TOWN OF ERIE
TOWN COUNCIL
February 25, 2025

SUBJECT:	1. Findings of Fact: A Resolution of the Town Council of the Town of Erie Making Certain Findings of Fact Regarding the Proposed Annexation to the Town of the Real Property Known as the Erie West Annexation 2. Agreement: A Resolution of the Town Council of the Town of Erie Approving an Annexation Agreement for the Lindow Property
CODE REVIEW:	Erie Municipal Code, Title 10
PURPOSE:	The applicants request annexation to the Town of Erie for 86.65 acres of property
DEPARTMENT:	Planning and Development
PRESENTER:	Harry Brennan, Senior Planner

STAFF RECOMMENDATION:

Staff find the annexation eligible and in compliance with Section 7.3, Annexations of Title 10 of the Municipal Code and with C.R.S. 31-12-101 in that:

- The properties meet the one-sixth contiguity requirements,
- No other annexation proceedings have started,
- The properties will not be detached from a school district,
- The Town's boundary will not be extended more than three miles, and
- Where streets are in the annexation the entire width of the rights-of-way are included in the annexation.

Staff recommend adoption of the resolutions for the Erie West Annexation Findings and Lindow Property Annexation Agreement.

Evaluation of the tangible and intangible aspects of the proposed annexations reveals an overall neutral impact, details of which are in the Staff Report.

1. Findings of Fact – Resolution No. 25-019
Staff finds the annexation eligible and in compliance with Section 7.3, Annexations of Title 10 of the Municipal Code and with C.R.S. 31-12-101 and recommend adopting resolutions for the Erie West Annexation Findings and Lindow Property Annexation Agreement to extend jurisdiction northwestward and extend the Town's land use

policies to these properties to maintain development patterns consistent with the Town Code. However, there are other factors Council may wish to consider, including the net cost of serving the annexed properties, Town strategic priorities for the future, coordination of services, preserving historic assets, or other policy issues that are not addressed by the annexation criteria.

2. Agreement – Resolution No. 24-017
A Resolution of the Town Council of the Town of Erie Approving the Annexation Agreement between the Town and Rob & Sindy Lindow.

PLANNING COMMISSION RECOMMENDATION:

Annexations and Initial Zonings do not go to Planning Commission for consideration.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Applicants: Robert & Traci Jensen (11964 Kenosha Road); Robert & Sindy Lindow (11975 Kenosha Road); Michael & Jana Nickle (5075 N 119th Street); Douglas & Kathleen Spurgin (11818 Kenosha Road); Kendra Carberry & Chris Davidson (11780 Kenosha Road); Adam & Megan Micheli (11724 Kenosha Road); Tyler & Annie Tatro (11692 Kenosha Road); Gregory & Lisa Langer (11638 Kenosha Road)

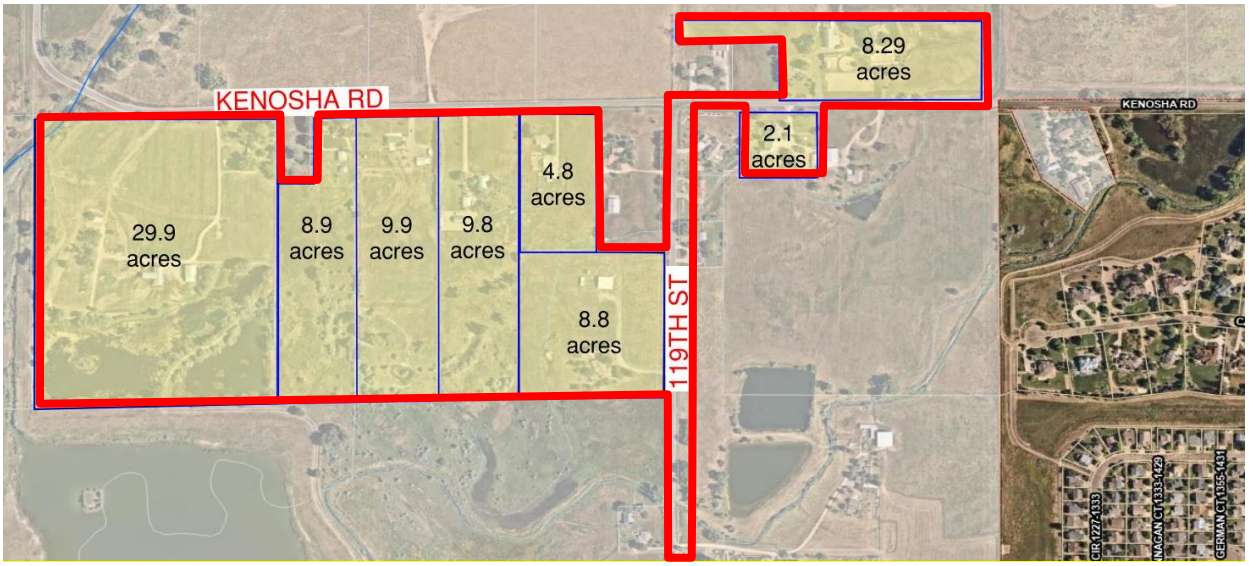
Existing Conditions:

Zoning:	Agricultural (Boulder County)
Project Size:	86.65 Acres
Existing Use:	Single-Family detached homes on agricultural property.
Future Land Use:	Agricultural

Adjacent Land-Use/Zoning:

	ZONING	LAND USE
NORTH	Boulder County - Agricultural	Agriculture / SFD
SOUTH	Boulder County - Agricultural	Agriculture / SFD
EAST	Boulder County - Agricultural	Agriculture / SFD
WEST	Boulder County - Agricultural	Agriculture / SFD

Location:
Below is a map that depicts the site and surrounding area:



BACKGROUND INFORMATION:

The Town of Erie and the applicants jointly initiated this annexation effort in 2021 in response to a proposal by Boulder County to locate a composting facility on a nearby site. The Town was not in favor of the composting facility due to concerns about offsite impacts and truck traffic. The private property owners who are now applicants also opposed the composting facility for similar reasons. Boulder County abandoned the plans for the composting facility in this area, but the property owners' desire to annex remains.

The motivation of the property owners to annex into the Town include:

- Achieving more certainty in the future land uses on their property and by extension, the neighborhood in general.
- Enhancing their ability to utilize their properties. Boulder County's Ag zoning includes restrictions on any additional square footage such as home additions or accessory structures such as barns. The Town of Erie does not limit square footage of dwellings and is more permissive of accessory structures.

The applicants originally submitted a petition in February 2022, and an updated petition in November 2024 for Annexation for approximately 86.65 acres of land that is currently in unincorporated Boulder County. The application was 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. As permitted by the annexation statute, the annexation is a series of five separate and sequential annexations, to be approved simultaneously, to meet the contiguity requirements under State law. On December 10, 2024, the Town Council accepted the Erie West annexation petitions, found them to be in Substantial Compliance with the applicable requirements of C.R.S. 31-12-101 et seq., and established January 28, 2025, as the Public Hearing date to consider whether to make findings that the subject property is eligible for annexation.

The application also includes a request for Initial Zoning of Agricultural Holding (AGH), which will be considered at a public hearing during the Council's March 11 meeting (in the event the Council determines the property eligible for annexation on February 25), and an Annexation Agreement related to the subdivision of one of the properties. The subdivision is administratively approved by the Planning and Development Director, and no action on the subdivision is required by the Town Council.

On January 28, 2025 the Town Council opened the hearing and continued the annexation to the February 25 agenda. Council also directed staff to republish notice of the hearing on the Initial Zoning of the Property for March 11.

Future Development

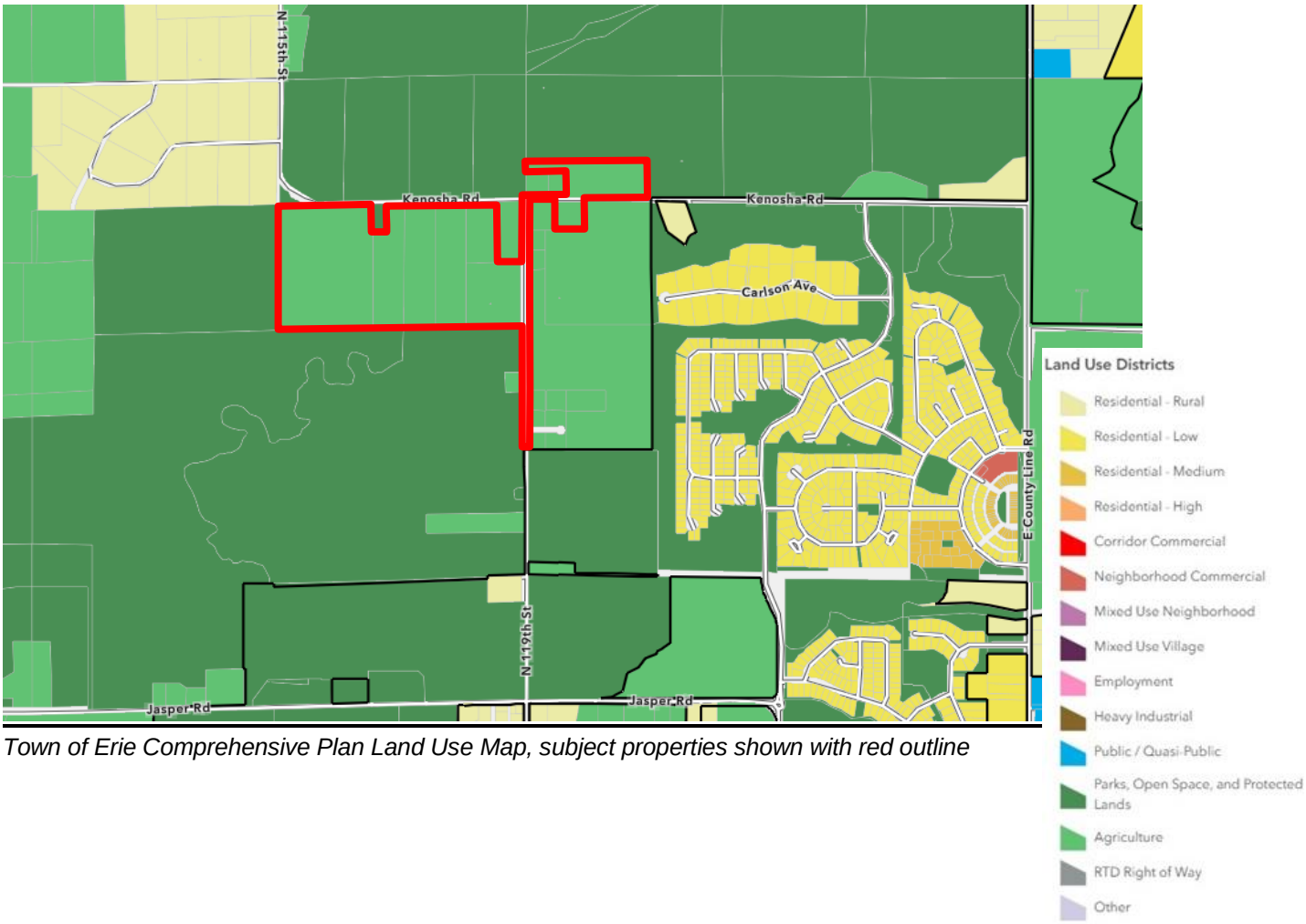
Any future development different from the existing uses would require rezoning, as well as Subdivision Plat(s), and possibly Site Plans. These would follow the public hearing process and be considered by both Planning Commission and Town Council.

Comprehensive Plan

The Town's Future Land Use Map in the Comprehensive Plan designates this area as Agricultural. The existing uses of these properties are consistent with this designation. The Comprehensive Plan also establishes community goals that include:

- **C.4.2 Ensure Erie retains a mix of built and rural environments that reflect the Town's history and geography**.

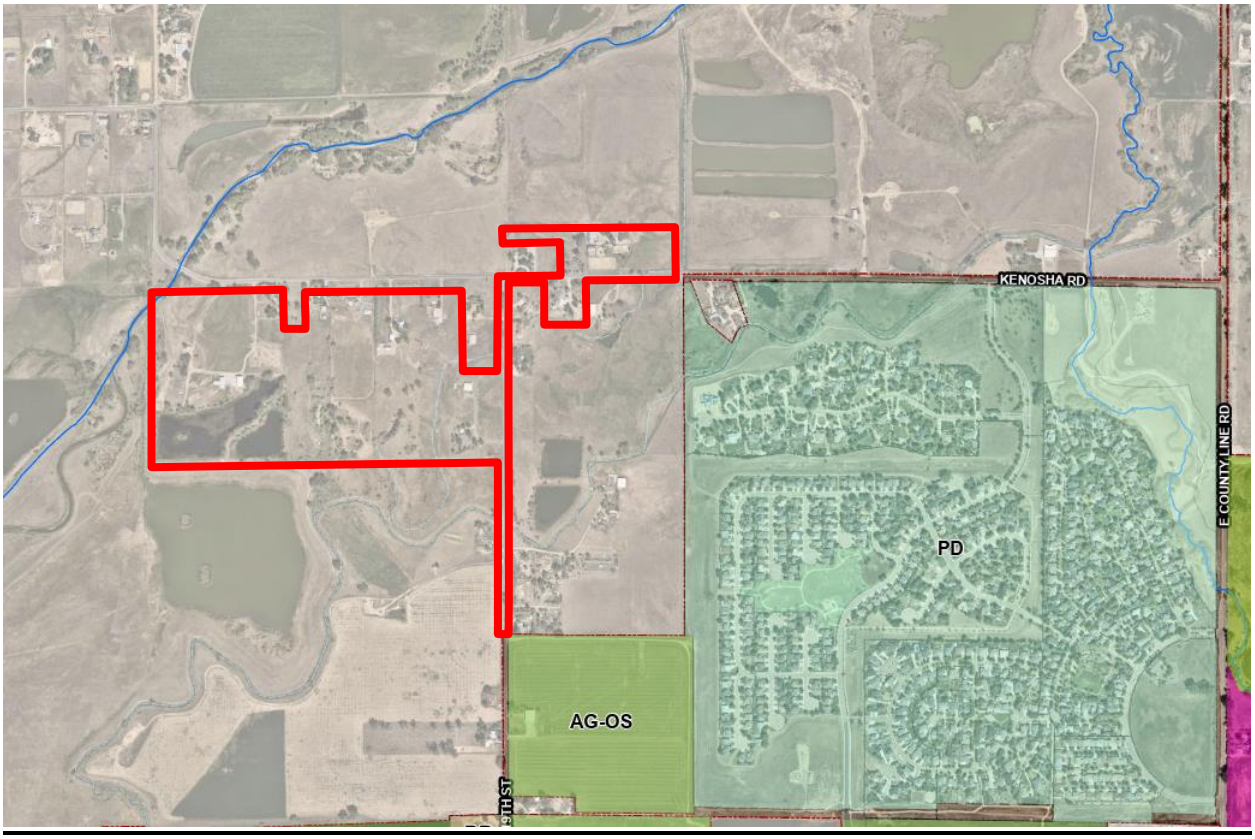
The property at 11975 Kenosha Road has a historically significant structure (barn), identified by Boulder County Historical Society, and noted in Erie's Historic Preservation Plan. This structure could be Landmarked with the owners' permission, if annexed into the Town. The area of proposed annexation contributes to Erie's agricultural history. With few similar agricultural/rural properties in the Town that have not been sold for redevelopment. These eight properties offer an opportunity to add to the rural character of Erie.



Town of Erie Comprehensive Plan Land Use Map, subject properties shown with red outline

Zoning

The properties are currently in unincorporated Boulder County and are zoned by Boulder County as Agricultural. Nearby incorporated properties are zoned Planned Development (PD) and Agriculture/Open Space.



Town of Erie Zoning Map, subject properties shown with red outline

Annexation Agreement: Lindow property

The proposed annexation includes one property that has two existing dwelling units on a single lot. The applicant desires to subdivide this individual lot into two lots, one for each dwelling unit. The existing property owner will retain ownership of both lots. The Annexation Agreement stipulates the terms of the subdivision.

While Council will need to approve the Annexation Agreement with this property owner by resolution, the actual subdivision of the property (if the annexation is ultimately approved) would create less than 10 lots. Accordingly, the subdivision (known as a Minor Subdivision) is administratively approvable by the Planning and Development Director. No action would need to be taken by the Town Council.

Utilities

Currently, the properties are provided water service by Left Hand Water District (LHWD) and use septic systems for wastewater treatment. The annexation will not require the extension of water or wastewater services to the properties at this time, but the Town reserves the right to compel service in accordance with applicable laws and regulations in the future. Title 8 of the Town Municipal Code allows the Town to compel connection to its sanitary sewer system when such sewer infrastructure is located within 100 feet of a property line. If, in the future, water service is required or desired, it would be the responsibility of the property owner(s) to extend the infrastructure needed to receive Town water service and to pay applicable tap fees; water rights/water dedication would be transferred from LHWD to the Town, and the Town would assess if those rights were adequate at that time. Otherwise, existing water and wastewater utilities systems can remain in place until, or if, any redevelopment occurs. Generally, the Town does not serve water if it is not also providing wastewater service, and vice versa.

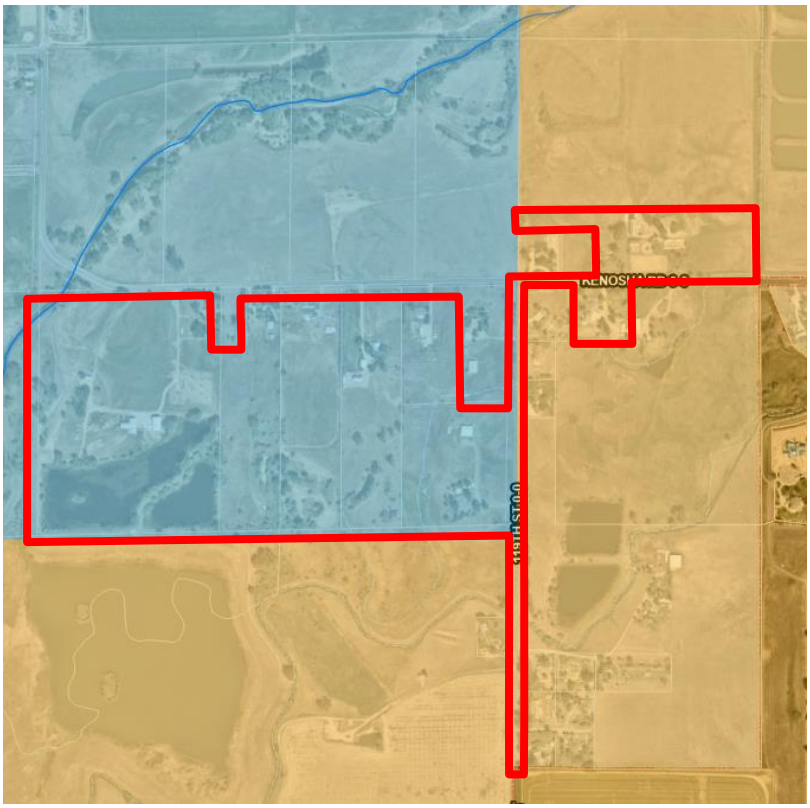
The franchise agreement between the Town and Allo (internet provider) defines the franchise area as the jurisdictional boundaries of the Town, including any newly annexed areas. The agreement allows Allo to install facilities within/upon all public rights-of-way of the Town. If the Annexation is approved Allo could install facilities along Kenosha and N 119th Street as shown in yellow below.

Transportation

The annexation includes approximately 2,000 feet (four-tenths of a mile) of North 119th Street and 1,300 feet (one-quarter of a mile) of Kenosha Road, from Boulder County. If Council approves this annexation, the Town will assume ownership and maintenance for these roadways, including snow plowing.

Schools and Libraries

The area proposed for annexation spans two school districts – Boulder Valley (shaded in blue) and St Vrain Valley (shaded in orange). No changes to these existing taxing entities are proposed or will occur with the annexation.



School District Boundaries, subject properties shown with red outline

High Plains Library District (HPLD) is a Special District under state statutes. The properties proposed for annexation are not currently included in the HPLD service boundaries. To receive HPLD services the property owners would need to petition the HPLD Board for inclusion in the taxing district.

Emergency Services

The properties are served by Mountain View Fire Protection District (MVFPD) and pay property taxes to MVPFD. This emergency service remains the same if the annexation is approved.

In terms of police service, Boulder County Sheriff's Office currently serves these eight properties. After annexation, the Erie Police Department would assume responsibility for police response to the properties. Boulder County Sheriff's Office substations are located in Niwot and Lafayette, approximately 6.3 miles and 5.9 miles away, respectively. The Erie PD Station is closer to these properties, at approximately 2.9 miles away.

Fiscal Impacts

The fiscal impact of the annexation was evaluated and includes maintenance of the rights-of-way in the annexation area. Maintenance and operations efforts include plowing, sweeping, and ongoing road maintenance. The Town's Street Maintenance team evaluated the sections of Kenosha Road and N 119th Street and found them to be in fair condition. This evaluation suggested that these sections will need road re-surfacing treatment after five years, with an approximate cost of $150,000. A mill and overlay treatment would extend the service life of the road by 10-15 years, if also maintained with other routine maintenance such as crack sealing or isolated crack repairs, and pothole repairs.

The Fiscal Impact Analysis, conducted for the 2024 Comprehensive Plan, revealed an average of $841 per household per year in internet sales tax revenue. This includes subscription services such as streaming television and online purchases of goods. According to Boulder County Assessor's assessed values for these properties, if annexed, the properties would generate about $4,000 in property tax revenue annually for the Town. The estimated tax revenue over 15 years ($134,300) will almost cover the cost of maintaining the new roads added to the Town's street inventory, with a deficit of $15,700.

STAFF ANALYSIS AND FINDINGS

While the property and average internet sales tax derived from the properties falls short of paying for road maintenance, motivation for the Town to annex these properties includes:

- Enhancing the Town's ability to influence future land use in the area, which is within the Town's Growth Boundary.
- Contributing to the Town's agricultural history by incorporating this rural area, aligning with the Town's Comprehensive Plan and Historic Preservation Plan. The property at 11975 Kenosha Rd has a historically significant structure (barn), identified by Boulder County Historical Society, and noted in Erie's Historic Preservation Plan. This structure could be landmarked with the owners' permission, if annexed into the Town.

1. Findings of Fact

Compliance with Town Standards:
Staff find the application in compliance with Section 7.3, Annexations, of Title 10 of the Municipal Code and with C.R.S. 31-12-101.

a. 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 is in compliance with C.R.S. 31-12-101 and eligible for annexation, meeting the one-sixth contiguity requirements through serial simultaneous annexation. No other annexation proceedings have started, and the properties will not be detached from a school district. The annexation will not extend the municipality boundary more than three miles, and the Town Council adopted the Three Mile Plan on January 28, 2025. Where streets are in the annexation the entire width of the rights-of-way are included. The terms of the Lindow annexation are captured in the Annexation Agreement, to be considered under a separate action (Resolution No. 24-017).

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 December 25th, 2024, January 1th, 8th, 15th, and 22nd, 2025.

Because the original hearing on January 28, 2025, was continued to a date certain, no additional notice for the annexation is required.