A flood mitigation plan for Gregory Canyon was approved in 2015 and funded in the 2018 capital improvement plan — to protect against a 10-year flood.

In the Boulder Creek drainage, the Eben Fine Streambank Restoration Plan was completed in 2016 (any regrets on that one?).

Boulder County has moved aggressively and impressively to plan and implement massive restoration and mitigation projects in Jamestown, Lyons, Boulder Canyon, Sunshine Canyon, and Lefthand Canyon, to name a few.

South Boulder Creek is a totally different story. A flood mitigation plan to protect the 600-plus structures, 3,500 people, and extensive public infrastructure in its path was approved in 2015. What have we seen in the intervening five years? Dithering, restudying, starting back at square one after every council election, flirting with skipping over protection from 100-year floods to plan for a 500-year flood, a standard applied to no other creek flood plain — in other words, all talk and no action. It appears as though we and our 3,500 neighbors are pawns in a power struggle between the City and the University and Council's debate isn't about the best way to protect us against future floods, but rather about how to thwart the University's development plans. Face it, the City can't prevent the University from developing the land it owns. Stop sacrificing the safety of Boulder residents to unrealistic power trips.

The Variant 1 100-year flood plan protects residents and property, has the lowest cost and most limited environmental impacts, and can be implemented in the shortest time span. It's more than past time to

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

quit dithering, stop indulging in ego trips, pull your thumbs out of .... wherever, and get moving. This slow-motion train wreck is unquestionable evidence of the wisdom of the old adage, "Don't let the perfect be the enemy of the perfectly good." If you vote to go forward with the Variant 1 100-year plan in June, there's a chance it might be completed within our lifetime. Please do so.

Thank you,

Bob Burnham and Gail Promboin  
4900 Thunderbird Drive Unit 511  
Boulder, CO 80303  
720-562-4456

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Monday, May 25, 2020 12:32 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Study sessions removed.

**External Sender**

Since you are making all "study sessions" into special meetings so that you can vote in them, you need to go back and correct 25 Feb's "study session" meeting where council directed staff to take action on a 100 y. floodplain mitigation. Although this was not a vote, it should have been one, as this "direction" countered previous votes from PB and CC in regards to a 500 yr. mitigation. Any direction given staff should have been based on a valid voting process.

Withdraw staff support from that directive retroactively and pay back the citizens for the time spent on the matter. Also you need to either reschedule study sessions for an appropriate interval or explain to the public why you should no longer be informed by a study session.

Remember that your 17 Mar. CC meeting was cancelled for no reason. You don't change protocol without answering to your public on study sessions either. This is still a democracy and you are compelled to follow the rule of law. Two of you are lawyers and took an oath about that. More importantly, all of you took an oath to represent your constituents fairly. You don't change rules retroactively to make them fit your agenda. The fact that you made this change at all is evidence that you recognize the directive made on 25 Feb. was not an ethical action.

Lynn

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** robert moore <eroombor@hotmail.com>  
**Sent:** Sunday, May 24, 2020 1:24 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** This week's Council Meeting and CU'S South Boulder Campus Plans

**External Sender**

This email was in response to Angela Evans Boulder Weekly's recent article.

5/23/2020

Dear Angela,

My history with this is, when I got to Boulder 25 years ago, I first worked for a landscape contractor who picked up earthen materials in the Gravel Pit, and since then I use the property as many Boulderites do, for open space, skiing, mountain biking, running and walking throughout the year.

The City had the opportunity to buy this large area as you mentioned, but unfortunately declined to place an adequate timely offer.

I lived at Bear Mountain Townhouses with Bear Creek just outside the back door, when large boulders and other materials rumbled by during the 2013 flood, which lucky didn't cause a lot of damage to this Townhouse community other than basement flooding.

Now, the present day situation has a solution which hasn't been recognized due to CU's ownership of the majority of the land. That 2 mile long berm you spoke of would make an excellent overflow reservoir for South Boulder Creek, made possible by the higher elevation of the creek on the easily accessible North Eastern side in relation to the berm. There, the creek is a bit of a distance away but large flows could be directed into the interior of the berm without much difficulty during extreme runoff by creating dams that would come into use as the creek rose, and with higher velocities, ie cubic feet per second.

This also compliments my opinion that the University of Colorado here in Boulder, should remain committed to buying properties in the immediate contiguous area of CU until this becomes problematic, at which time the State should build another Campus in another location.

Eventually growth and ongoing interest in Higher Education in the State of Colorado will require this.

The current City of Boulder has moved way beyond a reasonable size criterion's, dallying with entities that surpass the Cities' capacities to control them, and the other developments which quickly come with this, but not in covered wagons. Not taking into account all the committees

**CU South Annexation Application (LUR2019-00010)**  
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and countless policies Boulder seems to thrive on in many situations, and most often without a timely solutions.

And just this week the Council voted to reduce the Speed Limit to 20mph for Vehicles... I took the time to pick up copies of the Daily Camera for Wednesday's and Thursday's papers after Tuesday's Council meeting where this was voted on, being a historical compromise, the result of Boulder excitedly moving on in a new paradigm, without regards to the past long term thinking; like all the open space land acquired in the Boulder Valley and beyond to keep urban expansion from overrunning Boulder, Longmont etc.

Remember the 'Bollards' which popped up downtown on Folsom which created a public outcry? So, with the completion of streamlined HWY 36 in place, and expansion of the new Google Headquarters, resulting in a large number of high salaried young workers, and encouraging high tech business, startups etc, following them to Boulder, has resulted in many high horsepower cars and trucks, which are now so popular, that fly along at dangerous speeds disregarding other motorists, pedestrians, commuting cyclists and biking enthusiasts that Boulder is known for. Not to mention the numerous other externalizes disrupting long established business, and cost of living and rental increases here for families and people having to share rental properties.

After CU's President Benson massive construction boom on Campus, I think the public should seriously reconsider policy's that advocate development, both in the City and on Campus, and reduce the trends towards this more cosmopolitan environment, which doesn't reflect the State of Colorado's past along the Front Range where Agriculture and Ralphie, CU's mascot Buffalo proudly reigned.

"Oh, give me a home where the buffalo roam  
Where the deer and the antelope play  
Where seldom is heard a discouraging word  
And the skies are not cloudy all day"

I ridden bikes here for 25 years, and now carefully choose my routes from experience and observation, though usually won't even consider using a bike in the downtown area unless its quite early, or on weekends.

**CU South Annexation Application (LUR2019-00010)**  
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So back to Fraiser Meadows... When speaking to interested and concerned Meadows residents, then Mayor Applebaum explained to these Seniors in Council Chambers, that this could take a long time to reach a solution and then construction might begin, to minimize the danger of flooding in the future. Well, I expect many living at Fraiser Meadows have moved on to another world, and in my opinion so has Boulder!

Well, for me 25 years here was a pretty good run, minus these game changing issues and a few other particulars...

Robert Moore

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Joan and George Peters <gjpeters@comcast.net>

Sent: Thursday, May 21, 2020 8:56 AM

To: Council <council@bouldercolorado.gov>

Subject: flood mitigation

External Sender

You all know how anxious we residents of the Frasier Meadows Retirement Community are to be safe from another flooding like we had before. So, of course, we want you to move ahead as quickly as possible with Variant 1/100 yr. flood design.

With our hopes and thanks,

Joan and George Peters  
350 Ponca Place, Apt 79  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Tuesday, May 19, 2020 4:47 PM

**To:** BeHeardBoulder <beheardboulder@bouldercolorado.gov>; Council

<council@bouldercolorado.gov>; boulderplanningboard

<boulderplanningboard@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Subject:** Please provide objective facts and not groundless statements designed to sell staff preferred plans to the city council

**External Sender**

Thank you for responding to my question to the Be Heard website asking for **“hard evidence that CDOT would not approve plans for protection from a 500-year flood.”**

I have asked Utilities Director Joe Taddeucci and Project Manager Brandon Coleman, and made a CORA request to CDOT for information to support statements made to the Boulder City Council that CDOT would not approve plans for 500-year flood protection. I am not asking for a decision from CDOT on this issue, but only for information that would support statements made to the city council.

As in your response to my Be Heard question, I have received no information that would support the statement that CDOT would not approve plans for 500-year flood protection. If such information exists, I am sure the city would have provided it, which leads me to believe that such information does not exist.

The statement made to the city council that CDOT would not approve the 500-year plan was made to convince the City Council to drop plans for 500-year protection and use a small detention pond designed to protect against a theoretical 100-year storm.

It is very worrisome that the most recent RJH report uses a hypothetical computer generated flood based on a theoretical thunderstorm to estimate that the peak 100-year flow in South Boulder Creek at Eldorado Canyon is **4,520 cubic feet per second**.

The Taggart Engineering study performed for the city in 2000 used actual historic streamflow data measured at the Eldorado Springs gaging station. According to that study, the 1938 flood produced flows of **7,390 cfs** at Eldorado Springs.

**Is it prudent for the city to protect against a theoretical 100-year flood of 4,520 cfs when the actual September 1938 flood was 63% greater at 7,390 cfs?**

Furthermore, the small 100-year detention pond is designed to protect against is a short-duration low-volume theoretical flood that lasts for about four hours. Will a small detention pond designed for a short-duration low-volume flood provide adequate protection against a high-volume long-duration flood such as the one we experienced in 2013?

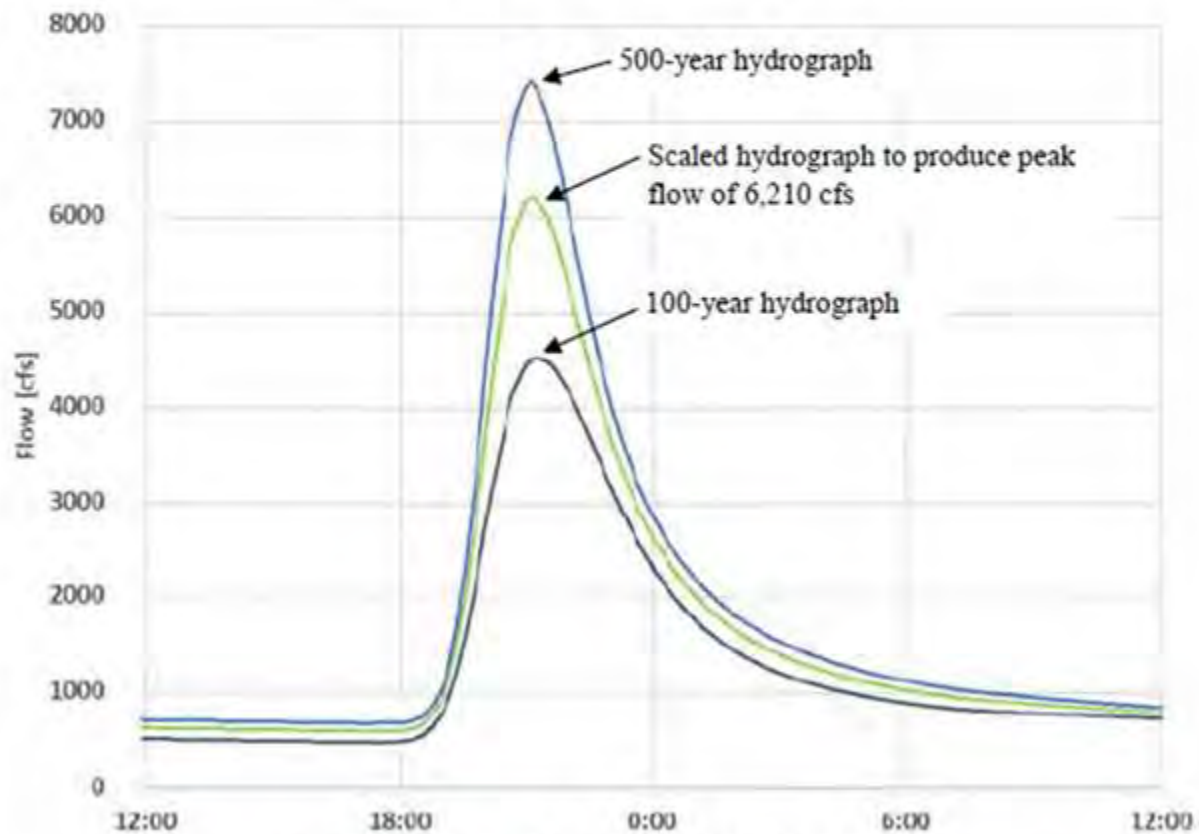
Not only is it difficult to use past rainfall data to predict the size of future floods, but we also must consider climate change, which is producing storms of greater magnitude; and we must anticipate that unpredictable disastrous events will occur during major storms, such as blockage of the detention pond's 5' outlet pipes that the 100-year plan depends on to convey large volumes of floodwaters under US 36. It is undisputable that the 500-year plan will provide for a much higher level of protection and a safety factor to safeguard the lives and property of Boulder residents.

Please provide the city council, advisory boards and the public with objective facts, and not groundless statements designed to sell the staff's preferred plans to the city council.

**Theoretical South Boulder Creek streamflows from most recent RJH report included in agenda packets.**

**TABLE 5.8**  
**PEAK FLOWS IN SOUTH BOULDER CREEK AT ELDORADO CANYON**

Event	Peak Flow (cfs)
100-year	4,520
200-year	6,210
500-year	7,400



**Graph 5.1 – Hydrographs at Eldorado Canyon**

October 2000 Taggart Engineering study

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31 August - 4 September 1938

The September 1938 flood had a flow of 7390 cfs at Eldorado Springs Gaging Station. The available pictures of Eldorado Springs flooding in 1938 illustrate devastation and massive sediment and debris movement (see Photos II-5 through II-7). If Gross Reservoir had existed, The peak of the flood may have been similar because of the flashy character and size of the lower canyon. Thus the damage may have been nearly as severe even if Gross Reservoir had existed. The duration (length of flooding) of the flood would have been less had Gross existed.

Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**From:** Be Heard Boulder [<mailto:notifications@engagementhq.com>]  
**Sent:** Monday, May 18, 2020 08:13 PM  
**To:** [info@ddginc.com](mailto:info@ddginc.com)  
**Subject:** Response to your question on Be Heard Boulder website

Hi there,

Thanks for taking the time to visit Be Heard Boulder and asking us a question.

You asked:

'During the a recent city council study session, city council members expressed concerns based on staff comments that CDOT might not approve plans for 500-year protection because of increased SBC flows under the US 36 bridge. Council members stated such concerns were a major reason for rejecting the 500-year plan. In the past, there was grievous miscommunication between the city staff and CDOT regarding the use of CDOT right-of-way along US 36. I therefore made requests to city staffmembers Joe Taddeucci and Brandon Coleman for hard evidence that CDOT would not approve the 500-year plan. I also requested such information from CDOT, including a formal CORA request to CDOT. I have received nothing that would support city staff's statements that CDOT might not approve the 500-year plan. In fact, the City's report states that the 500-year plan may not cause any negative impacts. "The 108-inch-diameter outlet would increase peak flows through the US36 bridge by about 6 percent but would not cause additional flooding downstream of South Boulder Road. It is possible that the increases in flow through the bridge may not cause negative impacts (i.e., scour) or that negative impacts could be mitigated by installing scour protection through the bridge." Please provide hard evidence that CDOT would not approve plans for protection from a 500-year flood. '

Our response has now been posted on the site.

**CU South Annexation Application (LUR2019-00010)**  
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Our response:

Asking permitting agencies to speculate in writing about specifics of what they might or might not approve before such detail is available to do so would be a dramatic departure from normal project process and would not be conducive to efficient agency approvals. If such out-of-process documentation will be a requirement of the project going forward, staff would not recommend proceeding. Conditions that will be fundamental to approval for any alternative presented to CDOT involving the US36 bridge cannot be met for the 200- and 500-year flood levels.

Regards,

South Boulder Creek Flood Mitigation/CU South Annexation staff team(s)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mike@chiropouloslaw.com>

**Sent:** Tuesday, May 12, 2020 6:40 PM

**To:** Council <council@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>

**Subject:** South or North Campus: Informed Decisions, Fiscal Responsibility, Environmental Protection and Good Government

**External Sender**

Council,

First, additional costs of building at “CU South” compared to a location that is higher, dryer and more suitable for development start at \$34 million for fill demanded by CU, and could easily amount to \$50 million or more when all is said and done. The three access routes demanded/requested by CU and other currently known or unforeseen costs will add up fast – but have not yet been quantified.

Second, CU demands a blank check from taxpayers and the City whereby we would be liable for any unforeseen costs or damages resulting from CU development in the floodplain, notwithstanding known risks. Whether a request or demand, that would seem to be a non-starter.

Third, CU has written the City to state that it cannot guarantee *any* housing will be built at the site. Because housing is recognized as the greatest and most urgent infrastructure need for CU, this must give Council and the City pause.

More academic infrastructure without housing will exacerbate a wide range of impacts including in-commuting,; traffic; housing affordability; quality of life; ability to attract low- or middle-income staff, faculty and students; and climate footprints. Is that the City we want?

The BCCP identifies lands that are annexable and believed suitable for development at the Planning Reserve. CU has stated it is willing to analyze whether the Reserve may be suitable for a “North Campus” in lieu of building at “CU South”. Why ignore the BVCP on an issue of this magnitude that cuts to the core of BVCP planning principles and community values?

The City is laying off or furloughing hundreds of staff and looking to cut budgets for basic governmental services to the bone.

In today’s world, proceeding with annexation and development at “CU South” without fully assessing the suitability of the reserve would appear unjustifiable.

How can budgeting tens of millions of dollars in extra costs to proceed with a project at an unsuitable, unsafe location be justified in light of the fiscal, budget and governmental services issues facing the City?

Stakeholders are committed to working on win-win solutions and informed decisions. This requires taking the first step towards considering annexation of City-owned land at the Reserve: an urban services extension viability study. Until that has been done, proceeding with annexation negotiations at “CU South” under the current timeline would appear irresponsible, in part because annexation of CU South” could undercut the City’s negotiating position in a win-win land exchange to which CU is now on record as being willing to consider.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

This is worth getting right. We need to look before we leap. Like many residents, when I recreate on or adjacent to "CU South" in what should be a Greater South Boulder Creek Open Space and State Natural Area reserve -- the prospect of developing what should be a restoration and reclamation riparian and floodplain open space and floodplain mitigation success story makes little or no sense to me -- when suitable lands *owned by the City* are available for CU's housing and infrastructure projects.

The way to expedite flood mitigation is to take a close look at the reserve before annexation the floodplain and rolling the dice that the severity of the next major flood in the South Boulder Creek watershed isn't what climate science tells us to expect: a 500- or 1000-year event unlike anything we've seen since settlement in the late 19th Century.

Thank you all for your hard work and consideration -- including staff.

best,

Mike

Mike Chiropolos

Attorney & Counselor, Chiropolos Law

3325 Martin Drive - Boulder CO 80305

[mike@chiropoloslaw.com](mailto:mike@chiropoloslaw.com)

303-956-0595

"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

*Please contact sender immediately if you may have received this email in error, because this email may contain confidential or privileged information*

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Tuesday, May 12, 2020 5:13 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Phil DiStefano <Chancellor@colorado.edu>; Mark Kennedy <mark.kennedy@cu.edu>

**Subject:** Instead of caving in to CU's bullying and extortion, why doesn't the city shame and embarrass

**External Sender**

Dear City Councilmembers

I just submitted the following question to the city's Be Heard Boulder website.

Perhaps some of you can provide me with an answer.

Thanks,  
Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

CU has been the biggest impediment to the timely implementation of South Boulder Creek flood mitigation plans.

When CU purchased its flood prone depleted gravel pit in 1996, 220 acres were designated for Open Space and only 88 acres were designated for development.

When CU purchased the property, the reclamation plan for the gravel pit included several large ponds and wetlands that would abate flooding. The reclamation plan did not include a 6,000' levee to divert floodwaters around the gravel pit onto neighboring properties, and the reclamation plan stated "After reclamation, the mine site will become suitable for wildlife habitat".

In 1997, CU screwed the city by refusing to cooperate with the city to address known flooding problems and by using its political clout to revise the gravel pit reclamation plan to "accommodate maximum potential development". Against strong objections from both the City and the County, CU revised the reclamation plan to eliminate ponds and riparian areas which would abate flooding and by adding a 6,000' levee around its gravel pit to divert floodwaters onto neighboring properties.

As a result, when the 2013 flood hit, the depleted excavated gravel pit was dry while the Frasier Meadows Retirement Community and hundreds of residences were flooded.

In 2018, the City Council approved a flood mitigation option referred to as Variant 1, 500-year. The estimated cost for that option was \$35 million. But CU's Frances Draper, placing a higher priority on maximizing development of CU's gravel pit than on protecting the lives and safety of Boulder Residents, wrote a letter to the city stating:

*"We are writing to you today to provide notice that the university, as the landowner, does not agree to Variant I 500. Neither of our organizations should expend further staff or financial resources to continue to pursue Variant I 500."*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Instead of standing up to CU's bullying, the city directed its staff to come up with alternatives to meet CU's demands. Such plans now include decreasing flood protection to downstream residents in order to provide CU 129 acres (52 city blocks) of land out of the floodplain, and importing 1.3 million cubic yards of fill at a cost of \$34 million to replace the sand and gravel removed from CU's gravel pit in order to raise the land out of the floodplain. The total cost of that plan is \$96 million, up \$61 million from the Variant 1 500-year plan approved in 2018.

CU teaches classes on environmental design and continually uses the words resilient and sustainable to describe its activities. But CU's activities on CU South violate the most basic fundamental principles of sound environmental design.

Instead of caving in to CU's bullying and extortion, why doesn't the city let the world know about these activities and disgrace and embarrass the university into doing the right thing, which is allowing the city to use the land it needs to protect its citizens' lives and property from flooding?

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** jonathanhondorf@aol.com <jonathanhondorf@aol.com>

**Sent:** Monday, May 11, 2020 4:13 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Re: CU South: Time to Ask Questions and Contact City Council

**External Sender**

Hi

I've been a realtor broker and developer for more than 30 yrs. I have never heard of such a vague and unbinding proposal for even small real estate contracts as the CU South negotiations. This is a property agreement for large sums of monies and consequences.

It would simply be negligent for the COB to enter such an agreement as the CU South agreement, as proposed by The University of Colorado today. The economy is on the verge of a depression and job loss is drastically cutting away college dreams and enrollments not to mention financial contributions etc.

CU is bottom fishing and is likely to sell the CU South land after it is annexed to the City of Boulder, in order to bandaid its own failing economy

And for those of us

Forced to meet every development criteria the COB requires this is an outrage, and discriminatory conduct. please require full disclosure contracts.

How can the City be so stupid?

Put this on the back burner until it benefits the taxpayers and the pandemic and its devastating economic effects have passed. Now is not the time for irresponsible financial Decisions by the City of Boulder that our struggling tax payers will have to pay for. As they say "the devil is in the details".

Sincerely

Elizabeth Hondorf

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Bart Windrum <bart@axiomaction.com>

**Sent:** Monday, May 11, 2020 1:00 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** I agree with PLAN Boulder County: CU Come Clean about South Annexation or City Don't Do It

**External Sender**

Councilmembers: if what PLAN Boulder County writes below is true and CU is stonewalling the city (and we citizens) as described, then just say no to them. Do flood mitigation right, for the long term, to protect the most civilian property and lives. Accept nothing less.

Bart Windrum

South Boulder (city resident)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jeremy Reynolds <jeremy\_reynolds@hotmail.com>  
**Sent:** Friday, May 8, 2020 10:00 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Support for Variant 1/100-year flood plan for South Boulder Creek

**External Sender**

Dear Council,

Several of my neighbors in the South Creek 7 HOA and its board are attempting to represent the views of my entire neighborhood regarding the Variant 1/100-yr. flood plan for South Boulder Creek. They have sown fear and uncertainty among residents in our neighborhood, and the board of the HOA has gone so far as to send you a letter in late February without properly assessing our views. I do not know whether the residents of the neighborhood are aware of this action, but I know this, because I am a member of the board, and my name was on that letter. They sent the letter before I could object to it, and they signed my name without my consent; I'm sending this letter to provide my dissenting opinion.

Given the misinformation that is being shared with you "on behalf" of those of us living in the Tantra Park neighborhood on the west side of the CU South land, I would like to be crystal clear about my views: **I support the Variant 1/100-yr. flood plan for South Boulder Creek, and I would like the city to move forward with this plan and ensuing flood mitigation work as soon as possible.**

Some of the arguments I have heard from some of my neighbors include:

- our property values will go down
- endangered species will be harmed
- the environment will be devastated
- our neighborhood will take on all the floodwaters
- we'll be living next to a bunch of "wild" students
- we'll lose access to an area we use for skiing, running, walking, and biking

None of these arguments has any merit. Not one. There is no evidence to support any of these conclusions. If anything, when compared to the other potential options, the Variant 1/100-yr. plan will minimize these concerns.

My family uses the CU South space for recreation nearly every day, particularly now while we are sheltering at home. Even if this land were going to be completely taken over for flood mitigation and preclude my using this space, I would still support moving forward. My pleasure and recreation should not trump the safety of my fellow Boulder residents on the north side of Table Mesa. This issue has been studied for 17 years, and it has been almost 7 years since thousands of Boulder residents' lives were put at risk. It is well past time to move forward with flood mitigation in this area.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

I am also opposed to a land swap, which would simply dump these issues on another neighborhood in town and continue to place our neighbors on the north side of Table Mesa at risk while the process continued.

Sincerely,  
Jeremy Reynolds  
Tantra Park, Boulder, 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Nicole Speer <nicole.speer@gmail.com>

**Sent:** Friday, May 8, 2020 7:20 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Move forward with Variant 1/100-yr. flood plan for South Boulder Creek

**External Sender**

Dear Council,

A vocal group of my neighbors in the Tantra Park neighborhood is attempting to represent the views of my entire neighborhood regarding the Variant 1/100-yr. flood plan for South Boulder Creek. They have spread misinformation and fear among residents in our neighborhood and have sent letters to you "on our behalf", without properly assessing our views in an unbiased and non-threatening way. They have even signed our names to these letters to you without our permission, and then become angry when we call out their inappropriate actions. My family is considering moving from the house we have lived in for 10 years, because the emotional work of living in this neighborhood and speaking out against this inappropriate behavior is becoming overwhelming.

Given the misinformation that is being shared with you "on behalf" of those of us living in the Tantra Park neighborhood on the west side of the CU South land, I would like to be crystal clear about my views: **I support the Variant 1/100-yr. flood plan for South Boulder Creek and would like you to move forward with this plan and ensuing flood mitigation work as soon as possible.**

The arguments I have heard from some of my neighbors include:

- our property values will go down
- traffic will increase
- endangered species will be harmed
- the environment will be devastated
- our neighborhood will take on all the floodwaters
- we'll be living next to a bunch of "wild" students
- we'll lose access to an area we use for skiing, running, walking, and biking

None of these arguments has any merit. Not one. There is no evidence to support any of these conclusions. If anything the Variant 1/100-yr. plan will minimize these concerns.

My family uses the CU South space for recreation nearly every day, particularly now while we are sheltering at home. Even if this land were going to be completely taken over for flood mitigation and preclude my using this space, I would still support moving forward. My pleasure and recreation should not trump the safety of my fellow Boulder residents on the north side of Table Mesa. This issue has been studied for 17 years, and it has been almost 7 years since thousands of Boulder residents' lives were put at risk. It is well past time to move forward with flood mitigation in this area.

I am also strongly opposed to a land swap, which would simply dump these issues on another neighborhood in town. The buck needs to stop here.

Sincerely,

Nicole Speer

Tantra Park, Boulder, 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Jim Disinger <jim.disinger@gmail.com>

Sent: Friday, May 8, 2020 6:33 AM

To: Council <council@bouldercolorado.gov>

Subject: South Boulder Creek Flood Protection

External Sender

Few people seem to know the political machinations that allowed a gravel-mining dewatering berm to remain in place along South Boulder Creek. This property, purchased by CU, must be returned to a functional wetland and the dewatering berm removed. There should be no need for the City to annex this land or compensate CU in any way for their poorly thought out purchase of a floodplain wetland.

As shown by the 2013 flood, planning for only a 100 yr flood is ridiculous. Climate change has made local weather patterns highly variable and 500yr flood mitigation should be the standard minimum. Let's blow the berm, remove and disallow structures, and increase soil infiltration to "flatten the peak" and "shelter in place" the next flood.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Pat Carden <ptc39@comcast.net>

Sent: Thursday, May 7, 2020 12:17 PM

To: boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

Cc: Council <council@bouldercolorado.gov>

Subject: Annexation CU South

External Sender

Thank you all for continuing to meet during these challenging times caused by the COVID-19 pandemic.

As a resident of South Boulder, and victim of substantial damage to a home in Park East during the 2013 flood, I ask your support in providing City Council the endorsement they need to move forward with the annexation process without further delay.

A plan for the protection of this neighborhood has been well studied and proposed, but your endorsement will be valuable in facilitating the next steps the Council and City engineers need to take in moving this neighborhood toward protection from flooding.

Pat Carden  
350 Ponca Pl, Boulder, 80303

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** adaline jyurovat <adalinej@gmail.com>  
**Sent:** Wednesday, May 13, 2020 1:48 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Council:

I oppose annexation of CU South, except for flood mitigation.

The expansion of CU over the last 40 years has drastically affected my quality of life. It is a lot worse now than it was. Traffic is heavy, noisy and speedy in the areas surrounding the main campus. Residents near CU South can expect more of the same. They have no right to a carte blanche.

When the university and the city of Boulder continue to hire administrators from out of state, who have no real connection to this state except politically, we are in trouble. This has been going on for decades. It is costly and stupid to bring in people because of their resume. It is why the university acts the way it does, and why the city lets them.

M. Adaline Jyurovat  
550 Marine St.  
Boulder, CO 80302

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Tim M Hogan <Tim.Hogan@colorado.edu>

**Sent:** Tuesday, May 12, 2020 12:51 PM

**To:** Council <council@bouldercolorado.gov>; Brautigam, Jane <BrautigamJ@bouldercolorado.gov>

**Cc:** OSBT-Web <OSBT-Web@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>;  
boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Subject:** South Boulder floodplain

**External Sender**

Friends in the City,

I found the platform “Be Heard Boulder” to be less than satisfactory, seeming to direct the community into a narrow choice regarding annexation.

Please accept my comments attached and posted below ...

... tim hogan

2540 6<sup>th</sup> Street  
Boulder 80304  
303.444.5577

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For many longtime residents of Boulder, the proposal from the University of Colorado requesting annexation of 308 acres of the South Boulder Creek floodplain with its flood mitigation plans and additions to their housing and academic building portfolio stirs up a host of reservations. The more one delves into the details, the greater those reservations become.

Floodplains and riparian areas are the wrong places to locate human buildings and attendant infrastructure. Have we already set aside memories of September 2013? Boulder avoided many of the more dire effects of that flood due to planning over past decades that placed open spaces and parks into flood plains across the city and county. Along with natural protection for flood control, wetlands and riparian areas are excellent habitat for plants and wildlife. Such luminaries as Frederick Law Olmstead and Gilbert White in the early and middle twentieth century were prescient in forecasting and promoting such land use. In large part, that is why the 2015 Boulder Valley Comprehensive Plan placed 220 acres of the South Boulder Creek property into open space.

The site is comprised of the old Flatirons gravel pits, and the original restoration plan for the Flatiron quarry included 42 acres of ponds, wetlands, and the removal of berms built to channel water around the pits. The university purchased the property under veiled circumstance in 1996 and soon after enlarged the berms along the south and east edges of the site for which it was reprimanded by Boulder County. Successive augmentations have reduced the floodplain by an estimated 75%, diverting hazardous floodwaters downstream.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

The current South Boulder Creek Flood Mitigation Project builds upon several previous studies from engineers, hydrologists, CDOT, and FEMA; recommendations from the Boulder Planning Board, Boulder Planning Commission, and Open Space Board of Trustees; community input, particularly from the neighborhoods most impacted by the 2013 flood; and decisions from City Councils and County Commissioners from 2003 to the present.

The university has proposed various versions of their intentions if the area is annexed into the city. One would be a campus the size of greater downtown Boulder – a plan including eight academic buildings, 1,125 housing units, and parking lots for 700 vehicles – their vision presumes a 30 foot tall, high-hazard dam along U.S. 36 at a conservative cost of \$22-\$35 million.

Any dam must be designed so as not to cut off the flow of ground water providing unique habitat for two species listed under the Endangered Species Act, the Preble's meadow jumping mouse and Ute ladies' tresses orchid, as well as species such as the northern leopard frog and other sensitive species. Hydrologists have pointed out the dam could impede groundwater flow and dewater the wetlands on OSMP's property with major implications for two State Natural Areas proximate to the site on Open Space lands.

Earlier this year CU Boulder submitted amendments (1/21/2020) to its annexation application including a caveat that the university will need to determine if, and to what degree, housing remains suitable and feasible behind the dam for the current proposal the city has been working with. This challenges a principal criterion (affordable housing) in the Boulder Valley Comprehensive Plan (BVCP) for annexation into the city.

The current timeline presently on the table is very ambitious and perhaps more aspirational than realistic. It is understandable the residents of the neighborhoods north of the site are anxious and growing frustrated with the current process. Certain decisions could accelerate the pace of effective mitigation plans.

A creative plan has been put forth by Mike Chiropolos addressing the conundrum of the South Boulder Creek floodplain, proposing an exchange with CU for 130 acres in the Planning Preserve northeast of the city, offering the university a viable off-ramp "better suited for development than the riparian, wetlands, [and] prairie ... habitat proximate to South Boulder Creek." Chiropolos continues, "[such] an exchange will expedite the approval and implementation of the best possible engineering approach to protect Frazier Meadows and other downstream properties from future floods." (Daily Camera, 12/29/2019)

It appears the most economic, effective, and elegant solution for the property in the South Boulder Creek floodplain is to restore the entire 308 acres to open space, remove the illegal berm so floodwaters could once again be absorbed into the wetlands and ponds within the site, and employ the abandoned quarry as a detention pond to ameliorate extreme flood events.

Taking annexation off the table for the South Boulder floodplain will provide flexibility to build flood mitigation infrastructure to the highest standards. As meticulously documented by engineers, hydrologists, and atmospheric scientists, the site which rests at the base of an approximately 125 sq. mi.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

watershed, is extremely vulnerable to anthropogenic climate disruptions [Trenberth, Kevin E., et al. (2015) "Attribution of climate extreme events." Nature: Climate Change.] Current forecasts significantly underestimate flood hazards and a prudent approach dictates the city prepares accordingly, using the 500-year baseline at the very least.

Finally, there are profound moral choices to be made concerning our decisions on the South Boulder Creek floodplain. Articles appearing in the Daily Camera in recent months come to mind.

A story on the annual Christmas bird count in Boulder and what it portends concerning environmental degradation (Habitat changes lead to ecological downturn; 01/12/2020) should give us all pause. Despite the wealth of protected lands in the county and a citizenry attuned to their conservation values, we are failing in our efforts to preserve wild nature.

The article cites the U.N.'s Millennium Ecosystem Assessment and its evaluation of biodiversity. More recently, in "A Global Deal for Nature," a team of conservation biologists mapped out "a science-driven plan to save the diversity and abundance of life on Earth ... [to] avoid catastrophic climate change, conserve species, and secure essential ecosystem services." Both of these studies make the case that to address the central issue of our time: to halt and reverse our current ecocidal course, fully half the planet needs to be set aside for wild nature. Not only to save endangered species, but to forestall the extinction of ecosystem processes and the waters, air, and soils they nurture.

Audacious as proposals to secure half the planet as biodiversity preserves may once have sounded, the best conservation science tells us this is what is necessary if the specter of the sixth extinction and climate chaos is to be averted. This is also the enduring message from the traditions of indigenous people around the planet, as well as the coyote wisdom of a gifted 17 year-old girl from Sweden and the rebellion of young activists she has spawned.

Another piece in the Camera appeared before the last election (The anomaly, and the power, of Boulder; 11/2/2019) and made a compelling case for Boulder's preservation ethos – "building its identity as a relatively untrammelled bastion of human habitation in harmony with natural beauty;" emphasizing that "environmentalism needs places like Boulder to shine a light on the real consequences of human expansion, of unchecked population growth, of a consumption-based society."

The advent of the Corvid-19 virus has only highlighted the impacts of humanity across the planet. It has opened our eyes, and hopefully our hearts, to the plight of Mother Earth, recalling the old rule of wild medicines, "where the danger grows, grows also that which heals."

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In a memo from a member of the OSMP Board of Trustees we are reminded that "79% of Master Plan survey respondents (2019) indicated that Ecosystem Health and Resilience is of the 'highest importance' for the future of our OSMP system."

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

And in an eloquent denouement, “Without this habitat in the South Boulder Creek drainage – the soils, diverse plants and underground water flow that nourishes them, and the thousands of species that depend on the plants and soils will be lost. And no matter what we do or how many millions of dollars and decades of effort we spend, we will not be able to re-create this unique wet meadow in another place.”

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Sunday, May 10, 2020 11:46 PM

**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Cc:** Phil DiStefano <Chancellor@colorado.edu>

**Subject:** The city council should prioritize flood protection over developable acres

**External Sender**

Dear Planning Board Members,

Recent City of Boulder Water Resources Advisory Board and Planning Board meetings discussed South Boulder Creek flood mitigation options 1, 2 and 3.

These “options” resulted from CU’s objection to the Variant 1 500-year flood mitigation plan approved by the Boulder City Council in 2018.

The following memo states that **the 2018 estimated cost for the Variant 1 – 500 year project was \$35 million.**

**Project 16134**

**TO: Kurt Bauer, P.E. – City of Boulder**

**FROM: Rodney Eisenbraun, P.E., PMP – RJH Consultants, Inc.**

**DATE: June 20, 2018**

**RE: South Boulder Creek Regional Detention Preliminary Design  
Concept Design Cost Memorandum**



(The “Master Plan” was the seriously flawed flood mitigation plan approved by the WRAB, Planning Board and City Council in 2015)

In a May 20, 2019 letter to the Boulder City Council, CU PR spokesperson Frances Draper wrote:

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

***We are writing to you today to provide notice that the university, as the landowner, does not agree to Variant I 500. Due to the March 28 response which did not offer the university a feasible path forward around the additional acreage the city is asking for under Variant I 500, we are informing the city that any further expenditure for the development of preliminary designs for Variant I 500 should cease. Again, the university will not agree to that option. Neither of our organizations should expend further staff or financial resources to continue to pursue Variant I 500.***

The city council readily caved in to CU's objections and asked its engineers to design a flood mitigation option that would satisfy CU's demand for 129 developable acres.

The following table from the May 7, 2020 Planning Board agenda packet shows the cost for the 500-year flood mitigation project would increase from the original \$35 million to \$96 million to meet CU's demand for an additional 36 developable acres. This includes \$34 million to import 1.3 million cubic yards of fill dirt to raise a portion of CU's excavated gravel pit out of the floodplain.

**Table 2: Projects Tradeoffs Summary**

Project Criteria	Option 1 (100-yr)	Option 2 (500-yr)	Option 3 (200-yr)
<b>Downstream Flood Benefits <sup>(1)</sup></b>	<b>Meets LOS <sup>(2)</sup></b>	<b>Largest</b>	<b>Larger</b>
People	2,300	4,100	3,600
Structures	260	730	600
Dwelling Units	1,100	1,900	1,700
<b>Total Project Cost</b>	<b>\$66M</b>	<b>\$96M</b>	<b>\$93M</b>
Regional Flood Detention	\$41M	\$47M	\$46M
Soil Fill	\$10M	\$34M	\$32M
Impacts to CU Property <sup>(3)</sup>	\$15M	\$15M	\$15M

The city council should reject all of these ludicrously expensive options and pursue the original Variant 1 500 plan. If CU objects, the city should let the public know loud and clear that CU's irresponsible purchase of a flood prone depleted gravel pit and CU's prioritizing developable acres over our safety continues to delay the South Boulder Creek flood mitigation project which is needed to protect the lives and safety of Boulder residents.

Sincerely yours,  
Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** allyn s feinberg <[feinberga@comcast.net](mailto:feinberga@comcast.net)>

**Sent:** Thursday, May 7, 2020 2:33 PM

**To:** boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>

**Subject:** PLAN-Boulder County Comments regarding CU South



Dear Planning Board members:

PLAN-Boulder considers the flood mitigation and annexation processes for the former gravel mine known as CU South to be **inextricably linked** by the University's tactic of holding hostage any flood mitigation on their land unless their conditions are met. Flood mitigation could move forward swiftly were it not for CU's unreasonable demand that Boulder blindly annex the property under CU's own, largely undisclosed terms.

One of the major issues confronting this annexation is the fact that CU has presented only vague plans for development in nothing like the sort of detail the City would normally require. Why is this annexation being treated differently? This is not how Boulder has handled any annexation in the past and presents a situation that the citizens of Boulder cannot accept. Under these conditions, we oppose the annexation of this property except for flood control.

It is far past time to call out this reprehensible stance by the University administrators in charge of this effort. In the spirit of maintaining a good working relationship with the university, the city has spent years attempting to find a reasonable balance between critical flood protection and the university's property interest. For too long we have heard CU speak of friendship and cooperation while holding hostage the safety of downstream residents. This is not how good neighbors behave and City Council is right to balk at the tactics and the lack of development specificity from CU.

CU's needs and requirements have been paramount through the planning process thus far, yet there has been zero public outreach to neighbors regarding the potential annexation and CU South Campus development. City Council is discussing annexation, and staff is working on it with absolutely no outreach to the affected neighborhoods: Tantra, Majestic Heights, and Martin Acres. The City of Boulder's annexation and zoning process is governed by municipal code sections 9-2-17 and 9-2-18 and Colorado Revised Statutes 31-12-108 which lay out formal requirements for public notice, public hearings, and preparation of an annexation report. When and how will these formal processes be undertaken?

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Information and detail on CU South have been lacking at every stage of the process so far. Utilities staff ignored a series of information requirements made explicit by the Open Space Board of Trustees, most recently in September 2019. This project will require the disposal of Open Space land and therefore the agreement of the OSBT.

We continue to be concerned that the City is proceeding without proper clearance and understanding from CDOT about their requirements regarding US 36. The 500-year level of flood protection, which would potentially protect thousands more Boulder citizens, was abandoned by Council at a study session based on statements from staff regarding incompatibility with CDOT.

The cost of this single flood mitigation project could increase Boulder stormwater charges by 70%, yet this is but one of many flood mitigation projects related to the 2013 flood that the City should undertake. There are many Boulder citizens who live in harm's way and who would benefit from flood mitigation, not just those impacted by CU South.

If CU relents and allows adequate flood mitigation to proceed immediately on the CU South land and drops its insistence that it retain 129 acres for development under any flood protection scenario the City chooses, then it would be appropriate for CU and the City to jointly explore other options for CU's development. This could include other sites in the city, added density on land CU currently holds, land in the Planning Reserve, and a cap on CU enrollment at the Boulder campus.

CU purchased CU South, a former gravel mine, knowing full well that it was in the South Boulder Creek flood plain. Annexing CU South, under duress and without the conditions that would be required of any other development project in Boulder is inappropriate and should be taken off the table. The City has been far too willing to entertain vague proposals from CU and to consider spending millions in site preparation for a site that was never appropriate for development to begin with.

Boulder citizens have spent years trying to influence the decisions on the use of this property through reason, logic, and actual specific expertise. After all these efforts, we are faced with a flood mitigation and annexation project that is expensive beyond reason and provides insufficient flood protection to downstream people and property. While this project has been viewed as most impactful to those residents, in fact it is impactful to the entire city.

PLAN-Boulder County strongly supports the city placing this issue before the voters so that Boulder citizens can decide if the proposed second-best flood mitigation solutions, paying millions to fill in CU's gravel mine, and the blind annexation required by CU are an acceptable outcome. The entire city will likely be so financially burdened by this one project that other city infrastructure projects and services could be impossible to provide. A decision of this magnitude with such far reaching consequences should be left to the voters.

Respectfully,

Peter Mayer and Allyn Feinberg

Co-Chairs, PLAN-Boulder County

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Pat Carden <ptc39@comcast.net>  
Sent: Thursday, May 7, 2020 12:17 PM  
To: boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
Cc: Council <council@bouldercolorado.gov>  
Subject: Annexation CU South

External Sender

Thank you all for continuing to meet during these challenging times caused by the COVID-19 pandemic.

As a resident of South Boulder, and victim of substantial damage to a home in Park East during the 2013 flood, I ask your support in providing City Council the endorsement they need to move forward with the annexation process without further delay.

A plan for the protection of this neighborhood has been well studied and proposed, but your endorsement will be valuable in facilitating the next steps the Council and City engineers need to take in moving this neighborhood toward protection from flooding.

Pat Carden  
350 Ponca Pl, Boulder, 80303

Sent from my iPad

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** joynermcguire@comcast.net <joynermcguire@comcast.net>

**Sent:** Thursday, May 7, 2020 9:58 AM

**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Cc:** Council <council@bouldercolorado.gov>; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>

**Subject:** annexation--CU south

**External Sender**

Dear Planning Board Members,

I, like many of my friends and neighbors, experienced an incredible catastrophe in the 2013 flooding of South Boulder Creek. In your deliberations about this project tonight, please keep in mind the role of the Guiding Principles to help move this project along via the annexation process. Planning Board members had a significant role in the drafting of the Guiding Principles so it's assumed that you still feel their use in guiding the annexation process is of value. I encourage you to commit to making this annexation process work, using your previous work as a guide. Thousands of lives remain at great risk of future flooding and we are all counting on you to help facilitate flood mitigation through your committed and positive approach to the annexation process.

Best regards,

Kathie Joyner

*South Boulder Creek Action Group*

## CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Wednesday, May 6, 2020 5:40 PM

**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Subject:** Agenda Item 6A - CU South Annexation

### External Sender

**RE: PLANNING BOARD AGENDA ITEM 6A - CU South**

**MEETING DATE: May 7, 2020**

Dear Planning Board Members,

The goals of good land planning are to protect the lives, safety and wellbeing of Boulder residents while safeguarding our natural resources. I suggest you review CU's annexation proposal with those goals in mind.

The first statement in your packet reads: **ANNEXATION AND INITIAL ZONING: Proposal to annex a 308-acre site with an Initial Zoning of Public.** This statement is inaccurate and confusing as only 129 acres are proposed to be annexed as Public.

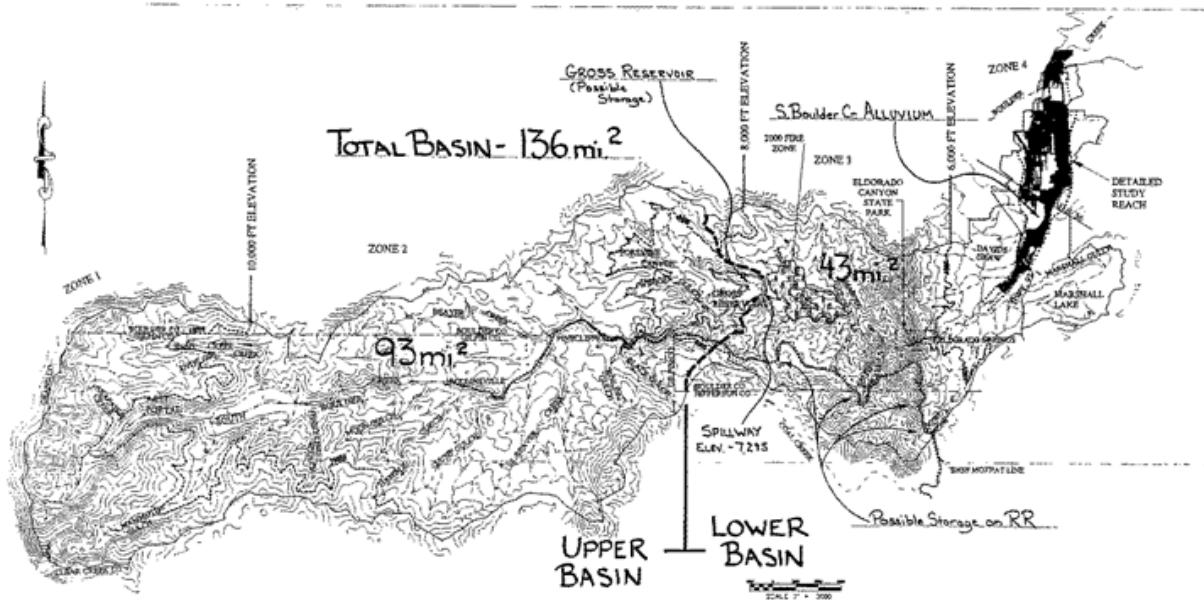
### Background

The Background information provided in the agenda packet omits very relevant facts and activities related to the 308 acre property.

From a land planning perspective, one should be aware of the fact that CU South is comprised of a flood prone excavated gravel pit located in the historic South Boulder Creek streambed at the foot of a steep 136 square mile Front Range drainage Basin.



### SOUTH BOULDER CREEK WATERSHED



When the Flatiron Companies unloaded its depleted 308 acre gravel pit on CU in 1996, the **Boulder Valley Comprehensive Plan had 220 acres designated for future city open space, and only 88 acres were designated for development.** Those land use designations had been endorsed for the following reasons:

1. Location of the site in the South Boulder Creek floodplain,
2. High groundwater (at the surface in many areas),
3. Wetlands,
4. Threatened and endangered species habitat,
5. Poor access,
6. No utilities,
7. Contiguity to existing city Open Space, and
8. A county-approved reclamation plan for the gravel pit which mandated several large ponds and riparian areas, and which stated: ***After reclamation, the mine site will become suitable for wildlife habitat.***

The Flatiron Gravel Pit was mined pursuant to a 1981 gravel mining permit issued by the Boulder County Commissioners. The gravel mining permit included the reclamation plan shown below which included several large ponds which would mitigate downstream flooding. The reclamation plan did NOT include a berm around the property to divert floodwaters onto neighboring properties.

A temporary berm was constructed around the gravel pit during the mining operations to keep floodwaters out of the gravel pit, but it was required to be removed during final reclamation of the site. The berm was not removed, and CU worked with the mine operators to revise the reclamation plan to include the berm as a permanent feature which would protect CU South from flooding and redirect floodwaters onto neighboring properties.

#### **1981 Flatiron Gravel Pit Reclamation Plan**

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



In 1997, CU used its political clout with the state Mined Land Reclamation Board to gut the reclamation plan by removing ponds and wetlands and by adding a 6,000 foot earthen levee to divert floodwaters around CU South onto neighboring properties.

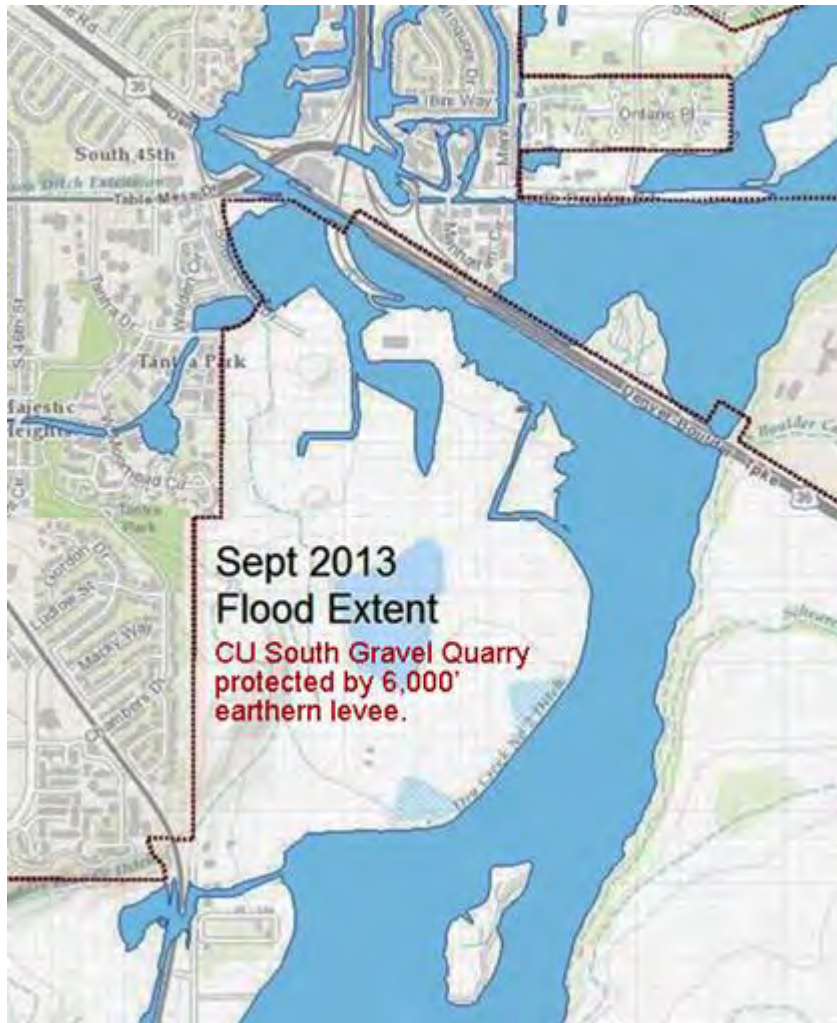
Both the City of Boulder and the County pleaded with CU not to revise the reclamation plan **to accomodate maximum potential development** of CU South but to cooperate with the city to design a plan that would include features that would mitigate known South Boulder Creek flooding issues.

CU refused to cooperate with the city and was successful in revising the reclamation plan to remove the ponds and add a 6,000' levee around the property. As a result, when South Boulder

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

suffered catastrophic flooding from the long-duration 2013 flood, the excavated gravel pit remained dry.



If CU was willing to cooperate with the city in 1997, flood mitigation facilities could have been designed and constructed well before the 2013 flood. CU refuses to admit any responsibility for the 2013 flooding and has blamed the mine operator for the revisions to the reclamation plan. But the attached document and letter from Chancellor Richard Byyny to the Mined Land Reclamation Board show that CU was responsible for the revisions which contributed to the 2013 flood.

If the depleted gravel pit was in private hands, no private developer could have revised the reclamation plan over the strong objections of both the city and the county. The land needed to construct a large detention pond to protect lives and property from flooding would have been condemned in a heartbeat.

CU's extortion scheme to deny the use of land needed to protect the lives and property of Boulder residents until the city agrees to annex CU South and pay up to \$15 million in impact fees has delayed flood mitigation for many many years.

## CU South Annexation Application (LUR2019-00010)

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The City should place a higher value on protecting the lives and safety of Boulder residents than on maximizing developable acreage on CU South.

In August 2018, because of changes to extreme weather events caused by climate change; testimony from the mayor of Ft. Collins about the five deaths and \$200 million in damages from the 1997 Spring Creek flood which exceeded protection provided by the city's 100-year flood control facilities; and many other considerations the Boulder City Council voted to implement a 500-year flood protection plan. CU objects to that plan because of ***the inundation impact to the area designated Public.***

Let's not forget that the northern boundary of the Public area in the revised BVCP was defined by the seriously flawed Alternative D flood mitigation plan which was approved by the Water Resources Advisory Board in 2015. That plan was subsequently rejected by the WRAB in 2018, when the WRAB recommended Variant 2, which was even worse.

Figure 5-3: CU South Land Use Designations



Figure 5-4: CU South Conceptual Flood Mapping



Please:

### 1. ***Look into the veracity*** of staff comments that CDOT will not approve the 500-year option;

I made requests to city staff and CDOT, including a formal CORA request to CDOT, and found nothing that would substantiate city staff's statements that CDOT might not approve the 500-year plan.

Even the City's report states that the 500-year plan may not cause any negative impacts.

**CU South Annexation Application (LUR2019-00010)**  
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*The 108-inch-diameter outlet would increase peak flows through the US36 bridge by about 6 percent but would not cause additional flooding downstream of South Boulder Road. It is possible that the increases in flow through the bridge may not cause negative impacts (i.e., scour) or that negative impacts could be mitigated by installing scour protection through the bridge.*

**2. Have an outside consultant determine if the small 100-year option detention pond will provide adequate protection against the 2013 flood;**

In a March 20, 2020 email, I asked Project Manager Brandon Coleman for *documentation confirming that the 100-year flood mitigation option will protect residents from long-duration floods such as the one we experienced in September 2013.*

His response was:

*The project team has found that the thunderstorm produces larger flood depths and extents than the general storm and is the controlling flood event for the Project.*

A thunderstorm is a short-duration event. Coleman's comment leads me to believe that protection provided by the 100-year option for a 2013 flood was never studied.

**3. Request that staff provide a written cost estimation spreadsheet for the \$15 million cost for CU Impacts stated on page 7 of your Agenda Packet.**

While \$15 Million is only an estimate, if the documents containing that number are approved by the WRAB, Planning Board, and City Council, the \$15 million number will take on a life of its own.

I requested documentation substantiating the \$15 million budget item, and Joe Taddeucci replied:

***There is no detailed breakdown or written records of them that we can provide because they are ballpark numbers based on verbal conversations. The costs were either provided verbally by CU or developed through city staff conversations.***

"No detailed breakdown", "no written records", "costs provided verbally by CU". Regrettably, those statements say a lot about the lack of professional standards used in preparing the documents submitted for your review.

Apparently no one in the city even questioned the need to spend up to \$5 million to move tennis courts which may be covered with a few feet of water once every 100 years; or the need to reimburse CU for impacts from a dam along Table Mesa Drive when CU's refusal to allow detention in the southern portion of its gravel pit required placing a dam in the very location that CU is now complaining about.

**4. Do not allow yourselves to be bullied by CU.**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

The city has no legal or moral obligation to provide CU with 129 developable acres which is equivalent to 52 city blocks, roughly the size of downtown Boulder.

It would be nice if someone in the city government had the resolve to stand up to CU's demands that prioritize maximizing the developable acreage of CU's gravel pit over the lives and safety of Boulder residents.

In order to get the WRAB, Planning Board and City Council to go along with CU's preferred 100-year option, city staff has prepared the preposterous Option 2 to make the 100-year plan look good by comparison. Option 2 requires importing 1.3 million cubic yards of fill at a cost of \$34 million to refill the university's excavated gravel pit. It would take 100,000 13 cubic-yard dump truck loads several years to import that huge quantity of fill.

CU, which teaches classes in environmental design and continually touts its environmental leadership, resiliency and sustainability, is in a very embarrassing position regarding its acquiring a flood prone gravel pit for a new campus, gutting a well-designed reclamation plan, intentionally destroying re-emerging wetlands, and using its ownership of land needed for flood protection to hold the city hostage to extort annexation and utilities.

CU claims it "requires" 129 acres for development.

In May of 2019, I submitted A CORA request to CU asking for:

*Any and all documents, analyses, and/or spreadsheets of proposed land uses and square footages that were used to determine that the University of Colorado "requires a full 129 acres for development".*

On May 24, 2019, I received the following email from Scott Bocim, CU's Custodian of Records:

***We received and have been researching your CORA request, and have determined that the University has no responsive records.***

But CU is demanding 129 acres of developable property which limits land available for flood detention. Instead of standing strong to protect the safety of Boulder residents, city staff is caving in to that demand.

Do not hesitate to contact me if you have any questions or would like copies of supporting documents.

On February 10, 2020 I gave a talk to the Boulder community about South Boulder Creek flood mitigation and CU South. My presentation can be viewed on YouTube.

<https://www.youtube.com/watch?v=ov0INtW0-8Q>

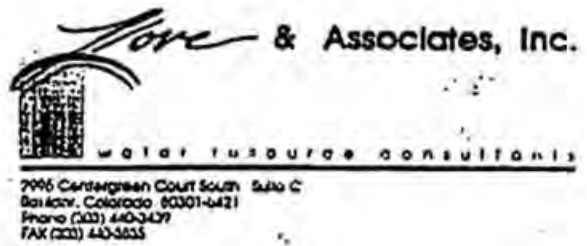
Sincerely yours,  
Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
303-860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Letter documenting CU's efforts to revise the gravel pit reclamation plan **to accommodate maximum potential development at a future date.**

April 25, 1996

Mr. Bill Deno, AIA  
Campus Architect  
Department of Facilities Management  
University of Colorado  
Campus Box 53  
Boulder, CO 80309-0053



REF: 9627A- LETTER OF AGREEMENT - CONSULTING SERVICES FOR  
THE GATEWAY PROPERTY

Dear Bill:

Love & Associates, Inc. is pleased to submit this letter of agreement for providing consulting services related to optimization of the Gateway Property in order to accommodate maximum potential development at a future date. We are very excited about being given an opportunity to once again work as a TEAM with the University and Downing, Thorpe, James (Tom Thorpe) on this important project. It is our understanding that the University would like to maximize development, minimize maintenance, and provide a property with the maximum development flexibility. The team generated report will provide the University with recommendations related to the Flatiron Companies and Western Mobile final site reclamation plan.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Letter from CU Chancellor Richard Byyny to the state Mined Land Reclamation Board urging the board to approve revisions to the reclamation plan that would eliminate the ponds and riparian areas and add a berm to redirect floodwaters onto neighboring properties.

## CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

JUN. -12' 97 (THU) 10:16

CU RISK MANAGEMENT

TEL:303 492 5848

P. 001



University of Colorado at Boulder

Office of the Chancellor

301 Regent Administrative Center  
Campus Box 17  
Boulder, Colorado 80309-0017  
(303) 492-8908  
FAX: (303) 492-8866

Post-It® Fax Note	7671	Date	6/12	# of pages	1
To	Greg Squire	From	Sir + Lipton		
Co./Dept.		Co.	Univ. of Colo.		
Phone #		Phone #	492-2222		
Fax #		Fax #			

June 10, 1997

Mined Land Reclamation Board  
Division of Minerals and Geology  
1313 Sherman Street  
Room 215  
Denver, Co.  
80203

RE: Before the Mined Land Reclamation Board, State of Colorado  
File No. M-81-302  
In the Matter of the Western Mobile-Deepe Farm Pit-Amendment 02

Dear Sir/Madam:

The Regents of the University of Colorado are the owner of the property subject to the mining permit held by Western Mobile, Inc. as referenced above. The purpose of this letter is to provide written confirmation of the University's support and approval of the submitted amendment to the reclamation plan.

As background, the University purchased this property on October 25, 1996 in order to help meet the University's long-term land needs. The University has been working with Western Mobile on the development of the submitted reclamation plan for almost a year and feel that the submittal is consistent with the University's needs and State's interests.

The University does not have any immediate needs or plans to develop this land for buildings or other facilities. The land use designation provided on the permit application (General Agricultural/ Wildlife Habitat) is consistent with the University's immediate plans for use. It is unlikely that the University will develop this land for many years into the future.

The University respectfully requests the Board's favorable consideration of the proposed amendment to the reclamation plan as submitted by Western Mobile. Thank you.

Sincerely,

Richard L. Byyny, M.D.  
Chancellor

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ruth WRight <ruthwright1440@gmail.com>  
**Sent:** Thursday, May 7, 2020 12:32 AM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Subject:** South Boulder Creek - Flood Mitigation Project

**External Sender**

Members of the Planning Board,

I want to address two issues : first, the fundamental decision on which the entire flood mitigation project is based, that is, the 100-year versus the 500 year criterion; and second the issue of annexation.

As you will recall, the WRAB, the Planning Board, the majority of the City Council (6-3) supported the 500-year criterion when last they voted on this issue --after numerous public hearings and testimony. It is not unusual for the Council to want to revisit this issue – even though it is disappointing after all the effort by citizens to attain the more protective and more cost effective 500-year option. Attached is my summary in support of the 500-year option.

Regarding annexation: As you now, at this time we have a quid pro quo: Boulder needs land in CU South to build a flood mitigation project to protect the citizens in the West Valley from disastrous flooding , and CU needs annexation to be able to develop CU South – obtaining water and wastewater treatment and all of the other municipal needs. While the property is still under the jurisdiction of the County, the City and CU are equals in negotiating a memo of understanding detailing the conditions of annexation. Those details must be very specifically addressed before annexation, because after annexation, as a State Agency, CU will have total control over the use and development of its property (as per Professor Emeritus Howard Klemme, who is an expert on home rule law). Land use, roads, height, will the City own the land under the project, access, etc etc. Regardless of the faith, trust, and goodwill that the City (including its citizens) may have with the present administration and its promises, we have no idea what decisions future CU administrations will make. Once the land is annexed, CU has total control. Going to court after annexation is useless because CU has superior status and can claim sovereignty. There is one more important point to be made: while the City has equal **legal** status with CU at this time , actually CU has the upper hand, because the flood project must be built NOW, while CU is in no

hurry to develop CU South. Will CU play this hand in the negotiations, or will it acknowledge the dire need for flood control?

#### SUPPORT 500-YEAR FLOOD CRITERION

##### **The inadequacy of the 1 % flood (100-year flood), also called the regulatory flood**

The 100-year flood criteria began with a flood control program adopted by Congress in 1968 to incentivize communities to keep floodplain lands from development and provided insurance as a carrot. Without going into details, it has been unsuccessful even for that purpose. However, it has become the guiding principal for engineers for anything having to do with floods. It is something they know.

**But it is certainly not relevant to protect residents already in the floodplain.** The West Valley never even had the benefit of any floodplain management—not under county zoning or after it was annexed to the City beginning in 1957. So now we have a duty to protect the residents from a flood hazard not of their own making. We have already had a 200-year flood in 1938, and of course we have also had the 2013 flooding caused by many days of rain until all of the permeable soils were saturated and the floodwater rushed over highway 36 into the West Valley with disastrous results. Detaining the 500 – year flood flows would also be beneficial in that type of flooding.

Then there is climate change. Who knows what that will bring. **It is unconscionable to not provide the extra protection with the 500-year criterion - which also turns out to be the most cost effective.**

**It is not a matter of IF, but WHEN.** Fort Collins had just finished implementing its 1% (100-year) flood plan in 1995 when, just two years later a larger storm hit with loss of 5 lives, and \$130 million damages to Colorado State University alone. Susan Kirkpatrick, former mayor, came to Boulder to share the Fort Collins experience by testifying at a Boulder Planning Board meeting saying “Our early stormwater upgrades were designed to account for the 2 to 100 year flows. Unfortunately in 1997 the community received between 10-14 inches of rain over a 30 hour period. The runoff exceeded the 100 and even 500 year flows in some locations. . . I urge you to take a more cautious approach to Flood Control planning. . . and recommend plans that are compatible with 500- year flood events. **The 100-year is not sufficient to protect the health , safety and welfare. of your community members.”**

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** David McGuire <dmcguirepm@hotmail.com>

**Sent:** Thursday, May 7, 2020 9:36 AM

**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>

**Cc:** Council <council@bouldercolorado.gov>; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>

**Subject:** CU South Annexation

**External Sender**

Planning Board 5/7/2020

Planning Board Members;

Lest we forget, as we have in the past, I wanted to remind Planning Board of their Charter responsibilities:

"The Planning Board reviews and approves certain site and use review applications, studies long-range planning matters including the Boulder Valley Comprehensive Plan and makes recommendations to City Council. *It also serves as an advisory board to City Council on applications for annexation and rezoning.*" (emphasis added)

Please note that there is no mention of flood water engineering in these responsibilities. The reason I mention this is when this project was last considered by your board we ended up in an 18 month delay considering project design alternatives that were half baked and doomed to failure. We can ill afford to repeat that mistake. Please trust your expert staff and consultants.

I encourage you to focus your efforts on moving the CU South annexation forward (THAT is one of your PRIMARY responsibilities.) It is essential this happen in a timely fashion this time so we may accomplish critical flood mitigation for the 3000 lives in harm's way downstream of South Boulder Creek.

The highest responsibility for any city is to protect the health and safety of their residents, as stated in numerous places within the City of Boulder's charter. Please exercise this highest of all your responsibilities by recommending approval of the CU South annexation application which will facilitate this flood mitigation plan moving forward.

David McGuire

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** joynermcguire@comcast.net <joynermcguire@comcast.net>  
**Sent:** Tuesday, May 5, 2020 8:45 AM  
**To:** boulderplanningboard <boulderplanningboard@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** annexation--CU south

**External Sender**

Dear Planning Board Members,

I, like many of my friends and neighbors, experienced an incredible catastrophe in the 2013 flooding of South Boulder Creek. In your deliberations about this project on Thursday, please keep in mind the role of the Guiding Principles to help move this project along via the annexation process. Planning Board members had a significant role in the drafting of the Guiding Principles so it's assumed that you still feel their use in guiding the annexation process is of value. I encourage you to commit to making this annexation process work, using your previous work as a guide. Thousands of lives remain at great risk of future flooding and we are all counting on you to help facilitate flood mitigation through your committed and positive approach to the annexation process.

Best regards,

Kathie Joyner  
*South Boulder Creek Action Group*

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** JAN BURTON <[janburton@me.com](mailto:janburton@me.com)>

**Subject:** South Boulder Flood Plain

**Date:** May 4, 2020 at 6:22:20 PM MDT

**To:** [planningboard@bouldercolorado.gov](mailto:planningboard@bouldercolorado.gov)

Dear Planning Board members,

Thanks for your work on behalf of our community.

I would like to recommend you support staff's recommendation of Variant 1, 100 year. Why?

- The most likely alternative to actually get approved. Let's face it, the city has been planning for 17 years, and the downstream neighbors have been waiting for 7 years since the flood. Let's get something done.
- Least costly. In the new reality, this is crucial
- Smallest footprint, smallest environmental impact
- Least impact on OSMP

I would like you to think about equity. If we do 250-year or 500-year for this drainage, how is that fair for the rest of the city, which may have 20-year or 50-year, or max 100-year?

People may say the cost differential is incidental. It is not. It is not fair for the utility customers to pay for this, and it certainly can't come from the General Fund.

Planning Board did a great job on the Guiding Principles. Let's adhere to them and move the project forward.

Thanks so much.

Jan

JAN BURTON

[janburton@me.com](mailto:janburton@me.com)

+1 214-632-6289

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Thursday, April 30, 2020 5:36 PM

**To:** Weaver, Sam <WeaverS@bouldercolorado.gov>

**Cc:** OSBT-Web <OSBT-Web@bouldercolorado.gov>; boulderplanningboard  
<boulderplanningboard@bouldercolorado.gov>

**Subject:** South Boulder Creek Flood Mitigation - Check veracity of CDOT concerns, Prioritize Public Safety

**External Sender**

Sam,

I applaud your "looking into the veracity" of the percent transmission rates in the coronavirus mask graphic. I hope that you also look into the veracity and validity of statements made by the City's staff during the February 25th study session which caused the city council to reverse course and reject the Variant1-500 year flood protection plan previously adopted following a long public hearing in August 2018.

**Issue 1 – We need evidence substantiating staff comments that CDOT might not approve the 500-Year flood mitigation plan.**

During the study session, city council members expressed concerns based on staff comments that CDOT might not approve plans for 500-year protection because of increased SBC flows under the US 36 bridge. Council members stated such concerns were a major reason for rejecting the 500-year plan.

The US 36 bridge over the SBC is significantly oversized because it was designed to carry the full flows of the creek, when in fact 50% of the flows spill out of the creek into the West Valley Overflow before they reach the bridge.

I therefore questioned your staff's concerns that the flows would exceed the design capacity of the bridge. Because of prior false and misleading statements by staff and consultants to sell their plans to the council (i.e. CDOT had approved the use of its ROW; a study of "many many structures throughout the world" indicated blockage would not be a concern with Variant 2; etc.) I was interested in seeing hard evidence that CDOT would not approve plans to mitigate a 500-year storm.

I subsequently made requests to city staff and CDOT, including a formal CORA request to CDOT, and found nothing that would substantiate city staff's statements that CDOT might not approve the 500-year plans.

City staff provided me with only one letter from CDOT dated September 9, 2019 which stated:

2. **Variants:** CDOT is not part of the "variant" discussion/question and is impartial as to the variants being considered by the City as they pertain to flood mitigation concepts, as long as Item 1. is satisfied.

(Item 1 requires superstructure elements of a floodwall to be located outside of CDOT's ROW.)

The following email was sent by CDOT:

**From:** Brian Varrella - CDOT <[brian.varrella@state.co.us](mailto:brian.varrella@state.co.us)>

**Date:** January 22, 2020 at 10:08:11 PM MST

To: Brandon Coleman <[ColemanB@bouldercolorado.gov](mailto:ColemanB@bouldercolorado.gov)>

Subject: Fwd: South Boulder Creek Detention Dam

We still do not have the technical information requested of your consultant at the last meeting, and we still have more small-group conversation needs before CDOT management can offer informed opinions on these matters. I do not wish to get the cart ahead of the horse until we (CDOT and Boulder) have completed our homework.

I was able to obtain from CDOT the original engineering plans for the US 36 bridge. Plans state the bridge was designed to convey 6,300 CFS, which is greater than the 5,740 CFS peak flow for the 500-year project.

Even the City's report states that the 500-year plan may not cause any negative impacts.

*The 108-inch-diameter outlet would increase peak flows through the US36 bridge by about 6 percent but would not cause additional flooding downstream of South Boulder Road. It is possible that the increases in flow through the bridge may not cause negative impacts (i.e., scour) or that negative impacts could be mitigated by installing scour protection through the bridge.*

**TABLE 5.7**  
**OPTION 2 HYDRAULIC MODELING RESULTS (500-YEAR)**

Configuration	Max WSE at US36 Bridge (ft)	Max WSE in Pond (ft)	Peak Flow US36 Bridge (cfs)	Peak Flow S. Boulder Rd. (cfs)	Peak Outlet Flow (cfs)	Increase Downstream Flooding (Yes/No) <sup>(1)</sup>
Existing Conditions	5363.6	N/A	5,420	9,320	N/A	N/A
60-Inch-Diameter	5364.2	5366.7	6,500	7,010	380	No
108-Inch-Diameter (~3 – 60" Diameter)	5363.8	5365.6	5,740	8,070	1,380	No

## Issue 2 - Will the 100-year plan protect residents from the 2013 flood?

On Fri, Jan 10, 2020 at 12:40 PM Coleman, Brandon <[ColemanB@bouldercolorado.gov](mailto:ColemanB@bouldercolorado.gov)> wrote:

- *How many structures would be protected?*  
*For 100-yr protection we would protect approximately 260 structures and 2,300 people.*  
*For 500-yr protection we would protect approximately 730 structures and 4,100 people.*

The Boulder Valley Comprehensive Plan requires the study to look at long duration storm events such as the 2013 flood.

## University of Colorado Boulder, South Campus - Guiding Principles

*a. As part of the flood mitigation design process, the city will evaluate the flood storage and attenuation (water retention with slow release) value of the site, with and without the levee in place. The study will look at both flash flood **and long-duration storm events**.*

I was concerned that the small 100-year 469 Acre-Ft detention pond would not provide significant protection from a long-duration high-volume flood such as the 2013 flood which would quickly fill a small detention pond, so in a March 20, 2020 email I asked Brandon Coleman for *documentation confirming that the 100-year flood mitigation option will protect residents from long-duration floods such as the one we experienced in September 2013.*

His response was:

*The project team has found that the thunderstorm produces larger flood depths and extents than the general storm and is the controlling flood event for the Project.*

That comment leads me to believe that protection provided by the 100-year option for a 2013 flood was never studied.

The 2013 deluge lasted for several days and discharged huge volumes of water. The 100-year option is only designed to protect against a four-hour thunderstorm.



### **Issue 3 - Cost Estimate for CU South Impacts**

The current South Boulder Creek flood mitigation study submitted to the Boulder City Council includes a large \$15 million cost estimate for "CU South Impacts".

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

While this number is only an estimate, if the report is approved by the City Council, the \$15 million number will become a placeholder in the project budget and take on a life of its own.

I requested documentation substantiating the \$15 million budget item, and Joe Taddeucci replied:

***There is no detailed breakdown or written records of them that we can provide because they are ballpark numbers based on verbal conversations. The costs were either provided verbally by CU or developed through city staff conversations.***

"No detailed breakdown", "no written records", "costs provided verbally by CU". Regrettably, those statements say a lot about the lack of professional diligence in preparing the South Boulder Creek flood mitigation study.

Apparently no one in the city even questioned the need to spend up to \$5 million to move tennis courts which may be covered with a few feet of water once every 100 years; or the need to reimburse CU for impacts from a dam along Table Mesa Drive when CU's refusal to allow detention in the southern portion of its gravel pit required a dam in that very location.

**Issue 4 – Is the city obligated to provide CU with 129 acres out of the floodplain?**

At the time CU acquired its flood prone depleted gravel pit in 1996, for good reasons the Boulder Valley Comprehensive Plan allocated 220 of the total 308 acres for open space and only 88 acres was designated for development.

Now CU claims it "requires" 129 acres for development. 129 acres is the equivalent of 52 city blocks, roughly the size of downtown Boulder.

In May of 2019, I submitted A CORA request to CU asking for:

*Any and all documents, analyses, and/or spreadsheets of proposed land uses and square footages that were used to determine that the University of Colorado "requires a full 129 acres for development".*

On May 24, 2019, I received the following email from Scott Bocim, CU's Custodian of Records:

*We received and have been researching your CORA request, and have determined that the University has no responsive records.*

Frances Draper responded with a letter to me stating:

*The 129 required acres the university has stated is required is not based upon planned development. It is based upon a series of conversations and negotiations with city council and the other governing bodies as they updated the Boulder Valley Comprehensive Plan and created the Guiding Principles related to CU Boulder South, its annexation and the development of the flood mitigation project.*

*Our requirement to retain 129 out of the total 308 acres represents an equitable balance of the university (a) honoring its role as a member of the community by contributing valuable resources (at no cost to the city) to reduce the life safety risk to our South Boulder neighbors and (b) retaining value from a portion of the property, enabling the university to fulfill its*

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

*fiduciary obligations to carefully steward state-owned assets for the benefit of all citizens of Colorado.*

The city is under no legal or ethical requirement to provide CU with 129 developable acres.

The 129 acres comes from the revised Boulder Valley Comprehensive Plan map which used the boundary of the flawed CH2M Hill Alternative D flood protection plan for the northern boundary of the Public use area. It is worth noting that in 2016 the Water Resources Advisory Board recommended the Alternative D plan even though it contained four major flaws. In 2018, the WRAB rejected Alternative D and instead recommended the Variant 2 500-year plan, which is even worse.

In 2018 the City Council approved the Variant 1 500-year plan which reduced the area of CU's gravel pit that is out of the floodplain to 93 acres. 93 acres is equivalent to 37 city blocks. Placing a higher priority on maximizing developable acreage than on the lives and safety of Boulder residents, CU's spokesperson Frances Draper vociferously objected to the plan which would provide a higher level of flood protection.

Instead of fighting for the safety of Boulder residents, the city's utility staff developed preposterous plans with outrageous costs designed to persuade the WRAB and the City Council to reduce flood protection from the 500-year storm to the 100-year storm in order to satisfy Frances Draper's demands. Such plans include importing 1.3 million cubic yards of fill at a cost of \$34 million to replace the sand and gravel that was removed from CU's gravel pit in order to raise 36 acres out of the floodplain.

I have seen no evidence that the city has put together a strong negotiating team that would employ the sordid history of CU's unethical, non-sustainable, anti-environmental activities on CU South to bring CU to the table. Under CU's intimidating threat that it will not permit any of its land to be used for flood mitigation until the city agrees to annex and provide water and sewer, the city has capitulated to Frances Draper's demands, and unless things change, will continue to do so in negotiating an annexation agreement.

I urge you to:

1. *Look into the veracity* of staff comments that CDOT will not approve the 500-year option;
2. Have an outside consultant determine the level of protection the 100-year option will provide against the 2013 flood;
3. Dismiss any consideration of the \$15 million cost estimate for CU Impacts until the city protects the interests of its citizens by first determining if the city should pay anything for those impacts and determines reasonable costs thereof; and
4. Get serious about standing up to CU's demands which prioritize maximizing the developable acreage of CU's gravel pit over the lives and safety of Boulder residents.

Sincerely yours,

Ben Binder

[bbinder@ddginc.com](mailto:bbinder@ddginc.com)

(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jean Aschenbrenner <jeanasch@hotmail.com>  
**Sent:** Monday, April 27, 2020 9:00 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek - Flood Mitigation Project

**External Sender**

To the Members of Boulder City Council:

I am concerned about the processes being followed as we decide what to do with CU South area.

1. I believe that we should mitigate now for a 500-year level. We have the opportunity to do it right NOW and once things are built, it will be too hard to change. Given the 2013 flood experience, it is too painful to fix after if we are not ready.
2. City should not pay for earth fill for CU. When they bought the property, the situation existed. It is CU's responsibility, not the city's. Plus adding that cost to the analysis skews the decision-making.
3. Proper procedures should be followed when making decisions for this plan. We cannot afford to go fast, we need to be carefully thoughtful.

Respectfully submitted,  
Jean Aschenbrenner  
2695 Kalmia Ave.  
Boulder 80304

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** lynnsegal7 <lynnsegal7@hotmail.com>

**Sent:** Tuesday, April 21, 2020 3:22 AM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Cc:** Huntley, Sarah <Huntleys@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; OSBT <OSBT@bouldercolorado.gov>

**Subject:** SBFP advice to WRAB

**External Sender**

You're a water board, why can't you pool! Haha.

On that front, members of the public need to be able to make power points for three minutes like the other boards, you need to offer pooled time and this needs to be made possible in the remote setting, which it presently is NOT. Get a better Zoom-like entity or demand the vendor provide it. Democracy is not to be sacrificed based on COVID. You'll feel just the same running up to 2 Nov.

I want video ability, unmute and the right to choose to "chat" with whomever I please, the moderator, presenters, public and individually or in smaller groups of my choice. You can choose to not view chat if you want. Show me the same respect. Trust your public. That's what you are there for. If people care enough to put their sweater over their jammies, they deserve to be seen. Don't unmute anything until you have a problem! Fear is the other F word. Zoom is good enough for CU and I understand Zoom is dealing with security firewalls and ways to solve. There are other vendors. Warn people not to run their hairdryer or vacuum while unmuted if you must, with a big group, but assume folks will exhibit common courtesy and have plenty of experience with Zoom after a month of isolation. Display a video still of all participants, board, staffers and public with faces with names and scroll through all of them pausing at each set, then display it as a list with their names and roll through this after it appears most have arrived. At the end scroll and pause through the chats and Q/A's for the record and any late arrivals.

If you need a break for 10 minutes, go off the record and keep the meeting open so the rest of public, staff and board members could have a little time to talk and connect between themselves without interruption while you do what you need to, just as if it was live! Best to leave some wind-down connection time at the end too. Fair's fair.

. Fill dirt around \$25 M and \$15 M for CU impacts - No to both.

. Upstream detention. It reduces impacts to the natural areas.

. **Postpone annexation permanently.** 30 yrs. of cost to the city is too long. The destruction of the 2013 flood was caused by CU due to delay and the city's capitulation to them while Frazier Meadows blames the city. The \$5M deal on a bogus appraisal was a handout to CU. They bought some lousy land. They need to dispose of it so they don't have to just board up all their current on-campus construction projects. The whole place has to be repurposed. Plan a folly campus in Longmont if they must, but COB ought not suggest how they expand, especially when they are contracting. They're a grown up.

**CU South Annexation Application (LUR2019-00010)**  
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. Peter Mayer even suggested we delay the SBFP mitigation. CU's adventures at their bogus SBFP purchase are not going to see the light of day.

. Aging infrastructure for other water facilities is a priority for the city.

. 500 yr. flood plain is **cheaper long term** and it is disingenuous to mislead by not disclosing the term of investment and it's relevance to overall **economic benefit**. This is a common practice that needs to change NOW. Cheaper is not cheaper, it's short term.

. Ted said the staff is motivated to do the right thing, but that doesn't mean they did. The path to destruction is paved with good intentions.

. I don't know the costs of this mitigation, correct, but one thing is sure, we cannot afford CU anymore as part of it.

. Is this an eddy Ted? yup! Swirling around 30 yrs. So get it **done**, but **do it RIGHT** with 500 yr. We had a 1000 yr. RAIN. 100 yr. is a risk Ted!!!! How many of this community are you going to throw under the bus? What we have in other parts of town in higher flood risk is irrelevant. They are in specific areas and do not impact this SBFP structural footprint. Gordon gave the numbers for improved outcome for life and structure and it is compelling. If you can't do a 500 yr., move the neighborhoods in the floodway to higher ground. (I wonder where). Joe said it, it is an old city with a failed urban flood footprint.

. Water and sewer aging infrastructure is **why** we need a 500 yr.! Kirk, the public are going to pay much higher rates for damages when a climate change event like COVID comes from above our heads. Wet after dry is the future. Extremes and frequency of events. Not good. Then comes the bill. Just like with COVID. Contain before mitigate. Cut your losses. Why let disaster educate?

**\$6M, which is 10% more**, is the biggest bang for the buck for the 500 yr. There was **\$135M flood damage in Fort Collins, who supported a 100 yr. event**. The insurance rate increases will be the cost more than the tax, even Geico is reducing my rate 15% for COVID. I can't see insurers rebuilding whole communities. The whole industry will collapse with COVID just as it will with climate change. And the two combined is curtains. Whether it's taxes or insurance increases, **it's money just the same to the resident, and a further loss of disposable income that could have been spent on income for the city**. John's comment about the after-FEMA map changes in modifying property value is basic to an economic analysis. I am surprised it was not considered. Kirk raised Mary Young's remark that soil and fill has nothing to do with mitigation, it was about CU. So reduce the cost \$35M from the soil. Good amendment, although I disagree with a 100 yr. event. 500 yr. is the proposal to recommend to Council. Health, property damage and economic costs afflict all. **WE ARE ALL IN THIS TOGETHER** as we learn more every day from COVID. **This is the best possible time to propose this Kirk.** You are flat wrong.

What it is named in Variant type is inconsequential. The relevance is **absence of Colorado University being part of the decision**.

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. John, affordable housing for CU's excessive growth and impact on our community with 35,000 students is an anchor to Boulder. My dad thought the entire municipality of Boulder including CU was too big at 25,000 in 1958 when we lived here when I was in kindergarten 62 years ago.

. It is NOT a complex business deal Joe, as you and Kirk contend. **It is not! It is simple.** It's flood mitigation. It's **CU** that complicates matters. **Put truth to the lie after 30 years.**

. Ted were you listening? Gordon explained the smaller spot areas were lower number flood plain years but clarified precisely how SBFP was different. Did you hear that? Did you hear Kirk's argument? About the surrounding areas in other parts of the County with 6 or 10 year flood plains and the high hazard flood zone.

. Make a decision to advise 100 yr. at your own risk. You will entertain a firestorm from the community at council and be made the fool.

. There are no two sides, John. It is either/or. COB or CU. It is out of all of your pay-grades to protect CU. They are out. They are looking to the state for a 2008-style bailout. Going nowhere. Don't be anchored by a school that doesn't even technically qualify as a state entity.

. The public needs a Field Tour for public and visual understanding of the site, including a battery operated big screen glare- resistant, plasma or folks brought on site providing an ability for individuals to take turns at the cursor to point out their issues on the graphics for clarification. 6 ft. apart and with a amplified sound system so the crowds can spread out. Now in the spring is the perfect time.

. Why not see Gordon's graphic of the levee and video and berms? I want those put up on the website.

. Climate Change? 500 yr. floodplain, no make that 1000, ya just never know. Yup, less is pennywise. Gordon said it.

. Don't make truth of the Tipton report. Joe needs to take direction from Council AFTER the CDOT answer, not before. Then he can complain if he is asked to do the possible. Council can always ask Joe's opinion, if they are so inclined about the length of time of the flood plain. But they call the shots and the citizens lobby them, not staff. A collaborative, iterative, informal, messy and unpretentious dialogue needs to come out of this muck of 30 yrs. and you need to take it on in a COVID world. Can do.

And by the way, what's this "Mr. Chairman"? You call me something like that and I'll clobber you! But seriously, if everyone on this team from the bottom to the top can't be on a first name basis, I am going to feel a lot less confident that they were watching out for me like I was their own. And in this "complicated" SBFP issue, I'd want nothing less!

An egregious decision was made tonight, one that will be costly and further delay flood mitigation by attempting the impossible with a Variant 1.

As was said "CDOT already has told Council in writing that it would not permit **any** flood mitigation infrastructure to be placed on its right of way or its embankment. Why, then,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

is the city staff being directed to continue pursuing Variant 1, which requires such infrastructure? This is a waste of time."

And tax-payers money on staff labor spent on folly, as well as the expense of short term thinking when the city has just furloughed 737 employees. Cut the salaries of the high paid staffers before they have to be fired and spend that on the 500 yr. flood plan. Ante up. This is the bare minimum that needs to be done for Boulder.

Lynn 3034473216

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** South Boulder Creek Action Group <laura@sbcreekactiongroup.org>  
**Sent:** Monday, April 20, 2020 4:40 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Vote YES to support South Boulder Creek flood mitigation

**External Sender**

Dear Council,

I'm writing to cc-you on my note below to WRAB. It's unclear why this issue needed to go to WRAB again since they signed off on Variant 1/100 back in 2018. Going forward we would greatly appreciate not having to repeat the same message over and over to the same people on the same boards year, after year, after year. You know where we stand. The project remains urgent. The requirement to participate redundantly makes it look like you're working to slow progress. Please reduce redundant effort.

Thank you,

Laura

Dear Water Resources Advisory Board,

Thank you for your past support of South Boulder Creek flood mitigation. When South Boulder Creek overtops U.S. 36 as it did in 2013 it creates a hazardous flash flood situation that puts lives at risk and damages homes. (See photo below from the 2013 flood.)

Please vote again to support the Variant 1/100-year design that you reviewed and supported in 2018. We are asking for, at a minimum, protection from the next 100-year event. We support Variant 1/100-year because it's the lowest cost, least environmentally damaging option available that has the greatest probability of permitting success. We oppose further delay.

If there's one thing we've learned in the last month it's that government has a vital role to play in looking out for the health and safety of citizens. 1000's of us remain at risk due to the slow pace of work on this critical project. Please keep moving.

Sincerely,

Laura

Laura Tyler  
South Boulder Creek Action Group  
[Laura@sbcreekactiongroup.org](mailto:Laura@sbcreekactiongroup.org)



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Karla Rikansrud <krikansrud@frasiermeadows.org>  
**Sent:** Monday, April 20, 2020 4:30 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Flood mitigation

**External Sender**

Water Resources Advisory Board,

Thank you for all of the time & effort you put into the WRAB. We appreciate your volunteer work.

I'm writing as a member of staff at the Frasier senior community. At the end of this month, we'll have 500 residents and about 350 staff members. You'll recall, Frasier was the CO institution MOST impacted by the '13 flood. It is a miracle that no lives were lost in our neighborhood.

Since 2013, Frasier has spent over \$2M of our own money in flood mitigation efforts, to protect our lives & property. Those expenditures are NOT failproof and we are still relying on a City-led flood mitigation solution.

Please, PLEASE endorse the Variant 1/100-year mitigation design presented by staff. It is the least damaging environmentally & has the greatest chance of permitting success. Additionally, V.1/100 has the lowest cost.... and while some may think funds grow on trees, with COVID-19 in mind & furloughed staff, it clearly does not.

Please act quickly to approve this design so the project may finally begin. Further delays, research and re-designs will only increase the odds that we'll see another devastating flood before the City does anything to protect our neighborhood and our lives.

Thank you.

Regards,  
Karla Rikansrud



**Karla Rikansrud** | VP for Philanthropy & Social Responsibility  
**Frasier** | 350 Ponca Place | Boulder, CO 80303  
**Email:** [krikansrud@frasiermeadows.org](mailto:krikansrud@frasiermeadows.org)  
**Phone:** 720.562.4306  
**Connect with us:** [Web](#) | [Facebook](#)

[Have you considered putting Frasier in your will?](#)

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kelly Murphy <bouldernatural@gmail.com>  
**Sent:** Monday, April 20, 2020 4:23 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek Flooding

**External Sender**

Members of the Water Resources Advisory Board Meeting,

Thanks for your support and action on the always present flooding issues of South Boulder Creek.

Variant 1/100-yr is not only the lowest cost avenue which also represents the least environmental disruption, but it likely has the best probability of success through permitting.

Like many, our family has lived in Boulder for over 20 years and – during that time – like all of you - we’ve seen a lot. That includes of course the wildfires in 2012 and the floods of 2013 – which makes some of the issues that you are dealing with – quite real – for us.

It is so easy to see the obvious risk factors (in bright Blue) called out on the City’s Flood Map site:  
[https://maps.bouldercolorado.gov/flood-zones/?\\_ga=2.186593642.2132819411.1587420401-1255164844.1581034309](https://maps.bouldercolorado.gov/flood-zones/?_ga=2.186593642.2132819411.1587420401-1255164844.1581034309)

Let’s have a sense of urgency to get this done because our community safety depends on it. The time is now to act and mitigate the devastation that is surely only a matter of time.

Finally, during the fires my wife was put on notice of potential evacuation while working on 9th street, but it really sank in when I told my wife, son, and daughter to box up as many photos as possible so we could load them in the car if we had to evacuate too. That same drill happened again during the big flood, and those episodes really brought home what we value the most in our lives – irreplaceable memories – often contained in old pictures.

It was tough to do once and even tougher on the 2<sup>nd</sup> time – the 3<sup>rd</sup> time definitely won’t be the charm.

Thanks again,  
The Murphy Family  
5160 Illini Way  
Boulder, CO  
Kelly Murphy  
[bouldernatural@gmail.com](mailto:bouldernatural@gmail.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

-----Original Message-----

From: JAN BURTON <[janburton@me.com](mailto:janburton@me.com)>  
Sent: Monday, April 20, 2020 4:21 PM  
To: WRAB <[WRAB@bouldercolorado.gov](mailto:WRAB@bouldercolorado.gov)>  
Cc: Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
Subject: South Boulder Creek Flood Mitigation

External Sender

I do not live in the South Boulder Creek flood plain, but I'm writing to support my 3000+ neighbors who live there, have endured a flood, and are threatened by another one. We just had a record annual snowfall, and who's to say it won't continue with rain? We could be looking at a deadly flood, on top of the current deadly pandemic.

We were caught flat-footed with the coronavirus, and the economic impact to the City will be huge. Let's not get caught flat-footed on a flood mitigation that has been studied for well over 20 years. Please... move this project forward with the recommended V1/100 year option, the most economical and the least environmentally damaging option. Let's not continue to delay this by considering more expensive and nonsensical options.

We have wasted so much time and money with our continued studies of this project...it's time to get some REAL action on it.

Thank you so much for your service and for your time in considering this imperative project.

Very best regards,  
an

JAN BURTON  
[janburton@me.com](mailto:janburton@me.com)  
Boulder, Colorado

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Elmar Dornberger <elmar@hemisphereconsulting.com>  
**Sent:** Monday, April 20, 2020 4:19 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** Flood mitigation

**External Sender**

Dear WRAB Board members  
Cc: City of Boulder

I would like to thank you for your past support.

1000 Citizens are still in danger after almost 7 years of negotiations.  
Some of my neighbors almost lost their lives. I ended up with shoulder surgery and \$100k damage of property.  
Please support the Variant 1/100 year structure, with the lowest cost, the least environmental impact and the best success of getting permitting.

Thank you for your ongoing support for this critical project to create health and safety for our neighborhood.

Yours,  
Elmar Dornberger and family  
4890 Qualla Dr.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Harlin Savage <harlin.savage@gmail.com>  
**Sent:** Monday, April 20, 2020 4:11 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Comment to WRAB re South Boulder Creek Flood Mitigation

**External Sender**

Comments to the Water Resources Advisory Board

CC: Boulder City Council

April 20, 2020

Re: South Boulder Creek Flood Mitigation

My name is Harlin Savage and I'm a 20-year resident of South Boulder. I am a former officer of the South Creek Seven HOA, which consists of roughly 70 single-family in the Tantra Park area next to the South Boulder Creek floodplain.

Let me say first that my HOA strongly supports a flood mitigation plan for a 500-year flood, given that the cost difference between the 100-year and 500-year floods is minimal and the 500-year option will provide more protection for neighborhoods in harm's way north of Highway 36. To do less would be to waste taxpayer money, and leave residents who could have been protected out in the cold and wet.

We are also gravely concerned about potential negative impacts inflicted on the Tantra Park community, which could face additional flooding if the high-hazard dam's floodwall-to-bedrock causes floodwaters to backup south and west of the dam, where the water table is already very close to the surface.

And then there is climate change, which will bring more intense storms to Boulder, and more serious flooding. Maximizing safety now by selecting the 500-year option is a one-time only opportunity. We cannot go back and fix it later. For this reason, City Council approved the 500-year option in 2018, but under pressure from CU is now walking back its decision.

The safety of Boulder residents is what's at stake here, and it should be non-negotiable. Flood mitigation should be based on the best science we can get; and CU's desire to build a massive campus in the floodplain is not relevant here, actually, it's dangerous!! And foolhardy.

Yet CU's development interests are driving the show—not concerns about public safety. In fact the City has not even seriously considered the best and least costly option—mitigation for a 500-year flood using the old gravel pit to detain floodwaters (the upstream option), because CU opposes it.

And that's been true from the start. Shortly after CU bought land in the floodplain; it wriggled itself out of implementing an extensive reclamation plan, which the gravel mining company had agreed to.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

Instead the University convinced key lawmakers to replace it with a much watered-down version, which didn't require much of anything. Then CU set about destroying wetlands, which is illegal, and firming up the berm, which it did not have permission to do. The University's sole purpose was to remake the existing landscape to "maximize development potential."

Behind the scenes, CU is now dictating the conditions under which flood mitigation can occur, and it is not in the City's best interest.

In addition, the University is also jacking up costs for flood mitigation by demanding that the City pay to move its tennis courts, replace its storage facility, reconstruct South Loop Road, and fill in parts of the old quarry pit for development.... Yet these activities have absolutely nothing to do with flood mitigation. Nothing. CU is demanding that the City cough up \$15 to to \$34 million to pay for all of this without justifying these amounts. \$15 M is for impacts. \$34 M is for the fill dirt. Add 'em together.

If you really dig into the details, you will see (as others here have noted) that if these unwarranted are taken out of the equation, it becomes apparent that the 500-year floor option is only about \$6 million more than the 100-year option.

Bottom line:

- The safety of Boulder residents should come first.
- CU's development interests are irrelevant to the flood mitigation decision and should be addressed after flood mitigation is settled.
- Costs that have nothing to do with flood mitigation should be dropped.
- The 500-year flood option is affordable.

The City cannot afford to do less.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jon Carroll <jon@companysix.com>

**Sent:** Monday, April 20, 2020 4:04 PM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Cc:** Council <council@bouldercolorado.gov>

**Subject:** South Boulder Creek - 100 year works, move forward without delay!

**External Sender**

Members of the Water Resources Advisory Board,

Thank you for your past and ongoing support of the flood mitigation project at CU South.

As someone that lives in harm's way, I am writing to urge you to consider the following during your meeting:

1. **Prioritize expediency and public safety.** Options that will get residents out of the floodplain as quickly as possible should be considered above all others. Considering options like land swaps and upstream options (again) could delay this project for years, leaving thousands at serious risk.
2. **Consider the cost** during a time when the city's budget is constrained. Choose an option that the city can responsibly afford. We would all love to have 200 year or 500 year protection, but 100 year protection is the standard in flood mitigation. Even 100 year protection would significantly reduce flooding in larger events and allows for early warning systems that don't exist now. We are supportive of moving forward with the 100 year option.
3. **Consider the environmental impact** of different options and find a balance. We can have flood protection and minimize the impact on protected species and their habitats.

*"Give them the third best to go on with; the second best comes too late, the best never comes."*  
*-Robert Watson-Watt*

Jon Carroll  
Qualla Dr  
Boulder, CO  
[jon@companysix.com](mailto:jon@companysix.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Annie B <annieinboulder@gmail.com>  
**Sent:** Monday, April 20, 2020 3:44 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Fwd: Flood Mitigation and South Boulder

**External Sender**

See below!!!!

----- Forwarded message -----

From: **Annie B** <[annieinboulder@gmail.com](mailto:annieinboulder@gmail.com)>  
Date: Mon, Apr 20, 2020 at 12:48 PM  
Subject: Flood Mitigation and South Boulder  
To: <[WRAB@bouldercolorado.gov](mailto:WRAB@bouldercolorado.gov)>

Hi,

Thank you for your past support!

I'm writing to remind you that 1000's of Boulder citizens remain at risk of flash flooding when South Boulder Creek overtops US 36.

We lost half our house in 2013. We live in Frasier Meadows and our finished basement where we have two bedrooms and our living room was filled up to nearly FIVE FEET with sewer water back up. It destroyed our lives for months, and our financial life for even longer.

Please support the Variant 1/100-year design presented by staff this evening. The Variant 1/100-year is the lowest cost, least environmentally damaging and has the greatest probability of permitting success.

I'm happy to talk with you about our experience. I still wake up with total PTSD every time we get a heavy downpour.

Most sincerely,  
Annie Brown  
4835 Ricara Dr, Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** r m <srnahan@msn.com>

**Sent:** Monday, April 20, 2020 3:16 PM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Cc:** Council <council@bouldercolorado.gov>; South Boulder Creek Action Group <laura@sbcreekactiongroup.org>; joynermcguire@comcast.net; rmahan69@outlook.com

**Subject:** South Boulder Creek Flood Mitigation

**External Sender**

Dear Members,

Just sending a reminder of how important it is for this plan to be approved ASAP!

My name is Rick Mahan. I have stood many times before Boards & City Council explaining the traumatic effect the flood had on my life on Qualla Dr. If the Flood of Sept. 2013 would have arrived after my daughter, wife and I had went to bed in our basement, we would not survived. The water broke through 2 basement windows in my daughter's room, filled the basement all the way to the ceiling, bursting out the windows above the bed in our master bedroom on the opposite side of the house.

After 3 years of stress, anxiety and solutions still years away, our family decided that we could no longer live that way. We sold our house, but were unable to find anything comparable in Boulder not in a flood plain(Our house was mapped into the flood plain in 2012). It is very sad that a 3rd generation native born in Boulder had to move to feel safe.

It is very sad & troubling that after almost 7 yrs my friends are no closer to a resolution than the day this happened. Many other cities have already completed mitigation efforts!

Please make the health and safety of people your first priority by getting flood mitigation done before lives are lost.

Please continue efforts towards implementing variant 1/100 yr protection. It is the least environmentally damaging, has the best probability of getting permitted & the lowest cost.

Thank you for your attention to this important matter.

Rick Mahan

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** David McGuire <dmcguirepm@hotmail.com>  
**Sent:** Monday, April 20, 2020 2:27 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** FW: South Boulder Creek flood mitigation

**External Sender**

FYI Council members...

Dear WRAB members,

Once again, thank you for your past support in advancing this critical health and safety project. We have always appreciated your thoughtful considerations and recommendations.

We understand that tonight you will be making a recommendation on whether to move forward with the Variant 1/100-yr. design for mitigation. I would like to encourage you to do so. From what we have learned from staff, this option is the least environmentally damaging (greatest probability of permitting success) and has the lowest price tag. I certainly appreciate the difficult job you have in making recommendations that reflect a balance between need and funding. We are hopeful that the board will see fit to give its recommendation to continue moving forward on SBC mitigation for the sake of the health and safety of 1000s of residents currently living in harm's way.

I would also like to express that many of us who are so anxious for the completion of this long-overdue mitigation do not expect the City to take unprecedented measures above and beyond the standard 100-yr. design option. Most of us would be quite content with the staff recommendation. We simply need *something* to happen as soon as possible to help protect downstream residents.

Thanks again for your continuing support for this critical project. Lives are at stake and we have always known that you understand that.

Sincerely,

Kathie Joyner

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** joynermcguire@comcast.net <joynermcguire@comcast.net>  
**Sent:** Monday, April 20, 2020 2:25 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** FW: South Boulder Creek flood mitigation

**External Sender**

**From:** [joynermcguire@comcast.net](mailto:joynermcguire@comcast.net) <[joynermcguire@comcast.net](mailto:joynermcguire@comcast.net)>  
**Sent:** Monday, April 20, 2020 1:18 PM  
**To:** 'WRAB@bouldercolorado.gov' <[WRAB@bouldercolorado.gov](mailto:WRAB@bouldercolorado.gov)>  
**Subject:** South Boulder Creek flood mitigation

Dear WRAB members,

Once again, thank you for your past support in advancing this critical health and safety project. We have always appreciated your thoughtful considerations and recommendations.

We understand that tonight you will be making a recommendation on whether to move forward with the Variant 1/100-yr. design for mitigation. I would like to encourage you to do so. From what we have learned from staff, this option is the least environmentally damaging (greatest probability of permitting success) and has the lowest price tag. I certainly appreciate the difficult job you have in making recommendations that reflect a balance between need and funding. We are hopeful that the board will see fit to give its recommendation to continue moving forward on SBC mitigation for the sake of the health and safety of 1000s of residents currently living in harm's way.

I would also like to express that many of us who are so anxious for the completion of this long-overdue mitigation do not expect the City to take unprecedented measures above and beyond the standard 100-yr. design option. Most of us would be quite content with the staff recommendation. We simply need *something* to happen as soon as possible to help protect downstream residents.

Thanks again for your continuing support for this critical project. Lives are at stake and we have always known that you understand that.

Sincerely,

Kathie Joyner

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kirk Cunningham <kmcunnin@juno.com>  
**Sent:** Sunday, April 19, 2020 6:52 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** Tomorrow's meeting agenda on CU South.

**External Sender**

To WRAB members;

I am not minutely knowledgeable about the pros and cons of city staff's choice of the 100-year flood control structure associated with the proposed CU South annexation, but I do know that the Save South Boulder organization has members who can and have competently addressed this issue and oppose to the staff's plan on the table. I agree with the points they make in opposition. Moreover, in the city's present funding situation, I fail to see how the University's demand for the city to pay for fill for the former gravel pit (and that's surely not the only city cost for this development) can be met anytime in the foreseeable future. In my opinion, the entire question of the CU South annexation should be put on ice for several years. Thanks for your consideration.

Kirk Cunningham  
977 7th St  
Boulder CO 80302  
303-939-8519 / [kmcunnin@juno.com](mailto:kmcunnin@juno.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Olivia Myerson <myerson.olivia@gmail.com>  
**Sent:** Saturday, April 18, 2020 4:59 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** support SOBO 500-year flood design option

**External Sender**

Hi there,

I am a Boulder resident who feels strongly about maintaining the safety of our land and our community. I support the 500-year flood design and urge you to as well. It will not only protect wetlands and wildlife, but also protects the lives of local residents and our community from the financial burden a disastrous flood would create. Furthermore, I find it imperative in today's world that we pay close attention to the growing disconnect with our natural world and local ecosystems. I and many others are tuning in. Thank you for your time.

Sincerely,

Olivia Myerson

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Patricia Ramey <ps\_ramey@hotmail.com>  
**Sent:** Saturday, April 18, 2020 3:30 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** South Boulder Flood Plain

**External Sender**

To whom it may concern,

I am writing to urge you to support the 500 year flood option. I know on first thought you might choose the cheaper option for the 100 year design, regardless of this providing the smallest level of flood protection. It is also only slightly less costly than the more protective measure.

Please, consider the longer term view. Given the reality of climate change, we should plan for the future. Plan for our residents, not just CU.

Come on. Do the right thing... which is unheard of right now in politics.

Thank you,

Patty Ramey  
A south Boulder resident  
4625 Macky Way Boulder 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ruth WRight <ruthwright1440@gmail.com>  
**Sent:** Monday, April 20, 2020 12:57 AM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** South Boulder Creek - Flood Mitigation Project

**External Sender**

Dear Members of the WRAB

As you will recall, the WRAB, the Planning Board and the City Council (by a 6-3 vote) supported the 500-year criterion in 2018-2019 timeframe, after numerous public hearings and testimony.

It is not for unusual for City Council to want to revisit the issue -- even though it is disappointing after all the effort made by citizens to attain the more protective and cost effective 500-year option. However, that is the case reflected by the present timetable: Public hearings will be held by the WRAB on April 20, the Planning Board on May 7, and the OSBT on June 3, leading up to the City Council meeting on June 16<sup>th</sup>.

However, I was at the study session on February 25, 2020, when, at the urging of Mayor Weaver, the members of Council agreed to instruct City Staff to move forward with the South Boulder Creek Flood Mitigation Project based on the 100-year criterion --instead of the 500-year flood criterion ! This decision was totally unexpected, made without a public hearing, at a meeting where I think such a major decision is inappropriate. There was no indication in the packet sent out for that meeting that such a decision was on the agenda. I think we can now assume that City staff is working to implement the instructions received from Council on February 25<sup>th</sup>.

I believe the study session instructions may have preempted the public hearings that are now scheduled. The first and the most fundamental decision for any flood mitigation project is choosing the flood criterion. Are we going to protect the West Valley from flood waters resulting from a 100-year or a 500-year storm. Everything else -- the detention pond, the dams, walls, berms, etc. is based on that decision.

So I urge the WRAB to ask the question: is the design storm a settled question because it was made as an instruction to Staff on February 25 at a study session?

Beyond that, I urge you to reaffirm your original decision for the 500-year flood criterion. And please see the attachments.

Respectfully submitted,

Ruth Wright  
303-443-8607

### **ADDITIONAL COMMENTS**

#### **The inadequacy of the 1 % flood (100-year flood), also called the regulatory flood**

The 100-year flood criteria began with a flood control program adopted by Congress in 1968 to incentivize communities to keep floodplain lands from development and provided insurance as a carrot. Without going into details, it has been unsuccessful even for that purpose. However, it has become the guiding principal for engineers for anything having to do with floods. It is something they know.

**But it is certainly not relevant to protect residents already in the floodplain.** The West Valley never even had the benefit of any floodplain management—not under county zoning or after it was annexed to the City beginning in 1957. So now we have a duty to protect the residents from a flood hazard not of their own making. We have already had a 200-year flood In 1938, and of course we have also the 2013 flooding caused by many days of rain until all of the permeable soils were saturated and the floodwater rushed over highway 36 into the West Valley with disastrous results.

Then there is climate change. Who knows what that will bring. **It is unconscionable to not provide the extra protection with the 500-year criterion - which also turns out to be cost effective.**

**It is not a matter of IF, but WHEN.** Fort Collins had just finished implementing its 1% (100-year) flood plan in 1995 when, just two years later a larger storm hit with loss of 5 lives, and \$130 million damages to Colorado State University alone. Susan Kirkpatrick, former mayor, came to Boulder to share the Fort Collins experience by testifying at a Boulder Planning Board meeting saying “Our early stormwater upgrades were designed to account for the 2 to 100 year flows.

Unfortunately in 1997 the community received between 10-14 inches of rain over a 30 hour period. The runoff exceeded the 100 and even 500 year flows in some locations. . . I urge you to take a more cautious approach to Flood Control planning. . . and recommend plans that are compatible with 500- year flood events. **The 100-year is not sufficient to protect the health , safety and welfare of your community members."**

WRAB motion re 500-year flood decision:

WRAB recognizes that mitigating flood risks in one area of town to the 500-year level is a major policy change that has a number of implications. We want to minimize the risk of loss life and limb during storms and floods, in all areas of town, to the highest level possible. However, we will never be able to achieve the 500-yr level of safety everywhere elsewhere in town. We will be unlikely to achieve the current practice to target the 100-yr for most of the other 14 waterways. Some waterways will receive only the 10-yr level of safety. Currently, some waterways have only the 2-yr level of safety. Furthermore, the people living along the other 14 waterways will shoulder the vast majority of the costs to mitigate the flood risk for the West Valley. And yet it is possible, justifiable and appropriate to mitigate to the 500-yr level for the West Valley area because of the economic efficiencies of expanding protection here, and the benefits that go beyond the neighborhood including maintaining access to vital transportation corridors during major storm events.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Debra Biasca <dbiasca@gmail.com>  
**Sent:** Sunday, April 19, 2020 7:36 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** Protect us from South Boulder Creek

**External Sender**

Re: Advice from the Public Regarding the South Boulder Creek Flood Mitigation Design

I join Save SoBo with respect to their position on protecting residents of Boulder from the flood dangers we know await,

I am concerned with the irregular manner in which the level of flood protection proposed for South Boulder Creek was changed. from the 500-year standard which City Council approved in a vote at a regular city council meeting almost two years ago, and the countermanding February 25<sup>th</sup> Study Session direction by Sam Weaver that Utilities should only focus on a 100-year flood. Two different standards and two different procedures were used in these decisions. A 500-year flood was approved by a vote of Council because it best protected lives and safety, and confirmed to the Guiding Principles of the BVCP. However, the change to a 100-year design was made in a Study Session, not a Council vote, and was justified on the basis of a) its supposed more limited impact on the environment, and b) Joe Taddeucci's assertions that CDOT would not be likely to approve a 500-year or even a 200-year design. No data backs up these assertions.

I agree that Joe Taddeucci erred in telling Council what CDOT would or wouldn't permit, and Council erred in telling City Staff to discard both the 200 and 500 -year flood mitigation designs without verifying Taddeucci's statement. As will be clear in a moment, the Council also erred in accepting without verification estimates of the differential environmental impact of the flood size designs. Council has further erred in not making sure that staff is pursuing a flood design, regardless of size, that requires construction that CDOT already has said it won't permit. In addition, the staff has been derelict in not getting data and study results needed for decision-making to the WRAB and the OSBT. Council also has erred by including inflationary cost estimates in the flood mitigation proposal for "earth fill" that benefits CU, not the City.

**Save SoBo's position is supported by the following:**

I have no confidence in the figures used for the presumed environmental impact of the two flood design levels and reject using them as justification for changing the level of flood protection. Although the February 25 study session Council packet included **estimates** of wetlands impact of 4.8 acres vs 7.1 acres for the 100- and 500-yr designs, and estimates of threatened and endangered species habitat impact of 0.9 acres vs 5 acres for the 100- vs 500-yr designs, no explanation of who made these estimates or how they were compiled was provided.

I also deplore that despite written requests in September 2019 by the Open Space Board of Trustees for information on the environmental impact of upstream detention,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

groundwater flows, and other critical information, that information not only has not been forthcoming from staff, but Joe Taddeucci said in the process subcommittee meeting on April 3, 2020, that his report on upstream detention will only be a compilation of “what we already know.” We submit that what staff “already knows” is made up of unrelated analyses presented in the 2015 Phase 1 Flood Mitigation Report. These were compiled by staff members who were biased, refusing to explore upstream options seriously and by the misleading statements made by the former project manager, Kurt Bauer. We cannot have confidence in the report on upstream options that Taddeucci says he will provide because it will not include anything that wasn’t already rejected by staff, not the “new look” that the Open Space Board of Trustees and City Council requested.

Nor can I accept Joe Taddeucci’s assertions about CDOT positions as valid. After inquiries by members of the public regarding the credibility of Taddeucci’s assertions that CDOT would not be willing to approve the 200- and 500-year flood design, Brandon Coleman, the city engineer who is managing this project, confirmed in writing that CDOT, in fact, had no preference regarding whether the City pursued a 100-, 200-, or 500-year flood design

In addition, and relevant to necessary permits from CDOT, the current Variant I design, regardless of flood size, requires that a wall be constructed near its eastern end to connect the floodwall to the Hwy 36 embankment. This wall is required to keep floodwaters backed up behind the Hwy 36 underpass from flowing westward between Hwy 36 and the floodwall, where it likely would overtop Hwy 36---just as it did in 2013. But the City has not consulted with CDOT regarding whether it would permit such a connecting wall. We already know that CDOT already has told Council in writing that it would not permit **any** flood mitigation infrastructure to be placed on its right of way or its embankment. Why, then, is the city staff being directed to continue pursuing Variant 1, which requires such infrastructure? This is a clear waste of time.

I also want to know why CU’s demands for the City to pay for earth fill on the CU-South property—as part of taxpayer-funded flood mitigation—are being accepted without question. The consequential dramatic increase in the cost estimates for the flood design was aired for the first time in the February 25<sup>th</sup> 2020 Study Session; estimates of the flood mitigation project cost were inflated by including the cost of landfill for the benefit of CU’s development. The cost range for the flood detention alone, without the soil fill and CU’s demand for \$15 million to cover “impacts to CU property,” range from \$41 million to \$47 million for the 100- and 500-year designs, respectively. CU’s demands that the City pay for impacts to their property raises the cost range to \$56 million to \$65 million for these two levels of flood protection. Clearly, then, the 10% difference in cost for the 500-year design is a bargain, given that it provides considerably more flood protection to the public. However, refilling the old quarry pit with gravel and sand that was originally mined away--simply to let CU built in a floodplain--makes no sense. These cost increases neither add protection against flooding nor improve engineering designs. They shouldn’t be considered in the cost of the flood mitigation design.

All these decisions seem to have been made purely in the interest of hurrying through a process that would better be marked by clear, evidence-based decision-making, not

expedience. Even before the COVID-19 pandemic, public participation in the process has been given short shrift, if any attention at all. The issue of earth fills not only raises the question as to why taxpayers should pay for CU's expansionary aspirations, but also illustrates the danger of even more potential damage to the fragile floodplain environment by elevating land that should remain as detention for floodwaters. Adjacent and downstream neighborhoods already experience flooded basements and other adverse impacts from high groundwater. Tinkering with the floodplain will only make it worse.

**In conclusion:**

- Return to the City Council's previous formal and explicit decision to pursue the 500-year flood mitigation. Any change to that decision should be done as part of a formal process that includes public input and careful consideration of all available relevant information.
- Do not to recommend any flood mitigation design that has not first been vetted at a conceptual level by permitting agencies, such as CDOT and the Colorado Department of Wildlife, to identify what otherwise could be obstacles that would stop the project cold.
- Donot to recommend any flood mitigation design that includes additional conditions or provisions that inflate the cost of the project without enhancing flood protection, environmental and safety considerations. Specifically, this means the inclusion of the cost of earth fill to raise the level of land in the floodplain and make it more desirable for CU's campus building project.

This project is one of the most costly and crucial that the City will ever undertake. It can only be done once, and it better to be done correctly. Currently, it is exceedingly difficult to be confident that correct processes are being followed at all. Staff now emphasize that this IS the plan and suggest that no other will be discussed. These processes seem to be inappropriately rushed, inadequately data-driven, procedurally improper, and certainly not transparent. We implore the WRAB to recommend that the City Council not continue on this mistaken path, strewn as it is with boulders of misfeasance, non-feasance, and outright malfeasance.

Sincerely,

Debra Biasca, JD, PhD  
230 S 38th St  
Boulder, CO 80305

\*

Technical Communications Consultant  
Writing . Editing . Translation  
Boulder, CO  
303.946.3280 (mobile)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

<http://www.linkedin.com/in/biasca>

Scientific and Academic Writing, Editing, & Coaching . Translation of Archival Yiddish Documents

**From:** Marella Colyvas <marcel2124@gmail.com>

**Sent:** Sunday, April 19, 2020 9:16 PM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Subject:** Protect for a 500-year Flood, Please!

**External Sender**

Hello,

I live in South Boulder and am very concerned about the possibility of the CU South property being annexed by the City of Boulder so CU can build. Please know that protecting citizens is the most important thing the city needs to do. I know the 100-year protection level is probably the least expensive, but the 500-year protection is not that much more expensive. Here are the top four reasons to recommend this level:

1) **Public Health and Safety:** Project design for the 500-year event offers the most protection since that design will detain more floodwater. Given the reality of climate change, we should plan for the future. Scientists project that we will see more frequent intense storms, which will mean more frequent flooding events. The current 100-year flood event, which may be flow level selected by Council, will occur much more frequently in our climate-impacted future.

2) **More for our Money:** The cost differential between the 100-year flood design and the 500-year design is minimal – only about \$6 million for the flood mitigation portion of a project that will cost tens of millions of dollars or more, in the range of \$41 to \$46 million for flood mitigation.

What are we talking about here? CU is asking the City to pay tens of millions of dollars to put as much as 1.3 million cubic feet of dirt removed years ago back by the gravel mining company in the gravel mine pit so the University can build there. Acceding to this demand will cost the city millions of dollars with ABSOLUTELY NO BENEFIT TO BOULDER RESIDENTS WHATSOEVER. Plus, it takes away valuable open space.

3) **Data-Free Decision-making:** In the staff summary of environmental impacts, including the destruction of wetlands, it appears that negative impacts have been underestimated.

In addition, despite incorrectly assuming that the Colorado Department of Transportation (CDOT) would allow building the dam within its right-of-way along US 36, staff are now assuming that the CDOT will allow the city to build a connecting dam in its right-of-way between the proposed flood wall and the US 36 embankment near South Boulder Creek even though CDOT has said in writing that it will not allow any above-ground flood control structures in its right-of-way. Staff also posits that CDOT will only support the 100-year option due to higher flows through the US 36 underpass for the 200-year and 500-year flood control designs, yet they have no written affirmation.

4) **Dismissal of Open Space Concerns:** The Open Space Board of Trustees, which will make its recommendation next month, asked the city to answer a list of detailed questions about how flood mitigation options will affect designated Open Space, endangered and rare species and habitat, including a designated State Natural Area. This includes a detailed analysis of upstream flood storage, which I as a member of Save South Boulder support, and a cost/benefit comparison with the currently proposed option. Six months later, their questions have not been answered.

Given all these concerns, I ask that you evaluate the options carefully and please vote for the 500-year protection.

Sincerely,  
Marella M. Colyvas  
Boulder

--

Marella

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lindsay Sweet <lindsaysweet1@gmail.com>  
**Sent:** Sunday, April 19, 2020 7:37 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** Please consider 500 year flood mitigation plan

**External Sender**

Dear Water Resources Advisory Board,

I am writing with regards to the discussion around flood mitigation on the CU South property. I am writing to express reasons why I, as a South Boulder property owner and Boulder taxpayer, support a 500 year flood plan:

**-Public Health and Safety:** Project design for the 500-year event offers the most protection since that design will detain more floodwater. Given the reality of climate change, we should plan for the future. Scientists project that we will see more frequent intense storms, which will mean more frequent flooding events. The current 100-year flood event, which may be flow level selected by Council, will occur much more frequently in our climate-impacted future.

**-More for our Money:** The cost differential between the 100-year flood design and the 500-year design is minimal – only about \$6 million for the flood mitigation portion of a project that will cost tens of millions of dollars or more, in the range of \$41 to \$46 million for flood mitigation.

What are we talking about here? CU is asking the City to pay tens of millions of dollars to put as much as 1.3 million cubic feet of dirt removed years ago back by the gravel mining company in the gravel mine pit so the University can build there. Acceding to this demand will cost the city millions of dollars with ABSOLUTELY NO BENEFIT TO BOULDER RESIDENTS WHATSOEVER.

**-Data-Free Decision-making:** In the staff summary of environmental impacts, including the destruction of wetlands, it appears that negative impacts have been underestimated.

In addition, despite incorrectly assuming that the Colorado Department of Transportation (CDOT) would allow building the dam within its right-of-way along US 36, staff are now assuming that the CDOT will allow the city to build a connecting dam in its right-of-way between the proposed flood wall and the US 36 embankment near South Boulder Creek even though CDOT has said in writing

that it will not allow any above-ground flood control structures in its right-of-way. Staff also posits that CDOT will only support the 100-year option due to higher flows through the US 36 underpass for the 200-year and 500-year flood control designs, yet they have no written affirmation.

**-Dismissal of Open Space Concerns:** The Open Space Board of Trustees, which will make its recommendation next month, asked the city to answer a list of detailed questions about how flood mitigation options will affect designated Open Space, endangered and rare species and habitat, including a designated State Natural Area. This includes a detailed analysis of upstream flood storage, which Save SOBO supports, and a cost/benefit comparison with the currently proposed option. Six months later, their questions have not been answered.

Thank you for taking the time to read this, and for your consideration.

Sincerely,  
Lindsay Sweet

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Nick Lenssen <nklmll@hotmail.com>

**Sent:** Sunday, April 19, 2020 4:56 PM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Subject:** Please adopt the 500-year option for flood control at "South Boulder" CU campus

**External Sender**

Greetings Water Resources Advisory Board

I am writing to encourage you to support the 500-year flood mitigation option at your forthcoming meeting on Monday, April 20.

This is an approach that makes the most sense from a public health & safety perspective. My mother-in-law was formerly a temporary resident of Frasier Meadows, and we witnessed the destructive nature of flooding in our community.

The incremental cost of requiring a 500-year flood option is minimal, given the potential savings.

And though not under your purview, it is incomprehensible that Boulder is considering adding hundreds of cars to the sole entrance/exit the CU South Campus entrance would have onto Table Mesa, which given school traffic, is already a virtual parking lot.

Thank you for your attention to your community's concerns,

Nicholas Lenssen  
1195 Albion Road  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Leah Conroe-Luzius <conroeluzius@yahoo.com>

**Sent:** Sunday, April 19, 2020 7:01 PM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Subject:** Flood Plan for South Boulder

**External Sender**

Dear Board Members,

Please do not approve the 100year flood plan proposed by committee. Do go with the 500 year flood plan approved by Council, and therefore by representatives of the citizens, not political appointees.

Thank you,

Leah Conroe-Luzius

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Sunday, April 19, 2020 4:51 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** CU-South Cost Impacts for South Boulder Creek Flood Mitigation

**External Sender**

Dear WRAB Members,

The current South Boulder Creek flood mitigation study submitted to the Boulder City Council for approval included a large \$15 million cost estimate for "CU South Impacts". Such "impacts" are reimbursements to CU for purported additional costs CU will incur as the result of the city's flood mitigation improvements. Such costs include impacts on CU's tennis courts which were constructed in CU's depleted gravel pit, Warehouse relocation and rebuild, increased cost for elevating South Loop Drive, and utility connections.

While this number is only an estimate, if the report is unquestioningly approved by the WRAB, Planning Board, and City Council, the \$15 million number will become a placeholder in the project budget and eventually take on a life of its own.

\$15 million is a lot of money, especially in these troubled times.

As shown below, there is no detailed breakdown or written records of the cost estimate "as they are ballpark numbers based on verbal conversations." Such a lack of diligence should be unacceptable to the city council and its advisory boards.

Not only should the numbers be questioned, but the City should also question its purported liability for those costs, which were so readily agreed to by city staff.

For example, CU's objection to using the south end of its depleted gravel pit for detention resulted in a plan which requires a large dam along Table Mesa Drive. CU now wants to be compensated for the increased cost of accessing its property caused by that dam.


\$3 to \$5 million has been estimated for the cost of moving CU's tennis courts. One might question the need to move tennis courts which will be under water once every 100 years. And please don't forget that both the city and the county objected to CU's constructing the tennis courts at that location before the completion of flood mitigation studies.

Sincerely yours,  
Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

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Cost Estimate			
Project Component	Option 1 (100-yr)	Option 2 (500-yr)	Option 3 (=200-yr)
Flood Mitigation	\$41M	\$47M	\$46M
Earthfill	\$10M	\$34M	\$32M
CU South Impacts	\$15M	\$15M	\$15M
<b>Total</b>	<b>\$66M</b>	<b>\$96M</b>	<b>\$93M</b>

Notes: 1. Costs have been rounded to the nearest million.  
2. Estimated costs/impacts to CU South will be refined as the flood mitigation project progresses through the design process and finalized through the annexation process.  
3. Required fill for the inundation area (Options 1 and 3) based on modifications to the floodplain.

24  South Boulder Creek Flood Mitigation Project

In my attempt to obtain a breakdown of the \$15 million cost for “CU South Impacts”, I was instructed to direct my request to Brandon Coleman who responded:

***“The \$15 million assumed for cost of CU Impacts is based on discussions between the city and CU. There is not a breakdown of the costs as they are currently being negotiated as part of the CU South Annexation process.”***

I then submitted a CORA request for documents used to derive the \$15 million CU-South Impacts cost estimate and was told:

***“A search was performed using the outlined criteria and no responsive records were found.”***

I subsequently received the following email from Joe Taddeucci:

**From:** Taddeucci, Joe [<mailto:Taddeucci@bouldercolorado.gov>]  
**Sent:** Thursday, April 16, 2020 06:04 PM  
**To:** [bbinder@ddqinc.com](mailto:bbinder@ddqinc.com)  
**Subject:** CU Costs for South Boulder Creek Flood Mitigation

Hi Ben,

Thanks for your continued interest in the South Boulder Creek Flood Project, and I hope you are doing well during this difficult period. I wanted to follow up on the questions you have posed to Brandon and Phil about the breakdown of \$15M costs associated with CU facilities that we showed in our February 25 presentation. There is no detailed breakdown or written records of them that we can provide because they are ballpark numbers based on verbal conversations. The costs were either provided verbally by CU or developed through city staff conversations as noted below.

- Tennis courts: \$3 – \$5M (source: CU Boulder)

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- Warehouse relocation and rebuild: \$3 – \$5M (source: CU Boulder)
- South Loop Drive – increased cost for elevated road: \$3 - 5M (COB)
- Utility connection impacts: TBD

The CU costs were assumed to be the same for all three levels of flood protection and we did not put as much emphasis on development of the \$15M line item because so much could still change as the project and annexation evaluation proceeds. Other costs presented on Feb 25 were based on more detailed analysis performed by the city's consultants. I'd be happy to discuss further if needed, and thanks again for the question.

Joe

**Joe Taddeucci, P.E.**  
**Director of Utilities**

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Caitlin O'Donnell <pickeroon@gmail.com>

**Sent:** Sunday, April 19, 2020 8:12 PM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Subject:** CU South: 500-year flood option!!

**External Sender**

Hello,

I am a resident of Boulder (80301) and I support the 500-year option for flood design. This design is the safest, and we need what little safety we can invest in due to climate change and the reality that more floods will be coming. The City should also NOT be footing the bill for CU's benefit in this situation, as the minimal benefits to the citizens of Boulder do not justify this expense.

Thank you for considering my thoughts.

Sincerely,

Caitlin O'Donnell

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Renee St. Aubin <st.aubin@me.com>  
Sent: Sunday, April 19, 2020 12:40 PM  
To: WRAB <WRAB@bouldercolorado.gov>  
Subject: CU South

External Sender

Dear WRAB Committee:

I am a long time resident of the city of Boulder. I care very much about the safety of our citizens. I really believe that protecting as many people as possible from future flooding at CU South is the right way to go. I am encouraging your committee to please recommend to the city that they go with the 500 year flood protection. I know money is a issue right now, however we need to think long term. Global warming is a concern and spending 6.5 million more is worth it to protect more people.

Thank you.

Sincerely,

Renee St.Aubin

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** shurlock <mountaintrouthome@gmail.com>

**Sent:** Saturday, April 18, 2020 6:34 PM

**To:** WRAB <WRAB@bouldercolorado.gov>; Loren Trout <mountaintrouthome@gmail.com>

**Subject:** CU South

**External Sender**

To the members of Water Resources Advisory Board,

Our family urges you to consider the 500-year option be taken with regard to the land that is currently CU South and that it becomes open space in the long term. This land adjoining 36, is a gateway into Boulder and provides a green ring around Boulder signaling that you have arrived somewhere different. This land also connects on the west side with Shanahan Ridge land that has recently been purchased and is to be open space.

If CU South is built on it can never be unbuilt or returned to wildlife habitat. The birds and wildlife down there in the wetland area are amazing.

To add insult to injury, CU is asking the City to pay tens of millions of dollars to put as much as 1.3 million cubic feet of dirt (removed years ago back by the gravel mining company in the gravel mine pit) so the University can build there. Acceding to this demand will cost the city millions of dollars with ABSOLUTELY NO BENEFIT TO BOULDER RESIDENTS WHATSOEVER. What the heck!

Additionally adding thousands of cars accessing and exiting that area would require millions of dollars of city residents tax dollars to build new roads and a hanging road (or flyover). How is this amount of traffic going to add to South Broadway road, Broadway and Table Mesa? My kids cycle to school and almost got hit by a car getting across South Boulder road- Imagine thousands of cars added to the mess that hits at rush hour -what a ridiculous plan. Boulder taxpayers have already paid out millions for pedestrian underpasses in two places 2 blocks apart along Broadway by the campus- and Yes students still cross on the road, declining to use the underpasses. Our taxpayers deserve better roads around Boulder, not paying for CU freebies!

When the flood happened (we live at the top of Tantra Hill) the river of water that flooded down that hill was thigh-deep, I can't imagine the stupidity of putting houses there.

Please consider all of this and the fact that Boulder has never regretted having open space, don't sell the future short. Land that is built on will never go back.

CU will survive, it's already building like crazy, with more coming at Broadway and University. There has to be a stop somewhere.

*regards  
Trout family.*

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Margaret LeCompte <margaret.lecompte@gmail.com>

**Sent:** Saturday, April 18, 2020 1:59 PM

**To:** WRAB <WRAB@bouldercolorado.gov>; WRABSecretary <WRABSecretary@bouldercolorado.gov>

**Subject:** Concerns from the public over flaws and mishandling of the City's proposed 100-year flood mitigation design

**External Sender**

To: Members of the Water Resources Advisory Board April 18, 2020

From: Margaret LeCompte

Re: Advice from the Public Regarding the South Boulder Creek Flood Mitigation Design

I am concerned with the irregular way in which the level of flood protection proposed for South Boulder Creek was changed,. from the 500-year standard which City Council approved in a vote at a regular city council meeting almost two years ago, and the countermanding February 25<sup>th</sup> Study Session direction by Sam Weaver that Utilities should only focus on a 100-year flood. Two different standards and two different procedures were used in these decisions. A 500-year flood was approved by vote of Council because it best protected lives and safety, and confirmed to the Guiding Principles of the BVCP. However, the change to a 100-year design was made in a Study Session, not a Council vote, and was justified on the basis of a) its supposed more limited impact on the environment, and b) Joe Taddeucci's assertions that CDOT would not be likely to approve a 500-year or even a 200-year design. No data backed up these assertions.

We hold that Joe Taddeucci erred in telling Council what CDOT would or wouldn't permit, and Council erred in telling City Staff to discard both the 200 and 500 -year flood mitigation designs without verifying Taddeucci's statement. As I will discuss in a moment, Council also erred in accepting without verification estimates of the differential environmental impact of the flood size designs. Council has further erred in not making sure that staff are pursuing a flood design, regardless of size, that requires construction that CDOT already has said it won't permit. In addition, staff have been derelict in not getting data and study results needed for decision-making to the WRAB and the OSBT. Council also has erred by including inflationary cost estimates in the flood mitigation proposal for "earth fill" that benefits CU, not the City.

**Our position is supported by the following:**

We have no confidence in the figures used for the presumed environmental impact of the two flood design levels and reject using them as justification for changing the level of flood protection. Although the February 25 study session Council packet included **estimates** of wetlands impact of 4.8 acres vs 7.1 acres for the 100- and 500-yr designs, and estimates of threatened and endangered species habitat impact of 0.9 acre vs 5 acres for the 100- vs 500-yr designs, no explanation of who made these estimates or how they were compiled was provided.

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We also deplore that despite written requests in September 2019 by the Open Space Board of Trustees for information on the environmental impact of upstream detention, groundwater flows, and other critical information, that information not only has not been forthcoming from staff, but Joe Taddeucci said in the process subcommittee meeting on April 3, 2020, that his report on upstream detention will only be a compilation of “what we already know.” We submit that what staff “already knows” is made up of unrelated analyses presented in the 2015 Phase 1 Flood Mitigation Report. These were compiled by staff members who were biased, refusing to explore upstream options seriously and by the misleading statements made by the former project manager, Kurt Bauer. We cannot have confidence in the report on upstream options that Taddeucci says he will provide because it will not include anything that wasn’t already rejected by staff, not the “new look” that the Open Space Board of Trustees and City Council requested.

We also cannot accept Joe Taddeucci’s assertions about CDOT positions as valid. After inquiries by members of the public regarding the credibility of Taddeucci’s assertions that CDOT would not be willing to approve the 200- and 500-year flood design, Brandon Coleman, the city engineer who is managing this project, confirmed in writing that CDOT in fact had no preference regarding whether the City pursued a 100-, 200-, or 500-year flood design

In addition, and relevant to necessary permits from CDOT, the current Variant I design, regardless of flood size, requires that a wall be constructed near its eastern end to connect the floodwall to the Hwy 36 embankment. This wall is required to keep flood waters backed up behind the Hwy 36 underpass from flowing westward between Hwy 36 and the floodwall, where it likely would overtop Hwy 36---just as it did in 2013. But the City has not consulted with CDOT regarding whether it would permit such a connecting wall. We already know that CDOT already has told Council in writing that it would not permit **any** flood mitigation infrastructure to be placed on its right of way or its embankment. Why, then, is the city staff being directed to continue pursuing Variant 1, which requires such infrastructure? This is a waste of time.

We also want to know why CU’s demands for the City to pay for earth fill on the CU-South property—as part of taxpayer-funded flood mitigation—are being accepted without question. The consequential dramatic increase in the cost estimates for the flood design was aired for the first time in the February 25<sup>th</sup> 2020 Study Session; estimates of the flood mitigation project cost were inflated by including the cost of land fill for the benefit of CU’s development. The cost range for the flood detention alone, without the soil fill and CU’s demand for \$15 million to cover “impacts to CU property,” range from \$41 million to \$47 million for the 100- and 500-year designs, respectively. CU’s demands that the City pay for impacts to their property raise the cost range to \$56 million to \$65 million for these two levels of flood protection. We argue that the 10% difference in cost for the 500-year design is a bargain, given that it provides considerably more flood protection to the public. However, refilling the old quarry pit with gravel and sand that was originally mined away--simply to let CU built in a floodplain--makes no sense. These cost increases neither add protection against flooding nor improve engineering designs. They shouldn’t be considered in the cost for the flood mitigation design.

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All these decisions seem to have been made purely in the interest of hurrying through a process that would better be marked by clear, evidence-based decision-making, not expedience. Even before the COVID-19 pandemic, public participation in the process has been given short shrift, if any attention at all. The issue of earth fill not only raises the question as to why taxpayers should pay for CU's expansionary aspirations, but also illustrates the danger of even more potential damage to the fragile floodplain environment by elevating land that should remain as detention for floodwaters. Adjacent and downstream neighborhoods already experience flooded basements and other adverse impacts from high groundwater. Tinkering with the floodplain will only make it worse.

**In conclusion:**

- We ask the WRAB to return to the City Council's previous formal and explicit decision to pursue the 500-year flood mitigation. Any change to that decision should be done as part of a formal process which includes public input and careful consideration of all available relevant information.
- We ask WRAB not to recommend any flood mitigation design that has not first been vetted at a conceptual level by permitting agencies, such as CDOT and the Colorado Department of Wildlife, to identify what otherwise could be obstacles that would stop the project cold.
- We ask the WRAB not to recommend any flood mitigation design that includes additional conditions or provisions that inflate the cost of the project without enhancing flood protection, environmental and safety considerations. Specifically, this means inclusion of the cost of earth fill to raise the level of land in the floodplain and make it more desirable for CU's campus building project.

This project is one of the most costly and crucial that the City will ever undertake. It can only be done once, and it better be done correctly. Currently, it is exceedingly difficult to be confident that correct processes are being followed at all. Staff now emphasize that this IS the plan and suggest that no other will be discussed. These processes seem to be inappropriately rushed, inadequately data driven, procedurally improper, and certainly not transparent. We implore the WRAB to recommend that the City Council not continue on this mistaken path, strewn as it is with boulders of misfeasance, nonfeasance, and outright malfeasance.

Margaret D. LeCompte

290 Pawnee Drive

Boulder CO 80303

[margaret.lecompte@gmail.com](mailto:margaret.lecompte@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Penny Dumas <5dumas@comcast.net>  
Sent: Sunday, April 19, 2020 1:43 PM  
To: WRAB <WRAB@bouldercolorado.gov>  
Subject: C. U. South should be kept as open space

External Sender

Dear WRAB Members,

It feels like the ever pro-growth Colorado University gets whatever it wants in terms of development rights in Boulder despite the impact it has on us current city residents and our surrounding open spaces. I urge you to do whatever it takes to stop the development of the huge planned project at C. U. South, the gateway to our city and one of our critical flood plains and open spaces.

It's time for C. U. To concentrate on attracting the best and the brightest of Colorado students to their campus rather than focusing on making the university even larger so they can attract more tuition paying students.

Sincerely,

Penny Dumas

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Tim Hansford <tlhansford@msn.com>

**Sent:** Saturday, April 18, 2020 8:09 PM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Subject:** A vote for the 500-year option

**External Sender**

I urge the Water Resources Advisory Board to recommend that the City Council adopt a mitigation plan for the CU South property that will protect against a 500-year flood event, and not simply for a 100-year flood. While the risk of a 100-year flood is 1% for any given year, I feel that the effects of climate change will create conditions for more frequent flooding in the future, and that the time to plan for more severe floods is now. As you know, the effects of the 2013 flood on this property were most directly felt a couple of miles down the road at the Frasier Meadows Retirement Community, where floodwaters flowed along Foothills Parkway/Thunderbird Road to cause millions of dollars of property damage and disrupted the lives of hundreds of seniors who had to be evacuated. Preparing for the level of severity of a 500-year flood would greatly decrease the chance of another catastrophic flood occurring and would minimize the risk of loss of life and property downstream.

I feel strongly that whatever action is taken, the City should NOT be restoring the Flatiron Gravel mine pit to its previous state simply so that CU could build there. It makes no fiscal sense to replace the gravel and dirt that has been removed from a gravel pit, as that would be an additional expense to taxpayers of tens of millions of dollars, with no apparent benefit to the City.

Please consider keeping as much as possible the recreational opportunities that currently exist on the CU South property that are enjoyed by many of our citizens. There is no other Open Space around that provides the hiking, biking, and running trails that this property has.

Thank you for your consideration.

Tim Hansford  
2680 Stephens Road  
Boulder, Colorado

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Betsy Armstrong <armstrongcommunications1@gmail.com>  
**Sent:** Saturday, April 18, 2020 3:09 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** 500 year option

**External Sender**

To Water Resources Advisory Board (WRAB)

As a citizen/resident of Boulder for many, many years and having negatively experienced the 2013 flood, I urge you to support the 500-year flood design option. This will be the safest and most logical approach to detaining the most water upstream and provide the highest level of flood protection without destroying wetlands, wildlife, and endangered species.

Kind regards,  
Betsy Armstrong  
South Boulder

---

Betsy Armstrong  
Armstrong & Associates  
tel 303.494.7040  
[armstrongcommunications1@gmail.com](mailto:armstrongcommunications1@gmail.com)  
[www.ArmstrongAssociates.net](http://www.ArmstrongAssociates.net)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Rebecca Bradford <info@theimprovcollaborative.com>

Sent: Sunday, April 19, 2020 6:59 PM

To: WRAB <WRAB@bouldercolorado.gov>

Subject: < Something catchy here.>

External Sender

Hi,

I haven't been in on all the details of what to do with CU South. I can only hope that the people passionately involved will do the right thing. Apparently you get to address it tomorrow night. Right? Could you please open your heart and see what the future will look like based on your decision?

Okay, I admit it. I like the open space. I like walking the great loop, hearing the birds and seeing the dogs run freely. I understand there's a need for flood mitigation. I don't understand why there's a need to develop all the land. I just need to put a word in.

Do the right thing for the environment. Please don't let them build a bunch of homes. I'm sincerely scared they will.

Thanks for you time.

Rebecca Bradford

4739 W. Moorhead Circle

Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jacqueline Trump <jacquetrump@gmail.com>

**Sent:** Monday, April 20, 2020 3:45 AM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Cc:** Council <council@bouldercolorado.gov>

**Subject:** Flood Mitigation

**External Sender**

Dear People of WRAB,

I'm dismayed and frankly frightened by the way in which UCB and City Council & Staff have been playing with the future safety and potential pocketbooks of the citizens of Boulder. What happened to the 500 year plan? Why should we allow CU to be annexed?

Asking us to pay for CU's dirt is just the tip of what could become an iceberg. Something's not right between City Council/City Staff, etc. and the University. Who's rubbing who's back?

I am adamantly opposed to annexation. I do not want to pay for CU's dirt or everything else annexation would mean for Boulder citizens. Yes the University is valued part of Boulder but that doesn't mean we need to place their burden on our backs. This whole deal with the gravel pit land has been a mess from the get go. Please try to straighten out this situation. Safety first. Judicious planning. Clean debate overseen by reputable mediators. All assessments and studies completed, scrutinized and duplicated by like neutral agencies. Please.

Thank you for your time and consideration.

Sincerely,

Jacqueline Trump  
620 S. 46th St.  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim McMillan <jmc1277@gmail.com>

**Sent:** Monday, April 20, 2020 12:23 AM

**To:** WRAB <WRAB@bouldercolorado.gov>

**Cc:** WRABSecretary <WRABSecretary@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** South Boulder Creek flood mitigation

**External Sender**

Dear Members of the Water Resources Advisory Board (WRAB):

I write as a citizen resident of Boulder interested in advancing public welfare and safety to advocate for maintaining a minimum 500 year flood design standard for South Boulder Creek flood mitigation. The impacts of climate change are growing stronger by the year, with regional trends and longer term forecasts showing precipitation events becoming more intense over time. It is likely that current estimates for a "500 year flood" under estimate the evolving situation as a result of worsening hydrological cycle disruption as the planet heats up and the atmosphere holds ever more water vapor.

The unfortunate situation I call WRAB's attention to is the city's recent legally questionable and ill advised "decision" to forego a 500 year flood design standard for SBC flood mitigation in favor of designing to a less expensive 100 year flood standard. As outlined in greater detail in Margaret LeCompte's letter of 18 April 2020, WRAB should advise council to reverse this unwise and procedurally questionable decision. This decision was made without a proper city council vote and in clear contravention of a previous city council's vote to explicitly adopt a 500 year flood design standard for mitigation of SBC flooding. Moreover, if followed, adopting the less protective 100 year flood design standard will recklessly and shortsightedly put fiscal austerity before public welfare and safety.

Public safety and welfare needs to and should be foremost in the SBC flood mitigation design and is not being put first here. The primary reason for backsliding on the safety factor of the design in adopting a 100 year design standard is simply to reduce costs. However, other options to reduce costs, such as not covering costs associated with "CU South Impacts" and "earth fill" which have nothing to do with flood mitigation per se, are not being adequately considered; if anything, covering these costs simply buys down CU's cost to pursue this unwise development in this regionally and ecologically important floodplain. There are also likely to be much less expensive solutions to flood mitigation, i.e., solutions that better avail of the site's topography (former gravel pit with extensive detention capacity) to forego the need for such extensive construction of a high hazard dam and flood wall, e.g., the "upstream solutions" that have yet to be given any serious consideration as a result of ongoing corruption of the integrity of this design process. (At least starting from CU's illegal/unethical acquisition of the gravel pit land that included gutting of the reclamation plan that was part of the basis for permitting the Flatirons gravel pit operation -- this is a longer story already well documented by Ben Binder that remains highly relevant -- the city should be holding the line for a design that meets public safety needs not green lighting CU's past criminality by acceding to CU getting to set a development first agenda for the SBC floodplain).

The city needs to stand firm about putting public safety first and developing a flood mitigation design for SBC that is fit for purpose for the citizens of Boulder. Maintaining a 500 year flood design standard makes sense in this regard, not falling back to a minimally protective design to mitigate against a 100 year flood. As the COVID-19 crisis shows us, alas yet again, an ounce of prevention and planning is worth many pounds of cure. Not planning the SBC flood mitigation to be designed to protect against a 500 year

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(or even greater) flood would be extremely short sighted and guarantee that many more citizens will be in harms way when future flooding of SBC that is greater than a 100 year flood occurs. And it will occur, the questions are just how soon and how frequently we will see such large flooding.

For these reasons, I ask the WRAB to please stand with concerned citizens like me and the Save South Boulder coalition in advising the city to maintain a 500 year flood-based design for SBC flood mitigation that puts public safety first.

Thanks for your on-going service to our community and for your attention to these concerns.

Sincerely,

Jim McMillan

<http://www.savesouthboulder.com/>

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*Learn more at [Boulder Neighborhood Alliance](#)*

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** fedexxit@aol.com <fedexxit@aol.com>

**Sent:** Sunday, April 5, 2020 7:34 PM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>;  
Dan.Wilkerson@cu.edu; frances.draper@colorado.edu; WRAB <WRAB@bouldercolorado.gov>;  
meadowlarkopenspace@gmail.com

**Subject:** No DAM way!

**External Sender**

**Let's halt City of Boulder bulldozers from roaring into the South Boulder Creek State Natural Area! It's a highly protected critical wildlife habitat for the rare (and cute) Preble's Jumping Mouse and exquisite Ute's Ladies Tresses Orchid. Is not this habitat protected by the Federal Endangered Species Act? We say NO to any damn dam! ~Marielle Marne & Steven Moore**

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Margaret LeCompte <margaret.lecompte@gmail.com>

**Sent:** Sunday, April 5, 2020 12:05 PM

**To:** Council <council@bouldercolorado.gov>; Weaver, Sam <WeaverS@bouldercolorado.gov>; Friend, Rachel <FriendR@bouldercolorado.gov>; Taddeucci, Joe <Taddeuccij@bouldercolorado.gov>; Huntley, Sarah <Huntleys@bouldercolorado.gov>; WRAB <WRAB@bouldercolorado.gov>; WRABSecretary <WRABSecretary@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; Sarah Silver <sarahsilver@hotmail.com>; John Gerstle <johnhgerstle@gmail.com>; Karen Hollweg <khollweg@stanfordalumni.org>; Gordon McCurry <gmccurry@mccurryhydro.com>

**Subject:** Request for Feedback on Questions Raised at the April 3 CU-South Process Subcommittee

**External Sender**

To: City Council, City Staff Members, and Members of Advisory  
Boards  
ril 4, 2020

Ap

From: Margaret LeCompte  
290 Pawnee Drive  
Boulder CO 80303

Re: How to Improve Communication and Information Flow to Boards and the Public

The April 3<sup>rd</sup> CU-South Process Subcommittee meeting included at least 20 members of the public. While not all those present made comments, those who did raised specific questions about delays in getting needed information out to both the Boards who must make key decisions on flood mitigation, and to the public, which is being asked to comment on and pay for the consequences of those decisions. Several of those who provided comments are current members of City advisory boards.

Many members of the public have ongoing and serious concerns about how hastily these key decisions are being made and how little of the evidence needed to substantiate them has been provided. All of the comments below highlight the need for data and the fact that staff have failed to provide information to advisory boards in a timely manner—or at all. We are equally concerned that issues and questions we raise repeatedly are just as repeatedly left unanswered.

To that end, and with their originators' permission, I have collated the questions that were raised in the last CU-South Process Subcommittee meeting on April 3, 2020. I am sending them to you so that you can respond directly to them in some public manner. Bear in mind that these are just a sampling, and not all, of the questions that have been asked by the public and that remained unanswered.

Last week, I suggested via email to Sarah Huntley that it would be useful to create a free-standing website—not one buried in the City's webpage where it's hard to find--where these questions could be posted, along with answers to them. We request that

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this, or some other easily accessible modality, be implemented immediately and its existence announced and publicized widely so that we may be able not only to view them, but share them more widely among interested members of the public..

As is clear from the comments below, it is both unrealistic and dangerous for members of the advisory Boards to be forced to act without data they have long been requesting. Further, members of the public, which include many people with high levels of expertise, do not want to wait for answers until June, well after the late April or early May public information/engagement event which staff talked about organizing during the April 3 subcommittee meeting. Answers provided that late in the process provide no opportunity at all for real public engagement, if indeed the answers even are responsive to the questions we have asked.

Please note the comments listed below. They contain good suggestions for improving decision-making processes, public engagement, and information flow. We hope you will heed them. We look forward to your responses!

**Ken Beitel**, to Mayor Weaver: When will City Council respond to the Oct 2019 questions from the Open Space Board of trustees and the public who have asked for a detailed study of an upstream detention and an open space based option (public request is a study of a full Open Space protection for 308 acres of land at CU south) that would be on par with the studies done for the other Variant options; i.e., \$1 to \$3 million in cost and taking 3 months in time to complete. Increasingly it is looking like CU North land swap is the best way to provide 500-year protection for downstream residents and protect the State Natural Area.

The Open Space Board of Trustees is looking for real information and a real study in order to perform an evidence-based cost/benefit analysis comparing an upstream option with

Variant 1. The Board is not looking for a 5-minute power point put together the day before the presentation saying that no upstream study is required because it just won't work.

**Karen Hollweg**: As a member of the Open Space Board of Trustees, I want to have information about and public input regarding proposed environmental impacts to OSMP's State Natural Area during the April-May "Public Information Session/Q&A/Feedback". To enable that, staff will need to provide the public with information about environmental impacts to OSMP land by late April. By getting at least some substantive responses to OSBT's July 2018 and Sept. 2019 questions at the May OSBT meeting, OSBT will be able to base our June 3 discussions and recommendations on both public input and substantive information about plans for flood mitigation and related impacts to OSMP's State Natural Area lands.

**Mike Duffy**: I have a question about when the groundwater modeling results will be available. When will Joe Taddeucci be sharing it? And how?

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I also would like for the opportunity for the public to provide input on the Be Heard Boulder platform to be extended beyond the roughly 2 weeks that was proposed on April 3. Further, I ask that the Be Heard conversation not be limited to the scope outlined at the Council Study session—that is, only the 100-year flood design--(as [proposed by Rachel Friend])

**Harlin Savage:** I want to know what studies the City is planning in addition to the groundwater study. Will the public have access to the result of the groundwater study before decisions are made this summer? Is the City committed to doing a traffic study? When will that happen? Development will have a huge impact on transit, affecting specific local neighborhoods and basically the entire city.

I would like for Council to direct staff to assess the costs and benefits (long-term and short-term) of the flood mitigation project.

I also would like to know what the logic is of approving a flood concept and annexation before doing an urban services study at the Planning Reserve. If Council sticks to its current timeline and approves annexation and a concept design for flood mitigation, then what makes Council believe that CU would still consider a land swap? Save South Boulder would like to see the services study for the use of the Planning Reserve be expedited and used to evaluate it as a possible alternative site for CU's proposed campus.

**Margaret LeCompte—Save South Boulder:** I am concerned with what seems to be an irregularity in how the level of flood protection was changed from the 500-year standard which City Council adopted in a vote almost two years ago and the February 25<sup>th</sup> Study Session direction to Staff that Utilities should only focus on a 100-year flood. Two different standards and two different procedures were used in these decisions. A 500-year flood was approved by vote of Council because it best protected lives and safety, and conformed to the Guiding Principles of the BVCP. However, the change to a 100-year design was made in a Study Session, not a Council vote, and was justified on the basis of its supposed more limited impact on the environment and assertions that CDOT would not be likely to approve a 500-year or even a 200-year design. No data backed up these assertions. No public input has been allowed on this change. Staff now emphasize that this IS the plan and suggest that no other will be discussed. These processes don't seem to be either proper or appropriately transparent and open.

**John Gerstle:** With regard to the Planning Board meeting on May 7. I am concerned about the following: 1. That the Planning Board considerations should allow for the fullest possible public input on the matters it is considering, and in arranging its agenda for consideration of CU-South-related matters, PB should handle it as an agenda item which explicitly seeks public comment prior to finalization of PB recommendations and decisions.

2, That City Council had made a formal and explicit decision after a lengthy formal process regarding the level of protection to be provided by the SBC flood mitigation efforts, and that any change to that decision should also be done as part of a formal

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

process which includes public input and careful consideration of all available relevant information. That process should include efforts to develop necessary information to ensure the best possible decision.

**Ben Binder:** I second John Gerstle's comment. There should be a public hearing [on the flood size used for design], not just public comment, which is a period when people can respond on all kinds of topics, not just the specific agenda item. Further, I want to know from the Utilities staff if the size of the detention pond in the 100-year flood design would be adequate to protect neighborhoods downstream in a flood event such as the 2013 storm.

**Jim McMillan:** It would be very helpful if there was a timeline or schedule posted showing both when the data needed for all these decisions will be available, and the dates when the boards and public meetings will take place. This schedule needs to be posted first, so the data can be used to inform decisions before they have to be made. Getting the data just before, or even at the time of a decision-making meeting doesn't provide enough time for evidence-based decisions.

**Gordon McCurry:** I am a member of the Water Resources Advisory Board but speaking here on my own behalf. In our April 20 WRAB meeting, we will have to make some very big decisions about flood mitigation. But it is not clear that we will have the information we need by that time from Utilities and other departments to make those decisions.

**Curt Brown**—Comment directed to city staff: 1) it is critical to get staff reports and technical studies with as much lead time as possible, so that the public and boards have sufficient time to review them and develop relevant questions for staff, and (2) it is also critical, with so many issues in play, and such limited bandwidth for public engagement, that we have a clear and detailed road map of products and decision points for the public. Otherwise, the public is left to assume that they must provide comments on every issue at every meeting, which creates chaos.

**Not Quoted Here:** Three other members of the public thanked the staff for working so hard to make meetings accessible with virtual and other platforms.

Respectfully yours,

Margaret LeCompte  
290 Pawnee Drive  
Boulder CO 80303

The following letter was sent by numerous community members (list of senders follows email)

**From:** Gabrielle Gibson <gabriellegibson16@gmail.com>

**Sent:** Sunday, April 5, 2020 11:48 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:**

## External Sender

Honorable Mayor Sam Weaver and Boulder City Council,

Thank you for speaking to and listening to the Boulder Community on Friday morning April 3.

Over the next two months, a series of key City of Boulder meetings will determine flood control structures in the South Boulder Creek floodplain that may be in place for a hundred years or more.

### Water Resources Conservation Board - April 20

- make recommendations on flood control options

### Boulder Open Space Board of Trustees - June 3 or 13th

- decide on whether to strip protection and dispose of 5 acres of highly protected South Boulder Creek State Natural Area to allow for construction of a massive concrete dam

### Boulder City Council - June 16, 2020

- final vote on flood control structure

For years, the Boulder Community at almost every public meeting on the topic has requested that Boulder City Council study flood control protection based on an upstream or Open Space option. Below is the only plan studied to date.

### Plans Studied to Date By City - *Various Concrete Dam Variations*

· **Cost: high (\$66 to 93 million).** Paid by for by taxpayers. High cost is to protect CU Buildings. This means other Boulder communities will not get flood protection due to funding constraints.

· **Safety: Poor.** With the need to protect CU buildings + downstream neighbors, only 100 year flood protection is likely. In addition, it is not clear that the proposed mitigation would protect downstream neighbors from another flood like occurred in 2013.

- **Speed to build: Slow.** Dam Construction Time: Several years + years of vigorous community, taxpayer and potentially legal opposition. 5 to 10 years may be a reasonable estimate - if built at all.

- **Key Beneficiary: University of Colorado.** Downstream Fraser Meadow residents lose out with only 100 year flood protection.

**Upstream Open Space Flood Control Option** - *Study has been requested by community public comment for last 2+ years*

- **Projected Cost: Medium to Low - perhaps 1/3 to half the cost of the monolithic concrete dam.** Paid for by taxpayers. Relatively low cost means other Boulder communities will receive flood protection. The study I am requesting today will provide the engineering and cost data for this option.

- **Safety: High.** Without the need to protect CU buildings, 200 or 500 year flood protection is likely cost effective.

- **Speed to build: Fast.** Perhaps a couple of years or so or possibly faster due to the project having full community support. The requested study will forecast time to implement this option.

- **Key Beneficiary: Frasier Meadows residents and senior citizens.** Can receive 200 or 500 year flood protection.

- **Secondary Beneficiary: Additional Boulder Communities will be protected.** Money saved can provide additional neighborhoods with flood control protection.

- **Other Beneficiaries: The wetlands ecosystems** of the South Boulder Creek State Natural Area and the new City of Boulder Open Space are protected and enhanced. At CU North, safety of students and ease of construction is enhanced by building on dry land.

In addition to heavy public comment over the last two years requesting an Upstream Open Space Flood Control study, in September 2019, following a public hearing, the Open Space Board of Trustees made a similar flood control study request to Boulder City Council.

**In writing, in October 2019, the Open Space Board of Trustees requested Boulder City Council provide cost and engineering and habitat data for an upstream/ecosystem based flood control option to allow for a cost benefit analysis.** The Board has requested this study so they can cast an informed a vote.

**5 months has passed and City Council has taken no action to honor the Open Space Board request.** The Open Space Board of Trustees is the custodian of the

Boulder Open Space System and represents Boulder communities to City Council. Their request and the request of the community should NOT be denied.

During the next two months of meetings, all decision makers including City Council, must have this requested engineering, cost and habitat data to make effective and informed decisions.

**Now is the time for City Council to listen to its boards and the public and take action.**

**I hereby am respectfully requesting that the City of Boulder fund an Upstream Open Space Flood Control study on par and as rigorous as previous multi-million dollar, multi-month studies that incorporated protection of CU buildings as their project requirement.**

To allow informed votes to take place at upcoming meetings, the Upstream Open Space Flood Control study will have the following project parameters:

- **Parameter 1:** A proposed land swap to provide for CU North has occurred and the City has acquired the 308 acre CU South property in exchange.
- **Parameter 2:** The land swap has removed the requirement for City of Boulder taxpayers to protect University of Colorado buildings in the CU South floodplain.
- **Parameter 3:** To allow for safer, faster to build and lower cost flood control, a City of Boulder Open Space has been created on the 308 acres of city property. The Open Space will be used for flood control by providing wetlands retention, along with upstream detention ponds. City land west of highway #93 may also be used for flood protection.

**The six guiding principles of the South Boulder Upstream Open Space Flood Control (UOS-FC) study will be to:**

1. Provide a cost and high level engineering design based on Open Space flood control protection for a 100, 200 and 500 year options for flood control for downstream neighborhoods that will be used for decision making in spring/summer 2020.
2. Achieve flood control protection utilizing water retention ability of wetlands habitat, a series of wetlands retention ponds and low earthen berms.
3. Utilize an engineering design that will restore wetlands and expand habitat for federally protected species including the rare Preble's Jumping Mouse and Ute's Ladies Tresses Orchids
4. Enact flood control measures that will facilitate nature based recreational activities like hiking, interpretive nature trails, cycling, bird watching and grade school based wetlands science programs
5. The study will explore options for fostering a partnership with the University of Colorado including establishment of a University of Colorado Front Range

Wetlands Research Project with engagement of the CU Sustainability, Ecology, Biology, and Engineering departments

6. The Upstream Open Space Flood Control Study will be overseen by a panel of knowledgeable community members, including hydrologist Dr. Gordon McCurry who has highly regarded professional credentials and deep community respect. Dr McCurry is a board member of the City of Boulder Water Resources Advisory Board (WRAB) and has been involved with hydrology studies in this watershed for decades, including developing a surface and groundwater flow model this area as part of his PhD dissertation research.

### Why should this study taken when other studies have been done?

- The community safety, cost effectiveness and time to build benefits of the Upstream Open Space Flood Control Option are compelling.
- The ability to create a win-win for the community and the University of Colorado are compelling.
- **Cost of not doing this study.** This study request has been made repeatedly by the public for the last two years at public meetings. The cost to safety and tax payers is high if City Council rejects this public comment request to study.
- Rejection of this request to study will confirm the City of Boulder is only listening to the University of Colorado and values harmonious relations with the University more than it values the safety of Boulder communities and wise use of taxpayer dollars.
- The options studied so far violate the federally protected habitat of the South Boulder Creek State Natural Area.
- Rejecting this request to study will validate vigorous public and potential legal opposition to the concrete dam plan for years to come.

The City of Boulder and the University of Colorado will experience a national public relations nightmare scenario for attempting to develop on Colorado wetlands home to federally protected species.

- **Benefits of doing this study.** This Open Space Flood Control study will evaluate if 200 or 500 flood protection for downstream Boulder communities can be cost effectively achieved at a relatively low cost. This is worth looking at.
- The Upstream Open Space Flood Control Option will have full community support and be quickly built.
- This flood control option will allow restoration of wetlands habitat and expansion of habitat for the federally protected wildlife and plant species.
- Community volunteers will work side by side with city engineers in wetlands restoration projects. A celebration will be held when the CU berm that has damaged the wetlands for years is removed.
- Enhanced recreational and ecosystem science study opportunities will be generated by an Open Space Flood Control option. The University of Colorado

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will be appreciated and seen as a friend of the Boulder community as they begin work on CU North.

**Mayor Weaver and City Council, thank you sincerely for taking action immediately to fund and implement the Upstream Open Space Flood Control Study.**

This Upstream Open Space engineering study has the potential to cost effectively and safely protect our communities, front range wetlands habitat and nature based recreation for decades to come. And to create a win for CU.

If the requested study delays the City's vote on flood control by a month or two, the benefit of being able to complete construction of Open Space based flood control protection in perhaps two years vs five to ten years for a concrete dam, makes a short delay to allow informed voting, the right choice.

In closing, please fund and implement this requested study immediately so evidence based votes can be made. And as guardians of community well being, thank you for spending tax dollars wisely to increase flood safety for multiple Boulder communities.

Yours sincerely,

Gabrielle Gibson

1. Gabrielle Gibson

**From:** Gabrielle Gibson <gabriellegibson16@gmail.com>  
**Sent:** Sunday, April 5, 2020 11:48 AM  
**Subject:**

2. Ken Beitel

**From:** Ken Beitel <meadowlarkopenspace@gmail.com>  
**Sent:** Sunday, April 5, 2020 12:23 PM  
**Subject:** Request for Upstream Open Space Based Flood Control Study (UOS-FC)

3. Taylor Washington

**From:** Taylor Washington <taylor.washington@gmail.com>  
**Sent:** Sunday, April 5, 2020 2:23 PM  
**Subject:** Request for Flood Study

4. Marella Colyvas

**From:** Marella Colyvas <marcel2124@gmail.com>  
**Sent:** Sunday, April 5, 2020 2:35 PM  
**Subject:** Flood Control for South Boulder Creek

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5. Gwindolyn Lehman

**From:** Gwindolyn Lehman <aloharng@icloud.com>  
**Sent:** Sunday, April 5, 2020 5:53 PM  
**Subject:** Please: Care for Our Land

6. Mary Shabbott

**From:** mary shabbott <mshabbott@sbcglobal.net>  
**Sent:** Sunday, April 5, 2020 8:24 PM  
**Subject:** A last natural area

7. Michelle Hayward

**From:** Michelle Hayward <michellehayward1313@gmail.com>  
**Sent:** Monday, April 6, 2020 12:00 AM  
**Subject:** Request for Flood Study

8. Ken Beitel

**From:** Ken Beitel <meadowlarkopenspace@gmail.com>  
**Sent:** Sunday, April 19, 2020 7:01 PM  
**Subject:** Fwd: Request for Upstream Open Space Based Flood Control Study (UOS-FC)

9. Mary Shabott

**From:** mary shabbott <mshabbott@sbcglobal.net>  
**Sent:** Sunday, April 19, 2020 9:07 PM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Subject:** Flood study is imperative

10. Marella Colyvas

**From:** Marella Colyvas <marcel2124@gmail.com>  
**Sent:** Sunday, April 19, 2020 9:34 PM  
**Subject:** Request for Upstream-Open Space Based Flood Control Study

11. Steven Moore

**From:** fedexxit@aol.com <fedexxit@aol.com>  
**Sent:** Sunday, April 19, 2020 9:07 PM  
**Subject:** Request for Upstream-Open Space Based Flood Control Study

12. Michelle Hayward

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**From:** Michelle Hayward <michellehayward1313@gmail.com>  
**Sent:** Monday, April 20, 2020 4:31 AM  
**Subject:** Request for Upstream-Open Space Based Flood Control Study

13. Sandra Holloway

**From:** Saunie H. <email4saundra@gmail.com>  
**Sent:** Sunday, April 19, 2020 10:26 PM  
**Subject:** Space Based Flood Control Study

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**From:** Ken Beitel <meadowlarkopenspace@gmail.com>

**Sent:** Friday, April 3, 2020 9:05 AM

**To:** tcarrt@bouldercolorado.gov

**Cc:** City of Boulder Planning <planning@bouldercolorado.gov>; Bloom, Joanna <BloomJ@bouldercolorado.gov>; Sullivan, Douglas <sullivanand@bouldercolorado.gov>; Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Subject:** URGENT: Open Space Board of Trustees - Oct 9, 2019 - request to City Council for Information pertaining to disposal of portion of South Boulder Creek State Natural Area

**External Sender**

April 3, 2020

Boulder City Attorney

Honorable Tom Carr,

As a presenter at the September 2019, Open Space Board of Trustees meeting I was in attendance when the Board formulated their request for information from City Council relating to the proposal to strip designated protection from 5 acres of the South Boulder Creek State Natural Area. The area to be disposed includes critical habitat protection home to the federally protected Preble's Jumping Mouse and perhaps the highest density of Ute's Ladies Tresses Orchid in Colorado.

5+ months later, Boulder City Council has not provided a single answer to the information requested by the Open Space Board of Trustees. The information request from the Board to City Council is attached as a the full Oct 9, 2019 Meeting Packet to this email for your reference and including but not limited to the highlighted questions at the bottom of this email.

**Can yourself as City Attorney or a member of City Council please attend this morning's April 3, 2020 11am CU-South Process Subcommittee to explain when City Council will provide this information to the Boulder Open Space Board of Trustees and the city of Boulder voters that the Board represents?**

Meeting Link: <https://zoom.us/j/562512794?status=success>

The requested information is critical for informed OSBT and Boulder City Council decision makings at upcoming meetings.

Thank you in advance for your attendance and thank you to City Council for providing this important information as soon as possible.

Best Regards,

*Ken*

Ken J. Beitel

Chair of Wilderness Conversation

**proposed Meadowlark Open Space**

web: [www.MeadowlarkOpenSpace.org](http://www.MeadowlarkOpenSpace.org)

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e. [meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com)  
m. 720 436 2465

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Open Space Board of Trustees  
Council Chambers, 1777 Broadway  
October 9, 2019

Meeting Agenda

Motion (1:59:20)

Tom Isaacson moved that the Open Space Board of Trustees communicate to City Council the following feedback regarding South Boulder Creek flood mitigation. Curt Brown seconded. This motion passed four to zero; Hal Hallstein was absent at this meeting.

1. What is OSBT's view on whether the construction of a flood wall or other flood mitigation structures on Open Space (the proposal) would require a disposal?

• **Yes, because flood control to protect development in a floodplain is not an Open Space Charter purpose, among other reasons, this would require a disposal.**

If council has a different view, we would request the opportunity to discuss the matter, as it raises important questions regarding the Board's Charter responsibilities.

2. Does OSBT believe that its responsibilities inherently preclude it from making a disposal for "the proposal," even if the mitigation plan is expected to be highly effective?

• Tom Isaacson, Curt Brown, and Dave Kuntz would answer this question "no."  
Karen Hollweg believes the question cannot be answered.

**3. For OSBT to consider a disposal motion what information would OSBT first need?**

a) A side-by-side analysis and comparison of the benefits and costs of the revised Variant I (that uses OSMP land, instead of CDOT land, for the floodwall) and an upstream option which would capture enough flow upstream and west of the CUSouth property to eliminate the need for a floodwall to bedrock on OSMP land.

That upstream variation would creatively and strategically place minimally invasive structures to guide the flood flows in one or more places west of Hwy 93 to Hwy 36.

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b) The engineering plans and modeling analyses to show that the historic underground flow will be maintained in the OSMP State Natural Area (especially in the 90 acres near Hwy 36) in wet, dry, and flood years, including the maintenance and operation of any structures proposed for doing this in perpetuity.

c) Explanation of how the proposed flood mitigation structures will be designed and constructed to minimize impacts to OSMP lands and critical habitat.

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d) Identified mitigation of impacts to high quality ecosystems and listed species informed by conversations with the USFWS and USACE to determine ways of avoiding or minimizing adverse impacts to OSMP resources and listed species.

4. If the answer to #2 is other than “yes”:

a) What are the key elements of a mitigation plan that OSBT believes could support its approval of the revised Variant I?

- The items identified in the July 11, 2018 memo OSBT recommendation of mitigation measures plus additional measures to offset the new impacts of construction of any flood mitigation structures on Open Space.

b) Are there any metrics/criteria that OSBT would recommend for evaluating such a mitigation plan?

1. Curt Brown, Karen Hollweg and Dave Kuntz would recommend a standard of net Open Space benefit; Tom Isaacson would not require that Open Space be net better off as a result of the mitigation plan.

2. Approval of the mitigation plan by USFWS and USACE.

c) Does OSBT have any feedback on the likely feasibility/effectiveness of such a mitigation plan in achieving its goals?

- In-kind mitigation (creation of similar habitats elsewhere for these specific listed species) for loss of this type of riparian and wet meadow habitats has proven to be extremely difficult and to date has not been possible for spiranthes in particular.

Sufficiency of out-of-kind mitigation is a complex judgment that will require input from both city/OSMP staff and FWS/USACE.

5. Does OSBT have any feedback on potential means of avoidance, i.e., ways to lessen the ecological impact of the revised Variant I project?

a) A dam design that places most or all of the foundation underneath and downstream of the main flood wall.

b) A foundation design that is inherently less obstructive to GW movement, e.g., a pier/caisson design rather than a typical cutoff wall to bedrock.

c) A robust GW maintenance and monitoring system.

d) A design for the dam and monitoring system that put most or all inspection access behind the structure.

e) A construction process specifically designed to minimize upstream OSMP impacts, e.g., excavating, transporting, staging and constructing from within the floodwall footprint or the downstream side.

f) For other project designs similar approaches should be considered.

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6. Does OSBT have any feedback regarding the value (from an Open Space perspective) of pursuing a version of Variant I with less-than-500-year flood protection?

- The maximum depth and area of OSMP land that is ever inundated would be reduced. However, these reductions will be occurring for the lowest probability events, so those gains will be modest.
- The amount of OS-O land that the University may desire for development would be reduced, potentially freeing up some additional OS-O land for mitigation. However, this land is the highest and driest of the OS-O and therefore may be of more value as buffer lands rather than compensatory habitat.

7. Does OSBT have any feedback regarding the value (from an Open Space perspective) of pursuing a version of an upstream option with less-than-500-year flood protection?

- Reducing the level of flood protection should also be considered for an upstream design.

8. With respect to regulatory permitting, i.e., by regulatory agencies in response to the submission of a mitigation plan:

- OSBT believes that obtaining regulatory approval presents a significant challenge and it is valuable to begin discussions with regulatory agencies sooner rather than later.

9. Does OSBT have any feedback on whether to pursue further evaluation of Variant II (whether 100 or 500) at this time?

- OSBT does not recommend pursuing Variant II at this time.

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**From:** Margaret LeCompte <margaret.lecompte@gmail.com>

**Sent:** Monday, April 6, 2020 11:27 AM

**To:** Coleman, Brandon <ColemanB@bouldercolorado.gov>; Kleisler, Philip

<KleislerP@bouldercolorado.gov>; Brautigam, Jane <BrautigamJ@bouldercolorado.gov>

**Subject:** Request for Feedback on Questions Raised at the April 3 CU-South Process SubCommittee

**External Sender**

To: City Council, City Staff Members, and Members of Advisory Boards  
April 4, 2020

From: Margaret LeCompte  
290 Pawnee Drive  
Boulder CO 80303

Re: How to Improve Communication and Information Flow to Boards and the Public

The April 3<sup>rd</sup> CU-South Process Subcommittee meeting included at least 20 members of the public. While not all those present made comments, those who did raised specific questions about delays in getting needed information out to both the Boards who must make key decisions on flood mitigation, and to the public, which is being asked to comment on and pay for the consequences of those decisions. Several of those who provided comments are current members of City advisory boards.

Many members of the public have ongoing and serious concerns about how hastily these key decisions are being made and how little of the evidence needed to substantiate them has been provided. All of the comments below highlight the need for data and the fact that staff have failed to provide information to advisory boards in a timely manner—or at all. We are equally concerned that issues and questions we raise repeatedly are just as repeatedly left unanswered.

To that end, and with their originators' permission, I have collated the questions that were raised in the last CU-South Process Subcommittee meeting on April 3, 2020. I am sending them to you so that you can respond directly to them in some public manner. Bear in mind that these are just a sampling, and not all, of the questions that have been asked by the public and that remained unanswered.

Last week, I suggested via email to Sarah Huntley that it would be useful to create a free-standing website—not one buried in the City's webpage where it's hard to find--where these questions could be posted, along with answers to them. We request that this, or some other easily accessible modality, be implemented immediately and its existence announced and publicized widely so that we may be able not only to view them, but share them more widely among interested members of the public..

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As is clear from the comments below, it is both unrealistic and dangerous for members of the advisory Boards to be forced to act without data they have long been requesting. Further, members of the public, which include many people with high levels of expertise, do not want to wait for answers until June, well after the late April or early May public information/engagement event which staff talked about organizing during the April 3 subcommittee meeting. Answers provided that late in the process provide no opportunity at all for real public engagement, if indeed the answers even are responsive to the questions we have asked.

Please note the comments listed below. They contain good suggestions for improving decision-making processes, public engagement, and information flow. We hope you will heed them. We look forward to your responses!

**Ken Beitel**, to Mayor Weaver: When will City Council respond to the Oct 2019 questions from the Open Space Board of trustees and the public who have asked for a detailed study of an upstream detention and an open space based option (public request is a study of a full Open Space protection for 308 acres of land at CU south) that would be on par with the studies done for the other Variant options; i.e., \$1 to \$3 million in cost and taking 3 months in time to complete. Increasingly it is looking like CU North land swap is the best way to provide 500-year protection for downstream residents and protect the State Natural Area.

The Open Space Board of Trustees is looking for real information and a real study in order to perform an evidence-based cost/benefit analysis comparing an upstream option with

Variant 1. The Board is not looking for a 5-minute power point put together the day before the presentation saying that no upstream study is required because it just won't work.

**Karen Hollweg**: As a member of the Open Space Board of Trustees, I want to have information about and public input regarding proposed environmental impacts to OSMP's State Natural Area during the April-May "Public Information Session/Q&A/Feedback". To enable that, staff will need to provide the public with information about environmental impacts to OSMP land by late April. By getting at least some substantive responses to OSBT's July 2018 and Sept. 2019 questions at the May OSBT meeting, OSBT will be able to base our June 3 discussions and recommendations on both public input and substantive information about plans for flood mitigation and related impacts to OSMP's State Natural Area lands.

**Mike Duffy**: I have a question about when the groundwater modeling results will be available. When will Joe Taddeucci be sharing it? And how?

I also would like for the opportunity for the public to provide input on the Be Heard Boulder platform to be extended beyond the roughly 2 weeks that was proposed on April 3. Further, I ask that the Be Heard conversation not be limited to the scope

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outlined at the Council Study session—that is, only the 100-year flood design--(as [proposed by Rachel Friend])

**Harlin Savage:** I want to know what studies the City is planning in addition to the groundwater study. Will the public have access to the result of the groundwater study before decisions are made this summer? Is the City committed to doing a traffic study? When will that happen? Development will have a huge impact on transit, affecting specific local neighborhoods and basically the entire city.

I would like for Council to direct staff to assess the costs and benefits (long-term and short-term) of the flood mitigation project.

I also would like to know what the logic is of approving a flood concept and annexation before doing an urban services study at the Planning Reserve. If Council sticks to its current timeline and approves annexation and a concept design for flood mitigation, then what makes Council believe that CU would still consider a land swap? Save South Boulder would like to see the services study for the use of the Planning Reserve be expedited and used to evaluate it as a possible alternative site for CU's proposed campus.

**Margaret LeCompte—Save South Boulder:** I am concerned with what seems to be an irregularity in how the level of flood protection was changed from the 500-year standard which City Council adopted in a vote almost two years ago and the February 25<sup>th</sup> Study Session direction to Staff that Utilities should only focus on a 100-year flood. Two different standards and two different procedures were used in these decisions. A 500-year flood was approved by vote of Council because it best protected lives and safety, and conformed to the Guiding Principles of the BVCP. However, the change to a 100-year design was made in a Study Session, not a Council vote, and was justified on the basis of its supposed more limited impact on the environment and assertions that CDOT would not be likely to approve a 500-year or even a 200-year design. No data backed up these assertions. No public input has been allowed on this change. Staff now emphasize that this IS the plan and suggest that no other will be discussed. These processes don't seem to be either proper or appropriately transparent and open.

**John Gerstle:** With regard to the Planning Board meeting on May 7. I am concerned about the following: 1. That the Planning Board considerations should allow for the fullest possible public input on the matters it is considering, and in arranging its agenda for consideration of CU-South-related matters, PB should handle it as an agenda item which explicitly seeks public comment prior to finalization of PB recommendations and decisions.

2, That City Council had made a formal and explicit decision after a lengthy formal process regarding the level of protection to be provided by the SBC flood mitigation efforts, and that any change to that decision should also be done as part of a formal process which includes public input and careful consideration of all available relevant information. That process should include efforts to develop necessary information to ensure the best possible decision.

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**Ben Binder:** I second John Gerstle's comment. There should be a public hearing [on the flood size used for design], not just public comment, which is a period when people can respond on all kinds of topics, not just the specific agenda item. Further, I want to know from the Utilities staff if the size of the detention pond in the 100-year flood design would be adequate to protect neighborhoods downstream in a flood event such as the 2013 storm.

**Jim McMillan:** It would be very helpful if there was a timeline or schedule posted showing both when the data needed for all these decisions will be available, and the dates when the boards and public meetings will take place. This schedule needs to be posted first, so the data can be used to inform decisions before they have to be made. Getting the data just before, or even at the time of a decision-making meeting doesn't provide enough time for evidence-based decisions.

**Gordon McCurry:** I am a member of the Water Resources Advisory Board but speaking here on my own behalf. In our April 20 WRAB meeting, we will have to make some very big decisions about flood mitigation. But it is not clear that we will have the information we need by that time from Utilities and other departments to make those decisions.

**Curt Brown**—Comment directed to city staff: 1) it is critical to get staff reports and technical studies with as much lead time as possible, so that the public and boards have sufficient time to review them and develop relevant questions for staff, and (2) it is also critical, with so many issues in play, and such limited bandwidth for public engagement, that we have a clear and detailed road map of products and decision points for the public. Otherwise, the public is left to assume that they must provide comments on every issue at every meeting, which creates chaos.

**Not Quoted Here:** Three other members of the public thanked the staff for working so hard to make meetings accessible with virtual and other platforms.

Respectfully yours,

Margaret LeCompte  
290 Pawnee Drive  
Boulder CO 80303

The following letter was sent by members of the public to City Council ([council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)), the Open Space Board of Trustees ([OSBT-Web@bouldercolorado.gov](mailto:OSBT-Web@bouldercolorado.gov)), and [meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com). A list of senders follows the message.

### External Sender

Honorable Mayor Sam Weaver and City Council Members,

Thank you in advance for voting to create CU North and the proposed Meadowlark Open Space at CU South.

Why am I making this important request of you?

It is because protecting people and key wetlands habitat **can be done better, cheaper and faster if the Meadowlark Open Space and CU North are created by your vote.**

Here is what I mean.

#### **BETTER - *Creation of CU North and the Meadowlark Open Space means:***

- protection of environmentally sensitive wetlands and tall grass prairie meadows at the new Meadowlark Open Space and adjacent S. Boulder Creek State Natural Area.
- Safer flood control that provides resilient, ecosystem friendly and climate change protection. **Natural wetlands, ponds and low earthen berms will be used instead of a massive 30 foot tall concrete dam scraped to bedrock built in a protected state natural area.**

**If climate change worsens, it will be cost effective to upgrade an ecosystem based flood control system that is built for 100 year flood protection.**

But, a monolithic 30 foot tall, half mile long concrete dam that provides only 100 year flood control will likely be too expensive to ever change. As climate change worsens, a fixed concrete dam puts downstream lives at risk in the short and long term.

Houston has had three 500 year floods in the last three years. We need flexibility to increase strength of flood control protection in the future.

- Being built on dry land, CU North will feature ample affordable housing and modern classroom buildings.

#### **CHEAPER**

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

- **Cost: \$66 million- CU South** - is the taxpayer cost to protect downstream neighbors **AND** University of Colorado parking lots and buildings if built in the CU South wetlands and flood plain
- **Cost: \$22 million - CU North + Meadowlark Open Space** - is the cost for taxpayers to rigorously protect downstream neighbors and create natural flood control that enhances habitat value within the new Meadowlark Open Space.

The proposed Boulder City Council land swap will provide Planning Reserve land to the University of Colorado, at no charge, for CU North. It's a win-win.

**FASTER**

- *The people of Boulder love our Open Space and protected State Natural Areas.*

*It is possible that construction of a massive concrete dam in critical wildlife habitat protected by Endangered Species Legislation may be delayed by years by potential taxpayer, conservation and community protests, national documentary and news media attention and potential legal considerations.*

- **However, a Yes vote for CU North and the Meadowlark Open Space brings the community together and provides the highest level of flood protection.**

**City Council and city engineers will have the full support of community and environment groups to rapidly implement safe, effective wetlands ecosystem based flood control that will rigorously protect downstream neighbors.**

**Volunteers, families and young people from community and environment groups will work together with the City in wetlands restoration projects at the new Meadowlark Open Space and celebrate our success together. The community will be healed and whole once more.**

Mayor Weaver and City Council, thank you sincerely for taking action in April 2020 that will protect our community and our environment.

And thank you for voting Yes on Tues May 19, 2020 to create CU North and the remarkable Meadowlark Open Space.

With deep appreciation,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**1. Jennifer Murnan**

**From:** Jennifer Murnan <freesekou@gmail.com>  
**Sent:** Tuesday, March 31, 2020 8:57 AM  
**Subject:** Meadowlark Openspace

**2. Sally Anderson**

**From:** Sally Anderson <sunrisesal@yahoo.com>  
**Sent:** Tuesday, March 31, 2020 8:48 AM  
**Subject:** Meadowlark Open Space

**3. Michael Mitchell**

**7271 Spring Drive, Boulder, 80303**

**From:** Michael Mitchell <mbmmitch@gmail.com>  
**Sent:** Tuesday, March 31, 2020 8:31 AM  
**Subject:** Meadowlark Open Space

**4. Angela Green**

**Boulder HomeOwner**

**From:** Angela <angelica1951@earthlink.net>  
**Sent:** Tuesday, March 31, 2020 7:49 AM  
**Subject:** MeadowLark Open Space YES YES YES

**5. Liz Geronime**

**From:** LIZ GERONIME <lgeronime@hotmail.com>  
**Sent:** Tuesday, March 31, 2020 7:23 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Meadowlark Open Space

**6. Michell Hayward**

**From:** Michelle Hayward <michellehayward1313@gmail.com>  
**Sent:** Monday, March 30, 2020 11:42 PM  
**Subject:** In support of Meadowlark Open Space at CU South

**7. Jacob Marienthal**

**1385 Brown Circle, Boulder, CO 80305**

**From:** Jacob Marienthal <jmarienthal@gmail.com>  
**Sent:** Monday, March 30, 2020 11:32 PM  
**Subject:** CU North is better than CU South

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**8. Marry Shabbott**

**From:** mary shabbott <mshabbott@sbcglobal.net>  
**Sent:** Monday, March 30, 2020 10:06 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Saving what can not be replaced

**9. Lyndi Rohde**

**From:** Lyndi Rohde <lyndirohde@gmail.com>  
**Sent:** Monday, March 30, 2020 8:59 PM  
**To:** Council <council@bouldercolorado.gov>; web@bouldercolorado.gov;  
meadowlarkopenspace@gmail.com  
**Subject:** Meadowlark Open Space at CU South

**10. Jennifer Wehinger**

**From:** Jenny Wehinger <jenwehinger@gmail.com>  
**Sent:** Monday, March 30, 2020 8:53 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Create CU North and keep Meadowlark Open Space

**11. Dorian Merrill**

**From:** Dorian Merrill <dorian.merrill@gmail.com>  
**Sent:** Monday, March 30, 2020 8:28 PM  
**Subject:** Meadowlark OS - Council Vote

**12. Tara Dubarr**

**5402 Blackhawk Rd, Boulder, CO 80303**

**From:** Tara Dubarr <taradubarr12@gmail.com>  
**Sent:** Monday, March 30, 2020 8:14 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU North and Meadowlark Open Space

**13. Martina Bramberger**

**From:** Martina Bramberger <m.bramberger@gmx.de>  
**Sent:** Monday, March 30, 2020 8:11 PM  
**Subject:** Creation of CU North and the Meadowlark Open Space

**14. Matthew Cox**  
**Louisville, CO**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Matthew Cox <2matthewcox@gmail.com>  
**Sent:** Monday, March 30, 2020 8:06 PM  
**Subject:** Proposed Meadowlark Open Space

**15. Janet Robinson**

**From:** Janet Robinson <bocacatlover@gmail.com>  
**Sent:** Monday, March 30, 2020 7:37 PM  
**Subject:** Proposed Meadowlark Open Space

**16. Lamya Deeb**

**Niwot, CO**

**From:** Lamya Deeb <ldeebo@ecentral.com>  
**Sent:** Monday, March 30, 2020 7:27 PM  
**Subject:** Meadowlark Open Space

**17. Bonnie Taxman**

**From:** Bonnie Taxman <pabodare@comcast.net>  
**Sent:** Monday, March 30, 2020 8:25 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Meadowlark Open space

**18. Rev. Karin Kilpatric**  
**245 Manhattan Dr.**

**From:** Karin Kilpatric <karinkilpatric@gmail.com>  
**Sent:** Monday, March 30, 2020 7:19 AM  
**Subject:** from Karin Kilpatric on CuNorth and meadowlark

**19. Sam Raymer**

**From:** SkyGodSam <skygodsam@gmail.com>  
**Sent:** Sunday, March 29, 2020 9:32 PM  
**Subject:** Proposed Meadowland Open Space

**20. Kassandra Brown**

**From:** Kassandra Brown <kassandra@coastside.net>  
**Sent:** Sunday, March 29, 2020 8:19 PM  
**Subject:** Protect meadowlark open space, please

**21. Babette Barone**  
**303-589-6358**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** blbarone116@gmail.com <blbarone116@gmail.com>  
**Sent:** Sunday, March 29, 2020 5:08 PM  
**Subject:** FW: Awesome People Doing Awesome Things!!!!!!! list: "Can You Take 2 Minutes to help Create the Meadowlark Open Space?"

**22. Hillary Selfridge**

**From:** Hilary Selfridge <hiself2u@hotmail.com>  
**Sent:** Sunday, March 29, 2020 4:39 PM  
**Subject:** Vote CU North and the proposed Meadowlark Open Space at CU South

**23. Kyle Brennis**

**From:** Kyle San <brenniskw@gmail.com>  
**Sent:** Sunday, March 29, 2020 3:20 PM  
**Subject:** No! to destroying wetlands in Boulder County

**24. Ellie Hands**

**From:** Ellie Hands <elliehands@gmail.com>  
**Sent:** Sunday, March 29, 2020 2:57 PM  
**Subject:** Please create Meadowlark Open Space

**25. Marella M. Colyvas**

**From:** Marella Colyvas <marcel2124@gmail.com>  
**Sent:** Sunday, March 29, 2020 2:21 PM  
**Subject:** Proposed Meadowlark Open Space at CU South

**26. Anna Schreiner**

**From:** Anna S <anyaras@gmail.com>  
**Sent:** Sunday, March 29, 2020 1:56 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Open space

**27. Stacey Gurr**

**From:** Stacey Gurr <sngurr@gmail.com>  
**Sent:** Sunday, March 29, 2020 1:45 PM  
**Subject:**

**28. Sarah Craig**

**From:** sarahcraig815@gmail.com  
**Sent:** Tuesday, March 31, 2020 1:45 PM  
**Subject:** Proposed Meadowlark Open Space

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**29. Chris Hendricks**

**From:** Chris Hendricks <medic2033@hotmail.com>  
**Sent:** Tuesday, March 31, 2020 2:50 PM  
**Subject:** Meadowlark open space

**30. Lauren Malesenka**

**From:** LAUREN MALESENKA <lmalesenka@comcast.net>  
**Sent:** Tuesday, March 31, 2020 4:59 PM  
**Subject:** Meadowlark Open Space

**31. Nicole Reiman**

**From:** Nicole Reiman <coley1836@gmail.com>  
**Sent:** Friday, April 3, 2020 1:18 PM  
**Subject:** Meadowlark Open Space

**32. Andrew Kies**

**From:** Andrew Kies <pulekies@gmail.com>  
**Sent:** Tuesday, April 14, 2020 9:46 AM  
**Subject:**

**33. James M.Young**

**From:** J Y <jimyoungbc03@gmail.com>  
**Sent:** Friday, April 17, 2020 8:54 AM  
**Subject:** Meadowlark Open Space

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Jim Disinger <jim.disinger@gmail.com>

Sent: Monday, March 30, 2020 9:42 PM

To: Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

Subject: South Boulder Creek Floodplain

External Sender

I think we can all agree that the South Boulder Creek floodplain is completely unsuitable for development by the University and should have been immediately restored to a functional wetland when gravel mining ceased.

As we have already exceeded our population cap for the city, we certainly don't need any more housing or University facilities anywhere.

Let's oppose CU South without considering any land swap and leave it at that.

Jim D

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ryan Lillis <ryan.lillis@gmail.com>  
**Sent:** Monday, March 30, 2020 9:20 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Create the Meadowlark Open Space

**External Sender**

Honorable Open Space Board of Trustees,

Please vote **No** to disposing of 5 acres of critical Preble's Mouse and perhaps the richest density of Ute's Ladies Tresses wetlands habitat in all of Colorado. This habitat is an essential part of the South Boulder Creek State Natural Area and must be protected for future generations.

**Two alternatives have been proposed** that will preserve the State Natural Area and allow CU to achieve their business expansion goals.

1) CU North. The City of Boulder has proposed a land swap.

2) Or, a CU Eco Village with underground parking could be built on the footprint of the existing East Campus.

With Alternative 1 or 2 - a key benefit is that there is no longer a need to bulldoze wetlands and build a 30 foot tall - half mile long concrete dam scraped to bedrock - starting in critical Preble's Jumping Mouse habitat that is protected by Federal Endangered Species Legislation.

Additionally, rejection of disposal of State Natural Area land facilitates the creation of the Meadowlark Open Space at CU South.

Open space at CU South accomplishes 500 Year Flood Protection at 1/3 the cost and 5 times the safety. CU is proposing only 100 year protection in order to maximize buildable land.

Carefully engineered restoration of wetlands and meadow habitat, 40 new wetland ponds and low earthen berms at the Meadowlark Open Space will provide better, faster to build and more effective flood control for downstream communities that urgently need protection.

Without having to protect CU development in the floodplain, safeguarding the lives and homes of the communities downstream can happen quickly and provide effective 500 year flood protection.

Estimated cost of the Upstream/Open Space option is only \$22 million and restores a significant amount of wetlands habitat. Flood control via the Upstream/Open Space Option will enhance and nurture the ecology of the South Boulder Creek State Natural area.

Thank you for having the courage to take the right course of action for the State Natural Area and the protection of the community.

With deep respect,  
Ryan Lillis

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

South Boulder Resident

**== For more information please visit [www.MeadowlarkOpenSpace.org](http://www.MeadowlarkOpenSpace.org) ==**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Natasha Z <natashawettstein@gmail.com>

**Sent:** Sunday, March 29, 2020 3:08 PM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Subject:** Meadowlark Open Space

**External Sender**

Honorable Mayor & City council members,

As a Boulderite and CU Boulder alumni (graduated 2015), I would be very disappointed to hear that CU has expanded to cover the natural wetlands at Meadowlark Open Space. There are alternatives to expanding the campus that do not include destroying a place of such high biodiversity. Please go with the alternative!

I came to Boulder because it has a high value for preserving nature, and that is something special in these times when, as a general trend, humans seem to be disregarding how much nature gives to us. I hope you all will continue to make decisions that support all life, not just those that lead to economic gain.

Thanks for your time,

--

Natasha Wettstein

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** ellen blackmore <ellenblackmore@hotmail.com>

**Sent:** Monday, March 16, 2020 11:56 AM

**To:** OSBT-Web <OSBT-Web@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** PLEASE VOTE NO

**External Sender**

=====  
-----  
Send to: [OSBT-Web@bouldercolorado.gov](mailto:OSBT-Web@bouldercolorado.gov), [council@bouldercolorado.gov](mailto:council@bouldercolorado.gov),  
[meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com)

Honorable Open Space Board of Trustees,

Did you Know?

The University of Colorado wants Boulder taxpayers  
to pay \$66 million dollars to build a dam  
on critical wildlife and rare orchid habitat in a State Natural area  
so that CU Boulder  
can build in a flood plain?

Please say No to disposing of 5 acres of critical Preble's Mouse and perhaps the richest  
density of Ute's Ladies Tresses wetlands habitat in all of Colorado. This habitat is an  
essential part of the South Boulder Creek State Natural Area and must be protected for  
future generations.

Two alternatives have been proposed that will preserve the State Natural Area and  
allow CU to achieve their business expansion goals.

1) CU North. The City of Boulder has proposed a land swap.

2) Or, a CU Eco Village with underground parking could be built on the footprint of the  
existing East Campus.

With Alternative 1 or 2 - a key benefit is that there is no longer a need to bulldoze  
wetlands and build a 30 foot tall - half mile long concrete dam scraped to bedrock -  
starting in critical Preble's Jumping Mouse habitat that is protected by Federal  
Endangered Species Legislation.

Additionally, rejection of disposal of State Natural Area land facilitates the creation of  
the Meadowlark Open Space at CU South.

Open space at CU South accomplishes 500 Year Flood Protection at 1/3 the cost and 5  
times the safety. CU is proposing only 100 year protection in order to maximize  
buildable land.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Carefully engineered restoration of wetlands and meadow habitat, 40 new wetland ponds and low earthen berms at the Meadowlark Open Space will provide better, faster to build and more effective flood control for downstream communities that urgently need protection.

Without having to protect CU development in the floodplain, safeguarding the lives and homes of the communities downstream can happen quickly and provide effective 500 year flood protection.

Estimated cost of the Upstream/Open Space option is only \$22 million and restores a significant amount of wetlands habitat. Flood control via the Upstream/Open Space Option will enhance and nurture the ecology of the South Boulder Creek State Natural area.

Thank you for having the courage to take the right course of action for the State Natural Area and the protection of the community.

Ellen Blackmore  
80301

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** KATHLEEN SPENCER JOHNS <kathsj@msn.com>

**Sent:** Sunday, March 1, 2020 12:33 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** No to land swap

**External Sender**

Not at all into the proposed land swap where CU that would exchange CU land in south boulder for the land behind gateway off of 36 to build CU student housing. Please respect the land and the people of North Boulder.

Kathleen Spencer Johns

1345 Linden Ave

Boulder, CO 80304

303-440-9244

[www.kathleenspencerjohns.com](http://www.kathleenspencerjohns.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Elmar Dornberger <elmar@hemisphereconsulting.com>  
**Sent:** Friday, February 28, 2020 2:45 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Thank you for flood mitigation

**External Sender**

Dear City Council

I have been waiting for 6 years for a decision to move forward with this project. I want to thank you for starting to ease my nervous system. Maybe soon I can sleep well at night again when it rains or when we have big snow storms.

Thank you for choosing Variant 1 / 100 year design.

I would also like to encourage you to move forward with annexation agreements.

You are indeed the best and most proactive council we have had in a long, long time.

Thank you with appreciation from my entire family.

Yours,  
Elmar Dornberger



Phone 303 818 5969

<http://www.hemisphereconsulting.com>

*"When you hold on to your history, you do it at the expense of your destiny."* - Bishop T.D. Jakes

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: ria mullins <riamullins@hotmail.com>  
Sent: Friday, February 28, 2020 2:42 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South land swap to NOBO

External Sender

I am opposed to this land swap for various reasons. I think the University should be a contained entity. It is already a very large school. How much larger does it need to get? It is currently an asset to the town, please don't make the mistake of making too much of a good thing into a bad thing.

Maria Mullins  
Alpine Dr

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Thursday, February 27, 2020 2:40 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** False and misleading statements by Frances Draper

**External Sender**

Dear City Councilmembers,

At your February 25, 2020 Study Session, CU representative Frances Draper addressed what she referred to as "Circulating Misconceptions". She stated that CU's levee did not add to the flooding in 2013.



In fact, the county-approved reclamation plan for the Flatiron gravel pit, which CU now calls CU South, specified large ponds and riparian areas which would have mitigated downstream flooding, and the reclamation plan did not include a permanent 6,000' earthen levee to divert floodwaters around the gravel pit and onto neighboring properties.

The reason engineers may have determined that the levee did not add to the flooding is because CU also eliminated the ponds and riparian areas in its gravel pit and contoured the land in the shape of a smooth bathtub sloping towards the intersection of Table Mesa Drive and US 36. So if the levee was eliminated, the floodwaters would have had a straight shot into the neighborhoods.

So it was not the levee, in and of itself, that caused the flooding, but the combination of CU's eliminating the large ponds and riparian areas and CU's surrounding the gravel pit with the levee which increased the flooding.

But CU's most egregious offense at the time was refusing to cooperate with the city to design a reclamation plan that would address known flooding problems. CU was only interested in revising the reclamation plan to maximize the future development potential of its gravel pit and refused to cooperate with the city.

Any 10 year old child would have the common sense to realize that CU's elimination of the large ponds, addition of the levee to divert floodwaters around its gravel pit, and refusal to cooperate with the city to design a reclamation plan to mitigate known flooding problems would increase flooding in 2013.

CU South Annexation Application (LUR2019-00010)  
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It would be nice if CU did the honorable thing and owned up to problems it created and expressed some contrition for its harmful selfish acts. But like unrepentant criminals, CU refuses to do so.

One might forgive Frances Draper's misleading statement if she was ignorant of the facts.

But on July 16, 2020 I sent an email to CU President Mark Kennedy, in which I stated:

*CU was responsible for gutting the County's original gravel pit reclamation plan by removing ponds and riparian areas, which would have mitigated downstream flooding, and instead contoured the property in the shape of a giant bathtub sloping in a northerly direction to the intersection of Table Mesa Drive and US-36. CU's revisions also added a 6,000' earthen levee to divert floodwaters around the excavated gravel pit onto neighboring properties.*

*CU's 1997 revisions to the original reclamation plan, and CU's refusal to cooperate with the city to design a reclamation plan that would address known flooding problems significantly contributed to the 2013 flood's extensive damage to the Frasier Meadows Retirement Community and to hundreds of Boulder homes.*

**Frances Draper responded to my letter stating:**

***Further, none of the university's actions increased the flooding in 2013, a fact that has been corroborated by the city's own engineer.***

**To educate Ms. Draper about the facts, I sent her the following letter and documents.**

Dear Ms. Draper,  
Thank you for your response to my recent letter to CU President Mark Kennedy.

All statements in my letter to President Kennedy are supported by facts and documents.

In the second paragraph of your letter you state:

CU South Annexation Application (LUR2019-00010)  
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***Further, none of the university's actions increased the flooding in 2013, a fact that has been corroborated by the city's own engineer.***

I would like to make you aware of the fact that when CU acquired the flood prone Flatiron gravel pit, the gravel operation was required to be reclaimed per the following reclamation plan which was a condition of the gravel permit approved by the Boulder County Commissioners. The reclamation plan included large ponds, which would absorb floodwaters, and the reclamation plan did NOT include a 6,000' earthen levee around the gravel pit to divert floodwaters onto neighboring properties.



I would also like to make you aware of the fact that in 1997, contrary to the wishes of both the City of Boulder and Boulder County, the gravel pit reclamation plan was revised by the State Mine Land Reclamation Board to eliminate most of the ponds and to add a 6,000' earthen levee around the gravel pit to divert floodwaters onto neighboring properties.

In one of your of your publications, you try to pin the berm (which is not a "flood control berm", since its only purpose is to divert floodwaters around CU's depleted gravel pit) and the reclamation plan revisions on the seller.



But the following Letter of Agreement memorialized the fact that CU paid its consultants to make recommendations to the Flatiron Companies and Western Mobile to revise the final site reclamation plan to ***accommodate maximum potential development.***

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

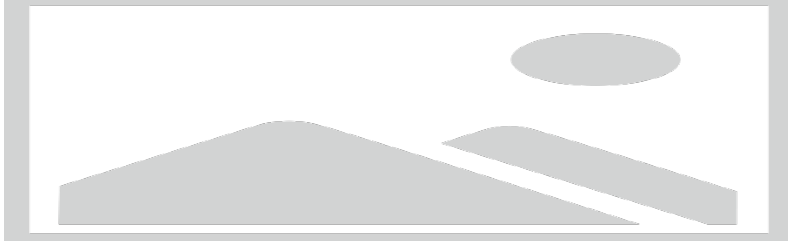


Furthermore, as evidenced by the following letter from CU Chancellor Richard Byyny, CU lobbied the State Mine Land Reclamation Board to adopt the amendments that would remove the ponds, add the berm around the property, and gut the original environmentally sound reclamation plan. Without CU's political power, there no way the State Mine Land Reclamation Board would have accepted revisions that were strongly opposed by both the City and the County of Boulder.



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

In a November 17, 1997 memorandum to Regent Robert Sievers, CU's late Gustavson Distinguished Professor Emeritus of Geography Dr. Gilbert White, the ***Father of Floodplain Management***, wrote:



The September 2013 flood proved Dr. White correct.

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**So one can only conclude that Ms. Draper knowingly spun the story that the levee did not add to the flooding in 2013 to misinform the City Council. You would be wise to take all of Ms. Draper's statements with a large grain of salt.**

Sincerely yours,  
Ben Binder  
(303) 499-2569  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Michelle Trudgeon <[mtrudgeon@comcast.net](mailto:mtrudgeon@comcast.net)>

**Sent:** Wednesday, February 26, 2020 3:39 PM

**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** Fwd: Land Swap CU Housing in NoBo

**External Sender**

FYI - please read below as I'm against more development in this section of North Boulder.....

Thank you,  
Michelle

Begin forwarded message:

**From:** Michelle Trudgeon <[mtrudgeon@comcast.net](mailto:mtrudgeon@comcast.net)>

**Subject:** Land Swap CU Housing in NoBo

**Date:** February 26, 2020 at 3:34:57 PM MST

**To:** [yatesb@bouldercolorado.gov](mailto:yatesb@bouldercolorado.gov)

Hi Bob,

I just heard a rumbling today that Council is considering adding CU housing near or at the intersection of 28th / Jay Rd. Do any of you council members LIVE in that vicinity? If you did, you would realize how over crowded it already is at that intersection and how many accidents occur etc. With the added development at 47th/Diagonal which is just south of Jay, I'm telling you, North Boulder cannot take on more. It can take up to 12-13 minutes to travel 1.5 miles by car now. When we moved in, there was still horse property around us and fields and VIEWS. These are all slowly disappearing and I'm not happy about it.

I strongly oppose the addition of CU housing in North Boulder. If you want or need something to do - add some sidewalks or safe passage areas along Jay Rd... that would make sense for those of us fearful to ride or walk on Jay Rd. Too many deaths.

I hear the sentiment of the people in our community and am surprised there are not more people moving out. People are so frustrated with decisions being made by Council. I'd appreciate your consideration on this.

Thank you,  
Michelle

Tax paying, law abiding, City of Boulder resident

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Mark Kloster <[deadwait@comcast.net](mailto:deadwait@comcast.net)>

**Sent:** Wednesday, February 26, 2020 1:46 PM

**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** CU Expansion

**External Sender**

Greetings council members-

It was with great disappointment that I read the Camera article this morning, outlining the plans being developed for the gravel pit property owned by CU. One cannot fault the public for being skeptical about this situation given the various actors and uncertainties, not to mention the ongoing municipal utility saga. Money is tight and we get to bankroll the CU growth model anyhow. The public benefits are few unless the budget model 100 year flood protection qualifies, of interest to me since I live in the flood plain.

A sad day, would that such capitulation were replaced instead by a valiant effort in the spirit of the old days. Back then doing what was right seemed to come more easily, without the phony appearances of negotiated settlement and compromise, and a trail was left for others to see how it is that great things can get done. Nobody I know favors any housing development on the CU property. Most are cringing as this latest debacle starts to unfold. Imagine if we could add the tale of how the CU property was saved from real estate development to the list of outstanding historical accomplishments by the city.

This is a one of a kind moment. We get one chance. Get this one right. CU will be back at the table soon enough, looking for more.

Respectfully,

Mark Kloster  
5071 Euclid Ave.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Richard Harris <richard3harris@gmail.com>

**Sent:** Wednesday, February 26, 2020 10:16 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Fwd: Undeliverable: Ben Binder talk on CU South and Souther Boulder Creek Flood Mitigation

**External Sender**

Dear Council Members,

Without discussing my own opinions I want to tell you how impressed I was last night with your thoughtful discussion of CU South flood mitigation and annexation. Thanks. I look forward to the public hearing that will eventually happen.

In the meantime if you haven't seen Ben Binder's talk that I mentioned a couple of days ago, there's now an easier way to find it.

Go to [planboulder.org](http://planboulder.org) and click on News. You'll find the talk as the second item on the right. (The first one is PLAN-Boulder's Position on CU South. I'm sure you're eager to see that too!)

The talk is now divided into two parts::

The talk itself for 56 minutes;

The questions and answers for 30 minutes.

If you want to watch it on your big screen TV, go to YouTube and search on "BEN BINDER" or "CU SOUTH".

Thanks.

Dick Harris

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mahon, Elizabeth <ELIZABETH.MAHON@UCDENVER.EDU>

**Sent:** Tuesday, February 25, 2020 11:34 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South Study Session

**External Sender**

Thank you for your work on the City Council. I have been following the CU South discussions for 4+ years and it is complex and full of pluses and minuses for each decision made. I attended part of the 2/25 meeting in person and the rest online. Here are my two requests:

1. For the annexation discussion, transportation is a big issue for me.
  - Can CU consider an alternative transportation community – shared cars, bikes, scooters, buses, etc.? This is forward thinking and aligns with our climate change goals. Adding more vehicles to 93 and Table Mesa is a bad idea.
  - Every other entity submits a site plan with annexation. It is reasonable to ask that of CU and CU has the resources to provide that plan. Please do not annex without a site plan.
  - CU added the request for access through Highway 93. In their early development plans, access to 93 was not part of the plan. Why is that so important now?
2. There is a lot of heart break that goes along with decisions to build a damn on the CU property and to potentially develop it for housing. There was recently an editorial in the Boulder Camera about a couple that was fed up with Boulder but they could not move because they were so in love with the land. That love of land is what it is like for many with the CU South property. In the presentation tonight, the slide of the natural habitat and species that will be disrupted by the damn and potential development plan is sad. You cannot quantify the heartbreak of loss of land. Maybe the loss is inevitable, maybe not. We are balancing the needs our community, but there is a lot of pain in the process. Please recognize that heartbreak.

I noticed that certain people dominated the conversation and used charged language to make points. I would like to hear the voices of all people on the council. If you are one of the more quiet ones on the council, please speak up. I probably voted for you.

Thank you for your service to our community,  
Liz Mahon  
1280 Chambers Drive  
Boulder Colorado 80305

Sent from [Mail](#) for Windows 10

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Nicole Speer <nicole.speer@gmail.com>

**Sent:** Tuesday, February 25, 2020 8:51 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South open space -- alternative perspective from a South Creek 7 homeowner

**External Sender**

Dear Council,

I am a homeowner in the South Creek 7 neighborhood (SC7). I have lived in Boulder for nearly 15 years, as a renter for 4 years and a homeowner in SC7 for nearly 11 years. I work at the University of Colorado Boulder, and I want to be very clear that my views are my own. I write to you as a resident and homeowner of Boulder's SC7 neighborhood, to offer an alternative perspective to development on the CU South land than that put forth by a vocal group in my neighborhood. I am incredibly dismayed by the talk of a land swap, which would force the issues we have been dealing with in our neighborhood onto our North Boulder neighbors, and send us back to the beginning of a process that has already taken almost 7 years.

Those of us who were fortunate enough to buy homes here in Boulder 10+ years ago have seen our home values double – or more – in the past decade, through very little effort on our part. It is sheer luck and a lot of privilege that my family purchased its home in the SouthCreek 7 neighborhood when it was the last place to find a house under \$400,000 in the city. My family has enjoyed walking, riding our bikes, and walking our dogs in the CU South campus, and we are grateful for its presence and the care and attention to open space in the city that makes our city such a marvelous place to live.

While it is common for my fellow Boulder homeowners to point to our open space and access to undeveloped land as the shining beacon that draws visitors and new residents to our city, and that has led to the associated rise in the value of our homes, our open space is only one of many factors that make our city so desirable. It is critical that Council take into account this broader perspective in considering CU's future development on the CU South land.

Our schools are exceptional, and a draw for new families moving to the area, though our teachers and school administrators cannot afford to live here. Our restaurant scene draws residents, tourists, and visitors and generates revenue for our city every day, though our restaurant workers cannot afford to live here. Our parks and open spaces and roads and other public services are built, improved, and maintained by workers who cannot afford to live here. Events at the University draw people from all over the state, and the University's reputation as a top-notch research institution draws brilliant scholars and students from all over the world, but many University staff, faculty, and students cannot afford to live here.

Boulder is the exceptional place it is not just because of our access to undeveloped land. It is exceptional in large part because of the work of those who are employed in our city but cannot afford to live here. By prioritizing homeowners' concerns about their enjoyment of open space and recreation over the lives and livelihoods of many of those who work in and contribute to our community, homeowners like me exploit our city's workforce. And I assume it goes without saying that much of the workers who cannot afford to live here are already struggling under institutional, systemic, and individual racism.

When Boulder's primarily white homeowners profit off of the labor of our city's workforce without enabling our workforce to join our community, we perpetuate centuries of exploitation of minoritized

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

groups. The audacity -- or rather, the caucacity -- of Boulder homeowners' willingness to profit on the backs of a workforce it will not house is stunning, and not at all in line with our city's recent commitment to equity.

My South Boulder neighborhood has quite a few renters, and recently a large number of lower income residents. As far as I can tell from the lack of data on these neighbors' attitudes toward CU's proposed development, renters and low income residents are not represented in the South Boulder opposition to development on the CU South open space.

Council, many of my lower income neighbors and coworkers are struggling. They are trying to feed and house and clothe and care for themselves and their families while bearing the burden of supporting a community that is not willing to support them. Of course CU South development should protect our neighborhood from flooding. Of course we should consider how to minimize traffic impact. Of course we should consider the environmental impact of development. Of course we should identify ways to enable the City and University to partner in using some of this space for recreation. But we cannot let the views of a handful of fearful, vocal homeowners sway our better judgment and our highest aspirations as a community. If we are truly concerned about equity, we must ensure we are facilitating rather than preventing Boulder employers' attempts to house their workforce. To do otherwise perpetuates our city's racist history and deepens the inequities in our community.

I encourage you to seek out those of us whose voices are not being heard in this debate, and who believe it is possible to create CU South housing, protect our neighborhood from floods, and maintain the recreation area we enjoy as CU South neighbors. I work full time so that my family can afford to live in, be educated in, and enjoy Boulder. In the little spare time I have I am committed to improving our community: I sit on the board of a Boulder non-profit, I volunteer at my children's Boulder schools, and at my Boulder church. The time I have taken to write to you tonight was my only free time for the next week. To create this space in my schedule I gave my 10 and 12 year old children frozen dinners and had them put themselves to bed. Those of us whose views are different from those with the time and resources to advocate loudly and often for their views often go unheard because we are busy contributing to and taking care of our community. We do not have the time or resources to seek you out frequently. As you consider the plans for the CU South land, I urge you to pay attention to the needs of our city's workers and the organizations that employ them, and not just the preferences of our wealthy or retired homeowners and open space advocates. My coworkers, and all of the city's nonprofit and lower income workers, deserve to take advantage of the benefits we bring to our city.

Thank you for your time, your consideration, and your service to our city.

Sincerely,

Nicole Speer

Boulder resident

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Rich Fey <r\_fey@yahoo.com>

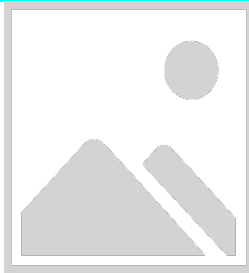
**Sent:** Tuesday, February 25, 2020 5:46 PM

**To:** Council <council@bouldercolorado.gov>; Brautigam, Jane <BrautigamJ@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Taddeucci, Joe <TaddeucciJ@bouldercolorado.gov>; Coleman, Brandon <ColemanB@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Cc:** Patrick.orourke@cu.edu; chance.hall@cu.edu; heidi.ganahl@cu.edu; jack.kroll@cu.edu; glen.gallegos@cu.edu; irene.griego@cu.edu; sue.sharkey@cu.edu; john.carson@cu.edu; linda.shoemaker@cu.edu; leslie.smith@cu.edu

**Subject:** CU South / South Creek Seven HOA - support for land swap (letter attachment)

**External Sender**



**South Creek Seven Homeowners Association**

P.O. Box 3421

Boulder, Colorado 80307

Phone: (303) 505-8153

Email: [southcreek7hoa@gmail.com](mailto:southcreek7hoa@gmail.com)

February 25, 2020

**Boulder City Council**

1777 Broadway

Boulder, CO 80302

Dear City Council Members,

The City of Boulder's beautiful natural setting is at the root of its community identity and values. We are writing this letter to convey our grave concerns about the future of the South Boulder Creek Floodplain, the Tantra Park neighborhood where we live and the surrounding neighborhoods.

We are deeply concerned about CU's desire to develop a massive new campus on the 308 acres of floodplain that it currently owns which, in our qualified assessment, would:

1. damage and possibly destroy native habitat and wildlife
2. jeopardize adjacent City and County-owned Open Space; and
3. have enormously detrimental effects on our residential community

For the past two plus years, we have watched a tragedy unfold, as the Boulder City Council has tried to meet a very legitimate need for flood mitigation on that site while, at the same time, CU has demanded maximum development without effectively solving for the concerns of many as to

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

the impact that development would have to surrounding neighborhoods including Tantra Park, Majestic Heights, Martin Acres and others.

As the City Council works to approve a flood mitigation plan and, while under pressure from CU, concurrently works on the University's annexation request, we are writing you to petition for a halt to this misguided and likely disastrous initiative. As an alternative, we propose and strongly urge you to pursue a better option that could be a win-win for all those involved - the option that includes a land swap.

A land swap would:

- \* Protect the South Boulder Creek floodplain and its surrounding habitats, which virtually everyone in the bordering neighborhoods use for passive recreation such as skiing, biking, wildlife watching, and dog walking.

- \* Enable the city of Boulder to develop a responsible flood mitigation plan. A plan that addresses the obligation to those who are directly affected. A plan that will sustain surrounding residents and seeks to protect a valuable natural habitat while continuing to make use of a floodplain as nature intended - to slow and disperse floodwaters.

- \* Provide CU with land it needs for housing in a much more appropriate location, such as The Planning Reserve.

- \* End the conflict over annexation and end an attempt to cram flood mitigation on the 80 acres in the north end of the property, which clearly isn't working. Rather than expending effort and political capital to ease the conflict, we could all harmonize on this win-win solution.

The Tantra Park neighborhood, which includes Summit Middle School, Morning Star Memory Care facility, Boulder Housing Partners Affordable Housing, and an RTD park-n-ride bus stop, is ground zero for CU's massive development and flood mitigation ideas. Yet while City Council understandably focuses on our neighbors to the north, as it should, Boulder's communities to the south and west of Highway 36 feel as if we are being completely neglected. Unfortunately, we have heard nothing directly from City Council, including no solution for mitigating the negative impacts of development - the brunt of which will fall directly on us.

For such an exceptional city that prides itself on inclusivity, quality of life, safety, the preservation of nature, and the appropriate utilization of land to prevent encroachment on floodplains, this conduct is somewhat disturbing. Only once has the City of Boulder staff contacted our HOA about scheduling a presentation - that was last summer and there has been no follow-up since.

Our HOA is specifically concerned about the following:

**Health and safety:**

The area has no viable access except South Loop Road and Tantra Drive, the latter of which is literally the only way to get in and out of the neighborhood. A substantial increase in traffic,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

including imposing earth-moving trucks, would present a significant safety hazard in a high-density area with families who have small children.

The City still does not know what the impacts could be as it has not yet done a thorough traffic study. In fact, it hasn't even started one! The Table Mesa/South Boulder Rd/Highway 36 area is already terribly congested and allowing this massive new development will result in indefensible gridlock for residents (us) for years, and that does not factor in population and job growth.

**Flood protection:**

We are concerned that the high-hazard dam, and the infrastructure that goes with it, could increase risks for the residents south of Highway 36, many of whom suffered property damage in the 2013 flood. Our northern neighbors' floodwaters must go somewhere, and our basements should not be used as detention ponds. City Council must approve a flood solution that provides equal protection for ALL of the residents in the area.

**Lower property values:**

The chance of flooding, unreasonable traffic congestion, significant safety concerns, unreasonable noise, light and air pollution will predictably result in lower property values than would be otherwise, and frankly, no one wants to adjust to living life in a construction zone for years so we are not just referring to market value but also, (and as important), the value we as homeowners feel for our home and the neighborhood it's in.

**Recreation and Quality of Life:**

One of the biggest benefits of living in our high-density neighborhood is access to the open space and undeveloped land at CU South. And then consider the even larger constituency of residents from all over the City, (and even nearby cities), who will be effected by a development as they visit regularly to enjoy a respite from the surrounding growth, to walk dogs, to get their kids and family outdoors, to ride bicycles and cross country ski, to go bird-watching and to simply enjoy the wide open sky and stunning sunsets.

There is nothing else like it in South Boulder and it contributes significantly to the quality of life for so many that it's of no surprise that the area attracts thousands of residents and visitors annually. We know that Boulder's parks and open spaces are already crowded with an estimated 6.25 million visitors a year, a number that is predicted to increase along with population growth, so it is evident and understandable that people need more Open Space, not less. Without Boulders Open Space there would be a sea of urban sprawl stretching to/from Denver.

When this topic of developing CU South surfaced a few years ago, our [now former] HOA board member engaged in a great deal of local neighborhood canvassing and speaking engagements with area residents. Everyone that she spoke with stated clearly that they do not want a CU development and, based on feedback she received, she is confident that all of them would authorize an appeal letter to that effect.

We strongly urge City Council and CU to work together in good faith on a land swap - because that way we all win.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

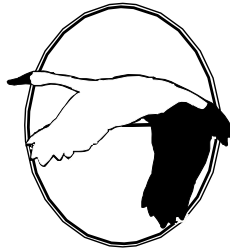
Sincerely,

2020 Board of Directors of South Creek Seven Homeowners' Association

*Richard Fey*, President  
*Merry Bullock*, Vice President  
*Mike McMillen*, Treasurer  
*Kathy Kramer*, Secretary  
*Massimo Buvoli*, Landscaping Coordinator  
*Jeremy Reynolds*, Board Member

cc: CU Regents, Jane Brautigham, Joe Tadduci

**Attachment 1: SC7 HOA letter to Boulder City Council – Feb 25 2020**



**South Creek Seven Homeowners Association**

P.O. Box 3421  
Boulder, Colorado 80307  
Phone: (303) 505-8153  
Email: southcreek7hoa@gmail.com

February 25, 2020

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

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**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

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*Merry Bullock, Vice President*

*Mike McMillen, Treasurer*

*Kathy Kramer, Secretary*

*Massimo Buvoli, Landscaping Coordinator*

*Jeremy Reynolds, Board Member*

cc: CU Regents, Jane Brautigham, Joe Tadduci

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Pat Carden <ptc39@comcast.net>  
Sent: Tuesday, February 25, 2020 2:58 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Appeal to City Council members Ethical, Fiscal and Moral responsibilities RE: SBC Study Session

External Sender

Dear Council members,  
Given Council's Code of Ethics and responsibility for resident safety, along with the hundreds of thousands of dollars you've already caused to be spent, it is outlandish (npi) to even consider the proposal of a land swap as a consideration, let alone a resolution for providing flood safety for south boulder residents.

I appeal, as well, to your personal integrity for supporting one of the flood mitigation designs already proposed that prioritizes expediency and costs, and workable with CU.

Thank you,  
Pat Carden  
350 Ponca Pl  
Boulder, CO 80303

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mark Van Akkeren <markvanakkeren@gmail.com>  
**Sent:** Tuesday, February 25, 2020 1:23 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Area III

**External Sender**

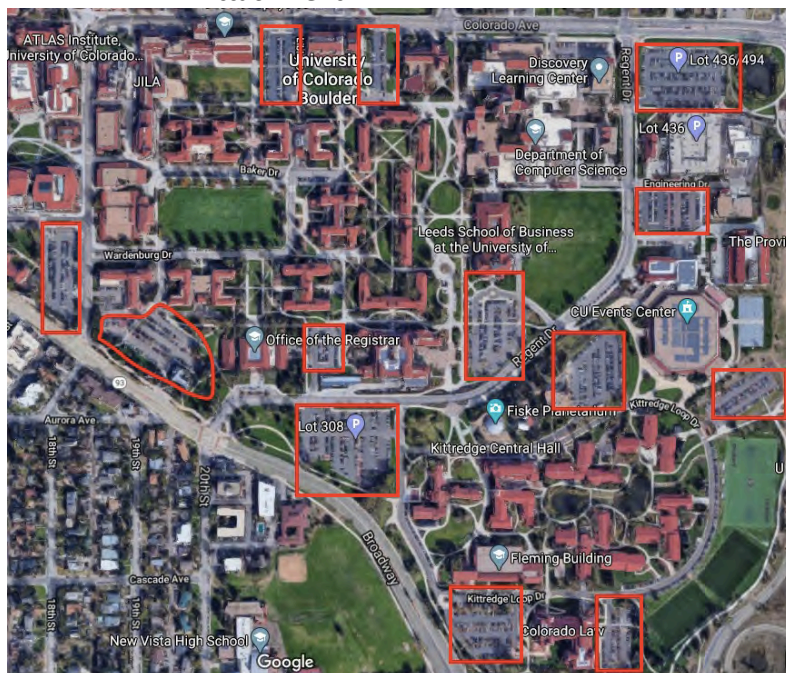
Cutting to the chase,

It is far better, and on-brand for Boulder to locate whatever housing CU needs to build near a major transit hub (Table Mesa) as opposed to doubling down on 1950's segregated land use and plop it in the middle of a greenfield prairie dog town. Requiring Buff Busses to navigate a minimum of 14 lights through the middle of the city will only add to the congestion that 28th street already experiences. Furthermore, it's a 2.2-mile bike commute from CU South and a 4.1-mile bike commute from Area III. That further distance is not going to induce more cycling mode share. Lastly, there are no job centers in North Boulder, if this housing is to be for staff and faculty... and their significant others... where will those significant others be commuting to? Area III suggests they'll be SOV-ing themselves to wherever that opportunity may lie, whereas locating this at CU South gives them quick, convenient access to Table Mesa, a station where \*ten\* bus lines pass through (as well as the 36 bike path) for a litany of non-SOV options for getting to places of employment.

Additionally (attached screenshot), what can be done to instill the University to redevelop the high number of surface lots that occupy the main campus?

MVA

**Attachment 1**



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Harlin Savage <harlin.savage@gmail.com>  
**Sent:** Tuesday, February 25, 2020 1:30 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Save South Boulder Letter re: Land Swap (Option 3)

**External Sender**

**SAVE SOUTH BOULDER**

February 25, 2020

Dear Boulder City Council,

On behalf of our members and supporters, we are writing in advance of tonight's study session to urge you to move forward with a land swap (Option 3), which CU has included among the options on the table.

As some of you are aware, Save South Boulder first advocated for a land swap as part of most recent Boulder Valley Comprehensive Plan, which lead to its inclusion in the Guiding Principles.

Today we have even more reason to believe that a land swap is the best option for all stakeholders. Indeed it would be a win-win for the City, the University, South Boulder neighborhoods, and the Boulder residents in the Frasier Meadows neighborhood, who were hardest hit by the 2013 flood.

Save South Boulder welcomes close examination of this option and applauds Council and CU for seriously considering a land swap, which would floods, which are expected to be larger and more frequent as a consequence of climate change.

Under no circumstances should an annexation decision for any property, including CU's 308 acres in the South Boulder Creek floodplain, precede completion of all site plans, environmental and geotechnical studies, appraisals, and suitability surveys. These must be considered in negotiations prior to annexation. Despite CU's demand to decide before such data are available, these procedures are required in the Boulder Valley Comprehensive Plan. They also must be factored in to protect Boulder taxpayers and residents against an ill-considered decision.

A land swap would help break the current gridlock, which has stymied flood mitigation and put residents at risk, and would do so without creating new hazards attendant to building housing in the South Boulder Creek floodplain. Specifically, a land swap would:

- Meet the City's need for flood mitigation to help protect residents and property.
- Meet CU's need for more housing for students and faculty.
- Meet the needs of neighbors concerned about traffic congestion, noise, light, and air pollution, and loss of open space.
- Avert the potential destruction of rare habitat, imperiled species, and vital wetland and riparian habitat.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

- Meet the desires of a large majority of Boulder residents who want more open space, not less, and relieve our Open Space system, which already has more visits than could be considered sustainable, of a bit of pressure.

In conclusion, we look forward to a good faith discussion tonight, which we hope will bring forward the best solution, and one that will result in quick action.

Respectfully,

Margaret LeCompte and Harlin Savage, Save South Boulder co-leaders

**Attachment 1: SAVE SOUTH BOULDER**

February 25, 2020

Dear Boulder City Council,

On behalf of our members and supporters, we are writing in advance of tonight's study session to urge you to move forward with a land swap (Option 3), which CU has included among the options on the table.

As some of you are aware, Save South Boulder first advocated for a land swap as part of most recent Boulder Valley Comprehensive Plan, which lead to its inclusion in the Guiding Principles.

Today we have even more reason to believe that a land swap is the best option for all stakeholders. Indeed it would be a win-win for the City, the University, South Boulder neighborhoods, and the Boulder residents in the Frasier Meadows neighborhood, who were hardest hit by the 2013 flood.

Save South Boulder welcomes close examination of this option and applauds Council and CU for seriously considering a land swap, which would floods, which are expected to be larger and more frequent as a consequence of climate change.

Under no circumstances should an annexation decision for any property, including CU's 308 acres in the South Boulder Creek floodplain, precede completion of all site plans, environmental and geotechnical studies, appraisals, and suitability surveys. These must be considered in negotiations prior to annexation. Despite CU's demand to decide before such data are available, these procedures are required in the Boulder Valley Comprehensive Plan. They also must be factored in to protect Boulder taxpayers and residents against an ill-considered decision.

A land swap would help break the current gridlock, which has stymied flood mitigation and put residents at risk, and would do so without creating new hazards attendant to building housing in the South Boulder Creek floodplain. Specifically, a land swap would:

- Meet the City's need for flood mitigation to help protect residents and property.
- Meet CU's need for more housing for students and faculty.
- Meet the needs of neighbors concerned about traffic congestion, noise, light, and air pollution, and loss of open space.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

- Avert the potential destruction of rare habitat, imperiled species, and vital wetland and riparian habitat.
- Meet the desires of a large majority of Boulder residents who want more open space, not less, and relieve our Open Space system, which already has more visits than could be considered sustainable, of a bit of pressure.

In conclusion, we look forward to a good faith discussion tonight, which we hope will bring forward the best solution, and one that will result in quick action.

Respectfully,

Margaret LeCompte and Harlin Savage, Save South Boulder co-leaders

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

From: JAN BURTON <janburton@me.com>  
Sent: Tuesday, February 25, 2020 12:51 PM  
To: Council <council@bouldercolorado.gov>  
Subject: Flood mitigation

External Sender

I have heard from emergency personnel that the 2013 flood evacuation was the #2 humanitarian evacuation in American history, after only Katrina. It's been almost 7 years now, so the memories have faded and we have lost the sense of urgency of health and safety of our residents. However, Boulder County has had a 1600% increase in natural disasters, and our Council members should be placing health and safety as the single highest priority in your decision making.

Progress was made in protecting our South Boulder residents during the 2015-2017 Council, adding the "CU South" property to the Comp Plan and agreeing with basic principles of annexation of the CU Property. But, let's not forget, flood mitigation based on the use of CU's property has been in the works for over 20 years! Millions of taxpayer dollars have been spent analyzing various engineering options. It is not Boulder's way to do things quickly! So, the latest idea to "swap" land with CU is not something that will be executed quickly. It will have to be studied for years, and the process will not be any shorter than any other land deal. Meanwhile, the very REAL possibility of a flood risks the safety of residents in South Boulder and exit routes from Boulder to Denver.

Please do not divert your focus from the safety of our residents. Many of our boards & commissions, staff, and Councils have been moving the ball forward for years with the CU South property. The idea of a land swap will result in unnecessary delays and risk. And if health and safety of our residents is not enough priority for your decision, the negative ramifications to budget responsibility and the loss of housing ought to seal the deal.

Thanks for your consideration.

Regards,

JAN BURTON  
[janburton@me.com](mailto:janburton@me.com)  
+1 214-632-6289

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Claudia Hanson Thiem <thiem.claudia@gmail.com>

**Sent:** Tuesday, February 25, 2020 12:45 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU-South/Area III Planning Reserve

**External Sender**

Dear Councilmembers,

I am concerned to see a proposal for a land-swap involving CU-South and the City's Area III Planning Reserve on the agenda for tonight's study session. On the surface, this appears to both further delay South Boulder Creek flood mitigation efforts, \*and\* launch a poorly thought-out planning venture on the city's northern edge.

As I understand the timelines involved, a study of Area III annexation \*feasibility\* would take at least two years to complete, and working out the full details of a land swap will likely take much longer. There is also no reason to believe a public process in North Boulder will proceed any faster - or with less rancor - than that already underway to the south. Meanwhile, no flood mitigation will be constructed.

The proposed land swap also looks like bad planning. Neighbors' concerns aside, development at the CU-South site makes sense due to that location's regional and local connections. Transportation infrastructure - bikeways, busways, and yes, car lanes - linking the Table Mesa/36 area to campus already exist, and much of CU's commuter traffic comes from the Boulder-Denver corridor. Adding student housing so far north is only reasonable with massive investments in transit along 28th St., and planning for local services (retail, etc.) at or very near the Area III parcels. It's a much more complicated problem than just annexing land and green-lighting university housing. And I question whether the city has the capacity - financially or politically - to undertake those related projects on a reasonable timeline.

South Boulder Creek flood mitigation is a problem we can solve now (or soon) if City Council can look beyond twenty-year old resentments about the university's land purchase. And student housing is another pressing need that the city should be nudging forward instead of deferring. Please stay the course with the land currently in play.

Claudia Hanson Thiem  
4726 16th St, Boulder  
720.771.9631

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Karla Rikansrud <krikansrud@frasiermeadows.org>  
**Sent:** Tuesday, February 25, 2020 11:43 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Land Swap vs. Lives Swap

**External Sender**

Council,

If you are truly considering postponing flood mitigation for CU 'north' – you must realize you are prioritizing open space before HUMAN LIFE.

Or will you immediately construct a big, (temp?) flood barrier upstream from CU South to protect the people downstream?

After our next flood, consider the headlines in the New York Times: "Boulder City Officials ignored flood warnings, thousands died".

You have dilly dallied for YEARS. PLEASE protect people first. The mice & lilies did just fine after the '13 flood.

Seriously,  
Karla



**Karla Rikansrud** | VP for Philanthropy & Social Responsibility  
**Frasier** | 350 Ponca Place | Boulder, CO 80303  
**Email:** [krikansrud@frasiermeadows.org](mailto:krikansrud@frasiermeadows.org)  
**Phone:** 720.562.4306  
**Connect with us:** [Web](#) | [Facebook](#)

[Have you considered putting Frasier in your will?](#)

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mark Bloomfield <mark@sustainablybuilt.com>

**Sent:** Tuesday, February 25, 2020 10:48 AM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Proposed CU South Land swap

**External Sender**

The proposed land swap, which by some estimates will reduce the number of housing units by 1100, is a terrible idea. Boulder needs more housing! As a Boulder small business owner, I regularly lose employees who can't afford to live here. As it stands, most of them in-commute, adding to traffic, their expenses, and stress which impacts their performance. We need housing of all/any kind. Additional student housing will take pressure off the rental market!

-Mark

--

Mark Bloomfield

Principal

Sustainably Built, LLC

[mark@sustainablybuilt.com](mailto:mark@sustainablybuilt.com)

303-447-0237 x102

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

From: Leanne Lestak <lestakl@yahoo.com>  
Sent: Tuesday, February 25, 2020 9:46 AM  
To: Council <council@bouldercolorado.gov>  
Subject: Flood mitigation in South Boulder

External Sender

Dear Councilmembers,

Thank you for your past support for the South Boulder Creek flood mitigation project. We are very much looking forward to your discussions of the three options you'll be considering at your 2/25 study session and your selection of one of them to move forward with in May 2020. And a warm welcome to Council to Junie Joseph, Rachel Friend, Adam Swetlick and Mark Wallach.

When making decisions on this project in the coming weeks/months, we request that you keep a few things in mind:

- Thousands of Boulder residents have lived in harm's way for decades. The devastating 2013 flood makes quick implementation of this project even more critical. It's now been 6.5 years since that event.
- Please choose the best and most direct route to get mitigation in place before another devastating flood occurs.
- The 100-yr. design meets all levels of flood control standards (city/state/federal). Anything over that would be unprecedented in the City...and extremely expensive and, consequently, possibly un-doable.
- The 100-yr. design is superior to other options in many aspects including ease of permitting, total cost, environmental sensitivity, length of construction time, etc.
- Please find ways to work constructively and expediently with CU to create a win-win situation for both City and University needs.

We are counting on you for our health and safety! Thank you for moving with purpose and expedience on this critical project!

Leanne Lestak  
4790 Shawnee Pl  
Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Gary Waggoner <waggoner14@comcast.net>  
Sent: Tuesday, February 25, 2020 8:17 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU-South

External Sender

Council Members:

After reading various articles and letters on this important issue, it seems obvious to me that CU is not acting in the best interest of the Boulder community. In fact, CU's actions are shameful. It is time to pursue a condemnation action for the property or negotiate a land exchange. Secondly, the flood engineering on this project needs an experienced project manager who can bring expertise and leadership to complete the project. I don't believe that the "train has left the station" which may be the opinion of at least one council person. Rather the council should get the train on the right track.

Thank you for your attention.

Gary Waggoner, Boulder Resident

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ruth Wright <ruthwright1440@gmail.com>  
**Sent:** Tuesday, February 25, 2020 1:37 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Bouldr Creek - Flood Mitigation Project 2-25-20

**External Sender**

Hello Members of the City Council,

Here are some comments for you to consider and perhaps get some clarification for all of us, at your very important discussion on Tuesday Feb 25<sup>th</sup>.

**The Detention Pond.** The concept of the flood control mitigation project is quite simple. We detain flood waters flowing down the South Boulder Creek Valley on the upstream side of Highway 36 in a large detention pond, and then, the water is released in a controlled manner through the West Valley on the downstream side of Highway #36. The key to success is the detention pond, especially its size. If it is too small, flood waters will go over #36, flow down the highway, and spill into the urbanized West Valley, including Frasier Meadows – as it did in the 2013 flood. Without going into details, it should be mentioned that CU South has the lowest elevation in the Valley, not only because of the angle of Highway 36, but also because the gravel and sand removed by years of mining by Flatirons lowered much of it by 12 feet. And as you know, there are several small ponds on the site showing a high groundwater table. CU bought the 308 acres in 1996– much of it a mined-out gravel pit-- with its eyes wide open..

From the beginning, CU proposed that the smallest amount of land (the” footprint” for the detention pond) be used so that the maximum amount of land could be developed. Excavation to minimize the footprint was first suggested by CU’s Jeff Lipton at meetings of the design team in May and June 2010. The high ground water table was mentioned, but quickly disregarded. (Meeting Summaries Attached). Eventually Option D from the July 2015 “South Boulder Creek Major Drainageway Plan – Alternatives Analysis” by the consultant CH2MHill was chosen as the preferred alternative. Nowhere in the text of the report does it mention the size of the Option D’s detention pond, nor that a large portion of the detention is created by excavation, which would already be filled by groundwater when the next flood arrived. Digging into the voluminous 2015 consultant report, I found that only 81 acres (the footprint) were devoted to storage of 371 acre feet of water. Option D was eventually rejected. For the next iteration our new consultant firm RJH acknowledged the high groundwater table. But instead of getting more land, the consltant still proposed excavation down to bedrock, but now sealing the hole with

an impervious wall down to bedrock -- creating a huge permanent hole in CU South. While I have some concern that over time the wily waters will somehow find their way into this hole, **how much does such an engineering solution like this cost, versus simply obtaining more land for the detention pond ?** From the time that Jeff Lipton insisted on excavation, it has been part of each iteration (but one, to be explained below) and the present proposal is no different. CU still refuses to provide an adequate amount of land for the detention pond.

**CU/City Relationship.** As you know, the only possible location for the City's flood mitigation project is on CU South, having been run out of town by the residents of Marshall further upstream. Boulder needs some of CU's land to build the project. On the other hand, CU needs to annex to Boulder to obtain the many services a city provides, like water, sewer, etc. so that it can develop its property. It is definitely a "quid pro quo", though the media sometimes touts CU's generosity in "giving" the land to Boulder. Before annexation, a home rule city, Boulder, has equal negotiating powers with a state entity, the University of Colorado. However, because Boulder needs this project NOW, and CU will not be developing CU South in the near future, CU has us over a barrel because it can wait it out. Perhaps that is why CU now has a new demand. Incredibly, CU now insists that the City pay for bringing enormous amounts of earth to the site to "soil fill" its gravel pit and raise the elevation of some of its property so more can be developed !. CU knew what it was buying in 1996.-- "a pig in a poke". Now it wants the City (we taxpayers ) to remedy its own mistake, a situation of its own making, by paying an extra \$10 to \$24 million !

**Regarding the 100-year versus 500-year issue.** Our latest consultant at RJH would have you believe that the 500-year option is financially unattainable. A look at Table 5.(Attached) shows otherwise. The 500-year option actually has the highest cost-benefit ratio. When this chart was first presented to you, the cost of the project and the cost of filling the land (now called the Soil Fill) was not broken down. Now we can see why the 500-year option appeared to be so much more expensive than the 100-year. **It was the Soil Fill : \$10M for the 100-year and a whopping \$34M for the 500-year -- a \$24M difference.** Now you can see that for the flood mitigation project (named Regional flood Detention on the chart) by itself costs \$47 M for 500-year option cost versus \$ 41 M for the 100-year --only \$ 6 million differential. And the additional benefits are huge : people benefitted 4,100 vs 2,300; structures 730 vs 260; dwelling units 1,900 vs 1,100 . A very good cost-benefit ratio!

**The Soil Fill is not part of the flood mitigation project. It is a totally separate issue that needs to be debated.!**

**Upstream Storage** Many citizens testified in support of some storage further upstream so as not to have all of our egg in one basket. It would also relieve the tight squeeze that now exists for adequate detention, requiring excavation. For reasons unknown City staff and the RJH consultant have always given this idea short shrift. And while the environmental consultant objected to upstream storage because it would impact the water plants that have established themselves there after the mining days, she inexplicably did not object to using the only OSPB open space that is designated a State Natural Area for the detention pond in one of the options. This also happened to be the only 500-year option that CU supported because it created a huge dam perpendicular to Highway 36 which completely protected CU South from any flooding.

**Recent Federal Court case.** A December 2019 Federal Court decision held that a government-induced flooding on private property constituted a “taking of a flowage easement” under the 5<sup>th</sup> Amendment of the US Constitution and held the federal government liable for the damages it caused. The Corps of Engineers built a huge dam to protect Houston, but did not buy enough land upstream of the dam to hold all of the floodwaters. It had been open prairie, but subdivisions were built, and when Katrina swept through, the upstream homes were flooded. **(Copies of the first and last pages of the decision are attached.** I have copies of the entire case if you are interested). Although the fact situation is very different, there are also similarities and takeaways. Most importantly, the decision recognizes “flowage easements” -- in effect, rights-of way for flood waters. If these flow easements are interfered with and damage of private property results, the governmental entity is liable for such damages. Using the “takings” argument in flooding cases is, for me at least, a whole new legal way of looking at drainage and flood control. If a building were approved in a floodway, for example, and the waters damaged private property which would not have been damaged but for the new building causing the changed flood flow, it is a “taking”. Governments beware! And what would the court say about CU’s berm which kept CU South dry during the 2013 flood, while forcing additional flood waters over Highway 36 into the West Valley -- thereby causing more harm to its citizens and property. **(Map Attached)** Or what about CU doing considerable “soil fill” in its floodplain and the City funding CU to accomplish that – thereby forcing the floodwaters to flow elsewhere to someone’s detriment. Let’s be thoughtful about this.

Sincerely,  
Ruth Wright  
303-443-8607

**Attachment 1: So Boulder Creek – CU meeting 5-6-10**

## MEETING SUMMARY

CH2MHILL

**SBC Flood Mitigation Study - CU Meeting 5-6-10**

ATTENDEES: Kurt Bauer/City of Boulder  
C Jeff Lipton/ University of CO Mark Glidden/CH2M HILL  
Alan Turner/CH2M HILL

FROM: CH2M HILL

DATE: May 6, 2010

The Taggart study indicated that considerable value accrues from storage in the South Boulder Creek watershed. This study has reached the same conclusion. Several different storage, size and geometries are being considered. Jeff indicated he wanted to know how much the current study proposals differ from those in the Taggart study so that he can approach his boss and the Board of Regents.

The current study looks at three different storage concepts, ranging from 300 acre feet (AF) to over 1200 AF. Each of these has some impact on the CU South Campus and may impact the use of the land for some of the identified purposes. Jeff recognized this would probably be the case. He wanted to make sure the impacts were limited and that full advantage was taken of the designated areas, including the lower pond.

Jeff described some of the basic constraints Cu would like to impose. First, they want to try and minimize the impact to the plan they formulated and presented to us at the first workshop. This describes areas they anticipate will be inundated as well as those areas they wish to preserve for development. He also described the access road and the challenges they faced when developing that alignment. They need to maintain the proposed configuration as closely as possible. There may be some potential to modify grades but not the alignment.

The team described the 750 AF alternative. This has an 18' maximum berm height and minimizes excavation. However, it does have a pretty big impact to the identified building sites. Jeff asked if it would be possible to minimize that impact by doing some excavation and increasing the storage volume on areas not designated for development. He also expressed concerns about the extent of ponding at the current tennis court site. He encouraged the team to look at more excavation and any other means to reduce the footprint of the ponded area. He reiterated his interest in using the low area and pond to the north to the fullest extent possible. The team indicated we would look at ways to use more of the designated flooding area and reduce the impact on the sites designated for development.

Jeff did note that the fact the site has a reclamation permit means there are no designated wetlands on the site.

The team asked that Jeff provide some insights on the cost and political implications of the proposed plans. In particular, it was hoped that there would be a better understanding of the cost associated with land acquisition and any other necessary infrastructure improvements. Any other issues such as annexation or utility service needs could impact the feasibility of the alternatives and would need to be identified as early as possible.

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021

SBC FLOOD MITIGATION STUDY - CU MEETING 5-6-10

The team mentioned that the cost of land required by other entities was getting clearer. Parks would not require any direct payment of land used. Boulder Valley Schools would require the purchase of an easement at prevailing land rates. Open space was not likely to charge for the use of their lands but were likely to require other concessions.

The schedule was discussed. The interest in having the first presentation to WRAB on June 21 and then a public meeting in July make the determination of some of the details of the CU storage site critical. It is hoped that CU can provide feedback as soon as possible.

Jeff offered that the current alternatives that show ponding at a depth of 20' at the tennis courts is unworkable and unacceptable. The team should look at excavation to minimize the depth and footprint of flooding in those areas designated for development.

Attachment 2: So Boulder Creek – CU meeting 6-24-10

MEETING SUMMARY

CH2MHILL

**SBC Flood Mitigation Study – CU Meeting 6-24-10**

ATTENDEES: Kurt Bauer/City of Boulder  
Bob Harberg/ City of Boulder  
Jeff Lipton/ University of CO

Mark Glidden/CH2M HILL  
Alan Turner/CH2M HILL

FROM: CH2M HILL

DATE: June 24, 2010

Alan provided an overview of the current proposed pond configuration and the way the system works. (Proposed CU Detention Figure attached) The pond proposed in 520 acre feet (AF), smaller than the probable size discussed at the previous meeting. The pond volume was developed by using the natural topography and excavating to minimize the footprint. The excess excavated material is proposed as fill to elevate key areas of the CU property.

Alan also described the function of the lower pond. This pond controls the Viele channel and isn't really an element in the mainstem flooding from South Boulder Creek. The pond controls the tributary area draining along the Viele Channel and prevents that from surcharging the system and overflowing across US 36. However, the size is quickly overwhelmed if uncontrolled flow from the mainstem is allowed to reach the pond. The team concluded the lower pond needs to be isolated from uncontrolled mainstem flows. However, the timing and volume are such that the new storage pond can be drained into the Viele channel and then under US 36. Using this outfall avoids the need to construct another crossing under the highway.

Both Jeff and Bob identified that the proposed configuration should explore the expansion of the storage area to include the Table Mesa Pond by wrapping the embankment around that site. Alan would look at this to determine what the embankment configuration might look like.

Bob noted that the schedule for the project was to have the alternative evaluation done by the end of the year and then work with the City's Boards and Council to finalize the plan. He noted that the costs now are in the \$30-40M range and it wasn't likely the City could come up with that kind of money in the short term. The team is looking at alternative funding sources such as the state through a Pre- Disaster Mitigation Grant or from the feds by working with the Corps of Engineers.

One key element is the cost of the land. The team is looking at costs ranging from \$36k/acre to \$19/SF depending on land use type. The selection of the cost has a profound effect on the viability of an alternative. Jeff suggested we look at recent open space land purchases to find a cost that could serve as a precedent.

Jeff asked if we have been coordinating with CDOT. Bob indicated that discussions have been held. During those discussions, they indicated that improvements to US 36 are very low on the list of priorities and that it may be 20 or 30 years before anything is done to the highway. There is some work ongoing related to a pedestrian overpass and other improvements outside the highway. Jeff mentioned that he was aware of some

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

SBC FLOOD MITIGATION STUDY – CU MEETING 6-24-10

improvements to the configuration of the Table Mesa interchange. His contact is Mike Sweeney.

Jeff indicated he needed the following information before he could take the alternatives to his bosses:

- Estimate the acreage that would be undevelopable including the area within the Table Mesa pond.
- Compare the current configuration with the original plan and determine the impact on the developable footprint.
- Use the cost of recent open space acquisitions for agricultural lands as the basis for land costs that were designated as open or flood storage. Use developed costs for those areas designated for development.
- An updated version of the plan showing the impacts to the CU plan

Jeff noted that it would be desirable to be able to co-locate their detention storage within the bigger pond area. This probably would not material impact pond sizing and could be incorporated during final analysis and design. He also indicated that if grading was going to be done, it would be good if it could be done in such a way as to accommodate the future construction of recreation fields. He provided a plan with the desired recreation field layout. The team agreed to incorporate this in future modifications.

The City and CU need to figure out the terms of any development agreement or utility concessions. CU is ready to begin these negotiations. It isn't unreasonable to assume that process would lead to other issues.

The issue of groundwater levels was raised. Not only can that impact the potential effectiveness of the ponds, but exposed groundwater can have water rights implications. The team assured him that we have tried to avoid any impacts to extent data was available.

The site is still under a reclamation plan and any modifications would need the approval of the Mined Land Reclamation Board.

Jeff asked to look at the lower pond configuration again. Alan explained that we did look at the possibility of storage in the lower pond and simulated the hydraulics. The result was that a workable pond had to be about 30' deep and might have some groundwater issues.

The team did consider a storage options above the CU property. This project includes a berm near Marshall Road that would control downstream flooding. This pond is also being revised based on feedback from Open Space. It would continue to result in some inundation of the CU property but no physical improvements would be required.

When developing costs for the CU pond, it is only necessary to consider rough grading costs in addition to land and pond infrastructure. CU would not expect any of the recreation fields to be built using these project funds.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**Attachment 3: So Boulder Creek – Table 5 Summary of Project Costs**

**Table 5: Projects Tradeoffs Summary**

<b>Project Criteria</b>	<b>Option 1 (100-yr)</b>	<b>Option 2 (500-yr)</b>	<b>Option 3 (200-yr)</b>
<b>Downstream Flood Benefits <sup>(1)</sup></b>	<b>Meets LOS <sup>(2)</sup></b>	<b>Largest</b>	<b>Larger</b>
People	2,300	4,100	3,600
Structures	260	730	600
Dwelling Units	1,100	1,900	1,700
<b>Total Project Cost</b>	<b>\$66M</b>	<b>\$96M</b>	<b>\$93M</b>
Regional Flood Detention	\$41M	\$47M	\$46M
Soil Fill	\$10M	\$34M	\$32M
Impacts to CU Property <sup>(3)</sup>	\$15M	\$15M	\$15M
<b>Size of Dam</b>	<b>Smallest</b>	<b>Largest</b>	<b>Larger</b>
Length of Floodwall	2,710 ft. <sup>(4)</sup>	2,810 ft.	2,810 ft.
Height of Floodwall (max)	8.8 ft.	10.6 ft.	9.5 ft.
<b>Estimated Project Footprint</b>	<b>64 acres</b>	<b>107 acres</b>	<b>106 acres</b>
Embankment/Floodwall	10 acres	11 acres	10 acres
Fill Area	34 acres	76 acres	76 acres
Excavation Area	19 acres	19 acres	19 acres
Outlet	<1 acre	<1 acre	<1 acre
<b>Environmental Impacts</b>	<b>Smallest</b>	<b>Larger</b>	<b>Largest</b>
Wetlands	4.8	7.1	8.9
Threatened and Endangered Species	0.9	5.0	5.0
Open Water	2.6	2.6	2.6
<b>Impacts to OSMP property</b>	<b>Least</b>	<b>Most</b>	<b>More</b>
Direct Impacts	5 acres	5 acres	5 acres
Inundation Impacts	Least	Most	More
OS-Q Opportunities	Most	Least	More
Environmental Mitigation Costs	Least	Most	More
<b>Impacts to CU Property<sup>(5)</sup></b>	<b>Similar</b>	<b>Similar</b>	<b>Similar</b>
CU Tennis Courts	<i>Estimated \$15M total</i>		
South Loop Drive			
Warehouse			
Utilities Connections			
Recreation Fields (30 acres)	In Progress	In Progress	In Progress
<b>Project Feasibility<sup>(6)</sup></b>	<b>Least Unknowns</b>	<b>Most Unknowns</b>	<b>More Unknowns</b>

*Notes: Darker cells indicate more favorable alignment with the multiple project objectives.*

- 1. People, structures and dwelling units that will be removed from the 200-yr floodplain have been estimated base on total number of structures located in the 100-yr and 500-yr floodplains.*
- 2. LOS = Level of Service*
- 3. Costs to be negotiated with CU during CU South Annexation process.*
- 4. Option 1 provides the opportunity to shorten the floodwall length by providing more flexibility for the location of the floodwall termination.*
- 5. Estimated costs/impacts will be refined as the flood mitigation project progress through the design process and finalized through the annexation process.*

## Public Comments Through September 14, 2021

Case 1:17-cv-09001-CFL Document 260 Filed 12/17/19 Page 1 of 46

1<sup>st</sup> + last page of

decision

(Filed: December 17, 2019)

## IN RE UPSTREAM ADDICKS AND BARKER (TEXAS) FLOOD-CONTROL RESERVOIRS

Post-trial decision; government-induced flooding on private property; application of factors identified in *Arkansas Game & Fish*; liability for a taking of a flowage easement

**THIS DOCUMENT APPLIES TO:**

## ALL UPSTREAM CASES

Daniel H. Charest and E. Lawrence Vincent, Burns Charest LLP, Dallas, Texas, Charles Irvine, Irvine & Conner PLLC, Houston, Texas, and Edwin Armistead Easterby, Williams Hart Boundas Easterby, LLP, Houston, Texas, Co-Lead Counsel for Upstream Plaintiffs. With them at trial were Vuk. S. Vujasinovic, VB Attorneys, PLLC, Houston Texas, Lawrence G. Dunbar, Dunbar Barder, P.L.L.C., Houston, Texas, Jack E. McGehee, McGehee, Chang, Barnes, Landgraf, Houston, Texas, Michael J. Dulaney, Sullins, Johnson, Rohrbach & Magers, Houston, Texas, Lydia A. Wright, Burns Charest LLP, Dallas, Texas, Mary Conner, Irvine & Conner, LLC, Houston, Texas, Kyril V. Talanov, Houston, Texas, and Hilary S. Greene, Houston, Texas.

William Shapiro, Trial Attorney, Environmental & Natural Resources Division, United States Department of Justice, Sacramento, California, for defendant. With him at trial and on the briefs were Kristine S. Tardiff, Laura W. Duncan, Sarah Izfar, Jessica Held, Bradley L. Levine, David L. Dain, and Mayte SantaCruz, Trial Attorneys, Environmental & Natural Resources Division, United States Department of Justice, Washington, D.C. With him on the brief was Lawrence VanDyke, Deputy Assistant Attorney General, Environmental & Natural Resources Division, United States Department of Justice, Washington, D.C.

### OPINION AND ORDER

LETTOW, Senior Judge.

This case brings to the court the occasionally recurring question of the extent and the nature of government-induced flooding on private property necessary to rise to the level of a Fifth Amendment taking of a flowage easement. Particularly, this post-trial decision assesses whether the government may be liable to private property owners in the Houston, Texas

Case 1:17-cv-09001-CFL Document 260 Filed 12/17/19 Page 46 of 46

owned land upstream would result, in light of the design of the dams and the plans for their operation. Thus, the necessity defense cannot apply here, because it cannot be said that "necessity" existed in this case, when the flooding that occurred was the direct result of calculated planning.

### CONCLUSION

For the reasons stated, the court finds that the government's actions relating to the Addicks and Barker Dams and the attendant flooding of plaintiffs' properties constituted a taking of a flowage easement under the Fifth Amendment. Thus, the court finds defendant liable.<sup>26</sup>

Because liability and damages were previously bifurcated, a plan for addressing damages must now be put in place. The court proposes to adjudicate damages for five out of the thirteen test properties. To that end, the parties shall each propose three properties for consideration as to damages, thus providing to the court with a total of six candidates. The court will then select five test properties from the six properties proposed. Each party is requested to file with the court a notice detailing its three proposed test properties for damages and its respective arguments for selection of those properties as bellwethers by January 21, 2020.

It is so **ORDERED**.

s/ Charles F. Lettow

Charles F. Lettow

Senior Judge

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<sup>26</sup>The court had previously deferred resolution of the government's earlier motion to dismiss, *see In re Upstream Addicks & Barker*, 138 Fed. Cl. at 672 (acting pursuant to RCFC 12(i), taking into account the fact-intensive inquiry involved). In light of the detailed post-trial findings of fact and conclusions of law in this decision, that motion to dismiss is DENIED.

Further, pursuant to the court's previously stated reasons, *see supra*, at 8 n.9, Pls.' Mot. to Reopen the Trial R., ECF No. 245, is GRANTED, subject to the inclusion of the sworn statement included in Def.'s Opp'n to Mot. to Reopen the Trial R., ECF No. 254. Also pending before the court is Def.'s Mot. to Correct [the Trial] Transcript, ECF No. 241. This motion is GRANTED as to those requests not opposed by plaintiffs, *see* Pls.' Opp'n to Def.'s Mot. to Correct [the Trial] Transcript, ECF No. 243, but the requests for correction opposed by plaintiffs are DENIED.



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim McMillan <jmc1277@gmail.com>  
**Sent:** Monday, February 24, 2020 10:54 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** City Clerk Staff <CityClerkStaff@bouldercolorado.gov>  
**Subject:** Re: Flood mitigation for South Boulder Creek

**External Sender**

Dear Boulder City Council members:

I write to advocate for Boulder's City Council to make data and evidence-based decisions regarding the future of the South Boulder Creek (SBC) flood mitigation, particularly the portion encompassing the former Flatirons gravel pit area now known as "CU South" that CU wants to annex for additional campus development. In advance of the Boulder City Council's February 25, 2020 study session on SBC flood mitigation and CU's annexation petition, there are several points to highlight that I ask you to give due consideration.

First, flood mitigation and annexation are separate issues and should be treated as such, not forced to be on a parallel timeline. As council has previously stated, the safety of city of Boulder residents at risk from flooding of South Boulder Creek *is* a higher priority issue than CU's annexation/development interests. For this reason, the primary issue of flood mitigation should be considered before the secondary issue of annexation/development. And as the Council has previously stated, in light of worsening climate disruption and the 2013 flood, the design basis should be nothing less than a 500-year flood.

Second, additional site data is needed enable more detailed analyses and models for this flood mitigation project to be developed, so that the consequential decisions to be made are based on sound data and evidence. However, as it currently stands, essential hydrological and geotechnical studies of the site – studies that will provide key missing data – remain uncompleted, and it remains unclear when they will be completed (and even then, whether they will be sufficient). Why are there firm timelines for making consequential decisions on this flood mitigation project before it has been verified that the additional site data (and subsequent modeling/analysis) will be available in sufficient time to enable the desired timeline to be met? The timeline for making major decisions should be adjusted / clarified to ensure that necessary data will be available in time to enable the additional analysis needed to be completed well in advance of major decisions.

Third, previous conceptual analysis indicates that effective, environmentally sound flood mitigation requires more land than CU will "allow" to be used for flood mitigation. (More information about this issue is provided in the Daily Camera op-eds by Steve Pomerance's (Feb 20) and Ben Binder's (Feb 21)). As a result, flood mitigation concepts developed to date have been largely unrealistic, i.e., reflecting neither best environmental design practice nor best flood mitigation principles. [Notably, IT IS ABSOLUTELY NOT GOOD PRACTICE TO DEVELOP IN OR ADJACENT TO A FLOODPLAIN, as CU proposes to do.] The leading flood mitigation option being considered involves constructing an approximately ½ mile long, 20 feet tall, high hazard

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

dam along the south side of highway 36. What ruination or enhancement of Boulder's desirable attributes will this achieve? Will Boulder's scenic gateway (via highway 36) be preserved? Will the state protected natural area's endangered/rare (biodiverse) plants and wildlife survive? Will the intended underground water conveyance structure work as intended/designed to allow a viable wet meadow ecosystem to be sustained? Will this project result in any environmental design awards, or will it result in "two steps backwards" for CU's and Boulder's aspirations to be recognized as leaders in environmental design for sustainability and resilience to climate change?

These are not the only challenging issues for this project, just some of the highlights; there are many other complicated issues this project must deal with!

Fourth, because of so many thorny issues, it makes sense for the city to consider a land swap with CU that avoids unwise development within or adjacent to the South Boulder Creek floodplain. I implore Council to seriously and creatively explore such a land exchange.

Finally, until a satisfactory flood mitigation design for SBC is developed, it is premature to consider annexation. Public safety needs to be prioritized over unwise development within or near this floodplain!

Thanks for your attention to this letter's concerns and for your ongoing service to the city of Boulder.

Sincerely,

James D. (Jim) McMillan, Ph.D.

1277 Aikins Way  
Boulder, CO 80305  
Mobile: 303-619-2371  
Email: [jmc1277@gmail.com](mailto:jmc1277@gmail.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Debra Biasca <dbiasca@gmail.com>  
**Sent:** Monday, February 24, 2020 9:29 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Don't Cave on CU-South property

**External Sender**

Honorable Council Members:

I understand you will be reviewing the status of negotiations with the University concerning the CU South property at tomorrow's meeting and I'd like to urge you to re-read the excellent guest editorial in Saturday's Camera:

<https://www.dailycamera.com/2020/02/21/opinion-ben-binder-boulder-should-start-playing-hardball-on-cu-south/>

I urge you not to permit the University to extort an annexation by holding thousands of us hostage for responsible flood control on the property they (stole?) purchased out from under the Department of Open Space which should have acquired it instead of the University for \$1.3 M .

At the very least, it may be time to consider a fair and reasonable land-swap so that CU South can be preserved as open space now and we South Boulder residents can be protected against the next flood; but no deal should be made with terrorists, which is how some might now be viewing CU in the current standoff.

Sincerely,

Debra Biasca, PhD

\*

Technical Communications Consultant  
Writing . Editing . Translation  
Boulder, CO  
303.946.3280 (mobile)  
<http://www.linkedin.com/in/biasca>

Scientific and Academic Writing, Editing, & Coaching . Translation of Archival Yiddish Documents

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Zhenya <zhenyag@comcast.net>  
**Sent:** Monday, February 24, 2020 7:18 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Friends,

Ben Binder's guest piece in Saturday's Camera makes a lot of sense to me:

Opinion: Ben Binder: Boulder should start playing hardball on CU South  
<https://www.dailycamera.com/2020/02/21/opinion-ben-binder-boulder-should-start-playing-hardball-on-cu-south/>

I'm a CU alum, a South Boulder resident, and a former colleague of Gilbert F. White  
([https://en.m.wikipedia.org/wiki/Gilbert\\_F.\\_White](https://en.m.wikipedia.org/wiki/Gilbert_F._White)).

Why does CU have us over a barrel on this? Shouldn't real floodplain management (not pretending we can stop Mother Nature - haven't we learned that yet?) give the city reason to exercise eminent domain? Whatever it takes, the city needs to view all actions related to this land through the lens of public safety - not protecting CU from its foolhardy purchase of what topography dictates should remain open space for floodplain management.

Is city council ready, in Ben Binder's words, to play hardball?

I. Z. Gallon  
710 S. 42nd St.  
80305  
[zhenyag@comcast.net](mailto:zhenyag@comcast.net)

--

Sent from my mobile

**CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mike@chiropouloslaw.com>  
**Sent:** Monday, February 24, 2020 4:46 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU "Potential Scenarios" and new Staff Memo

**External Sender**

Council,

Please find pasted below a memo summarizing the "Potential Scenarios" outline posted to Hotline over the weekend, and a few highlights from today's 188 page staff memo addressing CU South.

Staff is to be commended for its professionalism and hard work.

Based on what we know now, a Land Exchange consistent with BVCP Guiding Principle No. 6 appears worth investigating more than ever before.

CU is indicating the reserve might work, subject to future discussions, negotiations and due diligence. It's even possible that future appraisals and valuations could result in CU paying the City to make up a disparity, helping defray future costs that would otherwise be incurred by taxpayers.

I encourage the Council to authorize a baseline urban services study for the reserve -- a first step towards an informed decision whether a land exchange might be a win-win for the entire community and all stakeholders.

More than ever, it appears that CU's desired level of development is inimical to sound flood mitigation and other goals for the property as reflected in the BVCP, other documents and citizen comments and feedback.

I urge council to take CU up on its openness to investigating Option 3, a land exchange for city acreage in the reserve. The 300-some private acres in the reserve might also be part of a global resolution depending on future studies and planning efforts. While flood detention on South Boulder Creek is an urgent priority, CU could be ten-years (or more) out from building anything under an as-yet-unfinished long-range infrastructure plan -- giving stakeholders ample time to plan for directing CU to a higher, dryer, more suitable and appropriate alternative location.

New developments are great cause for optimism. Let's take advantage of our window of opportunity to get this right, staying true to our planning charters and honoring our core values.

Mike

**CU "Potential Scenarios" Options 1, 2 and 3 (Shared by Council 2/2020) & 2/24/20 City Staff Memo**

**Summary, Notes and Takeaways:**

**Option 1:**

**CU South Annexation Application (LUR2019-00010)**  
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- Berm remains, maintained by CU
- Swap from OS-O to “preserve” 129 developable acres
- CU *allowed to build within 500-year floodplain* (safety risks, climate concerns, etc.)

**Option 2:**

- Berm removed, increasing 100-year floodplain
- *City provides fill* to provide 129 developable acres
- City certifies developable acres is above the 500-year floodplain

**Both Options 1 and 2:**

- City creates *3 multiple entries at City’s cost*: over dam, HWY93 and Moorhead/Tantra (cost?)
- 30 acres for playing fields may be in floodplains
- Housing predominant use with 1100 residential unit target (guarantee?)
- City certifies that fill for development properly built to support development (liability)

**Option 3:**

- CU Agrees to evaluate Planning Reserve lands for an exchange
  - Full annexation into city concurrent with exchange for CU South
  - City pays for connections to services to reserve (huge cost savings vs. CUSouth access & fill?)
- Once annexation and utility connections agreements in place, CU fully evaluates reserve including due diligence (questions about timing and order of events based on initial CU proposal)
- If evaluation favorable for an exchange it would be for 159 acres
  - CU proposes appraising “CU South” and City appraising reserve
  - CU and City agree to process for *fair market value reconciliation* b properties exchanged
- City and CU must determine and agree to principles to apply to future development of reserve (“CU South” Guiding Principles would not automatically apply)

**Takeaways:**

## CU South Annexation Application (LUR2019-00010)

### Public Comments Through September 14, 2021

- An agreement would allow flood mitigation based on sound science and engineering to proceed at “CU South” without undue delay or uncertainty – City’s top priority
- CU would build ~1,100 units of housing for CU grad students, profs and staff, who work in town
- Under an exchange, City would get 308 acres in return for 159 – almost 2 for 1
  - CU South planning for reclamation, restoration, open space, recreation, community-driven
- Playing fields at reserve would be substantial parks and recreation component
  - Site planning designating parks and open space connectors could reinforce public amenities
- Berm removal provision establishes that berm “protects” developable lands against floods
- For 1 and 2, CU demands 3 access entries: significant costs and neighborhood impacts
- Fill and “CU Impacts” costs for 200- or 500-year flood mitigation would be greater than flood detention costs estimated by staff: \$47 and \$49 million versus \$46 or \$47 million, per Staff 2/24/20 Memo at Table 3, page 1
- Option 3 looks like a win-win solution worth pursuing pending further discussions and negotiations

#### Questions:

- Estimated range of:
  - Full costs to the City of each scenario, taking into consideration CU’s demands regarding infrastructure and access
  - Potential future liability to the City if something goes wrong on flood mitigation, fill, and development within or adjacent to the floodplain on lands with unstable soils and complex/unpredictable ground- and surface water hydrology related to wetlands, springs, topography and past site disturbances on massive scales?
  - Comparative costs and potential liability for services, fill, access, other infrastructure and natural disasters between Options 1, 2 and 3 – including chart and narrative of costs and benefits
- Timing: ability to move forward expeditiously on flood mitigation for South Boulder Creek under Option 3 – land exchange – versus 1 or 2?

## CU South Annexation Application (LUR2019-00010)

### Public Comments Through September 14, 2021

- Housing: ability to provide urgently needed CU housing to address city-wide jobs-housing imbalance, congestion, and affordability under Option 3 versus 1 or 2?
- Burden on staff of trying to apply BVCP Guiding Principles at CU South versus focusing on a land swap at the reserve?
- Does it make sense to pay tens of millions of dollars on “fill” of a former gravel mining operation in a natural floodplain less than ten years after the 2013 floods at a time when climate change increases the severity and frequency of extreme weather events?
- Or, does it make more sense for take advantage of the current topography at “CU South” to provide natural flood mitigation, rather than paying for new fill which would displace flood waters onto adjacent properties or downstream while potentially endangering new structures in the floodplain?
- Levels of open space protection and climate resiliency under Option 3 versus 1 or 2?
- Can a City committed to climate science hosting leading federal labs, NGOs and CU researchers justify settling for 100-year flood protections in 2020? – with billions of dollars of structures and thousands of lives at risk downstream?
- Benefits to City of 30 acres of playing fields at the reserve at no cost to City or taxpayers in addition to a site plan that could provide state-of-the-art parks, recreational facilities, open space access and other recreational, park, open space and community amenities?
- Ability to avoid potential petitions and city-wide ballot votes on Open Space disposal or Annexation under Option 3 versus Options 1 or 2?
- Ability to protect the gateway to the City from unsightly development and reduce the risk of future floods washing over 36?
- Ability to protect up to 308 acres of magnificent Open Space at no cost to the City and allow OSMP to proceed with reclamation, ecosystem restoration and habitat expansion on lands targeted from open space designation and protection since the 1970s?

#### **Staff Memo 2/24/2020 on Flood Detention Costs and Reserve Land Exchange Option (CU’s 3):**

First, based on the excerpts below and CU’s Scenario worksheet, Council should direct staff to proceed with the first step towards considering the reserve, a baseline urban services study.

Second, the next question according to staff’s BVCP flow chart for the Reserve is whether the proposed use qualifies as an “Unmet Community Need” per memo at 157. It is hard to imagine a greater community need than affordable housing for the CU community.

Cost table:

**CU South Annexation Application (LUR2019-00010)**  
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**Table 3: Opinion of Probable Construction Cost**

<b>Project Components</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>
	<b>100-yr</b>	<b>500-7r</b>	<b>(200-yr)</b>
Regional Flood Detention	\$41M	\$47M	\$46M
Earth Fill	\$10M	\$34M	\$32M
<b>SubTotal</b>	<b>\$51M</b>	<b>\$81M</b>	<b>\$78M</b>
CU Impacts (1)	\$15M	\$15M	\$15M
<b>Total</b>	<b>\$66M</b>	<b>\$96M</b>	<b>\$93M</b>

*Note: Table 3 figures have been rounded to the nearest million dollars*

*1. Estimated costs/impacts will be refined as the flood mitigation project progresses through the design process and finalized through the annexation process*

A full copy of the Concept Design Report has been included in this memo as **Attachment C**.

###

The “-30/+50% level of uncertainty” makes it highly likely that actual future costs of “CU Impacts will be substantially more than \$15M, if we have learned anything over the past ten years.

Excerpt from Staff Memo at pages 20-21:

On Feb. 4, 2020, council members expressed interest in exploring locations for CU Boulder to achieve its future housing and other goals in lieu of locating them on CU South. Council showed particular interest in examining city-owned land in Area III - Planning Reserve, on the northeast edge of the city, as a possible “land swap” opportunity with the university. [. . .]

***Area III – Planning Reserve Background***

The Area III-Planning Reserve is a portion of Area III for which the city and county have agreed to maintain the option of future Service Area expansion - see *BVCP Section 1.12*

(pg. 26). The BVCP further states (Section 2.07.b, pg. 38-39) that “[t]he location and characteristics of this land make it potentially suitable for new urban development based on the apparent lack of sensitive environmental areas, hazard areas, significant agricultural lands, the feasibility of efficient urban service extension and contiguity to the existing Service Area which maintains a compact community.”

The process to consider service area expansions in the Area III-Planning Reserve is described in Exhibit B to the Boulder Valley Comprehensive Development Plan Intergovernmental Agreement, between the city and Boulder County, (pg. 158) stating that the “City of Boulder will complete a baseline urban services study of the Area III - Planning Reserve prior to considering a service area expansion.” (Emphasis added.) The city may consider a service area expansion only after acceptance of the baseline urban services study by City Council. If the City Council wanted to consider a service area expansion into the Planning Reserve in the context of the 2025 BVCP Major Update, then council would need to complete a baseline urban services study prior to 2025.

**Attachment F** diagrams the process for considering and taking action regarding a service area expansion into the Area III-Planning Reserve.

###

/s

Mike Chiropoulos  
Attorney & Counselor, Chiropoulos Law  
3325 Martin Drive - Boulder CO 80305  
[mike@chiropouloslaw.com](mailto:mike@chiropouloslaw.com)  
303-956-0595

"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

*Please contact sender immediately if you may have received this email in error, because this email may contain confidential or privileged information*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

*(No attachments found)*

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Jacqueline Trump <jacquet@q.com>  
Sent: Monday, February 24, 2020 4:18 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

Dear Council Members,

I'm so angry that the University of Colorado administration and legal team is manipulating and blatantly trying to take advantage of our (not their) city and citizenry in CU South negotiations.

1. We should pay for nothing regarding CU's South boulder property except that which is necessary to follow through on the best scientifically verifiable, failsafe and enduring flood plan for that land. The land, while owned by CU is subject to city regulations. Rather than the city paying CU, CU needs to pay the city for all infrastructure requirements to develop the land ( ground alteration, traffic mitigation, city safety and building requirements, utility lines, etc).

2. Please do not even consider annexation. It would be a costly, nightmarish mistake that I, for one, do not want to pay for and endure. Consider the resultant cost to the city of bringing services and safety to the area necessary to ensure many hundreds of lives. Why should we pay for the University to develop the land that they bought with full knowledge of it's existence in a flood plain? It flies in the face of common sense that the University would build housing for their students plus costly research facilities which could so easily be destroyed by flood and thereby endanger their students and facilities.

Consider the ground water level in the area. During the 2015 flood my home (in the 600 block of 46th St) flooded not because of a rush of water but from ground water rise. It's insanely irresponsible to consider such extensive building in the area. What chutzpah to request that the city subsidise the proposed University folly.

3. I'm beginning to think that this whole legal battle has been engineered by the University to get what they really wanted all along - access to better building land to suit their needs. The University of Colorado, Boulder has brought and continues to bring much enrichment to the city, but it's not a one way street. The city also supports the University!

I'm sick of all the obfuscating haggling between two entities that owe so much to each other. I would think the University could own up to its' mistake in buying the land and be forthright and reasonable in their negotiations.

Sincerely,

Jacqueline Trump  
620 S. 46th St.  
Boulder, CO.  
[jacquet@q.com@q.com](mailto:jacquet@q.com)

**From:** Tim M Hogan <Tim.Hogan@colorado.edu>  
**Sent:** Monday, February 24, 2020 10:21 AM

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**To:** Council <council@bouldercolorado.gov>; Brautigam, Jane <BrautigamJ@bouldercolorado.gov>; Taddeucci, Joe <TaddeucciJ@bouldercolorado.gov>; Burke, Dan <BurkeD@bouldercolorado.gov>; kleiserp@bouldercolorado.gov

**Subject:** South Boulder Creek floodplain

**External Sender**

24 February 2020

For many longtime residents of Boulder, the proposal from the University of Colorado requesting annexation of 308 acres of the South Boulder Creek floodplain with its flood mitigation plans and additions to their real estate portfolio stirs up a host of reservations. The more one delves into the details, the greater those reservations become.

Floodplains and riparian areas are the wrong places to locate human buildings and attendant infrastructure. Have we already set aside memories of September 2013? Boulder avoided many of the more dire effects of that flood due to planning over past decades that placed open spaces and parks into flood plains across the city and county. Along with natural protection for flood control, wetlands and riparian areas are excellent habitat for plants and wildlife. Such luminaries as Frederick Law Olmstead and Gilbert White in the early and middle twentieth century were prescient in forecasting and promoting such land use. In large part, that is why the 2015 Boulder Valley Comprehensive Plan placed 220 acres of the South Boulder Creek property into open space.

The site is comprised of the old Flatirons gravel pits, and the original restoration plan for the Flatiron quarry included 42 acres of ponds, wetlands, and the removal of levees built to channel water around the pits. The university purchased the property under veiled circumstance in 1996 and soon after enlarged the levees along the south and east edges of the site for which it was reprimanded by Boulder County. Successive augmentations have reduced the floodplain by an estimated 75%, diverting hazardous floodwaters downstream.

The current South Boulder Creek Flood Mitigation Project builds upon several previous studies from engineers, hydrologists, CDOT, FEMA and others; recommendations from the Boulder Planning Board, Boulder Planning Commission, and Open Space Board of Trustees; community input, particularly from the neighborhoods most impacted by the 2013 flood; and decisions from City Councils and County Commissioners from 2003 to the present.

The university has proposed various versions of their intentions if the area is annexed into the city. One would be a campus the size of greater downtown Boulder – a plan including eight academic buildings, 1,125 housing units, and parking lots for 700 vehicles – their vision presumes a 30 foot tall, high-hazard dam along U.S. 36 at a conservative cost of \$22-\$35 million.

Any dam must be designed so as not to cut off the flow of ground water providing unique habitat for two species listed under the Endangered Species Act, the Preble's meadow jumping mouse and Ute ladies' tresses orchid, as well as other sensitive species. Hydrologists have pointed out the dam could impede groundwater flow and dewater the wetlands on OSMP's property with major implications for two State Natural Areas proximate to the site on Open Space lands.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

CU Boulder recently submitted amendments (1/21/2020) to its annexation application including a caveat that the university will need to determine if, and to what degree, housing remains suitable and feasible behind the dam for the current proposal the city has been working with. This challenges a principal criterion (affordable housing) in the Boulder Valley Comprehensive Plan (BVCP) for annexation into the city.

The current timeline presently on the table is very ambitious and perhaps more aspirational than realistic. It is understandable the residents of the neighborhoods north of the site are anxious and growing frustrated with the current process. Certain decisions could accelerate the pace of effective mitigation plans.

Recently, a creative proposal was put forth by Mike Chiropolos addressing the conundrum of the South Boulder Creek floodplain, proposing an exchange with CU for 130 acres in the Planning Preserve northeast of the city, offering the university a viable off-ramp “better suited for development than the riparian, wetlands, [and] prairie ... habitat proximate to South Boulder Creek.” Chiropolos continues, “[such] an exchange will expedite the approval and implementation of the best possible engineering approach to protect Frazier Meadows and other downstream properties from future floods” (Daily Camera, 12/29/2019).

It appears the most economic, effective, and elegant solution for the property in the South Boulder Creek floodplain is to restore the entire 308 acres to open space, remove the illegal levees so floodwaters could once again be absorbed into the wetlands and ponds within the site, and employ the abandoned quarry as a detention pond to ameliorate extreme flood events.

Finally, there are profound moral choices to be made concerning our decisions on the South Boulder Creek floodplain. Other articles appearing in the Daily Camera in recent months come to mind.

A story on the annual Christmas bird count in Boulder and what it portends concerning environmental degradation (Habitat changes lead to ecological downturn; 01/12/2020) should give us all pause. Despite the wealth of protected lands in the county and a citizenry attuned to their conservation values, we are failing in our efforts to preserve wild nature.

The article cites the U.N.’s Millennium Ecosystem Assessment and its evaluation of biodiversity. More recently, in “A Global Deal for Nature,” a team of conservation biologists mapped out “a science-driven plan to save the diversity and abundance of life on Earth ... [to] avoid catastrophic climate change, conserve species, and secure essential ecosystem services.” Both of these studies make the case that to address the central issue of our time: to halt and reverse our current ecocidal course, fully half the planet needs to be set aside for wild nature. Not only to save endangered species, but to forestall the extinction of ecosystem processes and the waters, air, and soils they nurture.

Audacious as proposals to secure half the planet as biodiversity preserves may once have sounded, the best conservation science tells us this is what is necessary if the specter of the sixth extinction and climate chaos is to be averted. This is also the enduring message from the traditions of indigenous people around the planet, as well as the coyote wisdom of a gifted 17 year-old girl from Sweden and the rebellion of young activists she has spawned.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

Another piece appeared in the Camera before the last election (The anomaly, and the power, of Boulder; 11/2/2019), making a compelling case for Boulder's preservation ethos – "building its identity as a relatively untrammelled bastion of human habitation in harmony with natural beauty;" emphasizing that "environmentalism needs places like Boulder to shine a light on the real consequences of human expansion, of unchecked population growth, of a consumption-based society."

In a memo from a member of the OSMP Board of Trustees we are reminded that "79% of Master Plan survey respondents (2019) indicated that Ecosystem Health and Resilience is of the 'highest importance' for the future of our OSMP system."

And in an eloquent denouement, "Without this habitat in the South Boulder Creek drainage – the soils, diverse plants and underground water flow that nourishes them, and the thousands of species that depend on the plants and soils will be lost. And no matter what we do or how many millions of dollars and decades of effort we spend, we will not be able to re-create this unique wet meadow in another place."

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At one of the meetings in which the university publicly revealed its long-term aspirations for the property, an official said CU wants the property to be as beautiful as it is functional, promoting trail connectivity and open space – "when people are driving into Boulder, we want them to look at this and be proud of it." The university's actions around this property over the past 25 years have hardly engendered the trust in the community such comments call forth.

Many Boulder citizens driving into town would take greater pride in finding a thriving nature sanctuary proximate to the southern gateway. Such a refuge would serve as an ecologically functional floodplain, providing habitat for a host of plants and wildlife, and a resource for passive recreational use. Rather than an unsightly dam posing uncertain dangers, we would recognize the area as providing an elegant service, honoring a land ethic that contributes to the "integrity, stability, and beauty of the biotic community" of which we are all part.

Tim Hogan  
2540 6<sup>th</sup> Street  
Boulder, CO 80304  
303.444.5577

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lynn Segal <lynnsegal7@hotmail.com>

**Sent:** Sunday, February 23, 2020 9:22 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** OSBT <OSBT@bouldercolorado.gov>; boulderplanningboard

<boulderplanningboard@bouldercolorado.gov>; TAB <TAB@bouldercolorado.gov>; Housing Advisory

Board <HousingAdvisoryBoard@bouldercolorado.gov>

**Subject:** Re: 2nd Correction SBFP 25 Feb. study session.

**External Sender**

Watching out for it's bottom line.

Sent from my iPhone

On Feb 23, 2020, at 8:19 PM, Lynn Segal <[lynnsegal7@hotmail.com](mailto:lynnsegal7@hotmail.com)> wrote:

Correction from unprompted mis-send on pre-edited paragraph, 2nd from the last.

The idea is we could experience an unforeseen rare snow, ice, season aberration, abrupt and prolonged temperature variation or geologic event with a rockslide and inundation of the very Flatirons that define this place and CU. It's no longer about a CU/state economy of oil and gas. It's about Boulder autonomy and watching out for yo

Sent from my iPhone

On Feb 23, 2020, at 7:48 PM, Lynn Segal <[lynnsegal7@hotmail.com](mailto:lynnsegal7@hotmail.com)> wrote:

Imagine me sitting in the chambers as you entertain South Boulder Floodplain in the Study Session Tuesday. I would be there if I were not in SunValley.

Taxpayers have spent excessive quantities of funds for 24 yrs. to accommodate CU, yet their sovereignty extends only so far as some land that they bought without utility services in a flood plain. What's more they got a \$5 M discount since the land was appraised that much above the purchase price from Flatirons Gravel. Lets not spend multiple more years redesigning CU's campus system at our expense when we are already in deficit in transportation (Carlos left because of a lack of resources he felt were needed to be successful) open space, housing affordability and fire and water among myriad other departments and services. Maybe CU just cannot afford to expand anymore on the Boulder campus.

Community benefit? We protect the COB including many of CU's off-campus students with this flood mitigation project which comes first. It is up to CU if they have any interest in using what is left of their usable land after flood mitigation.

Do not get distracted with answering to CU's trade-offs on the issue of affordable housing relief to academic development on the land..

**CU South Annexation Application (LUR2019-00010)**  
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Do not trade good land for bad. A sprawling North campus is not in the BVCP. The city has plenty of trade-offs to deal with on our own property. CU has four campuses. We have one city.

We are responsible for our citizens in times of unforeseen effects of rapidly advancing climate change. While we were debating about 50, 100 and 500 yrs floods, we were impacted with a 1000 yr. rain in 2013.

Boulder needs a singular focus. Flood mitigation for us.

Lynn

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Pomerance, Stephen <stevepom335@comcast.net>

**Sent:** Sunday, February 23, 2020 5:16 PM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Subject:** Land Swap idea

**External Sender**

**SWAP for City acreage in Planning Reserve Area III - 129 developable acres plus 30 for fields (with value differences reconciled)**

- **Option 3:**
- CU agrees to **evaluate** the acceptability of land currently owned by the City north of the city limits in Planning Reserve Area III for an exchange with the land owned by the university at CU Boulder South if the City can commit to:
  - Complete full annexation of the property north of Boulder in Planning Area III into city concurrent with an exchange for land in CU Boulder South
  - At its cost, extend connections to city services to the border of the property that would be exchanged
- Once the agreements above for annexation and utility connections are in place:
  - CU shall perform a thorough evaluation of city-offered properties, including valuation, development potential, transportation issues and other customary due diligence activities to determine feasibility
- If results of evaluation are favorable for an exchange, then:
  - A minimum of 159 total acres would be required
    - Each property would need to be appraised to determine value – CU would have an appraisal conducted of CU South; City would have an appraisal conducted of its properties in Planning Reserve Area III
    - CU and city agree to a process for fair market value reconciliation between the properties exchanged
  - City and CU must determine and agree to relevant principles to be applied to the property for its future development (note, guiding principles for CU South will not apply to this property)

**Comments on the Land Swap idea as described above in the document circulated by Sam Weaver this morning:**

1. The notion that the annexation and utility agreements need to be "in place" for CU to do their evaluation has the cart way before the horse. The agreements should be written and agreed to as to form and content, but only should be signed when all the approvals and appraisals are done and agreed to, and all the costs quantified and agreed to, and all services to be provided agreed to, including such things as new fire stations, etc., that seem to have been forgotten, and also transportation planning and bus service to the campus, which is barely discussed, and who will pay for what.

2. The zoning, height, density, types of use, etc. for the CU land, as well as any financial issues, should be agreed to up front, before any annexation or swap ever takes place. Giving land to CU with a carte blanche by letting them do their evaluation as to what they can do AFTER the agreements are "in place" makes zero sense and would be totally irresponsible.

3. The cost of utility connections (presuming that is what CU is talking about) should be determined, and found acceptable. Frankly, there is no reason why the City should pay for this for CU. Also, what's missing is the issue of water and sewer tap fees and capacity, and who will pay if the sewer plant needs to be expanded.

4. The appraisal process for CU South should be done under its currently potential use under Boulder County zoning, land use regulations, etc., and not under CU's fantasy about what they might want to do there. Otherwise CU can inflate the number to whatever they might want.

Comments on using City land for the Land Swap idea:

5. Area III Planning Reserve was created in a deal between the pro development folks and the slow growth folks — it was done by the then infamous “Gang of Six” of which I was a part when I was on the Council. In exchange for moving most of Area III into Rural Preservation (the Rural Preservation Comp Plan designation didn't exist prior to then), the City agreed to put some acreage (600 A?) into the Planning Reserve (this concept was also created for this purpose), which could be annexed but only for something special. The exact language is in the Comp Plan. It was “let's cut a deal”, pure and simple. (And if I/we could have gotten the votes on council to do the RP designation for all of Area III, we would have.) So let's not try to turn the Planning Reserve concept into something it isn't and wasn't.

6. To the best of my memory, the land (approx 200 A?) that the City owns in the Planning Reserve was purchased with money from a tax dedicated to Parks and Rec. Part that was for future fields and part for other things. If my memory is correct, this land is subject to the same Charter restrictions as any other Parks land, AND it is also subject to the conditions in the ballot under which the tax was approved. So it is important to research the history to know what the conditions were and what promises were made as well as what the Charter says, so as to avoid any legal upsets down the road. Do not accept any assurances without actually reading the language yourselves — you do not want to be on the wrong side of this one.

Regards,  
Steve Pomerance

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Richard Harris <richard3harris@gmail.com>  
**Sent:** Sunday, February 23, 2020 5:00 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Info for your Study Session on Tuesday

**External Sender**

Dear Council Members,

When Ben Binder made arrangements for his talk on "CU South nx South Boulder Creek Flood Mitigation" (February 10) I was eager to go. I've heard little bits and pieces of his thoughts over time. With Ruth Wright's encouragement I made a video of it.

You can also learn more from your Study Session this coming Tuesday. However I fear that Ben's points will be too controversial to be fully articulated by the staff. I've been recommending that as many interested folks watch the video as possible. But I know you are very busy.

The talk lasts about 56 minutes. That's followed by 26 minutes of Q&A. One could skip the latter.

The video is on YouTube. You can watch it on your computer at [YouTube.com](https://www.youtube.com) or on your television if it receives YouTube.

You will find it by searching for "BEN BINDER" or "CU SOUTH". Note the spaces. It is a well researched and thoughtfully presented message that has not previously been broadly available.

With Opinions in the *Camera* on

- Friday by [Steve Pomerance](#) [Should Boulder condemn CU South?] and
- Saturday by [Ben Binder](#), [Boulder should start playing hardball on CU South]

it is urgent that we stop this expansion of CU's footprint into this area that has (2013) caused flood damage to a significant portion of the rest of our City.

Dick Harris

PS. Please forward this message as you find appropriate.

Suggestions about the video are very welcome. There are still a couple of minor technical problems with small portions of the audio. We will be fixing them if possible. While we are doing that other changes will be easy.

**From:** Pomerance, Stephen <stevepom335@comcast.net>

**Sent:** Sunday, February 23, 2020 9:43 AM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Subject:** CU South - condemnation, money, and control

### **External Sender**

***To the Council and Open Space Board of Trustees:***

***CU currently has the City over a barrel —***

***Folks in South Boulder want some flood protection, and CU won't allow the flood protection infrastructure to be built until the City has agreed to annex CU's land, allow the development that CU wants, and pay for infrastructure, dirt fill, etc.***

***To put it baldly, the City has zero negotiating power right now and CU has it all. So CU can extract the maximum it wants, both in land and in money.***

***The City's estimate of costs for all this for the "500 year" option, the only one worth doing given the vagaries of the weather and significantly increased risks due to climate change, is almost \$100 million: \$47 million is for flood control, and \$49 million is for soil fill dirt and "impacts to CU Property, which may include some infrastructure, but looks like it's mostly fixes to CU's stuff.***

***There are almost certainly other off site costs that may not be included in this, like relocating fire stations, intersection and street improvements, etc., that will kick it up, likely by tens of millions more. And then there are the currently unknown water, sewer, drainage, street, and other infrastructure costs that CU may additionally want to extract in exchange for letting the City do flood control on part of the property.***

***(FYI I have included the City's current cost table, such as it is, from the Study Session Materials at the bottom of this email.)***

***To me, it would make MUCH more sense to:***

***1) condemn the property RIGHT NOW, and use as much land as necessary to do the best possible job for flood control given climate change, and restore the land in so far as possible and convert what's possible to Open Space, so it has some real protection. The City might even save significant money on the flood control infrastructure because of the much increased detention area.***

***2) spend the \$50 million-plus savings (from not doing the dirt fill, infrastructure, etc.) doing flood control on all the other creeks whose neighborhoods also had flood damage, and finally get that job done. It's now well over 6 years since the 2013 flood and the plans for some of the tributaries are not even close to done.***

***3) the above can be paid for mostly with flood control utility money. Because it is a utility and operates as an enterprise, it can borrow without a vote, and pay it back with increased fees, which will be less than what they would have been if CU gets its way. Some OSMP money might be required, but it would be relatively minimal, I would guess.***

**4) let CU use what land is left, according to the rules that the City puts in an annexation agreement. And extract an agreement that finally puts a damper on CU's ambitions for expansion in Boulder.**

**We really, really do NOT need a student population approaching 60,000.**

*As to the condemnation price the court would set, the City would be paying for land that is not in the City (not annexed), is subject to all the zoning and land use restrictions that the County imposes, has no infrastructure (no water, sewer, streets, etc.), and has wetlands, endangered species, etc. that further inhibit its development potential. So its net value is relatively low. I'd guess that it is in the \$10-\$20 million range for the land needed to do a really good job of flood control.*

**Condemnation:**

*I am not an expert on this subject, so I did some research, which is below.*

*(Some of you may remember that a similar issue came up in the 2013 attempt by the City to condemn Xcel's CPCN outside the city boundaries, which collapsed when it was pointed out that the case law considered the CPCN a license, and not property. This is how I remembered to look in the Constitution. Fortunately, in this case, it's land, not paper, that would be condemned, and so the City has the power to do so.)*

*Below is what the Colorado Constitution and the relevant case law has to say about a home rule municipality constructing public utilities or public works or condemning property outside its municipal boundaries. In brief, the city's powers are VERY strong — the City has the power and it is defined very expansively.*

*The Telluride case expands on those powers:*

*— Condemnation for a public purpose can include land that “potentially implicates competing state interests”, presumably like CU.*

*--- The Legislature cannot interfere with this right “regardless of the state interests that may be implicated by the exercise of those powers.”*

*I also looked in the Constitution and could not find anything that would grant CU any rights that would weaken these powers.*

*Note that Article XX, Sec. 1 is written to apply to Denver, but the Colorado Constitution and related case law makes everything that applies to the City of Denver apply to all other home rule cities. This is highlighted down below where I copied the Constitution and the Notes*

*(BTW, I got all this from the Lexis version — it's very useful — link is below — if that doesn't work, just search “colorado constitution lexis” and click on the first link that comes up.).*

**Colorado Constitution, Article XX, Sec. 1**

**...[home rule cities]...shall have the power, within or without its territorial limits, to construct, condemn and purchase,...water works, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways**

local in use and extent, in whole or in part, and everything required therefore, for the use of said city and county and the inhabitants thereof,

Town of Telluride v. San Miguel Valley Corp., 185 P.3d 161 (Colo. 2008).

The extraterritorial condemnation of property need not be pursuant to a purpose that is purely local and municipal. As long as the condemnation is based on a lawful, public, local, and municipal purpose, it does not fall outside of the scope of this article merely because it potentially implicates competing state interests.

The legislature cannot prohibit the exercise of constitutional home rule powers regardless of the state interests that may be implicated by the exercise of those powers.

Regards,  
Steve Pomerance

*P.S. As to the "handout", a copy of which Mayor Sam Weaver just circulated on the Hotline, which I just saw, well, it doesn't even have a letterhead, much less a signature...so it's interesting but not binding in any way IMO.*

<https://advance.lexis.com/documentpage/teaserdocument/?pdmfid=1000516&crid=4f4cbdf6-f171-443c-be62-cfb60586257d&config=0143JAAwODgxYWIyNi1mNGJLTQwYmltYmE4Ni0yOWY2NzQzMjE3MTAKAFBvZENhdGFsb2ecqetP0coiYGhC4QCG46NJ&pddocfullpath=%2Fshared%2Fdocument%2Fstatutes-legislation%2Furn%3AcontentItem%3A5WX1-GDD0-004D-105G-00008-00&pddocid=urn%3AcontentItem%3A5WX1-GDD0-004D-105G-00008-00&pdcontentcomponentid=234164&pdteaserkey=h6&pditab=allpods&ecomp=h567kkk&earg=sr1&prid=d47d12cb-da17-40e3-819c-048efcb58513>

## Colo. Const. Art. XX, Section 1

Copy Citation

Current through all laws passed during the 2019 Legislative Session.

- [CO - Colorado Constitution](#)
- [CONSTITUTION OF THE STATE OF COLORADO](#)
- [ARTICLE XX HOME RULE CITIES AND TOWNS](#)

Section  
1. INCO  
RPORA  
TED

The municipal corporation known as the city of Denver and all municipal corporations and that part of the quasi-municipal corporation known as the county of Arapahoe, in the state of Colorado, included within the exterior boundaries of the said city of Denver as the same shall be bounded

when this amendment takes effect, are hereby consolidated and are hereby declared to be a single body politic and corporate, by the name of the "City and County of Denver". By that name said corporation shall have perpetual succession, and shall own, possess, and hold all property, real and personal, theretofore owned, possessed, or held by the said city of Denver and by such included municipal corporations, and also all property, real and personal, theretofore owned, possessed, or held by the said county of Arapahoe, and shall assume, manage, and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities, and shall acquire all benefits and shall assume and pay all bonds, obligations, and indebtedness of said city of Denver and of said included municipal corporations and of the county of Arapahoe; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold, and enjoy or sell and dispose of, real and personal property; may receive bequests, gifts, and donations of all kinds of property, in fee simple, or in trust for public, charitable, or other purposes; and do all things and acts necessary to carry out the purposes of such gifts, bequests, and donations, with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the gift, bequest, or trust; **shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct, and operate water works, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefore, for the use of said city and county and the inhabitants thereof,** and any such systems, plants, or works or ways, or any contracts in relation or connection with either, **that may exist and which said city and county may desire to purchase, in whole or in part, the same or any part thereof may be purchased by said city and county which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain,** and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes, as may by the charter be provided.

The provisions of section 3 of article XIV of this constitution and the general annexation and consolidation statutes of the state relating to counties shall apply to the city and county of Denver. Any contiguous town, city, or territory hereafter annexed to or consolidated with the city and county of Denver, under any such laws of this state, in whatsoever county the same may be at the time, shall be detached per se from such other county and become a municipal and territorial part of the city and county of Denver, together with all property thereunto belonging.

The city and county of Denver shall alone always constitute one judicial district of the state.

Any other provisions of this constitution to the contrary notwithstanding:

No annexation or consolidation proceeding shall be initiated after the effective date of this amendment pursuant to the general annexation and consolidation statutes of the state of Colorado to annex lands to or consolidate lands with the city and county of Denver until such proposed annexation or consolidation is first approved by a majority vote of a six-member boundary control commission composed of one commissioner from each of the boards of county commissioners of Adams, Arapahoe, and Jefferson counties, respectively, and three elected officials of the city and county of Denver to be chosen by the mayor. The commissioners from each of the said counties shall be appointed by resolution of their respective boards.

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No land located in any county other than Adams, Arapahoe, or Jefferson counties shall be annexed to or consolidated with the **city** and county of Denver unless such annexation or consolidation is approved by the unanimous vote of all the members of the board of county commissioners of the county in which such land is located.

(Paragraph deleted by amendment, L. 2002, p. 3097, effective upon proclamation of the Governor, L. 2003, p. 3611, December 20, 2002.)

(Paragraph deleted by amendment, L. 2002, p. 3097, effective upon proclamation of the Governor, L. 2003, p. 3611, December 20, 2002.)

(Paragraph deleted by amendment, L. 2002, p. 3097, effective upon proclamation of the Governor, L. 2003, p. 3611, December 20, 2002.)

All actions, including actions regarding procedural **rules**, shall be adopted by the commission by majority vote. Each commissioner shall have one vote, including the commissioner who acts as the chairman of the commission. All procedural **rules** adopted by the commission shall be filed with the secretary of state.

This amendment shall be self-executing.

History

**SOURCE:**

L. 01: Entire article added, p. 97. INITIATED 74: Paragraphs 1-3 were amended by the people, effective upon proclamation of the Governor, December 20, 1974, but do not appear in the session laws. L. 74: Paragraphs 4-11 added, p. 457, effective upon proclamation of the Governor, December 20, 1974. L. 2002: Paragraphs 7-9 deleted, p. 3097, § 1, effective upon proclamation of the Governor, L. 2003, p. 3611, December 20, 2002.

 Annotations

No

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**CU South Annexation Application (LUR2019-00010)**  
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LAW REVIEWS: For article, "The Colorado Constitution in the New Century", see 78 U. Colo. L. Rev. 1265 (2007).

EDITOR'S NOTE: The "effective date of this amendment" referred to in paragraph 5 is December 20, 1974.

CROSS REFERENCES: For annexation of territory from one county to adjoining county, see § 3 of article XIV of this constitution; for officers of the **city** and county of Denver, see § 2 and 3 of this article; for the control of franchises and the power of taxation, see § 4 of this article; for amendment of charter or adoption of new charter, see § 5 of this article; for **home rule** for **cities** and towns and powers of **home rule cities** generally, see § 6 of this article; for power to regulate rates and service charges of public utilities, see article XXV of this constitution; for statutory provisions relative to the **city** of Denver, see part 2 of article 11 of title 30.

**I. GENERAL CONSIDERATION.**

LAW REVIEWS. For article, "Colorado Constitutional Amendments: An Analysis", see 3 Den. B. Ass'n Rec. 4 (Nov. 1926). For article, "Report of Justice Court Committee", see 9 Dicta 221 (1932). For note, "Prohibition in '**Home Rule**' **Cities** of Colorado", see 6 Rocky Mt. L. Rev. 146 (1934). For article, "Extraterritorial Service of Municipally Owned Water Works in Colorado", see 21 Rocky Mt. L. Rev. 56 (1948). For article, "Has the Doctrine of Stare Decisis Been Abandoned in Colorado?", see 25 Dicta 91 (1948). For article, "Strengthening **HomeRule** in Colorado -- Proposed Amendment No. 1", see 27 Dicta 343 (1950). For article, "Eminent Domain in Colorado", see 29 Dicta 313 (1952). For note, "The Constitutionality of a Colorado Municipal Income Tax", see 25 Rocky Mt. L. Rev. 343 (1953). For note, "The Power of the Denver Water Board to Enact Penalty Regulations", see 31 Dicta 349 (1954). For article, "Municipal Penal Ordinances in Colorado", see 30 Rocky Mt. L. Rev. 267 (1958). For article, "One Year Review of Constitutional and Administrative Law", see 36 Dicta 11 (1959). For article, "One Year Review of Criminal Law and Procedure", see 36 Dicta 34 (1959). For article, "One Year Review of Real Property", see 36 Dicta 57 (1959). For article, "Municipal Income Taxation", see 31 Rocky Mt. L. Rev. 123 (1959). For note, "The Effect of Land Use Legislation on the Common Law of Nuisance in Urban Areas", see 36 Dicta 414 (1959). For article, "A Review of the 1959 Constitutional and Administrative law Decisions", see 37 Dicta 81 (1960). For note, "Municipal Tort Immunity in Colorado", see 37 Dicta 133 (1960). For article, "Municipal **Home Rule** in Colorado: Self-Determination v. State Supremacy", see 37 Dicta 240 (1960). For article, "One Year Review of Constitutional and Administrative Law", see 38 Dicta 154 (1961). For article, "Subdivision Regulations and Compulsory Dedications", see 39 Dicta 299 (1962). For article, "One Year Review of Constitutional Law", see 40 Den. L. Ctr. J. 134 (1963). For note, "Increased Revenues for Colorado Municipalities", see 35 U. Colo. L. Rev. 370 (1963). For article, "The Powers of **Home Rule Cities** in Colorado", see 36 U. Colo. L. Rev. 321 (1964). For article, "An Engineering -- Legal Solution to Urban Drainage Problems", see 45 Den. L. J. 381 (1968). For article, "May Regulated Utilities Monopolize the Sun", see 56 Den. L. J. 31 (1979). For comment, "Water: Statewide or Local Concern?, **City** of Thornton v. Farmers Reservoir Irrigation Co., 194 Colo. 526, 575 P.2d 382 (1978)", see 56 Den. L. J. 625 (1979). For article, "Intergovernmental Relations and Energy Taxation", see 58 Den. L. J. 141 (1980). For article, "Pollution or Resources Out-of-Place -- Reclaiming Municipal Wastewater for Agricultural Use", see 53 U. Colo. L. Rev. 559 (1982). For article, "Growth Management: Recent Developments in Municipal Annexation and Master Plans", see 31 Colo. Law. 61 (March 2002). For article, "**Home Rule** in Colorado: Evolution or Devolution", see 33 Colo. Law. 61 (Jan. 2004). For article, "**Home Rule**, Extraterritorial Impact, and the Region", see 86 Den. U. L. Rev. 1271 (2009). For article, "Town of Telluride v. San Miguel Valley Corp.: Extraterritoriality and Local Autonomy", see 86 Den. U. L. Rev. 1311 (2009). For article, "Constitutional **Home Rule** and Judicial Scrutiny", see 86 Den. U. L. Rev. 1337 (2009). For article, "Telluride's Tale of Eminent Domain, **Home Rule**, and Retroactivity", see 86 Den. U. L. Rev. 1433 (2009). For comment, "Minority Interests, Majority Politics: A Comment on Richard Collins' 'Telluride's Tale of Eminent Domain, **Home Rule**, and Retroactivity'", see 86 Den. U. L. Rev. 1459 (2009).

ANNOTATOR'S NOTE. Prior to the enactment of this article of the constitution, the law incorporating the **city** of Denver and the several acts amendatory thereto were construed in a number of cases which are included mainly for historical purposes. Brown v. State, 5 Colo. 496 (1881); Beatty v. People, 6 Colo. 538 (1883); Carpenter v. People ex rel. Tilford, 8 Colo. 116, 5 P. 828 (1884); Huffsmith v. People, 8 Colo. 175, 6 P. 157 (1884); Darrow v. People ex rel. Norris, 8 Colo. 426, 8 P. 924 (1885); Phillips v. **City** County of Denver, 19 Colo. 179, 34 P. 902 (1893); Denver Tramway Co. v. Londoner, 20 Colo. 150, 37 P. 723 (1894).

FOR HISTORY OF SECTION, see Hoper v. **City** County of Denver, 173 Colo. 390, 479 P.2d 967 (1971).

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THIS ARTICLE BY ITS TERMS IS SELF-EXECUTING. Cook v. **City** of Delta, 100 Colo. 7, 64 P.2d 1257 (1937).

The provisions of this article are self-executing and the adoption of a charter was not required to give effect thereto. Ward v. Colo. E. R. R., 22 Colo. App. 332, 125 P. 567 (1912); Berman v. **City** County of Denver, 120 Colo. 218, 209 P.2d 754 (1949).

WITH RESPECT TO ANNEXATION, STATE IS SUPREME. The state at its pleasure may expand or contract the territorial area of a municipal corporation, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. All this may be done, conditionally or unconditionally, with or without the consent of the citizens, or even against their protest. Bd. of County Comm'rs v. **City** County of Denver, 150 Colo. 198, 372 P.2d 152 (1962), appeal dismissed, 372 U.S. 226, 83 S. Ct. 679, 9 L. Ed. 2d 714 (1963).

PROCEEDINGS FOR ANNEXATION. Proceedings for the annexation of a **city** to the **city** and county of Denver are governed by this section and section 31-8-201, not by § 3 of art. XIV, Colo. Const. Simon v. Arapahoe County, 80 Colo. 445, 252 P. 811 (1927).

This section modifies and limits § 3 of art. XIV, Colo. Const., insofar as a proposed annexation of territory to the **city** and county of Denver is concerned, and such annexation can be effected without the consenting vote of a majority of qualified voters of the county from which the annexed territory is detached. People ex rel. Simon v. Anderson, 112 Colo. 558, 151 P.2d 972 (1944); Bd. of County Comm'rs v. **City** County of Denver, 150 Colo. 198, 372 P.2d 152 (1962), appeal dismissed, 372 U.S. 226, 83 S. Ct. 679, 9 L. Ed. 2d 714 (1963).

INHABITANTS HAVE NO RIGHT TO UNALTERED EXISTENCE OF MUNICIPALITY. Although the inhabitants and property owners may suffer inconvenience by annexation, and their property may be lessened in value by the burden of increased taxation or for any other reason, they have no right, by contract or otherwise, in the unaltered or continued existence of the municipal corporation or its powers. Bd. of County Comm'rs v. **City** County of Denver, 150 Colo. 198, 372 P.2d 152 (1962), appeal dismissed, 372 U.S. 226, 83 S. Ct. 679, 9 L. Ed. 2d 714 (1963).

ANNEXATION DETACHES TERRITORY. This section makes it clear that any annexation under any of the general laws of the state operates, per se, as a detachment of the annexed territory from the county in which it lies. People ex rel. Simon v. Anderson, 112 Colo. 558, 151 P.2d 972 (1944).

SECTION REQUIRES COMPLIANCE WITH STATUTORY PROCEDURES. Annexation is a special statutory proceeding, and this section requires compliance with such procedures by the **city** and county of Denver. People ex rel. **City** County of Denver v. County Court, 137 Colo. 436, 326 P.2d 372 (1958).

**CONDEMNATION** BY A **HOME RULE** MUNICIPALITY OF PROPERTY OUTSIDE ITS TERRITORIAL BOUNDARIES FOR OPEN SPACE AND PARK PURPOSES FALLS WITHIN THE SCOPE OF THE EMINENT DOMAIN POWER GRANTED TO SUCH MUNICIPALITIES IN THIS ARTICLE. The eminent domain power granted to **home rule** municipalities in this article is not limited to the purposes specified in this section nor is the eminent domain power circumscribed when exercised extraterritorially. **Rather, this article grants home rule municipalities the power to condemn property, within or outside of territorial limits, for any lawful, public, local, and municipal purpose. The extraterritorial condemnation of property need not be pursuant to a purpose that is purely local and municipal. As long as the condemnation is based on a lawful, public, local, and municipal purpose, it does not fall outside of the scope of this article merely because it potentially implicates competing state interests.** Based upon statutory provisions authorizing statutory localities to **condemn** land for open space, parks, and recreation, as well as the traditional exercise of this power by the state's statutory and **home rule** municipalities, the extraterritorial **condemnation** of property for open space and parks is a lawful, public, local, and municipal purpose within the scope of this article. The **condemnation** of the landowner's property outside the territorial boundaries of the municipality was, therefore, lawful. Town of Telluride v. San Miguel Valley Corp., 185 P.3d 161 (Colo. 2008).

SECTION 38-1-101 (4)(B) ABROGATES CONSTITUTIONAL POWERS GRANTED TO **HOME RULE** MUNICIPALITIES BY THIS ARTICLE. Accordingly, the statutory provision is unconstitutional with respect to **home rule** municipalities. Court's inquiry need not extend beyond the question of whether the statute purports to deny **home rule** municipalities powers specifically granted by the constitution. **No analysis of competing state and local interests is necessary where a statute purports to take away home rule powers granted by the constitution. The legislature cannot prohibit the exercise of constitutional home rule powers regardless of the state interests that may be implicated by the exercise of those powers.** Town of Telluride v. San Miguel Valley Corp., 185 P.3d 161 (Colo. 2008).

## CU South Annexation Application (LUR2019-00010)

### Public Comments Through September 14, 2021

SECTION 38-1-101 (4)(B) PROHIBITS **HOME RULE** MUNICIPALITIES FROM **CONDEMNING** PROPERTY FOR PARKS AND OPEN SPACE, THUS DENYING THEM THEIR CONSTITUTIONAL POWER TO **CONDEMN** FOR ANY LAWFUL, PUBLIC, LOCAL, AND MUNICIPAL PURPOSE. Section 38-1-101 (4)(b) curtails the **condemnation** power in this article by limiting it to the enumerated purposes in this section and also by removing certain enumerated purposes from the list. Accordingly, § 38-1-101 (4)(b) is an unconstitutional abrogation of the powers granted to **home rule** municipalities under this article. The general assembly has no power to enact a law that denies a right specifically granted by the constitution. Town of Telluride v. San Miguel Valley Corp., 185 P.3d 161 (Colo. 2008).

ALTHOUGH **CONDEMNATION** TO CREATE AN OPEN SPACE COMMUNITY BUFFER COULD BE A PROPER PUBLIC PURPOSE, the petition to **condemn** land was motivated by bad faith. Specifically, the primary interest of the municipality in the subject property was to interfere with proposed commercial development undertaken by the town, which is not a lawful public purpose for the **condemnation**. City of Lafayette v. Town of Erie Urb. Ren., 2018 COA 87, 434 P.3d 746.

#### APPLIED in

Sch. Dist. No. 1 v. Sch. Dist. No. 7, 33 Colo. 43, 78 P. 690 (1904); Heuston v. Gilman, 98 Colo. 301, 56 P.2d 40 (1936); Bd. of County Comm'rs v. City of Denver, 190 Colo. 347, 547 P.2d 249 (1976); City of Northglenn v. City of Thornton, 193 Colo. 536, 569 P.2d 319 (1977); James v. Bd. of Comm'rs, 42 Colo. App. 27, 595 P.2d 262 (1978); Bd. of County Comm'rs v. City of Thornton, 629 P.2d 605 (Colo. 1981); Carstens v. Lamm, 543 F. Supp. 68 (D. Colo. 1982); Gold Star Sausage Co. v. Kempf, 653 P.2d 397 (Colo. 1982).

#### II. PURPOSE OF ARTICLE.

TO GRANT **HOME RULE**. The purpose of this article is to grant **home rule** to Denver and other municipalities of the state. City of Denver v. Hallett, 34 Colo. 393, 83 P. 1066 (1905); Lehman v. City of Denver, 144 Colo. 109, 355 P.2d 309 (1960).

The subject matter of this article is **home rule**, or the right of self-government by Denver and other municipalities in the state relating to local and municipal matters. People ex rel. Tate v. Prevost, 55 Colo. 199, 134 P. 129 (1913).

The purpose of this article is to extend to the other cities of the state the privilege of adopting charters in substantially the same manner as is provided for the adoption of the Denver charter, granting to such cities the same power as to real and personal property and public utilities as is granted to the city and county of Denver. People ex rel. Elder v. Sours, 31 Colo. 369, 74 P. 167 (1903).

It was intended to give as large a measure of home rule in municipal affairs as could be granted under a republican form of government which the state is obliged to maintain under its compact with the federal government, as evidenced by the enabling act. People ex rel. Parish v. Adams, 31 Colo. 476, 73 P. 866 (1903); Fishel v. City of Denver, 106 Colo. 576, 108 P.2d 236 (1940); Toll v. City of Denver, 139 Colo. 462, 340 P.2d 862 (1959).

The prime purpose of this article was to bestow upon the inhabitants of the city of Denver, and certain surrounding territory, a very greatly increased measure of **home rule**. Ward v. Colo. E. R. R., 22 Colo. App. 332, 125 P. 567 (1896); Berman v. City of Denver, 120 Colo. 218, 209 P.2d 754 (1949).

AND TO CONSOLIDATE CITY AND COUNTY POWERS. The purpose of this article was to consolidate the city of Denver and a portion of the county of Arapahoe into a new sort of municipality having the combined powers of city and county governments. People ex rel. Elder v. Sours, 31 Colo. 369, 74 P. 167 (1903).

The purpose of this article is to grant **home rule** to the city and county of Denver, subject to the conditions that the people establish such a government as would consolidate the functions of city and county affairs so as to be administered by one set of officers. Lindsley v. City of Denver, 64 Colo. 444, 172 P. 707 (1918).

AND TO ENLARGE THEIR POWERS. Thus it was intended to enlarge the powers beyond those usually given by the general assembly. City of Denver v. Hallett, 34 Colo. 393, 83 P. 1066 (1905); Berman v. City of Denver, 120 Colo. 218, 209 P.2d 754 (1949); Lehman v. City of Denver, 144 Colo. 109, 355 P.2d 309 (1960).

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The purpose of this article was to extend the powers of **cities**, not to impose further restrictions. Hoper v. **City** County of Denver, 173 Colo. 390, 479 P.2d 967

**Table 5: Projects Tradeoffs Summary**

Project Criteria	Option 1 (100-yr)	Option 2 (500-yr)	Option 3 (200-yr)
<b>Downstream Flood Benefits <sup>(1)</sup></b>	<b>Meets LOS <sup>(2)</sup></b>	<b>Largest</b>	<b>Larger</b>
People	2,300	4,100	3,600
Structures	260	730	600
Dwelling Units	1,100	1,900	1,700
<b>Total Project Cost</b>	<b>\$66M</b>	<b>\$96M</b>	<b>\$93M</b>
Regional Flood Detention	\$41M	\$47M	\$46M
Soil Fill	\$10M	\$34M	\$32M
Impacts to CU Property <sup>(3)</sup>	\$15M	\$15M	\$15M
<b>Size of Dam</b>	<b>Smallest</b>	<b>Largest</b>	<b>Larger</b>
Length of Floodwall	2,710 ft. <sup>(4)</sup>	2,810 ft.	2,810 ft.
Height of Floodwall (max)	8.8 ft.	10.6 ft.	9.5 ft.
<b>Estimated Project Footprint</b>	<b>64 acres</b>	<b>107 acres</b>	<b>106 acres</b>
Embankment/Floodwall	10 acres	11 acres	10 acres
Fill Area	34 acres	76 acres	76 acres
Excavation Area	19 acres	19 acres	19 acres
Outlet	<1 acre	<1 acre	<1 acre
<b>Environmental Impacts</b>	<b>Smallest</b>	<b>Larger</b>	<b>Largest</b>
Wetlands	4.8	7.1	8.9
Threatened and Endangered Species	0.9	5.0	5.0
Open Water	2.6	2.6	2.6
<b>Impacts to OSMP property</b>	<b>Least</b>	<b>Most</b>	<b>More</b>
Direct Impacts	5 acres	5 acres	5 acres
Inundation Impacts	Least	Most	More
OS-O Opportunities	Most	Least	More
Environmental Mitigation Costs	Least	Most	More
<b>Impacts to CU Property<sup>(5)</sup></b>	<b>Similar</b>	<b>Similar</b>	<b>Similar</b>
CU Tennis Courts	Estimated \$15M total		
South Loop Drive			
Warehouse			
Utilities Connections			
Recreation Fields (30 acres)	In Progress	In Progress	In Progress
<b>Project Feasibility<sup>(6)</sup></b>	<b>Least Unknowns</b>	<b>Most Unknowns</b>	<b>More Unknowns</b>

Notes: Darker cells indicate more favorable alignment with the multiple project objectives.

1. People, structures and dwelling units that will be removed from the 200-yr floodplain have been estimated base on total number of structures located in the 100-yr and 500-yr floodplains.
2. LOS = Level of Service
3. Costs to be negotiated with CU during CU South Annexation process.
4. Option 1 provides the opportunity to shorten the floodwall length by providing more flexibility for the location of the floodwall termination.
5. Estimated costs/impacts will be refined as the flood mitigation project progress through the design process and finalized through the annexation process.

(1971).

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Chris C. Hoffman <hoopandtree@aol.com>  
**Sent:** Friday, February 21, 2020 4:28 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

To the Council:

I encourage you to CU South area for the purposes of flood mitigation and wildlife protection as well as for the health and safety of South Boulder residents, as described in Steve Pomerance's column in the Camera on February 20 (<https://www.dailycamera.com/2020/02/20/opinion-steve-pomerance-should-boulder-condemn-cu-south/>).

Thank you,

Chris Hoffman

Chris Hoffman  
1280 Fairfield Drive  
Boulder, CO 80305 USA  
303-513-3621 (mobile)  
[www.hoopandtree.org](http://www.hoopandtree.org)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Janet Brewer <dtbjhb@aol.com>  
**Sent:** Friday, February 21, 2020 7:41 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek Flood Mitigation

**External Sender**

Dear Council Members:

It has been more than 6 years since the flooding of 2013 devastated my home, Frasier Meadows Retirement Community. It is unimaginable to me that still nothing tangible has been done regarding flood mitigation in this part of Boulder.

Please focus!

- I support flood mitigation designs that prioritize expediency, cost and environmental conservation
- Please pursue a design idea that protects us from at least a 100-year flood event.
- If it's possible to protect us from a 200 or 500 year flood then we would like that but not at the expense of expedience.
- "Don't let the perfect be the enemy of the good."

Thank you for your service,  
Janet H. Brewer

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Pete Palmer <allison.palmer@comcast.net>

**Sent:** Thursday, February 20, 2020 4:50 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** 'Laura Tyler' <laura@amstec.com>

**Subject:** South Boulder Creek flood mitigation

**External Sender**

Dear Council members:

I regret I will be out of town all next week so will not be able to attend the next SBC flood mitigation meeting.

Please move mitigation forward and disregard the continuing attempts by selfish interests to slow or block the production of a flood berm to lower the risk of serious human problems in SE Boulder in a perhaps not-too-far-in-the-future flood. I hiked the entire area of the 2013 flood immediately afterward, where it was estimated that South Boulder Creek and the parallel and distinct stream that flowed around the CU South berm each had an equivalent of a 50-year flood (the rainfall was much higher, but the water depths of SBC stayed near its channel and the damage to us was the flash flood that came down Dowdy Draw as a result of the blowout of a railroad causeway. It jumped to the north to overwhelm the already-saturated terrain of the Dry Creek drainage and flood the area that crossed the Boulder turnpike and devastated the neighborhoods west of Foothills Parkway and north of the turnpike. A 100-year scenario is probably sufficient to keep most of a future flood from causing similar devastation. The 500-year flood idea was deliberately pushed by the selfish interests, as you already know.

Realistic mitigation has already been approved by Open Space and the Water Board, and I hope that Council will move forward and join those agencies in making the berm happen ASAP. Thanks.

B. R. (Pete) Palmer, Frasier Meadows Apt. 206

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Andy Schwarz <ams@amstec.com>  
**Sent:** Thursday, February 20, 2020 3:53 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek Flood Mitigation NOW!

**External Sender**

Hello, Council, and congratulations and welcome, new members.

I have written several letters to you regarding South Boulder Creek flood mitigation about the need to act now to help protect my neighborhood from another 100 year flash flood.

This letter is no different, only that 7 years have past, and we are still at high risk.

Please ACT NOW to get flood mitigation moving on South Boulder Creek. We are asking for a minimum of 100-year protection.

Don't get caught up in an impossible land swap with CU that is just not going to happen. The North property is too far from CU. I believe the neighborhoods in North Boulder won't let it happen. This will be time wasted when we could be making progress at CU South. CU has come to the table and is willing to work with the City. Please work with CU to get this done.

Thank you for your consideration.

Andy Schwarz

Qualla Drive

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Karla Rikansrud <krikansrud@frasiermeadows.org>  
**Sent:** Wednesday, February 19, 2020 3:13 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** sorry I missed Open Comment ast night

**External Sender**

Council members,  
A scheduling conflict made me about 5 minutes late for Open Comment last night.  
As my remarks tied into an article in yesterday's Camera, I wanted to share them with you now.

Happy to discuss further.

Thank you.  
Karla



**Karla Rikansrud** | VP for Philanthropy & Social Responsibility  
**Frasier** | 350 Ponca Place | Boulder, CO 80303  
**Email:** [krikansrud@frasiermeadows.org](mailto:krikansrud@frasiermeadows.org)  
**Phone:** 720.562.4306  
**Connect with us:** [Web](#) | [Facebook](#)

[Have you considered putting Frasier in your will?](#)

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Public Comment      Karla R. 6<sup>th</sup> & Arapahoe.

I'm here to urge you to stop dilly dallying around FLOOD MITIGATION.  
It has been 2,351 days since the flood of 2013 – that's 6.44 years. I've been coming here to speak on this topic for at least two years. I know it's complex, but my perception is that City Council has tried to micromanage the flood mitigation solution & we have gotten NO WHERE. None of you are WATER engineers. There is a creative solution here -- somewhere. The answer is teamwork & compromise.

- The landowner, CU has already donated considerable acreage from the South Boulder Campus for a mitigation solution.
- The Mt Parks open space must also participate in donating for a solution
- The Open Space (Other) land must also contribute to mitigate the impact of future flooding.
- CDOT is in the mix - & I recall a meeting in which several of you indicated a bond with the Governor that could help pave the way with that organization.

Stick with me for a story: We live by the Creek. I wonder how many of you personally saw the encampment under the 9<sup>th</sup> street bridge, & talked to some of those men? We did. From observation and conversations over the past 2 months I deduce: they are 99.8% white males with substance abuse issues. These are men who do NOT want to participate in the Coordinated Entry program that the City so generously & humanely offers. People who elect to not take responsibility for their own agency in life.

Referencing today's front page of the Camera – one might gather that the City is more concerned about white drunks & addicts than the tax-paying seniors who helped build this City.

I'm privileged to work with the Seniors of Frasier. They are retired from NOA, NIST, NCAR, the City, CU, Rocky Flats, & elsewhere. Our neighbors in the Frasier Meadows neighborhood & others in the flood plain cannot be expected to build their own flood walls.

That is the responsibility of YOU – elected officials.

PLEASE: compromise on a plan & get moving! 6.4 yrs ago flooding came in the fall – who's to say our next flood won't be this spring? Thank you.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>

**Sent:** Wednesday, February 19, 2020 1:03 PM

**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** CU's requirement that detention be located on the south end of its gravel pit resulted in the dam that CU now opposes

**External Sender**

*Should the city select a flood mitigation project that places an east-west dam across the entire north-end of the property, thereby isolating the developable property from Table Mesa and the local community, the university will need to determine if, and to what degree, housing remains suitable and feasible behind the dam.* Frances Draper

Below is a concept I developed several years ago using the south end of CU's bathtub-shaped gravel pit for floodwater detention. It provided 20% more detention volume than CH2M Hill's Alternative D at 80% of the cost.

I am not suggesting the city revisit this plan, as it's too late to do so. Past city project manager Kurt Bauer refused to consider my plan. He said it's a "non-starter" as CU wants to develop the south end of the property and does not want the south end of its gravel pit to be used for detention.

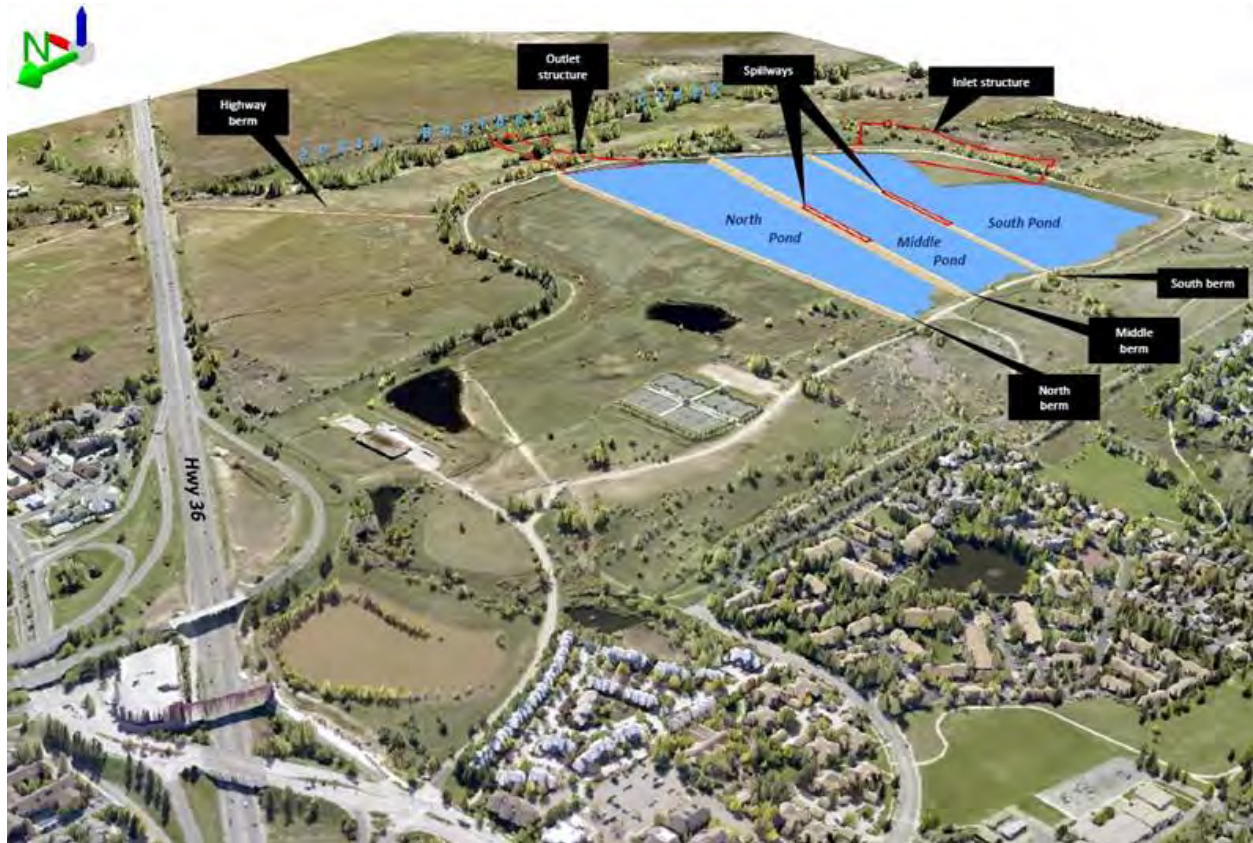
Notice my plan does not include a floodwall along US-36, nor does it require the large dam between the CU property and Table Mesa that CU opposes. **CU's revisions to the original reclamation plan, and CU's requirement that detention be located on the south end of the property resulted in the dam that CU now opposes.**

The city's current consultant, RJH, nixed my plan because it uses a small portion of Open Space for the inlet and outlet structures. But my plan uses less open space than the long floodwall along US 36 that CDOT does not want, and never wanted, in its ROW.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

Ben

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>  
**Sent:** Wednesday, February 19, 2020 10:08 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Allyn Feinberg <feinberga@comcast.net>  
**Subject:** PLAN-Boulder comments on CU South flood control and annexation

**External Sender**

Dear Council Members,

In the coming days you will be considering flood mitigation at the property known as CU South. Attached please find comments on this topic from PLAN-Boulder County. The flood event that damaged the downstream neighborhoods occurred in 2013. It is now 2020. PLAN-Boulder recognizes that the City is in the position of having to contemplate extreme measures to achieve a reasonable solution for flood mitigation in the face of CU's intransigence. PLAN recommends taking whatever action is necessary to provide effective flood protection, but not at the cost of annexation without the conditions that would be required of any other development project in Boulder.

Thank you for your consideration and for your service to our community.

Best regards,

Peter Mayer and Allyn Feinberg  
Co-Chairs, PLAN-Boulder County



**February 17, 2020**

**Re: February 25, 2020 CU South Study Session**

**To members of the Boulder City Council:**

PLAN-Boulder County regards the issues related to flood mitigation and annexation of the land known as CU South as inextricably linked. This is due to the fact that the University of Colorado (CU), the property owner of this parcel, continues to hold the safety of residents downstream hostage by demanding that annexation of its property under its own terms be completed before allowing any flood mitigation efforts to be undertaken. Because CU is a state entity, its position is that it does not have to abide by any of the City of Boulder's regulatory and land use requirements; therefore, the only real control Boulder will be able to exert over flood protection, and the

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

development of this flood prone land with complicated transportation access and impacts, will be through the agreements that are codified in the Annexation contract.

PLAN-Boulder remains opposed to the annexation and development of CU South except for flood protection. Most of the residential area downstream of CU South is in the floodplain and in hindsight, should never been developed. While there is nothing to be done about this situation now except to try to provide as much flood protection as possible, the mistake of developing in flood prone areas should not be repeated as is being proposed by CU.

The 100-year and 500-year floods are losing their meaning due to climate change. The nature and frequency of flood events is changing, and the magnitude of flood water generated during such events is forecast to increase. Putting residential and/or classroom development on the CU South property within the 500-year flood plain is irresponsible given this increasing uncertainty. We believe CU should look to alternative locations to carry out the programmatic requirements they plan to achieve by developing CU South, whatever those may be, since CU has been unwilling to be open about its plans.

Should City Council decide to move forward with annexation of CU South in order to implement flood protection, we believe that the following issues must be addressed related to any development prior to annexation.

***1. CU and the City should aggressively pursue alternative locations for CU Expansion.***

CU should enter into good faith negotiations for alternative sites for development and allow flood mitigation to proceed immediately on the CU South land. CU must drop its insistence that it retain 129 acres for development under any flood protection scenario the City chooses. Rather, CU and the City should jointly explore other options for CU's development. This could include sites in the city, added density on land CU currently holds, land in the Planning Reserve, and a cap on CU enrollment at the Boulder campus.

***2. CU and the City should aggressively pursue a trade of CU South land for Area 3 property in the Planning Reserve.***

Area 3 property in the Planning Reserve would be out of floodplain/flood risk area and adjacent to 28th Street corridor making it more suitable for development. The site is only 1 mile further than CU South from Main Campus and the City must decide if it is worth making a trade for this important piece of land reserved for the future needs of the City.

***3. CU must provide a definitive commitment Identifying what uses would be located at CU South, beyond indicating there might be 1,100 Dwelling Units, which would likely not consume the entire 129 acres.***

At various times, CU has indicated that in addition to 1,100 units of housing for upper class members, graduate students, and faculty, over 1 million square feet classroom and/or research/administrative offices may be located on the site. CU should provide a definitive development plan that is acceptable to the city for inclusion in the annexation agreement.

***4. The critical South Boulder Creek open space values and property acquired with open space funds adjacent to CU South must be protected, and any impacts associated with either the flood mitigation or CU South development must fully mitigated.***

The South Boulder Creek watershed is one of the most critical wildlife corridors in the county and features federal, state and locally protected species. Any activity on, adjacent, or related to either flood mitigation or CU South development must fully protect these critical features. OSBT must be convinced that this will be the case, starting with formal responses to OSBT's July 2018 Terms and Conditions, and OSBT's memo of September 2019. OSBT must agree to any disposal of Open Space, and the City should not proceed thinking this is a given only to find out at the last minute that this is not the case, similar to what happened with CDOT's willingness to allow the project to use its right of way.

***5. Before annexation, land uses must be agreed upon and documented, transportation impacts identified, performance standards specified, necessary transportation network planned, and infrastructure and services identified. Funding and timing of commitments should be required to ensure implementation of the agreed upon infrastructure, services, etc. Clearly, associated opportunities for public comments are mandatory.***

There has been no substantial analysis of transportation impacts, performance standards, infrastructure, or commitments towards mitigating or accommodating transportation impacts of CU South development, nor opportunity for public comment on any proposed development.

Transportation issues to be resolved and defined before annexation include:

- How much traffic would be allowed to be generated on the site.
- Where and how traffic would access the site.
- How the transportation system would relate to/impact adjacent neighborhoods and any necessary mitigation measures.
- Clearly defined performance standards identifying how much traffic, of what type, may generated over specific time frames.
- A specific plan documenting how students/staff/others would move between CU Main Campus, East Campus, access from regional destinations, etc. and the services and infrastructure necessary to facilitate such movement consistent with the performance standards.
- Who would build and pay for the necessary infrastructure and services to comply with these performance standards?

***6. Most importantly, the City must immediately start involving the residents who will be impacted by whatever happens to CU South.***

To date there has been no outreach to residents adjacent to the CU South site beyond the Frasier Meadows group advocating for immediate flood protection. No other annexation and development of this magnitude would ever receive approval without such information, analysis and included a final annexation agreement.

***7. The annexation agreement should not be approved until all such requirements are included since it is the only mechanism available to legally bind CU and to document such commitments.***

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Given the impasse that the City finds itself in, with CU insisting on extorting an annexation agreement before allowing any action on flood mitigation to proceed, perhaps it is time for the City to seriously consider condemnation. PLAN-Boulder is confident that there has been legal investigation of this option and that the pros and cons are known, if not public. Alternatively, the citizens of Boulder could initiate an ordinance or Charter amendment to restrict this site upon annexation limiting the development to recreation facilities and flood mitigation.

The flood event that damaged the downstream neighborhoods occurred in 2013. It is now 2020. PLAN-Boulder recognizes that the City is in the position of having to contemplate extreme measures to achieve a reasonable solution to providing flood mitigation in the face of CU's intransigence, and we recommend taking whatever action is necessary to provide effective flood protection, but not at the cost of annexation without the conditions that would be required of any other development project in Boulder.

Respectfully,

Peter Mayer, Co-Chair  
Allyn Feinberg, Co-Chair

PLAN-Boulder County

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Lindsay Sweet <lindsaysweet1@gmail.com>

**Sent:** Monday, February 17, 2020 6:12 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Will you consider a land exchange with CU in order to preserve the CU South parcel of land?

**External Sender**

Dear Boulder City Council Members,

I am writing because I was wondering if you will consider a land exchange as a solution that would satisfy both CU's desire for land for housing, academic buildings, etc., and the protection of the wetlands along South Boulder Creek?

As a Boulder resident, a Boulder native, a taxpayer and a homeowner in South Boulder, I have become increasingly concerned about what is going on between the City and CU with regards to discussions about flood mitigation and annexation. From what I've gathered, the University does not seem to want to comply with proposed flood mitigation plans because those plans would infringe on the land it wants to use for student housing and academic buildings. Also, isn't the University effectively holding the City hostage because they will not agree to any flood mitigation plans until annexation takes place? This is very concerning to me because once annexation takes place, the City wouldn't have a say about what the University could do on that land, correct? This could potentially be devastating in many ways-- not only to the endangered plants and wildlife (orchids in this area could potentially become extinct forever, correct?), but also the potential for lots of extra traffic, congestion, noise, etc. Plus, if the University were to build on the CU South property, who's to say the Frasier Meadow neighborhood would be protected from flooding, and couldn't the Tantra Lake neighborhood also be turned into a flood plain, because the gravel wouldn't retain water anymore? I'm also worried that if the University were to build on this land, in addition to the issues I've already mentioned, it could cost Boulder taxpayers millions of dollars for potential damage during flood mitigation projects and road and infrastructure costs. Why should we, as taxpayers, have to pay extra for the ultimate destruction of habitat and wildlife, tarnishing the beautiful view, dealing with extra traffic and noise, while not even guaranteeing flood mitigation to downstream Boulder neighborhoods-- Why? So the University can fulfill its greed for expansion of the University? Why? So the president of the University can have something to brag about? I just can't get on-board with this as a taxpayer. Isn't the University already big enough?

If the City allows the University to destroy the CU South land for its own gains, then this I believe this would go against what I think are Boulder's values. Isn't Boulder a leader in the nation for promoting open space, environmentally-friendly solutions, and preserving precious habitats and endangered species? As I mentioned before, I'm a Boulder native-- I moved away for several years and decided to come back because this is one of the only places in the U.S. where one can live in a place with such great access to open space, and a place that seems to care about the environment. If the City allows the University to destroy a precious parcel of land, then I would be hugely saddened and disappointed because this wouldn't be what I thought Boulder was about. Plus, if something bad were to happen, aren't City Council members personally liable?

Well, all I really want to know is whether City Council will consider another alternative to this problem: Can the City consider a land exchange with the University? Is it true that the City owns approximately 215 acres at Jay Road and 28th? Could this, or other pieces of land, be considered for the University's development while preserving the CU South land as open space and to also allow the CU

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

South land to undergo proper analyses for flood mitigation? This just seems like a solution that could make everyone happy, and it would uncouple annexation talks from S. Boulder flood mitigation efforts.

Anyways, thank you for taking the time to read this. I just wanted to express my concerns and I also hope that you may consider other solutions to this problem, and one that wouldn't hopefully keep you held hostage by the University and one that wouldn't cost us taxpayers unnecessary extra amounts.

Thank you again for your time,

Sincerely,  
Concerned S. Boulder Resident,

Lindsay L. Sweet  
4837 W. Moorhead Circle

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Tuesday, February 11, 2020 3:36 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** RE: CU South, best fill material to raise CU land out of the floodplain

**External Sender**

Dear City Councilmembers

Sorry you could not, or chose not to, attend my talk on CU South and South Boulder Creek flood mitigation.

There was a large turnout and a lively community discussion after the presentation.

It's really not that hard to "engage the public".

We discussed your staff's recent proposal to import tens of millions of dollars of fill material to raise a portion of CU's depleted gravel pit out of the floodplain.

When asked, a geologist stated the best type of fill material to raise CU's land out of the floodplain is the same type of material that was removed from CU's' gravel pit during the gravel mining operations.

Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** John Joseph <boulderphoenix@gmail.com>  
**Sent:** Sunday, February 9, 2020 2:41 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South land swamp

**External Sender**

Dear City Council,

As a daily visitor to the CU South property on Table Mesa Drive, I cherish the value that 300 acres of open space has for the community. To have this vast wetlands with all of its flora and fauna within the city limits is a precious resource that will provide immense pleasure for generations of Boulderites to come. The land in the Boulder Planning Reserve north of Jay Rd. is a much better alternative for the university to develop. Although stakeholders in this part of the city will doubtless have objections to development of open space and the resultant traffic implications, the Planning Reserve does not have the complex wetlands issues that have plagued CU in developing this property for the past 2 decades. I appreciate your consideration of this issue, John Joseph

--

John Joseph  
Phoenix Remodeling  
3765 Martin Dr.  
Boulder, CO 80305  
720.404.0490

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lyra Mayfield <lyramayfield@gmail.com>  
**Sent:** Thursday, February 6, 2020 7:50 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Esteemed Boulder Council Members,

It continues to be my view that the CU South Campus is unfit for the multiunit development that CU has planned. Their plan to build in the South Boulder Creek flood plain is unfit, unwise, and dangerous to all students and faculty who will be housed there, as well as the Fraiser Meadows neighborhood and others downstream. I am in favor of a land swap between the City of Boulder and CU as the best solution to this problem. The Planning Reserve would be the obvious choice for all of the development that CU plans, and the CU South campus could become what it naturally is: a flood plain and detention pond for 500yr flooding runoff. The City would be free to build the dam that would best suit this property while protecting wetlands, endangered species, wildlife and current Open Space.

CU has held the City of Boulder hostage long enough! The time for this land swap to be negotiated is at hand so that flood mitigation can proceed with out CU's intervention.

Sincerely,  
Lyra Mayfield

1340 King Ave

*Lyra Mayfield*

[lyramayfield@gmail.com](mailto:lyramayfield@gmail.com)  
720-352-2631 / cell

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Steve Tuber <tubersteve@gmail.com>  
**Sent:** Thursday, February 6, 2020 5:07 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Mike S <mserlet@comcast.net>; pmo@mediationnow.com; Steven Telleen <stelleen@comcast.net>; Suzanne DL <sdelucia@frontrangebusiness.com>; jeff rifkin <jkchinkin@gmail.com>  
**Subject:** S. Boulder Creek Flood Mitigation, CU South, and the Planning Reserve

**External Sender**

Dear Council Members - I recently learned that on February 4, 2020 you directed staff to fully analyze the possibility of exchanging land from the City's planning reserve for the CU South property to enable the University to achieve its future development goals. I strongly support this concept, consistent with Mike Chiropolos' guest opinion which appeared in the Daily Camera on December 28, 2019 [<https://www.dailycamera.com/2019/12/28/mike-chiropolos-a-simple-solution-to-cu-south/>].

If the facts as presented by Mr. Chiropolos regarding the availability and functionality of the planning reserve are fundamentally accurate, and if there is no other overwhelming barrier, then I hope that your policy position going forward includes a strong presumption in favor of the land exchange as the preferred alternative to address CU's needs.

As a resident in the South Boulder Creek floodplain, my direct interest is the timely completion of the most protective flood retention facility that can be constructed. Clearly CU's South Campus development plans have caused complications regarding both the timing and capacity of the retention structure. In addition, if there is a viable alternative that can meet CU's needs at a location that doesn't undermine climate change adaptation efforts and unnecessarily impinge on vulnerable wetlands and open space, then there seems to be a moral imperative which the City should readily embrace. Given CU's desire to be seen as a leader in the environmental/ climate arenas, one would hope that they would also embrace the planning reserve as an alternative location — or at least be receptive to persuasion by the City.

Thank you for your efforts on our behalf. Sincerely, Steve Tuber

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Thursday, February 6, 2020 2:54 PM

**To:** frances.draper@colorado.edu

**Cc:** 'Derek Silva' <Derek.Silva@Colorado.EDU>; Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; Mark Kennedy <mark.kennedy@cu.edu>; commissioners@bouldercounty.org; Leonard Dinegar <Leonard.Dinegar@cu.edu>

**Subject:** Did the actions of CU increase the flooding in 2013?

**External Sender**

Dear Ms. Draper,

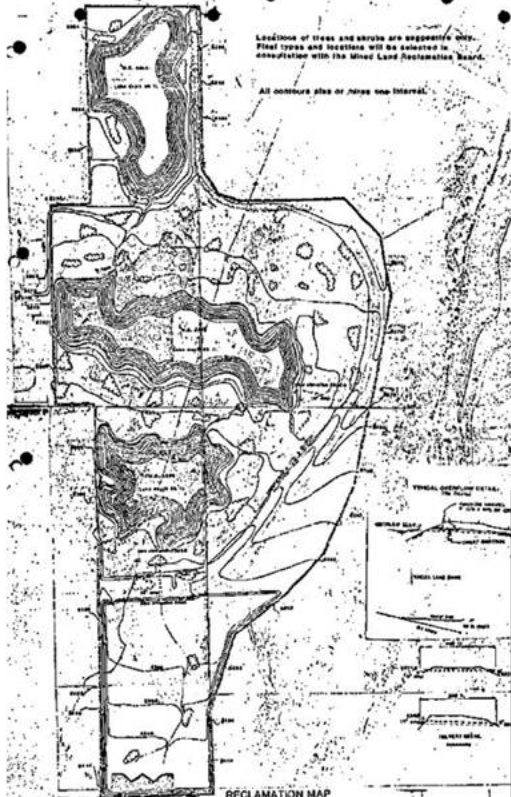
Thank you for your response to my recent letter to CU President Mark Kennedy.

All statements in my letter to President Kennedy are supported by facts and documents.

In the second paragraph of your letter you state:

***Further, none of the university's actions increased the flooding in 2013, a fact that has been corroborated by the city's own engineer.***

I would like to make you aware of the fact that when CU acquired the flood prone Flatiron gravel pit, the gravel operation was required to be reclaimed per the following reclamation plan which was a condition of the gravel permit approved by the Boulder County Commissioners. The reclamation plan included large ponds, which would absorb floodwaters, and the reclamation plan did NOT include a 6,000' earthen levee around the gravel pit to divert floodwaters onto neighboring properties.


DEEPE FARM PIT	
FLATIRON SAND AND GRAVEL CO.	
	<p><b>Special Use Permit</b></p> <p><b>Application for Mining and Reclamation</b></p> <p>RECEIVED 51-302 12/24/81 \$1,500.00</p> <p>DEC 24 1981</p> <p>MINED LAND RECLAMATION Colo. Dept. of Natural Resources</p> <p>5. A reclamation plan combining lakes and land shaping which will provide visually interesting, undulating topography.</p> <p><u>Reclamation</u></p> <p>After reclamation, the mine site will become suitable for wildlife habitat. Three lakes will be created accounting for approximately 41.5 acres of water surface. Lake shore will be undulating to give a natural, aesthetically pleasing appearance. Lake bank slopes will conform with state law</p>

**CU South Annexation Application (LUR2019-00010)**

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I would also like to make you aware of the fact that in 1997, contrary to the wishes of both the City of Boulder and Boulder County, the gravel pit reclamation plan was revised by the State Mine Land Reclamation Board to eliminate most of the ponds and to add a 6,000' earthen levee around the gravel pit to divert floodwaters onto neighboring properties.

In one of your of your publications, you try to pin the berm (which is not a "flood control berm", since its only purpose is to divert floodwaters around CU's depleted gravel pit) and the reclamation plan revisions on the seller.



University of Colorado **Boulder**

**Commonly Asked Questions about  
CU Boulder South**

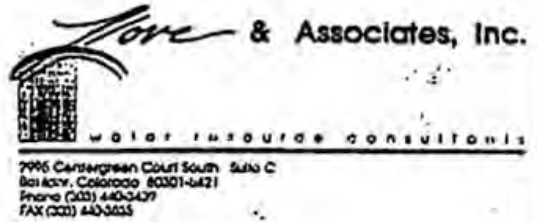
***What is the location of the CU Boulder South property and when did CU acquire it?***

The entrance to the property is off Table Mesa Drive and runs along U.S. 36 south of the RTD Table Mesa Park-n-Ride. CU Boulder purchased the land in 1996 to help meet the long-term needs of the university. Prior to purchase, the property was a sand and gravel mining operation. The seller of the property was required to install a flood control berm and complete land restoration work; that work was completed and duly approved by the required agencies (FEMA and the Colorado Department of Natural Resources).

But the following Letter of Agreement memorialized the fact that CU paid its consultants to make recommendations to the Flatiron Companies and Western Mobile to revise the final site reclamation plan to ***accommodate maximum potential development.***

April 25, 1996

Mr. Bill Deno, AIA  
Campus Architect  
Department of Facilities Management  
University of Colorado  
Campus Box 53  
Boulder, CO 80309-0053



**REF: 9627A- LETTER OF AGREEMENT - CONSULTING SERVICES FOR  
THE GATEWAY PROPERTY**

Dear Bill:

[ Love & Associates, Inc. is pleased to submit this letter of agreement for providing consulting services related to optimization of the Gateway Property in order to accommodate maximum potential development at a future date. We are very excited about being given an opportunity to once again work as a TEAM with the University and Downing, Thorpe, James (Tom Thorpe) on this important project. It is our understanding that the University would like to maximize development, minimize maintenance, and provide a property with the maximum development flexibility. The team generated report will provide the University with recommendations related to the Flatiron Companies and Western Mobile final site reclamation plan. ]

Furthermore, as evidenced by the following letter from CU Chancellor Richard Byyny, CU lobbied the State Mine Land Reclamation Board to adopt the amendments that would remove the ponds, add the berm around the property, and gut the original environmentally sound reclamation plan. Without CU's political power, there no way the State Mine Land Reclamation Board would have accepted revisions that were strongly opposed by both the City and the County of Boulder.

RE: Before the Mined Land Reclamation Board, State of Colorado  
File No. M-81-302  
In the Matter of the Western Mobile-Deepe Farm Pit-Amendment 02

Dear Sir/Madam:

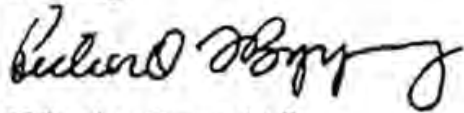
The Regents of the University of Colorado are the owner of the property subject to the mining permit held by Western Mobile, Inc. as referenced above. The purpose of this letter is to provide written confirmation of the University's support and approval of the submitted amendment to the reclamation plan.

As background, the University purchased this property on October 25, 1996 in order to help meet the University's long-term land needs. The University has been working with Western Mobile on the development of the submitted reclamation plan for almost a year and feel that the submittal is consistent with the University's needs and State's interests.

The University does not have any immediate needs or plans to develop this land for buildings or other facilities. The land use designation provided on the permit application (General Agricultural/ Wildlife Habitat) is consistent with the University's immediate plans for use. It is unlikely that the University will develop this land for many years into the future.

The University respectfully requests the Board's favorable consideration of the proposed amendment to the reclamation plan as submitted by Western Mobile. Thank you.

Sincerely,



Richard L. Byyny, M.D.  
Chancellor

In a November 17, 1997 memorandum to Regent Robert Sievers, CU's late Gustavson Distinguished Professor Emeritus of Geography Dr. Gilbert White, the ***Father of Floodplain Management***, wrote:

4. If flood waters are much less dangerous in open fields than running through neighborhoods, the encroachment of the berm into the South Boulder Creek alluvial valley could be perceived as having actually increased the danger. The berm encroaches into and has narrowed the riparian corridor by 75% (2,200 feet into the 2,800 foot wide valley) and eliminates possibly 90 acres of open fields across the alluvial fan. Inside the berm, the remaining land has been lowered by more than 10 feet below the natural valley grade and is protected by a human built earthen feature. This could also be viewed as more creating flood danger than mitigation benefit.

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The September 2013 flood proved Dr. White correct.



Any 10 year old child would have the common sense to realize that CU's revisions to its gravel pit's reclamation plan increased flooding in 2013.

Sincerely yours,  
Ben Binder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Frances Draper [<mailto:Frances.Draper@colorado.edu>]  
**Sent:** Thursday, February 06, 2020 11:52 AM  
**To:** [bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
**Cc:** Derek Silva  
**Subject:** Response to your letter

Dear Ben: Please see attached a response to your recent letter.

Sincerely,

**Frances Draper**

Senior Strategic Advisor: Government and Community Engagement

University of Colorado Boulder

Boulder, Colorado 80309

📞 303 492 4504



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Betsy Armstrong <armstrongcommunications1@gmail.com>  
**Sent:** Thursday, February 6, 2020 2:35 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Council,

As a Boulder city resident and one of many victims of the 2013 flood, I wholeheartedly endorse the idea of a land exchange with the city of Boulder, for all the obvious reasons, including allowing for the university's growth and eliminating the possibility of disastrous floods in a new safer location and dealing with the city's need for flood mitigation on the CU South site.

Kind regards,  
Betsy R. Armstrong  
885 Meadow Glen Dr.  
Boulder 80303

---

Betsy Armstrong  
Armstrong & Associates  
tel 303.494.7040  
[armstrongcommunications1@gmail.com](mailto:armstrongcommunications1@gmail.com)  
[www.ArmstrongAssociates.net](http://www.ArmstrongAssociates.net)

*Communications Specialist  
NSIDC/University of Colorado  
Boulder, CO USA*

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Hilary Martin <winedunce@gmail.com>  
**Sent:** Thursday, February 6, 2020 2:20 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Supporting Land Swap to protect CU South

**External Sender**

Dear City Council,

I have owned a home in South Boulder since 2002 and have been a frequent visitor to the CU South Campus over the past 18 years. As a resident who watched neighbors' homes flood in 2013, I have been very interested in the ongoings of the flood mitigation efforts in South Boulder. I have also enjoyed the CU South property as a recreationalist - out seeing red tail hawks, owls, coyotes, deer, Preble Meadow Jumping Mice and even a moose on one occasion.

I had huge concerns a few years ago when the City and University were marching forward with plans to develop CU South without conducting the proper wetland studies, traffic studies and environmental impact studies. I am grateful that efforts were slowed, so that it was possible to allow for deeper evaluation of solutions that could satisfy the needs of the community and University while aligning with our values to preserve our wild open spaces.

I am a huge supporter of the land swap proposal where the City would swap land within Boulder's Planning Reserve with the CU South property. This would meet the needs of the University without having an irreversible impact on beautiful open spaces and the natural flood plain that exists at CU South. It also allows for better solutions on the flood mitigation than were originally proposed a few years ago.

Thank you for your time and consideration.

Hilary Martin  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** N Fiore <nick@flowerarchitecture.com>  
**Sent:** Wednesday, February 5, 2020 11:21 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Land Swap - Really?

**External Sender**

Hello Council Members -

Reading today about the land swap idea being floated you all toward CU, I thought I'd offer a few thoughts. Full disclosure, I was a CU planner for a short spell as recently as 2015, working with the very folks who you are negotiating with. I don't know any specifics on CU planning these days, but I have knowledge of the CU attitude towards development.

First off, please please remember that the citizens of Boulder paid for and own the northern properties you are considering giving away. They represent the ONLY lands in Boulder proper designated for any kind of growth. What is the value of this northern land, really? Assuming CU has any interest at all (doubtful given the distance from main campus), what does the city get in return? I posit that the lands up north are far more valuable to Boulder than they are to CU, and you will have to give away MUCH more in city value to obtain the right to build flood prevention on the city's dime? Wait, what...?

CU has every intention of - eventually - developing this southern land parcel. Don't fall for the head fake, folks. Signalling that they MAY not build housing here is clearly a negotiating tactic. CU plans in decades, half centuries. Don't fall for it - they will build what they need on the parcel (housing, classrooms, sports facilities - whatever) when they need it. You have nothing to do with - no influence on - their decisions as to what and when. Sovereign. They will wait out any councils who think otherwise - as they have and will forever. You are peers, at best. That's just a fact. CU has the resources to build anything on that lot they choose, in a safe and responsible manner, even if it means huge sunken costs for floods, earthquakes - you name it.

Ask for the right flood mitigation plan for the people downstream, first. Ask for the mitigation plan that is most reasonable, second. Ask CU to deal with the preferred plan and build on what's left, third. Don't give away collective finite assets for short term gain or in the face of stiff negotiation tactics. CU South is the only logical choice for CU to grow and maintain a campus-like distance from main campus. You know this, they know this - call them on it and get the CU South mitigation plan done and installed.

Cheers  
Nick

---

Nicholas Fiore  
Desk [720 515 7749](tel:7205157749)  
Mobile [434 531 6837](tel:4345316837)  
[nick@flowerarchitecture.com](mailto:nick@flowerarchitecture.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

FLOWER  
[2304 Pine Street](#)  
[Boulder, CO 80302](#)  
[flowerarchitecture.com](#)  
@flowerarchitecture (insta)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

-----Original Message-----

From: Lynn Segal <lynnsegal7@hotmail.com>

Sent: Wednesday, February 5, 2020 12:25 AM

To: Council <council@bouldercolorado.gov>

Cc: kleislerp@bouldercolorado.org; robertsonj@bouldercolorado.org; hagelinc@bouldercolirado.gov

Subject: No CU North. Trans \$.

External Sender

Don't even think about the Planning Reserve for CU North. You have no responsibility to CU as to where they locate their campus, it is hard enough for Boulder managing their existing one with 35 +K students. Do not waste 2 cents of my tax dollars on any examination of this area for a land trade. That would be another mistake like the money spent considering the County relocation for A/B, though CU North is of much greater magnitude. It is wastage of city money to consider locating a whole campus at the terminus of Boulder with NO WAY OUT, like the seniors in the fire when it comes at 311. This bad idea is going nowhere.

500 yr. floodplain Variant 1.

The Broadway corridor CANNOT handle this level of service.

Massive density NOBO (look from top of Sanitas) Armory Bustop affordable housing Homeless shelter

Transitional housing Lee Hill CU conference center Hill Hotel CU and football game!

And mostly

Growth all over using Broadway

Not to speak of East Boulder

Stop the hemorrhaging of increased population. Now.

Admit defeat.

So far as transportation expense, I am tax averse. My property tax just went up \$1500/yr and I have to tell the homeless people asking for my funds that I am saving for my water bill.

Reconsider and observe the aerial perspective.

If you build out more transportation opportunity, they will come.

You are begging to put yourselves in the position of departing your job because of the virtual impossibility of meeting your obligations, IOW, digging a hole you can't exit.

Like Junie said, a head tax ungraduated will kill the golden goose. I don't think you can legally selectively generate a tax that is higher for the higher income in-commuters. These are such old discussions. I ran on a head tax platform in 2003. Tonight it was an afterthought of the transportation decision. The fundamentals come first.

The Tipton Report exhibits itself in the transportation directive you proposed tonight. It was premature. It was done in a rush for a tax initiative that isn't going to pass. You have no way to get the funds from other burdened sources, not the library district, no raiding the "general" fund. Staff told you the

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

problem but you sent it back to them rather than considering it at a higher level. They will feel frustrated when they can't be effective, because you have given them no choice. Not only that, this was right after you discussed babysitting CU not only with a suggestion of expansion, but with a land swap that will clearly gridlock Broadway, without a word from one of you about adding to the underfunded transportation CU bought land in a flood plain and now they have to eat it. They got a \$5 M discount on the appraisal from Flatirons Gravel when they bought it, so I wouldn't feel too bad. They can save up their exorbitant tuition and put a campus in Longmont. They are doing just fine. Go on to campus, they are building as far as the eye can see. The football stadium training center and more elite partying space at the N end of Folsom Field, VAC, ATLAS, SEEC, CASE, parking garage, Aerospace, 19th street bridge, Imig Music addition, Fleming Tower renovation with office swing space to accommodate other major renovation projects around Campus, Ramaley Biology expansion, Business Engineering expansion, Conference Center. Meanwhile we are again courting them to cover parking in our Hill Hotel and bargaining for a larger conference space in the CU Conference Center. No more deals.

Enough's enough.

Do no harm.

Lynn

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Anne <annegallagerwest@gmail.com>

**Sent:** Tuesday, February 4, 2020 7:19 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South property

**External Sender**

Hello council members,

As a community member living in south Boulder, I believe the Boulder community at large supports exchanging the CU-South property for city-owned land in the Planning Reserve (between Broadway and [28<sup>th</sup> street](#) and north of Hwy 36). Doing so would provide CU with sufficient land for the housing it says it needs and, as well, academic buildings. It also protects the environment and makes flood mitigation possible by eliminating CU's ill-advised plans to construct 1250 residential units, 8 academic buildings, parking lots, playing fields, athletic facilities and other infrastructure on its mined-out quarry pit with a high water table in the middle of a floodplain on unstable and slumping soil--and in an already overly-congested part of Boulder. A land swap would give CU what it says it needs, forestall over-densification of, and more traffic jams in, South Boulder, and may also resolve some intractable obstacles to reasonable flood mitigation plans. It could be a win-win for all. We believe that the City staff and its consultant have inadequately studied the complexities of flood mitigation in South Boulder. They are unwisely rushing decisions both on flood mitigation and annexation in ways completely deleterious to our community.

Thank you for your time and thought in this matter,

Anne Gallager-West

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Lyra Mayfield <lyramayfield@gmail.com>  
**Sent:** Tuesday, February 4, 2020 5:35 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

**External Sender**

Dear Esteemed Boulder Council Members,

It continues to be my view that the CU South Campus is unfit for the multiunit development that CU has planned. Their plan to build in the South Boulder Creek flood plain is unfit, unwise, and dangerous to all students and faculty who will be housed there, as well as the Fraiser Meadows neighborhood and others downstream. I am in favor of a land swap between the City of Boulder and CU as the best solution to this problem. The Planning Reserve would be the obvious choice for all of the development that CU plans, and the CU South campus could become what it naturally is: a flood plain and detention pond for 500yr flooding runoff. The City would be free to build the dam that would best suit this property while protecting wetlands, endangered species, wildlife and current Open Space.

CU has held the City of Boulder hostage long enough! The time for this land swap to be negotiated is at hand so that flood mitigation can proceed with out CU's intervention.

Sincerely,  
Lyra Mayfield

1340 King Ave

*Lyra Mayfield*

[lyramayfield@gmail.com](mailto:lyramayfield@gmail.com)  
720-352-2631 / cell

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: curtthompson@juno.com <curtthompson@juno.com>  
Sent: Tuesday, February 4, 2020 5:05 PM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

External Sender

City Council Members,

As I have urged before, the situation with flood mitigation and building in a flood plain screams for a land swap.

Don't let CU force a bad decision on your part.

Nature intended for the CU South property to be a flood plain. Find a way to keep it that way.

Curt Thompson  
[curtthompson@juno.com](mailto:curtthompson@juno.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mike@chiropouloslaw.com>

**Sent:** Tuesday, February 4, 2020 4:30 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South: CU's 1/16/20 Annexation Letter, the BVCP, and Win-Win Community-Wide Solutions

**External Sender**

Council:

Since I last contacted Council, CU transmitted an Annexation Letter and revised Petition to the City.

My initial summary and analysis follows.

Citizens remain committed to working with the City, CU and all stakeholders on a positive outcome that works for all parties.

I would like to acknowledge and thank land use staff for their expertise and responsiveness to queries from the public.

Please do not hesitate to contact me with any questions.

best,

Mike

cc: City Attorney Tom Carr and Senior Planner Phil Kleisler

CU 1/16/2020 Annexation Letter to Boulder:

- Variant I will result in an earthen dam “which stretches from the east to west property lines close to Table Mesa, effectively severing the developable portion of the property from the community.”
- To “retain 129 acres for development,” the City should trade acreage from Public with equivalent acreage in the contiguous OS-O
- Under Variant I, CU “will consider, but cannot guarantee” that housing will be built on the site.”
- Under an acreage swap at CU South, CU “will retain the right to build in the 500-year flood plain”.
- Any incremental costs “will be paid by the city” with regard to CU’s future uses of the site, which are now entirely conjectural

Takeaways:

## CU South Annexation Application (LUR2019-00010)

### Public Comments Through September 14, 2021

- All bets are off on what CU could build – and we could see a significant expansion of academic and other infrastructure without any new housing
- CU appears to be insisting on revisiting the land use designations from the BVCP map
- The City will be faced with significant, currently unknown costs – which CU has estimated at \$15 million or more for access to the land it seeks to develop alone
- CU insists on building within the 500-year floodplain for one of the most flood-prone watersheds on Colorado's Front Range
- CU insists on retaining the right to build on land within the floodplain that might later be determined as necessary for additional detention if climate change and other factors result in new floods that exceed the mitigation capacity of the currently proposed detention approach
- **CU's January 20 letter for the first time states that it will "consider but cannot guarantee" that any housing would be built at CU South.**
- **CU demands a blank check from the City for all infrastructure costs CU deems necessary to develop 129 acres.**
- CU does not accept the City's commitment to protecting the 500-year floodplain, and demands the right to develop land within the floodplain currently designated Open Space-Other.
- CU South is the wrong site to build. CU and the City need to negotiate a land exchange for 129 city-owned acres in the planning reserve north of town, recognized by land use and planning staff and the Comprehensive Plan as appropriate for housing.
- The BVCP Guiding Principles for CU South establish that the City and CU should explore other geographic areas for CU to achieve its housing and other goals in lieu of CU South.
- **The planning reserve north of Jay is an ideal win-win solution; and the city owns approximately 215 acres of the 500-acre reserve**
- The reserve is comparable and proximate; and will be developable and annexable if recommended for an exchange after a City-led public planning process under BVCP
- **The Guiding Principles and CU South section of the BVCP provides that housing is the primary expected land use for CU's future infrastructure, which is a community-wide consensus**
- If housing isn't guaranteed, other sites must be exchanged
- The City can condemn lands needed for flood control or flood safety under state law, absent a willing seller or negotiated exchange – climate science could require this approach if CU is intransigent

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Direct Quotes from CU Annexation Letter dated 1/26/2020 (underlining added below):

“1. The university will consider, but cannot guarantee, that housing for university faculty, staff and students will be built on the site. The feasibility for housing will be evaluated in the future based upon the final flood project constructed, resulting access to the site and the degree to which the university reasonably determines this to be a suitable site for homes behind a dam.”

“2. If the city proposes and the university agrees to swap acreage in the Public area for acreage in the OS-O area, the university will retain the right to build in the 500-year flood plain within the OS-O area that was exchanged, if any.

Further, as stated in our original annexation application, any incremental costs that relate to the selection of any flood mitigation project, beyond what has been offered by the university, will be paid by the city. For instance: the university would pay to upgrade South Loop Drive into the property from its existing condition into a multi-modal road to provide access to the property at such time as it is developed. However, the incremental cost of elevating and fortifying the road to traverse the dam and clear the detention area will need to be paid by the city with the road constructed at the time of the flood project’s completion to ensure access to the property which would otherwise be cut off.”

###

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303-956-0595

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"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

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**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jenny Natapow <jenny.natapow@gmail.com>  
**Sent:** Tuesday, February 4, 2020 3:07 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Let's not Expand the Bull's Eye, Let's do a Land Swap instead

**External Sender**

Dear council members,

Thank you for adding the CU South Flood Mitigation to tonight's agenda. As you know, this land, that CU wants to build 250 residential units, 8 academic buildings, parking lots, playing fields, athletic facilities and other infrastructure on, is in South Boulder Creeks' floodplain - the creek is fed by these prairie lands. This floodplain, as is the case with all floodplains, has a high water table. And will flood, again. This we know. It is unsafe to build in a floodplain, Boulder knows this all too well.

Frasier Meadows is also in the floodplain and this community is now in need of flood protection after the 2013 flood. The Frasier Meadow residents are tearfully begging for flood protection, they fear for their lives. When will the future CU residents fear for their lives, if this floodplain is developed?

Why would Boulder make the same mistake twice and put more people's lives at risk? We know better than this. We are informed citizens who know that developing a floodplain is literally building in the bull's eye of coming natural disasters. In the article [The Expanding Bull's Eye Effect by Stephen M. Strader and Walker S. Ashley](#); they state, **"The thing that most profoundly increases our vulnerability to hazards in the climate system is where we build and how we build. We keep expanding the bull's eye. We keep growing vulnerable areas where bad things happen."**

To avoid bad things from happening, the City of Boulder can do a land swap! A land swap would be a win-win situation for all. It would save lives, protect connective prairie habitat, and provide CU with the land it needs for housing.

The Boulder community at large supports exchanging the CU-South property for city-owned land in the Planning Reserve (between Broadway and 28<sup>th</sup> street and north of Hwy 36) Doing so would provide CU with sufficient land for the housing it says it needs and, as well, academic buildings. It also makes flood mitigation possible by eliminating CU's ill-advised plans and protects these mixed prairie lands that, according to OSMP grassland experts, have a "high restoration potential" and are especially valuable because they abut the endangered Tallgrass Prairie State Natural Area.

Let's not expand the bull's eye Boulder, let's keep connective habitat connected and do what we know is right.

Thank you for making the right choice for all Boulder residents - including the wild ones.

Sincerely, Jenny Natapow

**April 15, 2019 \***

## **Uncounted and Un-Analyzed Costs of Annexation, Given CU's Proposal to the City of Boulder**

**Margaret LeCompte and Harlin Savage, co-leaders**

### **Save South Boulder**

Save South Boulder is a coalition of residents in South Boulder neighborhoods. It fully supports public safety initiatives leading to flood mitigation in South Boulder. However, we hold that there is no real benefit to the City of Boulder for allowing CU to construct a new campus on CU-South. All the benefits cited by CU really boil down to the value of having a Tier One University in town—which we already have—and that CU will house some of its students and faculty on the site instead of in town. However, neither the City nor CU can guarantee that housing can, or will, in fact, be built.

Further, CU's development aspirations already have greatly reduced the ability of engineers to produce a feasible and best practice flood mitigation plan. CU's non-negotiable conditions for annexation also will require the City of Boulder to assume not only all construction costs for the flood mitigation plan, but all risks and liabilities of flood mitigation, possible damage to CU during flood mitigation construction and as well, to the environment, in perpetuity and in all flooding conditions. We are not even certain that the 80 acres has offered will be adequate to protect against catastrophic floods. Further, CU wants the City of Boulder to assume a long list of actual and possible costs without any obligation on CU's part to disclose what they intend to do to the property and before any of these costs can reasonably be estimated.

We summarize the issues that concern us most below, and we attach as Exhibits A and B a detailed summary and analysis of the type of costs which CU proposes to impose on the City, though not with actual dollar estimates, which are impossible to estimate, given CU's refusal to provide a site plan and the current unknowns regarding the actual flood mitigation project design. \*\*

In Exhibit A, we summarize the principal issues in CU's proposal for annexation. In Exhibit B, we quote directly from the University's own proposal to provide details. In both, we note requirements that CU would like to impose that may well be impossible, such as mandating that detention ponds drain within 24 hours.

### **Exhibit A: Summary of Uncounted and Unstudied Costs**

#### **Direct Cash Costs to the City**

- As-yet uncalculated cost to the City of Boulder for extending sewer and water services to CU's anticipated developments
- Construction of access and egress roadways into the CU-South property

- Cost of purchases of any land necessary to compensate CU for loss of property needed to implement flood mitigation project
- Construction of the flood mitigation infrastructure (dam, siphons, etc)
- Construction of modifications to ditches, tributaries and channels on or downstream of CU's property
- Compensation to CU for any damage done to its property or facilities attributable to construction of flood mitigation project
- Cost to City—in perpetuity--for damages to CU property and infrastructure when CU property does, in fact, flood, which is inevitable
- Cost of purchases of any land necessary to replace protected OSMP or CU property needed to implement flood mitigation project

### **Environmental Costs**

- Loss of irreplaceable habitat, esp. extremely rare wet meadows, other wetlands and mesic tall grass prairie.
- Threats to endangered, threatened, or rare species, including *spiranthes* orchids, Preble's Meadow Jumping Mouse, Northern Leopard Frogs and others.
- Loss of habitat for dozens of bird species – bald eagles, barn owls, red-tailed hawks, Cooper's and sharp-shinned hawks as well as habitat for other native wildlife.
- Pollution of South Boulder Creek and watershed by increased runoff attendant to decreased permeability associated with development and paving-over of site.
- Ill-considered suggestion by City staff to locate Firehouse #4 on CU-South's irreplaceable riparian habitat, given that fire retardant and other chemicals used in firefighting are known and very dangerous water pollutants to watersheds and aquifers.
- Irrevocable loss of land in the South Boulder Creek watershed, which both City and Boulder County sought to purchase for open space and protected habitat.
- Loss of protected open space and parts of the State Natural Area.
- Loss of a potentially significant opportunity to reduce the City's carbon footprint by applying compost instead of pavement to the land to boost carbon sequestration. This would help the City meet its climate change goals.

### **Health and Safety Costs of Annexation**

- Increased traffic and heavy truck routes passing through the narrow streets of a residential area as well as crossings for Summit Middle School and the Bixby School and Morningstar Memory Care Facility, as well as through a densely populated neighborhood of apartments, condos and smaller houses.
- Increased gridlock on the intersection of Table Mesa, Highway 36, South Boulder Road and South Loop Road
- Increased noise, light pollution, and air pollution, and air-borne particulates because of increased traffic and congestion
- Loss of recreational assets for residents and visitors seeking healthful exercise and passive activities, including photography, bird and animal watching. Thousands of people use the area on a regular basis for running, hiking, biking, skiing, and of course, dog walking.

### **Unknowns:**

#### **Land Needs for Flood Mitigation Project:**

- There is no way of determining at this time if 80 acres of land will be adequate for best-practice flood mitigation in the area, or if more land will be required.

### **Engineering Design and Cost Issues**

- We do not yet know how much it will cost to address needed infrastructure and “fixes” for Viele Channel and other drainages.
- We do not know the cost of two reinforcing bridges over Viele Channel, as well as culverts channeling its water toward South Boulder Creek.
- We do not know the cost of “conveyances” for ground water below the dam and across highway 36 into wetlands on both sides of the highway.
- No consideration has been given to disposition of water flow from Anderson Ditch, which flows east along Table Mesa Drive, and ends in the low spot at the NW corner of the Table Mesa/Hwy 367 intersection north of the bridge.

### **Infrastructure Costs to the City and County:**

- As-yet unstudied need to strengthen existing ingress-egress points to CU property, whose only access point currently is a residential road with an unpaved spur to the property and a partially paved road to a trailhead. This cannot handle large trucks and construction or major traffic.

- As-yet unstudied traffic and congestion impacts to the Table Mesa/Hwy 36/South Boulder Road/ Foothills Parkway intersection, because of greatly increased traffic to the CU site when/if development proceeds.

### **Exhibit B:**

#### **DETAILS OF Non-Negotiables in CU’S Annexation Proposal (direct quotes and minor paraphrases from CU’s proposal)**

##### **CU’s Land Demands—Direct Costs:**

- At the time of annexation and the final construction and completion of the flood mitigation project, CU Boulder must retain for its use and development 129 acres, equivalent to what currently designated as “Public” within the 2015 BVCP.
- Any land use designation changes required to meet the acreage above must be done simultaneously with the annexation agreement. If those changes cannot be made and the university is left with fewer than the developable acres in the “Public” area in the 2015 BVCP, the city agrees to provide alternative acreage acceptable to the university either on the property by changing land use designation or by purchasing equivalent acreage at another location acceptable to the university.
- Upon completion of the construction of the flood mitigation dam and related retention areas, CU Boulder must have no less than 30 appropriately graded acres available for construction of recreational/athletics fields within the Park- Urban/Other land use areas as designated within the 2015 BVCP.
- The City must pay for any additional land requested of CU by the city or city-related entity for open space or other uses, at a price established by CU as a market value cost.

##### **Additional Costs of Annexation**

- Savage and LeCompte assume the following means that the City will be responsible for any costs of installing, maintaining and servicing water and wastewater infrastructure on CU-South, in perpetuity: “CU Boulder South shall be deemed to be part of the Main Campus of the university and be

subject to the Water and Wastewater Service Agreement of January 1997 between the parties.”

### **CU’s Demands Regarding Costs of Flood Mitigation Project:**

- All direct, indirect, and consequential costs of developing and constructing flood mitigation on CU Boulder South (exclusive of the value of the land conveyed to the city) shall be borne by the city, including, but not limited to:
- The City shall pay for modification, realignment and/or reconstruction of existing access road(s) on the property, if CU Boulder determines that the design of the city’s flood mitigation project necessitates such changes.
- The City will pay for any claims or damages [to houses and other structures and infrastructure] resulting from the failure of the performance and safety of the dam and related structures in the future.
- If the university agrees, the city may, at its sole cost, realign Dry Creek Ditch #2.
- If the university agrees, the city may acquire or lease the university’s water rights in Dry Creek Ditch #2.

### **CU’s Levee:**

- CU would allow removal of the CU Boulder berm/levee, under these conditions:
  - The City will be responsible for securing all federal, state, and other governmental approvals to remove the berm/levee
  - The City will ensure, at its sole expense, that construction and/or operation of the flood mitigation dam and related structures and removal of the berm/levee shall not increase the FEMA 100-year or 500-year floodplain on any of the CU Boulder South property, now or in the future.
  - CU Boulder will be provided the first option to use or sell the berm/levee material if the berm/levee is removed
  - The City will pay for any claims or damages resulting from the failure of the performance and safety of the dam and related structures in the future.

### **CU’s Playing Fields, Tennis Courts and Constraints on Detention**

- CU wants to design field placement as well as placement of potential bleachers on the slopes of the retention walls. Both the recreation/athletic

fields and the bleachers would be built at the university's sole cost. Note: These structures may hinder construction of needed infrastructure, impede flood drainage and limit detention.

- The city must ensure that the flood detention area used for recreational/athletics field development will be engineered to sufficiently drain within a reasonable time period to ensure that the fields can remain functional after a flood.
- The city will ensure that recreational/athletics fields do not have ongoing water ponding issues not related to a flood event.
- Project design will provide for ingress and egress to those fields. (Savage and LeCompte assume this means the flood project, and that City would be required to pay for this; see above re: roads)
- The City must pay for moving the tennis courts out of the affected area and provide equivalent acreage to be developed elsewhere on the CU Boulder South site, should the city's flood mitigation project final design create a dam or detention area that encompasses the CU tennis courts/facilities, or materially adversely affects CU Boulder's tennis court operation as a NCAA Division 1 playing facility, as reasonably determined by the university.

#### **Cost to the City re Wetlands, Open-Space-Other, Given CU's Constraints on the City's Use of Land**

- The City will secure any applicable wetland permits. If any jurisdictional wetlands are damaged or displaced as a result of the flood mitigation needs of the City.
- The City will mitigate the loss of the any wetlands with wetland bank credits or land the city otherwise owns.
- The City will bear the costs of restoration of ecological benefits of any Open Space-Other land (as designated under the BVCP) owned by CU Boulder and desired by the city or related entity.

**Given the above, we call on the City to enter into no agreement for annexation without a site plan or consideration of the above costs and risks. No agreement for annexation without cost estimates—which cannot be created without a site plan. No site plan, no annexation.**

**We call on the City to enter into no collaboration or cooperation with CU that abandons the 500-year flood standard for any and all flood mitigation, regardless of its impact on CU's property. Health, life, safety and cost considerations come first. CU's aspirations are secondary.**

**We believe that it may be far cheaper, and certainly would be aesthetically and environmentally more desirable to a) undertake a swap of lands so that CU can, in fact, have the playing fields, residences and academic buildings it wants—but not at CU-South, b) purchase CU’s 308 acres for use in flood mitigation (but not at the outrageously inflated values attributed to it by CU); or c) initiate condemnation proceedings on the property in the interest of public safety so as to use the entire parcel for flood mitigation. A land swap still could be implemented. These options would satisfy CU’s housing and other needs while preserving the quality of life, health, safety and property in South Boulder and the Gateway to the City of Boulder. As well, it would avoid harm to the irreplaceable sensitive riparian environment of South Boulder Creek and its tributaries.**

\*\*\*\*\*

\*Revised slightly January 20, 2020

\*\*Note: We regret that we cannot provide actual dollar estimates, because

- Without a detailed engineering design for flood mitigation, there is no way of determining if the 80 acres of land will be sufficient for best-practice flood mitigation in the area, or if more land will be required—at The City’s expense. **We note: Health, life, safety and cost issues come first. CU’s aspirations are secondary.**
- CU’s annexation proposal specifically states that the City will not be allowed to require a site plan as a condition of annexation. However,
- Without a detailed site plan from CU, there is no way to estimate
  - What possible infrastructure costs might be,
  - what damages to CU’s property might accrue because of construction of flood mitigation infrastructure,
  - What possible future damages and liabilities to the city might emerge because of future flooding, which indeed, WILL occur.
  - The extent to which CU will comply with codes and environmental regulations,
  - And a long laundry list of other costs, risks, and liabilities

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**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Thursday, January 16, 2020 6:04 PM

**To:** Mark Kennedy <mark.kennedy@cu.edu>

**Cc:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>

**Subject:** CU South needs your attention

**External Sender**

January 16, 2020

Dear President Kennedy,

I hope this correspondence reaches you and that you take the opportunity to read it.

In 1996, CU purchased the 308 acre depleted Flatiron gravel pit, now known as CU South. The gravel pit is located at the foot of the steep 136 square mile South Boulder Creek drainage basin. Much of the land was in the 100-year floodplain even before the removal of 4 million cubic yards of sand and gravel further lowered the topography fifteen feet.

To avoid flood damage, institutions such as universities, which plan to be around for generations, wisely build on high ground. Consequently, you might wonder why CU purchased a flood prone depleted gravel quarry at the foot of a major Front Range drainage basin for its new campus, but that's another story.

Simply put, CU's activities on this property are an embarrassment to a University which claims to be a leader in sustainable resilient environmental design and concerned with the safety and wellbeing of Boulder residents.

As CU's new President, you are not responsible for the university's past actions. But you do have an opportunity to review past decisions and determine whether it is wise for CU to develop a risky floodprone property distant from the campus, with high groundwater levels, terrible access from already congested streets, and on land needed by the City of Boulder to mitigate downstream flooding.

CU was responsible for gutting the County's original gravel pit reclamation plan by removing ponds and riparian areas, which would have mitigated downstream flooding, and instead contoured the property in the shape of a giant bathtub sloping in a northerly direction to the intersection of Table Mesa Drive and US-36. CU's revisions also added a 6,000' earthen levee to divert floodwaters around the excavated gravel pit onto neighboring properties.

CU's 1997 revisions to the original reclamation plan, and CU's refusal to cooperate with the city to design a reclamation plan that would address known flooding problems significantly contributed to the 2013 flood's extensive damage to the Frasier Meadows Retirement Community and to hundreds of Boulder homes.

Paradoxically, CU's actions to maximize development of the site were responsible for creating the topography where the northern portion of its property is the only feasible location for a dam and floodwater detention pond to mitigate future flooding, making it difficult to construct a roadway to access the property. CU is now demanding the city reimburse the university for the additional costs that the university itself created.

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After years of engineering studies, in August 2018, the Boulder City Council directed city staff to proceed with the design for a flood mitigation plan referred to as Variant 1 – 500 year.

While time is of the essence to construct flood mitigation facilities before the next flood strikes, CU representatives have refused to agree to the use of the land needed to protect the life and safety of Boulder residents, which include CU faculty, students and alumni. If a major flood strikes before flood mitigation facilities are completed, CU will share responsibility for the resulting loss of lives and property. You have an opportunity to take a fresh innovative look at this issue that would benefit both CU and the Boulder community.

In a May 20, 2019 letter to the City of Boulder, Frances Draper, Vice Chancellor for Strategic Relations, and Derek Silva Executive Director of Real Estate Services stated:

***Due to the March 28 response which did not offer the university a feasible path forward around the additional acreage the city is asking for under Variant I 500, we are informing the city that any further expenditure for the development of preliminary designs for Variant I 500 should cease***

With respect to land required for Variant 1, Draper and Silva state, ***the purchase price of 30-36 acres at fair market value we believe would range from \$30 million to \$72 million.***

In other words, CU might demand up to \$72 million from the city for land it purchased for \$1.3 million.

Draper and Silva also state:

***Variant II 500 creates a win-win for all parties, including the city, the county, the university and the community as a whole.***

Variant II is a design which significantly constricts the size of the opening of the US-36 Bridge over South Boulder Creek to the point where the water level of the stream is higher than the height of the bridge opening. This eliminates the freeboard that would allow for the passage of floating debris and significantly increases the risk of total blockage and catastrophic flooding. Such a constriction violates fundamental engineering design standards which have existed since the days of the Romans.

One would hope the individuals representing CU in this matter would have the knowledge and desire to work cooperatively with the City of Boulder to expeditiously mitigate South Boulder Creek flooding before the next major flood strikes. Regrettably, it appears the individuals representing CU are more concerned with maximizing the development of CU's gravel pit than with protecting the lives and property of Boulder residents.

I have assembled the attached documents to provide you with facts needed to make well-informed decisions in this matter. My correspondence likely paints a very different picture from the one presented by your staff, but all statements in this document are facts supported by the referenced exhibits. While your staff may dismiss this information as past history, CU would be wise to acknowledge the undesirable consequences of its past poor decisions and take corrective actions.

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The attached document, which includes corroborating exhibits, details the history of CU's acquisition of the gravel pits, gutting the county-approved reclamation plan, and delaying the implementation of improvements needed to mitigate flooding of South Boulder Creek.

Sincerely yours,

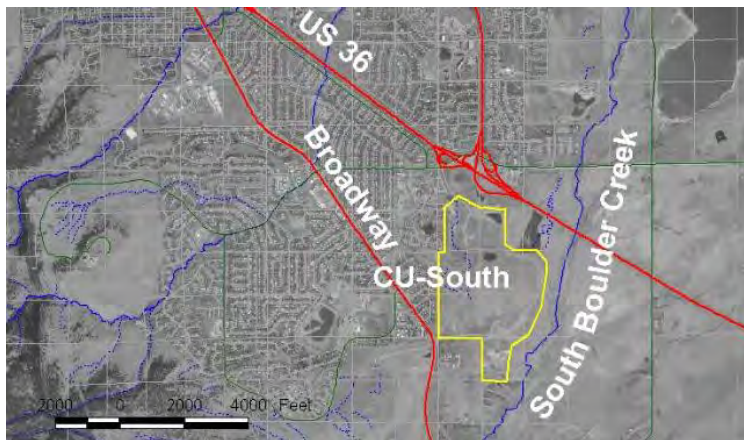
Ben Binder, PE, PLS

[bbinder@ddginc.com](mailto:bbinder@ddginc.com)

303-860-0600

### History of CU's South Campus

Ben Binder [bbinder@ddginc.com](mailto:bbinder@ddginc.com) 303-860-0600



The flood prone land purchased by CU has high groundwater levels, valuable riparian habitat, terrible transportation access and no water and sewer utilities. For these and other reasons, at the time CU purchased the property, 220 acres were designated for Open Space in the Boulder Valley Comprehensive Plan.

In 1995, at the completion of gravel operations, the owners of the property applied to the City of Boulder to develop the depleted gravel pit for 78 luxury homes. The application was rejected, and the property was subsequently unloaded on CU.

A large portion of the excavated property is protected from flooding by a 6,000' earthen levee. At the request of CU, the levee was added to the gravel pit reclamation plan by the State Mine Land Reclamation Board. The levee violates sustainable environmental goals of protecting riparian habitats and keeping development out of flood prone areas. CU's revisions to the gravel pit reclamation plan were vigorously opposed by both the City and the County of Boulder and would not have been approved without the strong lobbying efforts of CU.

Instead of protecting CU's interests and performing a serious due diligence review of the troubled property before it was purchased, university administrators devoted their efforts to keeping the deal

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secret, circumventing review of the major capital acquisition by the Colorado Commission on Higher Education, and selling the purchase to the Regents.

1) While CU purports to cooperate with the City of Boulder, CU devised a secret plan whereby the university would obtain all required approvals from state agencies without the City of Boulder or the public learning about the deal. Exhibit 1.

2) To protect state interests, Colorado law requires that all major university capital purchases be reviewed and approved by the Colorado Commission on Higher Education. But CU administrators found a loophole, and used the good ol' boy network to avoid a review of the purchase by the CCHE. Exhibit 2.

3) At a minimum, one would expect CU staff would obtain an independent unbiased appraisal to verify the property was worth the \$11 million asking price.

However, Exhibit 3, a letter from Richard A. Tharp, an attorney representing CU, clearly states the property appraisal "shall indicate an appraised value of a minimum of \$16 million." The specified number is \$5 million higher than the asking price.

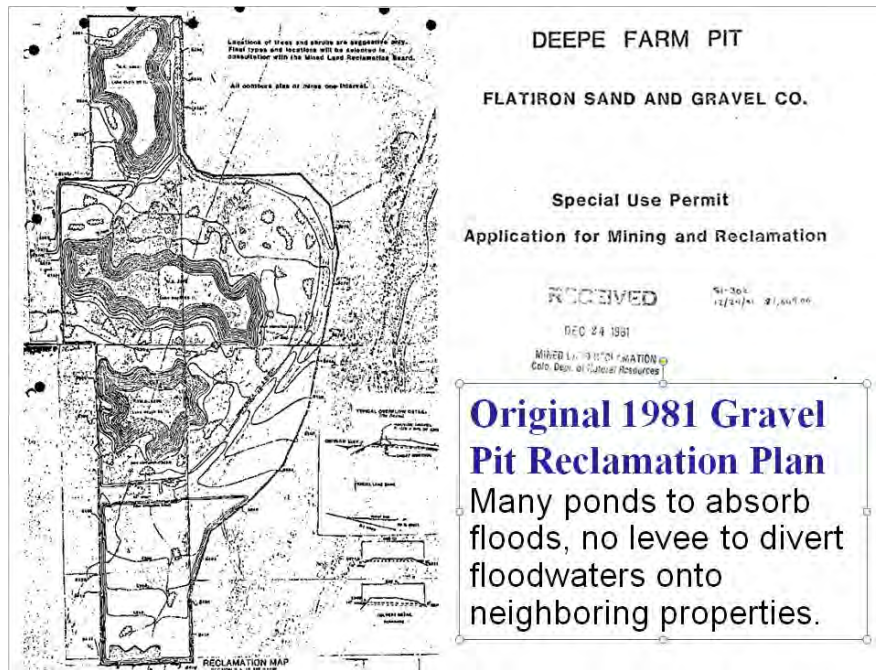
CU did not need an overstated appraisal to qualify for a loan or to flip the property at an exaggerated price. CU requested an inflated appraisal to use CU's tax-exempt status to provide the well-connected sellers with credit for a \$5 million tax-deductible gift.

4) Inspired by CU's late distinguished Professor Emeritus Dr. Gilbert White, the Father of Floodplain Management, and by the sound environmental guidelines of Ian McHarg, both the City and the County of Boulder established policies to protect floodplains and riparian areas. Objectives included keeping development out of hazardous floodplains and preserving rich wildlife habitats and the ability to absorb floods and mitigate downstream flooding.

In 1981, the Boulder County Commissioners approved the following reclamation plan as a binding condition of the gravel mining permit. The ecologically designed plan was comprised of lakes and riparian areas to provide wildlife habitat, absorb South Boulder Creek floodwaters and mitigate downstream flooding. The plan did not include a long earthen levee to divert floodwaters around the gravel quarry onto neighboring properties.

Most believed the reclamation plan was a permanent condition of the county gravel mining permit, and no one imagined CU would use its political power with the State Mine Land Reclamation Board to revise the plan in a manner that would endanger downstream residents.

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5. A reclamation plan combining lakes and land shaping which will provide visually interesting, undulating topography.

Reclamation

After reclamation, the mine site will become suitable for wildlife habitat. Three lakes will be created accounting for approximately 41.5 acres of water surface. Lake shore will be undulating to give a natural, aesthetically pleasing appearance. Lake bank slopes will conform with state law

But in 1996, CU hired consultants to revise the original reclamation plan "to accommodate maximum potential development at a future date". Exhibit 4.

CU next used its influence with the State Mined Land Reclamation Board to amend the plan to eliminate lakes and riparian areas, which would have absorbed floodwaters, and add a permanent 6,000' earthen levee to divert South Boulder Creek floodwaters around the gravel pit onto neighboring properties. Exhibit 5.

CU's revisions to the Flatiron gravel quarry reclamation plan and its refusal to cooperate with the city to contour the topography to address known South Boulder Creek flooding problems significantly

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contributed to the damage caused by the 2013 flood. These actions are a disgrace to a school which claims to be a leader in sustainable environmental design.

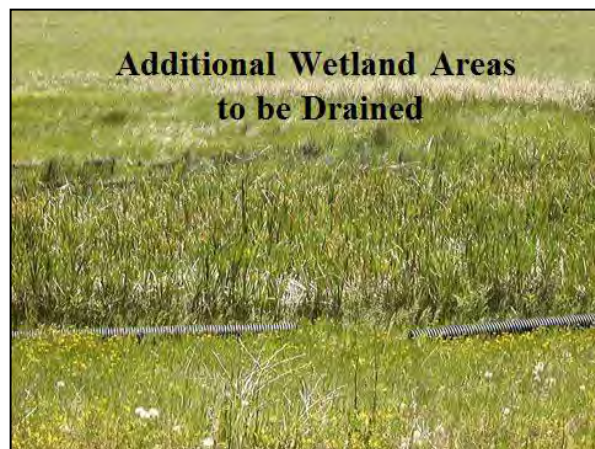
Unbelievably, CU argued that removing the lakes and adding a levee around its property would decrease flooding. But individuals such as Dr. Gilbert White disagreed.

In a memorandum dated 11/17/1997 (Exhibit 6), Dr. White stated "If floodwaters are much less dangerous in open fields than running through neighborhoods, the encroachment of the berm into the South Boulder Creek alluvial valley could be perceived as having actually increased the danger." And, "Since the berm mainly protects the mined property, a reasonable citizen might conclude that the true motive for certification is other than the safety of Boulder's citizens."

The 2013 flood proved Dr. White correct. During the flood, CU's vacant excavated gravel pit remained dry while Keewaydin and Frasier Meadows neighborhoods suffered horrendous flooding.



CU South Annexation Application (LUR2019-00010)  
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**South Boulder Creek Flood Mitigation**

CU's gravel pit is located adjacent to and just upstream of residential areas that were severely flooded during the 2013 flood. 20 years of engineering studies have determined that CU's vacant gravel pit is the only feasible location for a floodwater detention pond to protect downstream residents from future floods. But for years, CU has refused to grant the city permission to use the land needed to protect the lives and property of downstream residents.

CU South Annexation Application (LUR2019-00010)

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Exhibit 1

Secret strategy to obtain state approvals while keeping the city in the dark.

3-22-96

GATEWAY

006

Based on the continued desirability of the purchase and its added value to the University and the Boulder Campus, the following strategies have been developed to assure the purchase and anticipate the local reaction:

1. Chancellor Park established a "strategy team" of UCB and System Administration staff. It includes Dick Tharp as a special consultant.
2. University Counsel advised that while legislative approval for the purchase is required, CU can use an expedited review process, i.e. the "Senate Bill 202 process." That requires CCHE staff, Capital Development Committee, and Joint Budget Committee actions.
3. To date, the CDC and the JBC have been briefed by Linda Pryor and are very supportive. The Executive Director of the CCHE has been briefed and has indicated his willingness to approve the matter and then inform the Commissioners. The President has been attempting to brief the Governor. *by the President*
4. The "SB 202" documents will be submitted on April 1. The CCHE Director should be able to approve our proposal by April 5. The Regents will be asked to approve a program plan at a special meeting on April 10; just prior to the Regents dinner with the CCHE Commissioners. Thus, CU can take a Regent and CCHE-approved proposal to the CDC on April 16. It will then go to the JBC for their action prior to the end of the legislative session on May 8. The JBC must otherwise act within 30 days of CDC approval. *between April 1 and 10, public is...*  
*Since special Regent meeting is Denver, focus on getting to brief the CDC or talking to it privately.*
5. The CCHE meets on April 11 and the purchase will be an information item on the agenda.
6. Prior to Regent approval on April 10, the Boulder and Colorado Springs legislative delegations, legislative leadership, the Boulder City Manager and Mayor, County Commissioners, Chamber of Commerce President, and UCB governance people will be briefed. The Boulder City Manager and Mayor will be consulted about neighborhood issues. *① by Linda P - April 9-10*  
*② ASAP*  
*③ April 10 p.m.*  
*④ April 10 - p.m.*  
*⑤ April 9-10*
7. On April 10, immediately prior to the Regents special meeting, the Boulder City Manager and Mayor will be briefed. Chancellor Park will then hold a press conference to announce to the local community our intent.
8. On April 15, Chancellor Park will be hosting a "town meeting" on the UCB budget for 1996-97 and can discuss the purchase with the UCB community.
9. On April 25, the Regents will be asked to authorize the President to execute the purchase agreement, subject to all appropriate conditions and contingencies.

*4/16 - CDC APPROVAL of 202*  
*? JBC APPROVAL of 202 (before or after 25TH?) - Decides prior 4/19*

Exhibit 2

March 19, 1996 Memorandum from Jim Topping, CU Vice President for Budget and Finance, describing the loophole used to avoid a comprehensive review of the acquisition of the gravel pit by the CCHE.



University of Colorado

Vice President for Budget and Finance

914 Broadway  
Campus Box 4  
Boulder, Colorado 80309-0004  
(303) 492-5673 Fax: (303) 492-6616

MEMORANDUM

TO: Bill Herbstreit  
FROM: Jim Topping *Jim*  
DATE: March 19, 1996  
SUBJECT: GATEWAY ACQUISITION

President Buechner and I met with Dwayne Nuzum and Robin Newsome of CCHE today to discuss the State's approval process for the University's acquisition of the Gateway property. We agreed that this proposal could fall under the S.B. 202 process, thereby allowing an expedited review and approval process by CCHE. Dwayne said his intent was to do a staff review and take it to the Commission as an information item. The next available date to get on the Commission agenda is Thursday, April 11th. We should aim to submit our material to CCHE staff no later than Monday, April 1st.

The following questions/points were raised by CCHE staff:

- (1) What was the source of funding for the two parcels we are offering in exchange, i.e. LASP and the Distribution Center? We will need to demonstrate that the original sources were non-State appropriated sources, i.e. auxiliary, RBRF, etc.
- (2) We will need to demonstrate that any on-going operations or maintenance costs on the acquired property will be paid for from non-State appropriated sources of revenue.
- (3) We will need to cite UCB master plan language that envisioned this type of purchase.

CU South Annexation Application (LUR2019-00010)

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Exhibit 3

Letter from CU's attorney stating that the property appraisal shall indicate a value of \$16 million. (\$5 million higher than the asking price.)

February 7, 1996

Dave Packard, Esq.  
Hutchinson, Black & Cook  
1215 Spruce Street  
Boulder, CO 80302

Dear Dave:

At the request of the UCB Real Estate Strategy Committee, I am writing to set forth our proposed parameters of a letter of intent and contract for sale which the Committee is prepared to recommend to the Board of Regents at its February 15 meeting.

The members of the Committee are: Chancellor Park, Vice Chancellor for Administration and Finance James Fletcher, Budget Director Ric Porreca, Assistant to the Vice Chancellor Bill Herbstreit, Vice President for Budget and Finance Glen Stine, Vice President of Administration Stuart Takeuchi, and myself. This group is prepared to recommend and support the acquisition of this parcel and the payment terms as set forth in this correspondence.

We propose the following:

- As soon as possible, but not later than 45 days from the letter of intent, the entire 308-acre parcel shall be re-appraised and together with the water rights and, if appropriate, the existing structures, the appraisal(s) shall indicate an appraised value of a minimum of \$16 million. It will be understood and agreed that the University reserves the right to do its own independent appraisal and sellers agree to provide full and complete cooperation to any appraiser selected by the University to provide an independent appraisal.
- The parcel shall be conveyed subject to a long-term minimum rent ground lease to the Women of the West. The initial term of the ground lease shall not exceed 40 years. The size of the parcel to be let shall be 20 acres. The University will make no warranties or guarantees to the tenants about the building, and we do not want to guarantee the use of institutional sovereignty for building purposes. If the tenant does not commence construction within three years of closing, then the ground lease will terminate. Any extensions of the term shall be at FMV rent.
- The consideration to be paid by the University for the parcel would be \$10.67 million. We would anticipate some type of appropriate recognition to the sellers (donors) for agreeing to provide the University this parcel in a bargain sale. The University would like to discuss this further with the sellers at an appropriate time.
- This consideration shall consist of the following:
  - Conveyance of the LASP parcel. The value to be attributed shall be the appraised value of the parcel.
  - Conveyance of the land and building known as the Distribution Center. The value to be attributed shall be the appraised value of the parcel plus improvements.
  - The balance will be paid in cash by certified funds at the closing.
- Conveyance of the two parcels shall occur 42 months after closing, conditioned upon there being no action pending in a court of competent jurisdiction to set aside or void this land transaction. Conveyance would await litigation conclusion, if pending. At the time of conveyance, the University would have the right to lease the Distribution Center for 30 months additional time at FMV rent.
- A contract for sale must be entered into by 5:00 p.m. on the 26th of April or all commitments and obligations represented by the letter of intent end. Any agreement will be subject to the formal approval of the Board of Regents and the giving of this formal approval shall be in its sole discretion. The contract for sale shall be subject to appropriate conditions re: approval of reclamation plans; wetlands mitigation and environmental issues, if any, and to the condition of passage by the legislature, if deemed necessary by the institution, of enabling or authorizing legislation recognizing and endorsing this acquisition by the Regents of the University of Colorado.

Please advise.

Sincerely,

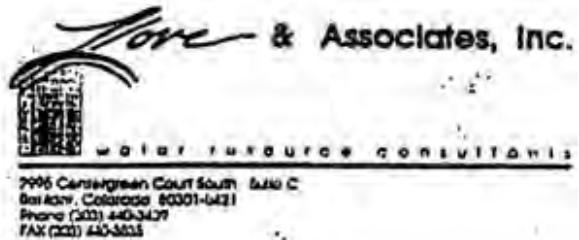
*Chg. Sign* 2/7/96  
Richard A. Tharp

Exhibit 4

Letter from CU's consultants stating they are very excited about providing recommendations to modify the original environmentally sound gravel pit reclamation plan to accommodate maximum potential development.

April 25, 1996

Mr. Bill Deno, AIA  
Campus Architect  
Department of Facilities Management  
University of Colorado  
Campus Box 53  
Boulder, CO 80309-0053



REF: 9627A - LETTER OF AGREEMENT - CONSULTING SERVICES FOR  
THE GATEWAY PROPERTY

Dear Bill:

Love & Associates, Inc. is pleased to submit this letter of agreement for providing consulting services related to optimization of the Gateway Property in order to accommodate maximum potential development at a future date. We are very excited about being given an opportunity to once again work as a TEAM with the University and Downing, Thorpe, James (Tom Thorpe) on this important project. It is our understanding that the University would like to maximize development, minimize maintenance, and provide a property with the maximum development flexibility. The team generated report will provide the University with recommendations related to the Flatiron Companies and Western Mobile final site reclamation plan.

CU South Annexation Application (LUR2019-00010)  
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Exhibit 5

Letter from CU Chancellor Richard Byyny to the State Mine Land Reclamation Board requesting the site reclamation plan be revised to include amendments submitted by the operator to eliminate ponds and riparian areas and to add a 6,000' levee to divert floodwaters onto neighboring properties. These amendments were opposed by both the City and the County of Boulder and would not have been approved without the lobbying efforts of the university.



University of Colorado at Boulder

Office of the Chancellor

301 Regent Administrative Center  
Campus Box 17  
Boulder, Colorado 80309-0017  
(303) 492-4408  
FAX: (303) 492-8866

Post-It® Fax Note	7671	Date	6/12	# of pages	1
To	Greg Squire	From	Sitt & Lipton		
Co./Dept.		Co.	Univ. of Colo.		
Phone #		Phone #	492-2222		
Fax #		Fax #			

June 10, 1997

Mined Land Reclamation Board  
Division of Minerals and Geology  
1313 Sherman Street  
Room 215  
Denver, Co.  
80203

RE: Before the Mined Land Reclamation Board, State of Colorado  
File No. M-81-302  
In the Matter of the Western Mobile-Deepe Farm Pit-Amendment 02

Dear Sir/Madam:

The Regents of the University of Colorado are the owner of the property subject to the mining permit held by Western Mobile, Inc. as referenced above. The purpose of this letter is to provide written confirmation of the University's support and approval of the submitted amendment to the reclamation plan.

As background, the University purchased this property on October 25, 1996 in order to help meet the University's long-term land needs. The University has been working with Western Mobile on the development of the submitted reclamation plan for almost a year and feel that the submittal is consistent with the University's needs and State's interests.

The University does not have any immediate needs or plans to develop this land for buildings or other facilities. The land use designation provided on the permit application (General Agricultural/ Wildlife Habitat) is consistent with the University's immediate plans for use. It is unlikely that the University will develop this land for many years into the future.

The University respectfully requests the Board's favorable consideration of the proposed amendment to the reclamation plan as submitted by Western Mobile. Thank you.

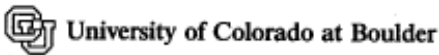
Sincerely,

Richard L. Byyny, M.D.  
Chancellor

CU South Annexation Application (LUR2019-00010)  
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Exhibit 6

Dr. Gilbert White, Gustavson Distinguished Professor Emeritus, Memorandum to CU Regent Robert Sievers - Page 1 of 2



Institute of Behavioral Science

Campus Box 482  
Boulder, Colorado 80309-0482  
(303) 492-6311

COPY

November 17, 1997

Memorandum for Robert Sievers  
Subject: Flatirons Property Planning

Dear Bob:

Your note on my comments on your 1990 Guest Opinion has not been acknowledged until now because the day after I received it I left for Paris (a meeting of UNEP/SCOPE group preparing a chapter for a report on emerging environmental problems) and in part because I wanted to check certain facts at issue. I now feel clear about several aspects of the problem and offer the following observations. These largely confirm the opinions expressed by Ruth Blackmore in yesterday's *Daily Camera*, and emerges from discussions with her and other knowledgeable citizens who have been studying the problem.

1. The 1986 delimitations of areas subject to a 100-year flood were in error in several important respects, and should be corrected.
2. Upon the basis of the best information available, delaying FEMA certification of the Flatiron berm as a levee would not increase the risk of flooding for city residents. The berm, which has existed in place since 1981, does not prevent flooding into the city or reduce the chances that flooding into the city could occur. With or without the berm, city residents are subject to potential flooding from South Boulder Creek due mainly to the alignment and slope of the U.S. 36 roadway.
3. Because the berm alone cannot prevent flooding into the Keewaydin meadows area, the greatest benefit the existing berm has on preventing South Boulder Creek flooding applies only to the remaining mined area directly behind the berm. This land has never been developed, so the stated benefit may only be serving the Flatiron property.
4. If flood waters are much less dangerous in open fields than running through neighborhoods, the encroachment of the berm into the South Boulder Creek alluvial valley could be perceived as having actually increased the danger. The berm encroaches into and has narrowed the riparian corridor by 75% (2,200 feet into the 2,800 foot wide valley) and eliminates possibly 90 acres of open fields across the alluvial fan. Inside the berm, the remaining land has been lowered by more than 10 feet below the natural valley grade and is protected by a human built earthen feature. This could also be viewed as more creating flood danger than mitigation benefit.

Dr. Gilbert White, Gustavson Distinguished Professor Emeritus, Memorandum - Page 2 of 2

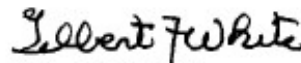
Page 2

Robert Sievers

November 17, 1997

5. It should be of "deep concern" to other citizens that UDFCD and CWCB are strongly endorsing certification of a levee that does not actually prevent flooding into the city under a representation that it is vital to local public safety. Since the berm mainly protects the remaining mined property, a reasonable citizen might conclude that the true motive for certification is other than the safety of Boulder's citizens.
6. One hypothesis among some citizens is that certification is urged in order to permit payment of certain landowners for land purchased by the University at a value arrived at by doubtful appraisal practices and not warranted by current information on flood hazard.
7. The University has never made a careful analysis of the environmental impacts of the purchase and management plan, and has not recruited members of its Faculty who are expert in ecological and engineering aspects of the Boulder Creek watershed to appraise the various options. It has never engaged City or County in joint study and planning on this issue. It is not too late to do so.
8. A "publicly announced" delay in further modifying the levee would serve as a good faith effort and gesture to ensure that the University is committed to participating in an open, honest, and objective master planning process with the citizens of Boulder. A proactive approach to creating and developing a floodplain mitigation strategy that benefits both CU and the city would seem highly desirable.

I feel that this problem and opportunity needs to be pursued vigorously both with the University and in City and County.



Gilbert F. White

Gustavson Distinguished Professor  
Emeritus of Geography

cc: Chancellor

**Variant II**

In a May 20, 2019 letter to the city, Frances Draper, Vice Chancellor for Strategic Relations, and Derek Silva Executive Director, Real Estate Services stated:

**CU South Annexation Application (LUR2019-00010)**  
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***"Variant II 500 creates a win-win for all parties, including the city, the county, the university and the community as a whole".***

As shown below, Variant II constricts the opening of the Colorado Department of Transportation's US 36 bridge over South Boulder Creek to the point that floodwaters would be several feet higher than the bridge opening. This constriction eliminates freeboard under the bridge which would allow for the passage of floating debris. This violates fundamental engineering standards for bridge design as required by both the Bridge Design and Drainage Design Specifications of the Colorado Department of Transportation.

Existing US 36 Bridge Over South Boulder Creek



Variant II Constriction of South Boulder Creek US 36 Underpass



Studies have shown that when there is no freeboard, floating debris will accumulate upstream and eventually clog the opening. Studies have also shown that without freeboard the tips of logs floating downstream will hit the bridge and the flowing water will force the upstream ends of the logs downward until they jam into the streambed creating barriers that trap additional debris. During major floods, about 4,000 cubic feet per second of water pass under the US 36 bridge. If the underpass is

**CU South Annexation Application (LUR2019-00010)**  
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blocked, floodwaters will back up behind the floodwall, prematurely fill the detention pond and flow downhill into the neighborhoods.

Photo taken at the US 36 bridge looking upstream. During major storm events, high winds and the erosion of streambanks topple trees.



1997 Ft. Collins Flood – College Avenue Underpass Blockage



**CU South Annexation Application (LUR2019-00010)**  
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CU's past and continuing activities on this flood prone property demean the reputation of CU which touts its programs in sustainable environmental design. As the late Dr. Gilbert White stated in his 1997 memorandum, "The University has never made a careful analysis of the environmental impacts of the purchase and management plan, and has not recruited members of its Faculty who are expert in ecological and engineering aspects of the Boulder Creek watershed to appraise the various options".

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Debra Biasca <dbiasca@gmail.com>  
**Sent:** Thursday, January 16, 2020 5:27 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Please Don't Californicate CU South

**External Sender**

Honorable and tireless Council members

First, thanks for all you try to do for the City of Boulder.

It is my understanding that land use issues for the CU-South property are on your agenda for your upcoming retreat. I am writing to urge you to be sure to include the following items in your discussions of this important topic:

1. Consider whether some lands in the Planning Reserve might be appropriate for student and staff housing for CU as part of a land exchange with CU to facilitate flood mitigation AND protect valuable open space at "CU South" and adjacent OSMP holdings. It is clear to me that Council could authorize moving forward with a public process to implement such a proposal.
2. Why? This is why the reserve was designated. This appears to be our only opportunity to obtain enormous public safety and open space benefits as part of a larger plan for the reserve. Such a move would have wide support within the Boulder community. Further, a public planning process will allow Council to make informed decisions about how to proceed while not pre-committing it to a specific course at the outset. While CU has raised questions about whether the reserve is proximate, annexable and developable, we believe those issues can all be resolved and that the reserve is a far better location for CU across the board. It avoids the intractable flood-related and traffic issues that the current location would create.
3. I urge you to consider SOBO's position, which is that the CU-South property is the last place on earth that should be developed into a major south campus for the University. It is the only place where flood mitigation can reasonably be implemented for the south end of Boulder. The property is in the middle of a floodplain, has a very high water table and unstable soils; it also abuts both highly sensitive and protected wetlands and some of the most densely populated neighborhoods in Boulder. As well, its road infrastructure is already near gridlock. Implementing both the flood mitigation mandated by FEMA and fulfilling CU's development aspirations on the same piece of real estate is well-nigh impossible. We believe that the win-win solution suggested here can be achieved and should be investigated.

I would add that Council is under absolutely no obligation to annex property to please the University, which has very different goals than the City. The University has no obligation to protect citizens and no obligation to operate as a democratic institution, the polar opposite of our representative Council.

Thank you for your transparency and for listening to all of us.

Sincerely,

Debra Biasca, JD, PhD  
(and CU alumna, '74, '99)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

\*

Technical Communications Consultant  
Writing . Editing . Translation  
Boulder, CO  
303.946.3280 (mobile)  
<http://www.linkedin.com/in/biasca>

Scientific and Academic Writing, Editing, & Coaching . Translation of Archival Yiddish Documents

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Roy Leckonby <royleckonby@gmail.com>  
**Sent:** Thursday, January 16, 2020 4:46 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder open space

**External Sender**

Hello,

I am writing to share my desire to keep South Boulder a livable place. I've live south of Table Mesa and east of Broadway for 15 years now. I've lived here because of the quality of life that come with lower density housing. This is a way of life, think about it. The infrastructure like grocery stores, restaurants, banks, post office, roads and trails have been built with the current density in mind. Adding CU housing will create a tipping point where the infrastructure can not handle the load. This directly and immediately impacts the quality of life for South Boulder residents.

Please do not take away the quality of life and community we have spent decades building here.

Thank you for your kind consideration.

Roy Leckonby

--

Roy Leckonby

720 312-3170

<https://www.linkedin.com/in/royleckonby>

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Brian Highland <brianhighland424@gmail.com>

**Sent:** Sunday, January 12, 2020 11:31 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** South Boulder Campus

**External Sender**

Dear Council,

During your retreat this week, with the fires raging in Australia, I would love it if you considered a plan to examine the commentary by Mike Chiropolos in his Daily Camera editorial:

<https://www.dailycamera.com/2019/12/28/mike-chiropolos-a-simple-solution-to-cu-south/>

I think we need to find a way to protect this riparian habitat and important carbon sink while helping CU meet its future needs some other way.

Thanks,

Brian Highland  
South Boulder

**From:** Chris C. Hoffman <hoopandtree@aol.com>

**Sent:** Tuesday, January 7, 2020 2:00 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Please consider this for CU South

### External Sender

To members of City Council,

I believe the solution proposed in the recent guest opinion in the *Camera* (copied below) makes great sense.

Please consider it at your annual retreat.

Thank you very much for your hard work on behalf of the citizens.

With all best wishes,

Chris

Chris Hoffman  
1280 Fairfield Drive  
Boulder, CO 80305 USA  
303-513-3621 (mobile)

## Boulder Daily Camera

### Opinion: Mike Chiropolos: A simple solution to CU South

December 29, 2019

**By Mike Chiropolos**

<https://www.dailycamera.com/2019/12/28/mike-chiropolos-a-simple-solution-to-cu-south/>

As the newly seated Boulder City Council charts the city's future, a top priority for 2020 should be a planning exercise offering durable solutions to several seemingly intractable challenges.

Exchanging the CU South property for up to 130 acres of city-owned land in the city's Planning Reserve promises great progress on five priority issues: flood

mitigation, affordable housing, planning, open space and climate. The 500-some acre reserve is located northeast of Jay Road and U.S. 36.

First, flood mitigation for South Boulder Creek has been a top priority since the 2013 floods put thousands of lives and homes at risk. An exchange will expedite the approval and implementation of the best possible engineering approach to protect Frazier Meadows and other downstream properties from future floods. The Boulder Valley Comprehensive Plan commits to preserving or restoring undeveloped floodplains wherever possible, including public acquisition of high hazard properties. The University of Colorado's current development plans could require an elevated access road costing \$15 million or more. The site plan could create a walled-in community, raising serious public safety issues. These daunting costs and hazards will be avoided at the reserve.

Second, the reserve offers ample space to build 1,100 housing units for CU faculty, staff and grad students on land currently owned by the city. The site will alleviate in-commuting, traffic congestion and the jobs-housing imbalance. Building for CU staff and students guarantees that residents would permanently live and work in Boulder.

Third, planning principles are honored at the reserve. The BVCP states that the reserve's location and characteristics "make it potentially suitable for new urban development based on the apparent lack of sensitive environmental areas, hazard areas, significant agricultural lands, the feasibility of efficient urban service extension and contiguity to the existing Service Area which maintains a compact community."

The reserve is higher, dryer and better suited for development than the riparian, wetlands, prairie and floodplain habitat at CU South — the last place any rational planner would choose to build. The question is how and when, not whether, to develop the reserve. The how goes to the balance of development and amenities, such as playing fields, playgrounds and parks. A land exchange is consistent with BVCP Guiding Principle Number 6 for CU South, inserted because it never made sense to develop.

CU initially questioned whether the reserve is proximate, comparable, developable or annexable under the BVCP. The answers are yes, yes, yes and yes. The reserve is annexable and developable if the Council determines that proposed uses will meet community needs. It faces far fewer hurdles today or potential hazards tomorrow.

Fourth, an exchange would protect a magnificent open space acquisition.

Revenues from the 2019 Open Space and Mountain Park tax extension can fund an ecosystem and recreation management plan, including soil reclamation and restoration of open space values degraded by decades of gravel mining and neglect.

OSMP's 2019 survey documents exploding use: approximately 6.25 million visits in 2017, a 34% increase from 2005 levels. As visitor pressure mounts, it is vital not to lose existing recreation destinations. As former Mayor Suzanne Jones stated when Council approved the OSMP referendum: "People love open space and are using it at numbers that we've never seen. It's what makes Boulder, Boulder." As the most ecologically valuable unprotected property in Boulder Valley, CU South has been targeted for protection since the 1970s. As the gateway to Boulder, it offers spectacular views of the Flatirons and Eldorado Canyon. OSMP signs downstream from CU South describe the riparian habitat as among the "most endangered and fragile natural areas in Colorado."

Fifth, an exchange will reap tangible climate benefits. Protecting the floodplain maximizes our ability to adapt to and mitigate impacts from a changing climate. Climate science establishes the need to plan for more frequent and severe future rainfall events in one of the most flood-prone watersheds on the Front Range. The new OSMP property in walking or biking distance of thousands of south Boulder residents will contribute to low-carbon lifestyles, active outdoor recreation and nature appreciation.

Some City officials have signaled openness to allowing CU South infrastructure in the 200-, 300- or 500-year floodplain. That high-risk approach is a nonstarter in a city where Rep. Joe Neguse recently hosted congressional climate change hearings. Time is of the essence. Let's welcome 2020 by embarking on a planning process for the reserve. The legacy of an intelligent land exchange will be one of the best-planned and most livable communities in Colorado, surrounded by the most spectacular open-space greenbelt in the Lower 48.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mike@chiropouloslaw.com>  
**Sent:** Monday, December 30, 2019 3:38 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** A win-win at CU South?

**External Sender**

Council,

I hope Council agrees its worth taking a look at a land exchange involving the reserve.

<https://www.dailycamera.com/2019/12/28/mike-chiropoulos-a-simple-solution-to-cu-south/>

With flood mitigation for South Boulder Creek the first agenda item for the Planning Retreat, Council should commit to move forward on a planning process encompassing the reserve and CU South as a top priority for 2020.

My sense is that all nine council members support effective flood mitigation, affordable housing in appropriate locations, a well-planned community that heeds Olmstead's admonitions on flood dangers, open space protection and decision-making informed by climate science. The article has met with an outpouring of support and good ideas - from a broad range of citizens and groups. An exchange has the potential to bring the community together in pursuit of shared goals.

This Council can be the one to complete the Open Space greenbelt that has been at least a half-century in the protecting.

Boulder Creek runs through the center of town, whereas South Boulder Creek flows through Eldorado Canyon across the Flatirons and Mesa Trail open space, and under Broadway/93 where it carves through the Colorado Natural Area lands and habitat for rare, sensitive and threatened or endangered species and natural communities.

The Natural Areas website underlines the ecological significance of the existing 1,193 acre South Boulder Creek Natural Area. The plains cottonwood riparian ecosystem provides "essential wildlife habitat contributing to the biological diversity of floodplains along Colorado's western plains."

In combination with riparian and grasslands communities, the wetlands along South Boulder Creek are "among the best preserved and most ecologically significant in the Boulder Valley".

The Colorado Tallgrass Prairie Natural Area consists of eight small parcels located along the broad floodplain of South Boulder Creek. The properties contain the largest known area of the once-extensive xeric and mesic native tallgrass prairies in Colorado.

See <http://cpw.state.co.us/aboutus/Pages/CNAP-About.aspx>.

Restoration at CU South holds great potential to complement and add to existing open space values, and to maximize ecosystem and flood control functions of the natural floodplain.

In Santa Clara County, Stanford University and the county have succeeded in protecting 2,000-plus acres of foothills open space owned by the University – by directing infrastructure and housing to appropriate infill locations. As the parties explore permanent protection, it appears the parties are agreeing on a 99-year extension of existing open space uses. See <https://www.mercurynews.com/2019/11/01/opinion->

**CU South Annexation Application (LUR2019-00010)**  
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[protecting-stanford-foothills-is-a-climate-change-issue/](#) Great communities and universities can learn from the other, and now its Boulder and CU's turn to show Stanford, Palo Alto and Santa Clara County the way forward.

In Boulder, engaging in a planning process to pursue collectively crafted solutions can secure the legacy of this Council while honoring the wisdom of those who came before.

Thank you all for your service and consideration.

All the best and Happy New Year,

Mike

Mike Chiropolos  
Attorney & Counselor, Chiropolos Law  
3325 Martin Drive - Boulder CO 80305  
[mike@chiropoloslaw.com](mailto:mike@chiropoloslaw.com)  
303-956-0595

"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

*Please contact sender immediately if you may have received this email in error, because this email may contain confidential or privileged information*

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>  
**Sent:** Thursday, December 26, 2019 12:00 AM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** Yates to Public: Butt Out!

**External Sender**

Yates to Public: Butt Out!

The attached audio clip of Bob Yates comments on the CU South Process Subcommittee Meetings at the December 3, 2019 city council meeting speaks for itself.

At the conclusion of past subcommittee meetings, each member of the public who wished to comment was allowed two minutes. At the last meeting, five members of the public spoke for a total of ten minutes. But even that short amount of time was too much for Yates to tolerate.

The "normal cast of characters" derided by Yates include myself, a professional engineer and land surveyor who first brought attention to South Boulder Creek flooding back in 1996 and has been following this issue for 23 years, Ruth Wright, Open Space Board of Trustees member Karen Hollweg, and WRAB member Dr. Gordon McCurry, an expert on South Boulder Creek groundwater issues.

Many of the delays and funds wasted over the past 23 years could have been avoided if the city had paid attention to the advice provided by knowledgeable members of the public who warned about problems such as pursuing the fatally flawed 2015 Alternative D plan and developing plans which used CDOT right-of-way without first obtaining permission from CDOT for the use of its land.

In May 2017, I met with City Councilmember Bob Yates and detailed the obvious fatal flaws of the Alternative D plan. Yates' only response was a condescending smile and the words "the train has already left the station". Yes the train had left the station, but it was only after a significant amount of time and city funds were wasted that the plan was subsequently rejected.

In spite of all of the lip service about the importance of public engagement, there has been very little opportunity for the public to provide input on this project. The last open house on South Boulder Creek flood mitigation was April 23, 2018. At least Yates was honest about his lack of interest in hearing from the public.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Tuesday, November 19, 2019 2:06 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South - CU made its bed in 1996, and must now lie in it

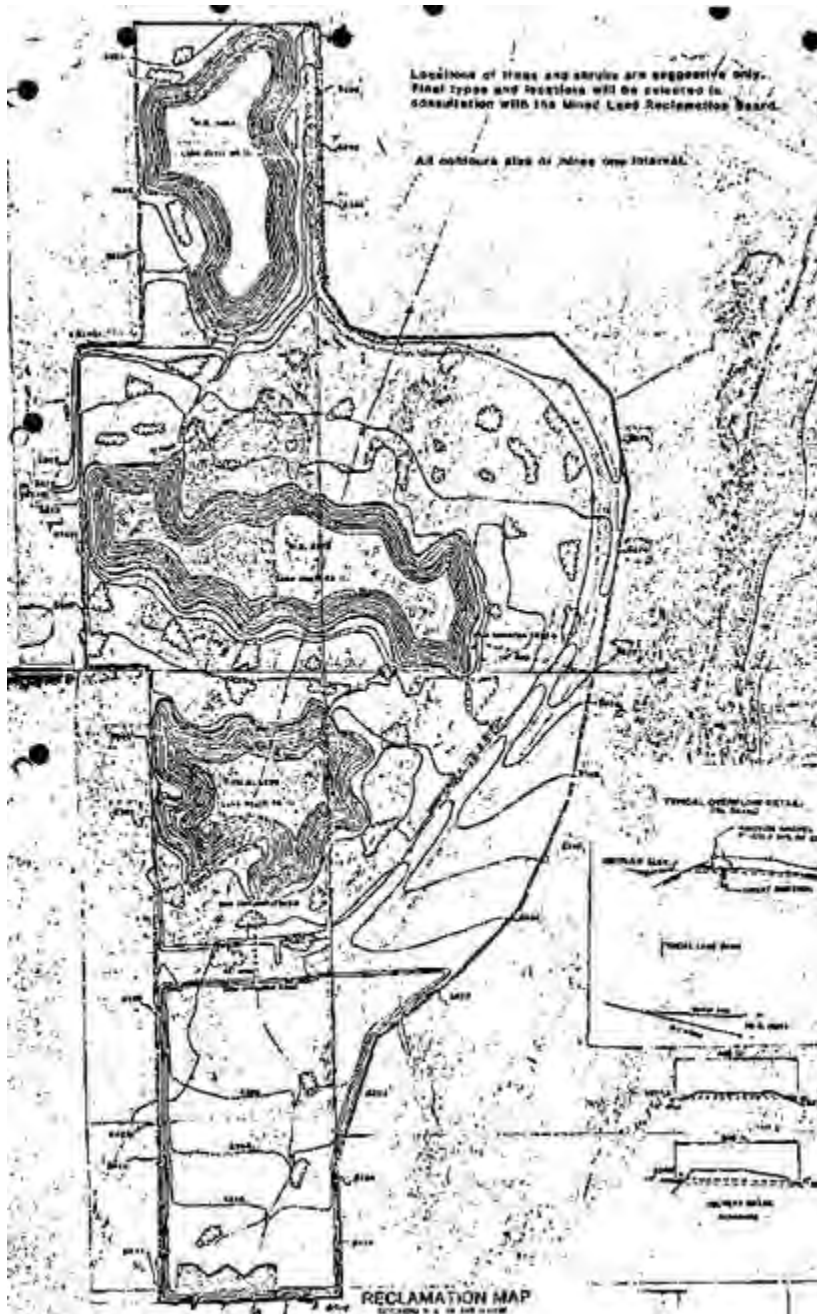
**External Sender**  
**CU South**

For over twenty three years, we have known that hundreds and hundreds of residences were constructed in the South Boulder Creek 100-year floodplain.


The 308 acre Flatiron Gravel pit, purchased by CU in 1996, and renamed CU South, is located in the floodprone historic streambed of South Boulder Creek on land needed for detention ponds to mitigate downstream flooding.


The original Flatiron Gravel Pit Reclamation Plan approved by Boulder County in 1981 included ponds and riparian areas to provide wildlife habitat and mitigate downstream flooding.

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In 1996, when CU acquired the depleted Flatiron Gravel pit, CU lobbied the State Mined Land Reclamation Board to gut the original gravel pit reclamation plan by eliminating large ponds and riparian areas, which would have mitigated downstream flooding, and by adding a six thousand foot levee around CU's excavated gravel pit to divert floodwaters onto neighboring properties.

 University of Colorado at Boulder



Institute of Behavioral Science

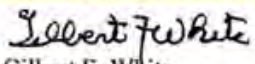
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Campus Box 482  
Boulder, Colorado 80309-0482  
(303) 492-6311

November 17, 1997

4. If flood waters are much less dangerous in open fields than running through neighborhoods, the encroachment of the berm into the South Boulder Creek alluvial valley could be perceived as having actually increased the danger. The berm encroaches into and has narrowed the riparian corridor by 75% (2,200 feet into the 2,800 foot wide valley) and eliminates possibly 90 acres of open fields across the alluvial fan. Inside the berm, the remaining land has been lowered by more than 10 feet below the natural valley grade and is protected by a human built earthen feature. This could also be viewed as more creating flood danger than mitigation benefit.

5. It should be of "deep concern" to other citizens that UDFCD and CWCB are strongly endorsing certification of a levee that does not actually prevent flooding into the city under a representation that it is vital to local public safety. Since the berm mainly protects the remaining mined property, a reasonable citizen might conclude that the true motive for certification is other than the safety of Boulder's citizens.



Gilbert F. White  
Gustavson Distinguished Professor  
Emeritus of Geography

Both the City and County of Boulder realized that some of the old Flatiron gravel pit would be required for construction of flood detention facilities and recognized that CU's modifications to the reclamation plan would worsen flooding.

The City and County therefore objected to CU's revisions to the reclamation plan, and wanted to cooperate with CU to revise the reclamation plan to include both flood control facilities and land for development.

But, CU had no interest in cooperating with the city to protect downstream residents and was only interested in revising the reclamation plan "**to accommodate maximum potential development at a future date**".

**Letter from CU Chancellor Richard Byyny to the Mined land Reclamation Board.**

RE: Before the Mined Land Reclamation Board, State of Colorado  
File No. M-81-302  
In the Matter of the Western Mobile-Deepe Farm Pit-Amendment 02

Dear Sir/Madam:

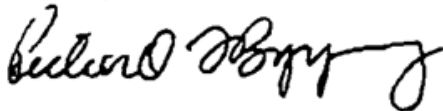
The Regents of the University of Colorado are the owner of the property subject to the mining permit held by Western Mobile, Inc. as referenced above. The purpose of this letter is to provide written confirmation of the University's support and approval of the submitted amendment to the reclamation plan.

As background, the University purchased this property on October 25, 1996 in order to help meet the University's long-term land needs. The University has been working with Western Mobile on the development of the submitted reclamation plan for almost a year and feel that the submittal is consistent with the University's needs and State's interests.

The University does not have any immediate needs or plans to develop this land for buildings or other facilities. The land use designation provided on the permit application (General Agricultural/ Wildlife Habitat) is consistent with the University's immediate plans for use. It is unlikely that the University will develop this land for many years into the future.

The University respectfully requests the Board's favorable consideration of the proposed amendment to the reclamation plan as submitted by Western Mobile. Thank you.

Sincerely,



Richard L. Byyny, M.D.  
Chancellor

Without CU's political influence and lobbying, the Mined land Reclamation Board would never have agreed to gut the gravel pit reclamation plan.

As a result of CU's revisions to the gravel pit reclamation plan, during the 2013 flood, CU's barren excavated gravel pit remained dry while the Frasier Meadows Retirement Community and hundreds of downstream residences were severely flooded.

CU South Annexation Application (LUR2019-00010)  
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If CU were willing to cooperate with the city back in 1997, flood mitigation facilities could have been developed as part of the restoration and reclamation of the gravel pit, and completed well before the 2013 flood.

CU, which teaches classes in environmental design and markets itself as being in the forefront of environmental sustainability, should be embarrassed by its choice of a floodprone depleted gravel pit at the foot of a 136 square mile Front Range drainage basin for the development of a new campus. CU should also be ashamed of itself for gutting the original reclamation plan and for other unsustainable destructive activities on the property such as obliterating reemerging wetlands.

CU South Annexation Application (LUR2019-00010)  
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**CU South Annexation Application (LUR2019-00010)**  
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CU made its bed when it got carried away with its sovereignty and refused to consider basic issues such as flood protection, high groundwater levels, transportation access, utilities, and community comprehensive planning when it purchased the property and graded the flood prone land to accommodate maximum potential development at a future date.

CU is in no position to demand concessions from the city and compensation for increased costs of developing the troubled property. In fact, CU should be liable for its contribution to the damages caused by the 2013 flood.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Stephen Tuber <tubersteve@gmail.com>  
**Sent:** Thursday, October 31, 2019 10:17 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Sullivan, Douglas <sullivand@bouldercolorado.gov>; Suzanne DL <sdelucia@frontrangebusiness.com>; jeff rifkin <jkchinkin@gmail.com>; Steven Telleen <stelleen@comcast.net>; Gordon McC <gmmccurry@gmail.com>; pmo@mediationnow.com  
**Subject:** Fwd: South Boulder Creek (SBC) Flood Mitigation Phase 1

**External Sender**

Dear Council - please forgive this late email. I received a notice this afternoon regarding a "CU South Process Subcommittee" meeting tomorrow at 9:00am. While I won't be attending tomorrow's meeting, I noted that there are 10 minutes allotted for public comments. This email is primarily intended for subcommittee Council Members Carlisle and Yates, and is offered as a public comment for the record.

My comment is that the safe discharge and conveyance of waters from the planned detention facility to South Boulder Creek should be overtly addressed as part of the Phase 1 Plan. This wasn't the case with the initial options (e.g., Variants 1 & 2) that were presented to the public over a year ago. However, communications that I have received and comments that I've heard over the past 6 months seem to indicate an awareness of the importance of carefully managing the discharge, which must occur within a limited timeframe immediately after a flood event. Let me suggest that the goal for the discharge of detained flood waters should be ***"no additional flooding, or flood-related groundwater impacts, to existing neighborhoods in southeast Boulder."*** This aligns closely with FEMA requirements.

In August I asked City staff for an update regarding "whether and, if so, how planning for the Phase 1 has incorporated the need to keep detained flood water out of [Dry Creek Ditch #2]." (See the email below.) I would appreciate that update at the staff's earliest convenience. Also, I hope the Council Members will ensure that this consideration is fully incorporated into the Phase 1 plan.

Finally, some background information for the subcommittee members. Last April a few southeast Boulder community members (including SEBNA President Suzanne DeLucia) hosted City staff on a walking tour of the ditches, channels and the neighborhoods they pass through between S. Boulder Road and Baseline Road on the east side of Foothills Parkway (which is the general area that will receive the flood detention discharge). It was a very constructive and useful two hours. The City was represented by Douglas Sullivan and one of his staff. Mr. Sullivan was very open to our concerns and knowledgeable concerning the waterways that affect our neighborhoods. The notes from that field trip are attached FYI.

Thank you for your consideration. Sincerely, Steve Tuber

Begin forwarded message:

**From:** Steve Tuber <tubersteve@gmail.com>  
**Subject:** Re: South Boulder Creek (SBC) Flood Mitigation Phase 1  
**Date:** August 19, 2019 at 12:20:16 PM MDT  
**To:** Douglas Sullivan <sullivand@bouldercolorado.gov>

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

Cc: Jeff Rifkin <[jkchinkin@gmail.com](mailto:jkchinkin@gmail.com)>, "Olsen-Horen, Laurel" <[Olsenl@bouldercolorado.gov](mailto:Olsenl@bouldercolorado.gov)>, Steven Telleen <[stelleen@comcast.net](mailto:stelleen@comcast.net)>, Suzanne DL <[sdelucia@frontrangebusiness.com](mailto:sdelucia@frontrangebusiness.com)>

Hello again Douglas. From reading the Camera's story on the last City Council meeting, it seems like we are witnessing a four-sided tennis match and that the options for the detention dam are the ball. It must be as frustrating for staff as it is for those of us living in the floodplain.

The reason I'm writing is to provide a little more info and insight regarding Dry Creek Ditch #2(DCD). This summer, **for the first time** that I can remember in the 34 summers that we've lived here, my sump pump is pumping water semi-regularly this late in the summer. Also we have an extraordinary number of small frogs in our lawns as compared to few-to-none in **all** other years.

I attribute both phenomena to higher groundwater. The higher groundwater is NOT likely the direct result of the wet spring/ early summer since the shallow groundwater generally drops within a few days to a week once the weather heats up and dries out. Rather I think it is related to two things; Dry Creek Ditch (DCD) has been running continuously at a few CFS since early July, which is considerably longer than it has run at this level in many years. And the City sealed the sewer lines in the area to prevent inflows of groundwater. If I'm close on my hypothesis, then the point is that **it is even more critical now** than it was in 2013 **for DCD to be insulated from discharges from the detention facility to the maximum extent that is technically feasible** to avoid a repeat or even worse of the flooding and flood-related groundwater impacts to our neighborhood from the next flood.

I realize that you are up to your eyeballs with the other design issues related to Phase 1. Nevertheless, I'd appreciate it if you could update us on whether and, if so, how planning for the Phase 1 has incorporated the need to keep detained flood water out of DCD. Obviously there is no emergency here. But I'd appreciate a response within a reasonable time. Thanks and please keep us in mind.  
Regards. Steve Tuber



## Hogan-Pancost Site Discussion Regarding South Boulder Creek Flood Mitigation

**Date:** 04.19.2019

**Meeting Location:** Met at Suzanne's office then walked along Viele Channel and Dry Creek Ditch #2

**City Staff in Attendance:** Douglas Sullivan – Utilities Principal Engineer, Laurel Olsen-Horen – Flood and Greenways Specialist

**Community Members in Attendance:** Jeff Rifkin, Steve Telleen, Steve Tuber, Gordon McCurry, Pete Ornstein, Suzanne DeLucia

**Purpose of Meeting:**

The purpose of this meeting was for the residents to get an update on the Hogan-Pancost analysis and to express concerns regarding how the flow from the South Boulder Creek (SBD) Phase I project will be routed downstream of US Highway 36. The primary concern for the residents in attendance of this meeting is to bring awareness to city staff [of risks to southeast Boulder neighborhoods from discharge of detained flood water from the Phase 1 detention facility. Two specific areas of concern are](#) about the ~~potential implications of using inadequacy of~~ Dry Creek Ditch No. 2 to convey the outfall flows ~~of the proposed detention facility currently being designed as Phase I of the SBC flood mitigation project,~~ [and needed modifications to Viele Channel to enable safer discharges.](#) City staff met with the community members (sans Suzanne and Pete) on February 8, 2019 and this meeting was a follow-up to the February meeting to allow staff to conduct a site walk led by the community members to see their concerns firsthand. Suzanne shared some photos and video clips of the flooding which occurred around her property (Greenbelt Meadows neighborhood) during the September 2013 storm event.

**Key Points Discussed:**

- Community comments around Dry Creek Ditch No. 2's inability to convey stormwater flows associated with the proposed detention facility on CU South's property.
  - When there is water in the detention facility, the inlet to Dry Creek Ditch No. 2 will be under water, which causes major concern for the community members.
- Community comments around the overgrown condition of the Viele Channel and request that the channel be cleared to fulfill its original, intended purpose for conveying water.
- Request from the community for staff to confirm storm interval for SBC during the Sept. 2013 storm event (at S. Boulder Road).
- Community concern the city's Sept. 2013 flood inundation maps are not reflective of what happened on the H-P property (inundation map shows the H-P site did not see substantial flooding during the storm, whereas the photos shown by Suzanne at the beginning of the meeting show the HP site inundated). Residents would like to ensure that city staff and hired consultants are not using the flood limits of the Sept. 2013 flood inundation map as a data set for informing the design of the SBC flood mitigation project. (Jeff mentioned some attachments/data he emailed to Bob Harberg after the storm event which appear to not have been incorporated into the creation of the 2013 flood extents map).

**CU South Annexation Application (LUR2019-00010)**

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- Community request for the berm along SBC ~~the north side of Viele Channel~~, north of South Boulder Road, be extended to the north ~~along the west side of South Boulder Creek~~ to provide protection for homes in the Greenbelt Meadows neighborhood ~~from both detention discharges and S. Boulder Creek flooding~~.
- A question arose regarding the status of discussions with CDOT. Douglas responded by referencing what staff told city council at their March 5, 2019 meeting; CDOT discussions and subsequent agreement is one of three key components needed for the success of the SBC flood mitigation project. CU's successful completion of the city's annexation process and completion of preliminary design, including regulatory agency permitting, round out the other two components.
- Steve Tuber provided a handout to staff outlining their concerns. This handout is attached to these notes.

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Margaret LeCompte <margaret.lecompte@gmail.com>  
**Sent:** Wednesday, September 11, 2019 2:00 PM  
**To:** Ruth Wright <ruthwright1440@gmail.com>  
**Cc:** Council <council@bouldercolorado.gov>; Savage Harlin <harlin.savage@gmail.com>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; Sullivan, Douglas <sullivanand@bouldercolorado.gov>; colembamb@bouldercolorado.gov; Gordon McCurry <gmccurry@mccurryhydro.com>; Binder, Ben <bbinder@ddginc.com>; Crystal Gray <graycrystal@comcast.net>; Gerstle, John <johnhgerstle@gmail.com>; Stevens, Edie <ediest1@me.com>  
**Subject:** Re: South Boulder Creek - Endorsing and augmenting Ruth Wright's letter re flood mitigation

Dear Ruth;

Thanks for the update on flood mitigation issues contained in your email of September 11, 2019. I could not agree with you more strongly. I, too, have looked at the entire Ch2MHill proposal from 10, these many years ago, and concur with your assessment as to the shoddy way alternatives to the current spate of concepts--all of which call for detaining floodwaters right in the lowest part of the flood area, along Hwy 36 and near the Table Mesa overpass--were dismissed. Detention in the area proposed, aka PKU-O zoned land, also is ludicrous. Not only will ponds already filled from the high water table not hold any more water when floods occur, but lining the ponds with impervious material will only further derange the groundwater flows which nourish the wetlands to the south and on the other side of Hwy 36. This problem is not solved by "conveyances" which the engineers argue will take water under the floodwall and dam. This is a concern that Save South Boulder has aired for years. It only leads me to have little if any faith in the integrity of anything the City's engineers or consultants have offered.

Perhaps most important in your letter is noting the failure to look further upstream beyond the CU-South property. In fact, a presentation at the last OSBT meeting displayed those very flows out of the northern parts of South Boulder Creek, and how they split outside the mouth of Eldorado Canyon, one leading into the main stem of South Boulder Creek, and the other flowing directly across the CU-South property. Or at least, it did at one time, before it was diverted by CU's deliberately reinforced levee to the east and south around its property. That levee not only keeps CU-South artificially "low and dry" (quoting Ben Binder), but narrows the riparian area adjacent to South Boulder Creek, affecting its flow as well. And leading to more flooding toward the low area under the Table Mesa overpass.

OSBT members were urged to consider examining detention in these near-upper reaches of South Boulder Creek, rather than relegating all detention to the area right next to the freeway and close to or on the CU-South property. South Boulder has urged the same things, for at least several years. Even City Council requested that the engineers look upstream to avoid damage to open space lands. No response has been forthcoming to these suggestions. It is high time, and beyond, that these many requests be honored. Further, many requests have been made to determine just how much detention would be needed in detention ponds, located in various portions of the floodplain.

Now, with the City's plans at impasse, it is time finally to set aside the preconceived notions about what can and could be done about flood mitigation and CU's "rights" over the City's desperate need to protect its citizens from flooding. It is time to look at the proposal presented at the OSBT meeting in August and explore the idea of detention for upstream of CU's property. It is time to give priority to preserving open space lands, not "dispose" of them for flood mitigation. It is time to prioritize flood

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mitigation, and let CU wait for resolution of its own aspirations until decisions about adequate flood protection are finalized.

Please act to provide answers to the concerns above and let's get on with a real and viable plan.

Margaret LeCompte  
290 Pawnee Drive  
Boulder 80303  
303-499-7139

On Wed, Sep 11, 2019 at 10:29 AM Ruth Wright <[ruthwright1440@gmail.com](mailto:ruthwright1440@gmail.com)> wrote:

Dear Recipients of this email,

Having strongly recommended that you go with the 500-year criterion, I feel compelled to let you know that this is still do-able with Variant I.

It has to do with adding some storage “upstream”. Oh No, you say -- let’s not go back to THAT old idea ! You will recall that citizens many moons ago asked that the City/Consultant to look at the possibility of getting more storage “upstream from the Option D detention pond” ( i.e., further to the south ) , especially since the lowest elevation in the valley is CU’s gravel pit, which is at least 12 deeper than the rest of the valley at that point . However, the citizens were not just looking for such storage on CU South, but further to the south . They were soundly rejected, often citing as a fact, that CH2MHill (2015 Drainage Report) had already investigated such options, rejected them, and had recommended the now famous Option D instead.

In recently reviewing the CH2MHill report again, we found that none of the other alternatives did, in fact, investigate what we are now proposing as an Add-on to Variant I. All of us have usually been looking at maps that do not go much further south than CU’s property line. It is quite a revelation when we do so. Please see Attachments. It is from the HDR 2009 Report. In fact, the CH2MHill consultants used the HDR numbers regarding flood flows at Highway 36 from an earlier HDR report, so HDR is accepted as an authority.

The Attachments show Boulder Creek floodwaters flowing north until they are intercepted by the CU berm, which diverts them around the berm. It is apparent that, but for the berm, the floodwaters would enter CU property and flow north on the westerly side of CU South. We should tap into this natural flow regime.

In any case, we urge the Board to recommend to Council that these Add-Ons now be seriously considered by the City /Consultant; with their computer capability it should not take very long and well worth it in the long run.

Excavation

The Variant I plan still seems to show excavation at the site. AS you know, there are water ponds of water on CU South. See Attachment. It shows the level of the ground water on the site. If you excavate, it will just fill up with groundwater, and there will be no additional detention for the floodwaters. This was one of the worst features Option D. At one point the consultant said they would just build an impermeable wall around the detention pond down to bed rock, so it could NOT fill in with water; however, at the next iteration that “solution” had been dropped. Please ask the City staff whether or not excavation is still in the Variant 1 option! And It certainly it should not be counted as detention storage !

Respectfully submitted,

Ruth Wright

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ruth Wright <ruthwright1440@gmail.com>

**Sent:** Monday, September 9, 2019 4:44 PM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; Sullivan, Douglas <sullivanand@bouldercolorado.gov>; colembamb@bouldercolorado.gov

**Cc:** Gordon McCurry <gmccurry@mccurryhydro.com>; Binder, Ben <bbinder@ddginc.com>; LeCompte, Margaret <margaret.lecompte@gmail.com>; 'Savage Harlin' <harlin.savage@gmail.com>

**Subject:** South Boulder Creek Flood Control Project

Dear Recipients of this email,

I have written many emails in the past, but this may be the most important one I have ever written – because lives and catastrophic damages are at stake.

This may also be the most important decision You will be making as active participants in this issue.

To begin, the goals of the project are simple: In the event of a flood, the objective is to temporarily detain the flood waters on the upstream-side (south) of Highway #36, and then release them through the many properties on the downstream-side of Highway #36 (known as the West Valley) in a controlled manner to do as little damage as possible. While some of the flood waters go under Highway 36 at the Boulder Creek Underpass, that amount is a comparatively minor percentage of the flood waters during a large flood. That is why the key to the whole project is the amount of flood detention provided. But how much detention ? What are the flood flows that need to be detained? This then becomes the basis for the volume of water that must be detained, and results in the size of the detention pond.

That fundamental information regarding the amount of flood flows to be detained is based on a policy/engineering choice: the size of the storm protection desired – which becomes the basis . for all the other calculations. Here we get into the 100-year storm versus the 500-year storm and everything in between. As you know, the 100- year and 500- year are actually a percentage chance of happening in any year: a 1 percent chance versus a .02 percent chance (Just for clarification the 500-yearstorm is not 5 times the 100-year storm ,but more likely 50% higher).

So for the South Boulder Creek Flood Control Project, if the detention pond is inadequate, if not enough of the floodwaters are detained, they will flow over Highway #36, down the highway right into the West Valley -- which includes the

Frasier-Meadows Retirement Community. And much of millions spent on this project will be wasted.

Implementation, of course, is much more complex, especially with the many players involved. But these are the basics.

I am a unabashed proponent of the 500-year storm as the basis for design for several reasons.

**1. The inadequacy and genesis of the 1% criterion** The 100-year storm (1% flood) is well-known and respected in the engineering community as the “federal regulatory flood” criterion which gives it some credence. Some history here. The concept of regulating the floodplains of the U.S was the brainchild of Dr. Gilbert White. In the 1960s he was working as a Presidential Scholar for the White House. He recognized that as America’s population grew, so did land development – and the floodplain was flat and readily available. When the inevitable floods came, property and lives were lost. So Dr. White led a federal task which resulted an innovative flood control program adopted by Congress in 1968. Its goal was to incentivize communities to keep floodplain lands from being developed, using flood insurance as a carrot. If communities adopted floodplain zoning, their citizens could get federally-subsidized flood insurance – insurance that was unavailable in the private market. At the time, the 1% flood criterion was considered a far-reaching choice. It eventually became what we have now: a FEMA (Federal Emergency Management Administration) mapping program which results in floodplain zoning adopted at the local level, with property owners able to purchase subsidized insurance in case their property is flooded. As finally adopted, White was not pleased with some aspects of the program. His concerns were well founded. It has now become clear that the program has dramatically increased flood losses as lands just beyond the mapped floodplain were intensely developed over the decades, and floods greater than the 1% flood damaged property even in the zoned floodplain. From 1985 to 1995 alone, losses have quadrupled ! So the 1% flood criterion, while providing some benefits, has failed its major goal. At a

minimum, the flood insurance program criterion should have been updated decades ago.

**2 Why was the 1% criterion chosen for the flood project?** The entire flood mitigation plan in the original CH2MHill Drainage Report is based on the 1% criterion. Why? Without any discussion, rationale, or justification, the Drainage Report simply states (at III-4) that “the regulatory flood flows” are the basis for the planning. It was approved internally by various agencies and City staff and never challenged – until the public got involved. The “regulatory flood” is just what it says – a standard for “regulating” the floodplain before it is developed –, NOT a standard for flood protection for property and people already living in the hazardous floodplain! The South Boulder Creek Flood Control Project must be based on the real, actual and present hazard facing us now. The West Valley never received the benefit of any floodplain zoning, which would at least have included the floodway and the flood fringe area. It simply grew wherever someone wanted to develop the land, regardless of the danger of flooding. Government let this happen and we must now protect these citizens from a catastrophic danger that was not of their making.

The rigidity of the 1% is built into this system from the federal to the local level. But progressive Boulder, of all places, should not get sucked into it and be just another city that is raising national flood losses from floods larger than the 1% flood, and be added to the sad stories of failed floodplain management across the Nation.

**3. The Drainage Plan Itself states in the Executive Summary that “it should be noted that a longer duration storm might result in greater stormwater volume that could exceed the capacity of the detention facility”.**

**4. It is a not a matter of IF, but WHEN.** Example: Ft. Collins had just finished implementing its 1% flood plan in 1995 when, just 2 years later, a larger storm hit, with loss of 5 lives, and \$130 million property damage to Colorado State University property alone. Susan Kirkpatrick, Councilwoman and Mayor during those eventful

years, spoke at the Boulder Planning Board meeting in January 2017, stating “Our early stormwater upgrades were designed to account for the 2 to 100 year flows. Unfortunately in 1997 the community received between 10-14” of rain over a 30 hour period. The runoff exceeded the 100 and even 500 year flows in some locations. . . . I urge you to take a more cautious approach to Flood Control planning in the study area and recommend plans that are compatible with 500 year flood events. The 100 year flood is not sufficient to protect the health, safety and welfare of your community members.”

And as we already know. Boulder is one of the highest flood-prone cities in Colorado.

**5. Critical Facilities.** Both the federal government and the Colorado Water Conservation Board recognize the need for extra protection for “critical facilities” which include “At Risk Population” facilities such as Elder Care (like Frasier-Meadows) and Essential Services facilities including transportation lifelines (like Highway #36) , encouraging a 500-year floodplain standard.

**6. The Boulder Valley Comprehensive Plan ((BVCP), University of Colorado, South Campus - Guidelines, Flood Mitigation Area,** Paragraph 1 e: “The city recognizes that storm events larger than a 100-year event can occur and may be more probable in the future due to the impacts of a changing climate. In designing the South Boulder Creek Phase 1 flood mitigation facility, the city’s goal is to mitigate to at least (emphasis added) a 100-year flood, and the city will consider larger events, including the 500-year flood as adopted by FEMA and a probable maximum flood as determined by the State Engineer. The mitigation facility will be designed to accommodate larger events per the requirements of the Engineer.” Note: Note: The State Engineer requirements pertain only to the integrity of the dam, NOT to protecting the West Valley from flood water overtopping the dam. So do not be fooled into complacency when the designers proudly state that the dam has been approved the State Engineer. Of course, we do not want the dam to collapse either, but that is not the subject here. the City Council also adopted Land Use Designations on CU South which showed the FEMA 500-year floodplain as

OS-O (Open Space –Other) . The Guidelines also state (Site Design – 3f) “All enclosed academic structures, offices, or residential uses will be constructed outside of the FEMA 500 -year floodplain.” See Attachments and note that the designated OS-O land is the same as the FEMA Flood Insurance Rate map.

7. **The Boulder County Commissioners**, who also have to sign off on the BVCP , at their January 31, 2017 meeting refused to move forward with land use designation changes, expressing that more information is needed on the flood issues. They emphasized the need to consider a 500-year strategy.

8. **Dr. Gilbert White, the “Father of Flood Plain Management”**. As mentioned above, he was a leader in the adoption by Congress of the National Flood Insurance Program, was the author of the famous quote “Floods are ‘acts of God’, but flood losses are acts of man”, received many honors, served as President of Haverford College, eventually joining the faculty of CU Boulder, where he created the Natural Hazards Center. He continued his flood activities in Boulder, for example, by successfully opposing the channelization of Boulder Creek by the Corps of Engineers. He also criticized CU for improving the temporary berm on CU South which prevent the Boulder Creek floodwaters to flow over the entire valley. Some quotes from his biography , Living with Nature’s Extremes: “. . . his unrelenting insistence that Boulder development be restricted even in the 500-year floodplain”, and “A full range of floodplain management tools . . . should be done on individual buildings and reaches for floods of up to 500-year frequency”.”

It must be pointed out that the City Council has approved the 500-year criterion. The problem is that CU insists on the 100-year criterion for Variant 1.

Thank you for the opportunity to “speak my mind”. Respectfully submitted,

Ruth Wright  
303-443-8607

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** frances.draper@colorado.edu <Frances.Draper@colorado.edu>  
**Sent:** Wednesday, September 4, 2019 5:40 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Brautigam, Jane <BrautigamJ@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Derek Silva <Derek.Silva@Colorado.EDU>  
**Subject:** Follow up to our August 13th testimony

Dear Mayor Jones and City Council Members:

Attached is a letter from Derek Silva and myself following up to clarify the university's request made on August 13. We realize it was quite late that evening and the topic is complicated. As always, we greatly appreciate the opportunity to speak with you and keep this topic moving forward.

Thank you,  
Frances 😊

**Frances Draper**  
Senior Strategic Advisor for Public Policy and Community Relations  
University of Colorado Boulder  
Boulder, Colorado 80309  
📞 303 492 4504  
📞 303 775 3192



September 4, 2019

Dear Mayor Jones and City Council Members:

Thank you for inviting us to speak to you on August 13<sup>th</sup> about the CU South property annexation and related flood mitigation project as we continue our joint efforts to move forward with annexation and flood mitigation. We realize that it was quite late in the evening to allow for a detailed discussion and are following up to clarify the request from the university.

As noted during our short presentation, we urge you to direct staff to conduct a full comparative analysis of costs and impacts of Variants I and II. We believe it is critical that all related costs are incorporated into the overall project budget and all impacts are identified now rather than coming to light later in an unexpected manner that impacts the project's feasibility. In our presentation on August 13 slides five and six provided a preliminary list of potential issues that should be considered, such as extra costs for the access road, additional impacts to Open Space and changes to the BVCP guiding principles. We think staff may have other items to add such as the levee removal if needed. Variant II will need some updates as well. Our final request for this analysis was on slide eight.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Staff has advised us that based on council's direction they are not currently looking into the associated costs and impacts related to Variants I and II, but are focused on the CDOT conversations around rights-of-way to gain some clarity. As we discussed with you on August 13, if a meeting is set with CDOT to discuss Variants I and II, having the university and Open Space representatives included would be appreciated.

We remain a committed partner to the city to help ensure flood mitigation can occur as quickly as possible. Thank you for your work to move this forward in a fully informed manner.

Kind Regards,

Frances Draper  
Senior Advisor on Public Policy  
University of Colorado Boulder

Derek Silva  
Executive Director Real Estate Services  
University of Colorado Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Monday, August 19, 2019 8:23 AM  
**To:** WRAB <WRAB@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>; Sam Lounsberry <slounsberry@prairiemountainmedia.com>  
**Subject:** Blatantly false and misleading expert testimony at the July 18, 2018 WRAB hearing

Dear WRAB members,

In order to make well-informed decisions, you must be able to rely on unbiased truthful testimony from your consultants and experts; especially in matters involving public safety.

While the City Council rejected South Boulder Creek flood mitigation Variant 2 in 2018, CU is now emphasizing the fact that Variant 2 was recommended by the WRAB and wants the city to reconsider Variant 2.

Variant 2 requires a flow constrictor to back up waters into a flood mitigation detention pond. The height of the opening of the flow constrictor is lower than the floodwater level, thereby eliminating freeboard needed to allow for the passage of floating debris. This will significantly increase the risk of debris blockage at the flow constrictor.

Such blockage would be catastrophic for many reasons including the premature filling of the detention pond so that floodwater storage would not be available to mitigate peak flood flows. This is not an unlikely scenario as the head of a debris flow typically occurs at the beginning of a flood.

At your July 18, 2018 hearing, debris blockage was a concern, and a board member solicited advice from your expert concerning the potential for blockage. The consultant dismissed the concern by falsely testifying that “based on an “analysis of many many structures throughout the world” there is not a “significant difference in blocking potential”. (Audio clip attached).

As a result of your expert’s blatantly false and deceptive statements, the board dismissed and did not pursue the life-threatening issue of debris blockage.

In a court of law, if it is established that a witness willfully made a false statement about a material fact, the court would reverse the verdict and question the credibility of other statements made by the witness.

Since your recommendation of Variant 2 was based on demonstrably false and misleading expert testimony, it is prudent for you to reconsider that recommendation.

1 – Your expert consultant stated that his statements supporting Variant 2 were based on an “analysis of many many structures throughout the world”. In fact, the study he referred to clearly states it was a survey of bridges and culverts in the small town of Wollongong, Australia after a single 1998 flood event. (See attached study) Either the consultant did not read the study, or he willfully misinformed the board.

2 – The critical issue of the elimination of freeboard is caused by a significant decrease in the height of the opening – from approximately 14’ to 8’. But the consultant craftily misled the board by stating that there was an insignificant decrease in the diagonal opening of the wide rectangular structure from 55’ to 52’.

3 – The pertinent safety issue involves the elimination of freeboard above the floodwater level, which would have allowed for the passage of floating debris. But the Wollongong study, which you and the consultant relied upon, did not include any information on the freeboard of the bridges surveyed.

CU South Annexation Application (LUR2019-00010)

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The State of New South Wales Australia has jurisdiction over all bridges in Wollongong, and its bridge design specifications require all bridges to include adequate freeboard. The reason openings in the study greater than six meters had little blockage was because they had freeboard. One cannot use a study in which all bridges had adequate freeboard to argue that freeboard is not required. It is your call as to whether your expert made an egregious error in interpreting the study or intentionally misled the board.

4 – You should expect unbiased neutral testimony from your expert and not a one-sided infomercial to sell his concept. The testimony, based on your consultant's "scientific information", should have also included information from the reputable studies that emphasize the need for adequate freeboard to minimize the risk of blockage.

See *Drift accumulation at river bridges*, L. Schmocker & W.H. Hager  
Laboratory of Hydraulics, Hydrology and Glaciology, Zurich, Switzerland  
[https://izw.baw.de/e-medien/river-flow-2010/PDF/A5/A5\\_10.pdf](https://izw.baw.de/e-medien/river-flow-2010/PDF/A5/A5_10.pdf)

This study concluded: ***The blocking probability increases significantly as the freeboard tends to zero and the probability for drift to touch the bridge is increased.***

After a city council meeting, your consultant asked me how I found the authoritative Swiss study. I suggested he perform a Google search and enter the words "bridge", "freeboard" and "blockage".

Time is of the essence. Based on the above information, to preserve the reputation and authority of the WRAB, I respectfully request that you reconsider your recommendation of Variant 2.

Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**Cottonwoods upstream of the flow constrictor**

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**



**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Rachel Friend <rachelkfriend@gmail.com>

**Sent:** Thursday, August 15, 2019 10:48 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** Variant 2 + public hearing

Dear City Council,

Thank you for staying late Tuesday night to receive the feedback from Frances Draper.

As a community member who's been following the South Boulder Creek/CU South flood mitigation project closely, I was very surprised when Council initially chose the Variant 1/500 year concept. It received a designation of "worst" in terms of adaptability, which made it a questionable choice in light of the climate crisis barreling down on us.

Variant 2/500, conversely, received a designation of "best" on that count. Variant 2 also outperformed Variant 1 on ease of operations/maintenance and on being less complex for groundwater mitigation. There was only 1 area where Variant 1 was rated better -- size of the concept (meaning, it had a "slightly" smaller overall dam footprint and height).

Given that CDOT did not take Variant 2 off the table; that the costs of Variant 1 are proving much more substantial than previously understood; that no flow restrictor needs to be attached to a CDOT structure; that upstream has been proven numerous times to be non-viable; and that lives remain in harm's way, I hope Council will revisit the reasons that Variant 2 was preferable. Variant 2 appears to remain the highest quality option, but now also has the added bonus of being the most viable, most fiscally sound path forward.

Additionally, I was happy to hear that you all will be meeting with CDOT and CU. Given the magnitude of this project, the intense community interest, and the important health and safety issue at the heart of it -- I hope that this meeting will take place on the record and with ample notice to members of the public.

Cordially,

Rachel Friend

[Rachelkfriend@gmail.com](mailto:rachelkfriend@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Peter Mayer <peter.mayer@waterdm.com>  
**Sent:** Monday, August 12, 2019 11:26 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Allyn Feinberg <feinberga@comcast.net>; Raymond Bridge <rbridge@earthnet.net>  
**Subject:** PLAN-Boulder comments on CU South and annexation discussions

Dear City Council

The People's League for Action Now - PLAN-Boulder County strongly urges you not to allow yourselves to be rushed into an annexation agreement with CU in connection with flood mitigation on South Boulder Creek. Please find full comments from PLAN-Boulder attached.

PLAN firmly believes a much more thorough public process and discussion is required before proceeding with annexation.

Thanks for your consideration.

Respectfully,

Peter Mayer & Allyn Feinberg  
Co-Chairs, PLAN-Boulder County

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



Aug. 12, 2019

Dear City Council members:

PLAN-Boulder County strongly urges you not to allow yourselves to be rushed into an annexation agreement with CU in connection with flood mitigation on South Boulder Creek. You should consider all the following reasons:

- It is important for Council members to talk directly with CU's leadership. It is not the responsibility of the City's and CU's staffs to elicit and represent the interests of the Boulder citizens in this matter.
- CU intends major development on the CU South property, which would have major impacts on the adjoining neighborhoods, including Martin Park, Majestic heights, and Tantra. There has been NO public discussion of annexation with the impacted neighbors of CU South. None. Only those involved with flood mitigation issues have been involved and in fact, the entirety of public discourse on CU South has been related to flood issues, not to annexation. PLAN-Boulder believes that the impacts of annexation will be much more extensive than the flood mitigation efforts, and that such a major development proposal requires much more discussion by the community.
- CU bears a good deal of responsibility for the effects of the 2013 flood on the neighborhoods to the northeast due to its questionable reinforcement of the berm around the old gravel pit. That berm kept the old gravel pit high and dry in 2013, while the flood waters were directed across US 36 and into Frasier Meadows and the neighborhoods. The berm was originally permitted as a temporary structure during gravel mining, and its removal was *required* by the approved Reclamation Plan. Instead of removing it, CU reinforced it when it purchased the property in 1996, creating the situation that impacted the flooding in 2013.
- The annexation agreement is the City of Boulder's *only* chance to influence development at CU South. Because it is a state of Colorado entity, CU is not bound by the City's regulations. The Annexation Agreement will be the contract that controls what CU can and cannot develop on the CU South site. The Boulder citizens deserve to see CU's actual plans and to comment on them before the city agrees to annexation. Once the agreement is signed, that opportunity will have been foreclosed.

For these reasons, PLAN-Boulder County requests that the Boulder City Council create a public process that involves both residents adjacent to CU South and who must bear the brunt of the impacts of what CU is proposing as a major development, and the larger community who should have the opportunity to evaluate such a significant change to the major entry to the city and land that is so significantly flood prone. CU has asserted that it has no immediate plans for this development of this site so there is time for community consideration of possible annexation. As a public entity, CU is as responsible for the health and safety of the residents downstream of its property and should be willing to enter into effective flood mitigation efforts without holding those efforts hostage to annexation.

Respectfully,

Allyn Feinberg & Peter Mayer, Co-chairs

*The following recipients sent the message below:*

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Honorable Open Space Board of Trustees,

On behalf of the tens of thousands of Boulder community members that love and appreciate Boulder Open Space - we humbly ask you to reject the request to dispose and develop 5 acres of critically important wetlands in the South Boulder Creek Open Space and State Natural Area.

**The proposed University of Colorado 30 foot tall high hazard dam has been engineered to maximize buildable land for the proposed adjacent CU apartments and condos and to protect sporting fields.**

The high hazard dam represents a massive risk for downstream communities as climate driven storms worsen. **If the high hazard dam overtops and breaches, hundreds of Boulder lives could be lost in minutes.**

**What is the best alternative? Open space protection of CU South area with the creation of the Meadowlark Open Space is by far the best flood protection for downstream communities.**

With 308 acres of undeveloped land available to absorb and retain vast amounts of water, a newly created open space requires only a low earthen dam to safeguard downstream homes.

**An environmentally friendly proposal has CU build the proposed one thousand plus condos and apartments and sporting fields on existing CU parking lots with the addition of underground parking vs bulldozing wetlands and meadow habitat.**

Why is it important that the Open Space Board of Trustees act as a check and balance and reject the Boulder City Council request for open space disposal?

To date, despite requests from hundreds of Boulder citizens, pro development forces on Council have blocked the study of a flood engineering option at CU South supported by 308 acres of protected Open Space.

**Boulder City Council has also rejected in person and written requests that an Environmental Impact Assessment be conducted at CU South which is required to protect the globally endangered Preble's Jumping Mouse and other rare animal and wetland plant species.**

The recent Open Space Master Plan survey shows protection of existing and creation of new Open Space is a key priority for the people of Boulder.

**As faithful guardians of Boulder's Open Space, we respectfully urge you to reject the request to dispose and develop 5 acres of critical wetlands habitat.**

Thank you for protecting the South Boulder Creek Open Space and State Natural Area from development.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Monday, August 12, 2019 11:16 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** OSBT-Web <OSBT-Web@bouldercolorado.gov>  
**Subject:** South Boulder Ck Flood Mitigation Study - Additional \$3,161,000 work request

August 12, 2019

Dear City Council Members,

I would like to bring to your attention the following information regarding the South Boulder Creek Flood Mitigation Study.

Engineering is being performed under a Qualifications Based Service (QBS) contract (20161205- 2518) "*To provide certain consulting services for a variety of City projects within the following categories: Water Resources, Untreated Water Transmission and Storage.*"

This is an open-ended Time and Materials contract that is not specific to South Boulder Creek flood mitigation. This type of contract is normally used for miscellaneous small projects. Fees and costs are not competitively bid, and invoices are based on hours billed and not work completed.

### **Uncontrolled Project Costs**

Pursuant to the contract, the City may issue work orders to the consultant. The initial work order for \$797,000 was issued for an out-of-date scope of work drafted prior to the revisions to the Boulder Valley Comprehensive Plan which changed the engineering requirements.

After burning through the first \$797,000, a contract modification was approved for an additional \$805,000, bringing the total to \$1,602,000.

One would expect that for \$1,602,000 the city would now have a set of preliminary engineering plans, but we do not.

On March 22, 2019 a second Contract Modification Request was submitted for an additional \$3,161,000, bringing the total for Preliminary Engineering to \$4,763,000. This is in addition to the  $\pm$  \$1.4 million spent on prior engineering studies by HDR, CH2M Hill and other engineering consultants; and there is no guarantee that additional work requests will not be submitted.

Work on this project is not competitively bid. You may wish to question how the city staff determines if the engineering fees, such as the request for an additional \$3,161,000, are reasonable.

The consultant is under no pressure to constrain billings. Photocopies of parking receipts for \$1.88 attached to the \$198,977.09 Invoice 53281 dated March 21, 2018 shows the consultant's efforts to nickel and dime every possible penny from the city. Because of the terms of the contract, the invoice included only one page of detail to support \$104,006 in billable contractor hours, but 14 pages to document \$1,500 in mileage and parking expenses.

The following tables show the Original Budget and the escalating costs for the project.

**CU South Annexation Application (LUR2019-00010)**  
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**Original Budget and Contract Modification Request dated June 20, 2018**

Task	Original Budget (\$)	Requested Change (\$)	Revised Budget (\$)
Task 1 – Project Management and Coordination	35,000	21,000	56,000
Task 2 – Project Meetings	44,000	69,000	113,000
Task 3 – Geotechnical Investigations (1)(2)	295,000	383,000	678,000
Task 4 – Groundwater Modeling	72,000	0	72,000
Task 5 – Environmental Permitting	25,000	36,000	61,000
Task 6 – Concept Development	255,000	297,000	552,000
Task 7 – Surveying and Base Map	61,000	0	61,000
Task 8 – Landscape Architecture	10,000	0	10,000
<b>Total</b>	<b>797,000</b>	<b>805,000</b>	<b>1,602,000</b>

**Contract Modification Request for 30 Percent Design dated March 22, 2019**

Task	Current Budget <sup>(1)</sup> (\$)	Total Billed to Date <sup>(2)</sup> (\$)	Remaining Budget (\$)	Preliminary Design Fee Estimate <sup>(7)</sup> (\$)	Requested Change (\$)	Revised Budget (\$)
	A	B	C = A - B	D	E = D - C	F = A + E
Task 1 – Project Management	56,000.00	74,482.50	(18,482.50) <sup>(3)</sup>	85,000	103,000.00	159,000.00
Task 2 – Meetings	113,000.00	111,535.54	1,464.46	97,000	96,000.00	209,000.00
Task 3 – Geotechnical Investigations	677,000.00	685,136.78	(8,136.78) <sup>(4)</sup>	711,000	719,000.00	1,390,000.00
Task 4 – Groundwater Modeling	72,000.00	3,152.50	68,847.50 <sup>(5)</sup>	190,000	121,000.00	193,000.00
Task 5 – Environmental Permitting	61,000.00	38,363.31	22,636.69	118,000	95,000.00	156,000.00
Task 6 – Concept Development and Evaluation	552,000.00	667,647.02	(115,647.02) <sup>(6)</sup>	-	116,000.00	668,000.00
Task 7 – Surveying	61,000.00	47,430.00	13,570.00	7,000	(7,000.00)	54,000.00
Task 8 – Landscape Architecture	10,000.00	2,391.00	7,609.00	-	(8,000.00)	2,000.00
Task 9 – Preliminary Design Evaluations				913,000	913,000.00	913,000.00
Task 10 – Preliminary Design Documents				711,000	711,000.00	711,000.00
Task 11 – Alternate Corrected Effective Model				241,000	241,000.00	241,000.00
Task 12 – Miscellaneous Instrumentation				46,000	46,000.00	46,000.00
Task 13 – Acoustic Engineering				15,000	15,000.00	15,000.00
<b>Total</b>	<b>1,602,000.00</b>	<b>1,630,138.65</b>	<b>(28,138.65)</b>	<b>3,134,000</b>	<b>3,161,000.00</b>	<b>4,763,000.00</b>

**Other Concerns**

In addition to high uncontrolled costs, there are other concerns about the engineering work performed on this project.

**Variant 2 Debacle**

You are all familiar with the engineer's Variant 2 proposal which constricted the opening of the floodwall adjacent to the opening of the Colorado Department of Transportation (CDOT) US 36 bridge over South Boulder Creek. The designed opening was so constricted that it eliminated all freeboard between the surface of the floodwater and the top of the opening. Such freeboard is needed to allow for the passage of floating debris to reduce the risk of catastrophic blockage.

Eliminating such freeboard violates fundamental engineering standards and does not comply with the CDOT Bridge Design Specifications or its Drainage Design Specifications.

In an attempt to sell the hazardous plan to the City Council, Planning Board, and Water Resources Advisory Board, both the engineering consultant and the City's engineering project

## **CU South Annexation Application (LUR2019-00010)**

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manager argued that "*a study of bridges and culverts throughout the world*" showed that if a bridge opening was greater than six meters, the percentage of blockage would be less than 20%, and therefore freeboard is not needed.

The consultant willfully misrepresented the study, as the study only surveyed bridges and culverts after a single 1998 flood event in Wollongong Australia.

Moreover, the city's engineering project manager and engineering consultant carelessly overlooked a key element of the single study used to justify the elimination of freeboard.

The study did not include any information about the freeboard of the bridges surveyed. In fact the word "freeboard" did not appear anywhere in the study.

The State of New South Wales has jurisdiction over all bridges in Wollongong, and all bridges are required to be constructed with adequate freeboard. It is therefore impossible to conclude from the study that freeboard is not needed, as the reason the blockage was less than 20% was because all of the bridges had freeboard. This is the type of engineering oversight that has resulted in catastrophic engineering failures, and it is worrisome that an engineer selected as the result of a Request for Qualifications process would make such an egregious error.

Furthermore, the city's engineering consultant should have known that the Variant 2 plan was not in accord with CDOT bridge and drainage design specifications, and the concept should have been discussed with CDOT before wasting city funds engineering a plan that would be DOA.

Fortunately, six members of the City Council had the common sense to reject Variant 2.

The city should seriously consider demanding reimbursement for funds wasted developing plans for a concept that should have been immediately rejected.

### **CDOT ROW Fiasco**

Much of the project floodwall was planned to be constructed on CDOT right-of-way. Before spending time and money studying the concept, the engineer should have advised the city of the importance of obtaining CDOT's approval of the use of its ROW, and should have required evidence of such approval.

In spite of false statements made by the city's past engineering project manager that CDOT had approved of the use of its ROW, it never did, and the city's statement that an agreement to use the ROW was reached between CDOT and the city in the past, but turnover at the department changed the situation, is false. CDOT never agreed to the use of its ROW.

The May 2019 meeting between the CDOT Director and Mayor Jones clearly demonstrated that the City Attorney's statement that the city could not approach CDOT for the use of its ROW until the city had a detailed project plan was a bunch of nonsense.

### **RECOMMENDATION**

**Establish a dedicated Steering Committee to oversee work on this project.**

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According to the most recent work order modification, preliminary engineering is barely one-third complete, and detailed final engineering and construction has yet to begin. This project is crying for oversight.

The long-time South Boulder Creek engineering project manager has left the city, as has the director of that division. This project has been poorly managed for the past twenty-six years, as evidenced by the fact that millions have been spent and we still do not even have preliminary engineering plans. It's time for the city to establish a dedicated steering committee comprised of professionals experienced in the fields of hydrology, geotechnical engineering, dam design, and the management of large engineering projects to assist in the successful completion of this critical project.

Sincerely yours,  
Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 499-2569

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim Morris <jimcmorris@gmail.com>

**Sent:** Tuesday, August 13, 2019 4:38 PM

**To:** OSBT-Web <OSBT-Web@bouldercolorado.gov>; Council <council@bouldercolorado.gov>

**Subject:** CU South

Dear City Council and Open Space Board of Trustees,

I agree with SOBO that "OSBT should not dispose of the five acres of valuable open space land for flood mitigation (found on our website). Doing so would violate the City Charter, the Boulder Valley Comp Plan, and the Open Space Master Plan regarding how open space lands may be used. encourage Council to delay annexation until a viable flood mitigation design is decided upon. After that, when the amount and location of land needed to protect lives, property and public safety are known, the City can work with CU to acquire whatever acreage in addition to CU-South the university needs for its planned development."

I have read with interest the muckraker exposes of the attempts to develop CU South.

Also, I like the area. There is good wildlife habitat there. Rare species depend on this habitat. Wetlands should not be developed. Wetlands help absorb and store flood waters. Wetlands are disappearing, and are impossible to recreate with all of the original species. I hike, bike, take photos, and crosscountry ski there.

Please consider the alternatives, such as land swaps and density changes on CU East property. Maybe CU could move to some other area that is not critical wildlife habitat. Maybe the old hospital site or the development area in north boulder near 28<sup>th</sup> and Broadway. Please do not build a large dam at 36 and Table Mesa. Please protect the habitat along the creek wetland, and wet meadow. There are flaws in the option D high hazard dam. Please do not let CU build in the floodplain. Keep the designation "open space other". Why should the city pay for the flood mitigation? We need more public participation and analysis of flood control options.

The history of CU South seems tainted with secrecy, self-interest, and impropriety. The land in the floodplain was supposed to be become open space or parks. City and County regulations against developing in the floodplain and proposed open space were limiting the residential development of the site. Secret negotiations by the then Boulder mayor with the Flatirons company, the property owner, attempted to keep the rest of city council in the dark along with the public. Land or money for a museum, the then mayor liked, were offered. When then that didn't work, Flatirons got CU to buy buy the land, because CU was exempt from the city and county regs. Flatirons got a large tax deduction and provided an appraisal that was quite different than the city's. The then mayor later got a job at CU. The then regent Sievers claimed that there were no efforts towards developing the property, but it came out that he was secretly meeting with architects at that time on a development plan

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Flatirons bulldozed and drained the 38.1 acres of wetlands into 4.2 acres. They built a temporary berm and made it permanent, which flood expert Gilbert White said would increase the flood danger downstream.

We shouldn't give away our only negotiating strength, which is to provide city services such as water. CU may not keep agreements with the city unless they are enforceable. Also, CU has lobbyists working full time on this, while the citizens are often left in the dark.

Sincerely,

Jim Morris

60 S. 33<sup>rd</sup> St. Boulder , CO 80301

PS- I agree with the comments of Raymond Bridge which follow:

For some time there have been a number of workshops, hearings and public presentations on potential flood mitigation projects for South Boulder Creek. The first one I remember examining was more than 25 years ago!

The 2013 flood caused major damage when it topped U.S. 36 and flooded the "West Valley"—Frazier Meadows and the adjoining neighborhoods. The residents are justifiably concerned that flood mitigation be accomplished without delay.

Unfortunately, the resulting urgency has resulted in people wanting *something done NOW*, whether it is well-designed or not.

The property in the South Boulder Creek flood plain was targeted for purchase by Boulder Open Space and Mountain Parks in the 1990s. It had been a gravel mining operation for a number of years. The University of Colorado decided to purchase it, and got a questionable appraisal done that overvalued the land and enabled CU to outbid the Open Space Department to acquire the property. When it was purchased, there was an existing berm that had been constructed to protect the gravel pit. The permit for the berm was temporary and required that it be removed. When CU acquired the property, it illegally reinforced the berm, rather than removing it, as required. Following that, in a sequence that we don't know, FEMA mapped the berm as a "natural feature," an interpretation that is patently ridiculous to anyone who has visited the property.

Flash forward to 2013! This flood event in Boulder did not encompass major flooding from the main stems of either Boulder Creek or South Boulder

Creek—most of the flows in Boulder were from the tributaries—St. Vrain Creek, Bear Creek, Doudy Draw, etc.

At CU South, the old gravel pit remained high and dry through the flood, protected by the illegally reinforced levy. The floodwaters were diverted across the Turnpike and into the West Valley.

The Boulder Valley Comprehensive Plan wisely emphasizes that flood mitigation should emphasize the use of natural wetlands and floodplains, rather than structural solutions. Unfortunately, most of the recent proposals of the city Utility Department have taken the opposite approach. The most recent design was for a high-hazard dam going down to bedrock, constructed in the CDOT right-of-way. This design was done without bothering to consult with CDOT, which then unsurprisingly rejected the scheme, sending the city engineers back to the drawing board.

The designs of the last two years have all ignored major impacts on critical open space.

The affected open space was purchased by the citizens of Boulder for millions of dollars. It includes the largest populations we have of two federally endangered species—Ute ladies' tresses orchids and Preble's meadow jumping

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mouse. It also includes critically rare wetlands and native grass ecosystems, which have been recognized as the South Boulder Creek Colorado State Natural Area.

It is important to point out both to the Boulder City Council ([council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)) and to the Open Space Board of Trustees ([OSBT-Web@bouldercolorado.gov](mailto:OSBT-Web@bouldercolorado.gov)) that the affected open space properties were purchased by the citizens to preserve critical ecosystems—***not*** for flood control.

It is illegal under the Boulder City Charter (sections 176 and 177) to use open space lands for purposes not listed as open space purposes. Flood control is ***not*** one of those purposes.

Finally, aside from the ecological issues, there are other matters that Council needs to consider:

- ????????**CU is proposing significant development at an intersection that is already gridlocked morning and evening. CU has not provided any details, and the affected neighborhoods have not been consulted. There has been absolutely no public process.

- ????????**Outside experts have proposed flood mitigation designs (mostly referred to as "upstream detention"). Staff has never seriously considered these conceptual designs, even though they comply with the Boulder Valley Comprehensive Plan far better than the current designs.

- ????????**Obviously, much of our problem results from both County and City decisions to allow building subdivisions in the floodplain. Many of those subdivisions suffered from the 2013 floods. The Frazier Meadows Retirement Community unwisely chose to situate its most vulnerable residents on the ground floor in a flood-prone location and then blamed the city for not protecting these invalids from the flood.

- ????????**We all now need to make the best choices we can in light of past mistakes.

It makes sense to urge Council to stick with open space purposes and not ask OSBT to repurpose open space for flood mitigation structures.

CU has unfortunately tried to blackmail the city to annex its property (providing utilities, etc.) in exchange for some flood detention on CU property. This is unacceptable. CU chose to overpay for a gravel pit in a floodplain. That does not entitle them to build in an unwise location with no responsibility to their neighbors. CU is a public institution, and it has a responsibility for public safety, especially in view of its illegal reinforcement of the berm.

Council should not rush to annex CU South, especially without real public discussion.

The Open Space Board of Trustees should be clear that it will not dispose of critical habitat to allow building of flood-control structures.

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Mike Chiropoulos <mike@chiropoloslaw.com>

**Sent:** Tuesday, August 13, 2019 6:28 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South

Experts such as hydrologist Gordon McCurry continues to support flood control designs that make better use of the CU South property including upland areas currently targeted as development acres.

City Staff has recommended that the City explore land off site for CU to use for development, as competing priorities will make it difficult if not impossible to meet the multiple objectives for the 308 acres at CU south. Consistent with the Guiding Principles, this needs to be prioritized and pursued. It's the best path forward to assure flood mitigation that stands the test of time while advancing other goals and core values.

Staff recommends obtaining valuations for acres that may needed for flood control. That needs to be done, as does identifying potential properties for an exchange. Exchanges will not cost the City out-of-pocket, and the City has condemnation authority to acquire lands needed for flood control through the Urban Drainage and Flood Control District.

The 500-some acre Planning Reserve needs to be assessed, which requires initiating a public planning process. The Reserve was recently proposed for an expansion of the shooting range. This property has low ecological value and is adjacent to major arteries connecting to Main Campus, and could be an ideal site for graduate student or staff housing, and perhaps other infrastructure or playing fields. City-owned land could make for an even value exchange for lands long targeted for flood mitigation and open space protection at "CU South". Private landowners in the Reserve have previously proposed affordable housing projects on suitable lands.

Many residents will support a compromise with win-win elements of sound flood mitigation for South Boulder Creek; open space and riparian protection and restoration; and directing new CU infrastructure to more appropriate locations on higher ground. Compromising on 500-year flood protections in a climate change world is extremely risky, as are proposals to "fill" low-lying lands to support development on unstable soils.

An excellent template for CU and the City is the agreement between Stanford and Santa Clara County under which 3000-plus acres of prairie foothills open space

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owned by the University will remain protected and Stanford limits new infrastructure to more appropriate infill locations. If Stanford and local government can protect 3000 acres owned by a world class university, surely we can put our minds together to protect 300 acres here in Boulder.

Stanford's proposed general use permit would allow construction of up to 2.275 million net new square feet of academic and academic support space over the 18-year period spanning 2018 to approximately 2035. That works out to an average of approximately 126,000 square feet per year. <https://gup.stanford.edu/about> and <https://drive.google.com/file/d/0B0BM4gZWP7M6R21fdGILYIR5djA/view>

best,

/s

Mike Chiropoulos

Attorney & Counselor, Chiropoulos Law

3325 Martin Drive - Boulder CO 80305

[mike@chiropouloslaw.com](mailto:mike@chiropouloslaw.com)

303-956-0595

"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

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**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Edith Stevens <ediest1@me.com>

**Sent:** Monday, August 12, 2019 10:15 PM

**To:** Council <council@bouldercolorado.gov>; OSBT-Web <OSBT-Web@bouldercolorado.gov>;  
FrancesDraper@colorado.edu

**Subject:** Consideration of disposition of Open Space land

To: Open Space Board of Trustees, Boulder City Council, Frances Draper, Senior Strategic Advisor,  
University of Colorado

Ironically, at the same time that the Camera publishes a report that development in Colorado and the United States is devouring “natural landscape at a rate of two football fields per minute” (Boulder Daily Camera, 8/7/19), the Open Space Board of Trustees and Boulder City Council are considering the disposition of five acres of priceless Open Space to the City (which does not own it) for construction of a flood control dam that will destroy populations of two species that the federal government has designated as “threatened,” deprive downstream wetlands of water, and violate an agreement with the State of Colorado that designates the wetlands as a State Natural Area.

And this is all taking place in Boulder, famous for its environmental ethos, and with pressure from our University of Colorado, world renowned for its scientific expertise, that reinforced a berm on its property, resulting in the 2013 flooding of the West Valley, so that it can develop an area equal to 55 city blocks south of Table Mesa Drive.

What have we become?

The Open Space Charter does not include flood control as one of its purposes, nor does it anticipate the destruction that construction machinery and employees will wreak on sensitive ground, nor does it allow the extinction of resident species. Rather, the purpose of Open Space, for which we Boulderites have paid additional sales taxes since the 1960s, is to protect our natural environment for future generations.

The Open Space Board of Trustees and the Boulder City Council must not only pay homage to this purpose, they must act in accordance with it. And CU should stop acting like a reckless developer.

As an aside, under CU’s plan for CU South, South Boulder will face an additional 700 cars per day on already overcrowded, and during rush hours, virtually impassable, streets, among other disruptions. I think Council should prepare for a prolonged, very loud outcry if this plan goes forward.

Edie Stevens, 2059 Hardscrabble Drive, Boulder, CO

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Monday, July 22, 2019 4:51 AM  
**To:** Kleisler, Philip <KleislerP@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** With Variant 1 500-Yr, how much of CU's land would be inundated by a 100-year storm?

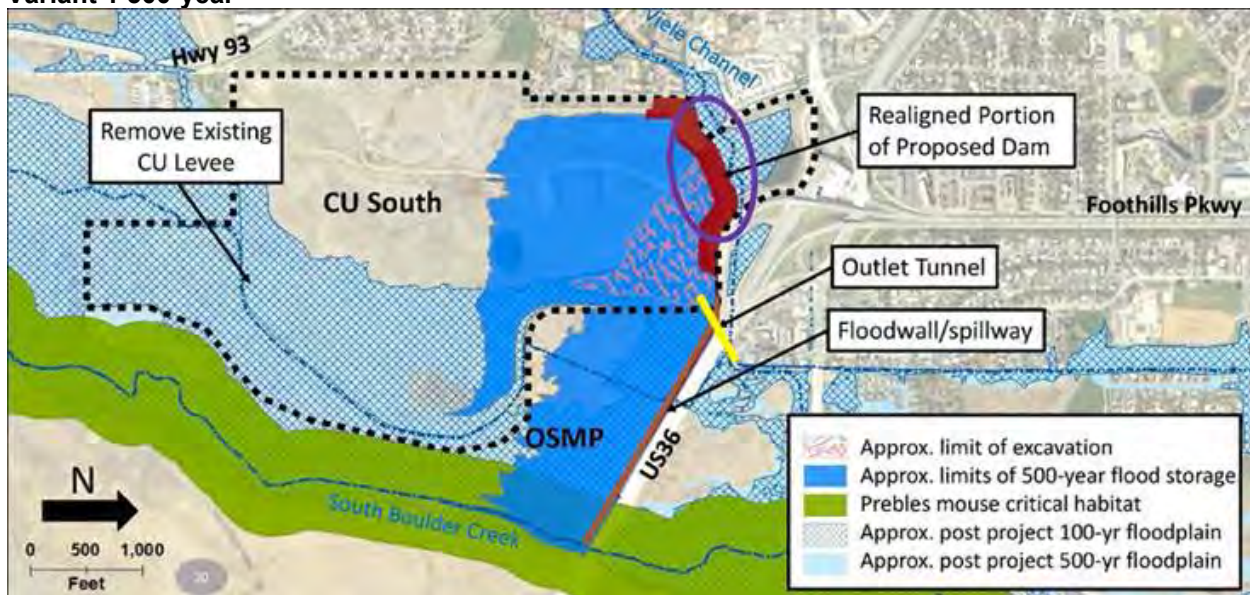
Hi Phil,

There is ample evidence that the frequency of major storms is increasing as are their magnitude. Therefore, the city is wise to protect against a 500-year storm instead of the 100-year event.

But CU, an institution which should be planning facilities to be around for centuries, has stated it prefers a flood mitigation dam that only protects against 100-year events, as this inundates less of its gravel pit.

CU has offered 80 acres of the most floodprone portion of its property for flood control, but objects to the Variant 1 500-year plan which inundates approximately 36 additional acres.

**Variant 1 500-year**



The above figure illustrates the approximate limits of 500-year flood storage. I suggest we design a facility that will protect downstream residents from a 500-year event, but that we also run the model for a 100-year storm to show the amount of CU land that will be inundated by a 100-year event, which is the recurrence interval that CU prefers.

Given the gentle slope of some of the property, a slight reduction in the flood elevation from a 500-year flood to a 100-year flood may significantly reduce the 36-acre figure.

Running the model for a 100-year storm should show that less CU land is inundated, and that the full 36 additional acres may not be required. It will be interesting to see how much less land will be flooded and the flooding that will occur at the tennis courts as the result of a 100-year storm. Such information may be very useful in your negotiations, and with a competent consultant it should be a simple matter to run the model for a 100-year storm.

**On another matter**, there has been much discussion about the effect CU's levee has on downstream flooding. Because CU gutted the original reclamation plan for the gravel pit by eliminating lakes and

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riparian areas that would mitigate downstream flooding, it created a smooth bathtub-shaped pit sloped to the northeast that will channel any floodwaters that spill out of South Boulder Creek directly towards the low-spot at Table Mesa and US 36. For that reason, CU's levee which diverts floodwaters around the gravel pit does not greatly increase downstream flooding.

But if CU had not used its political power to eviscerate the original reclamation plan, the lakes and ponds could have been contoured as detention ponds to mitigate flooding, and the CU levee would significantly worsen downstream flooding.

While CU claims the gravel mine operator was responsible for revising the reclamation plan, I attached two documents verifying CU's involvement in gutting the reclamation plan.

**Original Reclamation Plan approved by Boulder County Commissioners in 1981**

Large lakes and riparian areas to absorb floods

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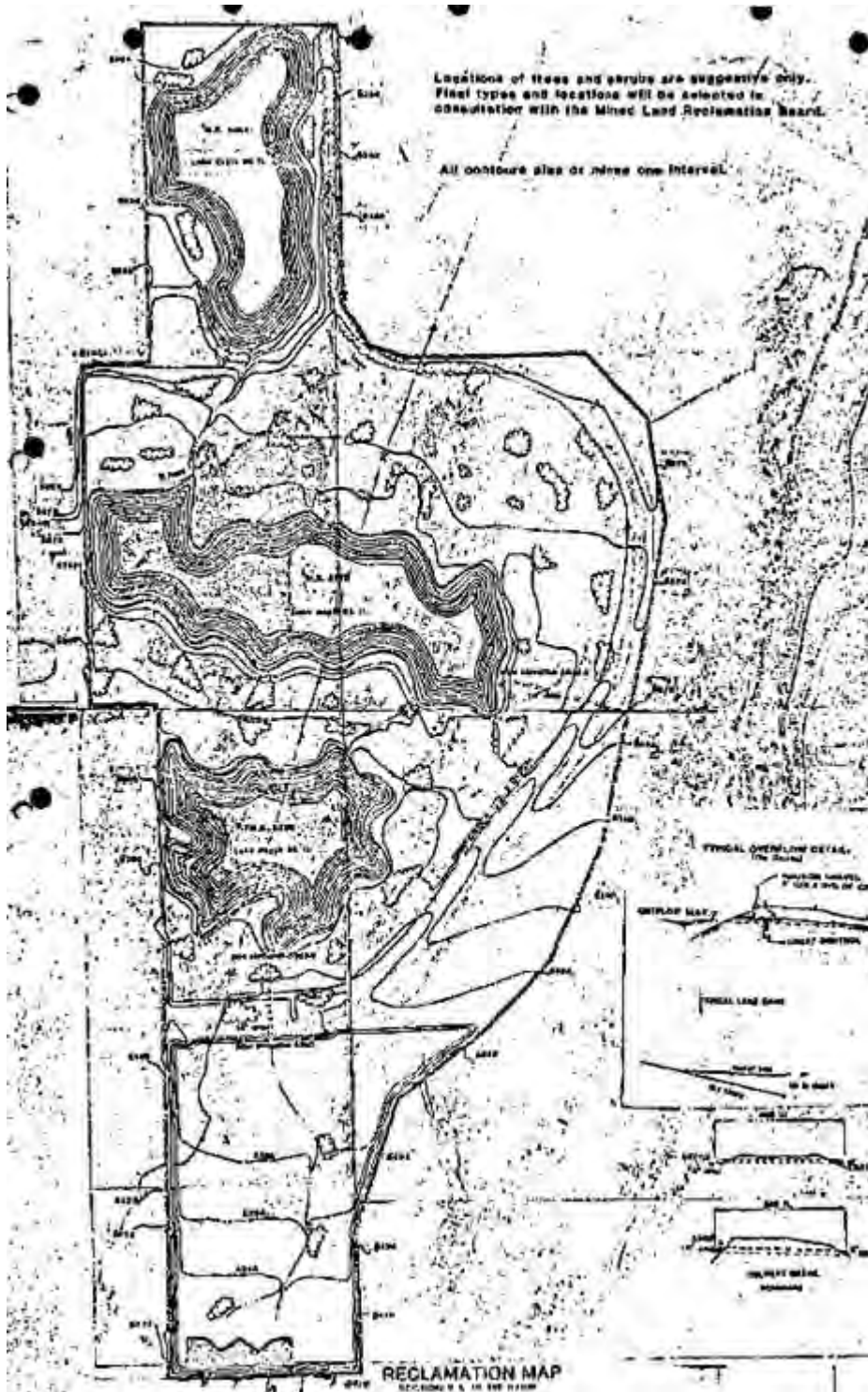


Photo taken after reclamation in 1998

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While CU's representatives and some city council members dismiss this as an event which took place 23 years ago. If fact, CU's actions significantly contributed to the flooding problem we now have to address, and the university should be held responsible for its past actions.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: The Reed Family <thereeds@pcisys.net>  
Sent: Thursday, July 18, 2019 9:38 AM  
To: Council <council@bouldercolorado.gov>  
Subject: South Boulder Flood Mitigation

I read with interest the article on the front page of today's Daily Camera that says council is trying to balance the interests of CU, CDOT, and Open Space with regards to developing CU's parcel south of Hwy. 36.

The interests that don't seem to be being considered are those of homeowners and businesses in the area that will receive floodwaters diverted from CU's new development.

I hope the concerns and interests of actual Boulderites will be taken into account by someone on the council.

Thanks,  
Katherine Reed

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Teresa von Sommaruga Howard <Teresa@JustDialogue.com>  
**Sent:** Thursday, July 18, 2019 2:34 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood Mitigation Work

Hello,

I am not a resident of Boulder but I visited in 1992, for an EDRA conference, when we were shown the new development along the creek behind the town to mitigate flood damage and create an amenity. I've searched your website but I'm unable to find anything that describes the work, the thinking behind it and its long-term effectiveness. Can you point me in the direction of such an article or series of articles?

Best wishes,  
Teresa

**Teresa von Sommaruga Howard**

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[www.justdialogue.com](http://www.justdialogue.com)

**CU South Annexation Application (LUR2019-00010)**  
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**From:** Ruth Wright <ruthwright1440@gmail.com>  
**Sent:** Tuesday, July 16, 2019 5:09 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Dreek Flood Mitigation Project

Members of the City Council,

You have head from me before, so I will be very brief.

Number One : You will recall that it was a unanimous vote by City Council to adopt the 500-year standard for design. CU is once again suggesting that you lower that standard. Please reject that notion. The 500-year is only around 50% more than the 100-year and is required to protect the West Valley, including the Frasier-Meadows Retirement Community, from massive flooding.

Number Two: CU is recommending Variant 2 as a Win-Win . No, it is a Win-One, for CU, because it builds a huge flood wall perpendicular to Highway #36, beautifully protecting CU South. Remember this is the option that closes off part of the South Boulder Creek Highway underpass, resulting in water being blocked from flowing under the highway, especially with debris blockage, resulting in flood waters again going over the Highway, and flowing down right into the West Vally and Frasier-Meadows Please reject this one as you have done before.

That leaves us with Variant 1- 500 year. It is inelegant, but with proper design, it is our best bet – unless we want to start from scratch, heaven forbid! Watch for adequate detention, which is the key for the whole project. Plus additional features, such as groundwater movement as an example.

As you know, CU and the City need each other. CU cannot develop CU South without annexation. The City cannot protect its citizens in the West alley without using CU property. Right now, before annexation, you are equals. . Remember, CU put itself in this situation by purchasing a mined-out gravel pit in the floodplain of South Boulder Creek. Much of their land is 15 feet lower than the rest of the valley. And CU is not generously “giving” the land to the City for the project, as is so often stated. It is a quid pro quo. Both CU and the City are giving up something in order to get something. The City must be as tough a negotiator as CU.

Best wishes,  
Ruth Wright

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Jim McMillan <jmc1277@gmail.com>  
**Sent:** Tuesday, July 16, 2019 11:03 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Progressing South Boulder Creek flood mitigation plans

Esteemed Boulder City Council members:

I write to strongly support the insightful analysis and recommendations documented in the letter recently sent to you by Save South Boulder (SaveSoBo) co-leaders Margaret LeCompte and Harlin Savage. Boulder needs to regain its environmental stewardship / leadership bonafides by promoting ecologically sound and environmentally responsible flood mitigation for South Boulder Creek.

My understanding is the design going forward at this juncture involves constructing approximately a mile of roughly 20-foot-high, high hazard damn as a flood wall. This is a terrible idea for so many reasons. Such heavy/massive concrete construction will have a high carbon footprint / carbon intensity and will moreover ruin / detrimentally impact large segments of the riparian and natural "wet meadow" landscape/biodiversity. Certainly, it will be an eyesore and it will fully jeopardize the adjacent precious state natural area's ability to remain viable, to retain the integrity of its noted increasingly rare biodiverse tall grass wet meadow prairie habitat going forward.

The city's stated goal in developing its flood mitigation plan is to balance CU's development aspirations for their parcel with the city's essential flood mitigation needs while preserving the integrity of the adjacent state natural area and open space areas. In contrast, the current design appears to maximize CU's development (adjacent a floodplain, which as Boulder should well know by now is no longer best practice!) while throwing under the bus the future integrity of the state natural area and the ability to realize environmentally progressive flood mitigation of south boulder creek that fully avails of this areas natural and made made (gravel quarry/bathtub) topography. Making better use of the natural features of the floodplain to achieve flood mitigation objectives is a development approach that would show Boulder still has some credibility for envisioning and achieving environmentally sound development and flood mitigation. Proceeding with the current approach instead would powerfully demonstrate that Boulder has sold out to the head-on-backwards monied interests promoting unwise sprawl and unsound development in or very close to a floodplain.

The more detailed letter they submitted is copied below. Please count me as a "Me too!" for (virtually) signing this letter, as it effectively lays out the situation in greater detail as well as proposes some wise remedies to get this important process back on a positive track.

Thanks for your attention to this important matter. Please contact me by phone or email (contact info below) if there are questions or you would like to discuss any aspect of this issue at greater length.

Sincerely,

Jim McMillan

James D. (Jim) McMillan, Ph.D.  
1277 Aikins Way  
Boulder, CO 80305  
mobile: 303 619-2371  
[email:jmc1277@gmail.com](mailto:jmc1277@gmail.com)

To: Members of the Boulder City Council

Re: Impasse over Flood Mitigation in South Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

From: Margaret LeCompte and Harlin Savage, for Save South Boulder

Date: July 12, 2019

We concerned members of the Boulder community have concluded that progress on flood mitigation plans for the South Boulder Creek Floodplain is at an impasse. Conflicting concerns present a conundrum: Lack of flood mitigation constitutes an imminent, clear and present danger to South Boulder residents. But CU owns, and plans development on, at least part of what appears to be the only land feasible for installing such flood mitigation. CU's "South Campus" is the only floodplain in the City where flood mitigation strategies could use wetlands, ponds and stream meanders to slow flood waters (as called for in Boulder Valley Comprehensive Plan section 3.22), thus following current best practices for controlling flood waters, as well as implementing "non-structural approach[es] wherever possible to preserve the natural values of local waterways while balancing private property interests and associated cost to the city," as called for in section 3.23 of the Boulder Valley Comprehensive Plan.

However, CU has agreed to give only 80 acres at the north end of its property to the City for flood relief. The City has repeatedly tried to accommodate CU by shoehorning flood mitigation alternatives into that area, to no avail. The only options CU has supported are those that protect its own landholdings, but fail because of flawed engineering, agency regulations that forbid them, and ownership constraints. The City has not even asked many of the regulatory agencies that ultimately must approve the proposed flood mitigation plans if they would approve them. This failure to act expeditiously must stop.

We want to make clear that Save South Boulder and other community organizations adamantly support the need for flood mitigation—now. We urge City Council to address what kind of flood mitigation is best for Boulder residents--first. We urge the City to look at the entire South Boulder Creek flood plain, regardless of ownership, when considering flood mitigation strategies. It is possible to pre-empt CU's ownership of the SBC floodplain—if needed to protect lives and property from flooding. Local, state and federal regulations permit this. Options such as locating flood mitigation farther upstream on the property and using current best practice to slow and absorb floodwaters by preserving wetlands, ponds and natural streams have great potential. Federal agencies, among them the Army Corps of Engineers, encourage such an approach, but they have yet to be seriously considered for South Boulder. FEMA also requires all municipalities to create a plan to protect its residents against natural disasters; the City of Boulder is at least 7 years delinquent in creating such a plan to protect Boulder residents against flooding.

We believe that the highest and best use of this land follows the City's original intent. In the 1980s and 1990s, the largely undeveloped floodplain, once covered with wetlands and tallgrass prairie, was to become the scenic Gateway to the City of Boulder, an open space that provided wildlife habitat and opportunities for passive recreation, a park in South Boulder to bookend the North Boulder Community park already constructed, and for protection against flooding. The site also included many ponds with 42 acres of water surface and extensive banks and streams that slowed flood waters—until 1997 when CU filled them in and drained them to facilitate "maximum development." We would like to return to this original intent and help CU

find and re-use other, already developed and partially dis-used, land parcels for its housing needs. Restoring the site to a more natural state also could provide climate benefits by sequestering carbon.

However, current realities impede such a vision.

- CU Boulder is immovable regarding its desires for annexation so that it can build a massive new campus in the SBC floodplain near the intersection of Table Mesa and Highway 36. Regardless of how much of its land might be required to implement an effective flood mitigation plan, CU has agreed to give the City only 80 acres. Further, City staff report that the University is “not ready” to talk about its rejection of all but two of the City’s responses to the excessive demands in its annexation proposal.
- CU has rejected the City’s Variant 1-500-year flood mitigation proposal because it encroaches on land the university wants to develop. Its preference, Variant 2, was rejected by Council because debris clogging the underpass bridging Hwy 36 over South Boulder Creek could cause floodwaters to back up and overtop the highway. The Colorado Department of Transportation also rejects Variant 2 because its flow restriction is a violation of its regulations and it requires putting visible infrastructure on its Right of Way. CDOT will not permit above-ground flood control structures to be placed in its Right of Way.
- CDOT’s 40 foot right of way along Highway 36, where the City’s current engineering plans require location of a mile-long high-hazard dam, is not wide enough to meet standards for such dams.
- City Staff’s current flood mitigation plans therefore need OSMP to sacrifice at least 40 feet of its own land to supplement what CDOT can provide for the floodwall required in City proposals.
- Open Space Board of Trustees is likely to reject this disposal of OSMP land for regulatory reasons, its incompatibility with the City Charter, the BVCP and the OSMP Master Plan principles, and because the land in question is in or near the State Natural Area and home to critical populations of federally-threatened Utes’ Ladies Tresses Orchids and Prebles’ Meadow Jumping mice. Construction of flood mitigation infrastructure also would irrevocably destroy such habitat and species nearby
- Key components of the overall strategy have neither been studied nor budgeted. For example, current plans require the use of Viele Channel to help transport floodwaters from detention ponds downstream to SBC. However, the status of Viele Channel and the network of ditches in southeast Boulder first must be assessed and funds for needed improvements must be budgeted in Phase I to avoid worsening flood-related impacts to southeast Boulder neighborhoods. FEMA regulations require the City to ensure that discharges of flood waters from the detention facility are safe, which means Phase I must include assessment of and needed modifications to Viele Channel and assurances that detained flood water discharges do not accidentally add to downstream flood-related impacts from Dry Creek Ditch #2.

We therefore urge the City Council

- To postpone any annexation negotiations with CU until flood mitigation strategies have been established and approved.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

- To direct the engineering consultant and staff to devise a flood mitigation strategy that considers all the SBC floodplain west of Highway 36 and that does not adversely affect downstream residents.
- To AGAIN direct the City staff to consider seriously flood mitigation alternatives that utilize upstream detention and utilization of existing quarry ponds, thereby reducing the impact on protected wetlands, threatened habitat, and the State Natural Area.
- To require City Staff and the engineering consultants to assure that their plans will be approved by all relevant local, state and federal regulatory agencies.
- To direct staff to investigate a land exchange that puts university housing in a safer place, ideally closer to the main campus.
- To direct the City Attorney and relevant staff to pursue eminent domain, if necessary, to secure whatever amount of land is needed for effective flood mitigation.

CU's development proposal, which has not been defined in detail, would include roughly 1,250 housing units, eight academic buildings, sports fields with bleachers, changing rooms and other amenities, parking lots, and outdoor lighting. While we agree that there is benefit in having CU provide affordable housing for non-freshmen students and faculty, the South Boulder Creek floodplain is the wrong place for it. Putting a new, 55 square block, campus there would have catastrophic impact on traffic and infrastructure in the already congested neighborhoods in the area. Access and egress for the area—a health, safety, and quality of life issue—already is severely constrained. Paving the area with buildings, parking lots and other impervious surfaces will impede groundwater absorption and increasingly pollute SBC with runoff. Crowding, light pollution, noise and increased runoff all will adversely affect the quality of life and the environment in South Boulder.

**In Summary**

Life and safety considerations are immediate and paramount for South Boulder residents. CU's future development needs constitute neither life and death nor safety matters. Therefore, we ask City Council to

- Pause negotiations over annexation of CU-South to the City and make decisions on flood mitigation first.
- Develop flood mitigation options based on consideration of the entire SBC floodplain.
- Consider upstream detention strategies and use of the natural floodplain to minimize impacts on open space land and downstream residents.
- Assist CU in finding exchanges for land in closer proximity to CU for the University's housing needs to avoid both urban sprawl and the adverse impacts listed above.
- If necessary, implement eminent domain procedures to secure whatever land is really needed for effective flood mitigation.

We believe that open space is what makes Boulder such a special and desirable place to live. The Open Space and Mountain Parks system receives 6.25 million human and 1 million canine visits annually, a number that will only increase as the City and nearby communities grow. South Boulder already is the most densely populated part of the City. It still has no large City-owned park. As it gets more crowded, the benefits of more open space only will increase. Therefore, we believe that protecting and restoring as much of South Boulder Creek's

**CU South Annexation Application (LUR2019-00010)**  
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floodplain and wetlands, including those at CU South, are imperative and of great benefit to the City. At the same time, the known flood risks in South Boulder absolutely have the highest priority. The South Boulder Creek floodplain is the only remaining undeveloped floodplain in the City, and the only place to implement a state-of-the-art flood mitigation project. Decisions made now about this land will alter forever the quality of life for all human and other living beings in the South Boulder Creek floodplain. We urge Boulder City Council members to act wisely to preserve our very special City.

Save South Boulder Co-Leaders

Margaret LeCompte. 290 Pawnee Drive

Harlin Savage, 1050 Tantra Park Circle

-- fini --

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Monday, July 15, 2019 8:51 AM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Calderazzo, Michael <CalderazzoM@bouldercolorado.gov>

**Subject:** Proposed Relocation of Fire Station #4 to CU South will significantly increase emergency response times to South Boulder Residents

**Agenda Item 6A on page 184 of the July 16, 2019 City Council Agenda - Key Issue #6 states:**

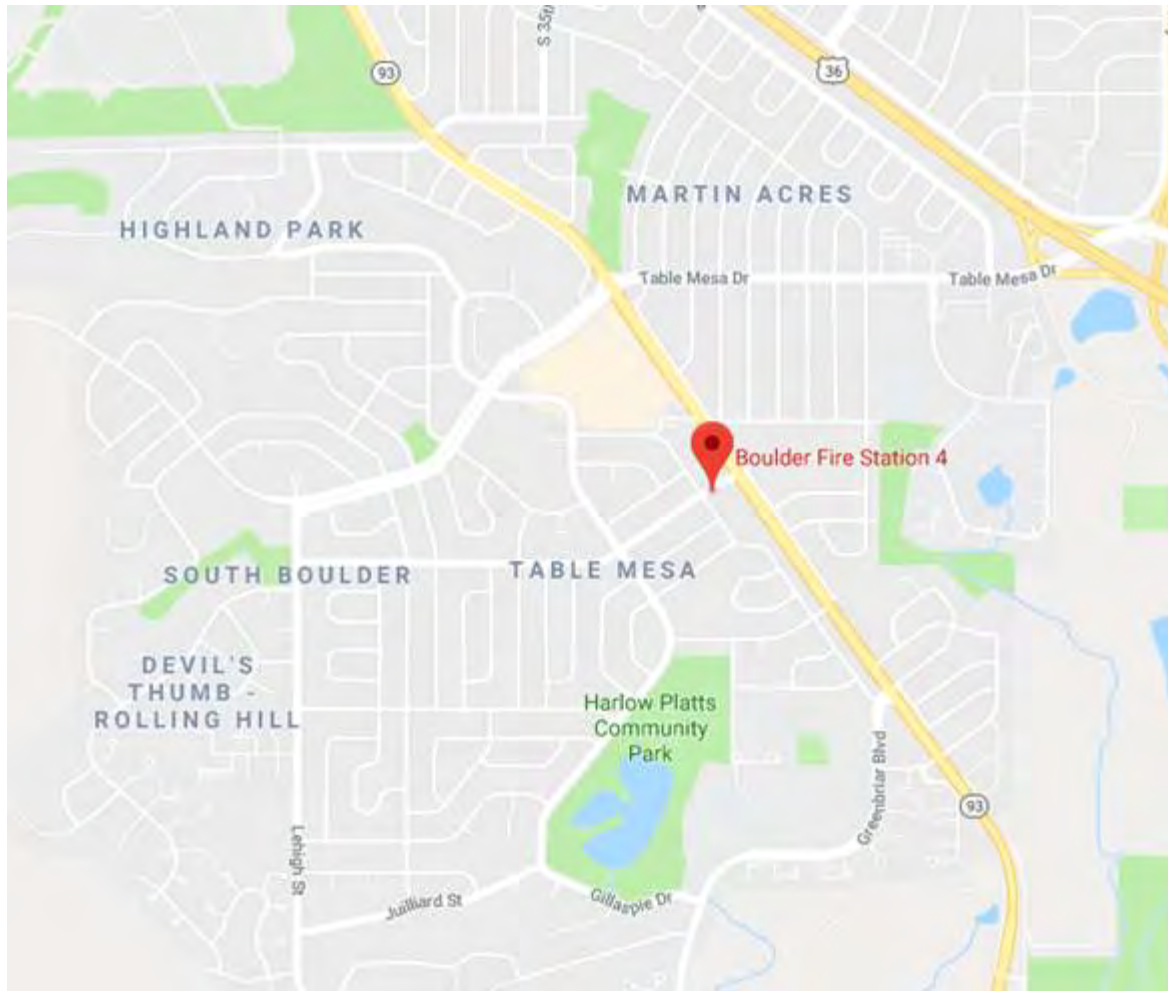
***City staff proposes that the city and university jointly explore a public safety facility to collocate CU Boulder Police and City of Boulder Fire & Rescue personnel and vehicles. A joint facility could benefit both organizations greatly by achieving an extremely short response call time to future CU South residents and visitors and meet a city goal of relocating Fire Station #4.***

One does not need to expend hours of staff time and develop a costly report to determine that relocating Fire Station #4 to CU South will significantly increase emergency response times to South Boulder residents.

Providing emergency services to the residents and academic, research, and sports facilities proposed for CU South is a serious concern to CU. But the full cost of providing those services should be borne by CU, and response times to existing South Boulder residents should not be compromised.

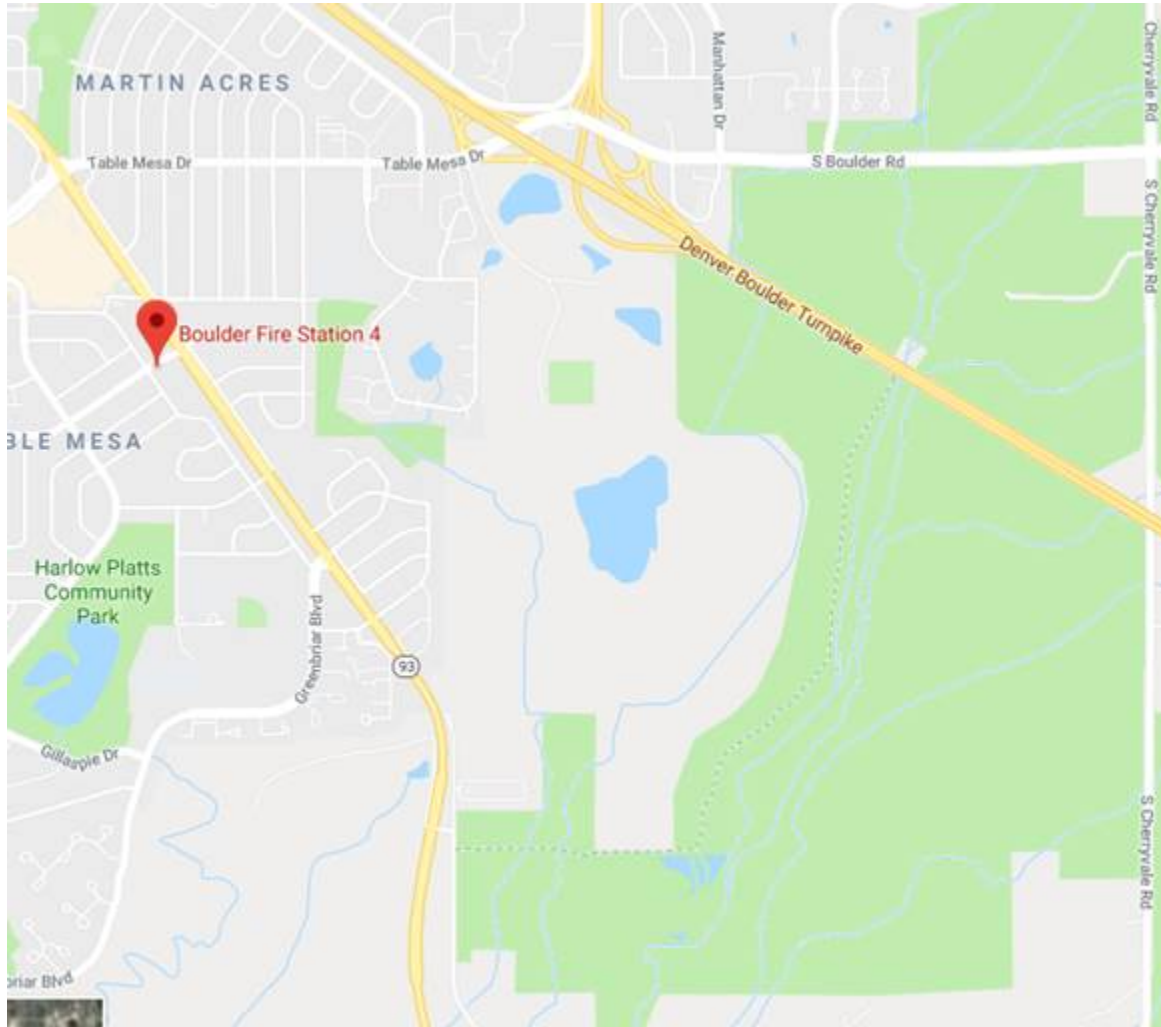
The following map shows that the existing Fire Station 4 is centrally-located to provide rapid response times to South Boulder neighborhoods including Martin Acres, Table Mesa, Majestic Heights, Devil's Thumb, and Highland Park.

**CU South Annexation Application (LUR2019-00010)**  
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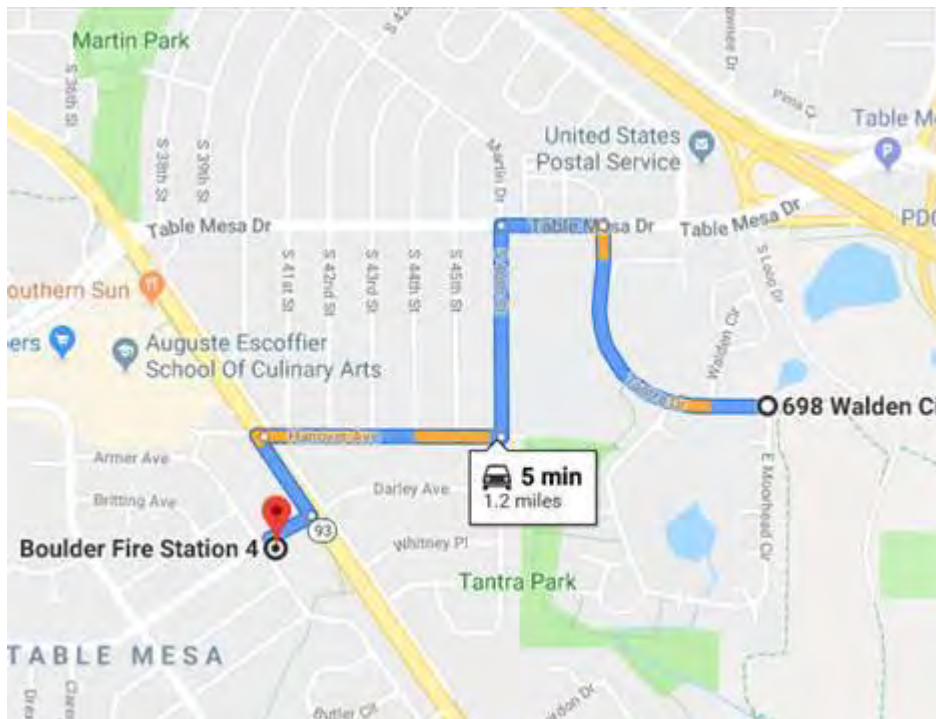
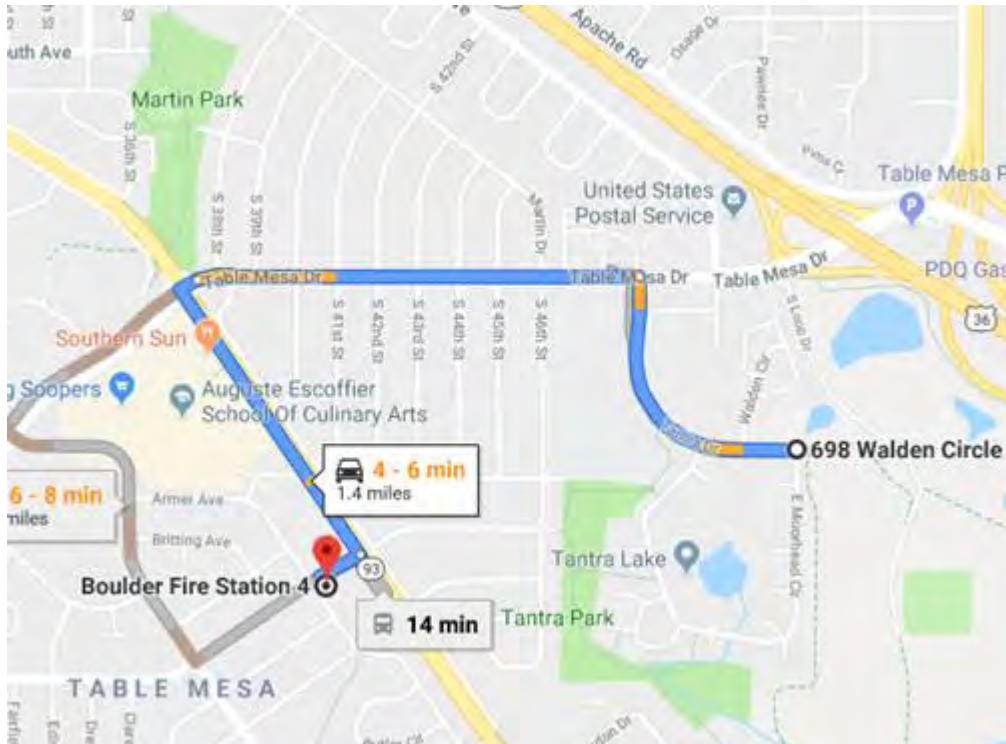
The next map shows that relocating Fire Station 4 to CU South would significantly increase the distance emergency vehicles must travel to reach existing residents.

CU South Annexation Application (LUR2019-00010)  
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Google maps indicate emergency response times would increase an average of five minutes to reach locations in South Boulder. Lights and sirens would not significantly reduce those estimates during rush hours on heavily congested Table Mesa Drive and South Broadway.

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The safety of existing Boulder residents should not be compromised to “achieve an extremely short response call time to future CU South residents and visitors”, and additional time and money should not be wasted on this proposal.

Sincerely yours,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 499-2569

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>  
**Sent:** Sunday, July 14, 2019 11:38 PM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Cc:** OSBT-Web <[OSBT-Web@bouldercolorado.gov](mailto:OSBT-Web@bouldercolorado.gov)>  
**Subject:** South Boulder Creek - Response to Alan Taylor's email of 7/14/2019

Dear City Council,

Alan Taylor starts his email by stating "It is disappointing that Boulder has made limited progress in implementing floodplain management along South Boulder Creek . . . twenty-three years after discovery of the "west valley" flood hazard in 1996".

Let's not forget that for much of those 23 years Alan Taylor was the project manager on the SBC mapping and flood mitigation study. During that time little progress was made addressing the problem.

Over \$1.4 million was paid to numerous consultants to refine the computer models to improve the accuracy of predicting the flood that would result from a "model storm", but improvements to the accuracy of the model were small compared to the tremendous unknown variations of what future storms would actually look like.

While Taylor denigrates the current Variant 1 plan by stating "It is remarkably the same as that in the 2001 Taggart Engineering Associates (TEA) South Boulder Creek, Phase A Report, that was rejected by City Council for being too structural." In fact, Variant 1 is a direct variation of CH2M Hill's 2015 Alternative D, which was approved after numerous public hearings by the WRAB and the City Council. Over the past 23 years, the city has had numerous consultants study several dozen flood mitigation alternatives. The only flood mitigation plan that has risen to the top and is feasible from an engineering standpoint is Variant 1.

Every time the city looks at another alternative, it costs tens, if not hundreds, of thousands in engineering fees and results in months of delays. If another alternative is selected, it would need to be reviewed by the WRAB, Planning Board, OSBT, and City Council, resulting in further lengthy delays. It is high time the city stops looking at additional alternatives and proceeds with the implementation of Variant 1.

The main challenge to Variant 1 comes from CU, which claims it "needs" to develop 129 acres (52 city blocks) of its gravel pit, and that Variant 1 uses 36 more acres than CU is willing to designate for flood control.

***"The purchase price of 30-36 acres at fair market value we believe would range from \$30 million to \$72 million."*** Frances Draper, CU Vice Chancellor for Strategic Relations, 5/20/2019 letter to Boulder City Council.

CU made its bed in 1997 when it refused to cooperate with the City on a gravel pit reclamation plan that would provide flood protection. Instead, CU modified the original reclamation plan for its depleted gravel pit in a manner that worsened flooding and created the topography where its land is now needed for flood control.

If a private developer purchased land for \$36,000 per acre, contributed to flooding problems that require the use of that land to mitigate, and then demanded one to two million per acre for the land needed to mitigate the flooding, it would be accused of extortion.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Alan Taylor <taylor.alan@comcast.net>  
**Sent:** Sunday, July 14, 2019 4:19 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** South Boulder Creek Flood Mitigation and Hogan-Pancost

It is disappointing that Boulder has made limited progress in implementing floodplain management along South Boulder Creek. Twenty-three years after discovery of the “west valley” flood hazard in 1996 and six years after major flooding in 2013, no substantial actions have been completed to reduce the flood risk except for the public acquisition of the Hogan-Pancost property that is outside the main flood path. Meanwhile the Fraser Meadows senior housing community has continued to expand along the primary west valley high hazard flow corridor.

While significant public improvements along smaller affected tributaries in North Boulder are completed and making a difference, it appears that all mitigation activities for South Boulder Creek have been stalled due to a stalemate between the city, CU and CDOT over US 36 and town-gown political interests. It is a shame that each entity seems focused on only their separate interests and not a collective interest that works for all. If US 36 had not been constructed in an alignment that diverted flooding to the west valley the discussion of a detention facility would not be needed, and if the city of Boulder Open Space Department had already acquired the CU-South property a detention facility as proposed would be prohibited.

What if the fight over the proposed detention facility at US 36 turns out NOT TO BE the “immaculate decision?” The facility as proposed is a major structural flood mitigation measure for South Boulder Creek where a Boulder Creek “non-structural” approach had been advocated in 2001. If a detention facility in this area was not feasible there would still be the need to cut off flood spills over US 36 and into the west valley. There are softer measures to mitigate flood spills and protect the west valley than creating a 500-year flood control dam and detention structure that Mother Nature could still exceed. Dr. Gilbert White offered the comment to City Council in 2001 that South Boulder Creek mitigation efforts “consider the benefits, values and cost savings associated with allowing some amount of flooding in the valley.”

Recent mitigation planning has overlooked the initial city actions following discovery of the west valley spill in 1996. The current US 36 detention facility as proposed is remarkably the same as that in the 2001 Taggart Engineering Associates (TEA) South Boulder Creek, Phase A Report, that was rejected by City Council for being too structural. This led to the citizen-demanded development of the 2008 South Boulder Creek Flood Mapping Study using the advanced MIKE FLOOD two-dimensional hydraulic model to ensure objective analysis. The study costing well over \$1 Million was to “Define the Flood Problem” for use in mitigation planning. Its accuracy is unmatched by standard floodplain models and offers “plug-in” capability to efficiently evaluate multiple mitigation options. Full utilization of this capability has not been applied.

Unfortunately, the MIKE FLOOD model has been largely dismissed by city administration and the UDFCD as impractical. Current mitigation study plans are to revert to one-dimensional floodplain modeling standards developed in the 1970s to conform with non-progressive 50-year old regulatory practices. The city, UDFCD and CDOT already processed a FEMA floodplain map revision for US 36 circumventing the regulatory two-dimensional model to declare “zero impact” results not demonstrated using the two-dimensional model.

**CU South Annexation Application (LUR2019-00010)**  
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The adopted 2008 MIKE FLOOD South Boulder Creek Flood Mapping Study incorporated a “conveyance zone” framework to eliminate west valley flooding without a major structural detention facility. Creation of a west valley barrier at US 36 to prevent overflows and utilizing the existing high-capacity US 36/South Boulder Creek bridge could achieve this primary flood mitigation objective with a less-structural and reduced financial impact. The adjustment would also place more equivalent emphasis on downstream flood attenuation and mitigation measures that have been indefinitely delayed by the current process. The community may benefit from a more optimistic approach to negotiations between the city, CU and CDOT regarding flood mitigation unless other political interests outweigh the flood risk.

Alan Taylor

## CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** jeff rifkin <jkchinkin@gmail.com>  
**Sent:** Sunday, June 16, 2019 12:19 PM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Sullivan, Douglas <sullivanand@bouldercolorado.gov>  
**Subject:** A previous concept for flood detention at CU south.

Dear Council,

Given the difficulties and roadblocks that the city has recently encountered with the plans for flood detention at CU south, I would like to remind you of the Variant 2 with modifications conceived by Dr. Gordon McCurry and formally proposed by SEBNA and SSB last summer. That proposal was reviewed by both the Open Space Board and the Water Resources Board, and you had asked the city's consulting engineering firm, RGH, to briefly study it. They returned with their own interpretation of the concept which you subsequently rejected. I ask that you once again review this idea as I believe that it has none of the showstopping difficulties with either CDOT or CU, that Varients 1 and 2, have. I don't have a copy of the engineering firms concept, but I have attached Dr. McCurry's original concept. In addition, I ask that you include the potential flood-related impacts of the detention ponds discharge in the design review so that flooding in the southeast Boulder neighborhoods (in particular - mine) is not exacerbated by the discharge. Thank you. Sincerely, jeff rifkin - SEBNA

### Proposed Variant 2 modification

Dr Gordon McCurry, PG  
7/23/18 Meeting

- Diverts water upstream of CU-South through gravel ponds during flooding
- Uses gravel pits on CU-South 'OS/O' land for storage in multiple small basins
- Sediment and debris drops out in basins; reduces clogging and obstruction at Rt 36 underpass
- Controlled releases back to SBC
- Decreases size of dam along Rt 36 so reduces GW impacts
- Reduces impact to State Natural Area land from inundation and sedimentation
- Allows use of CU-South 'PUB' land
- Eliminates dam near Rt 36/Foothills /South Boulder Road intersection
- Should be evaluated at Concept Design level



**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Stephen Tuber <tubersteve@gmail.com>

**Sent:** Thursday, June 6, 2019 4:40 PM

**To:** Weaver, Sam <WeaverS@bouldercolorado.gov>

**Cc:** Council <council@bouldercolorado.gov>; Suzanne DL <sdelucia@frontrangebusiness.com>; jeff rifkin <jkchinkin@gmail.com>; Gordon McC <gnmccurry@gmail.com>; Mike S <mserlet@comcast.net>; Pete O. <pmo@mediationnow.com>; Steven <stelleen@comcast.net>; Sullivan, Douglas <sullivanand@bouldercolorado.gov>

**Subject:** Re: South Boulder Creek (SBC) Flood Mitigation Phase 1

Councilman - thank you for your timely and very informative response. The new information regarding CDOT's requirements certainly is a game changer. I am encouraged to hear that the detention discharge from the western portion of the detention area is now planned for Viele Channel. There are specific concerns regarding that discharge that I and other SEBNA members have shared with Mr. Sullivan. Hopefully they will be kept in mind as Phase 1 progresses. Regards. Steve Tuber

On Jun 6, 2019, at 4:27 PM, Weaver, Sam <[WeaverS@bouldercolorado.gov](mailto:WeaverS@bouldercolorado.gov)> wrote:

Mr. Tuber,

Based on reports by Mayor Jones and City staff, Colorado Department of Transportation engineers made it abundantly clear in a meeting last week that they would not allow any flood control structures to be attached to their bridge over South Boulder Creek. Further, their right of way at that location is 50 feet upstream of the bridge, and CDOT will not allow the City to place flood control structures in their right-of-way. Any flood control structures that would be constructed there would be in the middle of very high-quality open space a minimum of 50 feet south and east of the bridge, and CDOT would further require paving the South Boulder Creek streambed between the flood structures and where it passes under the bridge. With all of this new information, and with the CDOT willingness to allow the flood wall needed for any scenario to be located adjacent to their right-of-way along US 36, City staff is no longer supportive of flow restrictions at the US 36 bridge over South Boulder Creek.

What we are going to examine relative to the CU request for more developable land is potentially reducing the volume of detained flood waters and/or the possibility of lands designated as Open Space Other to be re-classified.

During the next 6-9 months, the geotechnical studies and preliminary design work on the flood wall will proceed and be valuable to moving the project forward regardless of the specific adjustments that may be made to accommodate CU's desires. The siphon that you mention which is the plan of record for draining a portion of the detention area is currently planned to deliver that flow to Viele Channel. It will only be responsible for draining part of the detention area, while a great deal of the detention area will be drained by directing flows into South Boulder Creek and under the un-restricted US 36 bridge over South Boulder Creek.

All the best,

**Sam Weaver**  
Mayor Pro Tem

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**Boulder City Council**  
[weavers@bouldercolorado.gov](mailto:weavers@bouldercolorado.gov)  
**Phone: 303-416-6130**

**From:** Stephen Tuber <[tubersteve@gmail.com](mailto:tubersteve@gmail.com)>  
**Sent:** Thursday, June 6, 2019 2:46 PM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Cc:** Suzanne DL <[sdelucia@frontrangebusiness.com](mailto:sdelucia@frontrangebusiness.com)>; jeff rifkin <[jkchinkin@gmail.com](mailto:jkchinkin@gmail.com)>; Gordon McC <[gnmccurry@gmail.com](mailto:gnmccurry@gmail.com)>; Mike S <[mserlet@comcast.net](mailto:mserlet@comcast.net)>; Pete O. <[pmo@mediationnow.com](mailto:pmo@mediationnow.com)>; Steven <[stelleen@comcast.net](mailto:stelleen@comcast.net)>; Sullivan, Douglas <[sullivanand@bouldercolorado.gov](mailto:sullivanand@bouldercolorado.gov)>  
**Subject:** South Boulder Creek (SBC) Flood Mitigation Phase 1

Dear Council Members - I want to share my thoughts related to SBC flood mitigation at this critical juncture. I will keep them brief since I'm sure you are being inundated (double entendre intended) on this subject. I hope you will use CU's non-concurrence on Variant 1 as an opportunity to reassess whether Variant 2 is preferable because it provides greater protection of public safety and well-being with less delays than does Variant 1.

**Does Variant 2 present a greater risk of over-topping of US 36 because of the proposed SBC flow restriction structure on the south side of the highway?**

This was the reason given by the Council majority for rejecting Variant 2. Is it actually the case? Variant 1 detains SBC flood waters further west and north than does Variant 2 -- much closer to developed parts of south Boulder. Variant 1 relies on a "syphon" (i.e., a bent pipe) to release detention waters under US 36 and then to an as yet undetermined conveyance (i.e., channel or ditch) and on to SBC. The pipe diameter will probably be somewhere between 3' and 6'. Will it be any less prone to blockage than the SBC flow restriction (estimated by the City's consulting engineer at 50') in Variant 2? If anything, the syphon seems more prone to obstruction. And if it is blocked, then isn't over-topping a risk under Variant 1 too? Did Council consider that, in the event over-topping occurs, that Variant 1 actually presents a significantly greater risk to people and structures since the detention pool is closer to development by almost a mile. In contrast, Variant 2 has undeveloped buffers to its north and west that would absorb and dissipate some of the destructive force should over-topping occur. It is even possible that a flow restriction on SBC south of US 36 would lower the net risk of flood impacts to the highway, and to residents who live close to the Creek. Variant 1 also necessitates the use of a channel or ditch to release the detained flood water back to SBC. This exposes southeast Boulder neighborhoods to the risk of added flood-related impacts caused by the legally required release of the detained flood water. Great care will be needed to avoid these impacts. Was that weighed as part of your risk calculation?

The larger questions I am posing to you are how robust was the information you used, and how comprehensive was your analysis before you concluded that Variant 2 was too risky? Did you look at the data that the consulting engineer cited that demonstrated that the flow restriction would be effective? How did you evaluate whether the emergency overflow that City staff indicated could be added to the flow restriction structure could adequately address your concerns? Did you have information regarding existing flow restriction structures and how well they've performed during floods? Did you consider the comparative risks presented by Variant 1? The responsibility to protect public safety demands the risks presented by the two options be fully and holistically evaluated.

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As a resident of southeast Boulder who lives east of Foothills Parkway it appears to me that Variant 1 adds substantially to the risks of flood-related impacts to neighborhoods east of Foothills Parkway. In contrast, Variant 2 has the potential to substantially reduce flood-related impacts both for those living close to SBC and to those of us who suffered significant damage from groundwater intrusion. If public safety and well-being is truly the highest priority for this much needed project, then it should be fully weighed and guide your decisions going forward.

Sincerely, Steve Tuber  
5375 Kewanee Dr.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Mike Chiropoulos <mike@chiropouloslaw.com>  
**Sent:** Tuesday, June 4, 2019 5:13 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South bullets

Dear Council:

Flood mitigation is top priority, and current landowners' interest in maximizing development must yield to public safety and community standards.

Guiding CU to more appropriate lands for expansion and infrastructure is the best win-win solution for all parties, consistent with the Guiding Principles.

Stanford University's agreement with Santa Clara County to protect approximately 8,000 acres of prairie is a great model for Boulder and CU. The state's flagship public university should partner with the host town and respect Boulder values, including environmental stewardship. Stanford is pursuing major infrastructure including housing within or adjacent to its existing main campus.

The City offers a significant number of parcels within or adjacent to Main or East Campus with re-development potential. Vacant big box stores could be excellent locations for housing – this trend is resulting in award-winning housing projects locally and across the nation. They are ideally located on main arteries and near services, including transport.

The value of lands needed for flood control is minimal in a land exchange or eminent domain scenario.

The City Attorney recognized that case law offers support for condemnation in the event of an impasse. The UDFCD can condemn on an independent statutory basis. Valuation is fact-specific, and would look at all relevant factors for this location, including the history of the parcel and a buyer's reasonable expectations when purchasing a property urgently needed for flood mitigation, targeted from open space protection and acquisition, required to be reclaimed under state law, and subject to unstable soils and numerous other factors making development inappropriate.

500 year protections are non-negotiable in a climate change era where more frequent extreme weather events is already the new normal.

There is a critical facility downstream, and more than \$1 billion in property valuation in the floodplain.

The land recovers with active reclamation and restoration, and the ecological potential is enormous - including for prairie restoration and sensitive status species habitat. The views are stunning, and the recreational and environmental education values are great. Protection supports resilience of the natural environment, and healthy ecosystems including vital riparian and stream ecosystems among the best in the State.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

best,

/s

Mike Chiropoulos

Attorney & Counselor, Chiropoulos Law

3325 Martin Drive - Boulder CO 80305

[mike@chiropouloslaw.com](mailto:mike@chiropouloslaw.com)

303-956-0595

"Because it's not the size of the firm in the fight, it's the size of the fight in the firm"

*Please contact sender immediately if you may have received this email in error, because this email may contain confidential or privileged information*

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>

**Sent:** Tuesday, June 4, 2019 3:26 PM

**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>; Kleisler, Philip <[KleislerP@bouldercolorado.gov](mailto:KleislerP@bouldercolorado.gov)>

**Subject:** CU is recommending an unsafe flood control measure

Dear city Council,

I just received a letter from the University of Colorado regarding the recent CDOT meeting at which Variant II was discussed. The letter from CU stated:

***As your city engineer pointed out in the meeting, there remains the option to construct Variant II 500 by placing the flow restrictor outside of that right-of-way on the creek without diminishing the function of the flow restrictor. He also noted it can be designed to be aesthetically appealing.***

Placing the South Boulder Creek flow restrictor outside of the CDOT ROW does not reduce the risk of blockage created by an opening in the floodwall that is so constricted that it does not provide freeboard for the passage of floating debris.

The Variant II detention pond is sized with the assumption that during a flood, South Boulder Creek will continue to convey about 4,000 Cubic Feet per Second downstream. That's a lot of water. But if the constricted opening is blocked by debris, all floodwaters, including the 4,000 that would normally continue under the bridge, will be backed up into a detention pond which is not adequately sized to contain those additional flows. Since debris is transported early in the flood, blockage and subsequent overflows could well occur before peak flooding.

If this happens, the detention pond will overflow and flood the neighborhoods, regardless of whether you put lipstick on the flow restrictor and make it "aesthetically appealing".

CDOT is wise to abide by sound engineering principles which require freeboard to reduce the risk of blockage of its bridges. You should apply the same principles to reduce the risk of blockage to our flood control structures.

Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Kirk Cunningham <kmcunnin@juno.com>  
**Sent:** Tuesday, June 4, 2019 3:14 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Item about CU South and flood control in today's Council meeting

Dear Council members;

The Indian Peaks Group (Sierra Club) Executive Committee has discussed the present state of the CU South issue, and agrees with the positions stated by Save our South Boulder, to wit: the conflicts among CU's ambitions for this property, CDOT's policies to protect the highway and right-of-way in the event of a flood, protection of city open space resources in the South Boulder Creek flood plain, and the city's insistence on protecting the 500-year flood plain are best resolved if CU can be pressured (if it is not otherwise willing) to designate part of the CU South property (the old gravel pits) as a flood storage area. Such a designation would of course reduce the land that could be developed on CU South by tens of acres, but even curbing developement only to this degree might prove daunting for transportation access from the site, building on unstable slopes, etc. We encourage the Council to resist annexation agreements that do not include some CU land within the flood storage area. Thanks for your consideration of this opinion.

Kirk Cunningham, IPG Conservation Chair  
977 7th St  
Boulder CO 80302  
303-939-8519 / [kmcunnin@juno.com](mailto:kmcunnin@juno.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Mark Van Akkeren <markvanakkeren@gmail.com>

**Sent:** Tuesday, June 4, 2019 2:24 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** CU South

Howdy,

Like any wholesome, reactionary, conservative community that builds metaphorical walls of exclusion out of unaffordability to such a degree that the KKK is jealous of our efforts we need to look out for ourselves first. Thank you for ignoring the experts, the research, the science, your own water board, the state, the university, CDOT and only listening to those of us that have your ear personally and don't want anything to ever change in this town ever again. My house has doubled in value in the last 5 years, maybe if you keep stalling on critical issues it'll double again in another 5! Don't let the poor saps in Fraiser or Keewaydin Meadows get to you, they probably couldn't afford to live here if they had to buy today, so what makes them think they are worthy of being a citizen? Let them eat cake.

I'd much rather have a former gravel pit with weeds growing in it then housing for students and faculty. I won't be happy with the housing situation at CU till i know that all faculty is driving in from Denver or further. We can't let progressive/liberal voices vote in this town, please keep purifying the city of anyone poor cuz we know they don't vote for PLAN.

Please continue your great work at keeping Boulder rich, and white, all the while stalling for more time to come up with solutions that only address the symptoms and make the core problem even worse, you're doing such a great job!

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** frances.draper@colorado.edu <Frances.Draper@colorado.edu>  
**Sent:** Tuesday, June 4, 2019 10:49 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** Brautigam, Jane <BrautigamJ@bouldercolorado.gov>; Kleisler, Philip <KleislerP@bouldercolorado.gov>; Derek Silva <Derek.Silva@Colorado.EDU>  
**Subject:** Regarding where we are in the process

Dear Mayor Jones and City Council members:

Although I already communicated to Mayor Jones the information attached, we felt that it would be helpful to you if we would send it in a letter to the full council. Thank you for your continued work on this important project. We look forward to hearing your discussion tonight.

Frances 😊

June 4, 2019

Dear Mayor Jones and City Council Members:

I am writing to thank all of you for inviting the university to attend the meeting you held with Colorado Department of Transportation (CDOT) last Tuesday May 28. We very much appreciated the opportunity for Derek Silva to be there on behalf of the university. You may be aware that we also met with city staff on May 23 and have set up subsequent meetings with staff to continue to hold conversations on the annexation and flood mitigation project. We, like you, want to move this project forward quickly in the interest of public safety.

First, we want to commend you on moving the flood mitigation forward by getting CDOT's conceptual agreement to the placement of the floodwall along US36 for either Variant I or II. This is a meaningful step forward.

Second, we are pleased that there remain many good options for the city to consider despite CDOT's statement in the meeting that they do not want a flow restrictor placed within the Hwy 36 right-of-way attached to the overpass. As your city engineer pointed out in the meeting, there remains the option to construct Variant II 500 by placing the flow restrictor outside of that right-of-way on the creek without diminishing the function of the flow restrictor. He also noted it can be designed to be aesthetically appealing.

And....there also remain the options to build to a 100-year to 250-year flood level in either variant. Finally, there remains a path to construct Variant I 500 at a reasonable cost by replacing any acreage the city needs within the area designated as Public with equal acreage in the area designated OS-O.

We appreciate that the city is working to identify a time for us to meet so that we can resolve the foundational issues pertaining to flood mitigation and annexation. If you would like us to attend other sessions in the interim, please let us know. We look forward to quickly creating an agreement with you that will result in much-needed flood protection for the community in a timely manner.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Thank you,

Frances Draper  
Vice Chancellor for Strategic Relations  
University of Colorado Boulder

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Liz Mahon <mahon@nc.rr.com>  
**Sent:** Tuesday, June 4, 2019 11:16 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South discussion this evening

Dear City Council Members,

Thank you for keeping the discussion on CU South open to the public. I will not be able to attend the meeting this evening but I wanted to express my support for the positions of the citizen's group, Save SoBo. The top priority is flood mitigation and there are serious complications with CDOT's land needs and CU Boulder's future development plans. I support the idea of a land swap. It is not a pie in the sky. It is a viable solution where we could move forward with flood mitigation, affordable housing for CU students and environmental preservation.

Thank you for your service to our community.

Sincerely,

Liz Mahon  
1280 Chambers drive  
Boulder Colorado 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Harlin Savage <harlin.savage@gmail.com>  
**Sent:** Monday, June 3, 2019 2:43 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Comment on OSMP Draft Master Plan

June 3, 2019

Dear OSMP:

I'm aware of a significant discrepancy between the draft OSMP Master Plan and the Boulder Valley Comprehensive Plan (BVCP) that I want to bring to your attention.

In the BVCP, the area known as CU South is color-coded in gray on the map and the document states that the entire parcel – 308 acres – belongs in Area II. In the OSMP draft plan, the exact same piece of land is color-coded in pink and belongs to Area III. FS 5 that Area III lands are considered appropriate for acquisition and protection as open space, Area II lands are described in section FS 7 as “seldom” considered for such acquisition and protection except under very special circumstances.

I urge you to clear up this confusion and keep the CU South parcel in Area III. For decades both the City of Boulder and Boulder County have sought to protect this land, at least half of which is within the 500-year floodplain for South Boulder Creek. Time and again proposals to develop this area – Women in the West Museum for example -- have been rejected as unsuitable, largely because of the floodplain. When CU bought the land, it was categorized as agricultural/rural and was still generally considered not developable because of wetlands and prairie habitat on the site and the hazards posed by building in a floodplain.

I strongly believe that there are compelling reasons to put all 308 acres of CU South into Area III. If CU is allowed to develop this land, we will have to live with development of a second campus covering roughly 55 city blocks or the size of downtown.

This land is not appropriate for development. Here are a few reasons:

- Much of the site is in the South Boulder Creek 500-year floodplain, and building housing there would be exceptionally irresponsible.
- Development would destroy outright or severely compromise significant habitat, including for rare species such as the Ute Ladies Tresses, and many native birds and other animals that use the area.
- Development would destroy or compromise wetlands habitat on the north side of Highway 36 as well as the south side, including land that belongs to OSMP and a State Natural Area.
- Hundreds, if not thousands, of people use the area on a weekly basis for passive recreation of all kinds, not only dog walking.

**CU South Annexation Application (LUR2019-00010)**  
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We know that the area was slated for restoration. In fact, the gravel mining company had prepared an extensive reclamation plan approved by governmental entities to turn the area into a park, restore the wetlands, and restore ponds. When CU bought it from the gravel mining company, the university proceeded to gut the plan and bulldoze many of the wetlands there. (I still don't understand why the city or county did not enforce wetlands protection ordinances or rely on federal protections for wetlands to prevent their illegal destruction.)

The area is also largely undevelopable:

- The water table is at or near ground level.
- Slopes on the west side are highly unstable.
- The area is either within or immediately adjacent to the 500-year floodplain.

Again I urge you to classify this rural, once farmed site, which contains important wetlands habitat, and extremely rare prairie habitat, as Area III and keep open the option to reclaim and restore it. We won't have another chance like this one.

Sincerely, Harlin Savage

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Debra Biasca <dbiasca@gmail.com>  
**Sent:** Monday, June 3, 2019 12:08 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South Issues

Dear Honorable Council Members,

I am appalled at the arrogance of the University in making unreasonable and unsafe demands in its 'annexation proposal.' The City should in no way feel obligated to kow-tow to proposals that would endanger protected species, send flood waters upstream (where I live) and contribute unnecessarily to urban sprawl, crowd our streets spewing auto exhaust pollution everywhere, and cover the beautiful open spaces we have invested money and limited resources to protect.

As Save SoBo has noted, following intensive research on the ecology of the area involved:

The South Boulder Creek flood plain is totally unsuitable for the intensive development that CU clearly has planned. The University needs to satisfy its development needs elsewhere and City Council should make this crystal clear.

and, I would add, the sooner the better. CU's 'hardball' approach in an attempt to support their annexation proposal, should be seen for what it is: arrogance. The City drives annexation policy.

Two steps can be taken. First, City Council could immediately explore land swaps which would enable the University to build housing it needs [to accommodate its voluntarily swollen campus] in areas closer to the main campus so as to minimize sprawl and impacts on traffic and transportation. This exploration should begin immediately.

If the University is uninterested in this option, then:

Second ... Council should initiate eminent domain proceedings to obtain the land needed for protection of lives and property in the South Boulder Creek floodplain.

Thank you for all the hard work you have done to get this right.

Sincerely,

Debra Biasca, PhD

\*

Technical Communications Consultant  
Writing . Editing . Translation  
Boulder, CO  
303.946.3280 (mobile)  
<http://www.linkedin.com/in/biasca>

Scientific and Academic Writing, Editing, & Coaching . Translation of Archival Yiddish Documents

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Penny Dumas <5dumas@comcast.net>  
Sent: Monday, June 3, 2019 10:14 AM  
To: Council <council@bouldercolorado.gov>  
Subject: C. U. South campus

Dear City Council member,

Where is it mandated that C. U. Has to keep growing? Have you considered that they are trying to outgrow our city and this is not good for the safety or esthetics of Boulder? I urge you to preserve the C. U. South campus land undeveloped as a flood plane. I don't even see why they think they are owed a land swap if their planned development there is unsafe.

Thanks for your consideration.

Penny Dumas

Sent from my iPhone

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: curtthompson@juno.com <curtthompson@juno.com>

Sent: Monday, June 3, 2019 10:04 AM

To: Council <council@bouldercolorado.gov>

Subject: CU South

As I have stated before, my wife and I continue to oppose the development of the CU South Property for, but not limited to, the following reasons:

1. Building in a natural flood plain is never smart.
2. There have not been sufficient environmental, traffic and infrastructure studies completed to allow all concerned to make informed decisions.
3. CU seems to be unwilling to provide details concerning future plans for that property. At first it said it would never even consider building a 1000 units on that property. Then it came back with a figure of 1200 units and over a million square feet of additional buildings. Wouldn't it be wise to actually know what that organization has planned before agreeing to its demands? Holding back information is bad-faith bargaining, and that will not end well for the community.
4. The southern end of the CU South Property is a natural flood plain and should be used for flood mitigation. The destructive impact of a massive mitigation dam along Hwy 36 and CU's apparent need to develop a land area the size of downtown Boulder are both huge red flags. Flood mitigation needs to happen, but CU using that as a leverage chip to get what it wants is disgraceful and must not be rewarded..

So I ask, how can housing thousands of students so far from the main campus be of any benefit to anyone? Do you really think those students will take a bus to class? Sure some will but the majority will choose to drive. And if CU builds educational facilities on the CU South property, how will the students on the main campus get to classes there? I suspect most of them will also choose to drive. Great, just what we need, thousands of more cars shuttling across town.

The whole concept screams for a land swap. Or maybe CU should create another campus somewhere else and not create a second one in Boulder. CU has built academic buildings for years and while continuing to dump its housing problem on the community. Now that it has created the problem of not enough housing, it wants the community to make amends and solve it.

Our city is already overwhelmed with traffic. Building thousands of housing units on the CU South Property will not make that better.

The first mistake was not acquiring that property in the first place. Please, please, don't compound that mistake. Find a better solution than massive development in a flood zone that will destroy a huge piece of environmentally sensitive land and compromise the quality of life of the local neighborhoods.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Once land is developed, it's gone forever and what happens on the CU South Property will either benefit or haunt this city for generations.

Flood mitigation? YES.

CU development? NO.

Thank you for your time and consideration.

Curt Thompson  
[curtthompson@juno.com](mailto:curtthompson@juno.com)  
720-938-2286

Beth Widmann  
[widmann@juno.com](mailto:widmann@juno.com)  
720-938-2328

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: dana bove <[danajbove@gmail.com](mailto:danajbove@gmail.com)>

Sent: Monday, June 3, 2019 8:59 AM

To: Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

Subject: CU South and Flood mitigation from Dana Bove 1935 Tincup Ct , Boulder 803005

City of Boulder Council

Re. CU South and Flood Mitigation

From: Dana Bove

[danajbove@gmail.com](mailto:danajbove@gmail.com)

Dear City Council Members,

Thank you for your careful consideration of the complex matters related to flood mitigation in the "CU South" area. Throughout this very long process, I continue to assert that the floodplain of the CU South area is not suitable for the type of development that CU certainly envisions. While we need to move beyond CU's well documented bad behavior related to this property in the past, I encourage you to meet their current inflexibility in this matter with resolve. Please ensure that this property is most effectively utilized from a sound engineering standpoint for flood mitigation to protect our city. Ensure that all the land that is needed on the CU property for proper engineering be utilized, and clearly define how much land will be needed, and where that will be.

The time for CU taking the City of Boulder and its citizens hostage with respect to this project needs to end. Land swaps to meet CU's housing needs need to be explored. If CU refuses to consider land swap options, it will be time for the City to utilize eminent domain to obtain ownership of the CU South land needed to effectively construct the the flood-related infrastructure. There are several possible strategies to implement eminent domain, so please utilize the most effective one. Condemnation is permissible if there is an expressed statutory grant, or if it is necessary to preserve life of health. I have personally written to the City in previous annexation discussions to encourage this route of action.

Please make sure that the best-planned flood mitigation is in place, utilizing all the CU land necessary to protect against a 500-year flood, and only then think about CU's annexation proposal. It's time for CU to be a good neighbor to the City of Boulder.

Sincerely,

Dana Bove  
1935 Tincup Court  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Linda McCarthy <lmmccarthy@comcast.net>

Sent: Monday, June 3, 2019 8:32 AM

To: Council <council@bouldercolorado.gov>

Subject: South Boulder and CU shout Campus

Although I am away during summer months, it has come to my attention that South Boulder and CU south campus are on the table for this week's council meeting. I think it makes perfect sense to consider land swap that would locate CU housing closer to campus thus avoiding potential flood damage to an already fragile environment. CU's building desires should not impact large communities of residents both flood wise and traffic wise. Please continue to get a full exploration of flooding ramifications and honor the 500 year flood protection models. Let's keep Boulder a thriving AND safe community!

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Monday, June 3, 2019 8:01 AM  
**To:** Sullivan, Douglas <sullivand@bouldercolorado.gov>  
**Cc:** Council <council@bouldercolorado.gov>; Quentin Young <Quentin@dailycamera.com>  
**Subject:** South Boulder Creek Flood Mitigation Variant II

Mr. Douglas Sullivan  
Engineering Project Manager  
City of Boulder

Dear Mr. Sullivan,

Thanks for your informative presentation during the CU South Process Subcommittee meeting of the May 28th meeting with CDOT officials. This email pertains to Variant II.

**1 – Please Correct the Record**

I know that as far as the city is concerned, Variant II was, and still is, off the table.

My concern is not with the City, but with CU and members of the public who hold engineers and “experts” in high regard and believe the City Council's decision not to pursue Variant II is based on “politics” and not sound engineering, as the city's engineering staff, engineering consultant, and Water Resources Advisory Board all recommended Variant II.

In a letter dated May 20, 2019, CU's Vice Chancellor for Strategic Relations stated:

***Variant II 500 creates a win-win for all parties, including the city, the county, the university and the community as a whole.***

A [Boulder Daily Camera May 25, 2019 editorial](#) stated:

***Officials finally elevated three designs that best fulfilled project objectives and were most favored by the parties involved. One design in particular, known as Variant 2 500-year — designed to a 500-year flood standard — checked the most boxes.***

***Some Council members said a main concern they had with the Variant 2 500-year concept was that flood debris could clog the South Boulder Creek underpass at U.S. 36 and create conditions for residential flooding. But experts, relying on studies and professional experience, repeatedly asserted that such a risk was low. No matter. The Council majority ignored this advice.***

The city council has gotten a bad rap for performing its oversight role and not rubber-stamping unsafe recommendations from the city engineers, consultants and the WRAB.

As stated in public hearings before the Water Resources Advisory Board, Planning Board, and City Council, the city engineering staff and consultant, RJH, relied upon a study of "bridges and culverts across the world" to conclude that as long as a bridge opening, measured diagonally, is greater than six meters, the probability of blockage is very low, and therefore freeboard is not required. (Audio clip attached).

Furthermore the city engineer and the engineering consultant made absolutely no mention of the myriad of bridge design specifications and studies which determined that providing adequate freeboard to allow for the passage of floating debris is one of the most important factors in minimizing the risk of blockage.

It is now known that the Variant 2 constriction of the US 36 bridge underpass is in flagrant violation of CDOT Bridge and Drainage design specifications and would not be approved by CDOT; that the study,

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

purportedly performed on "bridges and culverts across the world" was in fact a study of a single flood event in Wollongong Australia; and most damning, that all of the bridges in the study are under the jurisdiction of the State of New South Wales, which requires adequate freeboard for all bridges. It is therefore not possible to use the study to conclude that freeboard is not needed as all bridges in the study had freeboard.

The City Council wisely adhered to common sense engineering requirements for freeboard, and determined that Variant II's constriction of the underpass would increase the risk of blocking the flow of South Boulder Creek floodwaters and subsequent flooding of South Boulder neighborhoods.

Because of the one-sided, false, and misleading testimony by the past city engineering project manager and the city's consultant, the City Council is now being unfairly criticized by the press and members of the public for rejecting Variant II.

I hope the Boulder Water Utilities Division would want to correct the record and publically state that constricting the opening in the floodwall as required by Variant II is not in compliance with sound engineering standards and is not recommended.

**2 – Separating the floodwall from the CDOT bridge does not solve the blockage problem**

Members of the public who support Variant II may interpret your comment that CDOT would accept a Variant II floodwall that is not attached to the bridge as meaning Variant II is safe if the floodwall is not attached to the bridge.

If you do address this issue, please inform the public that separating the floodwall from the bridge does not reduce the risk of blockage created by an opening in the floodwall that is so constricted that it does not provide freeboard for the passage of floating debris.

The detention pond is sized with the assumption that during a flood, South Boulder Creek will continue to convey about 4,000 CFS. But if the constricted opening is blocked by debris, all floodwaters, including the 4,000 that would normally continue under the bridge, will be backed up into a detention pond which is not adequately sized to contain those additional flows. Since debris is transported early in the flood, blockage and subsequent overflows could well occur before peak flooding.

Sincerely yours,  
Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Rachel Friend <rachelkfriend@gmail.com>  
**Sent:** Saturday, June 1, 2019 4:32 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Flood mitigation

Hello city council members and council cc'ers:

Thank you for keeping flood mitigation at the fore of your workload, and for continually trying to move us towards safety.

I was hoping for a bit of clarification following yesterday's CU South subcommittee meeting. There, it was explained that even though we are back to not having a preliminary design concept, we haven't added extra time / delay to the project. I am confused by how zero delay is anticipated.

If all work being done now is interchangeable with any design the city could pick — why did we wait for preliminary design stage to do it? I assumed that picking a concept meant that something was happening with that concept: that the selected concept was being actively (and uniquely) designed or prepped. Such that abandoning the concept would necessarily add delays.

For those of us in harm's way — anything that adds any extra days of risk is unacceptable at this point. To be back at square one, no concept in hand, after years of waiting and working (and worrying, esp during heavy rains) — is frustrating and frightening. I hope that council can clarify how we have not built in a new delay, and give firm dates by which a new concept must be finalized to keep to 0 days' delay.

Best,  
Rachel Friend  
[Rachelkfriend@gmail.com](mailto:rachelkfriend@gmail.com)

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

-----Original Message-----

From: Jo Harper <harper2@rmi.net>  
Sent: Tuesday, May 28, 2019 10:48 AM  
To: Council <council@bouldercolorado.gov>  
Subject: CU South

Dear City Council,

The UN Report on Extinction says that only 13% of the world's wetlands still exist. In Boulder, we have a wetlands at the CU South Campus. Why would an environmentally conscious City Council consider annexing that land and allowing it to be developed? It's one of the few places in town where we have a view of the whole front range and Flatirons; it's flat, allowing people of all ages and abilities to enjoy it; walkers, runners, bikers, skiers, and dogs all peacefully use the trails; wildlife of all kinds live there. I urge you to take a walk there at dawn so you can understand what a precious resource it is.

It sounds like CU is making all the demands and giving nothing in return. Please put the environment first in this case. I understand there are alternatives to annexing this beautiful land. The city can use what it needs to for flood mitigation and leave the rest as Open Space. Please don't compound the mistakes of the past by annexing this land.

Sincerely,

Jo Harper

540 22nd St.  
Boulder, CO 80302

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <bbinder@ddginc.com>

**Sent:** Tuesday, May 28, 2019 5:28 AM

**To:** Council <council@bouldercolorado.gov>; Quentin Young <Quentin@dailycamera.com>

**Cc:** Cindy Carlisle <cacarlisle@msn.com>; Jones, Suzanne <JonesS@bouldercolorado.gov>; John Gerstle <johnhgerstle@gmail.com>; External-Sam Weaver <sampweaver@gmail.com>; Ruth Wright <ruthwright1440@gmail.com>; Gordon McCurry <gmccurry@mccurryhydro.com>; Pomerance, Stephen <stevepom335@comcast.net>; Curt Brown <cbrown1902act@gmail.com>; save-sobo-core@googlegroups.com

**Subject:** In spite of the misguided Camera editorial, you need to question the advice of your "experts"

As a Professional Engineer, I take public works projects involving public safety very seriously.

I have learned to appreciate the importance of tried-and-true fundamental engineering principles that have evolved over the years - such as reducing the risk of debris blockage by building bridges that pass over water high enough so there is adequate freeboard to allow for the passage of floating debris.

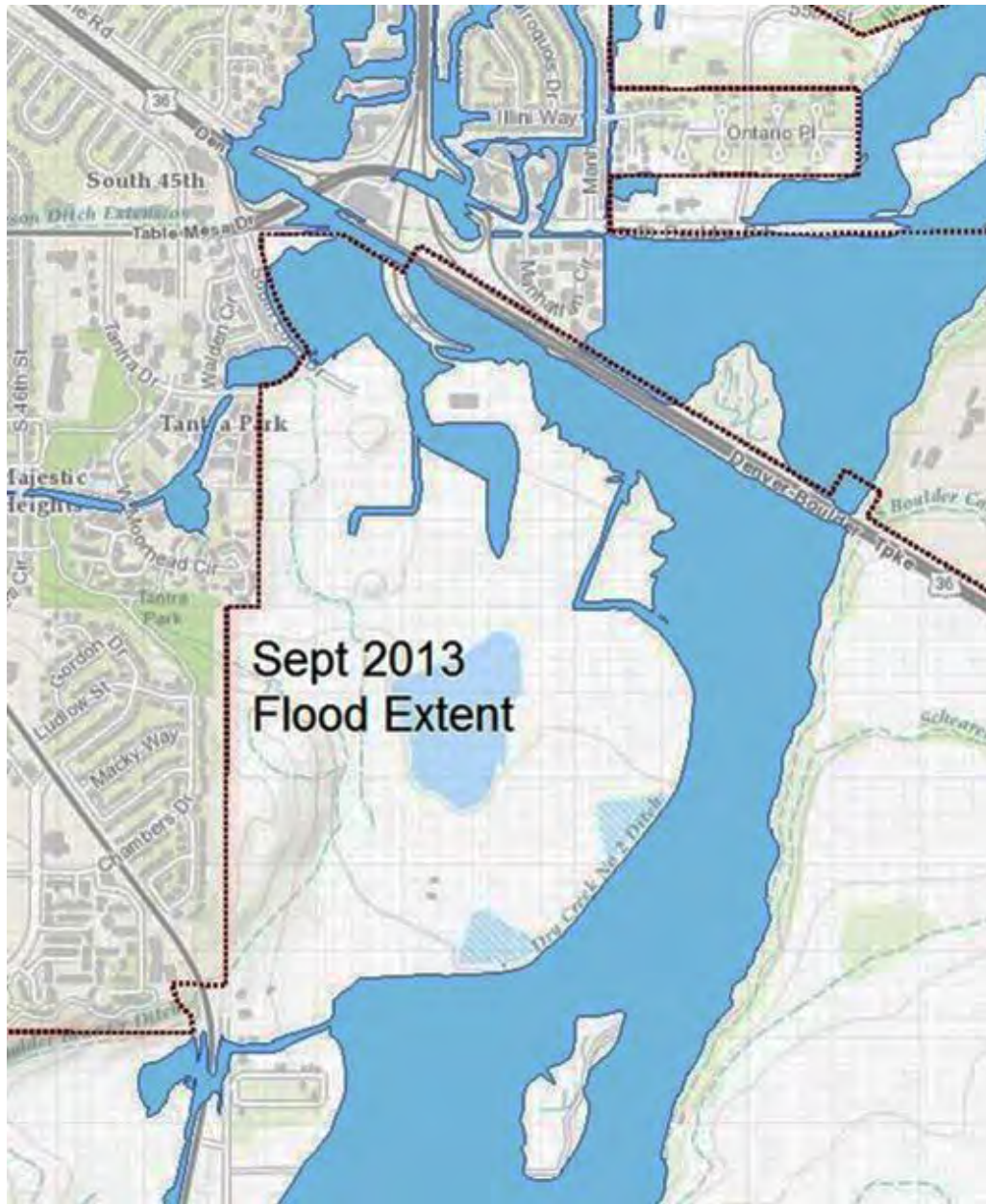
In 1997, CU lobbied the state Mine Land Reclamation Board to gut the reclamation plan for its recently acquired gravel pit. There were two major revisions to the plan. 1- Eliminate the large lakes and riparian areas which would have absorbed floodwaters; and 2- add a 6,000' earthen berm around the gravel pit to divert floodwaters around CU's property.

I attended the hearings during which CU representatives and its "experts" testified that the revisions to the plan would protect downstream neighborhoods from flooding. As the following text from the attached story and map show, the testimony was pure, excuse the term, bullshit, but the board bought it.

Please don't let that happen again.

**State officials defended their decision to allow the berm, however, because of a possible threat to housing north of U.S. 36. They said protecting those houses from flooding mattered as much as CU's desire to expand.**

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

DENVER POST 7/18/97

# CU plan to expand receives state OK

## 308-acre tract lies in floodplain

By Bruce Finley  
Denver Post Staff Writer

The University of Colorado has received the green light from state officials for a water-control project that opens the way for expansion into a floodplain.

This week natural resources officials made the last in a series of technical revisions to a gravel mine reclamation plan. The latest decision lets the mine operator enlarge a 6,000-foot-wide berm across the South Boulder Creek floodplain at the southeast edge of Boulder.

A berm built to federal specifications could make the CU-owned land — which once was supposed to become open space — the site of classroom buildings.

### Appraisal questioned

Officials from the state division of minerals and geology made the decision despite heightened concern about the risk of building in floodplains. On July 28, floodwaters damaged 30 buildings at Colorado State University in Fort Collins, leaving taxpayers with a \$100 million repair bill.

Meanwhile, another state agency plans to investigate an appraiser involved in CU's controversial acquisition of the floodplain land.

The 308-acre tract just south of U.S. 36, the so-called Gateway property, represents one of CU's largest expansions. It sits along Boulder's fertile greenbelt. City and county officials long had envisioned the land as open space, once Flatirons Sand and Gravel finished mining. In the original reclamation plan, Flatirons operators promised Boulder residents they would leave behind five lakes covering 41 acres.

### Controversial deal

But then Flatirons owners approached CU officials. They negotiated a \$16.4 million deal in which the university paid \$11 million for the land and agreed to a \$5.4 million Flatirons gift, which the company could write off as a tax-deductible charitable contribution.

A city-commissioned appraisal put the value of the land at \$9.2 million.

Please see **EXPAND** on 4B

# Floodplain risk acceptable to CU and state officials

### EXPAND from Page 1B

John VanderMiller, the investigator for the Colorado Board of Appraisers, said Wednesday that he will investigate work done by CU's appraiser, Gerald Anderson, after receiving a detailed complaint.

"The question here would be, if the property was not really worth that much, then why did the appraiser appraise it for that much?" VanderMiller said.

As part of the agreement with CU, mine operators were to build up an existing berm across the floodplain, or else pay CU back for acres declared to be in the floodplain.

Federal officials will have to approve berm construction.

State officials are well aware of flood risks along South Boulder Creek. "South Boulder Creek definitely has the potential to flood as bad or worse than Spring Creek" in Fort Collins, said Tom Browning, a Colorado Water Conservation Board engineer.

Federal officials calculated that a 100-year flood along Spring Creek, which drains 11 square miles, would bring 2,000 cubic feet of water per second. On South Boulder Creek, which drains 132 square miles, a 100-year flood is expected to bring 6,600 cubic feet of water per second.

"The real risk," Browning said Wednesday, "is that events larger than 100-year floods can and do happen."

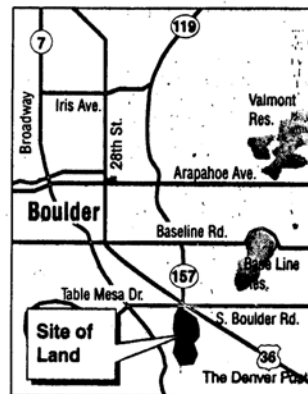
A leading flood expert has questioned the berm project. Retired CU Professor Gilbert White, who has won several international awards and is widely acclaimed as the father of floodplain science, said, "My general position is that it's unwise to build in a floodplain unless it's very important."

State officials defended their decision to allow the berm, however, because of a possible threat to housing north of U.S. 36. They said protecting those houses from flooding mattered as much as CU's desire to expand.

"We build in floodplains all the

### Room to expand

A 6,000-foot berm will serve as flood control for 308 acres purchased last year by the University of Colorado. The berm clears the way for eventual expansion.



The Denver Post

time," said Ron Cattany, deputy director of the state department of natural resources.

"We are building in the South Platte River floodplain in Denver. What's important is that the appropriate measures are taken to mitigate risks. Let's get the right people together, including FEMA (Federal Emergency Management Agency) officials, to determine what the appropriate flood control measures should be in the area."

CU administrators, learning of the state approval this week, were appreciative.

"We believe it's in the long-term interests of the state to allow its state university the maximum potential to grow," said Jeff Lipton, CU's director of business services.

CU's last comparable major acquisition was 200 acres that became CU's east campus, purchased in 1955. The land was not developed until 1985. Lipton said there are no immediate plans to build on the South Boulder Creek floodplain, though long-term projects could include a student center and classrooms.

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Jon Carroll <[jon@sphero.com](mailto:jon@sphero.com)>  
**Sent:** Wednesday, May 22, 2019 9:05 AM  
**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** Flood Mitigation

Dear City Council members,

Here we are in May 2019 with no clear path forward on South Boulder Creek flood mitigation, a year after the project was originally supposed to be complete. Many of us in harm's way and your advisory boards urged you not to pick Variant 1, 500 year as it would lead to delays and was likely unworkable. Unfortunately we have been proven right. Several city council members looked us in the eye and assured us that the city would find a way to make Variant 1, 500 year a viable option that CU could agree to. We were all skeptical, but came along for the ride anyway and tried to be supportive.

Our only objective is the health and safety of our families and neighbors. It is long past time to move this project forward, do the right thing and put politics behind you. Too much time has already been wasted exploring unworkable options. Variant 2, 500 year is a viable option that has a chance to move forward. Listen to engineers, career experts and city staff that have said this is a perfectly viable option.

Your first job is to protect the health and safety of the people of Boulder. Any action you take at this point to delay this project further would be a dereliction of your duty as our elected representatives. This cannot wait for an August 13th study session. Step up, lead and take action now to protect the health, safety and well being of the people of Boulder.

Jon Carroll  
Qualla Dr.  
[jon@sphero.com](mailto:jon@sphero.com)

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

From: Rachel Friend <rachelkfriend@gmail.com>

Sent: Tuesday, May 21, 2019 8:38 AM

To: Council <council@bouldercolorado.gov>

Subject: Why I was fighting tears at the city council meeting in February 2019

I testified on flood mitigation this February, and told you all that I was heart broken about local governance, that the flood mitigation process has been emotionally corrosive for me, and that I found it reprehensible that some city council members had not given those of us in harm's way equal access to their time and ears.

I testified and wrote letters and called many of you until I was blue in the face, as did my neighbors, saying: PLEASE DON'T PICK VARIANT 1. We knew you'd have to scrap that plan, and pick a new variant. We knew that would mean more time in harm's way for us.

You played poker with my friends and families' lives. Your bluff has been called. Please gracefully accept the loss and move on to the variant that WRAB, your staff, your hired experts, and those of us whose lives are on the line, recommended in the first place: Variant 2, 500 year. This city council has wasted an incredible amount of time and money chasing non-starter concepts like variant 1 /500 and upstream. Please prioritize the health and safety of your beleaguered constituents, and please step on it to make up for lost time.

Rachel Friend

[Rachelkfriend@gmail.com](mailto:rachelkfriend@gmail.com)

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Ben Binder <bbinder@ddginc.com>  
**Sent:** Monday, May 20, 2019 11:37 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Response to Frances Draper's last Annexation Letter

CU's Vice Chancellor for Strategic Relations and Communications' using the mess that CU helped create to demand that Boulder provide water and sewer utilities to develop 129 acres of land which is more suitable for lakes and wetlands is a little too much to stomach. CU should not be playing politics with people's lives.

Please read the attached PDF.

CU has no appreciation for the urgent need to mitigate flooding in South Boulder before the next flood.

*We are writing to you today to provide notice that the university, as the landowner, does not agree to Variant I 500. Due to the March 28 response which did not offer the university a feasible path forward around the additional acreage the city is asking for under Variant I 500, we are informing the city that any further expenditure for the development of preliminary designs for Variant I 500 should cease.*

CU states they require **a full 129 acres for development**, but they have no concept plan.

*As stated in our application and in prior communications, the university requires a full 129 acres for development out of our 308 acres. The university currently has no concept plan for development, nor do we believe it is feasible or possible to increase density without amending the existing Boulder Valley Comprehensive Plan.*

With an average of 2.5 acres per city block, 129 acres is the equivalent of 52 city blocks. The city should ask CU to provide the analysis used to determine 129 acres is required for development. It would be interesting to see how they arrived at that figure and the uses CU proposes which require 52 city blocks.

How nice of Frances to include a smiley face after her name.

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

CU South Annexation Application (LUR2019-00010)

Public Comments Through September 14, 2021

**From:** Calderazzo, Michael <CalderazzoM@bouldercolorado.gov>  
**Sent:** Monday, May 13, 2019 3:27 PM  
**To:** Ben Binder <bbinder@ddginc.com>  
**Cc:** Council <council@bouldercolorado.gov>  
**Subject:** RE: Relocation of Fire Station #4 to CU's Gravel Pit

Thanks for your input, Mr. Binder. I will share your thoughts with the team.

**Michael Calderazzo**  
**Fire Chief**



O: 303-441-3357  
C: 720-633-6433  
[calderazzom@bouldercolorado.gov](mailto:calderazzom@bouldercolorado.gov)

Boulder Fire Rescue  
3065 Center Green Dr. | Boulder, CO 80301  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>  
**Sent:** Wednesday, May 8, 2019 10:45 AM  
**To:** Calderazzo, Michael <[CalderazzoM@bouldercolorado.gov](mailto:CalderazzoM@bouldercolorado.gov)>  
**Cc:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>  
**Subject:** RE: Relocation of Fire Station #4 to CU's Gravel Pit

Dear Chief Calderazzo,

Thanks for your prompt response.

It is your staff, and not CU, that is proposing to relocate Fire Station #4 to CU South.

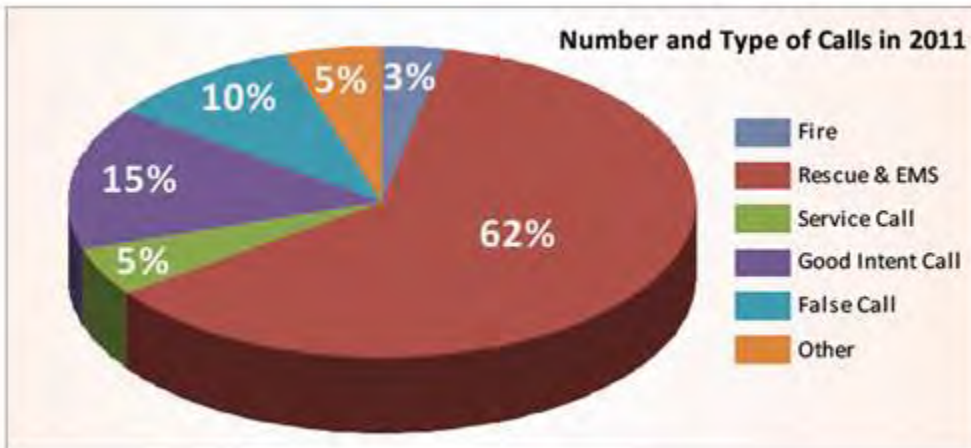
***"City staff proposes** that the city and university jointly explore a public safety facility to collocate CU Boulder Police and City of Boulder Fire & Rescue personnel and vehicles."*

You do not need more information **about the future road network, perimeter access and future development on CU South**, hours of staff time, a costly report and study sessions to determine that relocating Fire Station #4, which is high and dry and out of the floodplain, to a floodprone area that will clearly increase response times to South Boulder residents is a bad idea.

I know Fire Station # 4 is small, but the following statistics from a City of Boulder study show that the vast majority of your dispatches are for Rescue and EMS, for which short response times are critical. (I was pleased to see that only 3% of dispatches are for fire, which says good things about the city's fire code and fire prevention efforts.)

You do not need a large facility to provide service needed for 97% of your calls.

CU South Annexation Application (LUR2019-00010)  
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(For those not in the business, a *Good Intent Call* signifies that an emergency response was not required.)

CU has chosen to develop a floodprone site that currently has no utilities and is accessed from some of the most congested roads in the city.

Providing emergency services to the proposed 1,100 residents, academic, research, and sports facilities on CU South should be a serious concern to the CU administrators who want to develop that site. But the full cost of providing those services should be paid for by CU, and response times to existing South Boulder residents should not be compromised.

The conceptual idea of relocating Fire Station 4 to ***achieve an extremely short response call time to future CU South residents and visitors***, should be DOA, and I hope no additional staff time is wasted on this proposal.

If you determine Fire Station 4 is undersized, I suggest you look at acquiring 930 Toedtli, which is a rental property adjacent to Fire Station 4, to expand your existing facility.

CU South Annexation Application (LUR2019-00010)  
Public Comments Through September 14, 2021



Sincerely yours,

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 499-2569

**From:** Calderazzo, Michael [<mailto:CalderazzoM@bouldercolorado.gov>]  
**Sent:** Wednesday, May 08, 2019 07:25 AM  
**To:** Ben Binder; Council  
**Subject:** RE: Relocation of Fire Station #4 to CU's Gravel Pit

Dear Mr. Binder,

Thank you for your email about the CU South project and the potential of a public safety facility being included in this project. While you may hear directly from one or more council members, the following information provided by city staff may also be helpful.

The staff response to the University of Colorado Boulder's annexation application identified numerous ideas that remain conceptual at this stage of the project (including the potential public safety facility). Staff would begin conducting more detailed analysis about a potential facility only if City Council and CU Boulder are amenable to reviewing it further. CU Boulder has not yet indicated their openness to discuss this further, though we expect to hold a study session in August to discuss this and other topics with the council.

Any future facility must account for the overall response system and cannot decrease the level of service. Any potential relocation would consider the overall response system to ensure that service levels overall remain adequate. It is for these reasons that the fire department is looking at alternative

**CU South Annexation Application (LUR2019-00010)**

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sites because the current station is undersized to accommodate the number of resources needed to ensure the level of service is met in the areas you mention. More information will be available once we have a better idea about the future road network, perimeter access and future development on CU South.

Thank you for your interest in the project and I look forward to working with you.

**Michael Calderazzo**  
**Fire Chief**



O: 303-441-3357

C: 720-633-6433

[calderazzom@bouldercolorado.gov](mailto:calderazzom@bouldercolorado.gov)

Boulder Fire Rescue  
3065 Center Green Dr. | Boulder, CO 80301  
[Bouldercolorado.gov](http://Bouldercolorado.gov)

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>

**Sent:** Monday, May 6, 2019 5:38 AM

**To:** [CalderazzoMI@bouldercolorado.gov](mailto:CalderazzoMI@bouldercolorado.gov); Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>

**Subject:** Relocation of Fire Station #4 to CU's Gravel Pit

Dear Chief Calderazzo,

Reading through the city's response to CU's 233 page annexation application for the old Flatiron Gravel pits, I came across the following statement.

**Key Issue #6: Collaborate on a public safety facility.**

*City staff proposes that the city and university jointly explore a public safety facility to collocate CU Boulder Police and City of Boulder Fire & Rescue personnel and vehicles. A joint facility could benefit both organizations greatly by achieving an extremely short response call time to future CU South residents and visitors and meet a city goal of relocating Fire Station #4.*

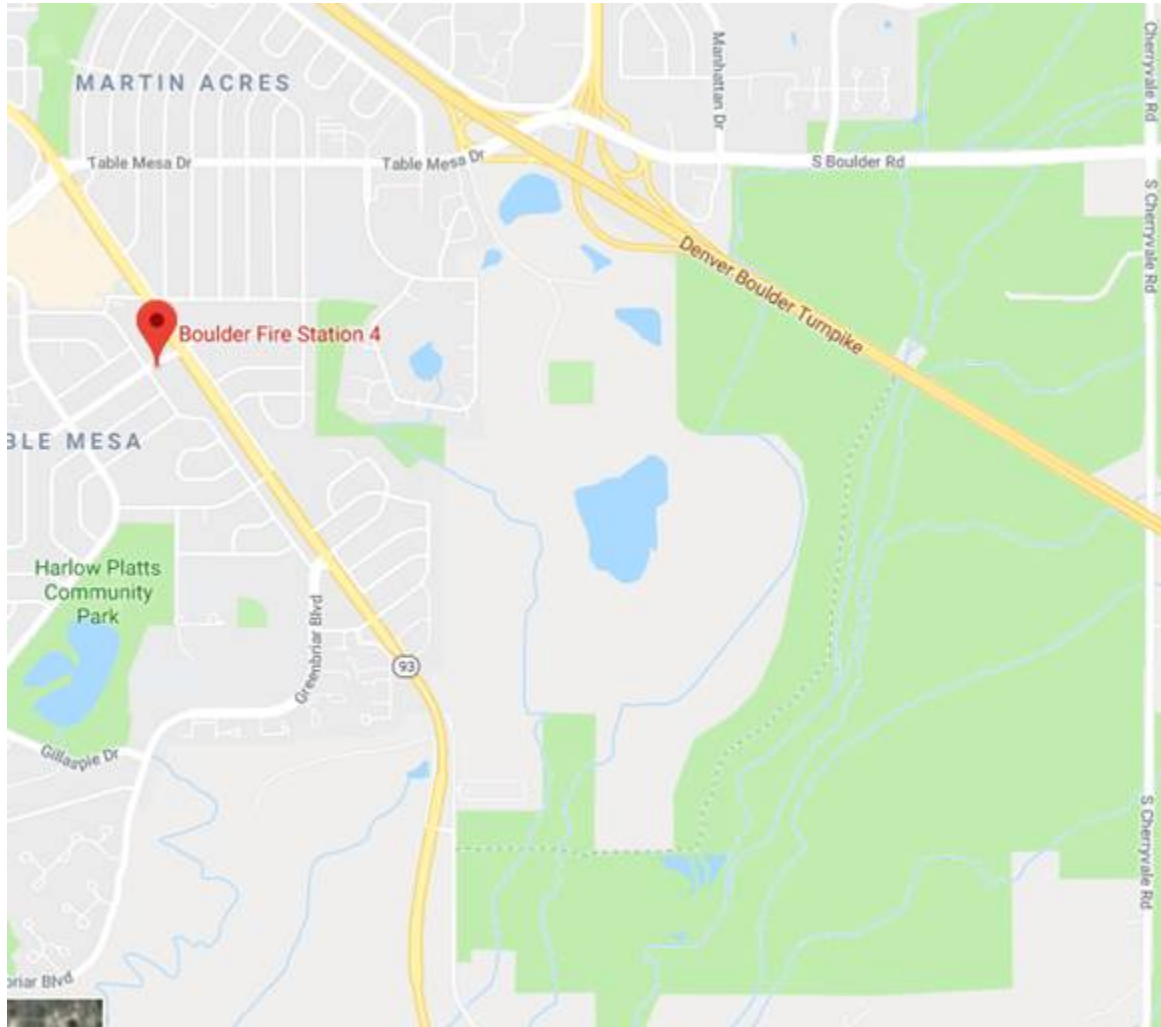
Existing Fire Station 4 is centrally-located to provide rapid service to South Boulder neighborhoods including Martin Acres, Table Mesa, Majestic Heights, Devil's Thumb, and Highland Park.

CU South Annexation Application (LUR2019-00010)  
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If Fire Station 4 was relocated to CU South, the following map shows the station would be better located to serve the vacant open space lands east of the city.

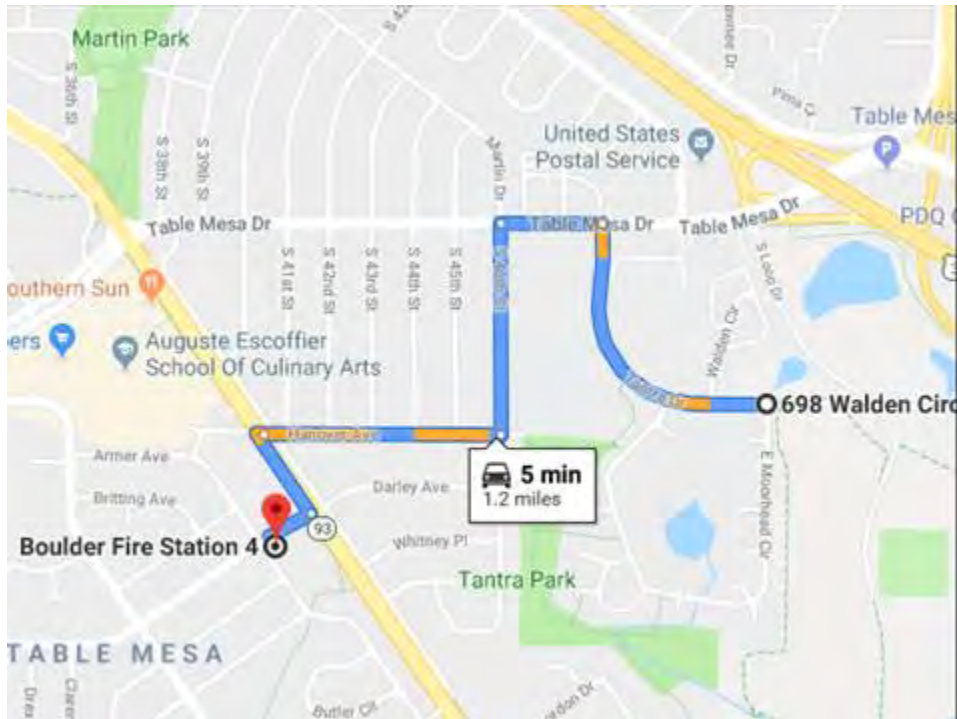
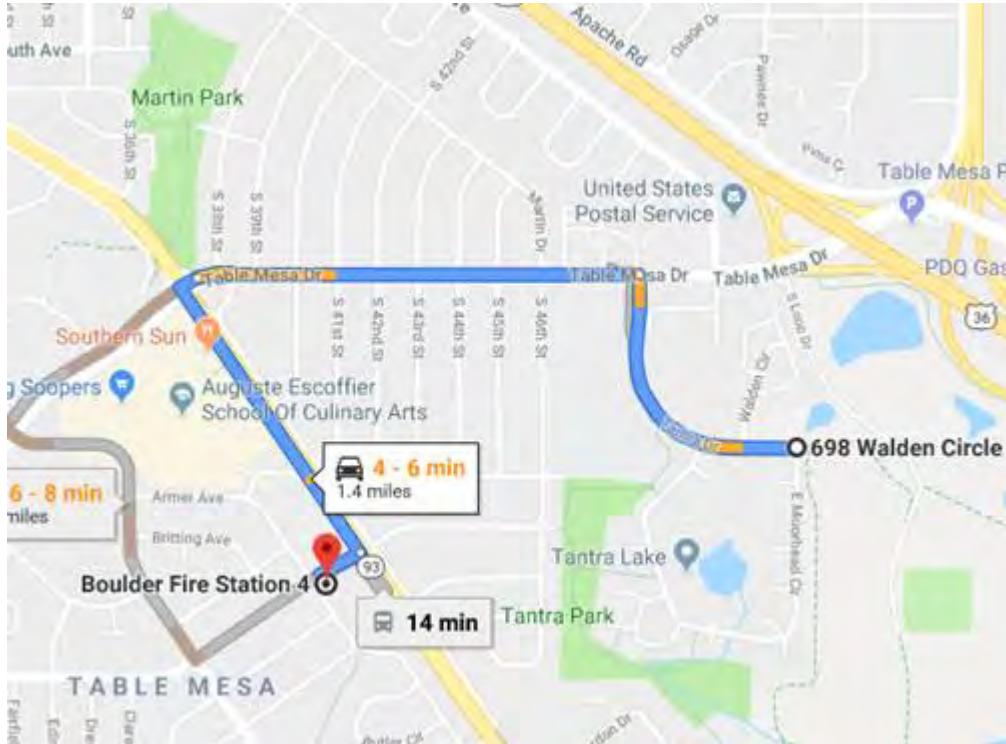
CU South Annexation Application (LUR2019-00010)  
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If the station was relocated, the following Google maps indicate additional response time required to reach locations in South Boulder. Even with lights and sirens, I don't think you could cut much time off of those estimates during rush hours on heavily congested Table Mesa Drive and South Broadway.

And response from Station 2 at Broadway and Baseline would still add four minutes.

CU South Annexation Application (LUR2019-00010)  
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I would hate to see the safety of existing Boulder residents compromised to “*achieve an extremely short response call time to future CU South residents and visitors*”, and I was wondering about your thoughts on this matter.

Sincerely yours,

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 499-2569

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ken Beitel <meadowlarkopenspace@gmail.com>

**Sent:** Sunday, May 12, 2019 7:59 PM

**To:** Council <council@bouldercolorado.gov>

**Cc:** Carr, Thomas <CarrT@bouldercolorado.gov>

**Subject:** Request to Speak at CU South Process Subcommittee re Endangered Species Act Obligations

Hon Boulder City Council Members,

This is a request to speak at tomorrow's CU South Process Subcommittee meeting at 9:15am, Monday May 13, 2019

The CU South Process Subcommittee will be asked to halt the annexation process until a federally recognized Environmental Impact Assessment can be conducted on the property which is home to rare, threatened and federally protected species under the 1998 Endangered Species Act.

Prior to advancing annexation and development of the 308 acres adjacent to and containing sensitive wetlands, it is believed that City Council and the University of Colorado have a moral and legal obligation to ensure that land use decisions are made in compliance with the Federal Endangered Species Act.

In the absence of an Environmental Impact Assessment, current City of Boulder negotiations and land use decisions may violate federal law. The CU South EIA will need to include detailed habitat mapping and wildlife surveys of the property, impact on South Boulder Creek State Natural Area and consideration of the Preble's Jumping Mouse Recovery plan.

The CU South property provides wetlands and grasslands habitat for the species below:

- The Preble's meadow jumping mouse, a federally protected animal that exists globally only in front range Colorado and a part of Wyoming.
- Ute ladies' tresses orchids, a federally protected plant.
- The Northern Leopard Frog, an animal of great conservation need here in Colorado.
- A broad array of other native plants and animals dependent on intact wetlands ecosystems.

Please respond to this request to speak at the Monday May 13, 2019 CU South Subcommittee Process meeting by 8:30 am May 13, 2019 to [meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com)

Regards,

Ken J. Beitel  
Chair of Wilderness Conversation  
proposed Meadowlark Open Space  
e. [meadowlarkopenspace@gmail.com](mailto:meadowlarkopenspace@gmail.com)  
m. 720 436 2465

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Patty Dance <[cow.patty69@yahoo.com](mailto:cow.patty69@yahoo.com)>

**To:** [plandevelop@bouldercolorado.gov](mailto:plandevelop@bouldercolorado.gov) <[plandevelop@bouldercolorado.gov](mailto:plandevelop@bouldercolorado.gov)>

**Sent:** Friday, March 22, 2019, 10:52:28 AM MDT

**Subject:** 718 Marshal Road access to CU East property

Dear planners,

I have lived in the Table Mesa Village mobile home park for over 25 years. I have observed Marshall Road's increasing use for joggers, bicyclists, walkers, families, high school track runners training, and access to the open space. There is a lot of this traffic, as well as school buses picking up and dropping off students morning and afternoon. CU's presence at the former sand and gravel property has not been a positive thing for our neighborhood. The unengineered, unsanctioned berm that they erected without prior county authority and impacting flood waters for many neighborhoods in the city and Highway 36 is but one example. Traffic created by the university's access to their property via Marshall Road will negatively impact our quality of life. Many of us moved here for the lack of crowding, quiet evenings, wildlife presence and access to open space. Most of us cannot afford to relocate in this area. The presence of student and faculty traffic through our little neighborhood will be completely disruptive. Inability to get in and out of our driveways, noise of cars even closer to our homes day and night, dust created by cars on the existing access road, danger to our children getting on and off their school buses and riding their bikes are serious examples of objections to CU East traffic in this area. Increased CU vehicle traffic crossing Highway 93 to enter Marshall Road will impact commuters from Golden and areas south of here and CU cars backed up along Marshall Road to exit north or south will be a problem, with increased pollution from idling cars waiting to get in and out, impeding pedestrian, bicycle and existing auto traffic. These are very serious considerations for not allowing this access, protecting current residents, traffic flow and pollution. Bicycle races use this road from Boulder leading out to Highway 170. CU traffic has the potential to use the entire length of Marshall Road- to access Hwy 170 to and from Cherryvale and Superior. Awarding city water and power to the university only increases their greed for access to the property that was never designed for their type of usage.

Please do not allow the usage of Marshall Road for access to their east campus. Perhaps they could purchase land on South Boulder Road for access, but destroying our neighborhood should not be an option.

Sincerely,

Patty Dance  
1720 South Marshall Road #35  
Boulder, CO 80305

**CU South Annexation Application (LUR2019-00010)**

**Public Comments Through September 14, 2021**

**From:** Ben Binder <[bbinder@ddginc.com](mailto:bbinder@ddginc.com)>

**Sent:** Monday, March 4, 2019 12:23 PM

**To:** Council <[council@bouldercolorado.gov](mailto:council@bouldercolorado.gov)>; OSBT-Web <[OSBT-Web@bouldercolorado.gov](mailto:OSBT-Web@bouldercolorado.gov)>;  
boulderplanningboard <[boulderplanningboard@bouldercolorado.gov](mailto:boulderplanningboard@bouldercolorado.gov)>

**Subject:** It's high time to have frank discussions with upper-level CU administrators

Dear City Councilmembers,

I wonder who at CU, other than its PR flacks, believe that floodprone CU South is little more than an albatross and a huge embarrassment to a university which touts sound environmental planning, sustainability and resiliency.

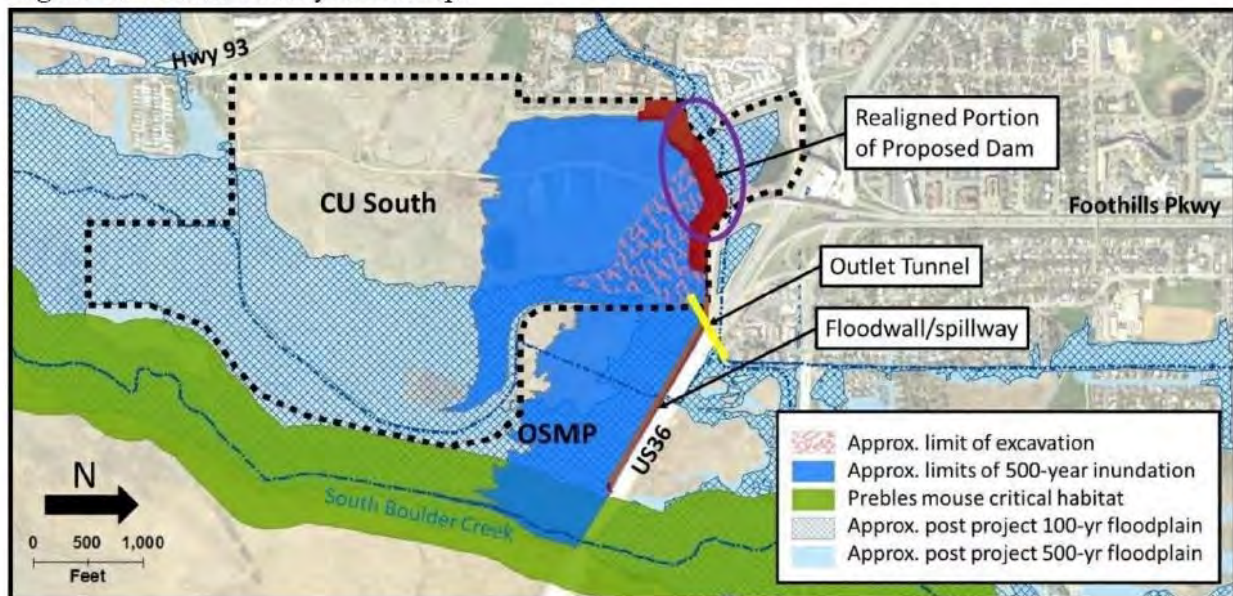
In 1995, when the city turned down the Flatiron Companies request to develop its depleted gravel pit as a Women's of the West Museum and 78 luxury homes, the well-connected owners of the Flatiron Companies unloaded the property on CU based on a bogus appraisal and erroneous FEMA maps indicating "no floodplain implications".

CU's plan to secretly acquire all required state approvals, and CU's refusal in 1997 to cooperate with the city to modify the gravel pit restoration plan to address known flooding problems are well documented. And it would have been difficult for CU to purchase a site with worse transportation access.

The following engineering drawing presents a realistic view of the hydrologic issues facing CU in developing the site. This current map presents a very different picture than the conditions presented to the CU administration in 1996 when it agreed to purchase the property.

It is high time to have some frank discussions about the site with upper-level CU administrators and knowledgeable environmental and natural resource faculty members.

**Figure 5: Variant 1 500-year concept**



Ben Binder  
[bbinder@ddginc.com](mailto:bbinder@ddginc.com)  
(303) 860-0600

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Gary Urling <urling@gmail.com>

**Sent:** Tuesday, February 26, 2019 8:21 PM

**To:** Council <council@bouldercolorado.gov>

**Subject:** No City funding for 30th & Colorado, until C U shows empathy for Boulder Residents

Infatrcture primarily for C U at 30th & Colorado should not move forward untill C U shows empathy for Boulder residents living in South Boulder. C U is currently holding Boulder residents hostage demanding approvial of C U South before working with Boulder on flood control. This shows C U has no empathy for residents who were impacted by flooding. If you believe Donald Trump was holding our country hostage over the wall and Congress refused to be held hostage, you MUST not give into CU hostage demands.

There is simple no reason CU can not give up the property in question out of empaty for Boulder residents.

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Tyler Daneman <tylerdaneman@gmail.com>  
**Sent:** Friday, February 8, 2019 11:00 AM  
**To:** Council <council@bouldercolorado.gov>  
**Cc:** meadowlarkopenspace@gmail.com  
**Subject:**

**Dear Honorable City Council Member,**

**Thank you for your thoughtful consideration this fall of how to keep the Boulder community safe from devastating floods.**

**The construction of roads and hundreds or thousands of new apartments by the University of Colorado on the floodplains and wetlands immediately south of Boulder - between US 36 and highway 93 - poses a grave flood danger to thousands of homes downstream.**

**We are grateful for your deep consideration to date.**

**I respectfully ask that Boulder City Council, the community and scientific experts be allowed time to review and respond the new 25-page Flood Mitigation Memo that was just released on Jan 31.** Please maintain or extend the current council consideration of the annexation application in 2020 or later which will allow more time for community engagement, feedback, and to plan accurately for flood mitigation.

**Lastly, to allow maximum flood control protection, we ask Boulder City Council to vigorously pursue purchase of the CU South land using all possible financial, legal and ballot measure initiatives.**

**CU acquired the property with the knowledge it was needed for floodplain protection and wetlands restoration - reimbursing CU what was paid for the land in the late 90's is fair to both the school and community of Boulder.**

**CU South Annexation Application (LUR2019-00010)**  
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With encouragement, we believe the school will locate new development on their numerous existing parking lots rather than destroying key wetlands and proposed open space south of Boulder.

**Thank you for protecting the Boulder community from flooding and for your work to purchase this land.**

With sincere thanks,

Tyler D. Daneman

**CU South Annexation Application (LUR2019-00010)**  
**Public Comments Through September 14, 2021**

**From:** Laura Kaplan <laura.j.kaplan@gmail.com>  
**Sent:** Friday, February 8, 2019 8:33 AM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** Thank you, and CU South ideas

Hello, Council Members Brockett, Carlisle, Jones, Morzel, Nagle, Weaver, Yates, and Young. Happy Friday to you in this winter wonderland we call home!

I'm writing to introduce myself and provide some Boulder-resident input on CU South. The main goal of my input is to provide a couple of concrete suggestions that would hopefully be helpful to you in collaborating with CDOT and CU.

Self-intro

Briefly, by profession I am a public policy facilitator and mediator, specializing in complex environmental projects and planning that requires collaboration among multiple agencies or across multiple departments. Most of my work to date has been in California though I have lived in Boulder for over a decade, first at the Peloton and now as a homeowner in Highland Park. I also briefly rented at Bridgewalk in south Boulder near CU South.

Full disclosure: I will be applying this month for open seats on three of your advisory boards and commissions - Planning Board, HAB, and HRC.

CU South Input

I attended the Feb 5 City Council meeting in order to familiarize myself with current issues before Council. Feb 5 was my first deep dive learning about the CU South project, though I walked my dog there daily when I lived at Bridgewalk and have of course seen articles in the Daily Camera about the property. I very much appreciated planning staff's presentation on Feb 5 which quickly brought me up to speed on the most current engineering alternatives analysis. The staff presentation also provided enough of the project history and context to get a sense of the many interests and issues that you need to address in this critical multi-benefit project.

I want to acknowledge that it's clear this project has been painful for just about everyone involved - the Frazier Meadows community, as was so deeply demonstrated on Feb 5; the people who currently use and love the CU South property; City Council; City staff; and probably CU and CDOT as well. At the same time, the project has such enormous potential to be a boon to Boulder by providing necessary flood protection to people currently in harm's way; ecological benefits; and amenities for CU students, staff, and faculty, notably including housing that would relieve some pressure on Boulder's tight housing market and hopefully help reduce in-town traffic and in-commuting. I very much appreciated the opportunity to learn about the project, and Council's actions to select a design alternative and troubleshoot potential issues.

At this point, the biggest challenges you face (at least, the current ones) seem to be collaborating with other agencies: CDOT over the use of their right of way for a flood wall, and CU Boulder for the use of their land for flood mitigation in exchange for annexation and provision of City services. I had a couple of thoughts I wanted to share on those two points of cross-agency collaboration. These may be things you are already considering though they did not come up during the meeting. I also understand there is a lot

of history and detail to the project, and enormous complexity around the inner workings of Colorado governance that I'm not familiar with, so these ideas might not be feasible.

1. CDOT. Your attorney (I believe it was Tom Carr?) advised you that it may be difficult to secure a letter of intent from CDOT, based on the idea that you'd be asking another agency to make a commitment when Boulder has not yet formally committed itself. This is a classic problem - you don't want to waste money on a design that might not be acceptable and you can't formally approve a project that hasn't been designed, but the other agency likewise can't formally commit to permitting or participating in something without understanding its contours. I don't know if there are legal hurdles, but **if a letter of intent is what you want, could the City consider drafting your own formal letter of intent to share with CDOT first?** This is in keeping with the idea that it can be helpful in negotiations to make the first move and model the behavior you want to see in your negotiation partner. I imagine a letter could detail the financial investments Boulder has made to date in analyzing alternatives and paying consultants, the decisions you have made at the Council level directing staff to pursue preliminary design, and your intent to work with CDOT as a partner on the design and permitting details for a mutually beneficial project that also protects their highways. If known and appropriate, you could perhaps go so far as to share the maximum range of parameters of a floodwall that your planning staff would anticipate (e.g. approximately X to Y length in Z location, no more than A feet tall, anticipating culverts in B, C, and D locations, etc.), and any known regulatory or permitting challenges. You could state your interest in understanding early if they see any deal-breakers so that you don't go too far down the road in design on a non-viable option, and ask for a statement of their interest in pursuing this project as your partner. Again, this is just a thought - it's possible that a formal letter could undermine the less-formal discussions with CDOT that City planning staff are hoping to have next week.

[2.CU](#) Boulder. Again, you may already be thinking about this as part of your annexation negotiations, but it strikes me that the major trade-off that staff described in engineering options is depth of excavation (which would help expand the buildable land footprint for CU) vs. cost. The "Variant 1, 500 year" option that Council directed staff to pursue has minimal excavation but does not give CU the buildable acreage in the "public use" area that they have requested. Some Council members expressed concern that not giving CU the buildable acreage they have asked for could stall or undermine negotiations with the landowner. In contrast, the "Variant 1, 500 year, additional excavation" option preserves more buildable acreage but comes at a much higher price tag; selecting this option would have meant that the City would have that much less funding available for other priority flood mitigation projects elsewhere in the city. The cost seemed to be the primary reason why Council rejected the "additional excavation" option. It occurs to me that **perhaps in negotiations, CU might be willing to provide some money for excavation in order to have more buildable acreage.** There could be some piece of that land that is currently shown as flood mitigation inundation area where they really want to locate a particular building or set of buildings, and they might be willing to contribute to covering the costs of some additional excavation (or upstream storage if that is still on the table) in order to make that work. Given the enormous public benefits of this project, it's possible CU could find a donor who would be interested in having their name attached to saving lives, protecting the environment, and constructing a lasting contribution to CU's built environment. (It's not clear to me if there are potentially significant environmental issues with additional excavation, but that did not seem to be a major concern discussed last night.) One potential drawback to pursuing this line of inquiry with CU is whether exploring any additional excavation at this stage would complicate / delay preliminary design work by staff - so if it is considered, you would want early staff input on the ramifications for your timeline.

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With great appreciation for your role in working through this complex issue,

Laura Kaplan  
Facilitator / Mediator  
916.529.1531 (cell phone / text / primary contact number )  
916.529.4971 (desk line / alternate number)  
[laura.j.kaplan@gmail.com](mailto:laura.j.kaplan@gmail.com)

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**From:** Harlin Savage <harlin.savage@gmail.com>  
**Sent:** Tuesday, February 5, 2019 1:24 PM  
**To:** Council <council@bouldercolorado.gov>  
**Subject:** CU South

Dear Council,

Here are my concerns regard potential development in the South Boulder Creek floodplain as proposed by your staff and CU.

I believe that:

- **Flood mitigation should be the #1 priority.** We must look after our community members' life and property first, not CU's wishes for indefinite expansions regardless of how its wish list threatens Boulder citizens and our environment.

- The stakes include thousands of downstream residents including a critical care facility for seniors that was endangered by the 2013 floods; billions of dollars in property including homes and businesses; and riparian lands that have been targeted for open space acquisition since the 1970s. CU acquired the property with the knowledge that it was needed for floodplain protections, restoration of open space values, ecosystem protection, and recreation.

- **NO accelerated annexation proceedings.** Proceed with the current annexation schedule (council consideration of the annexation application in 2020), allowing more time for community engagement, feedback, and to plan accurately for flood mitigation.

- City staff and outside consultants had at least five months to work on the complex 25-page Flood Mitigation Memo that was released to the Council and the public on January 31 – just 6 days before the February 5 Council meeting. This is not enough time for Council members or citizens to review the new findings or present informed, scientifically sound recommendations as the Memo requests.

- **NO annexation agreement until we understand the University's master plan for the site.** Groundwater, traffic, and environmental impact studies must be completed and taken into consideration before annexation talks begin. This process should be completely data-driven, not CU driven.

- **Annexation is NOT a done deal. Far from it.** That's simply what some proponents of development want you to believe. CU should be directed to higher and drier land appropriate for development without putting downstream people or property at risk or compromising our open space vision for the area. Can the Planning Reserve (north of Jay Road and east of 36) be a viable alternative for CU's long term wish list?

- The Boulder Valley Comp Plan guiding principles encourage the City and CU to “explor[e] other options or geographic areas for CU to achieve its housing, program, and facility goals in lieu of locating them at the CU South property.” Steering CU to a better site will be a win-win for everyone.

- **In a climate change world, this Council and community understand that 500-year flood planning needs to be non-negotiable.** If there is a ballot measure for voter approval for a

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scientifically sound floodplain strategy, why not include a ballot measure to acquire funds to buy CU out and direct them elsewhere for long-term expansions plans?

I am beginning to lose faith in my adopted hometown, which makes me deeply sad.

Sincerely, Harlin Savage

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**From:** South Creek 7 HOA Board <[southcreek7hoa@gmail.com](mailto:southcreek7hoa@gmail.com)>  
**Sent:** Tuesday, February 05, 2019 9:30 AM  
**To:** Yates, Bob <[YatesB@bouldercolorado.gov](mailto:YatesB@bouldercolorado.gov)>  
**Subject:** Re: South Boulder Creek Flood Mitigation Project

Mr. Yates,

Thank you for your quick response. I, like you, am interested in low income housing, however, I feel that there are more appropriate areas for housing and other buildings rather than to totally ruin an area that should remain open space. I am a fourth generation resident of Boulder. My ancestors helped to enact laws that have made Boulder the jewel that it is. I feel, however, that those now entrusted with keeping the city beautiful are giving in to developers who are quickly ruining the beauty with their greed! And to CU who does not seem to feel they need to adhere to building codes and are creating monstrosities that block views of the mountains. There has been no plan as to roads (not sufficient for the traffic being created and no, everyone is NOT riding a bike or taking the bus)! Or city pollution caused by over-population. Or crime. Or noise. Or more importantly -- access to water in a time when global warming is a real and continuing threat.

I think it is interesting to note that once Boulder always appeared at the top of the list of the best cities to live in. It has now dropped off that list and in fact does no longer even appear on the list. I feel that the City Council has a responsibility to keep Chief Niwot's curse from coming true.....that people seeing the beauty of Boulder and flooding into the area will spoil the beauty.

Thanks for your time. I look forward to the City Council standing up for the citizens who now live in Boulder in keeping our city beautiful.

Kathy Kramer  
Secretary of Vintage Panthers, a Boulder High School Alumni Association and  
Secretary of South Creek Seven Home Owners Association  
published author and a life-long resident of Boulder Colorado

On Tue, Feb 5, 2019 at 8:17 AM Yates, Bob <[YatesB@bouldercolorado.gov](mailto:YatesB@bouldercolorado.gov)> wrote:  
Kathy:

Thank you for your email. I agree with you that flood mitigation should be our number one priority. City council takes this responsibility seriously, and we will continue to work quickly and thoroughly to provide the community the best protection that we can.

Best regards,

Bob Yates

Boulder City Council

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**From:** South Creek 7 HOA Board <[southcreek7hoa@gmail.com](mailto:southcreek7hoa@gmail.com)>  
**Sent:** Tuesday, February 5, 2019 8:06 AM  
**To:** Council  
**Subject:** South Boulder Creek Flood Mitigation Project

Dear Council:

The homeowners at South Creek Seven are particularly interested in this project as it directly impacts our homes, i.e. safety, home values, appearance of the area as well as the noise, crime, pollution, damage, intrusion and danger that any planned building of unnecessary buildings would incur. We are also distrustful of CU's intentions for the area because of their building methods in past years.

We do NOT want our homes sacrificed due to CU's selfish insistence of extending their campus and would hope that perhaps the City of Boulder could swap land more suitable to CU, land closer to the main campus or in an area not ruined by the proposed building....perhaps in north Boulder.

That being said, we all have been involved in the progress of the Flood Mitigation Project.

**Flood mitigation should be the #1 priority.** We must look after our community members' life and property first, not CU's wishes for indefinite expansions regardless of how its wish list threatens Boulder citizens and our environment.

- **NO accelerated annexation proceedings.** Proceed with the current annexation schedule (council consideration of the annexation application in 2020), allowing more time for community engagement, feedback, and to plan accurately for flood mitigation.

- **NO annexation agreement until we understand the University's master plan for the site.** Groundwater, traffic, and environmental impact studies must be completed and taken into consideration before annexation talks begin. This process should be completely data-driven, not CU driven.

- **Annexation is NOT a done deal. Far from it.** That's simply what some proponents of development want you to believe. CU should be directed to higher and drier land appropriate for development without putting downstream people or property at risk or compromising our open space vision for the area. Can the Planning Reserve (north of Jay Road and east of 36) be a viable alternative for CU's long term wish list?

- **In a climate change world, this Council and community understand that 500-year flood planning needs to be non-negotiable.** If there is a ballot measure for voter approval for a scientifically sound floodplain strategy, why not include a ballot measure

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to acquire funds to buy CU out and direct them elsewhere for long-term expansions plans?

All of the South Creek Seven homeowners will be watching and waiting anxiously in hopes that what is decided will make sense to the environment and the beauty of the area and not just the hard-headed determination to use the area for tall, ugly buildings that will mar the beauty of Boulder as you drive down Highway 36 and enter our beautiful city.

Thanks for your time,

Kathy Kramer  
Secretary  
South Creek Seven Homeowners Association  
303-505-8153