

## Chapter 7.32

### SOUND LIMITATIONS\*

#### Sections:

7.32.010	Prohibitions.
7.32.020	Definitions.
7.32.040	Noise limitation.
7.32.050	Sound measurement.
7.32.060	Exceptions.
7.32.070	Temporary permits.

\*For statutory provisions authorizing cities and towns to prevent and suppress noise, see CRS § 139-32-1(55). Prior ordinance history: prior code §§ 33.1 § 33.6 as amended by Ords. 998, 1237, 1250 and 1396.

#### 7.32.010 Prohibitions.

- A. It is unlawful to make or cause to be made, or create or cause to be created, any noise, the sound levels of which, when measured at a distance of twenty-five feet or more from any property line, are in excess of the limits set out in Section 7.32.040.
- B. It is unlawful to make or cause to be made, or create or cause to be created, any periodic, impulsive or shrill noises which, when measured as in subsection (A) above, are in excess of a sound level of 5 db(A) less than the limits set out in Section 7.32.040. (Ord. 1988 § 1 (part), 1981)
- C. It is unlawful to make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises or in or upon any vehicle owned or possessed by such person or under such person's control or operation. For purposes of this Section 7.32.010(C), peace officers are empowered to make a prima facie determination as to whether a noise is unreasonable.

With regard to the operation of motor vehicles, and without limiting the generality of the Section, unreasonable noise shall include, but not be limited to:

- (1) The continuous or repeated sounding of any horn or signal device of a motor vehicle, except as a danger signal. For the purposes of this Subsection, *continuous* shall mean continuing for an unnecessary or unreasonable period of time.
- (2) The operation of any motor vehicle in a manner which causes excessive noise as a result of unnecessary rapid acceleration, deceleration, revving the engine or tire squeal.

#### 7.32.020 Definitions.

As used in this chapter the following words shall be defined as set out below:

- A. "Residential" means an area of single or multifamily dwellings where businesses may or may not be conducted in such dwellings. This zone includes areas where multiple unit dwellings, high rise apartment districts, hospitals, nursing homes and similar institutional facilities and redevelopment districts are located. A residential zone may include areas containing accommodations for transients, such as residential hotels and motels, and residential areas with limited office development, but it may not include retail shopping facilities.
- B. "Commercial" means an area containing offices, clinics and facilities needed to serve them; local shopping and service establishments located within walking distances of the residents served; tourist-oriented areas containing hotels, motels and gasoline stations, integrated regional shopping areas, a business strip along a main street containing offices, retail businesses and

commercial enterprises, commercial business district or a commercially dominated area with multiple unit dwellings.

- C. "Industrial" means an area in which noise restrictions on industry are necessary to protect the value of adjacent properties or for other economic activity, but shall not include agricultural operations.
- D. "Adjacent." When a noise source can be measured for more than one zone, the permissible sound level of the more restricted zone shall govern.
- E. "db(A)" means sound levels in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute ("ANSI"), Publication S1.4-1983 or successor publications of ANSI, or its successor bodies.
- F. "Decibel" means a unit used to express the magnitude of a change in sound level. The difference in decibels between two sound pressure levels is twenty times the common logarithm of their ratio. In sound pressure measurements sound levels are defined as twenty times the common logarithm of the ratio of that sound pressure level to a reference level of  $2 \times 10^{-5}$  N/m<sup>2</sup> (Newtons/meter squared). As an example of the formula, a 3 decibel change is a one hundred percent increase or decrease in the sound level, and a 10 decibel change is a one thousand percent increase or decrease in the sound level.
- G. "Property" means real and personal property, but not including motor vehicles or motorized bicycles or motorcycles. (Ord. 1988 § 1 (part), 1981)
- H. "Unreasonable noise" means any sound of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the city or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

#### **7.32.040 Noise limitation.**

Except as provided in Section 7.32.060 and 7.32.070, no noise shall exceed the levels set out below when measured pursuant to Section 7.32.050; provided however, that a violation of section 7.32.010(C) may occur without exceeding these levels and without a measurement:

ZONE	7 a.m. to 9 p.m.	9 p.m. to 7 a.m.
Residential	55 db(A)	50 db(A)
Commercial	60 db(A)	55 db(A)
Industrial	75 db(A)	70 db(A)

(Ord. 4998 § 1 (part), 2005; Ord. 1988 § 1 (part), 1981)

#### **7.32.050 Sound measurement.**

A noise shall be measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute "ANSI", Publication S1.4-1983, or successor publications of ANSI, or its successor bodies. Measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five miles per hour. In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement. (Ord. 1988 § 1 (part), 1981)

#### **7.32.060 Exceptions.**

- A. In the hours between seven a.m. and the next nine p.m. the noise levels permitted in 7.32.040 may be increased by 10 db(A) for a period of not exceeding fifteen minutes in any one hour.

- B. All sound emanating from any aircraft, church, warning or emergency signal device used or authorized by any government agency, or program incident to the recognition or celebration of Veteran's Day, shall not be subject to the provisions of this chapter.
- C. The provisions of this chapter shall not apply to any authorized emergency vehicle (as defined by the Model Traffic Code as amended and adopted by the city and the Colorado Revised Statutes) when responding to an emergency call.
- D. The provisions of this chapter shall not apply to those activities of temporary duration permitted by law for which a license or permit has been granted by the city, including but not limited to parades and firework displays.
- E. All railroad rights-of-way are considered as industrial zones for the purposes of this chapter and the operation of trains are subject to the maximum permissible noise levels specified for the industrial zone as indicated in 7.32.040.
- F. Construction projects shall be subject to the maximum noise level specified for industrial zones as indicated in 7.32.040 for the period of the construction project, provided that the proper construction permit has been issued by the city. (Ord. 1988 § 1 (part), 1981)

**7.32.070 Temporary permits.**

Temporary permits to exceed sound limitations of this chapter may be issued by the city manager. All temporary permits shall contain the following provisions: the duration of the permit, the sound source temporarily permitted, the hours of the day and days of the week such permit is effective, and any other limitations that may be imposed by the city manager. (Ord. 1988 § 1 (part), 1981)

## Chapter 18.80

### APPEALS

#### Sections:

18.80.010	Purpose.
18.80.020	Definitions.
18.80.030	Appeal of Final Decision Permitted; Effect of Appeal; Grounds for Appeal.
18.80.040	Appeal of City Staff Decision Maker or Director's Final Decision.
18.80.050	Appeal of Zoning Board of Adjustment or Planning Commission's Final Decision.
18.80.060	Notice of Appeal Requirements.
18.80.070	Cost of Appeal.
18.80.080	Record on Appeal.
18.80.090	Procedure at Hearing.

#### 18.80.010 Purpose.

This Chapter shall govern the procedures for appeals from any final decision made under Title 16 or Title 18 of this Code.

#### 18.80.020 Definitions.

The following words, terms and phrases, when used in this Title 18, shall have the meanings hereafter ascribed to them in this Chapter unless the context requires otherwise:

- A. "Appellant" shall mean a party-in-interest who has filed a notice of appeal under the provisions of this Chapter.
- B. "Applicant" shall mean a person that has submitted to the City an application related to the development, zoning or subdivision of real property in the city as authorized or required under the provisions of Title 16 or Title 18 and which application is the subject of appeal under this Chapter.
- C. "City staff decision maker" shall mean any City staff member granted authority to make decisions under titles 16 and 18 of this Code.
- D. "City council" shall mean the city council of the City of Loveland.
- E. "Current planning division" shall mean the current planning division for the City of Loveland development services department.
- F. "Days" shall mean all calendar days including Saturday and Sunday. Any computation of days under this Chapter shall not include the date a final decision is made. If a filing deadline falls upon a Saturday, Sunday or other legal holiday when City offices are closed, the filing deadline shall continue to the following day when City offices are open.
- G. "De novo hearing" shall mean a new public hearing at which new and additional evidence may be presented.
- H. "Director" shall mean the City's director of development services or his or her designee.
- I. "Evidence" shall mean documentary, electronic or testimonial evidence relevant to any application that was the subject of a final decision under the provisions of Title 16 or Title 18, presented at a hearing to support or refute a particular proposition or conclusion. Evidence shall not include argument as to how information offered as evidence should be viewed or interpreted.
- J. "Effective date of the final decision", as it pertains to a city staff decision maker's or director's final decision, shall mean the date the city staff decision maker or director mails his or her written decision to the affected applicant and to any other party-in-interest to whom the written decision is required by this title to be mailed. As this phrase pertains to the zoning board of adjustment or the



planning commission, it shall mean the date on which the board or commission adopts its written findings and conclusions.

- K. "Final decision", as it pertains to a city staff decision maker or the director, shall mean a decision or action by the city staff decision maker or director under Title 16 or Title 18 that the city staff decision maker or director has reduced to writing and has promptly mailed to the affected applicant and to any other party-in-interest to whom the written decision is required by this Code to be mailed. As this term pertains to the zoning board of adjustment or the planning commission, it shall mean a decision or action by the board or commission under this Code for which the board or commission has adopted written findings and conclusions. A Final decision shall not include any decision made by a city staff decision maker or the director that is a recommendation to the planning commission or to the city council, or a decision by the planning commission under this Code that constitutes a recommendation to city council.
- L. "Notice of appeal" shall mean an appellant's written request for an appeal of a final decision submitted in the form required by Section 18.80.060.
- M. "Party-in-interest", as it pertains to an appeal under this Chapter of a final decision by a city staff decision maker or the director, shall mean: the applicant; any person required in Title 16 or this Title 18 to be mailed the city staff decision maker's or director's written final decision; two or more planning commission members; or two or more city council members. As this term pertains to an appeal under this Chapter of a final decision by the zoning board of adjustment or the planning commission, it shall mean: the applicant, the director, any person required in Title 16 or this Title 18 to be mailed notice of the zoning board of adjustment or planning commission's public hearing; any person who provided written or verbal testimony at the zoning board of adjustment or planning commission's public hearing (other than a city employee who was providing written or verbal testimony in his or her capacity as a city employee); or two or more city council members. For an appeal of a Final Plat for a major subdivision or a Final Development Plan, only the applicant shall be considered a party-in-interest with standing to appeal.
- N. "Person" shall mean an individual, corporation, partnership, limited liability company or other legal entity.
- O. "Planning commission" shall mean the City of Loveland planning commission established pursuant to Section 2.60.080 of this Code.
- P. "Record" shall mean all relevant documents reviewed by a previous board, commission or city staff decision maker, and any transcript or written record of any such previous hearing.
- Q. "Zoning board of adjustment" shall mean the City of Loveland zoning board of adjustment established pursuant to Section 18.60.010 of this code.

#### **18.80.030 Appeal of Final Decision Permitted; Effect of Appeal; Grounds for Appeal.**

- A. An appeal of a final decision may be filed pursuant to sections 18.80.040 and 18.80.050 of this Chapter. Upon the filing of an appeal, any application process with the City pertaining to the subject matter being appealed shall be suspended while the appeal is pending. Any action taken in reliance upon any decision of a board, commission or other city staff decision maker that is subject to appeal under the provisions of this Chapter shall be totally at the risk of the person(s) taking such action until all appeal rights related to such decision have been exhausted, and the City shall not be liable for any damages arising from any such action taken during said period of time.
- B. Except for appeals by members of the city council, the permissible grounds for appeal shall be limited to allegations that the board, commission or other city staff decision maker committed one (1) or more of the following errors:
  - 1. Failure to properly interpret and apply relevant provisions of the Municipal Code or other law; or

2. Failure to conduct a fair hearing in that:
  - a. The board, commission or other city staff decision maker exceeded its authority or jurisdiction as contained in the Municipal Code or Charter;
  - b. The board, commission or other city staff decision maker considered evidence relevant to its findings which was substantially false or grossly misleading; or
  - c. The board, commission or other city staff decision maker improperly failed to receive all relevant evidence offered by the appellant.
- C. Appeals filed by members of the city council need not include specific grounds for appeal, but shall include a general description of the issues to be considered on appeal. Council members who file an appeal shall not participate in deciding the appeal.

**18.80.035 Review of Notice of Appeal by City Attorney.**

Within seven (7) days of the date of the filing of the notice of appeal, the notice shall be reviewed by the City Attorney for any obvious defects in form or substance. A notice of appeal which fails to conform to the requirements of Section 18.80.030 shall be deemed deficient. The City Attorney shall notify the appellant in writing of any such deficiency, which notice shall be mailed no more than seven (7) days from the date of the filing of the notice of appeal. The appellant shall have seven (7) days from the date of mailing of the notice of deficiency to cure such deficiency. If the deficiency is cured, the date the revised notice of appeal is received shall be considered the date of the filing of the notice of appeal. If the appellant does not file a revised notice of appeal within said time period, the appeal shall be deemed to be dismissed.

**18.80.040 Appeal of City Staff Decision Maker or Director's Final Decision.**

- A. A party-in-interest may appeal any final decision by the director or other city staff decision maker to the planning commission.
- B. To appeal a city staff decision maker or director's final decision to the planning commission, a party-in-interest must file a notice of appeal with the current planning division within ten (10) days of the effective date of the final decision. Failure of a party-in-interest to timely file a notice of appeal under this section shall result in the dismissal of that appeal.
- C. When a party-in-interest timely files a notice of appeal under this section, the current planning division shall schedule a public hearing for the appeal to be heard by the planning commission not less than thirty (30) nor more than sixty (60) days of the filing of the notice of appeal unless a longer period of time is agreed to by the appellant. Public notice of the hearing shall be given as required in Section 16.16.070, except the notice requirements imposed on the applicant in Section 16.16.070 shall be the responsibility of the current planning division unless the applicant is an appellant. The owner of the property associated with the appeal shall allow posting of one or more signs as needed on the subject property.
- D. The planning commission shall conduct the appeal hearing as a de novo hearing and shall apply the standards set forth in the Loveland Municipal Code applicable to the matter being appealed. After conducting the hearing, the planning commission may uphold, reverse or modify the final decision being appealed. The planning commission shall adopt at the public hearing or within thirty (30) days of the public hearing its written findings and conclusions concerning the appeal.

**18.80.050 Appeal of Zoning Board of Adjustment or Planning Commission's Final Decision.**

- A. A party-in-Interest may appeal any final decision by the zoning board of adjustment or the planning commission to the city council. An appeal of a decision made by the zoning board of adjustment hearing officer, shall follow the procedures set forth in Section 18.60.060.
- B. To appeal a final decision by the zoning board of adjustment or planning commission to the city council, a party-in-interest must file a notice of appeal with the current planning division within

ten (10) days of the effective date of the final decision. Failure of a party-in-interest to timely file a notice of appeal under this section shall result in dismissal of that appeal.

- C. When a party-in-interest timely files a notice of appeal under this section, the current planning division shall schedule a public hearing for the appeal to be heard by the city council not less than thirty (30) nor more than sixty (60) days of the filing of the notice of appeal unless a longer period of time is agreed to by the appellant. Public notice of the hearing shall be given as required in Section 16.16.070, except the notice requirements imposed on the applicant in Section 16.16.070 shall be the responsibility of the current planning division unless the applicant is an appellant. The property owner of the property associated with the appeal shall allow posting of one or more signs as needed on the subject property.
- D. The city council shall conduct the appeal hearing as a de novo hearing, and shall apply the standards set forth in the Loveland Municipal Code applicable to the matter being appealed. After conducting the hearing, the city council may uphold, reverse or modify the final decision being appealed. The city council may also remand the appeal to the zoning board of adjustment or the planning commission with directions for the zoning board of adjustment or planning commission's further consideration of the matter. If the city council upholds, reverses or modifies a final decision made by the zoning board of adjustment or the planning commission, the city council shall adopt at the public hearing or within thirty (30) days of the public hearing its written findings and conclusions. The city council's written findings and conclusions shall be considered the city council's final decision for purposes of any appeal of the city council's decision to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

#### **18.80.060 Notice of Appeal Requirements.**

The notice of appeal required to be filed under this Chapter shall include all of the following information:

- A. A description of the final decision being appealed.
- B. The date of the final decision being appealed.
- C. The name, address, telephone number and relationship of each appellant to the subject of the final decision being appealed including a statement for each appellant as to the appellant's qualification for being considered a party-in-Interest under this Chapter.
- D. For all appeals, except those filed by members of city council, a description the grounds for the appeal of the final decision, including specific allegations of error as required in Section 18.80.030.B. For notices of appeal filed by members of city council, the notice must contain the general description of issues to be considered on appeal as required by Section 18.80.030.C.
- E. In the case of an appeal by more than one (1) appellant, the name, address and telephone number of one (1) such appellant who shall be authorized to receive, on behalf of all appellants, any notice required to be mailed by the City to the appellants under the provisions of section 18.80.040 or section 18.80.050.

#### **18.80.070 Cost of Appeal**

In all appeals under this Chapter except those filed by two or more members of the planning commission or those filed by two or more members of the city council, the appellant shall be charged a fee for the cost of the appeal as such fee is established by city council pursuant to Code section 3.04.025. The city council may establish a fee for each level of appeal.

#### **18.80.080 Record on Appeal**

The record provided to the planning commission or city council for appeals filed under this chapter shall include a record of any previous proceedings before a board, commission or other city staff

decision maker, including without limitation, all exhibits, writings, drawings, maps, charts, graphs, photographs and other tangible items received or viewed by the board, commission or other city staff decision maker at any previous proceedings. A video recording of the zoning board of adjustment hearing or planning commission hearing is not required as part of the record on appeal provided summary minutes of such hearings are included as part of the record.

**18.80.090 Procedure at Hearing**

- A. At the appeal hearing, the presentation of argument regarding the appeal shall be made in the following order, subject to the discretion of the Chairperson or Mayor relating to limitations in time and scope, or allowances accommodating adequate presentation of evidence or opportunity for rebuttal:
  - 1. Explanation of the nature of the appeal by City staff;
  - 2. Appellant's presentation of evidence, testimony and argument in support of the appeal;
  - 3. Presentation of evidence, testimony and argument of the applicant if the applicant is not the appellant; or, if the applicant is the appellant, presentation of evidence, testimony and argument by any city staff member or other party-in-interest in opposition to the appeal.
  - 4. Public comment;
  - 5. Rebuttal presentation by the appellant; and
  - 6. Motion, discussion and vote by the board, commission or city council.
- B. No person making a presentation or providing testimony at an appeal hearing shall be subject to cross-examination except that members of the planning commission or city council and the City Attorney may at any time make inquiries for the purpose of eliciting information and for the purpose of clarifying information presented.
- C. In the event of multiple appeals involving the same subject matter considered by the planning commission or city council, the Chairperson or Mayor, in his or her discretion, may modify the procedure contained in Subsection (A) above so as to expedite the hearing of such appeals.
- D. The city council shall consider an appeal based upon evidence submitted at the public hearing, the record on appeal, the relevant provisions of the Municipal Code and Charter, and the grounds for appeal cited in the notice of appeal. Grounds for appeal raised for the first time at the public hearing, and therefore not raised in the notice of appeal, shall not be considered by the city council in deciding the appeal. (Ord. 5581 § 37, 2011)

## Chapter 18.40

### USES PERMITTED BY SPECIAL REVIEW

#### Sections:

18.40.005	Allowed when.
18.40.010	Definitions.
18.40.015	Purpose and restrictions.
18.40.020	Application requirements.
18.40.025	Group care facilities.
18.40.027	Sexually oriented businesses.
18.40.030	Procedures and fees for securing approval of a special review application.
18.40.040	Effect of special review approval.
18.40.050	Modifications.
18.40.055	Appeal of an administrative or planning commission final decision.
18.40.060	Termination of special review.

#### 18.40.005 Allowed when.

Uses permitted by special review are allowed in the designated districts upon issuance by the city of a type 2 or type 3 zoning permit. No person has a right or entitlement to a use by special review; rather, whenever in the reasonable judgment of the planning division, the planning commission, or city council, as is applicable, it is determined that a special review use cannot be subject to conditions or restrictions that will permit the special review use to be consistent with the purposes of zoning as set forth in Section 18.04 or for the use to be compatible with the surrounding uses of property, an application for such special review use shall be denied. Whether approval of the proposed special review use will be consistent with the purposes set forth in Section 18.04 or compatible with the surrounding uses of property shall be based upon an analysis of the factors listed in Section 18.40.015 and whether the possible conditions and restrictions on the proposed use can adequately mitigate the off-site impacts of the proposed use on surrounding properties and on the public and any adverse environmental impacts that might result from approval of the proposed special review use. (Ord. 3983 § 1 (part), 1994; Ord. 3617 § 1 (part), 1989)

#### 18.40.010 Definitions.

As used in this chapter:

- A. "Type 2 zoning permit" means a permit issued by the planning division upon administrative approval of a special review application, with or without conditions or restrictions, after a neighborhood meeting has been conducted and a written statement of findings has been agreed to by the applicant and the planning division.
- B. "Type 3 zoning permit" means a permit issued by the planning division upon approval by the planning commission of a special review application, with or without conditions or restrictions, after a public hearing has been conducted.
- C. "Neighborhood" as used in this chapter, is comprised of all properties within blocks which fall wholly or partially within the radius distances specified in Table A in Section 16.16.030(B)(1)(b)(ii), except for the neighborhood surrounding an application for special review of a sexually oriented business or a crematorium. The "neighborhood" for an application for special review of a sexually oriented business shall be comprised of all properties within blocks which fall wholly or partially within a three-thousand foot radius of all boundaries of the property under application. The "neighborhood" for an application for special review of a crematorium shall be comprised of all



properties within blocks which fall wholly or partially within a five-hundred foot radius of all boundaries of the property under application. (Ord. 5446 § 9, 2009; Ord. 5425 § 3, 2009)

- D. "Site development standards" means site development performance standards and guidelines as adopted in Chapter 18.47 of this code. (Ord. 4540 § 5, 2000; Ord. 4453 § 3, 1999; Ord. 3983 § 1 (part), 1994; Ord. 3617 § 1 (part), 1989)

#### **18.40.015 Purpose and restrictions.**

The purpose of allowing certain uses in a zoning district only upon issuance of a type 2 or type 3 zoning permit is to allow the city the opportunity to determine if the proposed use will be compatible with the surrounding uses of property. As part of its determination, the city may impose special restrictions and conditions, in conjunction with such uses, as deemed necessary, to insure that the purposes set forth in Section 18.04 will be met by the proposed use, that the effects of such uses on the surrounding neighborhood and the public in general will be ameliorated, and that the proposed use may therefore be allowed in a zoning district where it may otherwise be inappropriate and incompatible if such restrictions or conditions were not imposed. To such end, restrictions or conditions more or less strict than those set forth generally for each zoning district may be imposed by the city as a condition of approval of any special review. At a minimum, the following matters shall be considered:

- A. Type, size, amount and placement of landscaping;
- B. Height, size, placement and number of signs;
- C. Use, location, number, height, size, architectural design, material and color of buildings;
- D. Configuration and placement of vehicular and pedestrian access and circulation;
- E. Amount and configuration of parking;
- F. Amount, placement and intensity of lighting;
- G. Hours of operation;
- H. Emissions of noise, dust, fumes, glare and other pollutants.

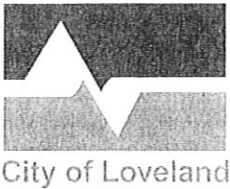
Except as varied in accordance with this chapter, the restrictions and regulations set forth for the zoning district or districts in which the special review use is located, and the provisions of this code, shall continue to apply to such use. (Ord. 4221 § 1 (part), 1996; Ord. 3617 § 1 (part), 1989)

#### **18.40.020 Application requirements.**

Application for a use permitted by special review shall conform with the following provisions and the provisions of Chapter 16.08 of this code:

- A. Written Documents. All required forms and supporting documents for a use permitted by special review shall be submitted in writing to the planning division in the number and time as provided by this chapter.
  - 1. Four copies of the application form for a special review shall be filed on forms provided by the city. The application for special review shall be signed by a property owner of the land described therein. Each application shall be signed, acknowledged and sworn to under oath before a notary public, stating that the applicant has read the application and knows the contents thereof, and that the matters stated therein are true.
  - 2. There shall be filed with each special review application a notice of special review on forms provided by the city. The notice shall be signed by all property owners and all lienholders who have any interest in the land described in the applications. All signatures thereon shall be acknowledged before a notary public.
  - 3. All applications for special review shall be accompanied by a certified list of the owners of all properties within a neighborhood as defined in Section 18.40.010 C.
  - 4. There shall be filed with each special review application an ownership and encumbrance report for all properties included in the application. The report shall be prepared by a title





**DEVELOPMENT SERVICES**  
**Current Planning**

500 East Third Street, Suite 310 • Loveland, CO 80537  
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620  
[www.cityofloveland.org](http://www.cityofloveland.org)

**PRELIMINARY STATEMENT OF FINDINGS  
AND PROPOSED DETERMINATION  
POSTED 11/22/11**

(PLEASE DO NOT REMOVE FROM THE PUBLIC POSTING AREA.  
IF YOU WISH TO OBTAIN A COPY, PLEASE REQUEST IT AT THE CURRENT  
PLANNING DIVISION COUNTER.)

**TITLE:** KUM and GO GAS STATION w/  
CONVENIENCE

**LOCATION:** Southwest corner of E. Eisenhower Blvd N. Boise  
Ave.

**APPLICANT:** Kum and Go, LC  
6400 Westown Parkway  
West Des Moines, IA

**STAFF CONTACT:** Brian Burson, Current Planning  
Sean Kellar, Engineering  
Melissa Morin, Water/wastewater  
Kevin Gingery, Stormwater  
Kathleen Porter, Power  
Carie Dann, Fire  
Tom Hawkinson, Building

**APPLICATION TYPE:** Special Review # 896

**STAFF RECOMMENDATION:** Staff recommends that the Current Planning  
Manager approve a Type 2 Zoning Permit for Kum  
and Go Gas Station, as described in the application  
on file with the City and subject to the conditions  
and technical corrections listed in this report dated  
November 22, 2011.

## I. ATTACHMENTS

1. Vicinity Map.
2. Applicant's Special Review narrative
3. Excerpts from Noise Impact Analysis, prepared by Olsson Associates.
4. SR # 896 plan set, including, site plan, landscape plan, lighting plan, and building elevations.
5. Preliminary grading plans.
6. Preliminary utility plans.

## II. SITE DATA

ACREAGE OF SITE - GROSS.....	53,157 SQ. FT.
ACREAGE OF SITE - NET.....	53, 157 SQ. FT.
ACREAGE OF SITE - RIGHT-OF-WAY .....	0.0 AC
PERCENT(%) OPEN SPACE PROPOSED .....	24.8%
EXISTING ZONING AREA (ACRES).....	B; 53,157 SQ. FT.
PROPOSED ZONING AREA (ACRES) .....	NO CHANGE
EXISTING USE.....	VACANT/VEHICLE SALES AND SERVICE
PROPOSED USE.....	GAS STATION w/ CONVENIENCE
EXIST ADJ ZONING & USE - EAST.....	B; RESTAURANT/ PROFESSIONAL OFFICES
EXIST ADJ ZONING & USE - NORTH.....	B; HWY 34 AND GAS STATION
EXIST ADJ ZONING & USE - SOUTH .....	R3; MOBILE HOME PARK
EXIST ADJ ZONING & USE - WEST.....	B, VEHICLE SERVICE
NON-RES FLOOR AREA RATIO .....	0.19
NON-RES BLDG AREA(SF) PROPOSED.....	4,958 SF
TOTAL NUMBER OF PARKING SPACES.....	28
UTILITY SERVICE - SEWER .....	CITY OF LOVELAND
UTILITY SERVICE - ELECTRIC.....	CITY OF LOVELAND
UTILITY SERVICE - WATER.....	CITY OF LOVELAND

## III. PROJECT DESCRIPTION

The application proposes to redevelop the property at the southwest corner of E. Eisenhower Blvd and N. Boise Avenue, aka 1620 E. Eisenhower Blvd. as a Kum and Go Gas Station w/ convenience. The property is zoned B-Developing Business, and had been used most recently for vehicle sales and service for RV sales and service as well as auto glass repair and service. Pursuant to the provisions of Section 18.28.020.F., a gas station is now a use allowed only through special review if the site is within 300 feet of a residential use or zone district. The properties adjacent to the south are zoned and used as mobile home parks, under existing zoning of R-3, Developing High-density Residential, thus prompting the need for a special review.

The proposed re-development will include demolition of the existing building formerly used for auto glass repair and service site, and construction of a new gas station with primary building and gas canopy. The historic of RV sales and service use has vacated the property; and recently the auto glass business has been moved to the existing building formerly occupied by the RV sales and service building, directly east of the proposed gas station. The redeveloped site would be limited to the proposed gas station, but the existing access from E. Eisenhower will be improved, and located on the property to be occupied by the auto glass repair and service, but will provide shared access for both businesses.

The proposed gas station will comply with most current City standards for gas stations, including re-located/consolidated access drive, public sidewalks, architecture, landscape, screening, and undergrounding of overhead power lines and surface stormwater facilities. The underground fuel tanks will also be as far away from the adjacent mobile home park as possible. If the special review is approved, the City will also approve an accompanying amended plat to be known as "Amended Plat of Lots 10 and 11, Block 1, Browns' Corner Addition to the City of Loveland, Larimer County, Colorado." This amended plat will move the existing lot line further west to a new location that is compatible with the overall site plan for the gas station.

#### **IV. KEY ISSUES**

Staff and the Applicant have worked to identify and resolve a number of important issues, including: undergrounding of overhead power lines along the E. Eisenhower frontage; undergrounding an open stormwater channel along the E. Eisenhower frontage into a buried pipe; providing new public sidewalks along both street frontages; locating the gas islands and gas canopy as far as possible from the adjacent residential properties; landscape bufferyards and screening of the use from the adjacent streets and residential properties; mitigation of noise from the various types and levels of noise that are likely to occur on the site; design of all exterior illumination on the site to mitigate negative impacts to residential properties and the general public; limitation of sign area and colors to be in compliance with City standards for gas stations; and quality architecture of the primary building and gas-island canopy.

Staff and the Applicant have worked hard to achieve the best possible design to mitigate as many of the normal impacts as possible. The property owner and residents of the adjacent mobile home park are very concerned about the impacts of noise. A significant noise mitigation wall will be installed along/near the common property line between the two properties. At the neighborhood meeting held on November 17, 2011 workable consensus was reached between the Applicant, the mobile home park, and the City that by placing the wall on/near the common property line, it would also create the potential for extending this wall southward along the east property line of the mobile home park to protect the park from the initial noise of vehicles leaving the east access drive onto Boise Avenue.

## **V. BACKGROUND**

December 1985 - Annexation of Brown's Corner Addition (as existing county development)

October 4, 1977 - Annexation of Sylmar Addition (as existing mobile home park)

May 23, 1985 - Approval of Sylmar 3rd Subdivision

## **VI. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION**

### **A. Notification**

An affidavit was received from Olsson Associates certifying that on November 3, 2011 written notice was mailed to all property owners within the neighborhood, as defined by Section 18.40.010.C., and public notice signs were posted on the site, both giving notice of the neighborhood meeting to be held on November 17, 2011.

### **B. Neighborhood Response**

An informal/informational neighborhood meeting was initially held at 6:30 pm on January 17, 2011. The purpose of the meeting was to provide early information to the neighborhood and allow the Applicant to evaluate the types and level of concerns from the neighborhood. The attendance sheet indicates that 17 persons attended the meeting, in addition to City staff and the Applicant's team. Concerns raised at the meeting included: location and hours of deliveries, noise impacts, hours of operation, sale of alcohol on the site, the effects on existing utilities along the common property between the site and the adjacent mobile home park, drainage, traffic impacts, whether cooking would occur in the building, and peak number of employees on the site. The meeting was adjourned at approximately 7:25 pm.

The formal neighborhood meeting was held on November 17, 2011 at 6:30 p.m. in the Parks and Recreation Large Conference Room, 500 E. 3rd St, Loveland CO. The attendance sheet indicates that 14 persons attended the meeting, in addition to City staff and the Applicant's team. Issues and concerns voice included increase in traffic impacts, especially from vehicles using the east access onto Boise Avenue; access and circulation of gas-supply tankers; increased noise impacts to the adjacent residential properties; impacts of demolition and re-development of the site upon the residential neighborhood; days/hours of operation; height and intensity of exterior lighting, especially along the rear of the property adjacent to residential properties; adequacy of the noise wall along the rear property line regarding both screening and noise mitigation; whether cooking would be done on the site; and sale of alcohol. The meeting was adjourned at approximately 8:05 p. m.

Subsequent to the neighborhood meeting, further inquiry was received by City staff from a resident of the mobile home park.

### C. Project Schedule

1. An initial informal neighborhood meeting was held on January 17, 2011 at 6:30 P.M. in the City Council Hearing Room at 500 E. 3rd Street, Loveland, CO.
2. Type 2 Special Review application was formally filed with the Current Planning Department on July 13, 2011.
3. The application was first distributed for DRT review on July 15, 2011.
3. The formal neighborhood meeting was held on November 17, 2011 at 6:30 P.M. in the Parks and Recreation Large Conference Room at the City of Loveland.
4. The staff Preliminary Findings and Proposed Determination were issued on November 22, 2011.
5. The public review and comment period for the staff preliminary findings and proposed determination shall be from November 22, 2011 to December 5, 2011.
6. The Final Statement of Findings and the Notice of Intent to Issue a Type 2 Permit will be issued December 12, 2011.
7. The appeal period for the Type 2 Zoning Permit for Special Review # 896 will be from December 12, 2011 to December 22, 2011.
8. If no appeal is filed, the Applicant will proceed with submitting final corrections and documents, and the City will issue the Type 2 Permit and Site Development Plan. If an appeal is filed, the staff determination will be suspended and the application will be scheduled for a Planning Commission public hearing at the next available meeting.

## VII. FINDINGS AND ANALYSIS

*Finding I. That the proposed special review use meets the purposes set forth in Section 18.04.010 of the Loveland Municipal Code.*

**Current Planning:** Staff believes that, subject to the recommended conditions and technical corrections, the proposed use will meet the purposes set forth in Section 18.04.010 of the Loveland Municipal Code, will not create unsafe or unhealthy conditions, and would generally promote the health and welfare of Loveland citizens. The proposed use is appropriate for the zoning district in which it lies. Although the re-development will not comply with a one of the normal standards for a gas station, staff believes that this project would be consistent with sound planning practices and the provision of current and future public infrastructure requirements. The purpose of Chapter 18.40 is to allow consideration of whether restrictions greater or lesser than

normal should be approved. Use of the special review process is an appropriate manner in which to consider and allow the proposed non-conformances.

***Finding 2.** That the effects of the proposed special review use on the surrounding neighborhood and the public in general will be ameliorated and agreement has been reached between the applicant and the City as to the location, extent, and nature of improvements that must be made and the conditions, restrictions, and modifications that have been deemed as necessary by the City to insure that impacts of the project on the neighborhood and the general public are adequately mitigated and to insure that the proposed use will be made compatible with the surrounding uses of property.*

**Current Planning:** Staff believes that, subject to the recommended conditions and technical corrections, all identified negative effects that may result upon the surrounding neighborhood and the public in general from the proposed re-development and operation of the use will be adequately ameliorated within the context of what is possible with this site.

The Applicant has been provided with a copy of the preliminary findings, analysis, and recommended conditions for approval of the application. A few practical and legal matters must be finalized in regard the location and configuration of the noise wall. Staff believes that consensus has been reached and the Applicant is willing to comply with the conditions, restrictions, and modifications that have been deemed as necessary by the City, and to install and complete the required improvements in the manner described in this report. This will be further evaluated at the time of Final Findings.

***Finding 3.** That in assessing the potential effects of the proposed special review use, at a minimum, the following matters have been considered:*

***3a.** Type, size, amount, and placement of landscaping;*

**Current Planning:** The type, size, amount, and placement of landscaping is appropriate to the proposed site, locational context, and the general area within the City. The type and placement of landscape will not obstruct any safe sight-distance triangles for the access drives. Special attention has been given to accomplishing the best landscape enhancements and screening possible under the circumstances.

***3b.** Height, size, placement, and number of signs;*

**Current Planning:** Staff believes that the height, size, placement, and number of signs are appropriate to the proposed site and the neighborhood, and the general area within the City. Special attention has been given to appearance of signs as seen from Hwy 34 and the adjacent residential areas. The freestanding sign will not be visible to the residential properties to the south, and will comply with the normal sign area limitations for gas stations. The proposed canopy signs will be consistent with the limitations for such signs as set forth in the gas station standards. The wall signs proposed for the primary building will also not be significantly visible to the residential area to the south, and will be in keeping with the proportion of the building on



which it is mounted. All signs will be designed to meet the requirements of a Planned Sign Program for this premise.

*3c. Use, location, number, height, size, architectural design, materials, and colors of buildings;*

**Current Planning:** Use, location, number, height, size, architectural design, materials, and colors of buildings are appropriate to the proposed site, the neighborhood, and the general area within the City. Special attention has been given to appearance of buildings and architecture as seen from Hwy 34 and Boise Avenue, and the adjacent residential areas. The building is low in profile and scale and includes quality and consistent features which will establish a pattern of architecture to be followed by other new development in this stretch of the corridor.

*3d. Configuration and placement of vehicular and pedestrian access and circulation;*

#### **Transportation Engineering:**

Primary access to the site will be from a right-turns only access to US 34 and a full-movement access to Boise Avenue. A Traffic Impact Study, prepared by Michael Piernicky, P.E., has been submitted with the application which demonstrates that the existing transportation system, can adequately serve the land uses proposed.

*3e. Amount and configuration of parking;*

**Current Planning:** Staff believes that the proposed parking will be adequate for the size and character of the site. Based on normal City standards, a total of twenty-five (25) spaces would be required. The application proposes to provide twenty-eight (28) spaces, along with two (2) bicycle spaces and rack. Many gasoline purchases are paid for at the pump by credit/debit card reader built into the pump shell, making it unnecessary for the vehicle to leave the gas island to make payment or purchase other goods within the building. The parking spaces on the east end of the building which are most impactful to the adjacent mobile home park have been designated for employees, limiting the noise impacts to the neighbors.

The length of the parking spaces in front of the building is a full 19 feet with a 10 foot wide sidewalk, giving a greater sense of openness and security for customers. Although certain product dispensers are planned to be located on portions of this sidewalk, 6 feet in width will remain open and useable, which exceeds City standards.

*3.f. Amount, placement, and intensity of lighting;*

**Current Planning:** Amount, placement, and intensity of lighting are appropriate to the proposed site and the neighborhood, and the general area within the City. Pole mounted lights are proposed for only 16.0 ft. above grade. Special attention has been given to preventing glare and direct light from being visible off the site, especially for the residential properties to the south.

Lighting on the under-side of the gas-island canopy will be fully recessed, meeting City standards for such lighting and further assuring that direct light and glare will not be seen off the site.

*3g. Hours of operation;*

**Current Planning:** The application proposes to operate the business 24 hours, 7 days a week. At the neighborhood meeting, some attendees expressed an interest in limiting the hours of operation since it sits near the residential properties to the south. However, specific limited hours were suggested or agreed to, and City staff sees no overwhelming need for this limitation since all noise and visual impacts will be mitigated by the noise wall and building. Staff cannot discover any basis in City code or routine practice in the area to support recommending it as a condition.

*3h. Emissions of noise, dust, fumes, glare, and other pollutants.*

**Current Planning:** Emission of noise, dust, fumes, glare, and other pollutants will not exceed inappropriate levels. A Noise Impact Analysis, prepared by Olsson Associates was submitted with the Application, and subsequently augmented with additional analysis for the site. (See **Attachment # 3**) The report indicates that most sources of noise from the site, not including vehicles that travel on the adjacent public streets, will comply with and exceed City standards, but not the nose of HVAC units mounted on the roof of the building. This has prompted a recommended condition that these units be located on the ground, behind the noise mitigation wall, unless further clear documentation is presented to the City to allow the units to be placed on the roof.

***Finding 4.** Except as may be varied in accordance with this special review permit, the special review site plan conforms to the restrictions and regulations set forth in the Loveland Municipal Code for the zoning district in which the special review use is located.*

**Current Planning:** The special review process includes the authority to approve requirements and restrictions greater or lesser than normal. As indicated in other portions of this report, one aspect of site design does not comply with the normal requirement, that being the minimum distance between gas islands and drive lanes for the northern-most drive lane on the site. Staff supports this reduction so that the gas island canopy can be as far as possible from the adjacent residential neighborhood and the normal 15 ft. wide landscape buffer can be provided along the Eisenhower frontage. With this exception, staff believes that the proposed use and development will comply with all normal restrictions and regulations set forth in the Loveland Municipal Code for the zoning district in which the special review use is located.

***Finding 5.** The special review site plan meets the requirements set forth in Section 16. 41 - Adequate Community Services - of the Loveland Municipal Code.*

### **Transportation Engineering:**

1. A Traffic Impact Study has been submitted with the Kum & Go Special Review which demonstrates that the existing transportation system, can adequately serve the land uses proposed.
2. Primary access to the site will be from a full-movement access to Boise Avenue and a right-turns only access to US 34.
3. The Applicant's traffic engineer, Michael Piernicky, P.E., has submitted a Traffic Impact Study (TIS) that indicates that the traffic associated with the proposed development will meet the City's standards. The proposed use is estimated to generate approximately 8,362 daily trips, 265 weekday AM peak hour trips, and 305 weekday PM peak hour trips.
4. A positive determination of adequacy for transportation facilities for the proposed Special Review has been made.

**Fire:** The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company (Station 1).

**Water/Wastewater:** This development is situated within the City's current service area for both water and wastewater. The Department finds that the Development will be compliant to ACF for the following reasons:

1. The proposed development will not negatively impact City water and wastewater facilities.
2. The proposed public facilities and services are adequate and consistent with the City's utility planning and provides for efficient and cost-effective delivery of City water and wastewater service.

**Stormwater:** Staff believes that this finding can be met, due to the following:

1. This project complies with the Adequate Community Services ordinance outlined in the Loveland Municipal Code, Section 16.41.140.

### **VIII. RECOMMENDED CONDITIONS**

City staff recommends the following conditions:

#### **Current Planning:**

1. Before issuance of any Certificate of Occupancy, the Developer shall install all paving, striping and signage, as shown on the approved special review plans, unless financial security is

filed by the Developer with the City to assure installation at a later date acceptable to the City.

2. Before issuance of any Certificate of Occupancy, the Developer shall install all landscape as shown on the approved landscape plans, unless financial security is filed by the Developer with the City to assure installation at a later date acceptable to the City.

3. Before issuance of any Certificate of Occupancy, the Developer shall install all fences and/or walls, as shown and described on the special review plans, unless financial security is filed by the Developer with the City to assure installation at a later date acceptable to the City.

4. All external architecture, including design, materials and colors, shall be in compliance with those depicted and described on the approved special review plans. Minor adjustments or refinements may be approved by the Current Planning Manager as part of the City review of the building permit.

5. For purposes of implementation of the City sign code for this property, the entire site, as depicted and described on the special review, shall be deemed as a single premise.

6. All signs shall be consistent with those shown and described on the special review plans. The signs depicted and described in the Special Review application shall constitute a Planned Sign Program approved by the City. Minor adjustments or refinements may be approved by the Current Planning Manager as part of the City review of the sign permit. No signs shall be installed or modified on the premise until a sign permit, approving such installation or modification, has been approved by the City.

7. All external illumination shall fully comply with the City of Loveland lighting standards as set forth in Section 3.09.02 of the City of Loveland Site Development Performance Standards and Guidelines, and shall be consistent with the lighting depicted and described on the approved special review plans. If changes are proposed to the lighting, the City shall have the authority to require a complete, updated point-by-point photometric plan, prepared by a qualified professional.

8. Approval of this special review does not constitute City agreement or approval that the development and use of the site, as shown and described in said special review, meets the requirements and limitations of the City of Loveland Sound Limitations, as set forth in Chapter 7.32 of the Municipal Code. All noise emanating from the site shall at all times fully comply with the City of Loveland Sound Limitations, as set forth in Chapter 7.32 of the Municipal Code. The City shall have the authority to compel or approve any subsequent modifications to the site, as deemed necessary in order to assure said compliance.

9. Since the north-south shared access drive easement is essential to the function of this site, this easement shall not be altered or vacated by the lot owners without written consent of the City.

10. No part of the canopy fascia shall be illuminated, other than what is allowed for the fascia-mounted logo, as depicted and described in the Special Review application.

11. The owner shall be solely responsible for repair or replacement of all landscape that may be disturbed, removed or damaged as a result of installation, maintenance or removal of utilities in the 14 foot wide utility easements along the north and east property lines. All landscape shall be replaced with equivalent plants or other improvements which satisfy the same intent, and in a manner that is approved by the Current Planning Manager.

12. Delivery and vendor vehicles, including fuel delivery trucks, shall be on site only during the hours of 9 am to 5 pm.

13. Trash trucks shall service the site only during the hours of 9 am to 5 pm.

14. The noise mitigation wall proposed along/near the south property line shall be located on or near the common property line with the mobile home park adjacent to the south, and shall be constructed to a height of at least 12 feet above finished grade. Since dedicated utility easements lie in this same area, this location and configuration must be approved by all City and non-City providers of utilities before finalization of the plans. If further investigation determines that this location will not meet City requirements for structures in a utility easement, an alternate location and configuration may be determined by agreement between Kum and Go, the City of Loveland, and the owner of the mobile home park to the south. If temporary or permanent easements are necessary, the parties shall work together in good faith to agree upon terms of such easements. At no time shall the City compel the owner of the mobile home park to convey or agree to such alternative location if it is located upon his property, or any portion thereof.

If this location for the wall can be agreed upon by all parties, Kum and Go shall also extend the wall southward from the southeast corner of the Kum and Go site, extending to a point southward which is agreed upon by the parties prior to posting the Final Findings. This is for the purpose of providing additional noise mitigation from vehicles leaving the site southbound upon Bois Ave.

15. Before submitting the Special Review and Site Development Plan mylars for City signatures, the plans shall be further revised to completely depict and note all required signage for handicap parking, as set forth in the published ADA standards and the City of Loveland Performance Standards and Guidelines (SDPSG).

16. Before submitting the Special Review and Site Development Plan mylars for City signatures, the plans shall be further revised to completely depict and note all required landscape irrigation, as set forth in the City of Loveland Performance Standards and Guidelines (SDPSG).

17. All HVAC and other mechanical equipment located on the roof of the building shall be screened from view of all adjacent public streets and the residential property to the south, in a manner that meets the applicable City standards and to the satisfaction of the Current Planning Manager, as finally determined at time of building permit review.

18. No HVAC or other mechanical equipment shall be located on the roof of the building, unless

the Applicant clearly demonstrates, to the full satisfaction of the Current Planning Manager, that equipment to be placed on the roof shall fully comply with the provisions of Chapter 7.32 of the Municipal Code, as amended; with the additional requirement that there shall be no provisions to allow the noise levels to exceed the normal maximum for 15 minutes out of any hour. Before approval of such alternative, the Applicant shall submit to the Current Planning Manager a complete design and supporting documentation demonstrating, to the full satisfaction of the Current Planning Manager, that all noise that is anticipated to occur on the site shall be fully mitigated in a manner that fully complies with the aforesaid provisions. The design and documentation must be prepared by a licensed professional engineer with professional expertise in environmental acoustics.

19. No more than 12 lineal feet of the sidewalk in front of the building shall be available for placement of external vending and dispensing devices. These devices shall not obscure any window of the building, and a minimum of 5 foot of unobstructed walkway width shall be maintained.

#### **Transportation Engineering:**

20. Notwithstanding any information presented in the Special Review or accompanying construction plan documents (text or graphical depictions), all public improvements shall conform to the Larimer County Urban Area Street Standards (LCUASS) as amended, unless specific variances are requested and approved in writing.

21. Prior to the issuance of any building permits within this Special Review, unless otherwise approved by the Director pursuant to the provisions in Section 16.40.010.B of the Loveland Municipal Code, the following public improvements shall be designed and constructed by the Developer unless designed and constructed by others. A cash-in-lieu payment for all or part of these improvements may be accepted if approved in writing by the City Engineer:

a. Ultimate roadway improvements to US 34 adjacent to the property, including curb, gutter, and sidewalk as shown on the City approved Public Improvement Construction Plans.

b. The northbound left-turn lane striping at Boise Avenue and the site access as shown on the City approved Public Improvement Construction Plans.

22. Prior to the issuance of any building permits within this Special Review, written concurrence from CDOT needs to be provided to the City for the proposed improvements within CDOT right-of-way.

23. Prior to submittal of the Final Special Review mylars, the applicant shall provide the City with a copy of the approved CDOT access permit for the proposed access to US 34.



## **IX. TECHNICAL CORRECTIONS**

Before issuance of a Type 2 or Type 3 Permit by the City, the Applicant shall make the following final revisions, corrections or clarifications to the plans to the full satisfaction of the City.

### **Current Planning:**

1. The irrigation plans shall be further revised to clarify whether the 2 rows of rotary sprinklers along Eisenhower, are truly full circle rotation heads, and if they will spray water onto the public sidewalk and into the street.
2. Once the final location and configuration of the noise mitigation wall is determined, all appropriate plan sheets will be revised to depict and note the final location, configuration, dimensions and materials used for this wall.
3. The photometric plan sheets shall be further revised to clarify that all ceiling mounted lights on the under-side of the gas canopy roof will be fully recessed, as stipulated by City standards.

### **Transportation Engineering:**

4. Provide a special curb ramp detail for the directional curb ramps at the access points, demonstrating full compliance with the adopted LCUASS standards.
5. Relocate the two "Right Lane Must Turn Right" signs to Sta 2+60 and Sta 0+75.
6. Submit a copy of the written CDOT concurrence for the proposed access to US 34 prior to submittal of the final mylars.
7. Submit the final "Opinion of Probable Public Improvement Construction Cost Estimate", with PE Stamp, to Sean Kellar.

### **Water/Wastewater:**

8. A note shall be added to the on-site landscape plan addressing the inadequacy of the required separation distances between the trees and the wastewater main on the south side of the building and sound wall within the existing utility easement. The note should be similar to the note regarding the sound wall that you added to the On-Site Utility Plan.

### **Stormwater:**

9. Please return a signed/stamped original of the Final Drainage Report for our document retention program.

## X. STANDARD REQUIREMENTS

(Standard requirements are not conditions of approval, and are not a complete statement of applicable codes and standards. They are instead a good faith effort of City staff to bring to the Applicant's attention those requirements already specifically set forth in the Loveland Municipal Code, or related adopted standards, which would normally apply to all development such as proposed in this application.)

### **FIRE:**

1. The requirements of the Fire Code, Building Code (with regards to fire and life safety issues), and NFPA standards currently adopted at the time of building construction will have to be met.
2. Water mains supplying hydrants must be looped whenever possible and be a minimum size of 8-inch.
3. All hydrants shall be in place and operational prior to any combustible material being brought on site.
4. Hydrant placement shall meet the following criteria with distances measured by vehicular travel path: Commercial/Multifamily -- 400-ft to all parts of a structure with 350-ft spacing
5. The minimum fire flow and flow duration for buildings other than one and two family dwellings shall be as specified in the adopted fire code. A reduction in required fire flow of up to 50% is allowed when building is provided with an approved automatic sprinkler system. However, the resulting fire flow shall not be less than 1500 GPM.
6. Turning radius must meet the B40 template.
7. A minimum of two points of access must be provided to the development prior to any combustible materials being brought on site. These temporary access points must have an all-weather surface capable of supporting the weight of emergency apparatus and remain passable throughout the construction process.
8. Approved address numbers are required on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property and shall contrast with their background.
9. Guard posts or other approved means shall be provided to protect hydrants; gas meters; storage tanks and connected piping, valves and fittings; dispensing area; and use areas subject to vehicular damage.
10. Access roadways within the City and UGA shall be finished by an application of an all-weather driving surface of hot mix asphaltic concrete or concrete pavement over a flexible base capable of supporting a design wheel load of 18,000 pounds (GVM 80,000 pounds minimum). This applies to all types of access roadways (emergency access, 2nd access, etc.).