



**LOVELAND PLANNING COMMISSION MEETING
AGENDA**

**Monday, July 22, 2013
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

IV. APPROVAL OF MINUTES

Review and approval of the July 8, 2013 Meeting minutes

V. CONSENT AGENDA:

The consent agenda includes items for which no discussion is anticipated. However, any Commissioner, staff member or citizen may request removal of an item from the consent agenda for discussion. Items removed from the consent agenda will be heard at the beginning of the regular agenda.

Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption by the Planning Commission and acceptance by the Applicant of the staff recommendation for those items.

1. Marianna Butte 25th

Mr. Jess Rodriguez has submitted a written request for a two-year extension of the Preliminary Plat and Preliminary Development Plan for the Mariana Butte 25th Subdivision (Mountain Gate). Mr. Rodriguez is the owner and potential developer of the 34-acre property generally located at the northwest corner of W. 1st Street and Namaqua Avenue. In February of 2012, the Preliminary Plat was approved by the City for 51 lots (46 paired single-family units and 5 detached single-family units).

VI. REGULAR AGENDA:

2. King of Glory

This is a public hearing concerning the annexation and zoning of a 4.28 acre parcel owned by the King of Glory Lutheran Church located at the northwest corner of N. Wilson Avenue and W. 29th Street. The property would be annexed and zoned to facilitate future development/redevelopment of the existing church facility. No development/redevelopment is however being proposed in conjunction with the annexation. However, there is the anticipation of erecting columbarium/memoria walls upon annexation. The hearing is to consider the following items:

- A legislative action for annexation of 4.28 acres; and
- A quasi-judicial action for zoning the property to R1- Developing Low Density Residential District.

Staff believes that all key issues have been resolved based on City Codes and standards. The King of Glory Addition is a property that is becoming more and more surrounded by the City's municipal boundaries in northwest Loveland as a result of recent annexations that have included the Fire Station 2 and Mehaffey Park. The property is in the City's Growth Management Area (GMA) and is currently served by City water and sewer.

3. Oil and Gas Development Code Amendment

Amendments to zoning regulations for oil and gas development;
An ordinance amending Chapter 18.77 and Chapter 18.78 (redline version);
This item is a public hearing to consider amendments to Chapters 18.77 and Chapter 18.78.

VII. ADJOURNMENT

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
July 8, 2013

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on July 8, 2013 at 6:30 p.m. Members present: Chairman Meyers; and Commissioners Middleton, Massaro, Dowding, and Crescibene. Members absent: Commissioners Molloy, Prior, Krenning and Ray. City Staff present: Bob Paulsen, Current Planning Manager; Judy Schmidt, Deputy City Attorney, and Karl Barton, Strategic Planning.

These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Community Services office.

CITIZEN REPORTS

There were no citizen reports.

STAFF MATTERS

1. **Bob Paulsen, Current Planning Manager**, thanked the Commission members who attended the 06/24/13 Planning Commission Meeting simply to approve the meeting minutes from the 06/24/13 meeting. It was much appreciated.
2. **Karl Barton, Strategic Planning**, addressed the Commission to inform them of several exciting new projects that will require the Commission's time and effort in the next years to come. First is a business development plan for the U.S. 287 Highway Corridor that extends North and South, but excludes the downtown area. A decision was made to hire a consultant for this project due to limited staffing resources, and because of the time and attention it will take to complete a project of this size and scope. The focus of the plan will be to look at the development conditions along U.S. 287, and come to a determination as to what can spur private investment along the corridor in order to make it more vital. The goal is to improve the aesthetic climate along this stretch of corridor, ensure the transportation system continues to function optimally, and that the codes in place are appropriate for the conditions and development potential on the corridor. A statement of qualifications request was issued and we received responses from 9 consultant teams. Staff is currently reviewing those bids and will select 3 teams to respond to more specific requests for proposals along with a precise budget amount. The planning effort is targeted to kick off prior to the end of 2013, and continue into mid-year 2014. The second project is the 2015 Comprehensive Plan. This project has also gone through the statement of qualification process. It is a brand new Comprehensive Plan and will contain a new land use map. The objective is to determine where Loveland is now and where it will go in the future. Staff anticipates a large public outreach process during the duration of this project, as it is critical to the success of this effort. The process for choosing consultants for this work was similar to the 287 Corridor project, and Staff received proposals from 6 different planning teams. The aim is to interview the teams prior to the end of the year, and more detailed proposals will be requested once a budget has been finalized for this plan. The role of the Planning Commission will be to assist Staff and the consultant team in the creation of this plan. Staff is anticipating that the

implementation of this project will pave the way to a more useful and powerful tool in guiding the future growth of Loveland.

Mr. Paulsen assured the Commissioners that they would be kept updated with status as the projects move forward, either from himself or Karl.

3. **Mr. Paulsen** brought to the attention of the Commission that there are items on the agenda for the next two Planning Commission meetings to be held on July 22nd, and August 12th.
4. **Chair Meyers** asked Staff to prepare a ZBA update for the July 22nd or August 12th meeting.

COMMITTEE REPORTS

There were no committee reports.

COMMISSIONER COMMENTS

Commissioner Middleton thanked the City Council, Mayor, and the Loveland Fire Department for the great July 4th fireworks show over Lake Loveland. **Chair Meyers** noted that the 07/08/13 Planning Commission Meeting was the first to be streamed live online for public viewing.

APPROVAL OF THE MINUTES

Chair Meyers asked for a motion to approve the minutes from the 06/24/13 Planning Commission meeting. **Commissioner Middleton** moved to approve the minutes. Upon a second by **Commissioner Dowding**, the meeting minutes were approved four to one with **Chair Meyers** abstaining since he was absent at the 06/24/13 Planning Commission meeting.

REGULAR AGENDA

1. Intergovernmental Agreement with Johnstown and GMA Boundary Amendment

This is a public hearing to consider two separate but related items that are part of a larger strategy of cooperation with the Town of Johnstown in the handling of annexation and planning matters in the area where the two communities are adjacent.

First, an Intergovernmental Agreement (IGA) between the City of Loveland and Town of Johnstown. This IGA establishes a process for cooperation between the two municipalities when processing annexations in an area generally described as being bounded by I-25 on the east, Larimer County Road 7 on the west, and State Highway 60 on the south, extending north for approximately one and one half miles and defined in the IGA as the Overlap Area. Second, an amendment to Loveland's Growth Management Area boundaries so as to remove certain properties located on the west and east sides of I-25, north of State Highway 402, and primarily south of the Big Thompson River. This amendment is being proposed as a clean-up of the GMA boundaries as it is unlikely that Loveland would be able to annex or serve any of the property being removed from the GMA.

Mr. Barton addressed the Commission and explained that Staff is asking for recommendation of both the Loveland and Johnstown Intergovernmental Agreement (IGA) and GMA Boundary Amendment (GMA) for City Council approval. The goal is to get final approval from City Council by the August 20th Council meeting. The IGA marks a new period of cooperation and agreement between the City of Loveland and the Town of Johnstown. Regional growth in Loveland and area communities has historically caused conflict during planning and annexation pursuits. This new growth also presents possibilities for neighboring communities to work together, and allows for more harmonious land use patterns, more proficient provision of infrastructure, and other services. **Mr. Barton** presented a map to the Commission indicating adjacent areas of Loveland and Johnstown as well as the existing Growth Management Overlap Areas. The map also illustrated the Larimer County Loveland GMA Overlay Zoning District. The district represents an agreement with the City of Loveland and Larimer County that states when a landowner comes to Larimer County for a discretionary land use approval, the property owner must contact Loveland to see if annexation is possible or desirable. The area along Highway 402, and to the west side of I-25, is not covered by the overlay zoning district. The biggest reason for this omission is due to the fact that Larimer County does not want to be involved in the conflict between Loveland and Johnstown regarding the GMA overlaps. Once an agreement is accomplished, Larimer County may entertain the idea of extending the zoning district into this area. Although there is no guarantee from Larimer County, it is the hope that an approved IGA will contribute to that effort. The ultimate goal is to forge a corridor plan for Highway 402, which has been indicated as a City Council priority. The IGA itself has a geographical affected area located west of I-25 to County Road 7, north of Highway 60, south of Highway 402, but not necessarily abutting Highway 402. Given the proximity to I-25, a planned interchange at Highway 16, I-25, and State Highway 60, growth pressure should be expected; land owners will want to develop their property. The IGA allows Loveland and Johnstown to work together with the annexation applicant to make the best decision possible in relation to annexation, planning, and zoning. The IGA has a process for discussion and collaboration on other planning efforts as well. Annexation is strictly the choice of the property owner and neither municipality relinquishes any rights. **Chair Meyers** questioned whether setbacks for mineral, oil, and gas right agreements would be included in the IGA. **Mr. Barton** assured the Commission that those good faith efforts are covered in the IGA; however neither community has control over the land uses of the other. **Mr. Barton** displayed two maps, one which revealed existing GMA boundaries; the other showed the proposed GMA boundaries. The new proposed boundaries would provide a “clean up” of the GMA’s and the surrounding areas by eliminating sections in the flood plains. It also would remove zones that would be too cost prohibitive for the City of Loveland to provide services to or that Loveland would not have the necessary contiguity to annex. The clean-up would provide a more accurate picture of areas that the City of Loveland expects to urbanize in the future. In return, the Town of Johnstown has agreed to relinquish the Ehrlich property from their GMA, as well as a rectangular parcel nearby. The Town of Johnstown is also presenting this IGA to their board for approval. The City of Loveland and Town of Johnstown currently has staff agreement for both the IGA and GMA’s. It should be noted that a public open house was held for affected property owners. Next step for the IGA is to go before the Loveland City Council on August 20th for approval. Johnstown will follow a similar approval process and it should be communicated that both the IGA and GMA are contingent on Johnstown approval. Staff recommends that the Commission ask the City Council for approval of both these items.

Chair Meyers stated that he understood that the outreach that staff did with the open house and mailings were not required by law, but were done as a courtesy to the community. **Mr. Barton** confirmed there was no process for approving an IGA. The GMA does require a public hearing notice, and mailings and phone calls were sent to community members. In addition, a public hearing notice was published in the newspaper.

Mr. Massaro stated he understood there was a small turn out at the open house, but was curious if there was any negative feedback from the attendees. **Mr. Barton** stated that for the most part participants at the open house were curious about the IGA and GMA's, but he did not receive negative reactions.

Ms. Dowding asked what role Larimer County will play in the future process. **Mr. Barton** responded he was hopeful that Larimer County will work closely with Loveland on the overlay expansion. He explained the first step is to communicate that there is an agreement between Loveland and Johnstown, indicating that the conflict has been resolved. He acknowledged that Larimer County will be involved in any SH 402 corridor planning, and confirmed that Larimer County has been kept apprised of any planning that has already occurred.

Mr. Crescibene stated that he felt the IGA was long overdue and that it was good to see it come before the Commission. He wondered what would happen if a landowner wanted to annex their property into Loveland if their property was within the Johnstown GMA. **Mr. Barton** explained that if the landowner had contiguity, then technically Loveland would have the final decision whether to annex a property but noted that the goal of the IGA is to create a culture of cooperation between the two communities. **Mr. Paulsen** added that based on state statutory requirements, 1/6th of a property proposed for annexation must have contiguity with existing property in Loveland in order for annexation to be considered.

Mr. Middleton thanked **Mr. Barton** for his effort and hard work that went into the creation of the IGA. He asked for the record to show that this is a public hearing; however there are no community members in the audience. He also asked if there was a shelf life for the IGA. The IGA specifically states that either community can opt out of the agreement. **Ms. Schmidt** explained that there are two provisions in the IGA; first, either party can terminate the agreement, but they must provide a year's notice. Second, the agreement is intended to run for a 10 year period and will automatically start to roll in 5 year increments unless one city or the other provides notice that they don't want it to go forward. That notice also requires a year's notice. **Mr. Middleton** clarified the question and asked how long it would take to get the agreement finalized. He said he wouldn't like to see the process drag out for 2 or 3 years. **Mr. Barton** stated that the City Council would most likely propose a timeframe for Johnstown to approve the agreement, however if it gets into a situation where it is not getting approved by Johnstown in a relatively timely fashion, it might indicate that Johnstown isn't interested in entering the IGA. **Mr. Barton** felt that was very unlikely. **Ms. Schmidt** added that IGA's typically don't contain a provision as to when it must be approved.

Chair Meyers stated he felt that in the spirit of good faith, having an expiration date in the IGA probably wouldn't be a good idea.

Mr. Massaro asked **Mr. Barton** if the IGA is on the Town of Johnstown agenda for approval. **Mr. Barton** explained that he didn't know when it would be on the Johnstown agenda, but he had been in contact with **John Franklin, Town of Johnstown Planner**, who indicated he still needed to speak with his manager regarding timing of the approval.

Mr. Massaro shared that he would be voting in favor of the IGA.

Mr. Middleton agreed that the IGA was needed and is pleased with the work done so far. He stated that he would be voting in favor of the IGA and would like to see it finalized in 120 days.

Ms. Dowding shared that she felt the IGA and GMA boundary clean-up was long overdue, and stated that both looked very solid and clean and she appreciated the effort that went into creating them.

Chair Meyers stated that the IGA demonstrated great effort on behalf of City Staff, City Managers, and City Council from both cities. He stated he was in strong support of the IGA and GMA and would be voting in support of both.

Commissioner Middleton made a motion to recommend that the City Council adopt the proposed Intergovernmental Agreement between the City of Loveland and Town of Johnstown. Upon a second from **Commissioner Dowding** the motion was unanimously approved.

Commissioner Middleton made a motion to recommend that the City Council amend the City of Loveland "2005 Comprehensive Plan" by the amendment of Section 4.7—Future land use plan map as needed for the anticipated Intergovernmental Agreement with the Town of Johnstown and as proposed to "clean up" Loveland's GMA Boundaries. Upon a second from **Commissioner Dowding** the motion was unanimously approved.

ADJOURNMENT

Vice-Chair Middleton asked for a motion to adjourn. **Commissioner Crescibene** made a motion to adjourn. Upon a second by **Commissioner Dowding**, the motion was unanimously adopted and the meeting was adjourned.

Approved by: _____
Buddy Meyers, Planning Commission Chairman

Kimber Kreutzer, Planning Commission Secretary



City of Loveland

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

MEMORANDUM

July 22, 2013 – Consent Agenda 1

To: Loveland Planning Commission

From: Troy Bliss, City Planner II

Subject: Preliminary Plat Extension Request of Mariana Butte 25th Subdivision (Mountain Gate) (PZ #10-00120)

This is a quasi-judicial action and a public hearing on an application to extend the Preliminary Plat for Mariana Butte 25th Subdivision (Mountain Gate).

Mr. Jess Rodriguez has submitted a written request for a two-year extension of the Preliminary Plat and Preliminary Development Plan for the Mariana Butte 25th Subdivision (Mountain Gate). Mr. Rodriguez is the owner and potential developer of the 34-acre property generally located at the northwest corner of W. 1st Street and Namaqua Avenue. In February of 2012, the Preliminary Plat (**Attachment 4**) was approved by the City for 51 lots (46 paired single-family units and 5 detached single-family units).

Section 16.20.020 of the subdivision code indicates that Preliminary Plats shall be valid for one year. A Final Plat must be submitted to the City within this one year time period or the application is deemed withdrawn, unless an extension to the Preliminary Plat is granted by the Planning Commission for good cause shown. With PUD zoning, a Preliminary Development Plan (PDP) is processed at the same time as the Preliminary Plat. The PDP is also valid for one year following approval. The PDP can be extended by the Current Planning Manager. It is customary for the Current Planning Manager to extend a PDP for the same length of time that the Planning Commission extends a Preliminary Plat. When a Preliminary Plat or Preliminary Development Plan expires, a new application must be filed and all application fees paid.

Mr. Rodriguez cites economic factors including the real estate market versus the cost of infrastructure improvements and raw water that are complicating his ability to file Final Plat and Final Development Plan applications. In March 2013, shortly after the Preliminary Plat had expired, Mr. Rodriguez was in contact with staff regarding the extension (**see Attachment 2**). Upon requesting additional information, staff received the formal request on May 9, 2013 (**see Attachment**

1). Historically, staff's approach with extension requests has been that if a request to extend is received within reasonable proximity to the actual expiration date, the request is brought forward for Planning Commission consideration. Staff also verifies with all City Departments that the project is still in compliance with current development standards. The Mariana Butte 25th Subdivision Preliminary Plat does comply with all current City standards and the associated Preliminary Development Plan still maintains its vested right. Additionally, this is a recent project still fresh in the minds of the neighborhood (which supported the development) and some activity has occurred on the portion of the site that was donated to the Loveland Historical Society for the Medina Family Cemetery.

Planning staff has no objection to this request. Staff believes that it will serve no practical purpose to require a re-submittal of the approved applications. If the Planning Commission approves an extension request for the Preliminary Plat, staff would look favorably on extension of the Preliminary Development Plan for the same time period. If an extension request is denied by the Planning Commission, staff will not entertain an extension of the Preliminary Development Plan.

If an extension is approved, the applicant will be required to submit a Final Plat and Final Development Plan within the specified extension period or a re-application of the Preliminary Plat and Preliminary Development Plan will be necessary. These final documents must be accompanied by Public Improvement Construction Plans (infrastructure plans) that are consistent with the City's current standards at the time of submittal.

RECOMMENDED MOTION

Move to make a finding that the applicant has shown good cause due to recent economic conditions, including the real estate market versus the cost of infrastructure improvements and raw water, and based on that finding, approve the request for a two-year extension of the Preliminary Plat of the Mariana Butte 25th Subdivision to February 7, 2015.

ATTACHMENTS:

1. May 9, 2013 Letter of Request from Jess Rodriguez
2. March 12, 2013 email initially asking for request
3. Preliminary Plat for Mariana Butte 25th Subdivision (approved February 7, 2012)
4. Portions of the Preliminary Development Plan for Mariana Butte 25th Subdivision (Mountain Gate)

Dear Troy, as per our conversation this letter will serve as formal request for a two year extension for the Mariana Butte 25th subdivision preliminary plat project #PZ10-00120. I am requesting a two year extension for economic reasons. I feel that the Real Estate market will not support the lot prices that I will have to achieve because of improvement costs and raw water requirements. Since I started the platting process the water alone has doubled in cost. I hope that that the market will catch up in the very near future and I will be able to get started.

Regards



Jess R Rodriguez

5/9/2013

Troy Bliss

From: coldtrail@comcast.net
Sent: Tuesday, March 12, 2013 11:07 AM
To: Troy Bliss
Subject: extension

Dear Troy, as per our conversation, I would like to get a one year extension on the Mariana Butte 25th subdivision, also known as Mountain Gate.

If you have any further questions please do not hesitate to call.

Regards
Jess R Rodriguez

PRELIMINARY PLAT FOR MARIANA BUTTE TWENTY FIFTH SUBDIVISION

BEING A SUBDIVISION OF LOT 1 BLOCK 12 MARIANA BUTTE SEVENTH SUBDIVISION AND A PORTION OF TRACT A MARIANA BUTTE PUD FIRST SUBDIVISION, ALL SITUATE IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO.

SHEET 1 OF 3

PROPERTY DESCRIPTION
MARIANA BUTTE TWENTY FIFTH SUBDIVISION:

Parcel 1
Lot 1, Block 12, Mariana Butte Seventh Subdivision, in the City of Loveland, County of Larimer, State of Colorado.

Parcel 2
A parcel of land being a portion of Tract A, Mariana Butte P.U.D., First Subdivision to the City of Loveland, County of Larimer, State of Colorado, according to the Plat on file in the office of the Clerk and Recorder said County, being more particularly described as follows: Beginning at the Northeast corner of Lot 1, Block 12, Mariana Butte Seventh Subdivision to the City of Loveland, according to the Plat on file in the office of the Clerk and Recorder said County, thence along the Southerly and Easterly lines of Tract A, said Mariana Butte Seventh Subdivision, the following two courses and distances; South 89°52'30" East 20.00 feet; thence North 00°07'30" East 280.59 feet to a point on the South line of Tract W, said Mariana Butte P.U.D., First Subdivision, thence along said South line South 89°55'31" East 1,137.17 feet to a point on the Easterly line of Tract A, thence along the Easterly and Southerly lines of Tract A, the following courses and distances; South 04°22'54" West 254.56 feet, thence North 89°45'22" West 289.28 feet, thence South 01°15'20" West 229.49 feet, thence North 89°48'36" West 848.49 feet to a point on the East line of Tract T, said Mariana Butte Seventh Subdivision, thence along said East line and along the East line of said Lot 1 Block 12, North 00°07'30" East 200.00 feet to the Point of Beginning.

Containing 33.52 Acres, more or less, and being subject to all existing easements and/or rights-of-way of record.

GENERAL NOTES:

- Outlots A, B, C, D and E are not building sites.
- This project is subject to an Annexation Agreement which has been recorded in the Real Property records in the Office of the Larimer County Clerk and Recorder.
- This project, at final plat stage may be subject to a Development Agreement which shall be recorded in the Real Property records in the Office of the Larimer County Clerk and Recorder.
- All easements adjacent to Street right of ways, as shown on this plat, are to be dedicated as public 14' Access, Utility, Drainage and Postal Easements.
- All on-site drainage improvements, including swales and detention ponds, shall be owned and maintained by the Mariana Butte Twenty Fifth Subdivision Homeowners Association.
- Maintenance and upkeep of stormwater detention ponds, storm sewer systems, swales, and permanent stormwater quality improvements are required by the City of Loveland and are a continuing obligation of the Mariana Butte Twenty Fifth Subdivision Homeowners Association. The Mariana Butte Twenty Fifth Subdivision Homeowners Association shall provide ongoing maintenance of the private stormwater improvements as needed to maintain compliance with the approved construction plans and reports.
- The property lies within Flood Zone "X" (no hazards) per the Flood Insurance Rate Map (FIRM) as prepared by the Federal Emergency Management Agency (FEMA), Panel No. 08069C1169F having an effective date of December 19, 2006.
- Developer-installed landscaping improvements shall be owned and maintained by the Mariana Butte Twenty Fifth Subdivision Homeowners Association (HOA).
- Publicly dedicated rights of way are to be maintained by the City of Loveland. Landscaping improvements within publicly dedicated rights of way are to be maintained by Mariana Butte Twenty Fifth Subdivision Homeowners Association.
- Outlets B, C, D and E are hereby dedicated as emergency access, access, public utility, drainage and landscape easements. All portions of outlets that fall within and/or overlap on existing or proposed exclusive easement shall be excluded from the above referenced dedication as emergency access, access, public utility, drainage and landscape easements.
- Basis of Bearings for this Survey: The South line of the of the Southwest Quarter of Section 16, Township 5 North, Range 69 West of the 6th P.M., City of Loveland, County of Larimer, State of Colorado, is assumed to bear South 89°45'06" East.
- Benchmarks: City of Loveland benchmark 95-62, Aluminum disk on concrete irrigation headwall at the Southwest corner of the intersection of 1st Street and Namqua Road. Elevation=5033.40
- (M) = Field measured bearing and/or distance per found monumentation.
(R) = Record bearing and/or distance per legal description and recorded subdivision plats.
- All building pads as shown and labeled hereon contain 2600.0 square feet unless otherwise noted.
- Structures/items that shall be contained within the lot/building envelope include roof eaves, foundation footings, window wells, building extrusions such as bay windows, porches, decks and patios.
- Indicates Project Boundary

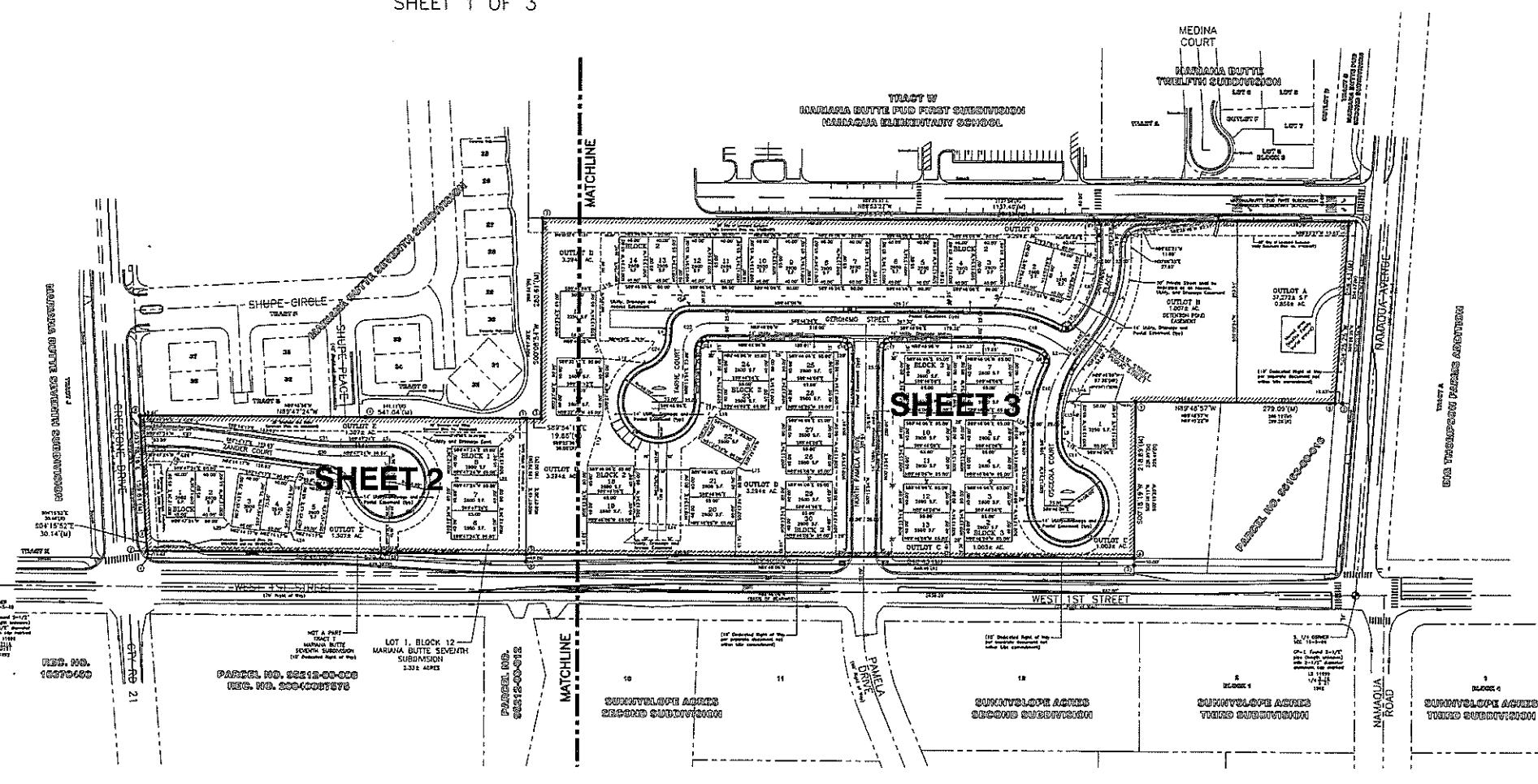
SETBACK NOTES:

Front Setback: Zero (0') feet to the property line, sixteen (16') feet minimum from the back of the sidewalk (or back of curb if no sidewalk exists) to the face of the structure, and twenty (20') feet minimum to the face of the garage.

Side Setback: Zero (0') feet to the property line, and ten (10') feet minimum between adjacent structures.

Rear Setback: Zero (0') feet to the property line, and ten (10') feet minimum between adjacent structures.

TRACT	ACRE(S)	% SITE	USE	WATER	OWN/MAINTAIN
Outlot A	0.856	2.58%	Point of Interest/Loveland Historical Society	N/A	Historical Society
Outlot B	1.007	3.00%	Utilities/Landscape/Open/Drainage/Access	N/A	Homeowners Assoc.
Outlot C	1.003	2.99%	Utilities/Landscape/Open/Drainage/Access	Potable	Homeowners Assoc.
Outlot D	3.294	9.83%	Utilities/Landscape/Open/Drainage/Access	Potable	Homeowners Assoc.
Outlot E	1.307	3.90%	Utilities/Landscape/Open/Drainage/Access	Potable	Homeowners Assoc.
Totals	7.467	22.28%			



CONTACT INFORMATION

Owner/Applicant: Jess Rodriguez
Attn: Jess Rodriguez
5534 Stone Church Court
Loveland, CO 80537
(970) 217-9602

Civil Engineer: KBN Engineers
Attn: Mike Kettlering
820 8th Street
Greeley, CO 80631
(970) 395-9880

Land Surveyor: Intermill Land Surveying, Inc.
Attn: Steven Stencel, PLS
1301 N. Cleveland Ave.
Loveland, CO 80537
(970) 669-0316

Traffic Engineer: Eric Brocke
Attn: Eric Brocke
5401 Taylor Lane
Ft. Collins, CO 80525
(970) 988-7551

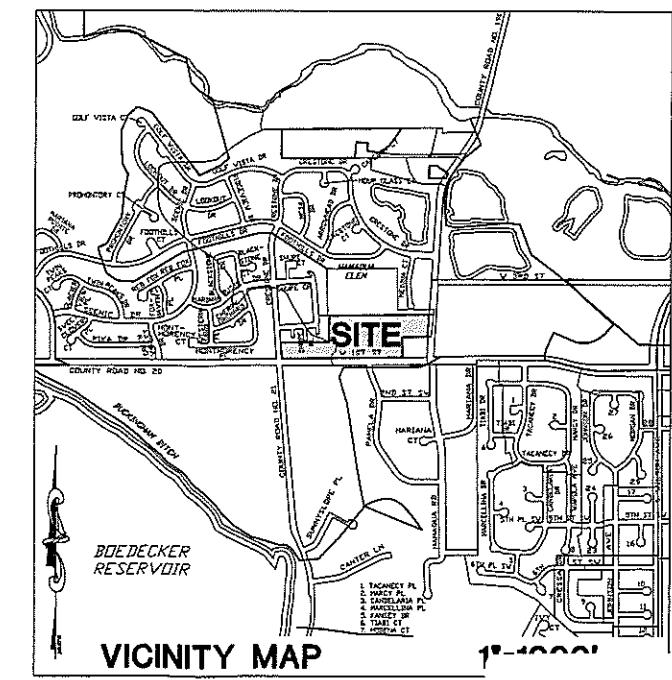
SHEET INDEX

- Cover Sheet
- Preliminary Plat (WESTERN PORTION)
- Preliminary Plat (EASTERN PORTION)

PLANNING COMMISSION APPROVAL:

This plat is approved by the City of Loveland Planning Commission this _____ day of _____, 20____.

Chairman - City of Loveland Planning Commission

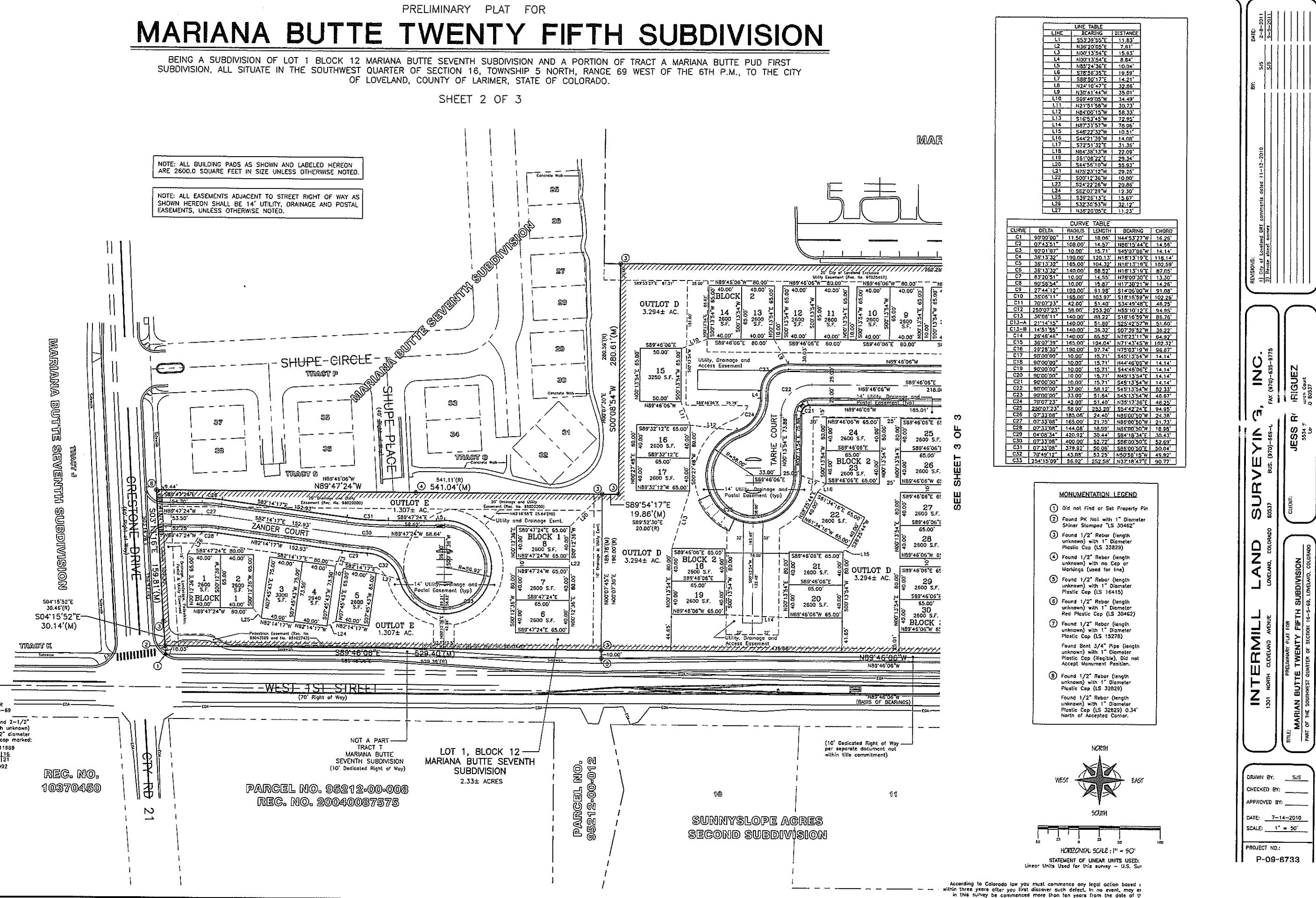


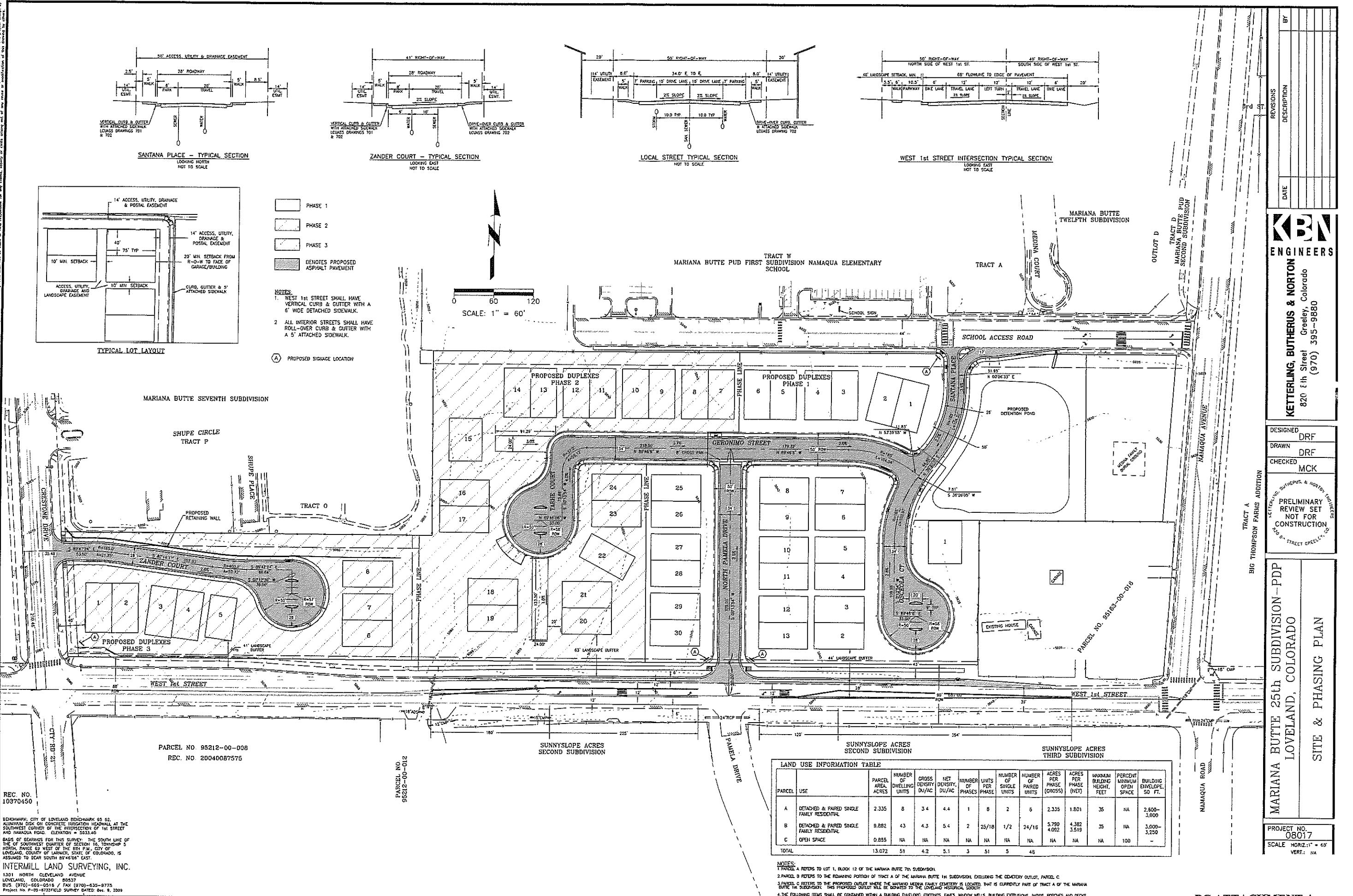
According to Colorado law you must commence any legal action based within three years after you first discover such defect. In no event may this survey be commenced more than ten years from the date of

INTERMILL LAND SURVEYING, INC.
BUS. (800) 9-0516 / FAX (970)-655-9775
5534 Stone Church Court
LOVELAND, COLORADO 80537
CLERK:

DRAWN BY: SJS
CHECKED BY: _____
APPROVED BY: _____
DATE: 7-14-2010
SCALE: 1" = 100'
PROJECT NO.: P-09-R733
1:10000
1-10000

DATE: 2-8-2011
BY: SJS
SHEET NO.: 3/3
REVISIONS:
1) City of Loveland DMR comments dated 11-12-2010
2) Recent Street names



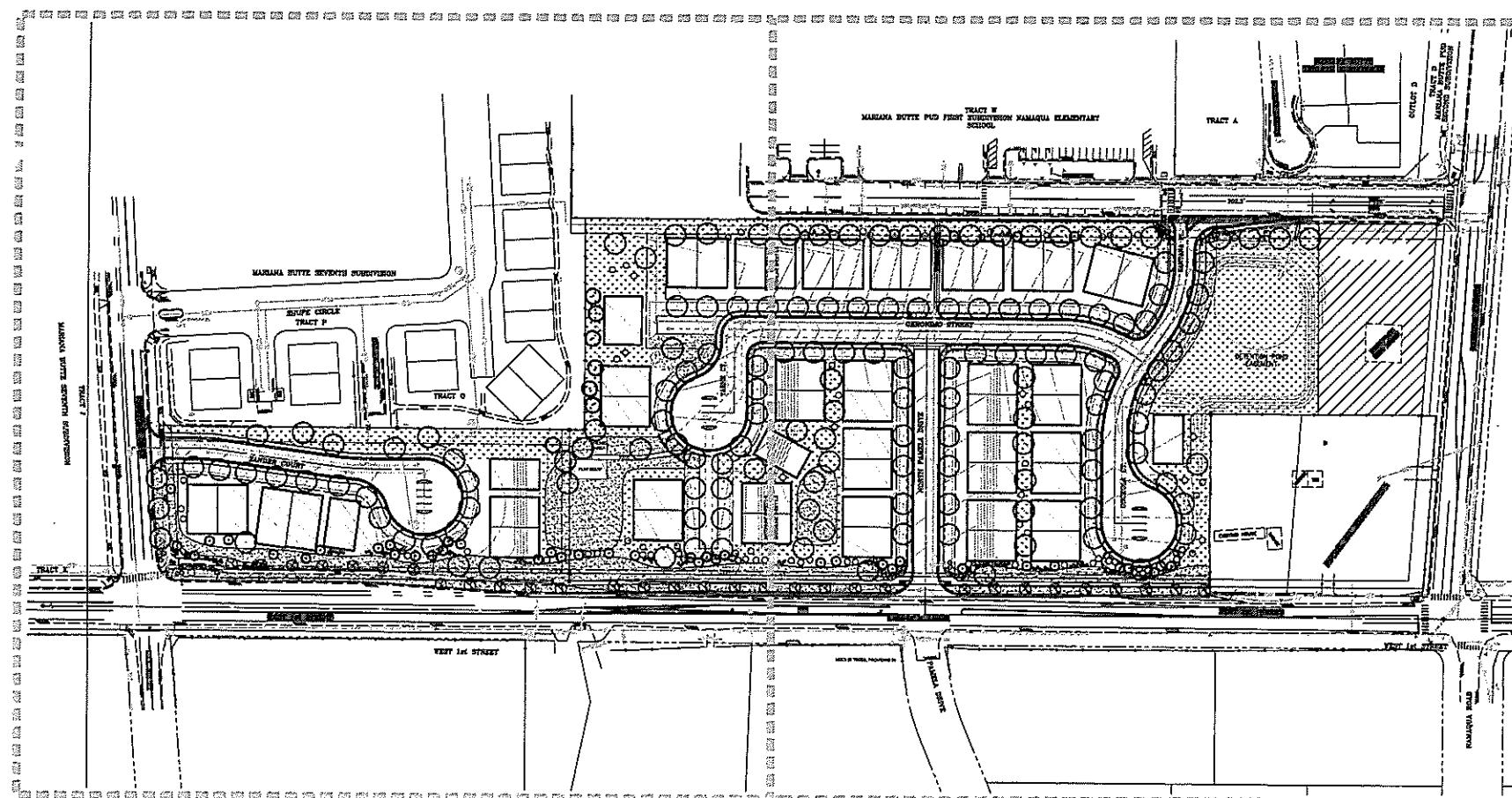


MARIANA BUTTE TWENTY FIFTH SUBDIVISION

MOUNTAIN GATE PRELIMINARY DEVELOPMENT PLAN

PRELIMINARY LANDSCAPE PLAN

SHEET 9



SHEET 10

LANDSCAPE CONCEPT

THE MOUNTAIN GATE LANDSCAPE IS INTENDED TO MEET SEVERAL IMPORTANT REQUIREMENTS. FIRST, THE LANDSCAPE IS MEANT TO MEET THE LOVELAND SITE DEVELOPMENT GUIDELINES AND SPECIFICATIONS IN ADDITION TO THE AMENDED MARIANA BUTTE GENERAL DEVELOPMENT PLAN. SECONDLY, THE LANDSCAPE IS DESIGNED TO PROVIDE AN ATTRACTIVE SETTING FOR THE DEVELOPMENT WHICH DOES NOT REQUIRE EXTENSIVE WATER AND MAINTENANCE TO FULFILL ITS FUNCTIONS. IN ADDITION, THE MOUNTAIN GATE LANDSCAPE IS INTENDED TO BE PART OF THE MARIANA BUTTE PUD VISUALLY, WHILE PROVIDING A LINK TO THE NEARBY RURAL CHARACTER THROUGH THE USE OF NATIVE GRASSES AND PLANTINGS WITH INCREASED DROUGHT TOLERANCE.

LANDSCAPE NOTES

1. THIS PRELIMINARY LANDSCAPE PLAN ILLUSTRATES THE PROPOSED LANDSCAPE TREATMENTS WHICH SHALL BE THE RESPONSIBILITY OF THE DEVELOPER. THE LANDSCAPING WITHIN EACH OF THE PROPOSED BUILDING SITES WILL BE THE RESPONSIBILITY OF THE DEVELOPER OF EACH BUILDING. ORNAMENTAL TREES ARE USED INSTEAD OF REQUIRED CANOPY TREES ALONG 1ST STREET DUE TO OVERHEAD POWER LINES. THESE TREES MUST NOT BE FRUITBEARING AND THE BRANCHES MUST BE PRUNED TO PRESERVE PEDESTRIAN ACCESS AND AVOID SIGHT TRIANGLE CONFLICTS.
2. ALL LANDSCAPING SHALL BE IN COMPLIANCE WITH THE CITY OF LOVELAND SITE DEVELOPMENT PERFORMANCE STANDARDS AND GUIDELINES, AND THE AMENDED MARIANA BUTTE GENERAL DEVELOPMENT PLAN.
3. ALL LANDSCAPED AREAS SHALL PROVIDE 75% COVERAGE OF LIVE MATERIALS WITHIN 3 YEARS OF INSTALLATION, AS STATED IN THE LOVELAND SITE DEVELOPMENT PERFORMANCE STANDARDS AND GUIDELINES.
4. THE AREA BETWEEN EACH BUILDING SITE AND THE BACK OF SIDEWALK SHALL BE LANDSCAPED AND MAINTAINED BY THE OWNER OF THE BUILDING.
5. NO FENCING SHALL BE INSTALLED WITHIN OR AROUND INDIVIDUAL BUILDING LOTS.
6. COORDINATE STREET TREE LAYOUT WITH METER PIT LAYOUT TO MAINTAIN MINIMUM 10' SEPARATION.

IRRIGATION NOTES

1. ALL LANDSCAPE PLANTINGS IN COMMON AREAS ON THE SITE, EXCEPT NATIVE SEEDING, SHALL BE PROVIDED WITH PERMANENT AUTOMATIC IRRIGATION SYSTEM. NATIVE SEEDING SHALL BE PROVIDED WITH TEMPORARY IRRIGATION UNTIL THE SEED IS ESTABLISHED.
2. ALL IRRIGATION SHALL BE IN COMPLIANCE WITH THE LOVELAND SITE DEVELOPMENT PERFORMANCE STANDARDS AND GUIDELINES, AND ANY APPLICABLE CODES.

PROPOSED BUFFERYARD PLANTINGS

BUFFERYARD 1 - CRESTONE DRIVE - BUFFERYARD TYPE B
WIDTH - 15', LENGTH - 190'

	REQUIRED	PROPOSED
CANOPY TREES	4	4
FLOWERING TREES / LARGE SHRUBS	4	4
SHRUBS	10	10
EVERGREEN TREES	2	2

BUFFERYARD 2 - FIRST STREET - BUFFERYARD TYPE C
WIDTH - 40', LENGTH - 980' + 358' = 1338'

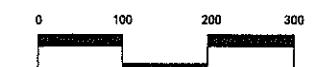
ORNAMENTAL TREES	21	31
FLOWERING TREES / LARGE SHRUBS	14	15
SHRUBS	101	136
EVERGREEN TREES	21	30

BUFFERYARD 3 - ELEMENTARY SCHOOL - BUFFERYARD TYPE B
WIDTH - 25', LENGTH - 515' + 135' = 650'

CANOPY TREES	12	17
FLOWERING TREES / LARGE SHRUBS	12	12
SHRUBS	30	33
EVERGREEN TREES	6	6

NOTES:

1. THE REQUIRED CANOPY STREET TREES ALONG FIRST STREET ARE ORNAMENTAL TREES, SINCE THEY ARE LOCATED BEHIND OVERHEAD POWER LINES.
2. BUFFERYARD PLANTINGS ARE NOT PROPOSED ALONG NAMAQUA AVENUE. THAT PORTION OF THE PROPERTY SHALL BE DEDICATED TO THE LOVELAND HISTORICAL SOCIETY.
3. THE CALCULATIONS FOR THE BUFFERYARD ALONG THIRD STREET DO NOT INCLUDE THE PORTION OF THE PROPERTY TO BE DEDICATED TO THE LOVELAND HISTORICAL SOCIETY.



MARIANA BUTTE TWENTY FIFTH SUBDIVISION
MOUNTAIN GATE PRELIMINARY DEVELOPMENT PLAN

SITE DESIGN
landscape architecture and consulting
970-217-0160 • www.sitedesigninc.com • P.O. Box 61 Loveland, CO 80539

Date: 9-9-11
Revised:
Revised:
Drawn By: TRB
Scale: 1" = 100'

Sheet:
C



Development Services Current Planning

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Planning Commission Staff Report

July 22, 2013

Agenda #: Regular Agenda - 2

Title: King of Glory Addition (PZ #12-00110)

Applicant: King of Glory Lutheran Church

Request: **Annexation and Zoning**

Location: Northwest corner of N. Wilson Avenue and W. 29th Street (2919 N. Wilson Avenue)

Existing Zoning: County FA -Farming

Proposed Zoning: R1 - Developing Low Density Residential

Staff Planner: Troy Bliss

Staff Recommendation

APPROVAL of the annexation and zoning.

Recommended Motions:

1. *Move to make the findings listed in Section VIII of the Planning Commission staff report dated July 22, 2013 and, based on those findings, recommend that City Council approve the King of Glory Addition, subject to the conditions listed in Section IX, as amended on the record, and zone the addition R1 Developing Low Density Residential.*

Summary of Analysis

This is a public hearing concerning the annexation and zoning of a 4.28 acre parcel owned by the King of Glory Lutheran Church located at the northwest corner of N. Wilson Avenue and W. 29th Street. The property would be annexed and zoned to facilitate future development/redevelopment of the existing church facility. No development/redevelopment is however being proposed in conjunction with the annexation. However, there is the anticipation of erecting columbarium/memoria walls upon annexation. The hearing is to consider the following items:

- A legislative action for annexation of 4.28 acres; and
- A quasi-judicial action for zoning the property to R1- Developing Low Density Residential District.

Staff believes that all key issues have been resolved based on City Codes and standards. The King of Glory Addition is a property that is becoming more and more surrounded by the City's municipal boundaries in northwest Loveland as a result of recent annexations that have included the Fire Station 2 and Mehaffey Park. The property is in the City's Growth Management Area (GMA) and is currently served by City water and sewer.

I. SUMMARY

The King of Glory Addition includes a property containing approximately 4.28 acres generally located at the northwest corner of N. Wilson Avenue and W. 29th Street. The property is occupied by the King of Glory Lutheran Church, which includes two attached structures of approximately 18,000 square feet total. The property is located within the City of Loveland Growth Management Area (GMA) per the Comprehensive Plan. As a result of being within the GMA, the property has a land use designation of LDR – Low Density Residential. This land use designation anticipates development to contain low density offering a variety of housing types but includes primarily detached single family residential. Churches are other uses considered as appropriate within the LDR land use designations. In terms of seeking annexation and applying a City zoning to the property, the R1 – Developing Low Density Residential, as proposed, is in alignment with the LDR land use designation.

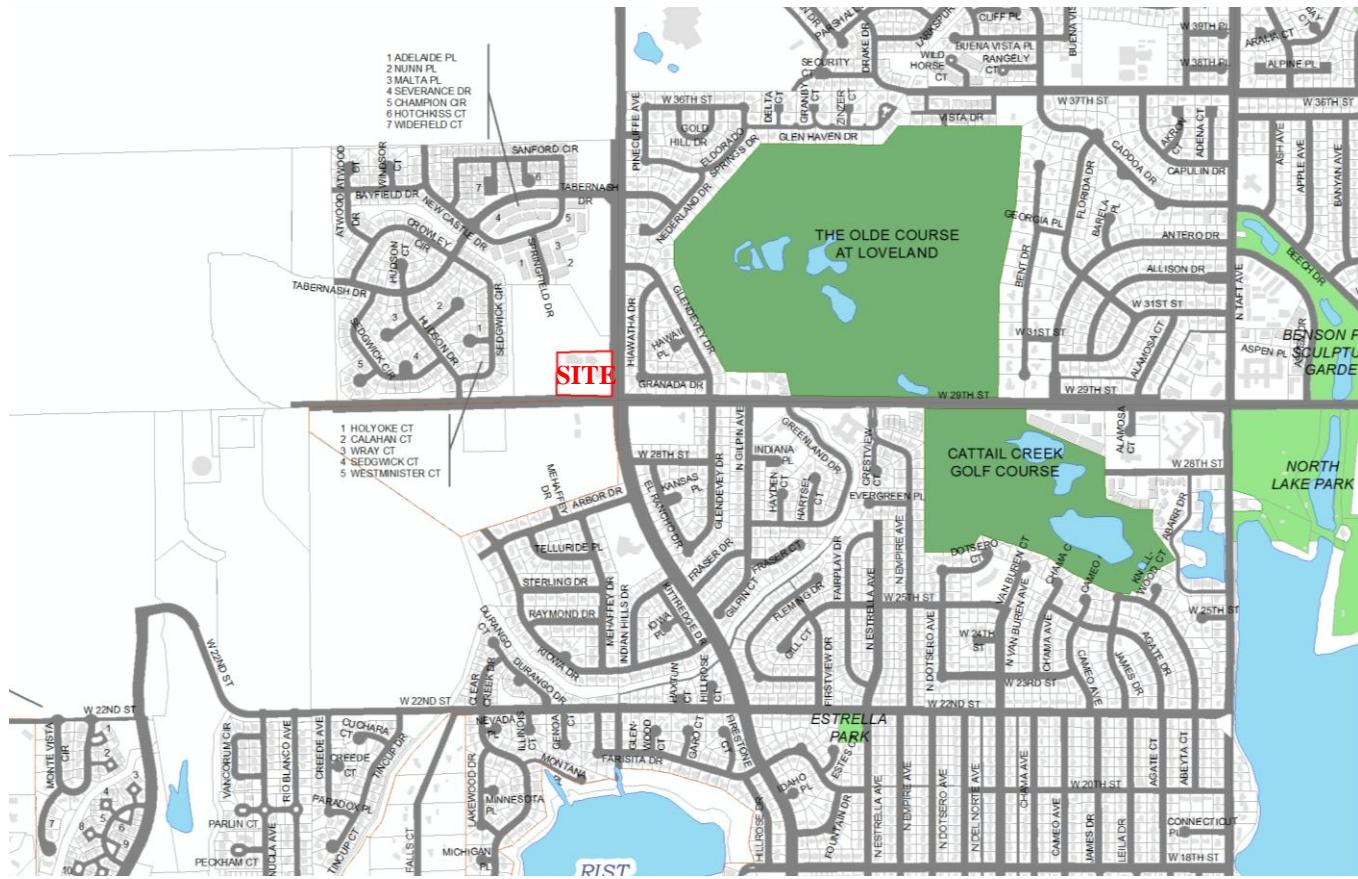
Properties directly north, east, and west of this site fall within the City's municipal boundaries. Consequently, this site is eligible for annexation per requirements of the Colorado Revised Statutes as well as being desirable, considering that it is served by City services and utilities.

In terms of considering annexation of a developed property, it is important to identify that there are existing non-conformities relative to City standards under an R1 zoning. This includes the height of the worship assembly building (approximately 65 feet) and an existing wireless service facility. Future development/redevelopment of the existing building would be prohibited from adding additional building height without approval of a height exception application. Additional wireless service facilities would be prohibited without approval of a special review application. Existing uses and conditions can be considered through the powers of annexation. However, it is important to identify them up front and build allowances into the annexation. Staff is recommending conditions that would address these non-conformities as well as site improvements that would be required with future development/redevelopment.

II. ATTACHMENTS

1. Chapter 18.12 R1 - Developing Low Density Residential
2. Conceptual site plan
3. Annexation Map
4. Rezoning Map

III. VICINITY MAP



IV. SITE DATA

A. ANNEXATION

ACREAGE OF SITE GROSS	4.28 AC
MASTER PLAN DESIGNATION	LOW DENSITY RESIDENTIAL
EXISTING ZONING	LARIMER COUNTY FA FARMING
PROPOSED ZONING	R1 DEVELOPING LOW DENSITY RESIDENTIAL
EXISTING USE	CHURCH

EXIST ADJ ZONING & USE - NORTH	PUD HUNTERS RUN / SF RESIDENTIAL
EXIST ADJ ZONING & USE - SOUTH	COUNTY FA / VACANT FARMED LAND
EXIST ADJ ZONING & USE - WEST	PUD HUNTERS RUN / SF RESIDENTIAL
EXIST ADJ ZONING & USE - EAST	R1 DEVELOPING LOW DENSITY RESIDENTIAL / SF RESIDENTIAL
UTILITY SERVICE – WATER, SEWER	CITY OF LOVELAND
UTILITY SERVICE – ELECTRIC	XCEL

V. KEY ISSUES

City staff believes that all key issues associated with the annexation and zoning request have been addressed. At the neighborhood meeting, there were no questions or concerns voiced about the annexation. In fact, neighbors had already thought the property was within City limits.

VI. BACKGROUND

The subject property was first developed in 1978 when the original King of Glory Lutheran Church was constructed. After the two existing structures were built in 1984 and 2005, the original building was razed in 2006. The oldest building constructed in 1984, includes primarily the worship assembly and some offices. The newest building constructed in 2005 includes classrooms, a library, a fellowship room and a kitchen. The site is generally comprised of a large paved surface parking lot accessed from W. 29th Street, an outdoor worship space, a playground, a fenced vegetable garden, and associated landscaped areas throughout.

In 1984, when the church was under construction, the City signed an agreement with the King of Glory Lutheran Church allowing out of city services (i.e. water and sewer) without requiring annexation. At the time, the Church was not capable of meeting the financial obligations associated with annexation but needed the ability to expand its facilities. The agreement stipulated that the Church would pursue application for annexation prior to December 31, 1987. This provision was never enforced.

VII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

- A. Notification:** An affidavit was received from Merlin Green with the Darell Zimbelman certifying that written notice was mailed to all property owners within 1,200 feet of the property on June 28, 2013 and notices were posted in a prominent location on the perimeter of the site at least 15 days prior to the date of the Planning Commission hearing. In addition, a notice was published in the Reporter Herald on July 6, 2013.
- B. Neighborhood Response:** A neighborhood meeting was held at 7:00 p.m. on March 18, 2013 at the King of Glory Lutheran Church. The meeting was attended by 11 neighbors and interested parties along with City staff. At the meeting, there were no objections voiced to the annexation and zoning requests.

VIII. FINDINGS AND ANALYSIS

The chapters and sections cited below are from the Loveland Municipal Code.

Annexation and Zoning

A. Annexation Policies and Eligibility

1. Loveland Comprehensive Master Plan, Section 4.2

- a. Annexation ANX2.A:** *Whether the annexation encourages a compact pattern of urban development.*
- b. Annexation ANX2.B:** *Whether the annexation would result in the creation of an enclave*

- c. **Annexation ANX5.B:** *Whether the applicant has demonstrated that reasonable efforts have been made to assemble adjoining land parcels to allow for the preparation of a master plan for a larger area, rather than submit separate individual proposals.*
- d. **Annexation ANX1.C and 6:** *Whether the annexation encourages infill development and ensures that land is immediately contiguous to other land in the City that is already receiving City services, discouraging leapfrog and scattered site development.*
- e. **Growth Management GM7:** *Whether the land proposed for annexation is within the City of Loveland Growth Management Area.*

2. **Loveland Municipal Code, Section 17.04.020:** *The annexation complies with the laws of the State of Colorado regarding annexation and the property proposed for annexation is otherwise eligible to be annexed because there is at least one-sixth contiguity between the City and the area seeking annexation and there is no evidence that two or more of the following conditions have been met:*

- a. *Less than 50% of the adult residents of the area proposed to be annexed use some of the recreation, civic, social, religious, industrial or commercial facilities of the municipality and less than 25% of its adult residents are employed in the annexing municipality.*
- b. *One-half or more of the land proposed to be annexed is agricultural, and the landowners of such agricultural land have expressed an intention under oath to devote the land to agricultural use for at least five years.*
- c. *It is not physically practical to extend urban service which the municipality provides normally.*

Planning: Staff believes that the findings can be met, based on the following facts:

A.1.a & d. With the existing developed church there is already an establishment of a compact pattern of urban development. Future development/redevelopment will not leapfrog or scatter development. The land is immediately contiguous to other land in the City that is already receiving City services.

A.1.b. No new enclaves will be created by this annexation and there is no evidence that two or more of the conditions listed in Section 17.04.020 of the Municipal Code, cited above, have been met. The property being annexed is the only remaining property within this section that has not been annexed.

A.2. The annexation complies with the Colorado State Statutes regarding annexation of lands and is within the City's Growth Management Area.

B. City Utilities/Services and Transportation

1. **Loveland Comprehensive Master Plan, Section 4.2**
 - a. **Annexation ANX1.A and B:** *Whether the annexation of land minimizes the length of vehicle trips generated by development of the land and whether the annexation minimizes the short and long term costs of providing community facilities and services for the benefit of the annexed area.*
2. **Loveland Municipal Code**
 - a. **Section 17.04.040:**
 - (i) *Whether certain public facilities and/or community services are necessary and may be required as a part of the development of any territory annexed to the City in order that*

the public needs may be served by such facilities and services. Such facilities include, but are not limited to, parks and recreation areas, schools, police and fire station sites, and electric, water, wastewater and storm drainage facilities. Such services include, but are not limited to, fire and police protection, provision of water, and wastewater services.

(ii) Whether the annexation and development pursuant to the uses permitted in the zone district will create any additional cost or burden on the existing residents of the City to provide such facilities and services in the area proposed for annexation.

(iii) The annexation complies with the water rights requirements set forth in Title 19 of the Loveland Municipal Code.

- b. Section 17.04.040:** *Whether all existing and proposed streets in the newly annexed property are, or will be, constructed in compliance with City street standards, unless the City determines that the existing streets will provide proper access during all seasons of the year to all lots and that curbs, gutters, sidewalks, bike lanes, and other structures in compliance with City standards are not necessary to protect public health, safety, and welfare.*
- c. Section 18.04.010:** *The zoning, as proposed, would: lessen congestion in the streets; secure safety from fire, panic, and other dangers; and promote health and general welfare.*

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

- Annexing and zoning property does not warrant compliance with the City's Adequate Community Facilities (ACF) ordinance. A condition is recommended to clearly ensure that all future development or land application within this proposed property shall be in compliance with the City of Loveland Street Plan, the Larimer County Urban Area Street Standards and any updates to either in effect at the time of development application.
- As identified in the City Municipal Code Title 16, a Traffic Impact Study will be required with all future development or other land use applications. The annexation will also be required to dedicate, free and clear, all applicable right-of-way to the City, at no cost to the City, at the time of development.
- Pending future proposed development within this property, of which review and approval by the City is required, the Transportation Engineering staff does not object to the proposed annexation and zoning.

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

- The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company (Station 2).
- The proposed annexation and any future development will not negatively impact fire protection for the subject property or surrounding properties.

Water/Wastewater: Staff believes that this finding can be met, based on the following facts:

- The subject annexation is situated within the City's current service area for both water and wastewater.
- The Department finds that the annexation and zoning is consistent with the Department's Water and Wastewater master plan by being consistent with the 2005 Comprehensive Master Plan.
- Public facilities are available to serve the development.

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

- 600 amp and 200 amp three phase underground power currently exists in an underground duct bank located along the north side of W. 29th Street. 200 amp three phase underground power is currently available in an underground vault located at the northeast corner of W. 29th Street and Hudson Drive and can be extended south to the proposed annexation area.
- The proposed annexation currently lies within Excel Energy Company certified territory. Upon completion of successful annexation to the City of Loveland, the City will provide electric service to any future development of the proposed annexation.
- The existing electric facilities are sufficient for the current use. The proposed development meets the criteria for level of service as outlined in the ACF ordinance.
- The existing uses as well as any future development requirements are current with the Power Division's existing infrastructure and system master plan.

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

- With the annexation and future development, the Developer will engineer certain Stormwater facilities that will adequately collect, detain, and release Stormwater runoff in a manner that will eliminate off-site impacts.
- Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and service master plans.

C. Land Use

1. Loveland Comprehensive Master Plan, Section 4.7

- a. **Land Use Plan:** *Whether the zoning is consistent with the Loveland Comprehensive Master Plan Land Use Plan or a "major plan amendment" request is being processed concurrently with the annexation and GDP application.*

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

- The Comprehensive Master Plan designates the site as Low Density Residential (LDR). The LDR category permits churches, parks, schools and civic uses as acceptable land uses.
- The proposed zoning of R1 is consistent with the zoning categories in the Comprehensive Master Plan. The R1 zone district permits churches as a use by right.

2. Loveland Municipal Code

a. Section 18.04.010:

- (i) *Whether the zoning will provide adequate light and air; prevent overcrowding of land; avoid undue concentration of population; and facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.*
- (ii) *The character of the district and the particular uses permitted by right in the district will preserve the value of buildings and encourage the most appropriate use of land.*

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

- 2.a.(i) The proposed R1 zoning is appropriate to accommodate the existing church while at the same time providing a land use pattern that is consistent with the surrounding area in terms of adequate light and air and the provision of necessary services.

2.a.(ii) Upon annexation, future development/redevelopment of the church will be governed by all applicable City codes and standards in the R1 District. The church has been a fixture of this part of Loveland since the late 1970's, seen as an appropriate use of the land.

D. Environmental Impacts

1. Loveland Comprehensive Master Plan, Section 4.2

- a. Annexation ANX3.A:** *Whether the annexation will comply with the recommendations contained in the adopted Open Lands Plan and preserves open space or natural areas.*
- b. Annexation ANX3.B:** *Annexation will be allowed for the purpose of preserving or acquiring open space or natural areas.*
- c. Annexation ANX4.A and B:** *If the planning staff and/or the City have determined that significant negative impacts on the environment may occur from development allowed under the proposed zoning, an Environmental Impact Report, including a Wetlands Reconnaissance Report, has been prepared by a qualified specialist.*
- d. Annexation ANX4.B:** *Whether the annexation application includes a Phase I Environmental Report, prepared by a qualified specialist, ensuring that the land to be annexed does not contain hazardous or toxic substances that may pose a danger to the City or that reasonable mitigation measures can be taken in the event that such contamination exists.*
- e. Annexation ANX4.D:** *All development agreements must deal satisfactorily with any environmental impacts upon the property.*

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

D.1.a & b. The Open Lands Plan does not identify any area of the site as a potential natural area.

D.1.c The site is naturally vegetated and has historically been a church use. No environmentally sensitive areas, as defined in the Municipal Code, were noted on the site.

D.1.d A Phase I Environmental Site Assessment (ESA) was performed by Corn & Associates in September 2012. The ESA concluded that there are no recognized environmental conditions existing on or nearby the site.

E. Miscellaneous

1. Loveland Municipal Code, Section 17.04.040.D: *Whether the annexation is in compliance with School District requirements for dedication of school site, or payment of fees in lieu of the dedication.*

Planning: The annexation of this property does not constitute a land dedication or payment in lieu fees to the School District. The School District has no objection to the annexation.

2. Loveland Municipal Code, Section 17.04.040.E: *Whether the annexation has demonstrated that the addition of land is in compliance with all pertinent intergovernmental agreement to which the City is a party.*

Planning: The annexation is in compliance with the intergovernmental agreement between the City of Loveland and Larimer County as referenced in Section 3.3 Annexation within the GMA as follows:

- Loveland will annex all property within the GMA that is eligible for annexation;
- Loveland shall annex the entire width of public roadways;
- Larimer County shall not accept applications for development of properties within the GMA without pursuing annexation to Loveland;
- An annexation agreement shall be prepared by Loveland;
- Loveland will not annex into a GMA, Cooperative Planning Area, or other comparable planning area of another municipality;
- The property is not located north of County Road 30; and
- The property being annexed is not in operation as a gravel extraction site

3. Loveland Municipal Code, Section 17.04.040.F: *Whether the annexation is in the best interest of the citizens of the City of Loveland.*

Planning: The annexation and existing development of the church is in the best interest of the citizens and will continue to provide its services to the community.

4. Loveland Municipal Code, Section 17.04.040.G: *Whether a cost/benefit analysis should be prepared in compliance with the Comprehensive Master Plan to measure and assess the fiscal impact of the proposed annexation.*

Planning: Because the property is already being served by the City through water, sewer, and emergency services, a cost/benefit analysis would not be necessary in evaluating the annexation.

5. Loveland Municipal Code, Section 17.04.040.H: *Whether all existing and proposed streets in the newly annexed property are constructed in compliance with all current City standards.*

Planning: All existing streets which front and are abutting this property have already been annexed into the City. The City does however require additional right-of-way to be dedicated along W. 29th Street and N. Wilson Avenue.

6. Loveland Municipal Code, Section 17.04.040.I: *No building permit or development plan shall be issued for the property annexed until a subdivision plat has been approved and recorded.*

Planning: With the exception to a potential columbarium/memorial walls to be erected on the property in the future, no building permit or development plan shall be issued until a subdivision plat has been approved and recorded. Reference to the columbarium/memorial walls is contained in the recommended conditions of approval.

7. Loveland Municipal Code, Section 17.04.040.J: *The annexation shall comply with the water rights requirements of Title 19.*

Planning: The annexation will comply with the water rights requirements of Title 19. A pre-annexation agreement signed by King of Glory in September of 1984 also stipulates that the Church agrees that it shall pay all fees assessed by the City in conjunction with annexation raw water fees.

F. Mineral Extraction Colorado Revised Statute: *The proposed location and the use of the land, and the conditions under which it will be developed, will not interfere with the present or future extraction of a commercial mineral deposit underlying the surface of the land, as defined by CRS 34-1-3021 (1) as amended.*

Planning: Staff believes that this finding can be met, due to the following fact:

- A geologic evaluation and mineral extraction assessment was prepared by Northern Colorado Geotech for the property. The assessment concluded that based on the review of geologic maps, published reports, satellite and aerial imagery, and the examination of the site, the potential for commercial mineral resources on the site is considered to have no economic quantities of mineral, aggregate or quarry rock.

Should there be a recommendation that Council find the property is eligible and that based on the factors in LMC 17.04.020 and .040, recommends annexation?

IX. RECOMMENDED CONDITIONS

The following annexation conditions are recommended by city staff and would be incorporated into an annexation agreement if recommended by Planning Commission and adopted by City Council:

A. CURRENT PLANNING

- i. The existing worship building has a height of sixty-five (65) feet. Upon annexation, this building will be considered legal non-conforming. Any future remodeling of the existing worship building shall not be allowed to increase height, unless a variance is permitted and approved pursuant to the City Municipal Code.
- ii. The existing building antennas located on the worship building shall be considered legal non-conforming. Additional building antennas including but not limited to panel antennas, wiring, ground cabinets, or equipment shelters shall not be permitted unless Special Review approval is issued for such uses in the R1 - Developing Low-Density Residential District. (Currently, the R1 zoning district permits wireless service facilities by special review only. If any future changes to the R1 zoning district are approved to prohibit wireless service facilities, the existing facilities could remain but no new facilities would be allowed.) No towers associated with a wireless service facility shall be permitted. Additional wireless service shall not be considered an expansion of use or a building addition with regards to paragraph A.iii below.
- iii. This property does not conform with the City of Loveland landscape standards including landscape bufferyards along both Wilson Avenue and 29th Street, street canopy trees spaced 30 to 40 feet on center along both Wilson Avenue and 29th Street, curb/gutter/sidewalk for the reconfigured right-of-way on 29th Street, internal parking lot landscaping/screening, and irrigation systems throughout all landscaped areas.

For purposes of this Section, the erection of columbarium/memorial walls in the general vicinity of the northwest corner of the site shall be permitted without providing these improvements. However, these improvements will be required in conjunction with any redevelopment/development of the property, change in use, expansion of use, building additions or on the fifth anniversary of recording this agreement, whichever comes first. Any development

application (including but not limited to a Site Development Plan, Special Review, or Building Permit) shall provide a phasing plan and cost estimate associated with the required improvements to the City for approval. The phasing plan shall incrementally detail what specific improvements would be made over time.

- iv. The Developer will be responsible for the construction necessary to bring the existing parking lot adjacent to W. 29th Street into compliance with the City of Loveland landscape standards to include canopy street trees, screening, and a detached sidewalk in conjunction with any redevelopment/development of the property, change in use, expansion of use, or building additions that require the need for developing the full right-of-way. Such required construction in the parking lot adjacent to W. 29th Street shall not be required in connection with the erection of columbarium/memorial walls described in paragraph A.iii above.

B. TRANSPORTATION

- i. All future development within this addition shall comply with the Larimer County Urban Area Street Standards (LCUASS) and the 2030 Transportation Plan and any updates to either in effect at the time of a site specific development, Minor Subdivision and/or a building permit application. Any and all variances from these standards and plans require specific written approval by the City Engineer.
- ii. The owner shall dedicate to the City, at no cost to the City, right-of-way for all street facilities adjacent to, or within, this addition that are shown on the adopted Transportation Plan. Unless otherwise approved by the City Engineer, the timing of the dedications shall be as follows:
 - a. Right-of-way for 29th Street shall be dedicated prior to the recording of the annexation.
 - b. Right-of-way for Wilson Avenue shall be dedicated prior to the recording of the annexation.
- iii. The Developer agrees to acquire and dedicate, at no cost to the City, any off-site right-of-way necessary for mitigation improvements. Prior to the approval of a site specific development application, Minor Subdivision and/or a building permit application within this addition, the Developer shall submit documentation satisfactory to the City, establishing the Developer's unrestricted ability to acquire and dedicate sufficient public right-of-way for the construction and maintenance of any required street improvements to both adjacent and off-site streets.
- iv. Notwithstanding any conceptual information presented in the Annexation/Zoning submittal; street layouts, street alignments, access locations, turning movements, intersection configurations and intersection operations (traffic controls) shall be determined at the time of application for a site specific development application, Minor Subdivision and/or a building permit application.
- v. The existing curb cut access to Wilson Avenue shall be removed and replaced with curb, gutter, and sidewalk per the satisfaction of the City in a time period not to exceed 12 months after the recording of the annexation. The owner shall apply for and receive a Right-of-Way Work Permit from the City prior to any construction activity within the City's public right-of-way.

Chapter 18.12

R1 DISTRICT-DEVELOPING LOW-DENSITY RESIDENTIAL DISTRICT

Sections:

- 18.12.010** **Uses permitted by right.**
- 18.12.020** **Uses permitted by special review.**
- 18.12.030** **Lot area.**
- 18.12.040** **Lot width.**
- 18.12.050** **Front yard.**
- 18.12.060** **Rear yard.**
- 18.12.070** **Side yard.**
- 18.12.075** **Height limitations.**
- 18.12.080** **Off-street parking.**
- 18.12.090** **Special considerations.**

18.12.010 Uses permitted by right.

The following uses are permitted by right in a R1 district:

- A. One-family dwellings;
- B. Essential aboveground pad-mount transformers, electric and gas meters, telephone and electric junction and service locations, and underground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- C. Open land for the raising of crops, plants and flowers;
- D. Accessory buildings and uses;
- E. Public schools. (Ord. 4246 § 1 (part), 1997; Ord. 3702 § 1 (part), 1990; Ord. 1276 § 4, 1973; Ord. 1004 § 5.1, 1968)
- F. Place of worship or assembly. In addition to standard buffering requirements of the Site Development Performance Standards and Guidelines, parking areas and drive aisles shall be screened from adjacent residential uses and residentially-zoned land by a six-foot high opaque wall, fence, or landscaping which achieves a similar effect, unless such screening would serve no practical purpose, as determined by the Current Planning Manager. (Ord. 5207 § 6, 2007)

18.12.020 Uses permitted by special review.*

The following uses are permitted by special review in a R1 district:

- A. Preschool nurseries;
- B. Parks, recreation areas and golf courses;
- C. Cemeteries;
- D. Estate areas;
- E. Two-family dwellings;
- F. Private schools;
- G. Essential aboveground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- H. Child care centers licensed according to the statutes of the state and in conformity with the minimum rules and regulations for child care centers adopted in accordance with such

statutes; such use may be conducted in conjunction with the residential use of the property;

- I. Governmental or semipublic uses;
- J. Group care facilities;
- K. Housing for elderly;
- L. Receiving foster care homes for up to eight children licensed according to the statutes of the state;
- M. Accessory dwelling units;
- N. Personal wireless service facilities, as defined in § 18.55.020(G), in compliance with Chapter 18.55 of this title. (Ord. 5207 § 6, 2007; Ord. 4246 § 1 (part), 1997; Ord. 4239 § 1 (part), 1997; Ord. 4236 § 2, 1997; Ord. 3764 § 2 (part), 1991; Ord. 3702 § 1 (part), 1990; Ord. 3537 § 1 (part), 1988; Ord. 3282 § 1, 1986; Ord. 3210 § 2, 1985; Ord. 2021 § 7 (part), 1981; Ord. 1880 § 3, 1980; Ord. 1628 §§ 1 (part) and 2 (part), 1977; Ord. 1444 § 2 (part), 1975; Ord. 1414 § 2, 1975; Ord. 1391 § 2, 1974; Ord. 1390 § 2, 1974; Ord. 1276 §§ 5, 6, 1973; Ord. 1097 § 1, 1970; Ord. 1026 § 2, 1969; Ord. 1004 § 5.2, 1968)

*See Ch. 18.40 of this code.

18.12.030 Lot area.

The minimum area of a lot in the R1 district shall be seven thousand square feet as provided below:

- A. When a group of ten or more single-family dwellings are proposed for development as a unit, the minimum lot area may be varied in order to achieve flexibility and creativity in design. However, in no case shall the lot area be less than five thousand square feet, the average lot size for the unit be less than seven thousand square feet, and more than twenty percent of the lots be less than seven thousand square feet. When such development procedures are followed, the city-approved subdivision plat must be of record in the Larimer County clerk and recorder's office.
- B. The minimum area of the lot for a two-family dwelling shall be at least nine thousand square feet in the R1 district.
- C. The minimum lot area for a place of worship or assembly shall be three times the total floor area of the place of worship or assembly building. (Ord. 5207 § 6, 2007; Ord. 4246 § 1 (part), 1997; Ord. 1628 § 1 (part), 1977; Ord. 1004 § 5.3, 1968)

18.12.040 Lot width.

The minimum width of a lot in a R1 district shall be sixty-five feet, except that there shall be no minimum lot width requirement for cul-de-sac lots. Cul-de-sac lots shall be designed so that driveways on adjacent lots will either be contiguous or separated by a minimum of twenty-two feet as measured along the face of curb. (Ord. 4246 § 1 (part), 1997; Ord. 3467 § 2 (part), 1987; Ord. 3096 § 2, 1984; Ord. 2021 § 3, 1981; Ord. 1004 § 5.4, 1968)

18.12.050 Front yard.

The minimum front yard in a R1 district, being the minimum distance of any building from the front lot line, shall be twenty feet. (Ord. 4246 § 1 (part), 1997; Ord. 1628 § 1 (part), 1977; Ord. 1004 § 5.5, 1968)

18.12.060 Rear yard.

The minimum rear yard in a R1 district, being the minimum distance of any building from the rear lot line, shall be as follows:

Principal building, fifteen feet;
Detached accessory building, five feet. (Ord. 4246 § 1 (part), 1997; Ord. 1004 § 5.6, 1968)

18.12.070 Side yard.

The minimum side yard in a R1 district, being the minimum distance of any building from each side lot line, shall be one foot for each three feet or fraction thereof of building height; except that no side yard shall be less than five feet for a one-family dwelling or two-family dwelling, nor less than twenty-five feet for any other permitted principal building. Variations to this requirement may be approved by the chief planner for groups of three or more single-family dwellings; however, the minimum spacing between two adjacent structures shall not be less than ten feet. On corner lots the side yard setback adjacent to the street shall be no less than fifteen feet. (Ord. 4246 § 1 (part), 1997; Ord. 3574 § 2, 1989; Ord. 1628 § 1 (part), 1977; Ord. 1276 § 7, 1973; Ord. 1004 § 5.7, 1968)

18.12.075 Height limitations.

Buildings and structures in this zone shall comply with Chapter 18.54 of this Code. (Ord. 4246 § 1 (part), 1997; Ord. 4106 § 5, 1995)

18.12.080 Off-street parking.

The minimum off-street parking in the R1 district shall be provided in Chapter 18.42. (Ord. 4246 § 1 (part), 1997; Ord. 1628 § 1 (part), 1977; Ord. 1395 § 1 (part), 1974; Ord. 1004 § 5.8, 1968)

18.12.090 Special considerations.

The following special requirements shall apply for special review uses in the R1 district:

A. Preschool Nurseries.

1. At least fifty square feet of floor area is set aside for school purposes for each child; and,
2. At least two hundred square feet of outdoor fenced play area is available for each child.

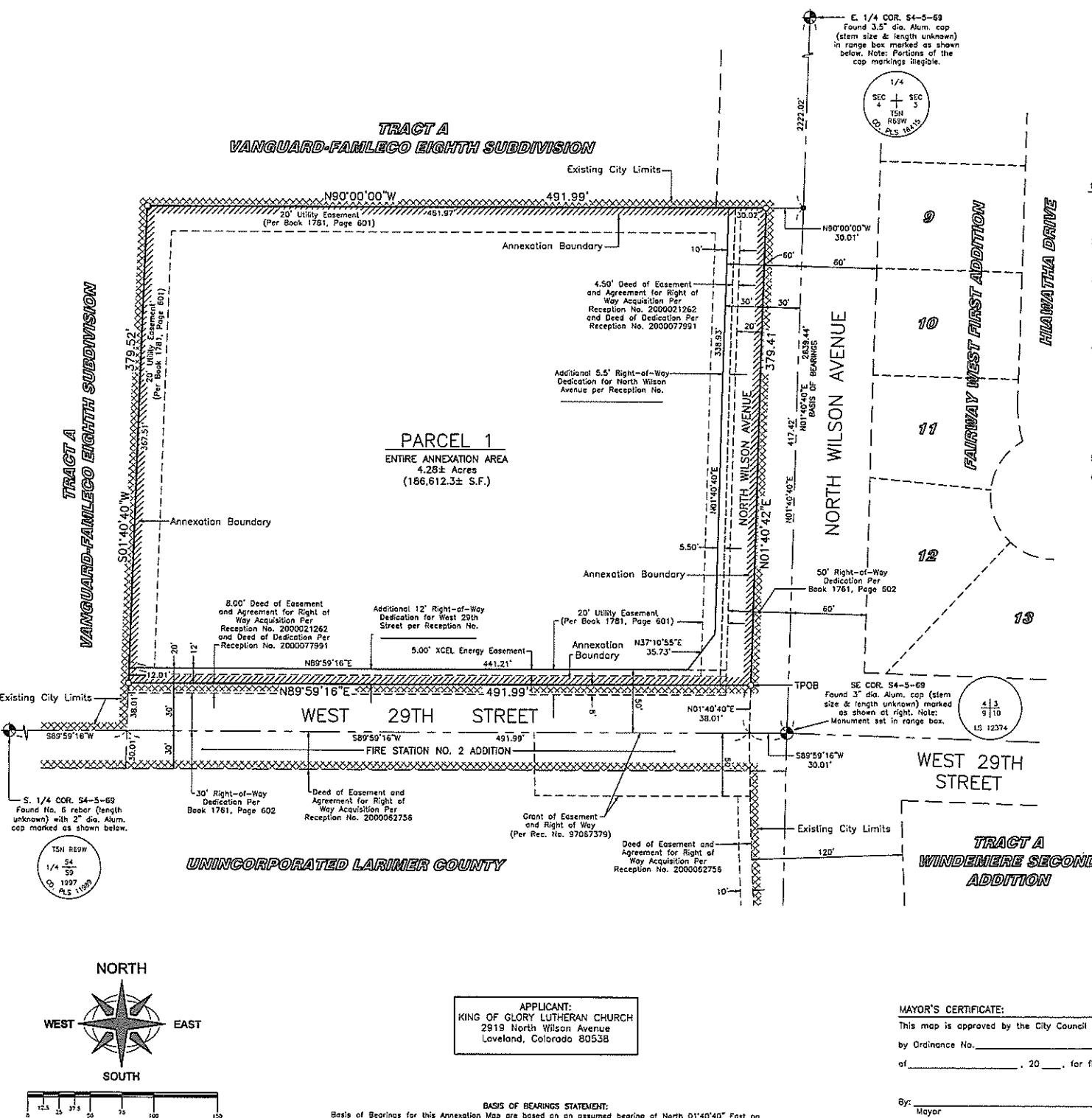
B. Noncommercial Recreational Uses, including Swimming Pools, Community Buildings, Tennis Courts and Similar Uses as a Principal Use.

1. Outside lighting must not be located in such a manner or be of such intensity to be distracting to adjacent residential areas or street traffic.
2. All buildings and active play areas shall be located at least twenty-five feet from all lot lines.

C. Cemeteries. The minimum area of any cemetery shall be at least twenty acres, and gravesites shall be located at least twenty-five feet from the boundaries of the cemetery. (Ord. 4246 § 1 (part), 1997; Ord. 2021 § 7 (part), 1981; Ord. 1628 § 2 (part), 1977)

KING OF GLORY ADDITION

BEING AN ANNEXATION OF A PORTION OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO



KING OF GLORY ADDITION - ENTIRE ANNEXATION BOUNDARY PROPERTY DESCRIPTION:

That portion of the Southeast Quarter of Section 4, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows:

Considering the East line of the Southeast Quarter of said Section 4 as bearing North 01°40'40" East (assumed) and with all bearings contained herein relative thereto:

Beginning at the Southeast corner of said Section 4; thence along the South line of the Southeast Quarter of said Section 4 South 88°59'16" West 30.01 feet, more or less, to a point on the West line of FAIRWAY WEST FIRST ADDITION to the City of Loveland, County of Larimer, State of Colorado, said point also being a point on the East line of FIRE STATION NO. 2 ADDITION to the City of Loveland, County of Larimer, State of Colorado; thence departing said South line of the Southeast Quarter of said Section 4 and along said West line of FAIRWAY WEST FIRST ADDITION and along said East line of FIRE STATION NO. 2 ADDITION North 01°40'40" East 38.01 feet to a point on the South line of said FIRE STATION NO. 2 ADDITION and the TRUE POINT OF BEGINNING; thence departing said East line of FIRE STATION NO. 2 ADDITION and continuing along said West line of FAIRWAY WEST FIRST ADDITION North 01°40'40" East 379.41 feet to the Southeast corner of VANGUARD-FAMLECO EIGHTH SUBDIVISION to the City of Loveland, County of Larimer, State of Colorado; thence departing said West line of FAIRWAY WEST FIRST ADDITION and along the Southerly line of said VANGUARD-FAMLECO EIGHTH SUBDIVISION and the Southerly line of Tract A, VANGUARD-FAMLECO EIGHTH SUBDIVISION South 01°40'40" West 379.52 feet, more or less, to a point on the North line of said FIRE STATION NO. 2 ADDITION; thence departing said Easterly line of said Tract A, VANGUARD-FAMLECO EIGHTH SUBDIVISION and along said North line of said FIRE STATION NO. 2 ADDITION North 01°40'40" West 491.99 feet; thence along the Easterly line of said Tract A, VANGUARD-FAMLECO EIGHTH SUBDIVISION and along said North line of said FIRE STATION NO. 2 ADDITION North 01°40'40" East 491.99 feet to a point on the West line of said FIRE STATION NO. 2 ADDITION and the TRUE POINT OF BEGINNING.

The above described parcel contains 4.28 acres, more or less, and is subject to all existing easements and/or rights of way of record.

GENERAL NOTES:

1. This project is subject to an Annexation Agreement which has been recorded in the Real Property records in the Office of the Larimer County Clerk and Recorder.
2. This project is subject to a Development Agreement which has been recorded in the Real Property records in the Office of the Larimer County Clerk and Recorder.
3. When the property being annexed into the City of Loveland is currently located within the REA regulated territory, this property is subject to a five percent (5%) surcharge on electrical energy as defined in 40-915-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge will expire ten years after effective date of the annexation.
4. FLOOD ZONE NOTE: Per the Flood Insurance Rate Map (FIRM) Community Panel No. 08069C1186, Panel 1186 142D (Effective Date of December 19, 2006) as prepared by the Federal Emergency Management Agency (FEMA) for this area, the subject property appears to lie in a Flood Zone 'X'. As FEMA regulated flood areas do not appear to affect the subject property, it is always in one's best interest to consult with the City of Loveland, Colorado and/or Larimer County, Colorado to discuss the possibility of additional 'locally' regulated flood hazard areas affecting the subject property.
5. Control Monumentation as shown on Map.
6. This Annexation Map was prepared with the benefit of a Title Report prepared by Land Title Guaranty Company (Order No. FCG25108088, Dated May 11, 2012). Only those easements and/or rights-of-ways affecting the land per the aforementioned Title Report, which are definable, are shown on this Map. No further easement and/or right of way research, other than shown on this Map, was requested by the client or performed by Intermill Land Surveying, Inc. for the preparation of this Annexation Map. The easements and rights-of-ways which may be shown herein may not be complete, are based on general information, and are to be used only in this context.

ANNEXATION DATA TABLE	
1. Contiguity to City Limits:	1,742.91 Linear Feet
2. Minimum Contiguity Required:	290.49 Linear Feet
3. Total Annexation Boundary:	1,742.91 Linear Feet
4. Total Annexation Area:	4.28± Acres

LEGEND	
	EXISTING CITY LIMITS
	PROPOSED ANNEXATION BOUNDARY

MAYOR'S CERTIFICATE:

This map is approved by the City Council of the City of Loveland, Larimer County, Colorado by Ordinance No. _____, passed on second reading on this _____ day of _____, 20____, for filing with the Clerk and Recorder of Larimer County.

By: _____
Mayor

Attest:

City Clerk

SURVEYOR'S CERTIFICATE:

I, Robert George Perschilt, a Registered Professional Land Surveyor in the State of Colorado, do hereby certify that the Annexation Map shown herein is a reasonably accurate depiction of the parcel of land legally described herein and, to the extent described herein, that at least one-sixth (1/6) of the peripheral boundary of said parcel is contiguous to the boundary of the City of Loveland, Colorado. The Map was compiled using existing plots, deeds, legal descriptions, known information, other documents and limited field survey. This Annexation map should not be construed as a full boundary survey of the subject properties.

PREPARED BY AND ON BEHALF OF:

INTERMILL LAND SURVEYING, INC.
1301 North Cleveland Avenue
Loveland, Colorado 80537
P: (970) 669-0516
F: (970) 635-9775
E: intermill@westoffice.net

Robert George Perschilt
Colorado PLS 34174

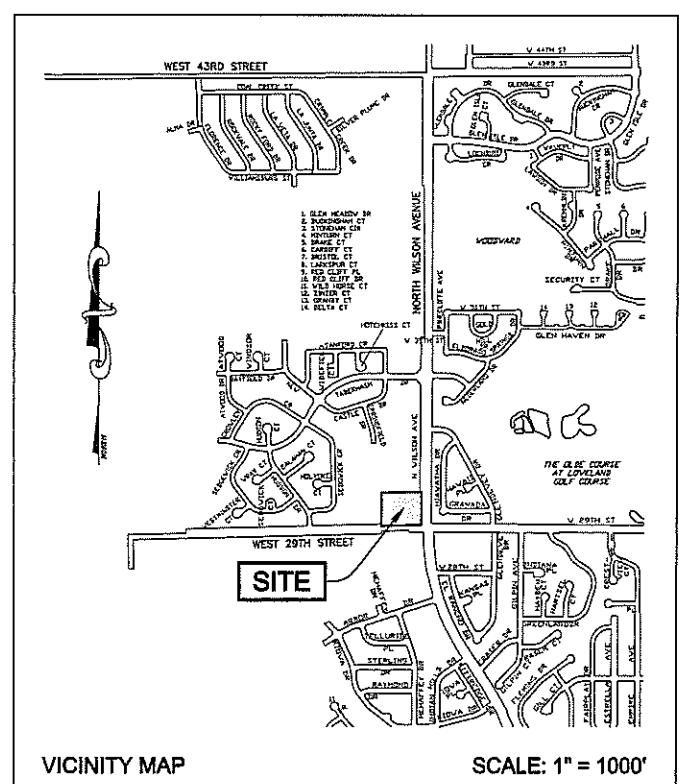
STATE OF COLORADO)
COUNTY OF LARIMER)
)S

The foregoing instrument was acknowledged before me this _____ day of _____, 20____.
by Robert George Perschilt for and on behalf of Intermill Land Surveying, Inc.

Witness my hand and official seal.

My Commission expires _____

Notary Public



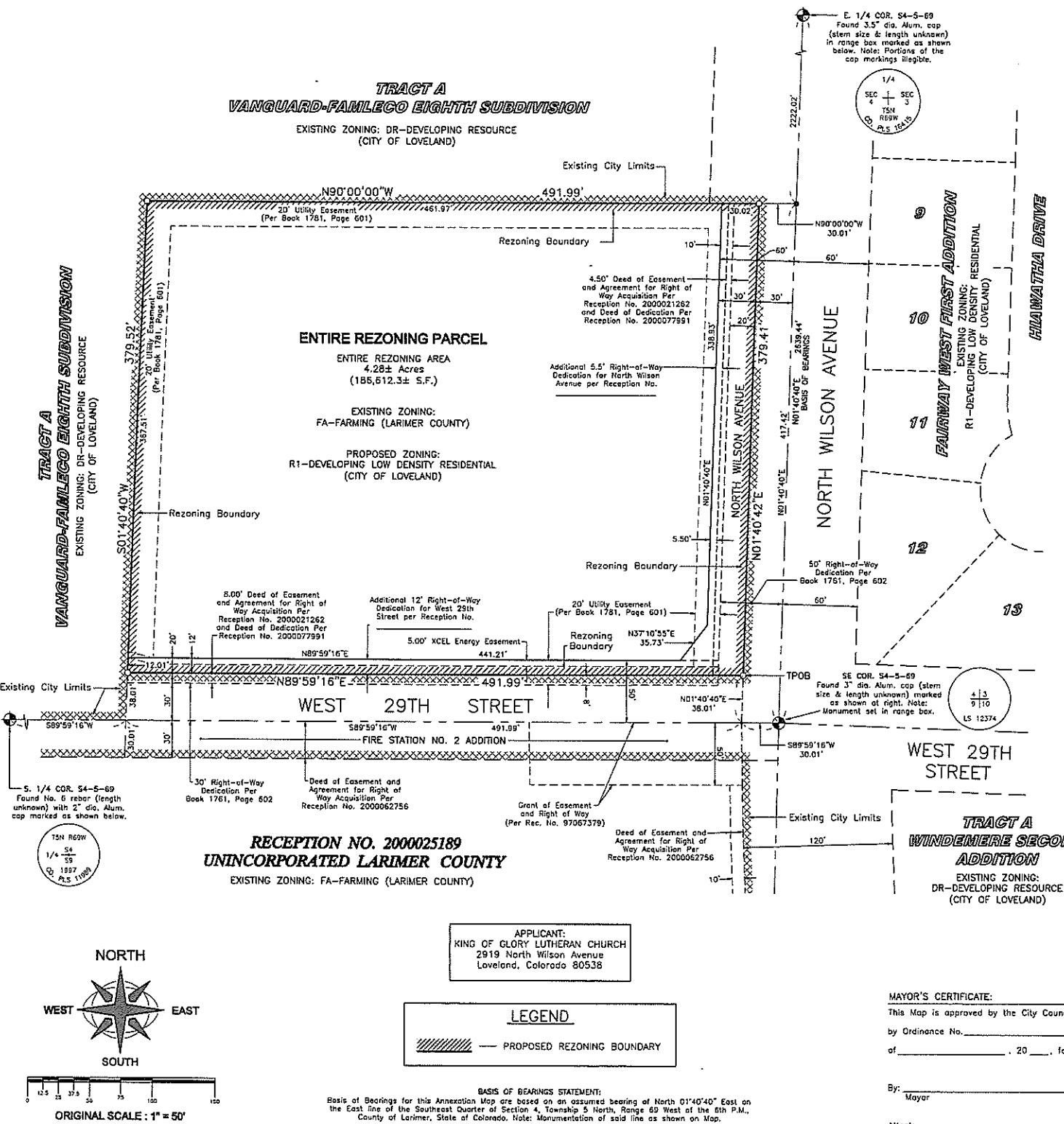
DATE:	04-27-12
BY:	RGP
REMARKS:	1. Annexation Boundary
 NOTARY PUBLIC NOTARIAL ACTS ORIGINAL DATE AND SIGNATURE LHO 2012	
INTERMILL LAND SURVEYING, INC. BHS: (970) 669-0516 / TX (970) 635-9775 1301 NORTH CLEVELAND AVENUE LOVELAND, COLORADO 80537	
KING OF GLORY ADDITION A portion of the SEC 4, Twp 5 N, Rge 69 W, 6th P.M., Larimer County, Colorado	
KING OF GLORY ADDITION 1301 NORTH CLEVELAND AVENUE LOVELAND, COLORADO 80537 TITLE: _____ DRAWN BY: SJS/JEB CHECKED BY: _____ APPROVED BY: _____ DATE: 05/01/2012 SCALE: 1" = 50' PROJECT NO.: P-03-5343 PLOT DATE: _____	

KING OF GLORY REZONING MAP

BEING A REZONING OF KING OF GLORY ADDITION, BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 4 AND A PORTION OF THE NORTHEAST QUARTER OF SECTION 9, ALL IN TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

TRACT A
VANGUARD-FAMLECO EIGHTH SUBDIVISION

EXISTING ZONING: DR-DEVELOPING RESOURCE
(CITY OF LOVELAND)



KING OF GLORY ADDITION REZONING – ENTIRE REZONING BOUNDARY PROPERTY DESCRIPTION:

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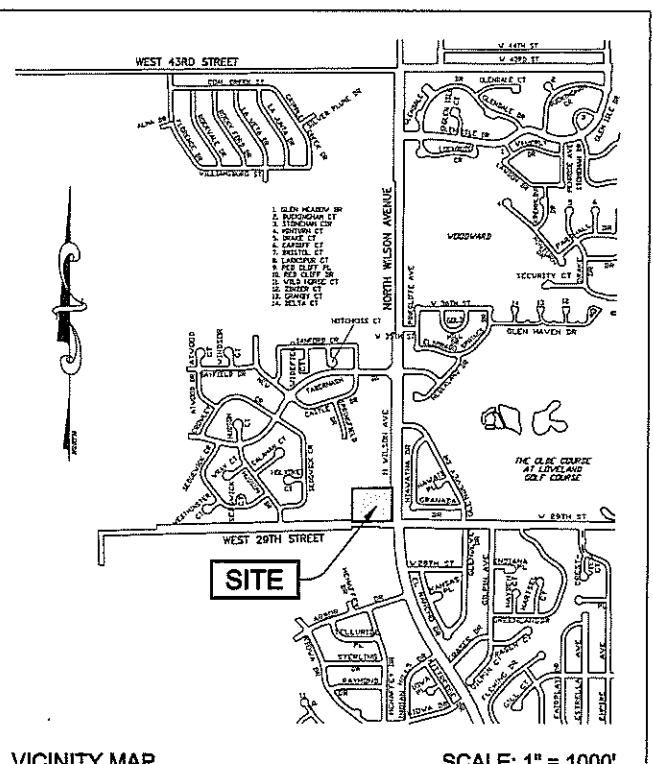
REARED BY AND ON BEHALF OF:

TERMILL LAND SURVEYING, INC.
301 North Cleveland Avenue
Cleveland, Colorado 80537
(970) 669-0516
(970) 635-9775

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Robert George Persichitte for and on behalf of Intermill Land Surveying, Inc.

Witness my hand and official seal.

History Public



VICINITY MAP

SCALE: 1" = 1000'

INTERMILL LAND SURVEYING, INC.

KING OF GLORY REZONING MAP

THE STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES

DRAWN BY:	RGP
CHECKED BY:	
APPROVED BY:	
DATE:	05/01/2012
SCALE:	1" = 50'
PROJECT NO.:	
P-03-5343	

P-53443-Retroviral Hepatitis



City of Loveland

Development Services Department

500 East Third Street, Suite 310 • Loveland, CO 80537
(970) 962-2346 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

Planning Commission Staff Report

July 22, 2013

Agenda #1: Regular Agenda – PUBLIC HEARING

Title: Amendments to Chapter 18.77 and Chapter 18.78 regulating oil and gas development

Applicant: City of Loveland

Request: Consider proposed amendments and make recommendation to City Council.

Location: Oil and gas regulations apply to all oil and gas development within the incorporated limits of the City of Loveland.

City staff:

Greg George, Development Services Director
John Duval, City Attorney

Staff Recommendation: Subject to additional evidence presented at the public hearing, City staff recommends the following motion:

Move to recommend that City Council adopt the proposed amendments to Chapters 18.77 and 18.78 of the Loveland Municipal Code.

I. ATTACHMENTS

- A. An ordinance amending Chapter 18.77 and Chapter 18.78 (redline version)

II. EXECUTIVE SUMMARY

A public hearing to consider amendments to Chapter 18.77 and Chapter 18.78.

A. Chapter 18.77

Several technical amendments are being recommended to clarify existing provisions. This includes two procedural revisions the City Attorney is recommending. The first procedural revision (**Section 18.77.050.G.**) adds a provision to the administrative review process to require that the Development Services Director's written decision granting or denying the permit in the administrative review process be mailed to the applicant and to the persons who are required to be given written notice of the neighborhood meeting. Without this mailing requirement, interested parties are not going to necessarily know when the Director's decision is made and when the appeal period has started. Related to this, the second revision (**Section 18.77.050.H.**) adds a provision to make it clear that the persons who are required to be given written notice of the neighborhood meeting also have legal standing to appeal the Director's decision in the administrative review process to the district court.

A table has been inserted into **Section 18.77.065.A.** to better explain the setback distances for oil and gas facilities from existing sensitive areas under the enhanced standards, and how those setbacks are to be measured. The actual setbacks have not been changed.

B. Chapter 18.78

1. **Setbacks:** When the oil and gas regulations were adopted in March 2013, setbacks from oil and gas facilities for new development were established in Chapter 18.78. Setbacks were established as follows:
 - a. 500 feet for a “building” defined as any residential or non-residential structure designed and permitted to be occupied by natural persons; and
 - b. 1,000 feet for a “high occupancy building” defined as any building with an occupancy rating of 50 persons or more and for “outdoor assembly areas” defined as an improved facility, not within a building, designed to accommodate and provide a place for natural persons to congregate. At time of adoption, the definition of “outdoor activity area” contained a technical error by not including that the area must be reasonably capable of being occupied by 50 or more natural persons. Correcting this error is included in these amendments.
2. **“No building zone”:** Section 18.78.020 required that land included in such setback areas be restricted to uses only as open space, and that recreational uses such as play fields, parks and playgrounds not be permitted. These restrictions on use would effectively create, what was referred to during the public hearing process as, ‘no building zones’ within the City. A setback with a radius of 500 feet would create an eighteen (18) acre “no building zone” around the oil and gas facility, while a setback with a 1,000 foot radius would create a seventy-two (72) acre “no building zone”.
3. **Uses compatible with oil and gas facilities:** City staff has reevaluated the current setback requirements to determine if there are any land uses that could be compatible with the industrial nature of oil and gas facilities and yet not adversely affect the public’s health, safety and welfare if special conditions are placed on such uses through the special review process. City staff is recommending the following zoning overlay zones to allow such land uses within these setbacks from oil and gas facilities.
 - a. **Critical zone – less than 200 feet from an oil and gas facility (Section 18.78.060.A.):** It is recommended that in this area’s restrictions on land uses remain as currently set forth in the ordinance in recognition of the possibility that an existing well is reentered, including new horizontal drilling and hydraulic fracturing, after new development has been constructed in the vicinity. Except for the allowance of underground public utility facilities, the recommendation is that the area be managed as restricted open space.
 - b. **Restricted zone – less than 500 feet from an oil and gas facility (Section 18.78.060.B.):** It is recommended that in this area certain uses of a heavy or light industrial nature be allowed as special review uses, provided no building, parking lot or outdoor assembly area is allowed closer than 500 feet to the oil and gas facility. The special review process is being recommended to require a neighborhood meeting and to allow special conditions to be placed on the new development to mitigate possible site specific impacts and to ensure land use compatibility.
 - c. **High occupancy building zone – less than 1,000 feet from an oil and gas facility (Section 18.78.060.C.):** It is recommended that in this area the only use restriction be for high occupancy buildings, which are defined as any residential or non-residential structure designed to be occupied by natural persons and permitted with an occupancy rating for fifty (50) persons or more. This restriction is consistent with the requirement that new oil and gas facilities be setback a minimum of 1,000 feet from any existing high occupancy building as defined.
4. **Variances:** Section 18.78.080 has been revised so requests for variances to the use limitations set forth in the zoning overlay districts are processed under the existing procedures in Chapter 18.60 for variances to the zoning standards established in Title 18. This revision was necessary since Chapter 18.78 now establishes actual zoning overlay districts and not just simply setbacks for new development.

III. STAFF RECOMMENDATION

City staff recommends the following motion for Planning Commission action:

Move to recommend that City Council adopted the proposed amendments to Chapter 18.77 and Chapter 18.78 as presented in Attachment A to this staff report.

7-16-13 DRAFT (2)

FIRST READING: March 5, 2013

SECOND READING: March 19, 2013

ORDINANCE #

**AN ORDINANCE ADDING TO THE LOVELAND MUNICIPAL CODE
CHAPTER 18.77 FOR THE REGULATION OF OIL AND GAS
OPERATIONS AND CHAPTER 18.78 FOR SETBACKS FOR
DEVELOPMENT FROM OIL AND GAS OPERATIONS WITHIN THE
CITY OF LOVELAND**

WHEREAS, on May 15, 2012, the City Council adopted Ordinance No. 5685 as an emergency ordinance; and

WHEREAS, Ordinance No. 5685 imposed a nine (9) month moratorium on the City's acceptance, processing and approval of all applications for City licenses, permits and any other approvals needed to conduct oil and gas operations within the City; and

WHEREAS, this moratorium began on May 16, 2012, and was set to expire on February 16, 2013; and

WHEREAS, on December 18, 2012, the City Council adopted Ordinance No. 5735 to extend the moratorium from February 16, 2013, to the earlier of April 15, 2013, or on the date that an ordinance adopted by City Council to enact local oil and gas regulations becomes law; and

WHEREAS, the primary purpose of the moratorium has been to give City staff and this Council a reasonable opportunity to investigate the extent of the City's legal authority to regulate oil and gas operations occurring within the City and to consider the adoption and implementation of local oil and gas regulations consistent with that authority in order to protect the environment, wildlife resources and the public's health, safety and welfare; and

WHEREAS, in that process it was determined that under Colorado law the regulation of oil and gas operations by home rule municipalities, such as Loveland, is a matter of mixed statewide and local concern and, as such, the City has the legal authority to enact its own oil and gas regulations so long as those regulations are not in "operational conflict" with state law, including the oil and gas regulations which have been adopted by the Colorado Oil and Gas Conservation Commission ("Commission"); and

WHEREAS, in the exercise of that legal authority, the Council finds that it is important for the City to have a role in minimizing the adverse impacts that oil and gas development within the City will likely have on the City's environment and on its residents' health, safety and welfare; and

WHEREAS, the Council therefore finds that this Ordinance is a proper and necessary exercise of the City's general police power and of its home rule authority to regulate zoning and land use, in order to regulate oil and gas operations and facilities within the City to the full extent permitted by law; and

WHEREAS, the development of oil and gas resources presents unique public health, safety and welfare issues that are inadequately addressed in the City's current zoning and land use regulations; and

WHEREAS, City staff has completed a review of applicable state law and of the Commission's regulations concerning oil and gas operations, a review of the oil and gas regulations adopted by other local governments throughout Colorado, and has received and considered input from the public, including from the Anadarko Petroleum Corporation, currently the only oil and gas operator known to have plans to begin new oil and gas operations within the City; and

WHEREAS, as a result of that process, the oil and gas regulations and the building setbacks from oil and gas activities as set out in this Ordinance are necessary to protect the City's environment and wildlife resources, and the public's health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That a new Chapter 18.77 is hereby added to the Loveland Municipal Code to read in full as follows:

Chapter 18.77

Oil and Gas Regulations

Sections:

- 18.77.010 Authority.**
- 18.77.015 Purpose.**
- 18.77.020 Applicability.**
- 18.77.025 Rules of Construction and Definitions.**
- 18.77.030 Zoning.**
- 18.77.035 Alternative Permit Processes.**
- 18.77.040 Conceptual Review.**
- 18.77.045 Planning Commission Review Process.**
- 18.77.050 Administrative Review Process.**
- 18.77.055 Baseline Standards for Planning Commission Review Process.**
- 18.77.060 Baseline Standards for Planning Commission and Administrative Review Processes.**
- 18.77.065 Enhanced Standards for Administrative Review Process.**
- 18.77.070 Application Requirements.**
- 18.77.075 Variances.**
- 18.77.080 Transfer of Permits.**

18.77.085	Other Applicable Code Provisions.
18.77.090	Emergency Response Costs.
18.77.095	Application and Inspection Fees.
18.77.100	Capital Expansion Fees.
18.77.105	Reimbursement for Consultant Costs.
18.77.110	Adequate Transportation Facilities
18.77.115	Insurance and Performance Security.
18.77.120	Inspections, Right to Enter and Enforcement.
18.77.125	Violations, Suspension and Revocation of Permits, Civil Actions and Penalties.
18.77.130	Conflicting Provisions.

18.77.010 Authority.

This Chapter 18.77 is enacted pursuant to the city's police powers and land-use authority under Article XX of the Colorado Constitution, Title 31 of the Colorado Revised Statutes, the OGC Act, the COG regulations and under all other applicable laws, rules and regulations. It is the intent of this chapter that these powers and authority be exercised in a manner that will not create an operational conflict with the provisions of the OGC Act or the COG regulations, which conflict could arise if any application of this chapter has the effect of materially impeding or destroying a state interest as expressed in the OGC Act or the COG regulations. The provisions of this chapter are therefore to be interpreted and applied in a manner that is consistent and in harmony with any conflicting provisions of the OGC Act or the COG regulations, so as to avoid an operational conflict.

18.77.015 Purpose.

The purpose of this chapter is to generally protect the public's health, safety and welfare and the environment and more specifically to regulate oil and gas operations within the city so as to minimize the potential land use conflicts and other adverse impacts that may negatively affect existing and future land uses when oil and gas operations occur within the city near those uses. This purpose is intended to be achieved in a manner that recognizes the state's interests in oil and gas operations as expressed in C.R.S. § 34-60-102, which include: fostering the responsible and balanced development of the state's oil and gas resources in a manner consistent with the protection of the public's health, safety and welfare, including protection of the environment and wildlife resources; protecting public and private interests against waste in both the production and use of oil and gas; and allowing Colorado's oil and gas pools to produce up to their maximum efficient rate subject to the prevention of waste, protection of the public's health, safety and welfare, protection of the environment and wildlife resources, and the protection and enforcement of the rights of owners and producers to a common source of oil and gas so that each owner and producer obtains a just and equitable share of production from that source.

18.77.020 Applicability.

Except as otherwise provided in this section, the provisions of this chapter shall apply to all surface oil and gas operations occurring within the city's boundaries, which shall include, without limitation, any oil and gas operation requiring the commission's issuance or reissuance

of a drilling permit or any other permit under the COG regulations. Prior to any person commencing any such operations within the city, that person shall apply for and receive an oil and gas permit from the city in accordance with the provisions of this chapter. This chapter, however, shall not apply to those surface oil and gas operations for which a drilling permit was issued under the COG regulations prior to April 2, 2013, the effective date of this chapter, and under which permit the oil and gas operations were commenced before April 2, 2013. It shall also not apply to any surface oil and gas operations occurring on real property annexed into the city on or after April 2, 2013, provided those operations are occurring as of the effective date of the annexation pursuant to a drilling permit issued under the COG regulations. This chapter shall apply to all other surface oil and gas operations occurring within the city's boundaries after April 2, 2013.

18.77.025 Rules of Construction and Definitions.

A. The words, terms and phrases expressly defined in this section shall have the meaning hereafter given them, unless the context requires otherwise. The words, terms and phrases used in this chapter not defined in this section shall have the meaning given to them in the OGC Act, the COG regulations or in chapter 18.04 of this code, and where there is more than one definition, the controlling definition shall be the one that is most consistent with the city's authority described in Section 18.77.010 and with the city's purposes for enacting this chapter as described in Section 18.77.015. Words, terms and phrases not defined in this section, the Act, the COG regulations or chapter 18.04, shall be given their commonly accepted meaning unless they are technical in nature, in which case they should be given their technical meaning generally accepted by the industry in which they are used. Therefore, for those words, terms and phrases peculiar to the oil and gas industry, they shall be given that meaning which is generally accepted in the oil and gas industry. Words, terms and phrases of a legal nature shall be given their generally accepted legal meaning.

B. When determining the end date of a time period under this chapter, the day on which the time period begins shall not be counted and the last day shall be included in the count. If the last day is a Saturday, Sunday or federal or state legal holiday, that day shall be excluded in the count.

C. "Abandonment" shall mean the plugging process of cementing a well, the removal of its associated production facilities, the removal or abandonment in-place of its flowline, and the remediation and reclamation of the wellsite.

D. "Act" or "OGC Act" shall mean the Colorado Oil and Gas Conservation Act as found in Title 34, Article 60 of the Colorado Revised Statutes, as amended.

E. "Adverse effect" or "adverse impact" shall mean the impact of an action that is considerable or substantial and unfavorable or harmful. The term includes social, economic, physical, health, aesthetic, historical impact, and/or biological impacts, including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

F. "Administrative review process" shall mean the expedited and enhanced review process set out in section 18.77.050.

G. "Applicant" shall mean any person possessing the legal right to develop oil or gas underlying land located within the city's boundaries and who has applied for an oil and gas permit under this chapter.

H. "Application" shall mean an application filed with the city by any person requesting an oil and gas permit under this chapter.

I. "Baseline standards" shall mean those review standards and operation requirements set out in sections 18.77.055 and 18.77.060.

J. "Best management practices" shall mean the best proven and commercially practicable techniques, technologies and practices that are designed to prevent or minimize adverse impacts caused by oil and gas operations to the public health, safety or welfare, including the environment and wildlife resources.

K. "Building" shall mean any residential or non-residential structure designed and permitted to be occupied by natural persons.

L. "City manager" shall mean the city's duly appointed city manager or his or her designee.

M. "Code" shall mean the duly adopted ordinances of the city including, without limitation, the Loveland Municipal Code, as amended.

N. "COG permit" shall mean a permit issued by the commission to drill, deepen, re-enter or recomplete and conduct any other oil and gas operation as allowed under the COG regulations.

O. "COG rule" or "COG regulations" shall mean the Colorado oil and gas rules and regulations duly adopted by the commission, as amended, including 2 Colo. Code Regs. 400; et seq.

P. "Commission" shall mean the Oil and Gas Conservation Commission of the State of Colorado.

Q. "Completion" shall mean, for the completion of an oil well, that the first new oil is produced through wellhead equipment into leased tanks from the ultimate producing interval after the production string has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production string has been run. A dry hole shall be considered completed when all provisions of plugging are complied with as set out in the COG regulations. Any well not previously defined as an oil or gas well, shall be considered completed ninety (90) days after reaching total depth. If approved by the director of the commission, a well that requires extensive testing shall be considered completed when the drilling rig is released or six months after reaching total depth, whichever is later.

R. "Completion combustion device" shall mean any ignition device, installed horizontally or vertically used in exploration and production operations to combust otherwise vented emissions from completions.

S. "Current planning" shall mean the city's current planning division.

T. "Day" shall mean a calendar day.

U. "Designated agent" shall mean the designated representative of any operator.

V. "Development review team" or "DRT" shall mean the city's development review team.

W. "Director" shall mean the director of the city's development services department or his or her designee.

X. "Enhanced standards" shall mean those review standards and best management practices set out in section 18.77.065.

Y. "Gas" shall mean all natural gases and all hydrocarbons not defined in this section as oil.

Z. "High occupancy building" shall mean any residential or non-residential structure design to be occupied by natural persons and permitted with an occupancy rating for fifty (50) persons or more.

AAZ. "Hydraulic fracturing" shall mean all the stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geological formation to enhance production of oil and gas.

BBA. "Inspector" shall mean any person designated by the city manager who shall have the authority to inspect a well site to determine compliance with this chapter and any other applicable city ordinances.

CCBB. "Minimize adverse impacts" shall mean, whenever reasonably practicable, to avoid significant adverse impacts to wildlife resources, the environment, or to the public's health, safety or welfare from oil and gas operations, minimize the extent and severity of those impacts that cannot be avoided, mitigate the effects of unavoidable remaining impacts, and take into consideration cost-effectiveness and technical feasibility with regard to actions and decisions taken to minimize adverse impacts.

DDCC. "Natural area" shall mean those areas described or identified as natural areas in the City of Loveland Open Lands Plan, dated March 2003.

EEDD. "Oil" shall mean crude petroleum oil and any other hydrocarbons, regardless of gravities, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas before or after it leaves the reservoir.

FFEE. “Oil and gas facility” shall mean equipment or improvements used or installed at an oil and gas location for the exploration, production, withdrawal, gathering, treatment or processing of oil or gas, which shall include, without limitation, any and all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowlines, and other equipment directly associated with oil wells, gas wells, or injection wells.

GGFF. “Oil and gas operations” or “operations” shall mean exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, re-entering, recompletion, reworking or abandonment of an oil and gas well, underground injection well or gas storage well; production operations related to any such well including the installation of flowlines and gathering lines; the generation, transportation, storage, treatment or disposal of exploration and production wastes; and any construction, site preparation or reclamation activities associated with such operations.

HHGG. “Operator” shall mean a person who has the legal right under a permit issued under this chapter 18.77 and under a COG permit issued by the commission to conduct oil and gas operations on the surface within the city’s boundaries by drilling into and producing from a pool and to appropriate the oil or gas produced therefrom either for the operator or for the operator and an owner.

IIHH. “Outdoor assembly area” shall mean an improved facility, not within a building, designed to accommodate and provide a place for natural persons to congregate and is capable of being reasonably occupied by 50 or more natural persons at any one time, but shall not include the backyards of residential buildings.

JJH. “Owner” shall mean any person having an ownership interest in the oil and gas resources underlying land either as the owner of a corporeal estate in realty or as an owner of a leasehold interest therein.

KKH. “Permit” or “oil and gas permit” shall mean a permit issued by the city to an applicant under this chapter.

LLKK. “Person” shall mean any natural person, corporation, association, partnership, limited liability company, receiver, trustee, executor, administrator, guardian, fiduciary or any other kind of entity or representative, and includes any department, agency or instrumentality of the state or any political subdivision thereof and any county, city and country, home rule municipality, statutory municipality, authority or special district.

MMLL. “Pit” shall mean any natural or man-made depression in the ground used for oil or gas exploration or production purposes. A pit does not include steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils. This shall include, without limitation and as applicable, “production pits,” “special purpose pits,” “reserve pits,” “multi-well pits” and “drilling pits,” as these are defined in the COG regulations.

NNMM. “Planning commission” shall mean the city’s planning commission as established in code section 2.60.210.

QOONN. “Planning commission review process” shall mean the review process set out in section 18.77.045.

PPQQ. “Seismic operations” shall mean all activities associated with the acquisition of seismic data including, but not limited to, surveying, shothole drilling, recording, shothole plugging and reclamation.

PP. “Setback” shall mean the distance on the surface estate between the following, as applicable: a wellhead, intermediate line, gathering line or oil and gas facility structure boundary and the closest projection of a building or structure, property line of a platted lot or unplatted tract of land or a permitted oil and gas operation.

QQ. “Significant degradation” shall mean any degradation to the environment that will require significant efforts and expense to reverse or otherwise mitigate that degradation.

RR. “State” shall mean the State of Colorado.

SS. “Surface water body” shall include, but not be limited to, rivers, streams, ditches, reservoirs, and lakes.

TT. “Surface owner” shall mean any person having title or right of ownership in the surface estate of real property or any leasehold interest therein.

UU. “VOCs” shall mean volatile organic compounds.

VV. “Well” shall mean an oil or gas well, a hole drilled for the purpose of producing oil or gas, or a well into which fluids are injected, a stratigraphic well, a gas storage well, or a well used for the purpose of monitoring or observing a reservoir.

WW. “Well blowdown” shall mean the maintenance activity designed to remove fluids from mature wells during which time gas is often vented to the atmosphere.

XX. “Well completion” shall mean the process that perforates well casing, stimulates the reservoir using various techniques including, but not limited to, acid treatment and hydraulic fracturing, allows for the flowback of oil or natural gas from wells to expel drilling and reservoir fluids, and tests the reservoir flow characteristic, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.

YY. “Wellhead” shall mean the equipment attached to the casinghead of an oil, gas or injection well above the surface of the ground.

ZZ. “Wetlands” shall have the same meaning as this word is defined in code section 18.41.110.

18.77.030 Zoning.

Notwithstanding any provision in this code to the contrary, oil and gas operations shall be permitted in all of the city's zoning districts, planned unit developments, general development plans, unit developments and within any other city-approved land uses, but only if a permit has been issued to the extent required by this chapter and a COG permit has been issued by the commission for those oil and gas operations.

18.77.035 Alternative Permit Processes.

Any person applying for a permit under this chapter must proceed under the planning commission review process as provided in section 18.77.045, unless the applicant voluntarily chooses to proceed under and qualifies for the expedited and enhanced administrative review process as provided in section 18.77.050. The permit application under the planning commission review process shall be reviewed and granted or denied on the basis of the applicable baseline standards set out in sections 18.77.055 and 18.77.060 and any other applicable standards and requirements in this chapter and code. A permit application under the administrative review process shall be reviewed and granted or denied under the applicable baseline and enhanced standards set out in sections 18.77.060 and 18.77.065 and any other applicable standards and requirements in this chapter and code.

18.77.040 Conceptual Review.

Prior to any person submitting an application under this chapter, that person shall first schedule with current planning and attend a conceptual review meeting with the city's development review team. Current planning shall schedule such meeting within fifteen (15) days after a written request for the meeting has been received. At least fifteen (15) days before the scheduled conceptual review meeting, the person requesting the meeting shall submit to current planning in electronic form or one (1) hard-copy set of all applications, plans, studies and other documents that such person has filed or will be required to file with the commission under the COG regulations to obtain a COG permit for the oil and gas operations proposed to be conducted within the city. The purpose of the conceptual review meeting is to give the prospective applicant and the city's development review team the opportunity to discuss the proposed oil and gas operations and to discuss the city's application and review processes under this chapter. This will include a discussion as to whether the prospective applicant is interested in using the expedited and enhanced administrative review process rather than the planning commission review process. Within ten (10) days after the meeting, current planning shall provide the prospective applicant with the development review team's written comments and recommendations concerning the proposed oil and gas operations. When these comments and recommendations are sent to the prospective applicant by current planning, the prospective applicant shall have three (3) months thereafter in which to file with current planning an application for the proposed oil and gas operations. Failure to file that application within this time period will require the prospective applicant to schedule and conduct another conceptual review meeting under this section for those oil and gas operations. However, in the event current planning fails to timely provide DRT's written comments and recommendations to the prospective applicant, the prospective applicant may proceed to file its application with current planning within three (3) months thereafter.

18.77.045 Planning Commission Review Process.

A. Application Completeness Review. After an application has been filed with current planning, the director shall review the application for completeness to determine its compliance with the applicable requirements of section 18.77.070. If the director determines that any of those applicable requirements have not been satisfied, the director shall, within fifteen (15) days after the application is filed, notify the applicant in writing of any deficiencies in the application. This process of review and notice of deficiency shall continue until the director determines the application satisfies all applicable requirements of section 18.77.070 and is, therefore, a complete application. The director shall notify the applicant in writing that the application is complete within fifteen (15) days after the later of the filing of the application or the filing of the last application resubmittal in response to a notice of deficiency from the director. Promptly thereafter, current planning shall post the complete application on the city's website for public review, but excluding any information required in this chapter to be kept confidential.

B. Development Review Team. After an application is filed with current planning and has been determined by the director to be a completed application, it shall be reviewed by the DRT. The DRT shall review the application for conformance with the applicable provisions of this chapter and any other applicable provisions of this code. As part of this review, the DRT may meet with the applicant or the applicant's representatives to discuss the application and to present the DRT's questions, concerns and recommendations. Within thirty (30) days after the application has been determined by the director to be a complete application, the DRT shall complete its review by submitting a written report of its findings and recommendations to the applicant and the director. The report shall also be posted on the city's website with the application, but excluding any information required under this chapter to be kept confidential. Within thirty (30) days of the issuance of the DRT's report, the applicant may supplement its application in response to the DRT report.

C. Neighborhood Meeting. Promptly after the director has issued the written determination that the application is complete, current planning shall schedule a neighborhood meeting to be held within forty-five (45) days of the director's written determination of completeness. Once that neighborhood meeting has been scheduled, notices of the neighborhood meeting shall be provided in accordance with all applicable requirements of code chapter 18.05. The mailed notice required for neighborhood meetings under chapter 18.05 shall also be sent to the surface owner or owners of the parcel or parcels of real property on which the oil and gas operations are proposed to be located. In addition to the other contents required for the mailed notice under chapter 18.05, the mailed notice shall state that the application can be reviewed prior to the neighborhood meeting on the city's website or at current planning's office. The neighborhood meeting shall be conducted by current planning. The applicant or a representative of the applicant shall attend the neighborhood meeting and be available to answer questions concerning the application. The objective of a neighborhood meeting shall be to inform noticed persons and other interested citizens attending the meeting of the scope and nature of the proposed oil and gas operations under the application and how the operations will be regulated under this chapter and the COG regulations. Notwithstanding the foregoing, the director may waive the provisions of this paragraph C. if the director determines that the City's required notices and neighborhood meeting under this paragraph will be duplicative of the notice and neighborhood meeting requirements under the COG regulations for the applicant's COG permit. To be considered duplicative, the commission's neighborhood meeting must be held within the city.

D. Planning Commission Hearing. Current planning shall schedule the application for a public hearing before the planning commission within forty-five (45) days after the DRT has finished its review of the application. Notice of the hearing shall be provided in accordance with all applicable requirements of chapter 18.05. The mailed notice required in chapter 18.05 for this hearing shall also be mailed to the surface owner or owners of the parcel or parcels of real property on which the oil and gas operations are to be located. In addition, the mailed and published notices shall state that the complete application can be reviewed by the public on the city's website or at current planning's office.

E. Planning Commission Hearing Procedures. The planning commission's public hearing shall be conducted as a quasi-judicial proceeding. Subject to the planning commission chairperson's discretion to limit the time and scope of testimony and to make allowances for the adequate presentation of evidence and the opportunity for rebuttal, the order of the hearing shall be as follows: (1) explanation and nature of application by current planning staff; (2) applicant's presentation of evidence and testimony in support of the application; (3) public comment and presentation of evidence; (4) applicant's rebuttal presentation; and (5) motion, discussion and vote by the planning commission on the application. No person making a presentation and providing testimony or comment at the hearing shall be subject to cross-examination. However, during the hearing members of the planning commission and the city attorney may make inquiries for the purposes of eliciting new information and to clarify information presented.

F. Planning Commission Decision. The planning commission shall consider the application based solely on the testimony and evidence submitted at the hearing, the applicable provisions of this chapter and any other applicable provisions of this code. At the conclusion of the presentation of testimony and evidence, the planning commission shall vote to grant, grant with conditions or deny the oil and gas permit requested in the application under consideration. A condition may only be imposed on the grant of an oil and gas permit if the applicant agrees to that condition on the record of the hearing. An applicant's refusal to agree to any such condition shall not be used by the planning commission as a basis, in whole or part, to deny the applicant's requested oil and gas permit, unless the condition is expressly required by this chapter 18.77. In granting, granting with conditions or denying an application for an oil and gas permit, the planning commission shall adopt its written findings and conclusions within thirty (30) days of its decision at the hearing.

G. Appeal of Planning Commission Decision. The planning commission's decision described in paragraph F. of this section may be appealed to the city council by the applicant and any "party in interest" as defined in section 18.80.020. The written notice of appeal shall be filed with current planning within ten (10) days of the effective date of the planning commission's final decision, which date shall be the date the planning commission adopts its written findings and conclusions. The appeal shall be filed and conducted in accordance with the applicable provisions in chapter 18.80 for appeals from the planning commission to the city council. The council's decision in the appeal hearing to grant, grant with conditions or deny the applicant's request for an oil and gas permit shall, like the planning commission's decision, be based on the applicable provisions of this chapter and any other applicable provisions of this code. The council shall also not impose any condition on its grant of the oil and gas permit unless the applicant agrees to the condition on the record of the council's appeal hearing. An applicant's

refusal to agree to any such condition shall not be used by the city council to deny the permit unless the condition is expressly required by this chapter 18.77.

18.77.050 Administrative Review Process.

A. Applicant's Election to Use Administrative Review Process. As an alternative to processing an application using the planning commission review process set out in section 18.77.045, an applicant may elect to use the expedited and enhanced administrative review process set out in this section. In electing to use this administrative review process, the applicant must acknowledge and agree in its application to all of the following: (1) that by using this administrative review process to obtain an expedited review, the applicant's application will not only be subject to the baseline standards in section 18.77.060, but also the enhanced standards in section 18.77.065, which enhanced standards might be interpreted to be in operational conflict in one or more respects with the COG regulations; (2) that to the extent the enhanced or negotiated standards imposed through this administrative review process are not already included as conditions in the applicant's COG permit, the applicant will request the commission to add such enhanced standards as additional conditions to the applicant's COG permit; and (3) that if for any reason the applicant wishes to revoke its election to use this administrative review process or to withdraw from the process once started, but still desires an oil and gas permit under this chapter, it will be required to follow and meet all of the requirements of the planning commission review process.

B. Application Completeness Review. An application reviewed under this section shall be reviewed by the director for completeness using the same process used in the planning commission review process as set out in section 18.77.045.A.

C. Development Review Team. After an application is filed with current planning and determined by the director to be a complete application, it shall be reviewed by the DRT. The DRT shall review the application for conformance with the applicable provisions of this chapter and any other applicable provisions of this code. As part of this review, the DRT may meet with the applicant or the applicant's representatives to discuss the application and to present the DRT's questions, concerns and recommendations. Within thirty (30) days after the application has been determined by the director to be a complete application, the DRT shall complete its review by submitting a written report of its findings and recommendations to the applicant and the director. The report shall also be posted on the city's website with the application, but excluding any information required under this chapter to be kept confidential. Within thirty (30) days of the issuance of the DRT's report, the applicant may supplement its application in response to the DRT report.

D. Neighborhood Meeting. The neighborhood meeting for an application reviewed under this section shall be scheduled, noticed and conducted or waived in the same manner as under the planning commission review process set out in section 18.77.045.C., but with one addition. The notices mailed under section 18.77.045.C. shall state that the application is being reviewed under the administrative review process and notify the recipients of the notice that they will have until fifteen (15) days after the neighborhood meeting is held or after such other date set by the director if the neighborhood meeting is waived by the director as provided in section 18.77.045.C. in which to submit to current planning for the director's consideration any

comments and information, in written, electronic or photographic form, related to the subject application as provided in paragraph E. of this section.

E. Public Comment. Within fifteen (15) days after the neighborhood meeting is held or after such other date set by the director if the neighborhood meeting is waived by the director as provided in section 18.77.045.C., any person may file with current planning for the director's consideration and to be included in any record on appeal taken under paragraph H. of this section, any comments and information, in written, electronic or photographic form, relevant to the director's consideration of the subject application under this section. Current planning shall preserve all of the comments and information received under this section to ensure that they are included in any record of appeal. These comments and information shall also be made available for review by the applicant. The applicant may supplement its application in response or rebuttal to the comments and information submitted by the public. The applicant must file this supplemental information with current planning within fifteen (15) days after the deadline for the public's submittal of its comments and information. Any comments and information received by current planning after the deadlines set forth herein, shall not be considered by the director in his or her decision and shall not be included in the record of any appeal under paragraph H. of this section.

F. Director's Negotiations with Applicant. After receiving the DRT report and all of the public comments and information provided under paragraph E. of this section, the director shall negotiate with the applicant for standards to be added as conditions to the oil and gas permit in addition to or in substitution of those baseline standards required in section 18.77.060 and the enhanced standards in section 18.77.065, if in the director's judgment such conditions will result in the increased protection of the public's health, safety or welfare or further minimize adverse impacts to surrounding land uses, the environment or wildlife resources. The director shall have ten (10) days after the last of the public comments and information have been submitted under paragraph E. of this section in which to conduct those negotiations. If after those negotiations the applicant agrees in writing to these new standards, they shall be added as conditions to the oil and gas permit if the permit is granted by the director. If the applicant does not agree to these conditions, they shall not be added as conditions to any granted oil and gas permit. In addition, the applicant's refusal to agree to any such conditions shall not be used by the director as a basis, in whole or part, to deny the applicant's requested oil and gas permit, unless the condition is expressly required by this chapter 18.77.

G. Director's Decision. Within fifteen (15) days after the expiration of the negotiation period in paragraph F. of this section, the director shall issue his or her written findings and conclusion, granting, granting with conditions to the extent agreed by the applicant under paragraph F. of this section or denying the applicant's requested oil and gas permit. The director's written decision shall be mailed to the applicant and to all persons required in paragraph D. of this section to be mailed written notice of the neighborhood meeting. The record which the director must consider in issuing his or her written findings and conclusions shall consist solely of the application, the applicant's supplementals to the application, the DRT report and the public comments and information submitted under paragraph E. of this section. This record shall be used by the director to then determine the application's compliance or noncompliance with the applicable provisions of this chapter and any other applicable provisions in this code.

H. *Appeal of Director's Decision.* The director's decision as set out in his or her written findings and conclusions shall constitute the director's final decision. The director's final decision is not appealable to the planning commission or the city council. The director's final decision may only be appealed to the district court for Larimer County under Rule 106(a)(4) of the Colorado Rules of Civil Procedure by the applicant, or by anyone required in paragraph D. of this section to be mailed written notice of the neighborhood meeting, and by any other person or persons considered a "party in interest," as defined in under section 18.80.020, to the district court for Larimer County under Rule 106(a)(4) of the Colorado Rules of Civil Procedure. The record to be considered in the appeal shall consist of the director's written findings and conclusion, the application, the applicant's supplementals to the application, the DRT report, all comments and information provided by the public under paragraph E. of this section and any other evidentiary information the district court orders to be included in the record.

18.77.055 Baseline Standards for Planning Commission Review Process.

All applications considered in the planning commission review process and all oil and gas operations approved under this process shall be subject to and comply with the setback and mitigation requirements set forth in COG rule 604, as amended, in addition to the standards and requirements in code section 18.77.060.

18.77.060 Baseline Standards for Planning Commission and Administrative Review Processes.

All applications considered in the planning commission review process and the administrative review process and all oil and gas operations approved under either process shall be subject to and comply with the following standards and requirements, as applicable:

A. *COG regulations for setback requirements.* All oil and gas operations shall comply with COG rule 603, as amended.

B. *COG regulations for groundwater baseline sampling and monitoring.* All permits for oil and gas operations shall comply with COG rule 318.A.e, as amended.

C. *COG regulations for protection of wildlife resources.* All permits for oil and gas operations shall comply with COG rule series 1200, as amended. The operator shall notify the director if consultation with Colorado Division of Parks and Wildlife is required pursuant to COG rule 306.c.

D. *COG regulations for reclamation.* All permits for oil and gas operations shall comply with COG rule series 1000, as amended. The operator shall provide copies of the commission's drill site reclamation notice to the director at the same time as it is provided to the surface owner.

E. *COG regulations for well abandonment.*

1. All oil and gas facilities shall comply with the requirement for well abandonment set forth in COG rule 319, as amended. The operator shall provide a copy of the

approval granted by the commission for the abandonment to the director within thirty (30) days from receiving such approval.

2. The operator shall provide copies of the commission's plugging and abandonment report to the director at the same time as it is provided to the commission.

3. The operator shall notify the Loveland Fire Rescue Authority not less than two (2) hours prior to commencing plugging operations.

F. *Applications and permits.* Copies of all county, state and federal applications and permits that are required for the oil and gas operation shall be provided to the director.

G. *Burning of trash.* No burning of trash shall occur on the site of any oil and gas operations.

H. *Chains.* Traction chains on heavy equipment shall be removed before entering a city street.

I. *COG regulations for hydraulic fracturing chemical disclosure.* All operators shall comply with COG rule 205.A, as amended. Each operator shall also provide to the Loveland Fire Rescue Authority in hard copy or electronic format the operator's chemical disclosure form that the operator has filed with the chemical disclosure registry under COG rule 205.A. Such form shall be filed with the director within five (5) days after the form is filed in the chemical disclosure registry.

J. *Color.* Oil and gas facilities, once development of the site is complete, shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match the land rather than the sky. The color should be slightly darker than the surrounding landscape.

K. *Cultural and historic resources standards.* The installation and operation of any oil and gas facility shall not cause significant degradation of cultural or historic resources, of sites eligible as City Landmarks, or the State or National Historic Register, as outlined in code section 15.56.030.

L. *Stormwater quality and dust control.* All permits for oil and gas operations shall comply with COG rule 805, as amended, plus code chapter 13.20.

M. *Electric equipment.* The use of electric-powered equipment during production operations shall be required if a provider of electric power agrees at the provider's customary rates, fees and charges to provide electric service to an oil and gas facility and the cost to make the electrical connection is economically practicable. If available, electric service to the oil and gas facility shall be acquired by the operator within the shortest time period reasonably practicable. Temporary use of natural gas or diesel generators may be used until electric service is provided. Electric equipment shall not be required during drilling and well completion operations.

N. *Emergency response standards.*

1. In General. Operators agree to take all reasonable measures to assure that oil and gas operations shall not cause an unreasonable risk of emergency situations such as explosions, fires, gas, oil or water pipeline leaks, ruptures, hydrogen sulfide or other toxic gas or fluid emissions, hazardous material vehicle accidents or spills.
2. Emergency Preparedness Plan. Each operator with an operation in the city is required to provide to the City its emergency preparedness plan for operations within the City, which shall be in compliance with the applicable provisions of the International Fire Code as adopted in the city code. The plan shall be filed with the Loveland Fire Rescue Authority and updated on an annual basis. The emergency preparedness plan shall contain at least all of the following information:
 - (a) The designation of the operator's office group or individual(s) responsible for emergency field operations. An office group or individual(s) designated to handle first response situations, emergency field operations or on-scene incident commands will meet this requirement. A phone number and address of such office group or individual(s) operation shall be required.
 - (b) A map identifying the location of pipelines, isolation valves and/or a plot plan, sufficient in detail to enable the Loveland Fire Rescue Authority to respond to potential emergencies. The information concerning pipelines and isolation valves shall be kept confidential by the Loveland Fire Rescue Authority, and shall only be disclosed in the event of an emergency or as otherwise required by law.
 - (c) A provision that any spill outside of the containment area that has the potential to leave the facility or to threaten waters of the state and that is required to be reported to the commission or the commission's director shall be immediately reported to the Loveland Fire Rescue Authority emergency dispatch at 911 and to the director promptly thereafter.
 - (d) Access or evacuation routes and health care facilities anticipated to be used in the case of an emergency.
 - (e) A project-specific emergency preparedness plan for any operation that involves drilling or penetrating through known zones of hydrogen sulfide gas.
 - (f) A provision obligating the operator to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency caused by oil and gas operations and not promptly handled by the operator or its agents.
 - (g) Detailed information showing that the applicant has adequate personnel, supplies and funding to implement the emergency response plan immediately at all times during construction and operations.

O. *Noise mitigation.* All permits for oil and gas operations shall comply with COG rule 802, as amended, plus the following:

1. The exhaust from all engines, coolers and other mechanized equipment shall be vented up and in a direction away from the closest existing residences.
2. Additional noise mitigation may be required based on specific site characteristics, including, but not limit to, the following:
 - (a) Nature and proximity of adjacent development;
 - (b) Prevailing weather patterns, including wind direction;
 - (c) Vegetative cover on or adjacent to the site; and
 - (d) Topography.
3. The level of required noise mitigation may increase with the proximity of the well and well site to existing residences and platted subdivision lots, and the level of noise emitted by the well site. To the extent feasible and not inconsistent with its operations, operator may be required to use one (1) or more of the following additional noise mitigation measures to mitigate noise impacts:
 - (a) Acoustically insulated housing or cover enclosures on motors, engines and compressors;
 - (b) Vegetative screens consisting of trees and shrubs;
 - (c) Solid wall or fence of acoustically insulating material surrounding all or part of the facility;
 - (d) Noise mitigation plan identifying and limiting hours of maximum noise emissions, type, and frequency, and level of noise to be emitted and proposed mitigation measures; and
 - (e) Lowering the level of pumps or tank batteries.

P. *Fencing.* After the drilling, well completion and interim reclamation operations are completed, the operator shall install permanent perimeter fencing six (6) feet in height around the entire perimeter of the production operations site, including gates at all access points. Such gates shall be locked when employees of the operators are not present on the site. Such fencing and gates shall be solid, opaque and consist of masonry, stucco, steel or other similar materials. The

director may allow chain link fencing if solid and opaque fencing creates a threat to public safety or interferes with emergency or operations access to the production site.

Q. *Flammable material.* All land within twenty five (25) feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.

R. *Land disturbance standards.* The following mitigation measures shall be used to achieve compatibility and reduce land use impacts:

1. Pad dimensions for a well shall be the minimum size necessary to accommodate operational needs while minimizing surface disturbance.
2. Oil and gas operations shall use structures and surface equipment of the minimal size necessary to satisfy present and future operational needs.
3. Oil and gas operations shall be located in a manner that minimizes the amount of cut and fill.
4. To the maximum extent feasible, oil and gas operations shall use and share existing infrastructure, minimize the installation of new facilities and avoid additional disturbance to lands in a manner that reduces the introduction of significant new land use impacts to the environment, landowners and natural resources.
5. Landscaping plans shall include drought tolerant species that are native and less desirable to wildlife and suitable for the climate and soil conditions of the area. The operator shall submit to the city a temporary irrigation plan and implement said plan, once approved by the city, for the first two years after the plant material has been planted. If it is practicable to provide a permanent irrigation system, the operator shall submit an irrigation plan for permanent watering and the operator shall provide a performance guarantee for such landscaping that is acceptable to the director. Produced water may not be used for landscaping purposes.
6. The application shall include an analysis of the existing vegetation on the site to establish a baseline for re-vegetation upon temporary or final reclamation or abandonment of the operations. The analysis shall include a written description of the species, character and density of existing vegetation on the site and a summary of the potential impacts to vegetation as a result of the proposed operations. The application shall include any commission-required interim and final reclamation procedures and any measures developed from a consultation with current planning regarding site specific re-vegetation plan recommendations.

S. *Landscaping.* When an oil and gas operation site is less than one hundred (100) feet from a public street, a Type D Bufferyard shall be required between the oil and gas operation and the public street in accordance with the City of Loveland Site Development Performance Standards and Guidelines as adopted in code chapter 18.47.

T. *Lighting.* All permits for oil and gas operations shall comply with COG rule 803, as amended, plus the following:

1. Except during drilling, completion or other operational activities requiring additional lighting, down-lighting shall be required, meaning that all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture; and
2. A lighting plan shall be developed to establish compliance with this provision. The lighting plan shall indicate the location of all outdoor lighting on the site and on any structures, and include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures.

U. *Maintenance of machinery.* Routine field maintenance of vehicles and mobile machinery shall not be performed within three hundred (300) feet of any water body.

V. *Mud tracking.* An operator shall take all practical measures to ensure that the operator's vehicles do not track mud or leave debris on city streets. Any such mud or debris left on city streets by an operator's operation shall be promptly cleaned up by the operator.

W. *Reclamation plan.* The application shall include any interim and final reclamation requirements required by the COG regulations.

X. *Recordation of flowlines.* The legal description of all flowlines, including transmission and gathering systems, shall be filed with the director and recorded with the Larimer County Clerk and Recorder within thirty (30) days of completion of construction. Abandonment of any flowlines shall be filed with the director and recorded with the Larimer County Clerk and Recorder within thirty (30) days after abandonment.

Y. *Removal of debris.* When oil and gas operations become operational, all construction-related debris shall be removed from the site for proper disposal. The site shall be maintained free of debris and excess materials at all times during operation. Materials shall not be buried on-site.

Z. *Removal of equipment.* All equipment used for drilling, re-drilling, maintenance and other oil and gas operations shall be removed from the site within thirty (30) days of completion of the work. Permanent storage of equipment on well pad sites shall be prohibited.

AA. *Signs.* A sign permit shall be obtained for all signs at the oil and gas facility or otherwise associated with the oil and gas operations in accordance with code chapter 18.50 except such permit shall not be required for those signs required by the COG regulations or this chapter.

BB. *Spills.* Chemical spills and releases shall be reported in accordance with applicable state and federal laws, including, without limitation, the COG regulations, the Emergency Planning and Community Right to Know Act, the Comprehensive Environmental Response Compensation and Liability Act, the Oil and Pollution Act, and the Clean Water Act, as applicable. If a spill or

release impacts or threatens to impact a water well, the operator shall comply with existing COG regulations concerning reporting and notification of spills, and the spill or release shall also be reported to the director within twenty-four (24) hours of the operator becoming aware of the spill or release.

CC. Temporary access roads. Temporary access roads associated with oil and gas operations shall be reclaimed and re-vegetated to the original state in accordance with COG rule series 1000.

DD. Development standards for street, electric, water/wastewater, and stormwater infrastructure. All permits for oil and gas operations shall comply with the development standards for street, electric, water/wastewater and stormwater infrastructure set forth in code chapter 16.24.

EE. Transportation and circulation. All applicants shall include descriptions of all proposed access routes for equipment, water, sand, waste fluids, waste solids, mixed waste and all other material to be hauled on the city's streets. The submittal shall also include the estimated weights of vehicles when loaded, a description of the vehicles, including the number of wheels and axles of such vehicles, and any other information required by the city engineer. In addition to any other bonding or indemnification requirements of the city as may be reasonably imposed, all applicants shall provide the city with a policy of insurance in an amount determined by the city engineer to be sufficient to protect the city against any damages that may occur to the city's streets, roads or rights-of-way as a result of any weight stresses or spillage of hauled materials including, without limitation, water, sand, waste fluids, waste solids and mixed wastes.

FF. Water supply. The operator shall identify on the site plan its primary source(s) for water used in both the drilling and well completion phases of operation. In addition, if requested by the city's Water and Power Department director, the applicant's source(s) and amounts of water used in the city shall be documented and a record of it shall be provided to the city. The disposal of water used on site shall also be reported to the Water and Power Department director if requested to include the operator's anticipated haul routes and the approximate number of vehicles needed to supply and dispose of the water. When operationally feasible, the operator shall minimize adverse impacts caused by the delivery of water to the operation site by truck. If available and commercially viable, the operator shall make a service line connection to a domestic water supplier who is willing to provide such water at the same rates, fees and charges and provided that the amount of the water that can be supplied by that provider can be done so without delay or negative impact to the operator's drilling and well completion operations. When operationally feasible, the operator may alternatively purchase non-potable water from any other sources and transfer that water through ditches or other waterways and/or through above or below ground lines.

GG. Weed control. The applicant shall be responsible for ongoing weed control at oil and gas operations sites, pipelines and along access roads during construction and operations, until abandonment and final reclamation is completed pursuant to commission rules. Control of weeds shall comply with the standards in code chapter 7.18.

HH. *Well abandonment.* The operator shall comply with the COG regulations regarding well abandonment. Upon plugging and abandonment of a well, the operator shall provide the director with surveyed coordinates of the abandoned well and shall leave onsite a physical marker of the well location.

II. *Federal and state regulations.* The operator shall comply with all applicable federal and state regulations including, without limitation, the OGC act and the COG regulations.

JJ. *Building permits.* A building permit shall be obtained for all structures as required by the International Fire Code and/or International Building Code as adopted in the city code.

KK. *Floodplains.* All surface oil and gas operations within the city's floodway and flood fringe districts, as these districts are defined and established in code chapter 18.45, shall be conducted, to the extent allowed under COG regulations, in accordance with all applicable COG regulations, including, without limitation, COG rules 603.k. and 1204. In addition, if the operator's oil and gas operations will involve any development or structures regulated under the city's Floodplain Building Code in code chapter 15.14, the operator shall also obtain a floodplain development permit before beginning such regulated operations.

LL. *Trash and recycling enclosures.* All applications for oil and gas operations shall comply with the requirements contained in code chapter 7.16, to the maximum extent feasible.

MM. *Representations.* The approved project development plan shall be subject to all conditions and commitments of record, including verbal representations made by the applicant on the record of any hearing or review process and in the application file, including without limitation compliance with all approved mitigation plans.

NN. *Seismic operations.* The operator shall provide at least a fifteen (15) day advance notice to the director and the Loveland Rural Fire Authority whenever seismic activity will be conducted within the city.

OO. *Access roads.* All private roads used to access the tank battery or the wellhead shall, at a minimum, be:

1. A graded gravel roadway at least twenty (20) feet wide with a minimum unobstructed overhead clearance of thirteen (13) feet six(6) inches, having a prepared subgrade and an aggregate base course surface a minimum of six (6) inches thick compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures approved by the City Engineer. The aggregate material, at a minimum, shall meet the requirements for a Class 6, Aggregate Base Course as specified in the *Colorado Department of Highways Standard Specifications for Road and Bridge Construction*, latest edition.

2. Grades shall be established so as to provide drainage from the roadway surface and shall be constructed to allow for cross-drainage to waterway (i.e. roadside swells,

gulches, rivers, creeks, etc.) by means of an adequate culvert pipe. Adequacy of culvert pipes shall be subject to approval by the city engineer.

PP. *Visual impacts.*

1. To the maximum extent practicable, oil and gas facilities shall be:
 - (a) Located away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings, and other landmarks;
 - (b) Located to avoid crossing hills or ridges;
 - (c) Located to avoid the removal of trees; and
 - (d) Located at the base of slopes to provide a background of topography and/or natural cover.
2. Access roads shall be aligned to follow existing grades and minimize cuts and fills.
3. One (1) or more of the landscaping practices may be required on a site specific bases:
 - (a) Establishment and proper maintenance of adequate ground cover, shrubs and trees;
 - (b) Shaping cuts and fills to appear as natural forms;
 - (c) Cutting rock areas to create irregular forms; and
 - (d) Designing the facility to utilize natural screens.

QQ. *COG regulations for odor.* All oil and gas operations shall comply with COG rule 805.

RR. *COG regulations for abandonment of pipelines.* Any pipelines abandoned in place shall comply with COG rule 1103 and the operator's notice to the commission of such abandonment shall be promptly filed thereafter by the applicant with the director.

SS. *Temporary Housing.* Temporary housing shall be prohibited on any oil and gas operations site, including, without limitation, trailers, modular homes and recreational vehicles, except for the temporary housing customarily provided and required during twenty-four hour drilling, well completion and flowback operations.

18.77.065 Enhanced Standards for Administrative Review Process.

All applications considered in the administrative review process and all oil and gas operations approved under this process shall be subject to and comply with the following standards and requirements, as applicable, in addition to the standards and requirements in code section 18.77.060. The operator shall designate these standards and requirements, to the extent applicable, as agreed upon best management practices on any application the operator files with the commission.

A. Setbacks. All oil and gas facilities shall comply with the setback distances set forth in Table A below or such greater distances as may be required by the commission. Setback distances shall be measured from the closest edge of any equipment included in the definition of oil and gas facility in Section 18.77.025.FF to the nearest part of the nearest feature associated with the sensitive area as described in Column C in Table A. For the purpose of measuring the setback from any sensitive area that does not have a defined property or boundary line, the director shall establish the boundary line for measurement purposes.

Table A – Setbacks for oil and gas facilities

Column A	Column B	Column C
<u>Sensitive Area</u>	<u>Setback Distance (ft.)</u>	<u>Setback to be measured to the following nearest feature of sensitive area:</u>
<u>Building</u>	<u>500</u>	<u>Wall or corner of the building</u>
<u>Public road, major above-ground utility facility, or railroad tracks</u>	<u>200</u>	<u>Right-of-way or easement property line</u>
<u>Property on which the oil and gas facility is located</u>	<u>200</u>	<u>Property line</u>
<u>Lease area on which the oil and gas facility is located</u>	<u>200</u>	<u>Property line</u>
<u>Natural area or wetland</u>	<u>500</u>	<u>Property line</u>
<u>Property managed by the City's Parks and Recreation Department, any City park, or property subject to a conservation easement managed by a public or non-profit entity</u>	<u>500</u>	<u>Property line of property or easement</u>
<u>Surface water body</u>	<u>500</u>	<u>Operating high-water line</u>
<u>FEMA floodway zoning district</u>	<u>500</u>	<u>Boundary line as shown by the Flood Insurance Rate Map (FIRM) revised to reflect a Letter of Map Revision effective May 24, 2010, published by the FEMA</u>
<u>Domestic or commercial water</u>	<u>500</u>	<u>Center of wellhead</u>

Column A	Column B	Column C
<u>well</u>		
<u>Outdoor assembly area</u>	<u>1,000</u>	<u>Property line</u>
<u>High occupancy building</u>	<u>1,000</u>	<u>Wall or corner of the building</u>

A. *Setbacks.* The following setbacks shall apply to the oil and gas operations. Unless specified otherwise herein, setbacks shall be measured from the closest edge of the oil and gas facility to the nearest wall or corner of the building;

1. Except as required under subparagraph 5, below, all oil and gas facilities shall be located at least five hundred (500) feet from any building, or such greater distance as may be required by the commission.

2. All oil and gas facilities shall be at least two hundred (200) feet from public roads, major above ground utility lines, railroads or any property or lease area line of the oil and gas facility, or such greater distance as may be required by the commission.

3. All oil and gas facilities shall be located at least five hundred (500) feet from: (i) the boundary of any natural area or wetland; (ii) the property line of any property managed by the city's Parks and Recreation Department and any city park; (iii) the operating high water line of any surface water body; (iv) the boundary of the FEMA floodway zoning district as set forth in code chapter 18.45; and (v) the property line of any property subject to a conservation easement managed by a public or non profit entity, or such greater distance as required by the commission.

4. All oil and gas facilities shall be located at least five hundred (500) feet from any domestic or commercial water well, or such greater distance as required by the commission.

5. All oil and gas facilities shall be located at least one thousand (1,000) from any building with an occupancy rating for fifty (50) persons or more and any outdoor assembly area with a capacity of fifty (50) persons or more, or such greater distance as required by the commission.

B. *Commission mitigation regulations.* All oil and gas operations shall comply with the mitigation measures required under commission Rule 604.c, as amended.

C. *Bufferyards.* The bufferyards set forth in Table B4 below, shall be established once the well is in production around the entire perimeter of the oil and gas production site, excluding vehicular access points, and maintained until the site has been restored in accordance with the final reclamation plan approved by the city and the commission. Bufferyards shall not be required during drilling and well completion operations. The use of xeriscape plant types shall be used unless a permanent irrigation system is provided by the operator. A temporary irrigation

system shall be provided, maintained and operated for xeriscape plant types for a period of two years from planting.

Table B4 - Bufferyards			
Base Standard (plants per 100 linear feet)	Optional Width (feet)	Plant Multiplier	Option: add 6 foot opaque masonry wall
5 canopy trees	150	1.00	.85
6 evergreen trees	170	0.90	
4 large shrubs	190	0.80	
	210	0.70	
	230	0.60	
	250	0.50	

D. *Air quality standards.* Air emissions from oil and gas facilities shall be in compliance with the permit and control provisions of the Environmental Protection Agency, Air Quality Control Commission and Colorado Oil and Gas Conservation Commission. In addition, the operator of the oil and gas facility agrees to employ the following enhanced standards for air quality mitigation.

1. *General duty to minimize emissions.* All continuously operated equipment, including but not limited to, storage vessels and dehydrators shall route vapors to a capture and control device with at least a ninety-eight percent (98%) destruction efficiency. Operators shall submit to the director test data of like equipment or manufacturer's data demonstrating the control device can meet the destruction efficiency. Any combustion device, auto ignition system, recorder, vapor recovery device or other equipment used to meet the destruction efficiency shall be installed, calibrated, operated and maintained in accordance with the manufacturer's recommendations, instruction and operating manuals.

2. *Combustion devices.* All flares shall be designed and operated as follows:

(a) The combustion devices shall be designed and operated in a matter that will ensure it complies with 40 Code of Federal Regulations ("CFR") §60.18 (General control device and work practice requirements);

(b) The combustion device, during production operations, shall be operated with a pilot flame present at all times vapors may be routed to it. Presence of a pilot flame shall be continuously monitored and recorded; and

(c) Combustion devices shall be equipped with automatic flame ignition systems in the event the pilot flame is extinguished.

3. *Fugitive emissions.* The operator shall develop and follow a leak detection and repair plan to minimize emissions from fugitive components. The plan will be submitted to the director for incorporation into the permit.

4. *Pneumatic controllers.* The operator shall use only no- or low-bleed pneumatic controllers, where such controllers are available for the proposed application. High-bleed pneumatic controllers may be used where air is the motive gas for operation of the controller and valve.

5. *Well completion practices.* For each well completion operation, the operator shall minimize emissions from the operation as set forth below:

(a) For the duration of flowback, route the recovered gas to the sales pipeline once the well has enough gas to safely operate the separator, or like device, and liquid control valves;

(b) If flow and gathering lines are not available to comply with subparagraph (a) above, the operator shall capture the recovered gas to a completion combustion device, equipped with a continuous ignition system, to oxidize the recovered gas stream except in conditions that may result in a fire hazard or explosion, or where high heat emissions from the completion device may negatively impact a sensitive area or nearby structure;

(c) Operators shall have a general duty to safely maximize resource recovery and minimize releases to the atmosphere during flowback; and

(d) Operators shall maintain a log for each well completion operation. The log shall be completed in accordance with the methods outlined in the Environmental Protection Agency's Code of Federal Regulations, specifically 40 CFR Part 60, Subpart OOOO.

6. *Well maintenance and blowdowns.* The operator shall utilize best management practices during well maintenance and blowdowns to minimize or eliminate venting emissions.

7. *Capture of produced gas from wells.* Gas produced during normal production shall be captured, to the maximum extent feasible, and not flared or vented, except in situations where flaring or venting is required to ensure that associated natural gas can be safely disposed of in emergency shutdown situations.

8. *Rod-packing maintenance.* Operators shall replace rod-packing from reciprocating compressors located at facilities approved after April 15, 2013, every twenty-six thousand (26,000) hours of operation or thirty-six (36) months, whichever occurs first.

9. *Monitoring compliance and reporting.* Operators shall submit to the director an annual report providing the following information concerning the operator's oil and gas operations as related to air emissions:

- (a) Dates when the operator or its agent inspected its oil and gas facilities under its leak detection and repair plan;
- (b) A record of the expected and actual air emissions measured at the facilities;
- (c) The operator's emissions data collected during well completion activities;
- (d) Dates and duration when operator conducted well maintenance activities to minimize air emissions;
- (e) If venting occurred at any time during the reporting period, an explanation as to why best management practices could not have been used to prevent such venting; and
- (f) Dates when reciprocating compressor rod-packing is replaced.

E. *Pipelines.* Any newly constructed or substantially modified pipelines on site shall meet the following requirements:

1. Flowlines, gathering lines and transmission lines shall be sited at a minimum of fifty (50) feet away from residential and non-residential buildings, as well as the high-water mark of any surface water body. This distance shall be measured from the nearest edge of the pipeline. Pipelines and gathering lines that pass within one hundred fifty (150) feet of residential or non-residential building or the high water mark of any surface water body shall incorporate leak detection, secondary containment or other mitigation, as appropriate;
2. To the maximum extent feasible, pipelines shall be aligned with established roads in order to minimize surface impacts and reduce habitat fragmentation and disturbance;
3. To the maximum extent feasible, operators shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize surface impacts; and
4. Operators shall use boring technology when crossing streams, rivers, irrigation ditches or wetlands with a pipeline to minimize negative impacts to the channel, bank and riparian areas.

F. All oil and gas facilities shall comply with the sound limitation standards set forth in code chapter 7.32 after development of the well is complete, meaning while the well is in production. A noise mitigation study shall be submitted with the application to demonstrate compliance with said code chapter. If necessary to comply with said chapter, a noise screen shall be constructed

along the edge of the oil and gas facility between the facility and existing residential development or land zoned for future residential development.

18.77.070 Application Requirements.

All applications submitted to current planning shall contain the information required for a COG permit and any additional information required by the city's "Oil and Gas Development Application Submittal Checklist" approved by the city manager.

18.77.075 Variances.

A. *Variance Request.* In both the planning commission review and administrative review processes, an applicant may request a variance from any provision of this chapter. A request for a variance under this section may be included in the applicant's application and shall be processed, reviewed and granted, granted with conditions or denied in accordance with and as part of the planning commission review process or the administrative review process, as applicable. The variance provisions of chapter 18.60 shall not be applicable to a variance request under this chapter.

B. *Grounds for Variance.* A variance from the application of any provision in this chapter shall be granted on the basis of one or more of the following grounds:

1. The provision is in operational conflict with the OGC act or the COG regulations, meaning the application of the provision would have the effect of materially impeding or destroying a state interest as expressed in the COG act or the COG regulations.
2. There is no technology commercially available at a reasonable cost to conduct the proposed oil and gas operations in compliance with the provision and granting a variance from the operation of the provision will not have an adverse effect on the public health, safety or welfare or on the environment.
3. Protection of the public health, safety and welfare and of the environment would be enhanced by an alternative approach not contemplated by the provision.
4. Application of the provision will constitute a regulatory taking of property without just compensation by the city under Article II, Section 3 of the Colorado Constitution.
5. Application of the provision is impractical or would create an undue or unnecessary hardship because of unique physical circumstances or conditions existing on or near the site of the oil and gas operations, which may include, without limitation, topographical conditions, shape or dimension of the operation site, inadequate public infrastructure to the site, or close proximity of occupied buildings.

18.77.080 Transfer of Permits.

Oil and gas permits may be assigned to another operator only with the prior written consent of the director and upon a showing to the director that the new operator can and will comply with all conditions of the transferred permit and with all of the applicable provisions of this chapter. The existing operator shall assign the permit to the new operator on a form provided by the city and the new operator shall also sign the form agreeing to comply with all of the conditions of the permit and all applicable provisions of this chapter.

18.77.085 Other Applicable Code Provisions.

In addition to the provisions of this chapter, all oil and gas operations conducted within the city shall comply with all applicable provisions of the following code chapters: 3.16, Sales and Use Tax; 7.12, Nuisances - Unsanitary Conditions; 7.16, Solid Waste Collection and Recycling; 7.18, Weed Control; 7.26, Accumulations of Waste Materials; 7.30, Graffiti; 7.36, Fire Protection; 10.04, Traffic Regulations; 10.20, Parking; 12.16, Use of City Rights-of-Way; 12.28, Prohibited Uses of Streets and Other Public Places; 13.18, Stormwater Management; 13.20, Stormwater Quality; 15.08, Building Code; 15.12, Property Maintenance Code; 15.14, Floodplain Building Code; 15.16, Mechanical Code; 15.24, Electrical Code; 15.28, Fire Code, 16.38, Capital Expansion Fees; 16.41, Adequate Community Facilities; 16.42, Street Maintenance Fee; 18.45, Floodplain Regulations; 18.50, Signs; 13.04, Water Service; 13.06, Cross Connection Control; and 19.06, Irrigation.

18.77.090 Emergency Response Costs.

The operator shall reimburse the Loveland Fire Rescue Authority for any emergency response costs incurred by the Authority in connection with fire, explosion or hazardous materials at the well or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by mistake of the Authority or in response to solely a medical emergency.

18.77.095 Application and Inspection Fees.

The city council may establish by resolution fees to be collected at the time an application is filed with current planning for the city's reasonable costs in processing applications under this chapter and for fees thereafter imposed for the city's reasonable costs to conduct inspections to ensure compliance with this chapter. Fees established for inspections shall be nondiscriminatory to only cover the city's reasonable costs to inspect and monitor for road damage and for compliance with the city's fire code, building codes and the conditions of any permit issued under this chapter. However, such inspection fees shall not be based on any costs the city might incur to conduct inspections or monitoring of oil and gas operations with regard to matters that are subject to rule, regulation, order or permit condition administered by the commission.

18.77.100 Capital Expansion Fees.

Oil and gas operations within the city shall be subject to the capital expansion fees established under code chapter 18.38. The city council may adopt and set such fees by resolution.

Any such fees adopted, shall be paid by the operator to the city at the time of issuance of an oil and gas permit under this chapter.

18.77.105 Reimbursement for Consultant Costs.

If the city contracts with an outside consultant to review and advise the city concerning any applicant's application or in connection with any applicant's hearing conducted under this chapter, the applicant shall reimburse the city for the city's reasonable costs incurred with that consultant. No permit shall be issued and no suspended permit shall be reinstated until the applicant reimburses the city in full for any such costs.

18.77.110 Adequate Transportation Facilities.

All applications submitted and all permits issued under this chapter shall be subject to all of the applicable adequate community facilities requirements of code chapter 16.41 as they relate solely to the transportation facilities required in code section 16.41.110.

18.77.115 Insurance and Performance Security.

A. *Insurance.* Every operator granted a permit under this chapter shall procure and maintain throughout the duration of the operator's oil and gas operations a policy of comprehensive general liability insurance, or a self-insurance program approved by the Colorado Insurance Commission, insuring the operator and naming the city as an additional insured, against any liability for personal injury, bodily injury or death arising out of the operator's permitted operations, with coverage of at least one million dollars (\$1,000,000) per occurrence. Unless the operator is self-insured, insurance required by this paragraph A. shall be with companies qualified to do business in the State of Colorado and may provide for a deductible as the operator deems reasonable, but in no event greater than ten thousand dollars (\$10,000). The operator shall be responsible for payment of any deductible. No such policy shall be subject to cancellation or reduction in coverage limits or other modification except after thirty (30) days prior written notice to the city. The operator shall identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal the operator changes to "occurrence," the operator shall carry a twelve (12) month tail. The operator shall not do or permit to be done anything that shall invalidate the policies. In addition, the insurance required by this paragraph A. shall cover any and all damages, claims or suits arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants, and shall not exclude from coverage any liability or expense arising out of or related to any form of pollution, whether intentional or otherwise. Further, the policies required by this paragraph A. shall be deemed to be for the mutual and joint benefit and protection of the operator and the city and shall provide that although the city is named as additional insured, the city shall nevertheless be entitled to recover under said policies for any loss occasioned to the city or its officers, employees or agents by reason of negligence of the operator or of its officers, employees, agents, subcontractors or business invitees and such policies shall be written as primary policies not contributing to or in excess of any insurance coverage the city may carry. Prior to the issuance of the operator's permit, the operator shall furnish to the city certificates of insurance evidencing the insurance coverage required herein. In addition, the operator shall, upon request by the city and not less than thirty (30) days prior to the expiration of any such

insurance coverage, provide the city with a certificate of insurance evidencing either new or continuing coverage in accordance with the requirements of this section.

B. *Performance Security for Road Damage.* Prior to the issuance of a permit to an applicant, the applicant shall provide the city with a twenty-five thousand dollar (\$25,000) performance security for each well that is permitted while the well is in operation in the form of an irrevocable letter of credit or equivalent financial security acceptable to the director to cover the city's costs to repair any damages to the city's public rights-of-way caused by the operator's use of said rights-of-way. In the event this security is insufficient to cover the city's costs to repair any such damages, the operator shall be liable to the city for those additional costs and the city may pursue a civil action against the operator to recover those costs as provided in section 18.77.125.C. Reclamation and other activities and operations which fall under the COG regulations are exempted from this performance security coverage.

18.77.120 Inspections, Right to Enter and Enforcement.

A. *Inspections.* All oil and gas operations and facilities may be inspected by the city's duly appointed inspectors at reasonable times to determine compliance with the applicable provisions of this chapter and all other applicable provisions in this code. However, the city's inspections shall be limited to the inspection of those matters directly enforceable by the city under this chapter 18.77 as provided in paragraph C. of this section. In the event an inspection is desired by the city relating to a matter not directly enforceable by the city under this chapter, the city shall contact the commission to request that it conduct the inspection and take appropriate enforcement action.

B. *Right to Enter.* Notwithstanding any other provision in this code to the contrary, for the purpose of implementing and enforcing the provisions of this chapter and the other applicable provisions of this code, the city's inspectors shall have the right to enter upon the private property of a permitted operator after reasonable notification to the operator's designated agent, in order to provide the operator with the opportunity to be present during such inspection. Such notice shall not be required in the event of an emergency that threatens the public's health or safety. By accepting an oil and gas permit under this chapter, the operator grants its consent to this right to enter.

C. *Enforcement.* The city's enforcement of the provisions of this chapter 18.77 and of the conditions included in permits issued under this chapter shall be limited to those provisions and conditions that are not in operational conflict with state law or COG regulations and that are enforced by the commission, except when the provision or condition is an enhanced standard imposed and agreed to by the applicant through the administrative review process or agreed to by the applicant in the planning commission review process.

D. *Designated Agent.* The applicant shall include in its application the telephone number and email address of its designated agent and at least one back-up designated agent who can be reached twenty-four (24) hours a day, seven (7) days a week for the purpose of being notified of any proposed city inspection under this section or in case of an emergency. The applicant shall notify the city in writing of any change in the primary or back-up designated agent or their contact information.

18.77.125 Violations, Suspension and Revocation of Permits, Civil Actions and Penalties.

A. *Violations.* It shall be unlawful and a misdemeanor offense under this chapter for any person to do any of the following:

1. Conduct any oil and gas operation within the city without a validly issued permit;
2. Violate any enforceable condition of a permit; or
3. Violate any applicable and enforceable provision of this chapter and code.

B. *Suspension and Revocation.* If at any time the director has reasonable grounds to believe than an operator is in violation of any enforceable provision of this chapter or code, the director may suspend the operator's permit. The director shall give the operator's designated agent written notice of the suspension and, upon receiving such notice, the operator shall immediately cease all operations under the permit, except those reasonably required to protect the public's health and safety. The director's written notice shall state with specificity the operator's violation(s). The suspension shall continue in effect until the director determines that the violation(s) has been satisfactorily corrected. At any time during the suspension, the operator may appeal the director's action to the City Council by filing with the City Clerk a written notice of appeal stating with specificity the operator's grounds for appeal. Within thirty (30) days of the City Clerk's receipt of that notice, a public hearing shall be held before the City Council. The hearing shall be conducted as a quasi-judicial proceeding with the operator having the burden of proof and with the director defending the suspension of the permit. After hearing and receiving evidence and testimony from the operator, from the director and from other city staff and consultants, and after receiving public comment, the City Council may revoke the permit, terminate the suspension of the permit or take such other action as it deems appropriate under the circumstances taking into consideration and balancing the protection of the public's health, safety and welfare and the operator's rights under this chapter and state law to conduct its oil and gas operations. Within twenty five (25) days after the hearing, the Council shall adopt its written findings and conclusion supporting its decision. The Council's written findings and conclusions shall constitute the Council's final decision that may be appealed to the Larimer County District Court under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

C. *Civil Actions.* In addition to any other legal remedies provided under this chapter to enforce violations of this chapter, the city may commence a civil action against an operator committing any such violations in any court of competent jurisdiction and request any remedy available under the law or in equity to enforce the provisions of this chapter, to collect any damages suffered by the city as the result of any violation and to recover any fees, reimbursements and other charges owed to the city under this chapter and code. If the city prevails in any such civil action, the operator shall be liable to the city for all of the city's reasonable attorney's fees, expert witness costs and all other costs incurred in that action.

D. *Penalties.* A violation of any enforceable provision of this chapter shall constitute a misdemeanor offense punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a term not exceeding one (1) year, or both such fine and imprisonment. A person committing such offense shall be guilty of a separate offense for each and every day, or a portion thereof, during which the offense is committed or continued to be permitted by such person, and shall be punished accordingly.

18.77.130 Conflicting Provisions.

In the event of any conflict between any provision of this chapter and any other provision of this code, the provision of this chapter shall control.

Section 2. That a new Code Chapter 18.78 is hereby addedrepealed and reenacted to the Loveland Municipal Code to read in full as follows:

Chapter 18.78

Building Setbacks from Oil and Gas Facilities

Sections:

18.78.010 Purpose
18.78.020 Building Setbacks from Oil and Gas Facilities
18.78.030 Variances.

18.78.010 Purpose.

~~The purpose of this chapter is to generally protect the public's health, safety and welfare and more specifically to establish setbacks for new development from existing or abandoned oil and gas facilities.~~

18.78.020 Building Setbacks from Oil and Gas Facilities.

~~All "buildings," as defined in code section 18.77.025, except such buildings with an occupancy rating for fifty (50) persons or more, shall be setback a minimum distance of five hundred (500) feet from an existing or abandoned oil and gas facility. All such buildings with an occupancy rating for fifty (50) persons or more and "outdoor assembly areas," as this term is defined in code section 18.77.025, shall be set back a minimum of one thousand (1,000) feet from any existing or abandoned "oil and gas well," as this term is defined in code section 18.77.025. Land included in such setback areas shall be restricted to use only as open space and recreational uses within that open space, such as play fields, parks and playgrounds, shall not be permitted.~~

18.78.030 Variances.

~~The owner of any real property subject to the setback requirements of section 18.78.020 may request a variance from those setbacks in accordance with the provisions of section 18.77.075 using the planning review process set out in Chapter 18.77.~~

Chapter 18.78

Overlay Zoning Districts for Oil and Gas Facility Setbacks

Sections:

- 18.78.010 Purpose**
- 18.78.020 Definitions**
- 18.78.030 Establishment of zoning overlay districts**
- 18.78.040 Applicability**
- 18.78.050 Zoning overlay district boundaries**
- 18.78.060 Land use restrictions within zoning overlay districts**
- 18.78.080 Variances**

18.78.010 Purpose.

The purpose of this chapter is to establish zoning overlay districts in the vicinity of oil and gas facilities in order to allow certain land uses within these zoning overlay districts that are compatible with the industrial nature of oil and gas facilities, but yet are protective of the public's health, safety and welfare.

18.78.020 Definitions.

The following words, terms and phases shall have the meanings set forth below, unless the context requires otherwise:

- A. “Critical zone” shall mean all land and water surface area less than two hundred (200) feet from an oil and gas facility, as measured in accordance with Section 18.78.050.
- B. “High occupancy building zone” shall mean all land and water surface area less than one thousand (1,000) feet from an oil and gas facility, as measured in accordance with Section 18.78.050.
- C. “Oil and gas facility” shall have the meaning given to this term in section 18.77.025.FF and shall include, without limitation, operating, shut-in and abandoned wells. However, it shall not include an abandoned well that has been demonstrated, to the satisfaction of the Development Services Director, will not be reopened or reentered.
- D. “Restricted zone” shall mean all land and water surface area five hundred (500) feet or less from an oil and gas facility, as measured in accordance with Section 18.78.050.

18.78.030 Establishment of zoning overlay districts.

There are hereby created and established in the city as zoning overlay districts the critical zone, the restricted zone, and the high occupancy building zone.

18.78.040 Applicability.

Notwithstanding the land uses allowed by the underlying zoning districts established in this title for any land located in the critical zone, restricted zone, or high occupancy building zone, development of such land shall be subject to and shall comply with the applicable zoning restrictions set forth in this chapter.

18.78.050 Zoning overlay district boundaries.

The boundaries of the zoning overlay districts established in section 18.78.030 shall be measured from the closest edge of any oil and gas facility.

18.78.060 Land use restrictions within zoning overlay districts.

A. In the critical zone land uses shall be limited to any of the following:

1. Essential underground public utility facilities; and
2. Undeveloped and restricted open space designed and operated to discourage access and use by natural persons, but this shall not include “recreational open space” as defined in chapter 18.04 and any of the uses allowed in the public park zoning district under chapter 18.32, unless it is an open lands/natural area that is undeveloped and designed and operated to discourage access and use by natural persons.

B. In the restricted zone land uses shall be limited to any of the following, provided no outdoor assembly area, as defined in section 18.77.025.II, building, or parking lot is located within the restricted zone and the use is approved in accordance with the provisions in chapter 18.40 for uses permitted by special review.

1. Airports and heliports;
2. Attended recycling collection facility;
3. Commercial mineral deposit;

4. Composting facility;
5. Contractor's storage yard;
6. Essential public utility uses, facilities, services and structures;
7. Heavy industrial uses;
8. Landfill area;
9. Landscaping;
10. Personal wireless service facilities;
11. Plant nursery;
12. Public service facility;
13. Recyclable materials processing;
14. Resource extraction, process and sales;
15. Self-service storage facility;
16. Street;
17. Truck terminal;
18. Unattended recycling collection facility;
19. Vehicle rentals of heavy equipment, large trucks and trailers;
20. Vehicle rentals of cars, light trucks and light equipment;
21. Vehicle sales and leasing of cars and light trucks; and
22. Vehicle sales and leasing of farm equipment, mobile homes, recreational vehicles, large trucks and boats with outdoor storage;

C. In the high occupancy building zone all land uses authorized for the affected land by the land's underlying zoning district as provided in this title shall be allowed subject to the

requirements of that zoning district, except that high occupancy buildings and outdoor assembly areas shall not be allowed within this zoning overlay district.

18.78.080 Variances.

The owner of any real property subject to the requirements and limitations of this chapter may request a variance from those requirements and limitations using the variance procedures set out in chapter 18.60. The grounds for such variance shall be those set out in chapter 18.60 to the extent applicable and may also include the existence of a vested right under chapter 18.72 or Colorado law or on the grounds that application of chapter 18.78 will constitute a regulatory taking under Article II, Section 3 of the Colorado Constitution. However, any such variance approved must be in compliance with the underlying zoning or approved development plan governing the subject property.

Section 3. That Ordinance No. 5685 and Ordinance No. 5735 are hereby repealed.

Section 4. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

ADOPTED this _____ day of _____, 2013.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney