



Land Use

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

MEMO TO: Agencies and adjacent property owners
FROM: Michelle McNamara, Planner II
DATE: September 27, 2016
RE: Docket SE-16-0011

Docket SE-16-0011: Brawner Lot Recognition

Request: Subdivision Exemption to recognize a 0.88 acre parcel as a legal building lot.
Location: At 4771 N. 26th Street, located approximately 1,026 feet north of the intersection of Yarmouth and N. 26th St., in Section 7, T1N, R70W.
Zoning: Agricultural (A) Zoning District
Applicant: Mikl Brawner

A Subdivision Exemption is a waiver of the usual subdivision requirements to allow a Boundary Line Adjustment, a Lot Recognition, a Lot Split, or a Community Facility Lot Split.

This process includes a public hearing before the Boulder County Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Land Use staff and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter. Late responses will be reviewed as the process permits; all comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to review the entire file at the Land Use Department, 13th and Spruce, Boulder. If you have any questions regarding this application, please contact me at (303) 441-3930 or mmcnamara@bouldercounty.org.

Please return responses to the above address by **October 14, 2016**.

We have reviewed the proposal and have no conflicts.
 Letter is enclosed.

Signed _____ PRINTED Name _____

Agency or Address _____

Please note that all Land Use Department property owner’s mailing lists and parcel maps are generated from the records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the “property owner” of land in Boulder County. If you feel that you should not be considered a “property owner,” or if the mailing address used is incorrect, please contact the County Assessor’s Office at (303) 441-3530.



Boulder County Land Use Department

Courthouse Annex Building
 2045 13th Street • PO Box 471 • Boulder, Colorado 80302
 Phone: 303-441-3930 • Fax: 303-441-4856
 Email: planner@bouldercounty.org
 Web: www.bouldercounty.org/lu
 Office Hours: Mon., Wed., Thurs., Fri. 8 a.m. to 4:30 p.m.
 Tuesday 10 a.m. to 4:30 p.m.

mk 525 pd ck 2014a ck 224
 Shaded Areas for Staff Only
 Intake Stamp
PAID
 AUG 29 2016
 BOULDER COUNTY

Application Form

Project Number SE-16-0011		Project Name 4771 N 26th ST LAND USE		
<input type="checkbox"/> Limited Impact Special Use <input type="checkbox"/> Limited Impact Special Use Waiver <input type="checkbox"/> Modification of Special Use <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Site Plan Review Waiver <input checked="" type="checkbox"/> Subdivision Exemption <input type="checkbox"/> Exemption Plat <input type="checkbox"/> 1041 State Interest Review <input type="checkbox"/> Other:		Application Deadline: First Wednesday of the Month <input type="checkbox"/> Variance <input type="checkbox"/> Appeal		Application Deadline: Second Wednesday of the Month <input type="checkbox"/> Sketch Plan <input type="checkbox"/> Preliminary Plan <input type="checkbox"/> Final Plat <input type="checkbox"/> Resubdivision (Replat) <input type="checkbox"/> Special Use/SSDP
Location(s)/Street Address(es) 4771 N 26th St Boulder CO 80301				
Subdivision Name N/A				
Lot(s) N/A	Block(s) —	Section(s) 7	Township(s) 1	Range(s) 70W
Area in Acres 1	Existing Zoning A	Existing Use of Property Growing plants		Number of Proposed Lots
Proposed Water Supply Cistern - Truck delivered		Proposed Sewage Disposal Method Porta Potty		

Applicants:

Applicant/Property Owner MIKL BRAUNER		Email Address MIKL@HorteguinsGardens.com		
Mailing Address 4795 N 26th St				
City Boulder	State CO	Zip Code 80301	Phone 303-587-4794	Fax 303-485-7715
Applicant/Property Owner/Agent/Consultant		Email Address		
Mailing Address				
City	State	Zip Code	Phone	Fax
Agent/Consultant		Email Address		
Mailing Address				
City	State	Zip Code	Phone	Fax

Certification (Please refer to the Regulations and Application Submittal Package for complete application requirements.)

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval. I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All landowners are required to sign application. If additional space is needed, attach additional sheet signed and dated.

Signature of Property Owner <i>[Signature]</i>	Printed Name MIKL BRAUNER	Date 8/25/16
Signature of Property Owner <i>[Signature]</i>	Printed Name Eve Reshetnik Brauner	Date 8/25/16

The Land Use Director may waive the landowner signature requirement for good cause, under the applicable provisions of the Land Use Code.



Boulder County Land Use Department

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org/lu

Land Use PreApplication Map: Vicinity

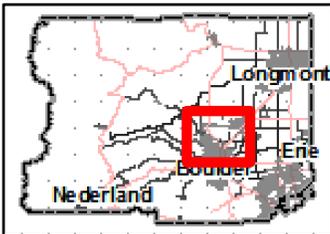
4771 26th

Legend

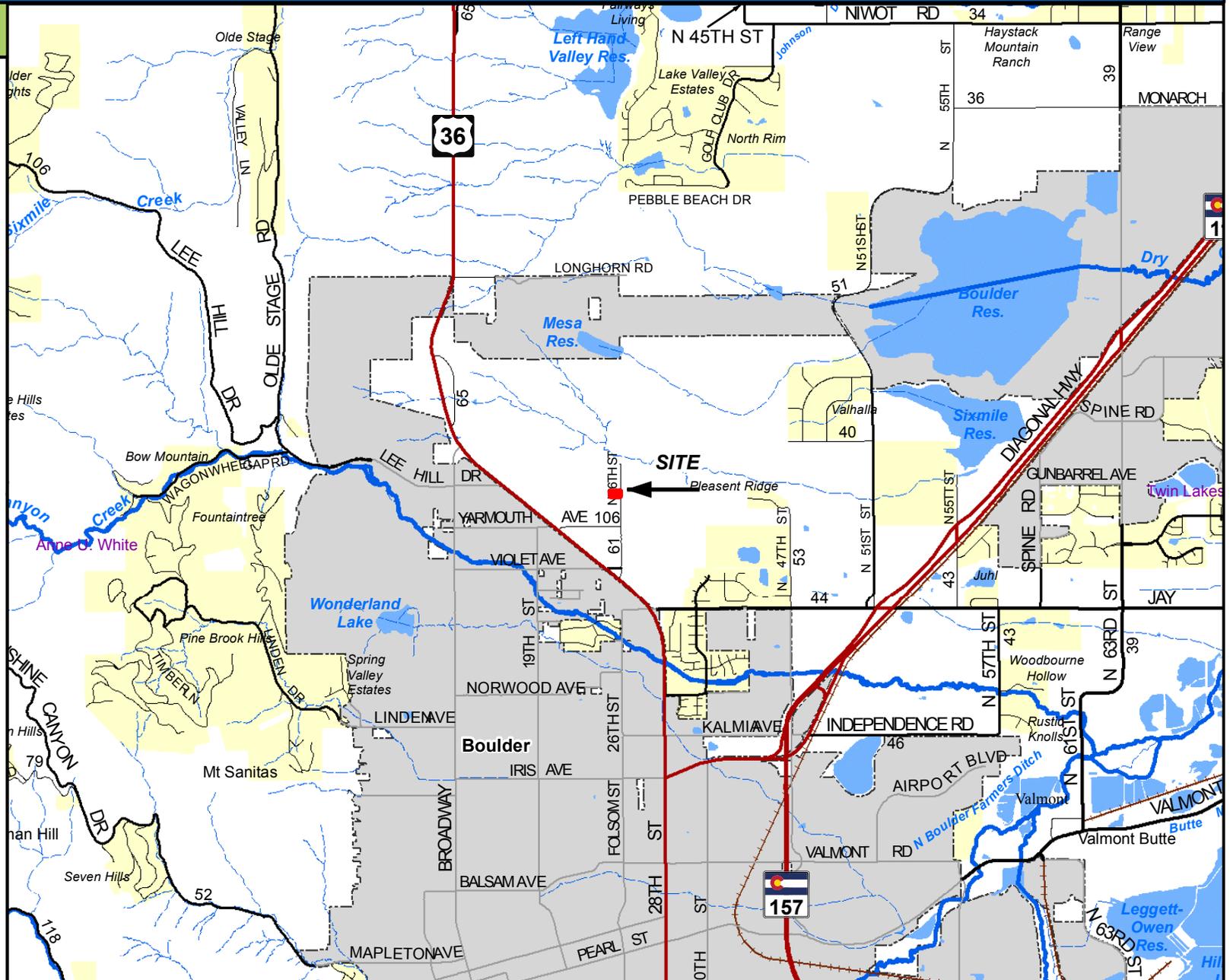
-  Subject Property
-  Intermittent Stream
-  Perennial Stream
-  Municipalities
-  Subdivisions



Area of Detail Date: 6/1/2016



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



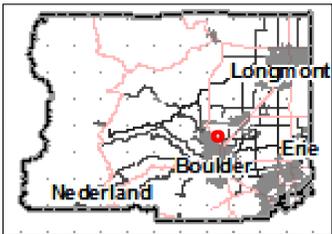


Legend

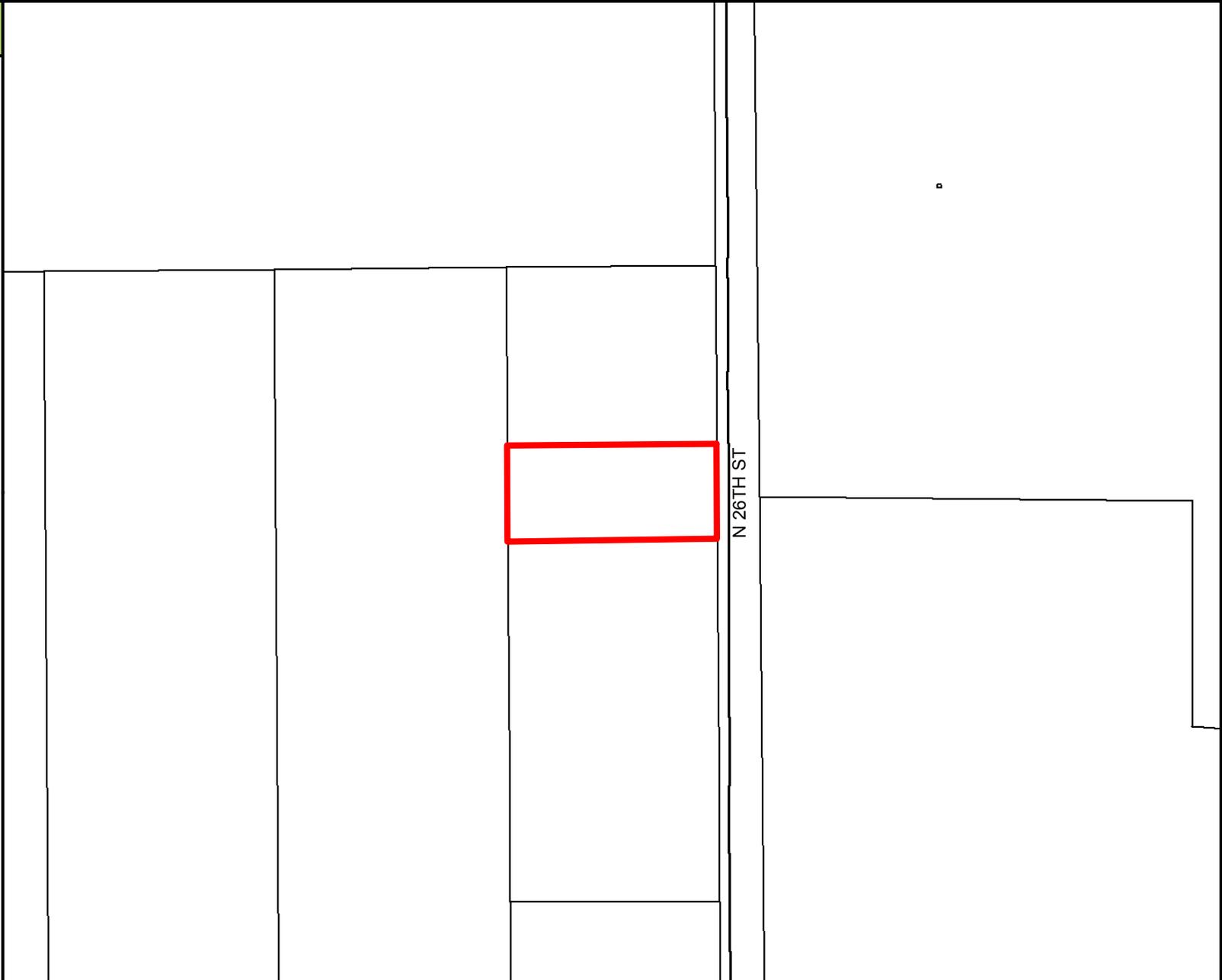
 Subject Property



Area of Detail Date: 6/1/2016



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



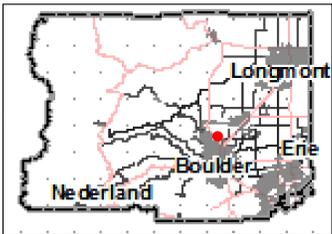


Legend

 Subject Property



Area of Detail Date: 6/1/2016



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer

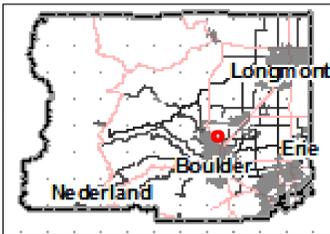


Legend

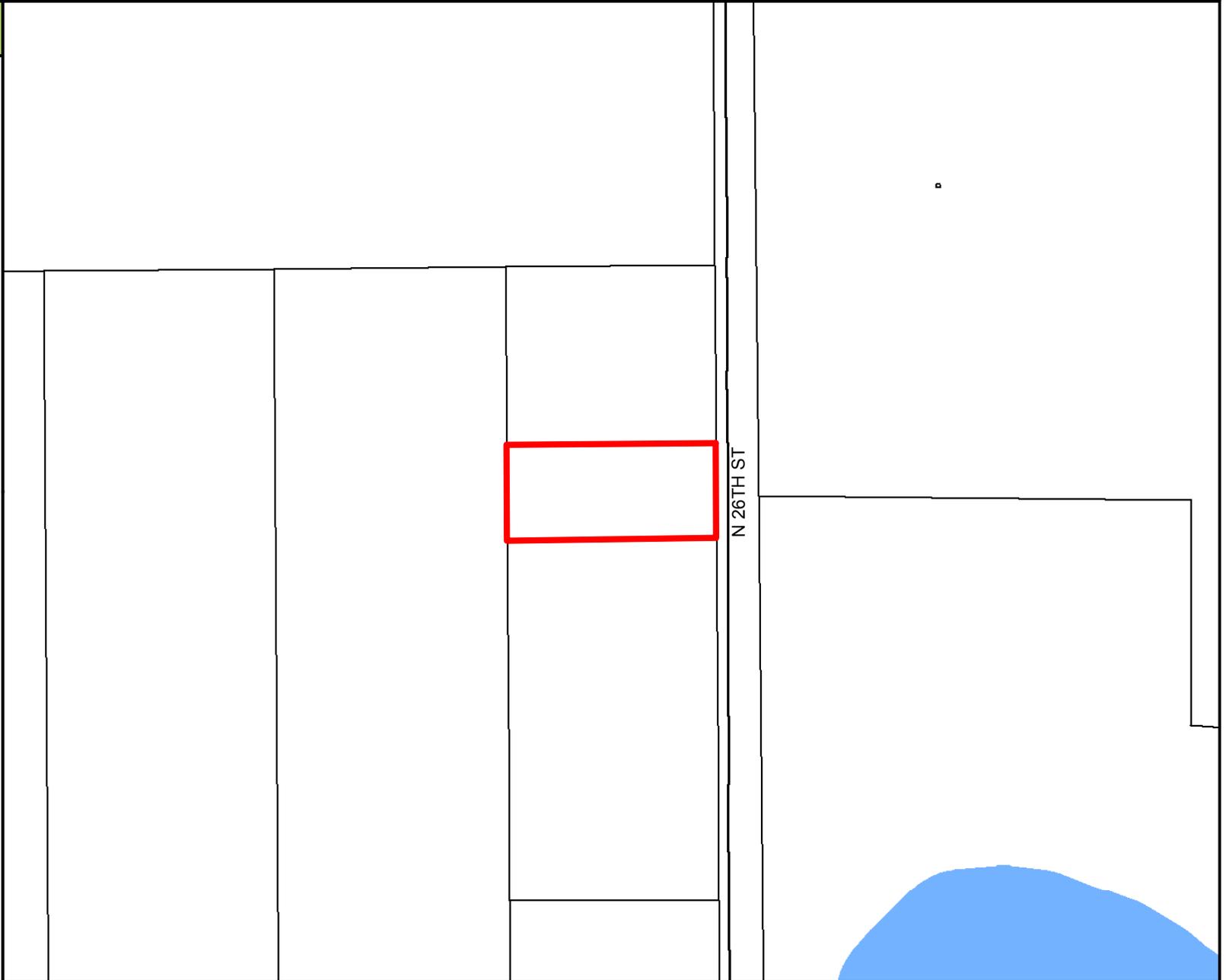
-  Subject Property
-  Wetlands



Area of Detail Date: 6/1/2016



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



APPEAL APPLICATION: PROJECT DESCRIPTION

For 25 years, Harlequin's Gardens has been a leader in Boulder County for water-conserving gardening, organic gardening, gardening with natives and other sustainable functions. A year ago, we bought the one acre property adjacent to our nursery with the intention of expanding our potential to grow more of the plants we sell. We were especially motivated to grow plants that are free from pesticides, especially neonicotinoid pesticides which we believe are a threat to the well-being of bees, butterflies and all other insects.

So our plan was to buy the one acre and to build a greenhouse that will not use fossil fuels, because we believe that the time has come to change the way nurseries are adding greenhouse gases to our atmosphere. We have never used toxic pesticides and fungicides and that approach will continue with our new facility. We believe this approach will be good for our local environment, our local community and for our business.

However Boulder County Land Use has determined that our new property is unbuildable, ie, not a legal building lot. This determination prevents us from building our greenhouse and accessory structures. They made this determination because of an illegal lot division that occurred 48 years ago, and was not known to us or to the county until we applied for a building permit.

We believe this determination is unfair and contrary to the goals of the Comprehensive Plan. We see that it serves no advantage to the county, and in fact, prevents a positive expansion of a local, agricultural business, and a model for sustainable nursery development.

Therefore, we appeal to the Boulder County Commissioners to change our lot determination to "buildable" so we can fulfill our sustainable mission and have a chance for our small business to survive financially in Boulder County.

In order to survive, we have built a 20'x55' poly-covered hoop house to start growing plants and begin our business.

DEVELOPMENT REPORT for Appeal Application

9-102

A.

1. we are not asking to create a new parcel; no structures exist
2. there is no topographic or geological hazards
3. the property is not in the floodplain
4. the property has access to a county road
5. the property's intended use is for an agricultural business, growing plants and as a plant nursery is a use-by-right in the agricultural zone. Any possible future residence would also fit in the Agricultural-Residential zoning. Neither use would conflict with current uses or character of the neighborhood.
6. NA
7. The proposal is presumed to be in accordance with the Comp Plan and Codes.



Land Use

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

December 16th, 2015

Mikl Brawner
7495 N 26th St
Boulder, CO 80301

LAND USE DIRECTOR'S DETERMINATION THAT PROPERTY IS NOT A LEGAL BUILDING LOT UNDER THE BOULDER COUNTY LAND USE CODE

Dear Mikl:

On behalf of the Director of the Boulder County Land Use Department (the "Director"), I have examined the deeds and other information you submitted and the Boulder County Land Use Code (the "Code"). As a result, I have determined that the land parcel of approximately .94 acres, in Section 07, T1N, R70W, as further described in this letter, is not eligible for designation as a building lot under the Code. This parcel is identified as Assessor ID R0033488 and Assessor Parcel Number 146307000033 and owned by Mikl Brawner and Eve Reshetnik Brawner. It is currently described on the Bargain and Sale Deed recorded February 20, 2015 at reception number 3428959. The parcel is in the Agricultural (A) Zoning District. Based on this determination, the County cannot issue building permits on the parcel for structures and uses that require a legal building lot under the Code.

The parcel is not a legal building lot because:

The subject parcel, 146307000033, was originally part of a larger parcel, recorded in 1951 with Reception number (90)498525 known as Boulder County Assessor's Tract 2448. The deed recorded January 30th, 1964 with Reception number (90)747917, created the parcel known as Boulder County Assessor's Tract 2448A. At this time the subject parcel was still part of a larger parcel that was zoned Residential (R) and required 1 acre for the creation of new parcels per the 1954 Boulder County Zoning Regulations. The deed recorded July 25th 1968 with Reception number (90)885500, created the parcel known as Boulder County Assessor's Tract 2448B and left the subject parcel in its current configuration described as Boulder County Assessor's Tract 2448, less Tract 2448A and Tract 2448B.

In order to be recognized as a legal building lot, the subject parcel, 146307000033, must be merged with the parcel located adjacent to the north, 146307000032, to return the parcel to its last legally existing configuration. This parcel merge would create an approximately 3 acre parcel in the same configuration that it legally existed in 1964 when Tract 2448A was separated from this larger tract.

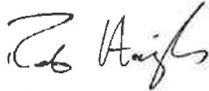
This determination is based upon the Code in effect at the time of the determination, and any prior County land use regulation affecting the legality of the parcel's creation and its resulting building lot status. If the County amends the Code in the future or additional information becomes available that could alter this determination, the owner/applicant may request another review.

If you disagree with this determination, you may appeal it to the Boulder County Board of Adjustment under Article 4-1200 of the Code. An appeal must be in writing, accompanied by a statement of the basis for the appeal and the required appeal fee. In addition, you must file the appeal *with the Director no later than 30 days after the date of this determination*. The County will consider this determination final if it is not timely appealed.

You may also apply for a subdivision exemption to have the subject parcel approved as a legal building lot under Article 9-100 (Subdivision Exemptions) of the Code. A subdivision exemption application is a request that the County create a legal building lot for the parcel under the Code. You may file a subdivision exemption application with the Land Use Department at any time following a pre-application conference with the Land Use Department staff (see Articles 3-201 and 3-202 of the Code). The Board of County Commissioners decides whether to approve a subdivision application based upon subdivision exemption criteria in the Code (see Article 9-102 of the Land Use Code).

A current version of the Code is online at www.bouldercounty.org/lu/lucode. You may also obtain a paper copy of the Code at the Land Use Department. If you have questions about this determination or about the processes listed above, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Haigh". The signature is written in a cursive, flowing style.

Robert Haigh
Planner I

cc: S7 T1N R70W, Assessor, BLD-15-0143



Boulder County Land Use Department

Courthouse Annex Building
 2045 13th Street - PO Box 471
 Boulder, Colorado 80302
 Phone: 303-441-3930 - Fax: 303-441-4856
 Email: planner@bouldercounty.org
<http://www.BoulderCounty.org/lu/>
 Office Hours: Monday — Friday 8:00 AM to 4:30 PM

Intake Stamp

Subdivision Exemption Parcel Form

Existing Parcel(s)

Description	One	Two	Three	Four	Five
Acreage					
Frontage					
Date Acquired					
Owners					
Date Created					
Existing Improvements					
Date Constructed					
Setbacks Front/Rear	35' / 15'	/	/	/	/
Setbacks Side/Side	7' / 7'	/	/	/	/

Proposed Parcel(s)

Description	One	Two	Three	Four	Five
Acreage					
Frontage					
Setbacks Front/Rear	/	/	/	/	/
Setbacks Side/Side	/	/	/	/	/

Property Owners

Parcel	Address Information		
One	Name	MIKE BRAUNER	
	Address	1600 Spruce Av, Longmont	
Two	Name	Eve Reshetnik - BRAUNER	
	Address	1600 Spruce Land	
Three	Name		
	Address		
Four	Name		
	Address		
Five	Name		
	Address		

Remarks:

Remarks: