

**TOWN OF BERTHOUD
RESOLUTION NO. 2022-5**

**A RESOLUTION FINDING PETITION FOR ANNEXATION SUBMITTED BY
HERON LAKES CRAN TO BE IN SUBSTANTIAL COMPLIANCE WITH
COLORADO REVISED STATUTES 31-12-107 AND SETTING A HEARING
PURSUANT TO COLORADO REVISED STATUTES
31-12-108**

WHEREAS the owners of the property, Heron Lakes Investments LLC, submitted a petition for annexation,

WHEREAS, in response to the petition, the Board of Trustees for the Town of Berthoud desires to initiate annexation proceedings in accordance with law; and

WHEREAS, the petition as submitted has been reviewed by staff and approved as alleging all requirements for annexation set forth in the Colorado Statutes, and should be set for a legislative public hearing to establish such assertions as required by statute;

IT IS THEREFORE RESOLVED by the Board of Trustees of the Town of Berthoud Colorado, this 14th day of June 2022, as follows:

1. That the Board hereby accepts the annexation petition for Heron Lakes Cran, more particularly described in Exhibit A.

2. That the Board hereby finds and determines that the annexation petition and accompanying map contains all allegations required for such a petition under the Municipal Annexation Act of 1965, which is referred to herein as the "Act", and that if such allegations are determined to be well founded, such property would be eligible for annexation to the Town of Berthoud.

3. That the Notice attached as Exhibit B be adopted as a part of this Resolution. Said Notice establishes the date, time, and place when a public hearing will be held to determine if the proposed annexation complies with Section 30 of article II of the Colorado Constitution and Sections 31-12-104 and 31-12-105 of the Colorado Revised Statutes or such provisions thereof as may be required to establish eligibility under the terms of the Act. The Town Clerk is directed to publish a copy of this Resolution and said Notice as provided in the Act.

DULY PASSED by the Board of Trustees this 14th day of June, 2022.



ATTEST:

Michelle Adams
Christian Samora, Town Clerk

TOWN OF BERTHOUD

William Karspeck
William Karspeck, Mayor

Exhibit A

CRAN PROPERTY LEGAL DESCRIPTION:

That portion of the West Half of the East Half of the Northwest Quarter of Section 3, Township 4 North, Range 69 West of the 6th Principal Meridian, County of Larimer, State of Colorado, more particularly described as follows:

Considering the North line of the Northwest Quarter of Section 3 as bearing North 89° 39' 59" East and with all bearings contained herein relative thereto:

BEGINNING at the Northwest corner of the West Half of the East Half of the Northwest Quarter of Section 3; thence along the North line of the Northwest Quarter of Section 3, North 89° 39' 59" East, 645.21 feet; thence departing said North line, South 00° 20' 44" East, 2805.25 feet to the North line of Heron Lakes Eighth Filing; thence along said North line, South 89° 52' 27" West, 662.72 feet to the Easterly line of Heron Lakes Twelfth Filing; thence along said Easterly line and the East line of Heron Lakes Tenth Filing, North 00° 00' 45" East, 2802.90 feet to the POINT OF BEGINNING, containing 1,833,761 square feet or 42.097 acres more or less.

The above described tract of land may be subject to easements and rights-of-way now on record or existing.

The legal description listed hereon does not exclude that portion of right of way dedicated to the public in Larimer County Road Book R, Page 170-2. It is the surveyor's opinion that this public right of way should be excluded from the subject property legal description.

EXHIBIT B

TOWN OF BERTHOUD, COLORADO

NOTICE OF PUBLIC HEARINGS FOR A PROJECT

Heron Lakes Cran

PUBLIC NOTICE IS HEREBY GIVEN of a public hearing before the Berthoud Planning Commission on July 14, 2022, at 6:00 pm, and the Berthoud Town Board at 6:30 pm on July 26, 2022 at the following time and place:

Berthoud Town Hall
807 Mountain Avenue
Berthoud, Colorado 80513

The Town Board meeting will also be held virtually through Zoom, and can be accessed by the following link <https://us02web.zoom.us/j/82673619131>, or by calling 346-248-7799, and inputting Meeting ID 826 7361 9131

The Planning Commission meeting will also be held virtually through Zoom and can be accessed by the following link: <https://us02web.zoom.us/j/84158454657>, or by calling: 253-215-8782 and inputting Meeting ID: 841 5845 4657

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GIVEN AND POSTED this 16th day of June, 2022

PETITION FOR ANNEXATION

We represent that we are the landowners of 100% of the land described in this Petition, excluding public streets, alleys, roads and easements, which is legally described on Exhibit "A", and affirm the following to be true and correct as of July 30, 2018, our petition for annexation is filed with the Town of Berthoud.

CONTIGUITY:

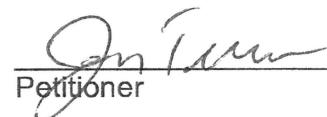
1. The perimeter of the proposed annexation has a distance of 6916.08 feet of which 3465.62 feet are contiguous to the existing Town Limits of Berthoud.
2. This contiguity results in a minimum of 50.1% of the perimeter (at least 1/6) of proposed annexation being contiguous to the Town of Berthoud.
3. The proposed annexation contains approximately 42.097 acres.
4. The requirements of §31-12-104 and §31-12-105 C.R.S., exist or have been met.
5. We further allege:
 - a. It is desirable and necessary that the territory be annexed to the Town of Berthoud.
 - b. A community of interest exists between the territory and the Town of Berthoud.
 - c. The territory is integrated or capable of being integrated with the Town of Berthoud.
 - d. The territory is urban or will be urbanized in the near future.
 - e. No land held in identical ownership is divided into separate parcels unless the owner of said tract has consented in writing or joins in this Petition.
 - f. No proceedings for annexation of the land described in this Petition have been commenced for annexation to another municipality.
6. The Petitioners understand that there may be a significant period of time before municipal utilities will be available but anticipate that urbanization will be able to take place at a pace acceptable to them without immediate access to these utilities. Until urbanization takes place the petitioners intend to maintain their properties in their current uses, which uses are acceptable to the Town of Berthoud.

7. The Petitioners have submitted the petition with the intention that the property will be developed in accordance with Berthoud's Development Code, Comprehensive Plan, Municipal Code, resolutions and ordinances.
8. The Petitioners are aware that Berthoud has enacted fees and policies with the intention that growth should pay its own way and that growth should improve the health, safety and welfare of its citizens. Examples of Berthoud's fees which are acceptable to the petitioners include fees for: building, electric, construction meter, plan review, building permit administration, parks, trails and open space, public facilities infrastructure, streets, drainage, police facility infrastructure, general administration facility infrastructure, water administration, water meter, water tap, sewer tap, raw water, and other supplemental fees as appropriate.
9. The Petitioners understand that Berthoud is required by Colorado Revised Statutes to prepare and file an annexation impact report. The Petitioners will prepare a proposed annexation impact report and provide it to Berthoud for review and consideration six (6) weeks prior to the hearing.
10. The Petitioners agree to dedicate free and clear of all liens and encumbrances of any kind, and at no charge to the Town, all easements and rights-of-way for streets and other public ways and for other public purposes, within the Property as outlined in a Subdivision Improvements Agreement (approved at the time of final subdivision plat).
11. The Petitioners agree to dedicate, with the subdivision of the Property and at no cost to the Town, all required easements and right-of-way for installation and maintenance of infrastructure.
12. The Petitioners agree to design and install transportation infrastructure, utility infrastructure, and stormwater improvements to serve the Property prior to the issuance of any building permits for all or any portion of the property in accordance with Town standards. The Petitioners shall make such other improvements as required by Town ordinances and resolutions, to guarantee construction of all required improvements, and, if requested by Berthoud, to dedicate to Berthoud any or all other required improvements. The Petitioners agrees to enter into a subdivision improvements agreement pertaining to such improvements and other matters at time of final plat.
13. The Petitioners agree that oversizing agreements may exist that the Petitioners may be responsible for his/her fair share for oversizing of infrastructure. Likewise, Petitioners acknowledges that the Town may require the Petitioners to oversize infrastructure, which would be reimbursed by subsequent developers. The Petitioners acknowledge that the Town shall facilitate reimbursement of any financial participation by the Petitioners, over

and above the proportionate impact of the development. Such reimbursement shall come from new development directly connecting to the improvements.

14. The Petitioners agree to satisfy the public land dedication and landscaping requirements specified in the Town's Development Code.
15. The Petitioners agree that future development of the site will comply with any adopted infrastructure plans including but not limited to transportation, drainage, water, sewer, land use, parks, trails, open space and comprehensive plans.
16. The Petitioners agree that the design, improvement, construction, development, and use of the property shall be in conformance with, and that Petitioners shall comply with, all municipal, county, state and federal statutes, ordinances, rules and regulations.
17. The Petitioners agree that all land use approvals and building permits for the development of the Property shall be subject to requirements including, but not limited to, the payment of impact fees and development charges and other land use and development requirements in effect at the time that such proposed development applies for a building permit.
18. The Petitioners agree to convey to the Town, all water rights necessary for development and all irrigation water rights and associated carrying rights and groundwater rights associated with the property, and any related stock certificates evidencing ownership of the water rights, free and clear of all encumbrances and with all taxes and assessments related hereto paid in full, unless the Town in writing rejects any or all such water rights. Water rights may be conveyed on a pro-rata basis as building permits are issued.
19. Berthoud has various enterprise funds through which the utilities provided by Berthoud are financed. Examples of Berthoud's services are its water, wastewater and drainage utilities. Berthoud's Board of Trustees believe that the provision of utilities by Berthoud assists in complying with the *Berthoud Comprehensive Plan* and *Berthoud Development Code* and the petitioners request that Berthoud provide all utility services which are available now or in the future through Berthoud at a cost comparable to that which can be provided by any third party.
20. The Petitioners understand that the R2-J School District forms an integral part of the Berthoud community. Berthoud has enacted fees to support the acquisition of land by this School District. The Petitioners are aware of these fees and agree to financially support the District's land acquisition programs.

The terms of this Petition are binding on the heirs, devisees, successors and assigns of the parties. Therefore, the undersigned hereby request that the Town of Berthoud approve the annexation of the areas described herein.



Petitioner

Petitioner

4-27-2021

Date Signed

SUPPLEMENT TO PETITION FOR ANNEXATION

The undersigned petitioners are requesting annexation by the Town of Berthoud of property of which they are 100% owners. The petitioners have submitted the petition with the intention that the property will be developed in accordance with Berthoud's *Development Code, Comprehensive Plan, Municipal Code*, resolutions and ordinances.

Section 1 – Capital Investment Fee

The petitioners are aware that Berthoud has enacted fees and policies with the intention that growth should pay its own way and should improve the health, safety and welfare of its citizens. Examples of Berthoud's fees, which are acceptable to the petitioners, include capital investment fees such as the water dedication fee, water system investment fee, wastewater system investment fee, parkland dedication fee, parkland development fee, public facilities fee and density transfer fee.

Section 2 – Enterprises

Berthoud has various enterprise funds through which the utilities provided by Berthoud are financed. Examples of services provided by Berthoud's enterprises are its water, wastewater and drainage utilities. Berthoud's Utility Board and the Board of Trustees believe that the provision of utilities by Berthoud assists in complying with the *Comprehensive Plan* and *Development Code* and the petitioners request that Berthoud provide all utility services which are available now or in the future through Berthoud at a cost comparable to that which can be provided by any third party.

Section 3 – Development Rate

Berthoud's *Development Code* requires that as a condition of approval for any subdivision a development agreement is executed which contains specific limitations on the rate at which the development can proceed. The petitioners understand that the growth of Berthoud is limited by the *Comprehensive Plan* and agree to comply with these limitations.

Section 4 – Open Space, Parks, Setbacks and Trails

Berthoud's citizens and its Board of Trustees have determined that open space and agriculture add to the community and have implemented sales taxes and fees to financially support trails, parks, open space and agriculture. The petitioners agree to provide land for increased setbacks, easements and/or rights-of-way for and along major arterials and for trails and open space. To the extent these setbacks, easements and/or rights-of-way improve the quality of the

property being annexed and are of a benefit to the Berthoud community, the petitioners hereby commit to providing land for these purposes.

Section 5 – R2-J School District Site Acquisition

The Thompson R2-J School District forms an integral part of the Berthoud community and Berthoud has adopted an Intergovernmental Agreement (IGA) with the District to collect fees in-lieu of dedication or land dedication to support the acquisition of land by this School District. The petitioners are aware of these fees or land dedication requirements and agree to support the District's land acquisition program.

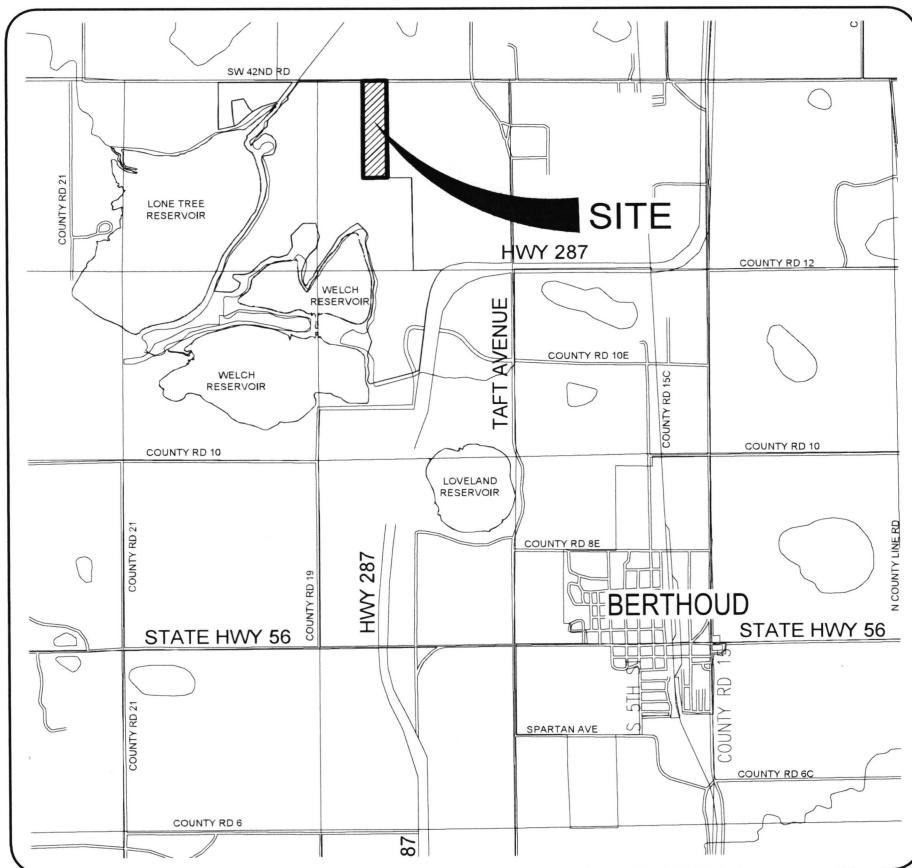
Section 6 – Annexation Impact Report

Berthoud is required to prepare and file an annexation impact report. The petitioners have prepared an annexation impact report and provided it to Berthoud for review and consideration six (6) weeks prior to the hearing.

Section 7 – Overall Development Plan (ODP)

The petitioners will file site-specific development plans with the Town of Berthoud for review and consideration, following the approval the annexation, rezoning and overall development plan (ODP). The petitioner recognizes that vested rights do not occur until the time of final development plan (FDP) approval. In the event that the applicant pursues de-annexation prior to final development plan (FDP) approval, the Town agrees that it will cooperate with this request.

The petitioners intend that this supplement be attached to their Petition for Annexation and presented to the Board of Trustees for consideration in conjunction with the annexation.



NORTH

VICINITY MAP

CRAN PROPERTY
BERTHOUD, CO

VICINITY MAP

04.27.21



**NORTHERN
ENGINEERING**

