

**TOWN OF ERIE  
BOARD OF TRUSTEES AGENDA ITEM  
Tuesday, July 14, 2020**

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**SUBJECT:**

**PUBLIC HEARING**

**1. Findings Of Fact:**

A Resolution Of The Board Of Trustees Of The Town Of Erie Making Certain Findings Of Fact Regarding The Proposed Annexation Of The Real Property At 12166 Jay Road To The Town (Lafferty Annexation)

**2. Annexation:**

An Ordinance Of The Board Of Trustees Of The Town Of Erie Annexing To The Town The Real Property At 12166 Jay Road (Lafferty Annexation)

**3. Annexation Agreement:**

A Resolution Of The Board Of Trustees Of The Town Of Erie Approving The Annexation Agreement For The Annexation Of The Real Property At 12166 Jay Road To The Town (Lafferty Annexation)

**4. Initial Zoning:**

An Ordinance Of The Board Of Trustees Of The Town Of Erie Zoning Certain Recently Annexed Property To Low Density Residential (Lafferty Annexation)

**5. Special Review Use:**

A Resolution Of The Board Of Trustees Of The Town Of Erie Approving A Special Review Use For Temporary Agricultural Uses On A Specific Parcel Until The Property Develops

**PURPOSE:**

The applicant requests annexation to the Town of Erie for 39.665 acres of property and initial zoning to "LR"-Low Density Residential for 39.665 acres of property. In addition, the applicant also requests consideration of a Special Review Use Application For Temporary Agricultural Uses Until The Property Develops.

**CODE REVIEW:**

Erie Municipal Code, Title 10

**DEPARTMENT:**

Planning and Development

**PRESENTER:**

Christopher C. LaRue, Senior Planner

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**STAFF RECOMMENDATION:**

**1. Findings of Fact:**

Staff finds the Lafferty Annexation application in compliance with Section 7.3, Annexations, of Title 10 of the Municipal Code and with C.R.S. 31-12-108.

Staff recommends the Town Board of Trustees adopt the resolution, making certain findings of fact in favor of the proposed annexation.

**2. Annexation:**

Staff finds the Lafferty Annexation application in compliance with Section 7.3, Annexations, of Title 10 of the Municipal Code and with C.R.S. 31-12-108. Staff recommends the Town Board of Trustees adopt the ordinance, annexing the property into the Town of Erie.

**3. Annexation Agreement**

Staff recommends the Town Board of Trustees adopt the resolution approving the Annexation Agreement between the Town and the applicant.

**4. Initial Zoning**

Staff finds the Lafferty Annexation Initial Zoning application in compliance with Section 7.4, Initial Zoning, of the Town of Erie Municipal Code and recommends the Town Board of Trustees adopt the ordinance, zoning the property to LR – Low Density Residential.

**5. Special Review Use**

Staff finds the Special Review Use application in compliance with the Special Review Use Approval Criteria and recommends the Town Board of Trustees adopt the resolution allowing temporary agricultural uses until the property develops with the following conditions:

- a. The annexation and initial zoning of the Property, if approved, shall be recorded before the Special Review Use approval is effective.
- b. The Special Review Use shall expire automatically and without further action by the Town upon recordation of the first final plat for development on the Property.
- c. The approved Special Review Use is limited to the number and types of animals and the processes permitted on the Property as detailed in the Application.
- d. Except for the approved Special Review Use, Applicants shall comply with all generally applicable Town ordinances and regulations, including without limitation business license requirements.

**PLANNING COMMISSION RECOMMENDATION:**

Not applicable for the Findings of Fact, Annexation, Annexation Agreement, and the Initial zoning. On June 17, 2020 the Planning Commission unanimously recommended the Board of Trustees approve, with four conditions, the Special Review Use for temporary agricultural uses until the property develops. No public testimony was presented during the hearing.

## **SUMMARY AND BACKGROUND OF SUBJECT MATTER:**

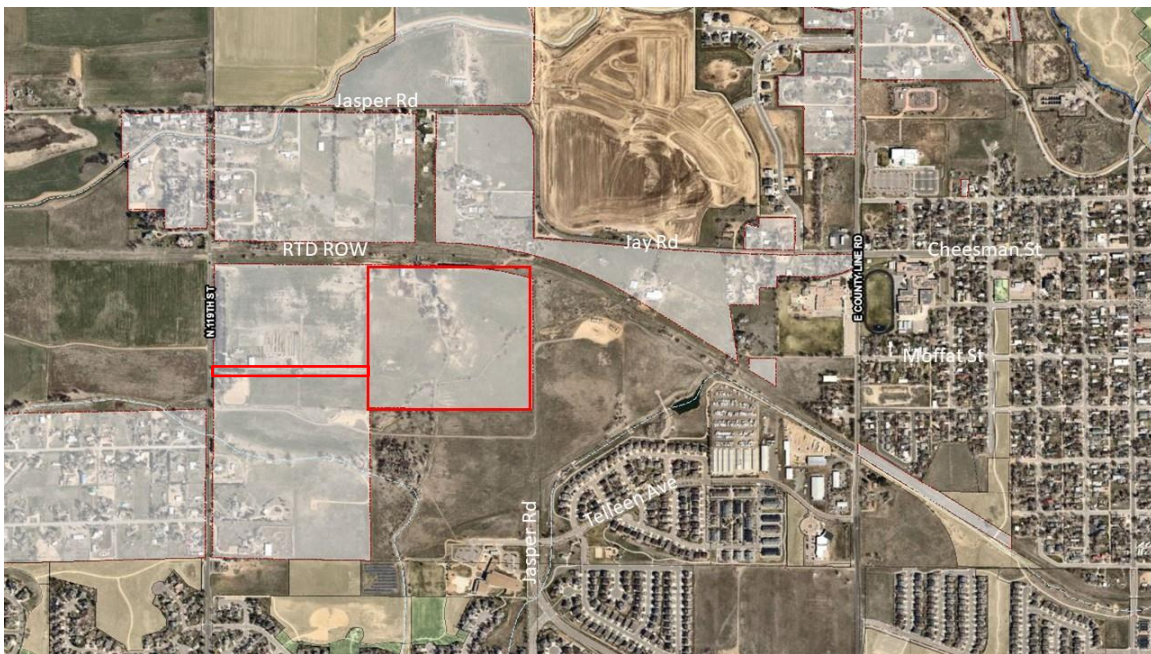
**Applicant:** Stratus Companies – Roger Hollard (on behalf of the Lafferty Estate)  
8480 Orchard Road, Suite 1100  
Greenwood Village, CO 80111

### **Existing Conditions:**

**Zoning:** A - Agricultural (Boulder County)  
**Comprehensive Plan:** LDR – Low Density Residential  
**Existing Land Use:** Agricultural with single-family  
**Annexation Acreage:** 39.665 Acres  
**Zoning Acreage:** 39.665 Acres  
**Proposed Zoning:** LR – Low-Density Residential

### **Location:**

The property is located on the southwest corner of the RTD rail line and the future Jasper Road alignment. The property is highlighted in red below:



### **Adjacent Land-Use/Zoning:**

|              | <b>ZONING</b>                      | <b>LAND USE</b>       |
|--------------|------------------------------------|-----------------------|
| <b>NORTH</b> | RR - Unincorporated Boulder County | Large Lot Residential |
| <b>EAST</b>  | PD – Canyon Creek                  | Future Residential    |

|              |                                   |                    |
|--------------|-----------------------------------|--------------------|
| <b>SOUTH</b> | PD – Canyon Creek                 | Future Residential |
| <b>WEST</b>  | A – Unincorporated Boulder County | Agricultural       |

**General Information:**

If annexed by the Town, the property will undergo future subdivision applications for residential uses consistent with the proposed LR zoning. In the time after annexation, and before the recordation of the first final plat for the property, the owner would like to continue the existing agricultural operations that have historically been in place for many years.

The property, which is utilized for agricultural uses, is currently developed with two single-family homes and several outbuildings. The property is served by a private septic system and is connected to the Left-Hand Water District. The existing homes and outbuildings, have been authorized by Boulder County. The property is within the Town of Erie's growth boundary, and is recognized as being within the Low-Density Residential land use on the Comprehensive Plan. The site is contiguous to the Canyon Creek development. Annexation of this property will continue to fill in a gap within the Town's boundary and facilitate development consistent with the Comprehensive Plan.

**Annexation, Annexation Agreement, and Initial Zoning:**

The owner of a certain property described as a parcel in the N ½ of the southwest ¼ of Section 13, Township 1 North, Range 69 West of the 6<sup>th</sup> Principle, has submitted a Petition for Annexation for approximately 39.665 acres of unincorporated Boulder County property into the Town of Erie. The application has been processed in accordance with C.R.S. 31-12-101, et seq., as amended, and Section 7.3, of the Town of Erie Unified Development Code.

On May 26, 2020 the Board of Trustees accepted the Lafferty Annexation Petition for Annexation, found it to be in Substantial Compliance with the applicable requirements of C.R.S. 31-12-101 et seq., and established July 14, 2020 as the Public Hearing date for the Annexation for adopting Findings of Fact in favor of the proposed annexation.

The applicant has also submitted an Initial Zoning application to the Town of Erie for 39.665 acres. The Initial Zoning application has been processed in accordance with Section 7.4, of the Town of Erie Unified Development Code. The applicant has requested that the property be zoned "LR" – Low-Density Residential.

The associated annexation agreement requires the applicant to connect to Town of Erie water and sewer when development occurs, however, the property may remain on Left Hand Water and a septic system in the interim. The agreement also requires certain reimbursements for sewer improvements. In addition, the property will be responsible for certain Jasper and Jay Road improvements.

**Special Review Use:**

On March 24, 2020, the BOT approved a UDC amendment allowing agricultural uses by special review use on parcels of 5 acres or greater in most zoning districts. Subsequently, the subject application was submitted to the Town for consideration.

As defined by the Town of Erie Unified Development Code (UDC), agricultural uses consist of:

The use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry; excluding the raising of hogs, pigs or other livestock fed from garbage or offal. Accessory uses may include dwelling units for proprietors and employees, barns, storage of grain, animal raising, feed preparation, and wholesale sales of products produced on-site. Specific use types include, but are not limited to: Agricultural Cultivation; Agricultural Grazing; or Produce Stand

The farming uses proposed by the applicant for the Lafferty site would include irrigated and non-irrigated fields of up to 30 acres, for hay, grasses, alfalfa, and other domestic crops. The following numbers of animals are proposed under the agricultural and grazing uses:

- |                    |                  |
|--------------------|------------------|
| a. Horses          | up to 20 animals |
| b. Cattle          | up to 20 animals |
| c. Sheep           | up to 20 animals |
| d. Goats           | up to 10 animals |
| e. Chickens        | up to 50 animals |
| f. Ducks and Geese | up to 10 animals |

All animal waste would be disked into the agricultural fields as compost to promote sustainable farming practices and manage odor. In addition, the farm would utilize a variety of equipment typical to farming operations. Types of equipment would include: tractors, bailers, disking and ground maintenance machines, trucks, trailers, front end loaders, mowers, plows, mulchers, and other necessary and customary equipment. The applicant's agriculture uses would be consistent with the agricultural definition contained within the UDC, and with how the property has been operated for many years in the past. Furthermore, the agriculture uses would be considered an interim use until development occurs.

The proposal is classified in Municipal Code Title 10, Table 3-1 Table of Permitted Uses as Agricultural. This type of use requires Special Review Use application approval.

## **STAFF ANALYSIS AND FINDINGS**

### **1. Findings of Fact**

#### **Compliance with Town Standards:**

Staff finds the application in compliance with Section 7.3, Annexations, of Title 10 of the Municipal Code and with C.R.S. 31-12-108.

- 1. THE ANNEXATION IS IN COMPLIANCE WITH THE MUNICIPAL ANNEXATION ACT OF 1965 (C.R.S. 31-12-101, ET SEQ., AS AMENDED).**

*Staff Comment: The application has been found to be in compliance with C.R.S. 31-12-101.*

### **2. Annexation**

#### **Compliance with Town Standards:**

Staff finds the application in compliance with Section 7.3, Annexations, of Title 10 of the Municipal Code and with C.R.S. 31-12-108.

- 1. THE ANNEXATION IS IN COMPLIANCE WITH THE MUNICIPAL ANNEXATION ACT OF 1965 (C.R.S. 31-12-101, ET SEQ., AS AMENDED).**

*Staff Comment: The application has been found to be in compliance with C.R.S. 31-12-101.*

3. Annexation Agreement

Both the Town and applicant have agreed to the stated provisions in the Lafferty Annexation Agreement.

4. Initial Zoning

**Compliance with Town Standards:**

Staff finds the application is consistent with the approval criteria of Section 7.4, Initial Zoning, of the Town of Erie Municipal Code:

- a. The initial zoning will promote the public health, safety, and general welfare;

*Staff Comment: The application will promote the health, safety and welfare of the general public by zoning the property.*

- b. The initial zoning is consistent with the town's comprehensive master plan and the purposes of this code;

*Staff Comment: The proposed zoning is consistent with the Town of Erie Comprehensive Plan; The Comprehensive Plan designates this area as LDR – Low-Density Residential. The Initial Zoning request is for “LR” – Low-Density Residential which allows for residential uses on the property. Future subdivision applications would be required to develop the property further.*

- c. The initial zoning is consistent with the stated purpose of the proposed zoning district;

*Staff Comment: The proposed zoning is consistent with the stated purpose of the LR zone district, residential uses. The LR district has a maximum density of 5 units per acre. Future subdivision applications would need to comply with all applicable requirements of the LR zone district.*

- d. Adequate facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

*Staff Comment: The property is currently served by a private septic system and the Left Hand Water District. The property is required to connect to Town of Erie sanitary and water services for future development by way of the Annexation Agreement.*

- e. The initial zoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be significantly mitigated;

*Staff Comment: No significant adverse impacts to the above referenced qualities/conditions are anticipated. The property is currently developed as agriculture with two single-family homes. Future subdivision applications will be required to demonstrate compliance with all subdivision requirements.*

- f. The initial zoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and

*Staff Comment: No significant adverse impacts are anticipated to properties in the vicinity of the subject property.*

- g. Future uses on the subject tract will be compatible in scale with uses on other properties in the vicinity of the subject tract.

*Staff Comment: Properties north and west are undeveloped and zoned A-Agricultural (Boulder County). Properties south and east are zoned PD within the Canyon Creek development. The subject property is compatible in scale and use with surrounding properties.*

- h. The initial zoning is generally consistent with the towns' economic development goals and objectives in bringing positive growth and sustainable revenues to the town.

*Staff Comment: The initial zoning of this property requires the owner to pay Town connection fees for sewer and future water connections.*

##### 5. Special Review Use Analysis:

The Special Review Use was reviewed for conformance with Municipal Code, Title 10, Section 7.13.C.9, Approval Criteria. Staff finds the Special Review Use for the agricultural uses in compliance with the Special Review Use Approval Criteria as listed below.

- a. The proposed use is generally consistent with the Town's Comprehensive Master Plan and all applicable provisions of this UDC and applicable State and Federal regulations;

*The Comprehensive Plan designates the subject site as Low Density Residential (LDR). The proposed LR zoning would be consistent with the Comprehensive Plan designation. Per the UDC, agricultural uses are permitted within the LR zone district as a Special Review Use. Since the proposed use would be considered interim until the area can develop under LR zoning, it would be consistent with the Town's Comprehensive Master Plan and all*

*applicable provisions of the UDC and any applicable State and Federal regulations.*

- b. The proposed use is generally consistent with the purpose and intent of the zoning district in which it is located;

*The intent of the LR zone district is to provide areas for residential uses of an urban character, at a density not to exceed 5 dwelling units per acre. The subject application proposes allowing agricultural uses as an interim use until the property can develop under the LR zoning in the future. Agricultural uses are permitted in most Town zone districts through the Special Review Use process. The proposed use is thus consistent with the residential purpose of the LR zoning.*

- c. The proposed use is generally consistent with any applicable use-specific standards set forth in Section 3.2;

Use Specific Standards (10.3.2.C.2)

Agricultural cultivation and grazing shall only be permitted as a special review use on a parcel, tract or lot of at least five (5) acres in size. The raising of hogs, pigs or other livestock fed from silage, garbage or offal is prohibited.

*The subject property is 39.665 acres. Livestock will not be fed from silage, garbage or offal.*

- d. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

*The proposed agricultural uses are compatible with the adjacent uses, especially considering the use has existed for many years. The long term anticipated impact of the use is considered minimal since the agricultural uses will cease when the property develops.*

- e. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable;

*Significant adverse impacts are not anticipated for this use.*

- f. Facilities and services (including sewage and waste disposal, water, gas, election, police and fire protection, and streets and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;

*Necessary utilities and services are readily available on the site.*

- g. Adequate assurances of continuing maintenance have been provided; and

*The applicant's narrative states the farm use will continue as it as for many years. Animal waste is disked into the ground as compost, which will manage pests and odors.*

- h. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent reasonably practicable.

*Adverse impacts on the natural environment are not anticipated.*

#### **Neighborhood Meeting:**

The neighborhood meeting requirement was waived by the Director of Planning and Development for the Special Review Use. Neighborhood meetings are not required for annexation or initial zoning.

**Annexation Public Notice:**

The Annexation is in compliance with the required noticing requirements of C.R.S. 31-12-108; with published notice in the Colorado Hometown Weekly, on June 3, 2020; June 10, 2020; June 17, 2020; June 24, 2020; and July 1, 2020.

**Initial zoning and Special Review Public Notice:**

Notice of this Public Hearing has been provided as follows:

|                                            |               |
|--------------------------------------------|---------------|
| Published in the Colorado Hometown Weekly: | June 24, 2020 |
| Property Posted as required:               | May 21, 2020  |
| Letters to Adjacent Property Owners:       | June 26, 2020 |

**Public Comments:**

No written public comment has been received for this application.