



**LOVELAND PLANNING COMMISSION MEETING
AGENDA**

**Monday, March 12, 2012
500 E. 3rd Street – Council Chambers
Loveland, CO 80537**

THE CITY OF LOVELAND DOES NOT DISCRIMINATE ON THE BASIS OF DISABILITY, RACE, CREED, COLOR, GENDER, SEXUAL ORIENTATION, RELIGION, AGE, NATIONAL ORIGIN OR ANCESTRY IN THE PROVISION OF SERVICES. FOR DISABLED PERSONS NEEDING REASONABLE ACCOMODATIONS TO ATTEND OR PARTICIPATE IN A CITY SERVICE OR PROGRAM, CALL 962-2523 OR TDD 962-2620 AS FAR IN ADVANCE AS POSSIBLE.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. REPORTS:

a. Citizen Reports

This is time for citizens to address the Commission on matters not on the published agenda.

b. Staff Matters

c. Committee Reports

d. Commission Comments

Policy matters, directions to staff, etc.

IV. APPROVAL OF MINUTES:

No minutes to approve.

V. CONSENT AGENDA:

There are no items scheduled for the Consent Agenda

VI. REGULAR AGENDA:

1. Kum & Go Appeal SR # 896

This is a quasi-judicial matter involving a public hearing on the appeal of the Planning Division's approval of a Special Review for a proposed Kum & Go gas station and convenience store at the SW corner of Eisenhower Boulevard and Boise Avenue. The appellant is Kevin Borchers who represents Champion K&K Enterprise, LLC, the owner of the Sylmar Mobile Home Park; this mobile home park is located immediately south of the subject site. Mr. Borchers contends that noise from the proposed business will have a detrimental impact on residents of the Sylmar Park and that the proposed 8 foot high noise mitigation wall will not sufficiently mitigate noise impacts. A 12 foot high noise mitigation wall is desired by the appellant.

VII. ADJOURNMENT



DEVELOPMENT SERVICES

Current Planning

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AGENDA ITEM NO:

1

PLANNING COMMISSION MEETING:

March 12, 2012

APPLICATION SUMMARY:

This is an appeal of the Current Planning Manager's approval of a Special Review for a proposed Kum & Go gas station and convenience store located at the SW corner of the intersection of Eisenhower Boulevard and Boise Avenue. The 1.2 acre site is zoned B-Developing Business which stipulates that proposed gas stations within 300 feet of a residential zone or residential use require special review approval. The special review process is administrative and designed to ensure compatibility with nearby uses. The site is immediately adjacent to the Sylmar Mobile Home Park. Owners of the Sylmar Park have appealed the special review approval, raising concerns regarding noise and indicating that the reduction of an originally planned sound mitigation wall at the rear of the site from 12 feet to 8 feet in height would negatively impact residents of the mobile home park.

APPELLANT:

Kevin Borchers on behalf of Champion K&K Enterprise, LLC

STAFF PRESENTER:

Bob Paulsen, Current Planning Manager

APPLICATION TYPE:

APPEAL of an Administrative Determination

RECOMMENDATION:

City staff recommends, subject to additional evidence presented at the hearing, that the Planning Commission make the following motion:

Move to deny the appeal and uphold the determination of the Current Planning Manager to approve a Special Review and issue a Type III Zoning Permit for a proposed Kum & Go gas station/convenience store based on the findings specified in Section IX and subject to the conditions as specified in Section X of the March 12, 2012 Planning Commission staff report, as modified on the record.

ALTERNATE OPTIONS:

1. Adopt a modified Motion (specify in the motion)
2. Reverse the Current Planning Manager's decision
3. Adopt a motion continuing the item to a future meeting

I. SUMMARY OF KEY ISSUES

Concerns of area neighbors have centered on the issue of traffic and the associated issue of noise. The November 17, 2011 neighborhood meeting was attended by 13 citizens, most of whom are nearby residential neighbors of the project site. At the meeting, staff was presented with a petition signed by 43 area residents who indicated concerns with the noise generated by traffic from the proposed project. At the meeting, there was strong interest in having a 12-foot-high wall located at the rear of the Kum & Go site to mitigate on-site traffic noise. There was also interest in having the vehicular entrance along Boise moved northward to reduce the level of associated traffic noise on the adjacent neighbors. The Noise Study prepared by the applicant's consultant team indicated that a 12-foot high wall would be needed to achieve compliance with the night-time standards (55dba) specified in the City's Noise Ordinance.

Preliminary Findings were posted following the neighborhood meeting, indicating that a 12-foot high wall would be allowed. Following the posting of the Preliminary Findings (refer to **Attachment 8**) Current Planning staff determined that it was inappropriate to administratively approve a deviation from the City's wall height standards to the extent requested. The Municipal Code specifies a height limit of 6 feet, 3 inches for perimeter walls. The 12 foot wall represented nearly a doubling of that amount. While the Special Review provisions allow for deviations from code specifications, staff has never agreed to relax a standard by the degree requested. As a result, staff contacted the applicant's team and requested that the applicant explore other means of meeting the City's noise standards without the need for a 12-foot wall.

In reevaluating the noise study, the applicant's noise consultant determined that the original night-time noise projections were unnecessarily high due to over-estimated traffic volumes. The applicant consequently revised the noise study (refer to **Attachment 3**), reduced the proposed wall height to 8 feet, and made other minor adjustments to the site plan. The eventual appellant, Mr. Borchers, and one other Sylmar resident, questioned the validity of the noise study, the motivations behind the change in plans, and decided that the interests of area residents and the Sylmar Park would be better served by a 12-foot high wall as originally planned. The Final Findings and Determination (refer to **Attachment 9**), approved by the Current Planning Manager included the 8-foot sound wall; this decision was appealed in timely fashion by Mr. Borchers.

II. ATTACHMENTS

1. Appeal of a Director's Decision for Kum & Go gas station with convenience (Special Review #896) submitted by Kevin Borchers for K&K Enterprise, LLC on February 8, 2012.
2. Neighborhood Meeting –Record of Attendance, November 17, 2011; petition with 44 signatories.
3. Technical Memorandum, to Ryan Halder from Michael C. Piernicky, PE, PTOE, Olsson Associates, Summary of Revised Noised Analysis, Dated January 19, 2012.
4. Noise Study, Kum & Go #995, Prepared by Olsson Associates, October, 2011.
5. Chapter 7.23 of the Loveland Municipal Code, Sound Limitations, City's Noise Ordinance.
6. Chapter 18.80 of the Loveland Municipal Code, Appeals.
7. Sections 18.40 – 18.40.015 of Chapter 18.40 of the Loveland Municipal code, Uses Permitted by Special Review.
8. Preliminary Statement of Findings and Proposed Determination, Kum and Go Gas Station w/Convenience, posted November 22, 2011.

9. Final Statement of Findings and Proposed Determination, Kum and Go Gas Station w/Convenience, posted January 31, 2012.
10. Special Review #896 and Site Development Plan for Kum & Go Station #995, sheets 1-25.

III. HEARING PROCEDURE

Appeal procedures pertaining to final decisions made under Title 18 of the Municipal Code are specified in Chapter 18.80—Appeals. Final decisions that are subject to Chapter 18.80 include administrative determinations. A copy of Chapter 18.80 is provided as **Attachment 6** to this staff report. The following represents the sequence for the appeal hearing once the hearing is called to order by the Planning Commission Chair:

1. City Staff provides a brief presentation on the nature of the appeal
2. Appellant's presentation of evidence, testimony and argument
3. Presentation of evidence, testimony and argument by City Staff or other party in interest in opposition to the appeal.
4. Public comment
5. Rebuttal presentation by the appellant
6. Motion, discussion and vote by the Planning Commission

IV. SITE LOCATION & ATTRIBUTES

1. Location

The Kum & Go gas station / convenience store was submitted for development review approval as Special Review # 896. The site is flat and includes 1.2 acres located at the SW quadrant of the



intersection of Eisenhower Boulevard and Boise Avenue. The site is vacant except for a single story metal building located at the south end of the property adjacent to Boise Avenue. A Boundary Line Adjustment has been submitted in association with the Special Review in order to expand the subject lot (Lot 11, Block 1, Brown's Corner Addition) to create a larger lot to accommodate the Kum & Go business. Former business uses have relocated from the site, leaving the property unused. An auto glass business is located immediately to the west; McGraff's restaurant is located across Boise to the east; a gas station is located across Eisenhower to the north. Adjacent to the south property boundary is the Sylmar Mobile Home Park. The homes are oriented around Sylmar Place with the rear of several homes located

within 15-20 feet of the common property line of the subject site.

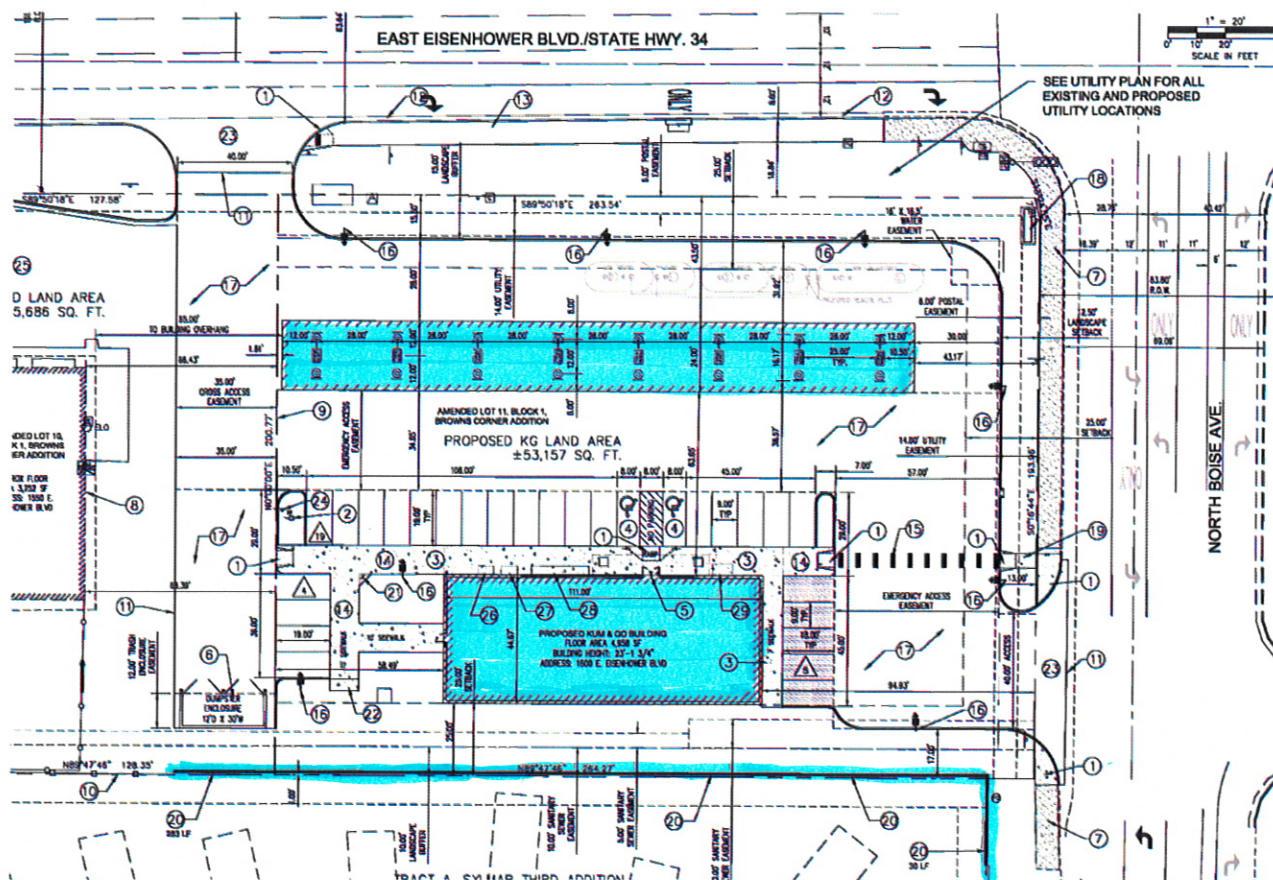
2. Zoning

The site is zoned B-Developing Business, allowing for a variety of business uses; however, proposed gas stations that are located within 300 feet of a residential use or residential zone require special review to determine if the project can be made compatible with nearby uses. Special review applications are taken through the development review process; site plan review is the most critical part of the review process. Through this process, staff is able to impose requirements that are either more or less stringent than code requirements specified in Title 18. The process is administrative unless the applicant and the City cannot come to agreement, or when the City's approval is appealed by any party in interest. A neighborhood meeting is a required component of the process—a process designed to identify issues of concern and provide an opportunity for resolving such issues. In addition to the neighborhood meeting process, parties of interest have the opportunity to review proposed plans through the posting of Preliminary Findings and Final Findings.

V. PROJECT DESCRIPTION

1. Project Design

The proposed gas station / convenience store is oriented to Eisenhower Boulevard, with a right-in, right-out vehicular ingress/egress point at the northwest portion of the site. A second full-movement point of access/egress is located at the SW portion of the site, and aligns roughly with Topaz Drive across Boise. An 8-island fuel island and canopy is located along the Eisenhower frontage; the



KUM & GO SITE PLAN:

The building, gas canopy and noise wall are highlighted in blue

5,000 sf convenience store is located to the back of the site, 25 feet from the property line. The proposed single story convenience store is faced with a dark brick, with lighter brick and stucco accenting. The entrance is accented with a curved arc and the Kum & Go sign/logo. Landscaping is provided in bufferyards along the adjacent streets, providing street-side buffering and screening of the fueling pumps. Significant landscape treatment, including deciduous and conifer trees, are provided along the south side of the site in effort to buffer the adjacent wall and neighborhood to the south. An 8-foot high wall is proposed along the rear property line; a portion of the wall (6 feet in height) continues along Boise Avenue to the south of the project. This portion of the wall is off-site and technically not part of the special review project.

2. Noise Study

A requirement of the Kum & Go was the submittal of a noise impact analysis to the City which demonstrated that the noise generated by the use would be in compliance with the City's Sound Limitations provisions (otherwise known as the noise ordinance). The noise study is a projection or estimate of the noise that would be generated by the use, including noise from HVAC equipment and on-site traffic. The applicant would not be responsible for pre-existing noise, like that which is attributable to current traffic volumes on adjacent portions of Eisenhower Boulevard and Boise Avenue. The noise ordinance (see **Attachment 5**) specifies that noise generated onto an residential property must not exceed 55 decibels (db(A)) between 7:00 am and 9:00 pm and not exceed 50 db(A) between 9:00 pm and 7:00 am. (The noise study provided by Kum & Go includes a table on page 2 comparing the noise volumes generated by various sources, see **Attachment 4**) During the daytime hours, the provisions allow for exceedences of 10 db(A) for under 15 minutes—allowing temporary noise increases that may be caused by trash collection vehicles and other temporary activities. In conducting the noise study, on-site readings were along with projected readings 25 feet into the adjacent mobile home park.

The results of the noise study (see **Attachment 4**) indicated that due to traffic on Eisenhower, noise levels on the site currently exceed the 55 db(A) level; moreover, noise levels within the adjacent mobile home park also exceed the 55 db(A) daytime level and the 50 db(A) nighttime level. Kum & Go, however, is not responsible for these existing noise levels.

The noise study also indicated that a noise attenuation or mitigation wall was necessary to mitigate on-site traffic noise from the Kum & Go site onto the adjacent mobile home property. Several projected readings were taken at a 25 foot distance from the south property line of the Kum & Go site. The noise levels were highest at the northeast portion of the mobile home park. To mitigate noise levels to achieve compliance with the City's noise limitations, a 12-foot high wall was designed for installation along the property boundary between Kum & Go and the Sylmar mobile home park.

Following the issuance of Preliminary Findings by the Planning office, a re-examination of the project, particularly the proposed 12-foot high wall was initiated by the City. Among other issues, the Planning office requested that the applicant re-examine the noise analysis to determine if satisfactory noise mitigation could be achieved through means other than a 12-foot wall. On January 19, 2012, Olsson Associates submitted a Technical Memorandum (see **Attachment 3**) that recalibrated noise levels generated from the site to reflect lower on-site traffic volumes occurring during evening hours (9:00 p.m. to 7:00 a.m.). Off peak hour vehicle traffic counts reflected a 40% reduction from the on-site peak hour counts that had been used in previous versions of the noise study. The modification to the noise study resulted in a decrease in projected vehicle traffic during

evening hours; the corresponding reduction in projected on-site noise made it possible for an 8 foot-high wall to provide adequate noise mitigation in order to achieve compliance with the City's Noise Ordinance. The City reviewed the revised analysis and found the methodology to be reasonable and acceptable.

VI. PROJECT TIMELINE

July 13, 2011	Special Review application submitted
November 17, 2011	Neighborhood Meeting
November 22, 2011	Preliminary Findings posted
Dec / Jan 2012	Discussions / negotiations with applicant's team regarding noise wall, noise study and minor site adjustments
January 2012	Meeting and discussions with concerned neighbors
January 19, 2012	Technical Memorandum submitted describing revised noise study
January 31, 2012	Final Findings posted
February 8, 2012	Appeal filed
March 12, 2012	Appeal hearing

VII. SUMMARY OF THE APPEAL

On February 9, 2012, Kevin Borchers, on behalf of Champion K&K Enterprise, LLC, filed a timely appeal with the Planning office. The appeal document (see **Attachment 1**) indicates that the appellant is the owner of the Sylmar Mobile Home Park which is located immediately to the south of the Kum & Go site. The primary reason for the appeal is the contention that the proposed 8-foot high wall located along the boundary between the Kum & Go site and the mobile home park would not be as effective as a 12-foot high noise mitigation wall. A 12-foot wall was preferred by neighbors attending the neighborhood meeting on November 17th; the 12-foot wall had been included in subsequent plans submitted by the applicant. The appeal also indicates concerns with the revised noise analysis provided by Olsson Associates which utilized reduced night-time traffic volume projections which made it possible for an 8-foot high wall to mitigate noise sufficiently to meet the City's noise ordinance limitations. The appeal questions the assumptions utilized in the revised analysis, indicating that traffic comparisons with the Kum & Go store on North Garfield may not be valid and that there had been no corresponding reduction in the number of gas pumps or other factors that might suggest a reduction in vehicular trips generated by the use.

The appeal goes on to indicate that daytime traffic noise is also detriment to residents (particularly elderly residents) of the mobile home park and that a higher wall would provide greater noise mitigation. The appeal further indicates that a 12-foot wall can be mitigated visually with trees and shrubs. The appeal re-emphasizes that the reduction in projected traffic volumes from the initial estimate is an unjustified presumption and that there is no study which backs up this change.

VIII. STAFF ANALYSIS AS TO THE APPEAL

The primary purpose of the special review process is to determine if a proposed use can be made compatible with surrounding uses within the neighborhood. By their nature, uses listed as special review uses within the various zoning districts may raise compatibility issues. The special review

process enables the City to impose limitations greater than the Code otherwise requires in achieving compatibility; the process also allows the City to relax code standards when appropriate. In the B-Developing Business District, gas stations (with or without convenience stores) are special review uses. Therefore, the proposed Kum & Go facility underwent special review procedures by the City's development review team. Even though the proposed facility is a relatively large service station, and it will border an established residential neighborhood, staff believes that the project as designed, and with the imposition of the recommended conditions, will be compatible with other uses in the vicinity. The Findings in Section IX of this report address the specific issues of compatibility.

The primary issue raised by the appeal is whether the proposed 8-foot high wall is satisfactory to mitigate noise and achieve compliance with the City's noise limitations. Based on analysis provided by the applicant, City staff believes that sufficient noise mitigation will be achieved with the proposed site design, including the 8-foot high wall. The appellant questions whether the applicant's revised noise analysis is valid and proposes that the wall be raised to 12 feet—thereby ensuring maximum protection to the residents of the mobile home park.

As the appellant points out, a 12-foot high wall was initially presented as a solution to the noise mitigation issue. The original noise analysis provided by Olsson Associates confirmed that this approach was needed to achieve compliance with the City's noise standards. Based on response from area residents attending the November 17, 2011 neighborhood meeting, the location and height of the wall was generally acceptable to concerned residents. The Preliminary Findings posted by the Planning office supported this arrangement.

Following the neighborhood meeting the issuance of Preliminary Findings by the Planning office, a re-examination of the project, particularly the proposed 12-foot high wall, was initiated by the City. Concerns about the 12-foot high wall were as follows:

- A primary concern related to the administrative approval of a wall that is nearly double the height allowed by the Code. Perimeter walls are allowed to be a maximum height of 6 feet, 3 inches as specified by Code. While the special review process allows staff latitude in applying the Code, staff believed that an increase in height nearly double what the Code allows for would be an inappropriate decision for staff to make. A broader public review was needed if the wall was to remain at 12 feet in height.
- As a second and related issue is the concern with precedent. In the view of staff, approval of a 12-foot high noise wall along one of the City's important commercial corridors could conceivably promote similar solutions occurring elsewhere. In staff's view, a 12-foot high wall is an imposing structure that may have negative aesthetic and functional consequences if utilized inappropriately.
- A possible negative aesthetic consequence is having a large wall (or eventually, wall) serving as a canvass for graffiti.
- Finally, staff questioned if the residential neighbors would ultimately find it a 12-foot wall to be an imposing and unfriendly feature in their backyards.

With these concerns in mind, staff requested that the applicant take a fresh look at the noise study and the design of the project to see if a less drastic solution was possible. As indicated in Section V. of this report, the applicant subsequently re-analyzed the noise issue, determining that it was logical to adjust the projected night-time traffic levels generated by the use. Based on discussion with the applicant's

engineer and subsequent review of the revised analysis, staff accepted the methodology and conclusions of the revised noise analysis. With this adjustment, a 12-foot high wall was not needed to bring the use into compliance with the City noise ordinance; an 8-foot high wall was successful in achieving compliance.

IX. FINDINGS

NOTE: Applicable Findings as specified by the Municipal Code are indicated with italic font; these findings must be met, as demonstrated in the submitted application or as specified in the associated conditions, for the application to be approved. Staff analysis follows the findings, indicating how the findings have or will be met.

***Finding 1.** That the proposed special review use meets the purposes set forth in Section 18.04.010 of the Loveland Municipal Code.*

Current Planning: Subject to the recommended conditions, the proposed use will meet the purposes set forth in Section 18.04.010 of the Loveland Municipal Code; specifically, the use 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. City staff believes that this project would be consistent with sound planning practices and the provision of current and future public infrastructure requirements. The special review process allows for consideration of deviations from the Municipal Code requirements based on specific site constraints such as increased height of the noise wall from 6 to 8 feet.

***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 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. The special review site was designed to lessen the impacts on the surrounding neighborhood to the maximum extent feasible. The store building was placed towards the rear of the site to in screening and buffering the fuel islands and vehicles. In terms of noise impacts generated by the use, City staff has reviewed the Noise Analysis (**Attachment 4**) and the technical memorandum provided by the applicant's noise engineer (**Attachment 3**) and is in agreement that the 8-foot wall will provide compliance with the City's noise limitations and will adequately mitigate noise impacts on the adjacent neighborhood. Further, the use of landscaping, including coniferous trees, will continue to aid in noise mitigation and provide visual enhancement as viewed from adjacent properties.

***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 screening of the fuel pumps along Eisenhower and visually softening the appearance of the 8-foot wall through the use of coniferous plantings.

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

Current Planning: 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 the appearance of buildings and architecture as seen from Eisenhower Boulevard 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-turn only access from US 34 and a full-movement access to Boise Avenue. The Boise access must align with Topaz Drive to maximize safety and to provide optimal spacing and safety relating to adjacent intersection of Eisenhower and Boise. 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: 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 closest to the adjacent mobile home park have been designated for employees, helping to limit 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. Certain product dispensers are planned to be located on portions of this sidewalk, nonetheless, a 6 foot portion of sidewalk 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 is 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 is adjacent to the residential properties to the south. Notwithstanding these concerns, the hours of operation have been considered and there is no demonstrated need for limitation to the business hours since noise and visual impacts will be mitigated by the noise wall and building.

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, based on the plans and reports submitted by the applicant. A Noise Impact Analysis, prepared by Olsson Associates, was submitted with the Application, and subsequently revised with a Technical Memorandum dated January 19, 2012. The report (including the Memorandum) indicates that all sources of noise generated by the proposed use of the site will be in compliance with City standards. The January 19, 2012 Technical Memorandum recalibrated noise levels generated from the site to reflect lower on-site traffic volumes occurring during evening hours (9:00 p.m. to 7:00 a.m.). Off peak hour vehicle traffic counts reflected a 40% reduction from the on-site peak hour counts that had been used in previous versions of the noise study. The modification to the noise study resulted in a logical decrease in projected vehicle traffic during evening hours; the corresponding reduction in projected on-site noise made it possible for an 8 foot-high wall to provide adequate noise mitigation in order to achieve compliance with the City's Noise Ordinance. Table 1 of the Technical Memorandum indicates the noise levels at various locations within the Sylmar Park for daytime and nighttime periods. The City's Noise Ordinance (Section 7.32.060) allows for 10 dba exceptions to the 55 dba daytime noise level limits for periods not exceeding 15 minutes within any one hour period. In Table 1, the columns denoted as Total 1 for the 6-foot, 8-foot and 10-foot noise barriers all indicate some level of daytime noise occurring above the 55 dba level. Overall, projected noise levels occurring within the adjacent Sylmar mobile home park will be reduced from the current levels due to the noise wall and the placement of the convenience store building. Essentially and effectively, the current condition relating to noise will be improved for these residents.

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. 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. Additionally, the proposed 8-foot wall is a deviation from a maximum 6-foot 3-inch wall height allowed by code. This increase in wall height is supported to mitigate noise onto abutting residential properties. With these exceptions, 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:

Staff believes that this finding can be met, based on the following:

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.

X. CONDITIONS

Current Planning:

1. All improvements as shown and described on the Special Review plans shall be installed as depicted and in a manner acceptable to the City.
2. Delivery and vendor vehicles, including fuel delivery trucks and refuse (trash pick-up) vehicles, shall be on site only during the hours of 9 am to 5 pm.
3. 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.
4. 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.
5. The owner shall be solely responsible for repair or replacement of all landscape that may be disturbed, removed or damaged, including damage 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.
6. Before submitting the Special Review and Site Development Plan mylars for City signatures, the plans shall completely depict and note all required landscape irrigation, as set forth in the City of Loveland Performance Standards and Guidelines (SDPSG).
7. Before submitting the Special Review and Site Development Plan mylars for City signatures, the plans shall 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).
8. All noise emanating from the site shall 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. 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 constructed

to a height of 8 feet above finished grade. Since dedicated utility easements lie in this same area, the final location and configuration must be approved by all City and non-City providers of utilities. 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. This is for the purpose of providing additional noise mitigation from vehicles leaving the site southbound upon Boise Avenue. If the wall is to be greater in height than 6-foot 3-inches, application for a variance application shall be submitted to and approved by the City prior to construction of this portion of the wall.

Transportation Engineering:

9. 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.
10. 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.
11. 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.
12. 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.