



## **LOVELAND PLANNING COMMISSION MEETING AGENDA**

**Monday, October 28, 2013  
500 E. 3<sup>rd</sup> 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. Staff Matters**

#### **b. Citizen Reports**

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

#### **c. Committee Reports**

#### **d. Commission Comments**

### **IV. APPROVAL OF MINUTES**

#### **Review and approval of the 10/14/2013 Meeting minutes**

### **V. REGULAR AGENDA:**

#### **1. Artspace**

An error was made in the parking calculations contained in the October 14, 2013 Planning Commission Staff Report for the Artspace project. The report indicated that by applying the standard parking requirements of the Municipal Code, Artspace would need to provide 99 on-site spaces. The correct number is 80 spaces. This error was repeated in the verbal presentations to the Commission. In light of the importance of the parking issue to the Planning Commission's review of the project, staff is recommending that the Commission reconsider its decision on the Artspace Site Development Plan.

This report includes an updated parking analysis, and Findings that reflect the adjusted parking analysis. Staff is also recommending two additional conditions of approval as specified in Section

VIII of this report to address issues of concern expressed by the Commission at its October 14<sup>th</sup> meeting.

This is a quasi-judicial matter. Barring appeal to the City Council, the Planning Commission's action on the site development plan is final.

**2. Amendments to Chapter 18.77 and Chapter 18.78 relating to oil and gas development**

This is a legislative matter for consideration of proposed minor amendments to provisions of the Municipal Code addressing oil and gas development. The Planning Commission's task is to forward a recommendation to City Council for final action.

**VI. ADJOURNMENT**

**CITY OF LOVELAND**  
**PLANNING COMMISSION MINUTES**  
**October 14, 2013**

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A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on October 14, 2013 at 6:30 p.m. Members present: Chairman Meyers; and Commissioners Middleton, Massaro, Molloy, Dowding, Crescibene, Krenning, Ray and Prior. Members absent: None. City Staff present: Bob Paulsen, Current Planning Manager; Judy Schmidt, Deputy City Attorney.

*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**

**Mr. Bob Paulsen, Current Planning Manager**, stated that there will be items on the October 28, 2013 Planning Commission meeting; however, there is no meeting on November 11, 2013. The City of Loveland is closed in honor of Veteran's Day.

**COMMITTEE REPORTS**

**Commissioner Crescibene** shared that there was a ZBA Hearing held on October 7, 2013 for a simple setback variance and that the request was approved.

**COMMISSIONER COMMENTS**

There were no comments.

**APPROVAL OF THE MINUTES**

**Chair Meyers** asked if there were any corrections needed in the September 23, 2013 meeting minutes. Needing no amendments, **Commissioner Prior** moved to approve the minutes. Upon a second by **Commissioner Middleton**, the meeting minutes were approved 7-0, with **Commissioners Crescibene and Ray** abstaining since they were absent from the September 9, 2013 Planning Commission Meeting.

**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. Park Lane Addition, Annexation Amendment**

This is a public hearing to consider a legislative action requesting amendment to the Park Lane Addition Annexation Ordinance. The Park Lane Addition was annexed into the City in August of 1977 by Ordinance 1587. The property includes 6 lots within a 4 acre area of land located on the west side of N. Garfield Avenue between W. 41<sup>st</sup> Street and W. 43<sup>rd</sup> Street. The property is zoned B- Developing Business which allows for a number of commercial and office uses by right, and additional uses by special review. The annexation ordinance was approved subject to a condition on the annexation petition that there shall be no building permits issued without a Special Review Site Plan in accordance with Title 18 of the Municipal Code. The applicant is requesting the elimination of this condition.

## **2. Lee Farm 1<sup>st</sup> Subdivision**

This is consideration of a request for an additional two year extension for the approval of the Lee Farm 1st Subdivision preliminary plat. The preliminary plat and PUD Preliminary Development Plan were originally approved by the Planning Commission on August 23, 2010. Section 16.20.020 of the Municipal Code stipulates that approval of a preliminary plat is valid for only 1 year. An initial request for a 2 year extension of the preliminary plat was considered and approved by the Planning Commission on August 8, 2011, extending the validity of the preliminary plat until August 24, 2013. The current request is to extend this deadline to August 24, 2015.

**Mr. Middleton** made a motion to approve the consent agenda. Upon a second from **Ms. Dowding** items one (1), and two (2), on the consent agenda were unanimously approved.

## **REGULAR AGENDA**

### **3. Artspace Lofts Project (Loveland Addition) Site Development Plan**

This is a public hearing and quasi-judicial matter to consider a Site Development Plan (SDP) that was prepared for the redevelopment of property located in downtown directly west of the Feed & Grain building. The project is referred to as the Artspace Lofts which consists of a 30-unit mixed use residential building, envisioned to provide affordable live/work opportunities to artists. The Artspace building would be a 4-story structure designed in concert with the Feed & Grain building in terms of scale and use of exterior materials. The building includes a first floor 1,145 square foot work area/gallery space, for the residents to use in designing and displaying their artwork. The Planning Commission has the responsibility to review this project in relation to the BE zoning district provisions and to render a final decision on the Site Development Plan.

**Mr. Troy Bliss, City Planner II**, addressed the Commission and explained that the Artspace project is an important project to the City of Loveland due to the fact that it is initiating development in downtown, and also supports historic preservation efforts, as it relates to the feed and grain building. The City Council is offering an incentive package for this project, with the 1<sup>st</sup> reading held on October 1, 2013 and the 2<sup>nd</sup> reading scheduled for October 15, 2013. The Artspace Site Development Plan (SDP) is proposing a mixed-used development in downtown Loveland, which will be a 30 unit residential building, with a gallery/work space incorporated into it. This project is before the Planning Commission due to its size: proposed development

over 25,000 square feet in the downtown BE zoning district requires Planning Commission consideration.

The proposed project is located in the downtown core character area. The feed and grain building, a prominent structure in Loveland, sits directly east of the property. While future plans will include the feed and grain building refurbishment, the feed and grain building is not part of the Artspace project before the Commission today. To the north is the 4<sup>th</sup> Street corridor, which includes the prominent business and restaurant area of downtown Loveland. The neighborhood includes residential homes, mixed use commercial buildings, and outdoor storage areas.

The Artspace project is on a 3/4 acre site that includes a re-plat, a vacation of right-of way, and the SDP. The site, including the feed and grain building, has been designated as a historic property. Artspace is currently going through the process to amend the historic designation so it only applies to the feed and grain. That action has received a unanimous recommendation of support from the Historic Preservation Commission and will be before the City Council on October 15, 2013 for consideration. Additional components of the project include an incentive package for Artspace that City Council will consider on 2<sup>nd</sup> reading, also at the October 15, 2013 meeting.

Property owners within 300 feet of the proposed site were notified by mail. Although a neighborhood meeting was not required for this effort, Artspace chose to host an open house on October 9, 2013 to address any concerns or questions. Several neighbors attended the meeting, and staff received no complaints regarding this project.

**Mr. Bliss** explained there are two main concerns with the Artspace project. The first issue is parking. Since this project is not included in the General Improvement District (GID), there are specific parking standards in the municipal code that apply to the Artspace project. Included in the Artspace SDP, is an Alternative Parking Compliance Request, to allow for a reduction in the number of required parking spaces for this project. The parking demand of a 1 to 1 ratio for onsite parking will be met. Staff is supporting the Artspace parking proposal.

The second item of concern has to do with the design. As noted in the BE zoning district requirements, there are design conditions for downtown projects that ensure conformity to the historic nature of the downtown area. Staff concurs the building is not what you would typically see in the area, given that it is modern in its appearance. **Mr. Bliss** stated the proposed design of the building ties in with the feed and grain, not only in terms of scale, but also the with the use of materials. Based on the actual location of the property, being on the fringe of the downtown core area, staff felt the type of design being planned is appropriate.

Staff is recommending approval of the Artspace Site Development Plan, subject to conditions listed in the Staff report.

In closing, **Mr. Bliss** shared that he received a question from another Commissioner concerned about the proposed property, and how it relates to the recent flooding in Loveland. The question specifically asked if there would be any FEMA floodway remapping efforts that would impact this development. **Mr. Bliss** assured the Commission that the proposed Artspace property was not previously in the floodplain and explained that the flood traveled within the anticipated

floodway. No FEMA remapping efforts are planned throughout Loveland city limits.

**Mr. Jason Kopecky, ABO Group Project Manager** thanked the Commission for the opportunity to answer questions regarding the Artspace project. He explained there is a mix of unit types in the project consisting of studio, and 1 to 3 bedroom units in the 37,925 square foot, four story building. There will also be two accessible units for a total of 30 units. He explained that while the shared gallery space is not open to the public, tenants can use the space to host gallery events and openings. **Mr. Kopecky** shared that roughly 12% of the typical Artspace tenants make their living solely from the sale of artwork; however this does not mute their passion for art.

**Mr. Kopecky** explained that the zoning code requires two parking spaces per unit, which would total 60 spaces. The SDP is proposing 30 on-site parking spaces. The justification letter explains that the parking demand seen in other Artspace locations are much less than the 2 to 1 ratio requirement. A study for the New Urbanism Quick Facts states, that only 21% of renting households own more than one car; 22% of renting households do not own a car; and 26.5% of urban households with incomes below \$20,000/year do not own a car. In addition, Gallery Flats, the most recent mixed-use apartment project in downtown Loveland, was granted a 0.71 to 1 parking ratio.

To help mitigate parking concerns, **Mr. Kopecky** shared the plans to have diagonal parking, versus parallel parking, around the building. In the surrounding three block area, there are approximately 300+ parking spaces and several parking lots that are under construction.

When looking at potential building designs back in 2011, the Artspace design team, along with the architect, worked to ensure the end result would be successful for the adaptive reuse of the feed and grain building in the future. It was explained that the feed and grain building was an inspiration for the new building, and the architect applied materials to the new building design that would complement the feed and grain building.

**Commissioner Dowding** questioned if residents are screened for their artistic qualities. **Mr. Kopecky** responded that it was his understanding that preference would be given to applicants who could demonstrate a commitment to their art. **Ms. Dowding** asked if a non-handicapped resident rented the accessible unit, would they be able to utilize the reserved handicapped parking spot. **Mr. Kopecky** stated that was unsure of the solution, but would be happy to follow up with and provide a response.

**Ms. Dowding** also expressed apprehension about the possibility of hazardous or toxic materials being used. **Mr. Kopecky** replied that hazardous or toxic materials are not allowed in the building, and also pointed out that the building will be fully equipped with sprinklers.

**Ms. Felicia Harmon, Artspace Project Liaison**, commented that she has had the opportunity to tour other Artspace projects across the country. She explained that Artspace has strict rules prohibiting the use of flammable or caustic materials. She also clarified that the selection process for interested applicants will be screened by Artspace in conjunction with the Loveland Housing Authority, as well as a group of local artists. In addition to a background check, applicants will

be vetted to ensure they are income eligible, and must be able to demonstrate a commitment to their craft. They will not be judged on the quality of their art.

**Ms. Dowding** went on to say she thought the color pallet of the building was saturated and jarring to the eye. Although she agreed the Commission does not get to choose the color, she asked Artspace to reconsider the burnt orange color that is part of the color scheme. She also stated that the Artspace building was so intensely modern that it didn't feel like it should be next to a historic building. **Mr. Kopecky** responded that the color choices could be revisited.

**Chair Meyers** asked if the plans were to redesign the feed and grain in "reversed engineering" versus designing the Artspace Lofts around the character of the downtown area and its current color scheme. **Ms. Harmon** explained that the State Historic fund requires Artspace to look at original colors from the feed and grain building when making decisions about restoration. The colors selected should be complementary.

**Commissioner Krenning** asked what the renovation plans are for the feed and grain building. **Ms. Harmon** stated that the feed and grain received a grant from the State Historic Fund as well as Artplace America, a national arts funding consortium, for stabilization and restoration. She shared that phase I of restoration on the feed and grain building will not finish the building reconstruction. Phase I will add life and safety upgrades as well as stabilization.

**Mr. Krenning** questioned how much money had been raised, thus far, for the feed and grain restoration. **Ms. Harmon** responded that the total private sector contribution goal is \$1.5 million. To date, \$800,000 has been raised toward that goal.

**Mr. Krenning** asked if all the money for the feed and grain was privately donated or if public funds were used as well. **Ms. Harmon** clarified that the State Historic Fund is a governmental agency; however most of the money raised to date has been from private contributions and national grant sources. **Mr. Krenning** asked how much the State Historic Fund contributed to the fund. **Ms. Harmon** said the state contributed \$200,000.

**Mr. Crescibene** shared that over many decades, the feed and grain building was constructed piece by piece as it was needed, and believes it's a travesty to emulate the Artspace building around this design. He stated that the Artspace building was unattractive and wouldn't improve the downtown area. He went on to say that he felt the feed and grain should have been torn down once it closed for business.

**Mr. Crescibene** also questioned the provision in the staff report which stated that, "if a resident wanted to host an event open to the public, they would be allowed-but it would be for a special event, not just for the general public to visit on a regular basis." He asked what would stop residents of the building from hosting special events 3 or 4 times a week. **Mr. Kopecky** explained that the doors to the space would not be open to the public. **Ms. Harmon** added that special events would require approval from all residents prior to being approved, and stated the frequency of special events would most likely occur 1 to 2 times per month.

**Commissioner Molloy** stated that he liked the design of the proposed building. He pointed out that it was affordable housing, and considering the budget for the project, the building had an aesthetically attractive design. He requested an additional handicap space be added for off-street parking for special event traffic. **Mr. Kopecky** agreed to the request and stated there were plans to do so already.

**Mr. Molloy** asked if there would be a potential future connection from Artspace across the railroad tracks. He inquired if that could be accomplished sooner than later, since the limited parking would result in more pedestrian traffic.

**Commissioner Prior** explained he felt the Artspace project put the cart before the horse. Future plans call for the feed and grain to be a part of the overall project, however there are no conceptual plans for the feed and grain available for the Commission to review. He would like to see the two projects merge in a complementary fashion. He felt the video representation did not show a concept that “merges” the two projects. **Mr. Kopecky** shared that the original video did include more complete graphics of the feed and grain, but it was removed since the feed and grain is not in the scope of this Site Development Plan.

**Mr. Prior** asked for clarification regarding the Planning Commission role in decisions related to the conformity of downtown buildings. **Chair Meyers** explained that the Planning Commission’s mission is to ensure conformity with the surrounding area to the overall city design. **Mr. Prior** stated he would like to see the overall project to ensure it is cohesive with the whole downtown area.

**Mr. Prior** also expressed concerns regarding parking and asked **Mike Scholl, Economic Development Manager**, to share his opinion of the plans for parking, given his experience in working on other, similar projects in downtown. **Mr. Scholl** shared that he had no issues with the current level of parking downtown. Artspace will have a 1 to 1 ratio, which should be sufficient for the planned use. In addition, the city is adding a parking lot, inclusive of 35 additional public spaces. He does not feel that Artspace will have a negative impact on downtown parking.

**Mr. Prior** went on to ask **Mr. Scholl** if he believed that Artspace fits in with the downtown design plan. **Mr. Scholl** responded that the overall project is very much consistent with the overall strategic plan to improve and revitalize the downtown area. It also will help achieve the goal of improving the residential density in downtown. He pointed out that a big piece of the strategic plan is to improve the art and culture in downtown, and Artspace is a large part of that effort.

**Mr. Middleton** asked **Mr. Paulsen** if the Artspace project was going before City Council on Tuesday October 15<sup>th</sup>. **Mr. Paulsen** explained that the Planning Commission had final authority on the Site Development Plan; however any decision could be appealed to City Council.

**Mr. Middleton** asked **Mr. Molloy** if he would like to make a pedestrian crossing over the railroad tracks a condition for approval of the SDP. **Mr. Scholl** stated that in order to add a pedestrian crossing at 3<sup>rd</sup> street, the city would have to give up two access points somewhere else in the city to the BNSF railroad.

**Mr. Middleton** questioned the condition in the staff report regarding public improvement construction plans, and asked **Mr. Bliss** if that was the parking lot at Railroad Ave. and 4<sup>th</sup> Street. **Mr. Bliss** stated that public improvement construction plans included in the staff report addressed issues serving the project site with water, sewer and storm drainage. The adjacent parking lot is not part of the submitted plans.

**Mr. Krenning** questioned if he understood that 12% of the residents of Artspace would be artist. **Mr. Kopecky** clarified that all of the residents of Artspace would be required to demonstrate their commitment to their art, however only 12% of the Artspace tenant population typically earns all of its income from the sale of their artwork. **Mr. Krenning** asked whether or not Artspace was an income limited housing project, and wondered if calling it housing for artists was a way to gather support for the project.

**Ms. Harmon** responded that 12% of artists in the Artspace tenant population make their entire living from the sale of their art. However, the residents of an Artspace project are chosen because they engage in their artwork on a regular basis. The goal and charter of Artspace is to assist the residents to make more of their living from their art. **Mr. Krenning** asked if that goal could be achieved, in part, because they would be living in subsidized housing. **Ms. Harmon** stated that only income eligible applicants would be allowed to reside at Artspace, which would also provide them with a workspace in which to do their art.

**Mr. Krenning** went on to ask if **Ms. Harmon** agreed that there was a need for affordable housing in Loveland. Upon **Ms. Harmon**'s agreement, **Mr. Krenning** questioned why the project is getting special attention because it is Artspace, and why not just offer affordable housing to the general community who work in the downtown area. **Ms. Harmon** stated that the Artspace charter looks to provide affordable housing for people who happen to be artists based on their mission to bring art into a community, allowing artists to start making more of their living producing art. The goal is to bring activity, culture and more traffic to the downtown district.

**Ms. Harmon** reiterated that the Artspace project fits into the strategic plans for revitalization in downtown, driven by the Office of Creative Sector and the Economic Development Department.

**Mr. Krenning** stated that when the project was first pitched, it was presented as a redevelopment of the feed and grain, which would include housing, along with mixed uses. He stated that the project presented before the Commission tonight is a stand-alone housing development, with an artist flair, and the feed and grain building is not being addressed. He was concerned that the Artspace project did not speak to the long term plans for the feed and grain building. He went on to express concern that the feed and grain building could remain in its current status into the unforeseen future.

**Ms. Harmon** explained that the feed and grain building is intended to be a shared community space. She assured the commission that the refurbishment plans for the feed and grain are in the conceptual phase, but there is a solid commitment to continue as fundraising allows. She stated that Artspace has a well-deserved reputation for turning both their commercial historic buildings, along with their housing spaces, into ongoing successful projects.

**Mr. Krenning** asked if Artspace owned the feed and grain building. **Ms. Harmon** shared that Artspace has a contract for purchase of the entire site, which includes the feed and grain and the proposed site on which the lofts will be built. The scheduled closing date is mid-November. **Mr. Krenning** asked if the sale was contingent on the SDP approval. **Ms. Harmon** explained the sale would move forward regardless of the outcome of tonight's meeting. **Mr. Krenning** stated he felt that Artspace would have a vested interest in moving forward with the feed and grain building if they owned the property.

**Mr. Krenning** shared that during his time on the Planning Commission, there have always been complaints about access to parking in the downtown district. He felt that the Commission was being asked to consider a new project where the parking does not meet city standards. He said he understood that there is a parking deficit downtown and that building a new parking lot would not in itself offset the parking requirements of Artspace.

**Mr. Scholl** stated that regardless of the size of a community, parking always is an issue in revitalizing downtown areas. He explained that downtowns tend to be denser developments and stated that in this instance, the downtown parking is not necessarily a parking problem, but a parking management issue. The most critical need in downtown is long term parking for employees who work in the area. He stated that residential parking is not an issue and that Artspace would not be adding to the long term parking woes facing employees. He felt that the 1 to 1 ratio at Artspace would be adequate for residential use. **Mr. Scholl** explained that efforts to provide long term parking have somewhat been addressed, but issues still remain on the north end of downtown.

**Mr. Scholl** explained that in an 8 block area, there is enough parking to supply two Super Wal-Mart's with parking, which represents a couple of thousand spaces. He stated that those spaces included on street parking, and public parking lots. **Chair Meyers** stated that in some case, those spaces would require up to a  $\frac{3}{4}$  mile walk to the desired destination.

**Mr. Scholl** said that perception of parking problems downtown were understood, however most parking lots in the downtown area are virtually empty on a weekday evening. He stated that if the city asked developer's to invest in parking, which is a significant expense, it needs to be clear that the demand is at a certain threshold that would support that sort of investment. He stated that he would be more concerned if there were no complaints about parking, which would signal that people did not have a desire to patronize downtown businesses. He agreed that parking is a delicate issue in downtown.

**Mr. Bliss** clarified that the primary factor that drove Current Planning to believe that the 1 to 1 ratio at Artspace is sufficient, was based upon the data that was provided from other Artspace projects around the country, including Minneapolis and Illinois. **Mr. Bliss** pointed to page 77 in attachment 1 of the staff report, and shared an excerpt from the BE zoning, specifically figure 18.24.080-1 of the municipal code, which identifies primary pedestrian corridors downtown. It shows the Artspace building will be located directly south of one of the prominent pedestrian corridors. It includes the north/south sidewalk that runs along the west side of railroad and goes up to West 4<sup>th</sup> Street. Based upon location, Planning believes that the pedestrian corridors will link people to many vital parking areas throughout downtown.

**Mr. Krenning** said that while he respected the effort Planning did, he recalled the same discussion when Lincoln Place was built downtown. He questioned if there was a parking study done at Lincoln place with respect to the number of parking spaces for occupants of the building. **Mr. Scholl** stated that Lincoln Place has 300 parking spaces, 50 of which are designated for retail use. That leaves 250 spaces available for 200 units. The city has had recent discussion with Lincoln Place requesting leasing of 20-30 extra parking spaces because of the surplus of parking. There has been reluctance on the part of Lincoln Space to give up those spaces because they market them to customers as an amenity.

**Mr. Krenning** explained that he is not comfortable with granting another waiver on the parking requirements in the city.

**Chair Meyers** stated that the demographics of Loveland do not match up with Minneapolis or Chicago; by classification those are big, eastern cities. **Chair Meyers** questioned **Mr. Bliss** how late the COLT bus service runs into the evenings. **Mr. Bliss** responded that he was unaware of the bus schedules. **Chair Meyers** shared that he has had discussion with many people in the downtown area expressing concern about the distance they need to walk when visiting downtown. Because of those distances, they tend to gravitate to other areas of the city that provide ample parking.

**Chair Meyers** questioned if staff had discussions with business owners on 4<sup>th</sup> Street and the surrounding area about the allocation of parking spaces, and how it impacts their businesses, especially during evening hours. He asked if business owners were asked what impact there would be if Artspace had an event and there was not adequate parking, and how the overflow parking would impact their business. **Chair Meyers** stated he has had discussions with business owners, and parking is a huge issue in the downtown area. He corrected **Mr. Scholl's** claim that parking in downtown Loveland is mainly a problem during weekday hours.

**Chair Meyers** said he did not believe the Commission should waive the 2 to 1 parking requirement. He also stated he believed the colors of the proposed Artspace building were striking, and shared that he did not like the way they look. Finally, he explained that he did not like the shape of the Artspace building.

Regarding the issue of 12% of artists making their living selling their art, **Chair Meyers** stated that looking at the standard industry codes for the creative sector, he said it included video game developers, not unlike a Mark Zuckerberg, or Bill Gates, and he questioned if someone with a similar background would qualify to live in the Artspace building. **Ms. Harmon** replied that applicants for Artspace would have to be income eligible in order to be accepted for tenancy. She agreed that the creative sector definition of artists is broad. **Chair Meyers** queried **Ms. Harmon** to explain how broad the definition is. **Ms. Harmon** responded that all disciplines within the standard industry codes were applicable.

**Commissioner Massaro** shared that he was in disagreement regarding the parking concerns. He stated that although more parking downtown is needed, he believed the 1 to 1 parking ratio at Artspace would most likely be adequate. He said the color of the building could be discussed, but overall, he liked the design. He explained that having an art community in downtown would be

an asset to Loveland as a whole. **Mr. Massaro** excused himself from the dais and left the meeting due to a scheduled conflict.

**Mr. Crescibene** questioned **Ms. Harmon** about the feed and grain goal to raise \$1.5 million towards the completion of the entire project. **Mr. Crescibene** asked how that dollar amount was arrived at. **Ms. Harmon** explained that the feed and grain team worked with KL&A Engineers in Loveland, and arrived at that figure, which will cover the first phase cost of the project. **Ms. Harmon** clarified that the entire project, including Artspace, is \$8.9 million dollars.

**Commissioner Ray** stated that he was also concerned about the parking. He shared that the Artspace building has a feel of a quasi-commercial function, and while the 1 to 1 ratio addresses the parking concern for tenants, it doesn't account for parking for patrons coming to special events. He shared that he also felt there is little if any transition to the surrounding housing in terms of architecture.

**Mr. Bliss** responded that this project represents redevelopment of the downtown district, and obviously there would be constraints in terms of size of the property. While attempting to be compatible with surrounding buildings, staff felt the building was appropriate on the property and pointed out there is a 20 foot space in the alley between the building and neighborhood houses, and another 10-15 foot space to the nearest house.

**Mr. Ray** asked if any of the residents to the west or south of the alley voiced any concern about the conformity of the building in the neighborhood. **Mr. Bliss** replied that staff had not received any complaints from neighbors regarding the feathering or height of the building. Staff did hear from an adjacent resident questioning if they would still have access to the alley once the vacation of right-of-way was granted. Staff assured him that he would.

**Mr. Ray** questioned **Mr. Bliss** if it was his perception that proceeding with the Artspace project would add to the qualitative value of the adjacent properties. **Mr. Bliss** replied that looking at the block as a whole, there is little question that it is a unique area in old town Loveland. There is a mix of commercial, residential and old vacant buildings. He stated his belief that the Artspace building would complement the motif of the area.

**Mr. Paulsen** added that staff had to rely on the work that was done in defining the BE zone. He stated that there was a great deal of analysis in terms of feathering and reducing heights. He explained that the Artspace structure, as proposed, doesn't have a great deal of feathering or transition, but said over time it would be expected that more projects similar in nature would be constructed in the downtown core area. **Mr. Paulsen** said that staff looked to see if this project would be allowed in the BE zone and made the determination that it was.

**Chair Meyers** asked who in the neighborhood received notification of the project. **Mr. Paulsen** shared that the notification area was 300 feet from the property lines. **Mr. Kopecky** stated that notice was sent to approximately 40 property owners.

**Mr. Ray** shared concern with the colors as well and stated that the last City of Loveland project before the Planning Commission, residents testified that they didn't like the new Rialto building

claiming it stood out compared to the surrounding buildings. He stated people also expressed dislike for the color pallet of the Brinkman building.

**Mr. Molloy** pointed out that Artspace did account for an additional 76 parking spaces that could be used for special events. Regarding the color scheme, he felt that the colors chosen, along with the design, matches similar buildings in old town Fort Collins. He added that promoting new development in the downtown area was the goal for revitalization. The point of revitalization is to encourage more people to live and visit the district.

**Mr. Ray** stated that 77 parking spots, many of which are street parking, are already accounted for in the city. The parking lot that is being proposed, and the one being used, is being used every day.

**Ms. Dowding** stated the architect might want to rethink the golden orange color for the proposed Artspace building.

**Chair Meyers** asked about the \$8.9 million dollars that will be needed for the entire project, \$1.1 million of which will be used for the feed and grain. Of those amounts, **Chair Meyers** asked how much the City of Loveland has contributed. **Mr. Scholl** responded that the City Council has approved a \$300,000 subordinate loan at 1.75% over 30 years. The city also contributed \$550,000 for pre-development costs; including a waiver of the materials use tax, the total package offered by the city is valued at \$921,000.

**Chair Meyers** asked if **Ms. Harmon** had an estimated cost of the feed and grain, beyond the \$1.1 stabilization costs. **Ms. Harmon** stated that beyond phase I, there is no other design work completed.

**Ms. Judy Schmidt, Deputy City Attorney**, stated that in the feed and grain incentive agreement that was approved by City Council, it contained a commitment by Artspace to proceed with the feed and grain within a pre-determined timeframe. Within two years of receiving a CO for the Lofts building, Artspace has an obligation to proceed forward with the feed and grain reconstruction. **Mr. Scholl** clarified that the 24 months was for completion of phase I.

**Mr. Scholl** shared that the city will have a subordinate deed of trust on the feed and grain property. **Mr. Krenning** asked what would happen if Artspace were to default on the agreement. **Mr. Scholl** explained that because tax credit deals are very complicated, the rates of default are nearly microscopic.

**Mr. Krenning** asked for a break following the public hearing.

**Chair Myers** asked for a show of hands from citizens interested in testifying at the public hearing. **Chair Meyers** opened the public hearing. Not seeing any citizens wishing to testify, the public hearing was closed.

At the request of the Commission, a 15 minute recess was called.

At 9:00 p.m., the meeting resumed.

**Ms. Dowding** stated she could live with the design of the building, but not the colors. She stated she could tolerate the parking issues, and said she thinks the modern feel to the building would be okay, and possibly start a trend in downtown Loveland.

**Mr. Prior** reiterated that he cannot approve the project without a stipulation for Artspace to demonstrate how the Artspace Lofts and feed and grain will co-exist in unity. He shared that he was somewhat okay with the 1 to 1 ratio for parking, but would encourage Artspace to consider a 1.25 to 1.5 ratio.

**Mr. Crescibene** stated that he did not like the look of the building, and that it did not fit in downtown. He also said that if Loveland wanted affordable housing, why should the city discriminate and provide it to people in the arts. He would like to see affordable housing for everyone who needs it. He said that a vote for Artspace is a vote for the feed and grain building. He believes the feed and grain building should be torn down because it would be a waste of money to repair it. He shared that he would be voting no on the project.

**Mr. Krenning** explained that his concerns about parking were more than he could overcome to vote in favor of the project. He felt the politically correct thing to do would be to vote in favor of the project, but felt that if it wasn't associated with art, there would be no doubt the Commission would vote against it. He said the project as proposed doesn't meet the parking requirements.

**Mr. Krenning** said he would not be inclined to vote in favor of the project based on the parking concerns. He asked that Artspace bring plans back before the Commission in one, complete project, which includes the feed and grain building.

**Mr. Krenning** shared the he felt a responsibility to the downtown businesses, especially those which operate after 5 p.m., to protect them by not adding to what is perceived as a parking problem.

**Mr. Molloy** stated that he felt the parking situation would be fine as presented, and felt the Artspace project is a step in the right direction the city is trying to take with revitalization efforts downtown. He believes the building fits in the selected location very well. He did say there is concern about the unknowns in relation to the feed and grain building. He explained that the Historical Preservation Committee would have final say over that issue.

**Mr. Ray** said that he does support redevelopment in the downtown district. He imparted that he would also like to see the entire project include the feed and grain building. Until the feed and grain is factored in, he felt it would be difficult to know what the parking impacts would be.

**Mr. Ray** explained that **Mr. Krenning's** statements echoed true to him as well and felt that if this project was not an art project brought before the Commission, it would be voted down across the board, due to the unknowns. He stated that he would vote against the Artspace project. He finished by thanking the staff for their efforts on the project.

**Mr. Prior** articulated that he is totally in support of the project overall, but the concerns brought up during the meeting need to be addressed prior to approval.

**Chair Meyers** stated that this project has risks associated with it, and felt it is the Planning Commission's responsibility not to take that risk on behalf of the city. He explained that until the Commission has an integrated view of the total project, he felt this project was extremely high risk in terms of the view of the downtown area.

**Chair Meyers said** he felt that if the feed and grain building took off it would have a tremendous impact on the existing business in downtown during the evening hours. He stated that if Artspace went forward and had a special event in their gallery space every night, then it could bring additional 15-20 cars to downtown, each evening. He agreed that if it wasn't an art project, the Planning Commission would not consider its approval if it didn't meet the parking standards.

**Chair Meyers** also agreed that affordable housing is needed in the community and needs to be addressed for a lot of people. He believes the project has some merit, but needs strong adjustments. He shared he would be voting against the project due to the level of unacceptable risk.

**Mr. Middleton** moved to make the findings listed in Section IX of the Planning Commission staff report dated October 14, 2013 and, based on those findings, approved the Artspace Site Development Plan subject to the conditions listed in Section X, as amended on the record. Upon a second from **Ms. Dowding**, the motion was denied 8-0, with Bob Massaro absent from the vote.

**Ms. Schmidt** explained that as a procedural matter, it is important to note that the decision of the Planning Commission is appealable to the City Council. In order to trigger that appeal, the Planning Commission needs to adopt written resolution of the findings and conclusions. Rather than trying to create those tonight, one option is to provide a draft for Planning Commission consideration at the next meeting.

**Chair Meyers** asked **Ms. Schmidt** to take the lead and create a draft of the findings and conclusions, and the Planning Commission would review them at the next scheduled meeting on October 28, 2013.

## **ADJOURNMENT**

**Commissioner Middleton** made a motion to adjourn. Upon a second by **Commissioner Prior**, the motion was unanimously adopted and the meeting was adjourned.

Approved by: \_\_\_\_\_  
Buddy Meyers, Planning Commission Chairman

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Kimber Kreutzer, Planning Commission Secretary



## Development Services Current Planning

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### Planning Commission Staff Report

October 28, 2013

**Agenda #:** Regular Agenda -1  
**Title:** Artspace Lofts Project (Loveland Addition) Site Development Plan (PZ #13-00122)  
**Applicant:** Artspace Projects Inc., Leah Swartz  
**Request:** **Be – Established Business District Site Development Plan Review**  
**Location:** South of W. 3<sup>rd</sup> Street between N. Railroad Avenue and N. Garfield Avenue (Block 21, Loveland Addition)  
**Existing Zoning:** Be – Established Business  
**Proposed Use:** Mixed Use Building  
**Staff Planner:** Troy Bliss

#### **Staff Recommendation**

City staff recommends the following motion:

*Move to reconsider the Planning Commission decision on October 14, 2013, and adopt the adjusted findings in Section VII of this Planning Commission staff report dated October 28, 2013 and, based on those findings, approve the Artspace Site Development Plan subject to the conditions listed in Section VIII, as amended on the record.*

**NOTE:** Applicant must accept conditions on the record.

#### **Summary**

An error was made in the parking calculations contained in the October 14, 2013 Planning Commission Staff Report for the Artspace project. The report indicated that by applying the standard parking requirements of the Municipal Code, Artspace would need to provide 99 on-site spaces. The correct number is 80 spaces. This 24% over-calculation was the result of a misreading of Chapter 18.42 of the zoning code by Planning staff. This error was repeated in the verbal presentation to the Commission by Current Planning staff. In light of the importance of the parking issue to the Planning Commission's review of the project, staff is recommending that the Commission reconsider its decision on the Artspace Site Development Plan.

This report includes an updated parking analysis, including an analysis of Alternative Compliance findings relating to the Artspace parking proposal. Other than the adjusted parking analysis and Findings, staff review of the proposed Site Development Plan remains unchanged since the October 14<sup>th</sup> staff report, except that staff is recommending two additional conditions of approval as specified in Section VIII of this report to address additional issues of concern expressed by the Commission at its October 14<sup>th</sup> meeting.

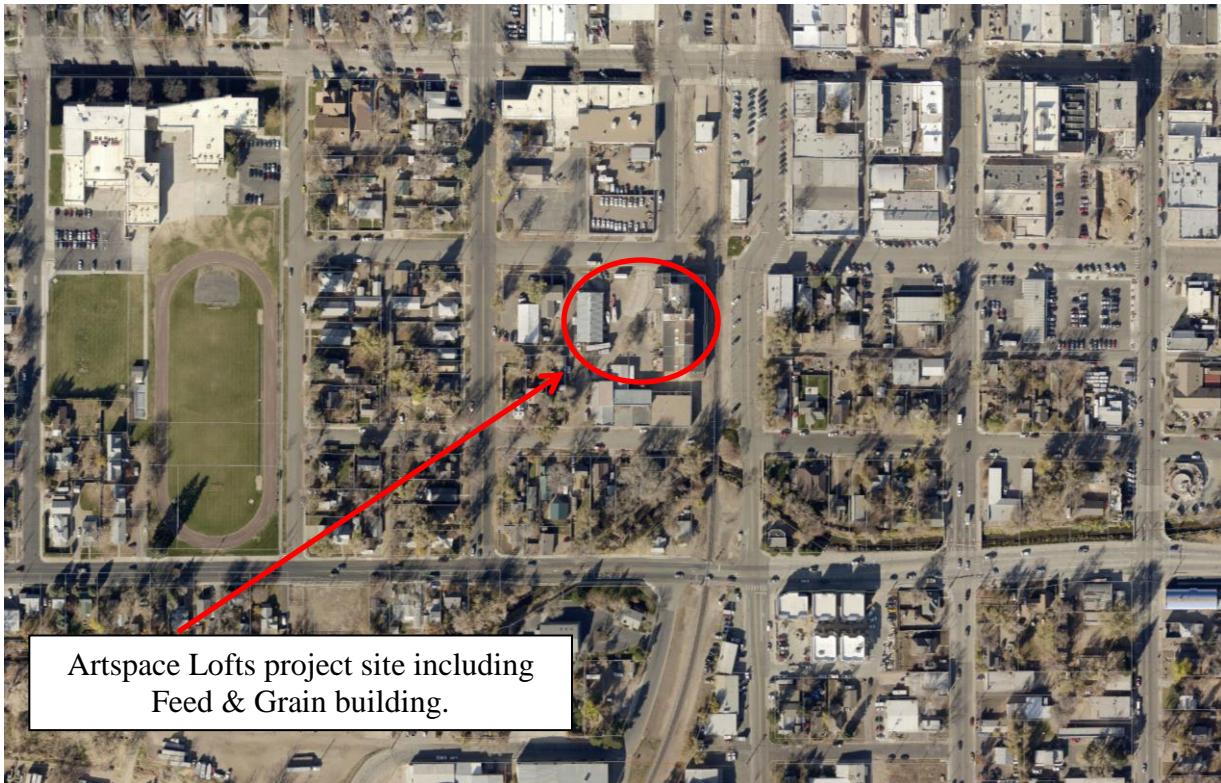
## **Procedural Notes:**

1. Since this is a quasi-judicial matter, determination by Commission must be made on the basis of the evidence and testimony presented on October 14, 2013 at public hearing, including only the correction of erroneous information and conditions included in this staff report.
2. If additional testimony from the public and applicant is desired, the Commission should move to reconsider their decision of October 14, 2013 and set for further public hearing to be noticed as required by Code Chapter 18.18.05.

## **I. ATTACHMENTS**

1. Resolution #13-5– October 14, 2013 Planning Commission Findings, Conclusions, and Final Decision
2. Chapter 18.42 – Parking Requirements (with relevant provisions highlighted)
3. October 14, 2013 Planning Commission staff report

## **II. VICINITY MAP**



## **III. SITE DATA**

ACREAGE OF SITE: ..... APPROXIMATELY 0.72 ACRES

PROPERTY ZONING / USE ..... BE – ESTABLISHED BUSINESS/VACANT METAL GARAGE  
..... BUILDING

EXISTING ZONING / USE - NORTH .....	BE – ESTABLISHED BUSINESS/CITY OF LOVELAND BUILDING
EXISTING ZONING / USE - SOUTH .....	BE – ESTABLISHED BUSINESS/SINGLE FAMILY RESIDENTIAL AND COMMERCIAL BUILDINGS
EXISTING ZONING / USE - EAST .....	BE – ESTABLISHED BUSINESS/VACANT FEED & GRAIN BUILDING
EXISTING ZONING / USE – WEST .....	BE – ESTABLISHED BUSINESS/AUTO SALES

#### IV. PARKING EXPLANATION

Parking standards are specified in Chapter 18.42 (Off-Street Parking and Loading Requirements) of the zoning code. This chapter provides a Table (18.42-1) that indicates the number of on-site parking spaces required for various uses, including requirements for apartment complexes and art galleries (see **Attachment 2**). The Be Zoning District references these requirements, but provides an exemption for sites within General Improvement District #1 which is located in the downtown area. The Artspace project, however, is not within the GID boundaries, so the standard specified in Chapter 18.42 are applicable. Based on Table 18.42-1, the applicable parking standards for the Artspace project are as follows:

30 dwelling units x 2 spaces per unit = **60 parking spaces**

Work/gallery space: occupant capacity per Building Code of 39 requires 1 space per 2 occupants = **20 parking spaces**

**Total Parking Spaces: 60 + 20 = 80 parking spaces**

The original analysis by the Planning office miscalculated parking by assigning 1 parking space per occupant of the gallery space. With a maximum occupancy of 39, Planning mistakenly assigned 39 spaces instead of 19.5 spaces (rounded up to 20).

Chapter 18.42 specifies that the parking standards specified in Table 18.42-1 are “Type 2 standards.” Type 2 standards allow for variation when the applicant is able to demonstrate that one or both of the following findings can be met as determined by the Current Planning Manager:

- a. *Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standards.*

Staff analysis relating to Alternative Compliance Parking Finding a. is as follows:

The proposed Artspace project is located in the core of the downtown area. The site is approximately  $\frac{3}{4}$  of an acre in size. As a relatively small infill site, it is constrained in a manner similar to many other downtown development sites. Accordingly, the provision of on-site parking is physically and financially challenging. Many developments in the downtown core do not meet standard on-site parking requirements yet are successful, in terms of parking, due to the availability of on-street parking, the presence of nearby parking lots, and the pedestrian orientation of downtown. Moreover, the Artspace project is unique in that it is being developed in association with the redevelopment of the adjacent Feed and Grain building. While the two projects are proceeding on different timetables, the success of both projects is dependent upon this physical adjacency. Therefore, only a limited number of locations would be suitable for the Artspace project.

b. *The alternative standard achieves the intent of the subject Type 2 standard [mandatory standard] to the same or greater degree than the subject [mandatory] standard, and results in equivalent or greater benefits to the community as would compliance with the subject [mandatory] standard.*

Staff analysis relating to Alternative Parking Finding b. is as follows:

Artspace is providing 30 on-site parking spaces, resulting in a ratio of 1 space per residential unit. Artspace has an established success record in other cities with a similar on-site parking ratio. In addition, this ratio is higher than the recently approved Brinkman (Gallery Flats) residential project. Another important factor is the presence of 27 on-street parking spaces available on 3<sup>rd</sup> Street adjacent to the project. While these spaces cannot be reserved for the project, many of these spaces should generally be available to Artspace residents and visitors. In this respect, the project is achieving a level of roughly 71% of the conventional parking requirement when including on-site and adjacent street parking spaces. Another locational attribute of the Artspace site is the planned development of a 39-space parking lot on Railroad Avenue between 3<sup>rd</sup> and 4<sup>th</sup> streets. This lot is scheduled for construction in 2014 and is adjacent to the project site—making more spaces available within close proximity to the Artspace project site.

Another factor in evaluating the Artspace parking needs is to view this project within the downtown context. It is located in a more urban and pedestrian-oriented area when compared to other areas of the community, consequently the need for and use of personal vehicles is comparatively lower than in other settings. As Artspace and other successful downtown developers have discovered, downtown residents have fewer vehicles and rely more heavily on pedestrian and bicycle travel. Finally, Artspace has indicated that the work space/gallery is not generally visited by customers to the extent that a commercial gallery would be. As described by Artspace, this space will be used occasionally for art shows and receptions. More commonly, it will function as a work space and gathering space for residents.

A final parking consideration is the benefit that the Artspace project will bring to the community. The project is a key component of the City's downtown revitalization program. Bringing residents to the area, promoting art, supporting the downtown retail and entertainment environment, and providing affordable housing options are established community goals. A minor parking challenge would appear to be overshadowed by the community benefits of the project.

Based on the analysis provided above, the Current Planning Manager has determined that the Artspace project complies with alternative compliance findings in Sections 18.42.030.A.1.a and 18.42.030.A.1.b and grants alternative compliance for the Artspace Lofts project, subject to the Commission's approval of the project pursuant to Code Section 18.24.050.

## **V. ALTERNATIVE COURSES OF ACTION**

(In Lieu of Recommended Motion of Approval as presented on Page 1)

- 1. Adopt a Motion to Reconsider and Set Further Noticed Public Hearing:** If the Commission wishes to reconsider its October 14, 2013 decision based on correct information provided in this staff report and also allow additional applicant and public input to address issues of concern from the October 14, 2013 hearing, the following motion could be made:

*Move to reconsider the Planning Commission decision from October 14, 2013 regarding the Site Development Plan application for the Artspace Lofts Project (PZ #13-00122), set a further public hearing on this matter for November 25, 2013 at 6:30 p.m. in the City Council Chambers, and direct staff to notice this public hearing in accordance with Code Chapter 18.05.*

2. **Adopt Resolution as Final Decision on Application (based on October 14, 2013 hearing):** On October 14, 2013, the Loveland Planning Commission held a public hearing to consider the Artspace Lofts Project Site Development Plan. Planning Commission reviewed the application under the provisions of the Be – Established Business zoning district standards, finding that there were issues of non-compliance relating to required on-site parking, building design, and uncertainty with respect to how the Feed & Grain building would redevelop. This resulted in a unanimous decision (8-0) to disapprove the project.

The attached resolution (**Attachment 1**) is provided for consideration as the written findings and conclusions and final decision of the Planning Commission with respect to the application. If the Commission declines to make or adopt the recommended motion of approval based on the corrected parking information, the resolution may be presented for a vote of the Commission with the following motion:

*Move to adopt Planning Commission Resolution #13-5 as the written findings and conclusions and the final decision of the Loveland Planning Commission pursuant to Loveland Municipal Code Section 18.24.050. with respect to the application by Artspace Projects, Inc. for approval of the site development plan for the Artspace Lofts Project (PZ#13-00122)*

The resolution is presented for Commission consideration and adoption only and no public hearing will be held on this matter.

## **VI. APPEAL PROCEDURES**

The decision of the Planning Commission may be appealed by any party-in-interest which includes the applicant, two (2) or more Planning Commission members, or two (2) or more City Council members. A notice of appeal must be filed with the Current Planning Division within ten (10) days after a final decision. If the recommended motion or the Resolution is adopted on October 28, 2013, the deadline for filing a written notice of appeal with the Current Planning Division under Chapter 18.80 will be 5:00 p.m. on Thursday, November 7, 2014. When an appeal is filed, the Current Planning Division shall schedule a public hearing for the appeal not less than thirty (30) days and not more than sixty (60) days from the filing of the appeal notice. City Council shall hear the appeal as a de novo hearing, applying the same standards as presented to the Planning Commission. City Council's decision shall become final and may only be appealed to the Larimer County District Court.

## VII. FINDINGS AND ANALYSIS

Chapter 18.24, Section 18.24.050.B.

1. *The proposed development complies with the standards of this chapter and any other applicable provisions of the Loveland Municipal Code.*

The Artspace project demonstrates compliance with the Be zoning district. The categories that apply to this property in Chapter 18.24 are as follows:

- The property is located in Height District C which establishes maximum building heights at 70'. The proposed Artspace Lofts would be slightly less than 60' in height.
- **Parking:** The subject property is not located in the General Improvement District (GID). Therefore, required parking is to be provided on-site according to Chapter 18.42 (Off-Street Parking and Loading Requirements) of the Loveland Municipal Code. As allowed in Section 18.42.030, the Current Planning Manager may grant alternative compliance providing that the following can be determined:
  - a. *Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard;*

Given the location of the Artspace Lofts project being a redevelopment infill site, there are constraints associated with allocating space for parking. Artspace has developed similar projects around the country and have found through experience that the parking demands are typically at a ratio of 1:1 or less. Of the 30 residential dwellings, half are studio or one bedroom units.

- b. *The alternative standard achieves the intent of the subject Type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to the community as would compliance with the subject standard.*

Thirty of the 60 required residential dwelling spaces would be provided on-site behind the building. An additional 27 spaces would be located in front of the building along W. 3<sup>rd</sup> Street. The applicant has provided a parking exhibit illustrating potential available parking surrounding the site. These are public parking areas. The parking requirement based upon proposed use (residential/gallery) is 80 parking spaces with a minimum of 2 parking spaces per dwelling unit (30 units = 60 spaces) and 1 space for every 2 visitors at maximum capacity of the gallery space (maximum capacity for gallery is 39 visitors, half of 39 would require 20 spaces). Roughly 70% of the parking demand per code is being met on-site and along W. 3<sup>rd</sup> Street. Moreover, the location of the site lends itself to greater pedestrian mobility in terms of being located within the downtown core area, near bus stops, and along high pedestrian corridors. Reserving on-site parking for residences would dictate that patrons attending the occasional gallery events would have to find parking around the site and walk to the location. While the subject property is not within the GID, it will likely function as though it is because of the location and nature of use.

- **Architecture:** General and core character areas urban design standards are type 2 standards that apply to new construction relating primarily to building design. The Artspace site falls on the fringe of the core character area and is located on a block in

downtown that has a variety of uses and variation in building designs. Consequently, traditional downtown architecture is not how the Artspace building was designed. The applicant has provided a justification statement (see **October 14, 2013 Planning Commission Staff Report - Attachment 4**), responding to how the project is in compliance with applicable design standards.

2. *The proposed development is consistent with the goals of the document, Destination Downtown: Heart Improvement Project Downtown Strategic Plan and Implementation Strategy.*  
The goals of the Destination Downtown plan focus on three (3) general areas. Specific descriptions of these goals and ideas in which to achieve them are included in **October 14, 2013 Planning Commission Staff Report - Attachment 2** from the Destination Downtown plan for reference. The following is a brief description of the goals and an analysis of the Artspace project in reference to each:

*Incorporating sustainability through design, making downtown a destination area.*

The Artspace Lofts project is designed to respect and celebrate Loveland's history. Its focus towards art and artists is the basis behind the project which emphasizes the integration of art throughout downtown. However, it also functions in concert with the Feed & Grain building relative to scale, use of building materials, and potential future use of the building. Artspace is a significant redevelopment of downtown and catalyst towards restoration/redevelopment of the Feed & Grain building.

*Multi-modal street design that respects the safety for vehicles, pedestrians, and bicyclists.*

The Artspace site fronts along W. 3<sup>rd</sup> Street which is directly south of a primary pedestrian street (west side of Railroad Avenue) as depicted in Section 18.24.080 of the Loveland Municipal Code for the Be zoning district. Primary pedestrian streets are intended to facilitate comfortable pedestrian circulation to multiple destinations throughout downtown. The improvements that will be made along W. 3<sup>rd</sup> Street fronting the Artspace site demonstrate compliance with a downtown standard for development/redevelopment specific to creating strong emphasis to pedestrian connectivity abutting a designated primary pedestrian street. Wider sidewalks will be provided along W. 3<sup>rd</sup> Street separated from the street to provide a safer more pleasant pedestrian experience.

Primary vehicle access is separated from primary pedestrian access by utilizing the alley between W. 3<sup>rd</sup> Street and W. 2<sup>nd</sup> Street. All on-site vehicle parking is provided behind the building away from the primary pedestrian link along W. 3<sup>rd</sup> Street.

*Focus on public spaces that offer a variety of uses for a variety of users.*

Artspace will incorporate more opportunities for public art in downtown. The site is designed to include a central outdoor gathering space that can be shared between the Artspace Lofts and the Feed & Grain building. Redevelopment of the property is taking an under-utilized property that will add more residents to downtown by creating both living and working space.

3. *The proposed development is compatible with surrounding properties while considering its location in an urban environment characterized by a diversity of uses and building types.*  
The proposed Artspace project is structured around these criteria. This is a development that is specifically geared towards a downtown setting by means of building scale, use, pedestrian emphasis, and exterior open spaces. Additionally, this particular block within the Loveland

Addition includes a diversity of uses which the proposed Artspace project is compatible with. Artspace includes predominately residential but an overall use that is reflective of Loveland's culture in terms of art and artists. The scale and choice of exterior building materials of the Artspace Lofts is also reflective to that of the Feed & Grain.

## **VIII. RECOMMENDED CONDITIONS**

(Conditions 2 and 3 have been added following the 10-14-2013 public hearing)

The following conditions are recommended by City Staff:

1. Approval of the Artspace Lofts Site Development Plan shall be subject to other required approvals associated with this redevelopment including but not limited to applications under review for Public Improvement Construction Plans, Boundary Line Adjustment/Lot Merger, Vacation of Public Right-of-Way, and Historic Landmark Designation Amendment.
2. Building colors shall be adjusted to eliminate the bright saturated colors proposed on the building including the Sherwin Williams SW-6671 Curry (orange color – all building elevations) and Sherwin Williams SW-6321 Red Bay (red color – north elevation). The applicant shall coordinate with the Current Planning Division on appropriate replacement colors to be approved by the Current Planning Manager.
3. Any land use application required under Title 18 of the Loveland Municipal Code for redevelopment of the Feed & Grain shall be subject to review and approval by the Planning Commission at a fully noticed public hearing.

## **RESOLUTION # 13-5**

### **A RESOLUTION OF THE PLANNING COMMISSION PURSUANT TO LOVELAND MUNICIPAL CODE SECTION 18.24.050 DENYING APPROVAL OF A BUILDING TO BE LOCATED AT 130 W. THIRD STREET, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO AND CONTAINING MORE THAN 25,000 GROSS SQUARE FEET OF FLOOR AREA IN THE Be ZONING DISTRICT**

**WHEREAS**, Artspace Projects, Inc. (“Developer”) has applied for approval of a site development plan to construct a four-story, mixed-use residential building referred to as the Artspace Lofts (the “Building”), to contain 30 residential affordable housing units and approximately 1,145 square feet of first floor work area/gallery space for use by the residents (the “Work/Gallery Space”) as a use by right in the Be District – Established Business District (the “Zoning District”) at 130 W. Third Street, Loveland, Colorado (the “Site”); and

**WHEREAS**, because the proposed Building contains more than 25,000 square feet of gross floor area in the core area of the Zoning District, Planning Commission approval after a duly noticed public hearing is required pursuant to Loveland Municipal Code (“Code”) Section 18.24.050; and

**WHEREAS**, the Planning Commission held a public hearing on October 14, 2013 and at said hearing testimony and evidence was received from Current Planning Division staff, including the Planning Commission Staff Report dated October 14, 2013City, Economic Development staff, the applicant, and the public, and duly considered by the Commission; and

**WHEREAS**, an error was made in the parking calculations specified in the October 14, 2013 Planning Commission Staff Report, which error was corrected in the October 28, 2013 Planning Commission Staff Report; and

**WHEREAS**, the Commission has considered the application for the construction of the Building, which exceeds 25,000 square feet of gross floor area in the core of the Zoning District, and the findings required by Code Section 18.24.050.B, and has determined that the Building does not satisfy all applicable requirements.

### **NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION FOR THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That Planning Commission hereby makes the following findings, as required by Code Section 18.24.050.B:

- A. The Building does not comply with the standards of Chapter 18.24 for the Zoning District and other applicable provisions of the Loveland Municipal Code in the following respects:

**ATTACHMENT 1**

1. **Parking Standards:** The Site is not located within the Loveland General Improvement District and must therefore provide on-site parking pursuant to Chapter 18.42 of the Loveland Municipal Code, subject to approval of an alternative compliance standard under Section 18.42.030. Without approval of an alternative compliance standard under Section 18.42.030, Chapter 18.42 would require 2 on-site parking spaces per residential unit (2:1) or 60 spaces, plus on-site parking spaces for the Work/Gallery Space based on approved occupancy rate (in this case, 20 spaces) for a total of 80 spaces. The Developer requested approval of alternative compliance standard consisting of one on-site parking space per residential unit (1:1), for a total of 30 on-site parking spaces (the “Proposed Alternative Standard”). The on-site spaces included in the Proposed Alternative Standard include 2 designated handicapped parking spaces.

Planning Commission finds that the Proposed Alternative Standard does not meet the standards of Section 18.42.030 as follow:

- a. *Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard:*

While the Building is to be constructed on an infill redevelopment site with physical constraints, no evidence was presented to support a determination by the Commission that the Site will not accommodate a reasonable use without the application of the Proposed Alternative Standard. The Proposed Alternative Standard does not provide sufficient parking to accommodate the proposed use of the Site for the Building, which includes 30 residential units, half of which are one bedroom or studio units and half of which are two or three bedroom units, plus the Work/Gallery Space which can accommodate 39 occupants. Further, the consideration of street parking as available to accommodate tenants and users of the Building is not a sufficient mitigating factor in the geographic area in which the Building is located, as parking is currently in short supply for existing uses in the area.

- b. *The alternative standard achieves the intent of the subject Type 2 standard [mandatory standard] to the same or greater degree than the subject [mandatory] standard, and results in equivalent or greater benefits to the community as would compliance with the subject[mandatory] standard:*

The Planning Commission finds that the Proposed Alternative Standard does not achieve the intent of the mandatory standard set forth in Chapter 18.42, which provides that these standards are intended to require off-street parking facilities in proportion to the

need generated by the development of new land uses. The Planning Commission determines that the Building will generate a need for parking in excess of the 30 on-site and 27 street parking spaces included in the Proposed Alternative Standard (which is 71% of the mandatory standard). Even though a one-to-one ratio of on-site spaces per unit (for a total of 30 units) may adequately serve the minimum needs of residents in a downtown redevelopment in some circumstances, in this case the Proposed Alternative Standard does not include adequate spaces to maintain that one to one ratio (since 2 spaces are limited to handicapped parking), and the consideration of street parking and other public parking within the GID in meeting required parking standards fails to recognize that existing public parking is currently insufficient to serve both existing businesses and residents in the area, as well as the proposed Building. The requirement of two handicap spaces changes the Proposed Alternative Standard from a one to one ratio to a less than one to one ratio.

This change to parking space availability and additional capacity requirements in an area where spaces are already in use at residential and commercial locations would put additional burden and pressure on the owners, tenants and customers of those locations. It is believed that the transportation demographics of potential residents and other parties visiting the site were inadequate to reflect the transportation traits of the Loveland service area population.

The use of pedestrian corridors that are part of the Loveland's various civil and urban plans the services to facilitate the use of these within this plan had challenges. One of these was the usage of alternative transportation, specifically bus services, to bring visitors and residents to close proximity of the facility; however the bus terminus and schedule of existing bus services do not make these tenable solutions and as such automobile based usage cannot be marginalized or rationalized to a less than one projection by the prospective tenants of the Artspace facility.

Finally, the Proposed Alternative Standard does not provide adequate parking for the permitted and intended use of the Work/Gallery Space for events open to the public, even though such uses that may be intermittent or occasional. Therefore, the Planning Commission finds that the Proposed Alternative Standard does not result in equivalent or greater benefits to the community as would be provided by the mandatory standard under Chapter 18.42.

2. **Architectural Standards:** General and core character areas urban design standards are type 2 [mandatory] standards that apply to new construction relating primarily to building design. The Site falls on the fringe of the core

character area and is located on a block in downtown that has a variety of uses and variation in building designs.

The Planning Commission hereby finds and determines that the design of the Building provides an incomplete picture of the overall development of the Artspace Project, which will include redevelopment of the adjacent Feed & Grain Building at some point in the future, but which is not yet to the point of preliminary design. The result is that the Planning Commission determines that there are too many unknowns to permit a determination as to compatibility with the adjacent building currently housed on the same Site. The four-story, modern form, color, and façade treatment of the proposed Building is also inconsistent and incompatible with the historic character of the core area of Downtown Loveland, which includes historic structures with traditional design, building components, and materials. Finally, the scale and massing of the Building is inconsistent and incompatible with existing and adjacent residential and commercial uses.

The Planning Commission is also concerned that while the design and use of materials references “complementary” design, materials and concepts to the existing Feed and Grain Building; the applicant could not provide any view, conceptual or intended design of what the Feed and Grain building would or could be in the future. The only item offered was that current plans are only for stabilization of the existing structure and no plan is required pursuant to an agreement that no plan or action is required any earlier than twenty-four (months) after obtaining a certificate of occupancy of the “new” Artspace residential/commercial facility. If plans for the Feed and Grain were to change as a result of additional design and structural analysis the materials and façade to be used could be not as complementary to the planned Artspace facility and impact the overall aesthetics of the combined facility.

- B. The Building is consistent with the goals of the document, Destination Downtown: Heart Improvement Project Downtown Strategic Plan and Implementation Strategy as set forth in Section IX of the Planning Commission Staff Report dated October 14, 2013 on file with the Current Planning Department.
- C. The Building is not compatible with surrounding properties while considering its location in an urban environment characterized by a diversity of uses and building types, in particular:

The Planning Commission hereby finds and determines that the design of the Building provides an incomplete picture of the overall development of the Artspace Project, which will include redevelopment of the adjacent Feed & Grain Building at some point in the future, but which is not yet at a point to include any preliminary design. The result is that

the Planning Commission determines that there are too many unknowns to permit a determination as to compatibility with the adjacent building currently housed on the same Site. The four-story, modern form, color, and façade treatment of the proposed Building is also inconsistent and incompatible with the historic character of the core area of Downtown Loveland, which includes historic structures with traditional design, building components, and materials. Finally, the scale and massing of the Building is inconsistent and incompatible with existing and adjacent residential and commercial uses.

The Planning Commission is also concerned that while the design and use of materials references “complementary” design, materials and concepts to the existing Feed and Grain Building; the applicant could not provide any view, conceptual or intended design of what the Feed and Grain building would or could be in the future. The only item offered was that current plans are only for stabilization of the existing structure which no concept of how that will be accomplished or if any external structural supports may be required that could impact to new Artspace project, the visual aesthetics of the downtown area or impacts to other structures or vacant lots, Further in regard to the Feed and Grain building it was stated that no plan is required pursuant to an agreement that no plan or action is required any earlier than twenty-four (months) after obtaining a certificate of occupancy of the “new” Artspace residential/commercial facility. If plans for the Feed and Grain were to change as a result of additional design and structural analysis the materials and façade to be used could be not as complementary to the planned Artspace facility and impact the overall aesthetics of the combined facility.

**Section 2.** That based on the findings set forth in Section 1.A and 1.B above, the application for construction of the Building, which exceeds 25,000 square feet of gross floor area in the core of the Zoning District, is hereby denied.

**Section 3.** That as of the date set forth below, this Resolution shall constitute the final decision and the written findings and conclusions of the Planning Commission with respect to the application for approval of the Building containing more than 25,000 square feet of gross floor area in the core of the Zoning District pursuant to Code Section 18.24.050. Any party in interest as defined in Chapter 18.80 of the Code may file a written notice of appeal in accordance with Section 18.80.030 and conforming to the requirements of Code Sections 18.80.060 with the City of Loveland Planning Division within ten (10) days after the date of this Resolution

Resolved this 28<sup>th</sup> day of October, 2013.

ATTEST:

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Planning Commission Secretary

PLANNING COMMISSION:

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Buddy Meyers, Chairperson  
City of Loveland Planning Commission

APPROVED AS TO FORM:

J. Yost Schmidt  
Deputy City Attorney

## Chapter 18.42

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### Sections:

- 18.42.010      Purpose.**
- 18.42.020      Applicability.**
- 18.42.030      Spaces required.**
- 18.42.040      Shared parking.**
- 18.42.050      Parking requirements for uses not listed.**
- 18.42.060      Remote site parking.**
- 18.42.070      Design standards for off-street parking areas.**
- 18.42.080      Off-street loading areas.**
- 18.42.090      Drive-thru stacking.**

#### **18.42.010      Purpose.**

These standards specify the provision of off-street parking and loading facilities in proportion to the need generated by the development of new or the expansion of existing land uses as identified herein. These standards also provide for the design of off-street parking and loading areas that are safe, accessible, convenient and attractive.

#### **18.42.020      Applicability.**

Off-street parking and loading areas, pursuant to the provisions herein, shall be provided for every use and structure. Non-residential land uses and mixed uses located in the General Improvement District No. 1 (GID No. 1) shall not be required to comply with the applicable provisions herein, as provided in Section 18.24.050.D.2.

#### **18.42.030      Spaces required.**

Adequate off-street parking shall be required for all development. The number of off-street parking spaces on Table 18.42-1 shall be required with land uses or buildings containing such land uses. These requirements shall be Type 2 Standards which shall be mandatory, unless otherwise approved by alternative compliance in accordance with the following provisions or as part of an approved special review, or an approved Planned Unit Development.

- A. Upon submittal of written justification by the applicant, the current planning manager may allow application of an alternative standard, different than a Type 2 standard, provided the current planning manager determines the following:
  1. The applicant has demonstrated that either:
    - a. Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard; or
    - b. The alternative standard achieves the intent of the subject Type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to

the community as would compliance with the subject standard.

B. Whenever the current planning manager grants alternative compliance, the current planning manager shall prepare a written statement of findings based on the above criteria for such action. Such statement shall be placed in the development application file. The current planning manager's final decision with respect to such alternative compliance may be appealed to the planning commission in accordance with Section 18.60.020. (Ord. 5581 § 23, 2011)

**Table 18.42 -1 Parking Spaces Required**

<b>Residential Land Use</b>	<b>Parking Requirement</b>
One-family or two-family dwellings, multiple family dwellings	2 spaces per dwelling unit (may count tandem and garage spaces to meet requirement)
Accessory dwelling unit	See Section 18.48.060
Live/work space	2 spaces for every living area (residential unit), plus 1 space for every work area
Mobile home parks and communities	2 spaces per dwelling unit
Shelter for Victims of Domestic Violence	2 spaces for every 3 employees plus 2 parking spaces for the facility
<b>Institutional Land Use</b>	<b>Parking Requirement</b>
Colleges and universities (in campus setting)	1 space for each employee plus 1 space for every 5 students
Colleges and universities in non-campus setting	1 space for each classroom seat, plus one space for each employee
Elementary school	2 spaces for each classroom
Government, semi public uses	2 spaces for every 3 employees
Hospitals	2 parking spaces per bed, plus 1 space for every 300 square feet of outpatient clinics and service areas
Independent living facilities	1 space for each unit, plus 1 space for every employee
Junior high school	2 spaces for each classroom
Nursing homes, Alzheimer's care, assisted living, congregate care facilities	1 space for every 3 beds, plus .5 space for every employee

Place of worship or assembly with 200 or fewer seats in the principal place of assembly	1 space for every 4 seats in the principal place of assembly; or 1 space for every 35 square feet of seating area or 18 lineal inches of bench space where there are no fixed seats in the principal place of assembly.
Place of worship or assembly with over 200 seats in the principal place of assembly	Where multiple uses or times of use overlap at a place of worship or assembly with over 200 seats, parking shall be required for all proposed uses based on this table and shared parking provisions of Section 18.42.040 may be applied, considering the uses and overlap.
Senior high school	1 space for each 3 seats in the auditorium or principal place of assembly
<b>Commercial Land Use</b>	
Administrative, insurance and research facilities	1 space for every 250 square feet of floor area
Animal hospitals and clinics	1 space for every 300 square feet of floor area
Automotive sales, leasing and service (including cars, trucks, motor cycles)	1 space for every 450 square feet of floor area (showroom, office, repair and parts sales)
Banks, savings and loan, and finance companies	1 space for every 250 square feet of floor area
Bar or tavern	1 space for every 100 square feet of floor area
Bed and breakfast	1 space for every guest room, plus 2 spaces for employees
Call center	1 space for every 166 square feet of floor area
Car wash	2 stacking spaces for every bay, plus 2 spaces for employees for full-service car washes
Convenience store (see Section 18.52.060 for calculating gross floor area)	1 space for every 200 square feet of floor space
Convention, conference center	1 space for every 3 seats
Dance clubs or dance halls	1 space for every 100 square feet of floor area
Domestic animal day care facility	1 space for every 450 square feet of floor area
Equipment and small vehicle rental	1 space for every 300 square feet of floor area
Flex office space with light manufacturing	1 space for every 333 square feet of floor area
Funeral homes, mortuaries	1 space for every 4 seats

Galleries, art and dance studios, photo studios	1 space for every 2 students or visitors at maximum capacity, plus 2 spaces for every 3 employees
Garden supply, greenhouses, nurseries – retail sales (excludes production areas)	1 space for every 300 square feet of floor area devoted to retail sales
Greenhouses, nurseries – production (no retail sales)	2 spaces for every 3 employees
Gas stations with repair, tire and lube shops	1 space for every pump island, plus 1 space for every 200 square feet of floor area
Health care service facility	1 space for each examination or treatment room, plus 1 space for every 2 employees or health care provider
Hotels, motels, rooming houses, boarding houses and tourist homes	1 space for every unit, plus .75 space for every employee
Laundromats	1 space for every 250 square feet of floor area
Live/work space	2 spaces for every living area, plus 1 space for every work area
Medical and dental clinics and offices	1 space for every 225 square feet of floor area
Membership clubs, athletic/fitness facilities	1 space for every 300 square feet of floor area
Mixed-uses	As required for both uses and subject to Section 18.42.040.B
Night Clubs	1 space for every 4 seats, plus 2 spaces for every 3 employees on the maximum shift
Personal service and business shops (retail laundries, hair salons, barber shops, tanning and nail salons, shoe repair, copy shops)	1 space for every 300 square feet of floor area
Places of amusement or recreation (indoor recreation, not including theaters or auditoriums)	1 space for every 200 square feet of floor area
Preschools, nurseries, or child care centers	1 space for each 450 square feet of floor area
Professional offices	1 space for every 250 square feet of floor area
Restaurants with drive-thru lanes or windows	1 space for every 100 square feet of floor area, including outdoor patio space, plus 5 stacking spaces for every drive-thru lane or window
Restaurants standard, sit down	1 space for every 200 square feet of floor area, including outdoor patio space
Restaurants fast food without drive-thru lanes or windows, coffee shops, delis, juice bars	1 space for every 3 seats, or 1 space for every 150 square feet of floor area (whichever results in greater number of spaces), but no less than 5 spaces

Restaurants drive-in – with or without drive-thru lane – this use is assumed to have 1 space provided for every order box	1 space for every 3 seats, or 1 space for every 150 square feet of floor area (whichever results in greater number of spaces), plus 5 stacking spaces for every drive-thru lane or window (if applicable)
Retail business and commercial uses	1 space for every 300 square feet of floor area
Theaters, auditoriums or other places of assembly	1 space for every 3 seats in the principal place of assembly
Industrial Land Use	Parking Requirements
Airports, heliports	2 spaces for every 3 employees, plus 1 space for every 200 square feet of lobby or waiting area
Hangars	1 space for every 1,000 square feet of floor area (may be inside hangar)
Contractor's shops, yards	2 spaces for every 3 employees
Dry cleaning plants, commercial laundries	2 spaces for every 3 employees
Foundries	2 spaces for every 3 employees
Industrial or manufacturing activities (excluding offices)	1 space for every 450 square feet of floor area or 1 for every 2 employees, whichever is greater
Live/work space	2 spaces for every living area, plus 1 space for every work area
Lumber yard (wholesale)	2 spaces for every 3 employees
Medical and research laboratories	1 space for every 450 square feet of floor area
Personal wireless service facilities	1 space
Recycling facilities	Unattended facilities – 1 space for every loading area Attended facilities – 1 space for every loading area, plus 2 spaces for every 3 employees
Self-storage facilities	1 space for every 300 square feet of office area, plus 1 space for every employee or 2 spaces for resident manager
Showroom warehouse	1 space for every 300 square feet of showroom floor area, plus 1 space for every 1,000 square feet of warehouse area
Utility service facilities	2 spaces for every 3 employees

Vehicle sales, leasing, and repair (farm equipment, mobile homes, rv's, boats, large trucks)	1 space for every employee, plus 1 space for every 500 square feet of floor area
Wholesale commercial uses and warehouses	1 space for every 1,000 square feet of floor area, plus 1 space for every 5,000 square feet after first 100,000 square feet
Workshops, custom small industry	2 spaces for every 3 employees

(Ord. 5207 § 11, 2007; Ord. 4779 § 4, 2003; Ord. 4238 § 1 (part), 1997; Ord. 3648 § 5, 1990; Ord. 3347 § 1, 1986; Ord. 1628 § 2 (part), 1977)

- C. For parking requirements based on floor area, the total gross floor area shall be used for calculating the requirement, based on the principal use of the building, including outdoor seating areas for restaurants. When the calculation of required parking spaces results in a fractional number, the required number shall be rounded up to the next whole number. Additional parking standards and guidelines are found in Section 3.04 "Circulation and Parking" of the Site Development Performance Standards and Guidelines and in Chapter 19 of the Larimer County Urban Area Street Standards.
- D. The off-street parking requirements of Section 18.42.030.A for non-residential and mixed-use developments or uses located with frontage on the following redevelopment corridors, excluding areas zoned BE, may be reduced up to ten (10) percent. Upon submittal of written justification by the applicant, greater reductions may be considered by the Current Planning Manager, as may be appropriate for the use and location, and considering such things as the availability of sufficient on-street parking, access to the site and parking area(s), and/or the potential for negative impacts as a result of parking reductions. Parking reductions provided for in this section shall not require Alternative Compliance. For the purposes of this section, the redevelopment corridors shall be defined as follows:
  - 1. S.H. 287 (including Buchanan Avenue, Cleveland Avenue, Garfield Avenue, and Lincoln Avenue) from Ranch Acres Drive, to 14<sup>th</sup> Street SE.
  - 2. Eisenhower Avenue, from Namaqua Drive to Boise Avenue.
- E. The off-street parking requirements of Section 18.42.030.A for land uses located within the R3-E Established High Density Residential District and within the geographic area specified below, may be reduced up to twenty-five (25) percent. Upon submittal of written justification by the applicant, greater reductions may be considered by the Current Planning Manager, as may be appropriate for the use and location, and considering such things as the availability of sufficient on-street parking, access to the site and parking area(s), and/or the potential for negative impacts as a result of parking reductions. Parking reductions provided for in this section shall not require Alternative Compliance. On-street parking spaces directly adjacent to the site may be counted toward meeting the off-street parking requirements of Section 18.42.030.A. The geographic area of this provision shall be: all R3-E zoned parcels within an area bounded by U.S. Highway 34 on the north; Boise Avenue on the east; the Big Thompson River on the south; and Taft Avenue on the west.
- F. For parking requirements based on the number of employees, the number of employees on the

major or largest shift shall be used to determine requirements.

- G. Where garages are available, tandem spaces in front of garages shall be counted toward meeting off-street parking requirements for single-family and two-family dwelling units.
- H. When the number of parking spaces exceeds one-hundred fifty (150) percent of the number required in Section 18.42.030.A, an additional one (1) deciduous shade tree shall be added to the interior parking lot landscaping for every additional ten (10) parking spaces and shall be distributed throughout the interior landscape islands of the parking area. Any additional trees required by this section shall not count toward other landscaping requirements. Parking lots with less than fifteen (15) parking spaces required shall be exempt from this provision.
- I. Where Leadership in Energy and Environmental Design (LEED) certification is being sought for new buildings, major building renovations, or for existing buildings, and LEED credit is achieved for addressing alternative modes of transportation, the number of required parking spaces may be reduced through approval of alternative compliance of a Type 2 Standard, as provided in Section 18.42.030.A.

**18.42.040 Shared parking.**

- A. Shared parking shall be allowed if the maximum number of vehicles using the shared parking spaces does not exceed, at any time, the sum of the spaces required by the provisions of this Chapter of the Loveland Municipal Code. Once established, shared use of a parking facility shall continue until the properties which share parking spaces are, independently, in compliance with the access, parking and circulation requirements of the Site Development Standards, as provided in Chapter 18.47.
- B. When one building is planned to include a combination of different uses, the minimum parking required shall be determined by applying the requirements of Section 18.42.030.A based upon the gross floor area for each use, and shall include outdoor seating areas, as well as other areas in the building that generate parking demand.
- C. A reduction of no more than twenty (20) percent of the total number of required parking spaces may be made for shared parking for buildings or sites that include a mix of land uses that include residential with office uses, or residential with retail uses. Further reductions, or reductions for other land use mixes may be considered under the alternative compliance provisions for Type 2 Standards in Section 18.53.020 and shall take into consideration such things as hours of operation, location and nature of the proposed land use mix, and potential impacts, if any, on adjacent properties.
- D. If an agreement for shared parking is approved and entered into, it shall be recorded with the Larimer County Clerk and Recorder's Office.

**18.42.050 Parking requirements for uses not listed.**

For specific uses not listed in Table 18.42-1 the Current Planning Manager shall use the most recent edition of the American Planning Association's Planning Advisory Service Report on parking to determine parking requirements.

**18.42.060 Remote site parking.**

In lieu of locating parking spaces required by this title on the lot which generates the parking requirements, such parking spaces may be provided on any lot or premises owned or leased by the owner of the use that generates the parking demand, within three hundred (300) feet of the property generating such parking requirements, for any business, commercial or industrial use. Ownership in this regard may include participation in a parking district or other joint venture to provide off-street parking areas to the extent that the parking requirement for each lot using the joint venture to meet its parking requirement can be met by a proportionate or greater number of off-street parking spaces in the lot subject to the joint venture. Any lot or premise which is subject to a lease for the purpose of providing off-street parking areas to meet the parking requirements of another lot shall contain a sufficient number of parking spaces to meet the parking requirements of both such lots unless reduced under the provisions of Section 18.42.040.B. (Ord. 4246 § 1 (part), 1997; Ord. 1628 § 2 (part), 1977)

**18.42.070      Design standards for off-street parking areas.**

- A. All areas counted as off-street parking spaces shall be unobstructed and free of other uses, including storage or display of merchandise.
- B. Unobstructed access to and from a street shall be provided for all off-street parking spaces.
- C. All off-street parking spaces shall be surfaced with asphalt or concrete or other similar surfacing. Parking shall not be permitted in a required front setback except on a residential driveway and/or parking pad that extends through a front setback.
- D. All open off-street parking areas with six (6) or more spaces shall be adequately screened from any adjoining residentially zoned lot and from any street by landscaping or solid fencing, which fencing or landscaping shall be maintained in good condition at all times. The landscaping or fencing shall be installed and maintained to specifications prescribed by the city, provided such landscaping and fencing may be waived by the Current Planning Manager when it is determined that safety factors would indicate the same should be waived. If lighting is provided for such parking areas, it shall not be directed toward any adjacent residential area or public street and shall meet the provisions of Section 3.09 "Illumination" of the Site Development Performance Standards.
- E. All off-street parking areas serving a use requiring three (3) or more parking spaces shall be designed and traffic controlled therein so that access to and from a public street shall require vehicular traffic to be traveling in a forward direction when entering and exiting from such parking areas. However, a single-family or two-family dwelling unit may have a parking area which is designed to permit vehicles to back directly onto one (1) public local street.
- F. Off-street parking spaces may be provided in areas designated to jointly serve two (2) or more buildings or uses, provided the provisions of Section 18.42.040.B are met.
- G. No part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this title shall be included as part of an off-street parking space similarly required for another building or use, unless permitted as shared parking under the provisions of Section 18.42.040.B. No part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this title shall be converted to any use other than parking unless additional parking space is provided to replace such converted parking space and meets the requirements of any use to which such parking space is converted.

- H. All parking areas shall be designed to the extent possible to be in conformity with the approved parking lot design standards in the City's Site Development Performance Standards and Guidelines and Larimer County Urban Area Street Standards (LCUASS)
- I. Parking for persons with disabilities shall be as required by the Americans with Disabilities Act (ADA).
- J. A row of parking spaces shall extend no more than fifteen (15) spaces, counted along one side, without an intervening landscape island.
- K. Large parking lots shall be divided into smaller sections or compounds, containing a maximum of two-hundred (200) parking spaces per section, through the use of landscape separators a minimum of fifteen (15) feet in width, excluding any pedestrian pathways or sidewalks. Landscape separators shall contain a minimum of one (1) deciduous or evergreen tree per seven-hundred (700) square feet of landscaped area, or one (1) tree per thirty-five (35) lineal feet, whichever results in a greater number of trees.
- L. A maximum vehicle overhang of two (2) feet shall be permitted where the adjacent sidewalk or landscape area is not less than seven (7) feet in width, allowing for an unobstructed walkway or landscape area of at least five (5) feet in width. The use of wheel barriers is prohibited. Such parking spaces shall be no less than seventeen (17) feet in length and shall not be used in compact parking spaces.

#### **18.42.080 Off-street loading areas.**

Off-street loading areas shall be required for non-residential uses which require goods, merchandise, or equipment to be routinely delivered to or shipped from that use and shall be of sufficient size to accommodate vehicles which will serve such use. The location of the loading area shall not block or obstruct any public street, alley, driveway, or sidewalk. Loading areas shall be provided as follows: one (1) off-street loading space for buildings between five thousand (5,000) square feet and twenty thousand (20,000) square feet, plus one (1) additional off-street loading space for each twenty thousand (20,000) square feet or fraction thereof of additional gross floor area in excess of twenty thousand (20,000) square feet.

#### **18.42.090 Drive-thru stacking.**

Off-street stacking shall be provided for land uses which contain a drive-thru lane or drive-up window, including, but not limited to, banks and restaurants, so that waiting vehicles do not interfere with other vehicular access and circulation on or adjacent to the site, subject to the following requirements:

- A. A minimum of five (5) off-street stacking spaces shall be required for each restaurant drive-thru lane or drive-up window. Stacking spaces shall not be used to satisfy parking requirements.
- B. A minimum of three (3) off-street stacking spaces shall be required for each car wash or bank drive-thru lane or drive-up window.
- C. Off-street stacking spaces shall be a minimum of eight (8) feet wide and twenty (20) feet in length.
- D. Areas reserved for stacking shall not otherwise be used as maneuvering areas or circulation driveways, nor interfere with access to or circulation on the site, or parking on-site.

(Ord. 5336 § 1, 2008; Ord. 5207 § 11, 2007; Ord. 4779 § 4, 2003; Ord. 4570 § 1, 2000; Ord. 4246 § 1 (part), 1997; Ord. 4238 § 1 (part), 1997; Ord. 3648 § 5, 1990; Ord. 3347 § 1, 1986; Ord. 1628 § 2 (part), 1977)



## Development Services Current Planning

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### Planning Commission Staff Report

October 14, 2013

**Agenda #:** Regular Agenda - 3

**Title:** Artspace Lofts Project (Loveland Addition) Site Development Plan (PZ #13-00122)

**Applicant:** Artspace Projects Inc., Leah Swartz

**Request:** Be – Established Business District Site Development Plan Review

**Location:** South of W. 3<sup>rd</sup> Street between N. Railroad Avenue and N. Garfield Avenue (Block 21, Loveland Addition)

**Existing Zoning:** Be – Established Business

**Proposed Use:** Mixed Use Building

**Staff Planner:** Troy Bliss

#### Staff Recommendation

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

#### Recommended Motions:

1. Move to make the findings listed in Section IX of the Planning Commission staff report dated October 14, 2013 and, based on those findings, approve the Artspace Site Development Plan subject to the conditions listed in Section X, as amended on the record.

#### Summary of Analysis

This is a public hearing and quasi-judicial matter to consider a Site Development Plan (SDP) that was prepared for the redevelopment of property located in downtown directly west of the Feed & Grain building. The project is referred to as the Artspace Lofts which consists of a 30-unit mixed use residential building, envisioned to provide affordable live/work opportunities to artists. The Artspace building would be a 4-story structure designed in concert with the Feed & Grain building in terms of scale and use of exterior materials. The building includes a first floor 1,145 square foot work area/gallery space, for the residents to use in designing and displaying their artwork.

Primary access into and out of the site would be from W. 3<sup>rd</sup> Street via an alley that is in the process of being vacated in conjunction with this project. All on-site parking would be located behind the building and reserved for the residences of the Artspace Lofts. Between the proposed Artspace Lofts and the Feed & Grain building is an outdoor plaza/gathering space. This would initially serve the lofts but intended to be shared between both buildings once the Feed & Grain building redevelops. It would function as a central core, tying the two properties together as a downtown art hub. All public improvements including street improvements, utilities, and emergency access have been designed per City standards.

## I. SUMMARY

Artspace Lofts Site Development Plan (SDP) is a proposal for redevelopment within Block 21 of the Loveland Addition in downtown on approximately 0.72 acres in the Be zoning district. The project would entail mostly residential – 30 affordable dwellings units specifically for artists within a 4-story building having a gross floor area of approximately 38,000 square feet. The project is defined as mixed use in that it also offers a component of live/work, by means of providing a shared 1,145 square foot work/gallery space for the residences. The applicant has developed similar projects throughout the country and has been successful in redevelopment and downtown settings.

Section 18.24.050 of the Loveland Municipal Code requires that any use containing more than 25,000 square feet of gross floor area in the Be zoning district to be approved by the Planning Commission at a public hearing. All information pertinent to Planning Commission consideration is provided in this staff report including detailed plans, findings, and supplementary information demonstrating compliance.

The City is also engaged in supporting this project through incentives, approved by City Council, that focus on downtown revitalization. The City's Economic Development Department has been working with Artspace on these details in conjunction with this development proposal.

## II. ATTACHMENTS

1. Be – Established Business District Excerpts
2. *Destination Downtown: HIP Streets Master Plan* Excerpts
3. Parking Justification with Exhibits
4. Be – Established Business District Urban Design Standards Justification
5. Site Development Plan
6. Color Building Elevations

## III. VICINITY MAP



#### **IV. SITE DATA**

ACREAGE OF SITE: ..... APPROXIMATELY 0.72 ACRES

PROPERTY ZONING / USE ..... BE – ESTABLISHED BUSINESS/VACANT METAL GARAGE  
..... BUILDING

EXISTING ZONING / USE - NORTH ..... BE – ESTABLISHED BUSINESS/CITY OF LOVELAND  
..... BUILDING

EXISTING ZONING / USE - SOUTH ..... BE – ESTABLISHED BUSINESS/SINGLE FAMILY  
RESIDENTIAL AND COMMERCIAL BUILDINGS

EXISTING ZONING / USE - EAST ..... BE – ESTABLISHED BUSINESS/VACANT FEED & GRAIN  
..... BUILDING

EXISTING ZONING / USE – WEST ..... BE – ESTABLISHED BUSINESS/AUTO SALES

#### **V. KEY ISSUES**

There are no key issues that staff believes would compromise the project. The City Development Review Team (DRT) is currently in the process of finalizing the review of engineering aspects that relate to the associated Public Improvement Construction Plans (PICPs). A Boundary Line Adjustment/Lot Merger application is being completed, combining all lots that originally make up this property. It also separates the Artspace Lofts and the Feed & Grain on their own respective lots. Additionally, the vacation of alley right-of-way is working its way through City Council. City Council unanimously approved first reading of an ordinance on October 1, 2013. Second reading is scheduled for October 15, 2013.

The Site Development Plan (SDP) presented for Planning Commission consideration includes an alternative parking compliance request. Section IX of this staff report provides a detailed analysis. Staff is in support of the plan, but believes this unique arrangement warrants the Planning Commission's attention.

#### **VI. BACKGROUND**

The subject property is a part of the original town of Loveland (Loveland Addition). The site, as it exists today, comprises the Feed & Grain building and an old metal garage. The site is designated as a historical site. Due to the proposed new Artspace Lofts project, this historical designation needs to be amended to include the replatted property in which the Feed & Grain building will sit on only. The proposal was presented to the Historic Preservation Commission (HPC) in September 2013. The HPC unanimously recommended approval, citing the importance of this project as a redevelopment to downtown. The HPC also expressed that the proposed Artspace Lofts building, through its design, respects the integrity of the Feed & Grain building. Additionally, it was noted that the project creates redevelopment that bolsters preservation efforts of the prominent Feed & Grain building. This recommendation will be presented to the City Council on October 15, 2013.

City Council has authorized an incentive and loan package to the Artspace project that provides for repayment over 30 years, waives construction material use taxes, and provides for the stabilization and future redevelopment of the Feed & Grain building. This is conditioned on passage of a supplemental appropriation ordinance scheduled for second reading with City Council on October 15, 2013. An associated Site Development Plan (SDP) for the Feed & Grain will be prepared separately from the Artspace Lofts SDP and presented to the Planning Commission at a date to be determined.

## VII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

- A. **Notification:** An affidavit was received from Jason Kopecky, on behalf of the applicant, certifying that written notice was mailed to all surface owners within 300 feet of the site and notices were posted in a prominent location on the perimeter on September 30, 2013. In addition, a notice was published in the Reporter Herald on September 28, 2013.
- B. **Neighborhood Response:** A neighborhood meeting is not required in conjunction with this application. However, all surface owners were notified in the public hearing notice that an open house would be held on Wednesday, October 9, 2013 at the Feed & Grain building to present the project to the neighborhood prior to the Planning Commission public hearing. The details of this open house are not captured in this staff report. However, an overview of the open house will be provided to the Planning Commission during the hearing on October 14, 2013.

## VIII. PARKING AND DESIGN ANALYSIS

The purpose of the Planning Commission hearing is to review the Site Development Plan (SDP) in relation to the Be zoning district standards. The most pertinent of which concerning Artspace relates to parking and design.

Artspace is proposing a site plan that provides 30 parking spaces on-site for 30 dwellings. The parking stalls located on-site would be reserved for the 30 dwelling units within the building. The City's parking standards require that on-site parking be 2 spaces per dwelling unit. In addition, parking is to be provided for the shared work/gallery space based upon a maximum occupancy.

Provided in **Attachment 3** is information that the applicant has prepared in response to their parking demands and an analysis of available public parking surrounding the site. With the type of development Artspace is proposing, parking ratios for the dwelling units are expected at 1:1 or less. Under this premise, the parking provided on-site would satisfy the needs of the residential component.

The flex or gallery space could be opened up to the public for specific events (i.e. to tie into First Friday's) if the residents choose to participate, but the space would not generally be open for the public to access. In Artspace properties across the country, this space is used for resident meetings, to display work, for small performances, for small classes or lectures hosted by the residents, resident collaboration, rehearsals, etc. This space is often seen as resident community rooms. If a resident (or group of residents) wanted to host an event open the public, they would be allowed - but it would be for a special event, not just for the general public to visit on a regular basis. Artspace anticipates individuals attending the events that do not live in the building, would park in the available parking around the site (in the proposed City lot or plentiful street parking.)

Parking ratios required by City code are applied in general and do not reflect unique projects such as Artspace that function in more of a hybrid manner. Based upon the information provided and being located downtown, staff is in support of the alternative compliance to parking.

The overall design of the Artspace building is unique to the location and relationship of the Feed & Grain. A contemporary architecture was chosen rather than a historical one because the property sits on the edge of downtown where transitions where diversity in architecture has a greater transition compared to the core. The contemporary style also lends itself to the character of the Artspace Lofts building and the importance of art throughout Loveland. The applicant has provided (see Attachment 4) an analysis demonstrating how the design complies with the standards of the Be zoning district.

## IX. FINDINGS AND ANALYSIS

Chapter 18.24, Section 18.24.050.B.

1. *The proposed development complies with the standards of this chapter and any other applicable provisions of the Loveland Municipal Code.*

The Artspace project demonstrates compliance with the Be zoning district. The categories that apply to this property in Chapter 18.24 are as follows:

- The property is located in Height District C which establishes maximum building heights at 70'. The proposed Artspace Lofts would be slightly less than 60' in height.
- **Parking:** The subject property is not located in the General Improvement District (GID). Therefore, required parking is to be provided on-site according to Chapter 18.42 (Off-Street Parking and Loading Requirements) of the Loveland Municipal Code. As allowed in Section 18.42.030, the Current Planning Manager may grant alternative compliance providing that the following can be determined:
  - a. *Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard;*

Given the location of the Artspace Lofts project being a redevelopment infill site, there are constraints associated with allocating space for parking. Artspace has developed similar projects around the country and have found through experience that the parking demands are typically at a ratio of 1:1 or less (see **Attachment 3**). Of the 30 residential dwellings, half are studio or one bedroom units.

*b. The alternative standard achieves the intent of the subject Type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to the community as would compliance with the subject standard.*

Thirty of the 60 required spaces would be provided on-site behind the building. An additional 27 spaces would be located in front of the building along W. 3<sup>rd</sup> Street. The applicant has provided a parking exhibit illustrating potential available parking surrounding the site (see **Attachment 3**). These are public parking areas. The parking requirement based upon proposed use (live/work space) is 99 parking spaces with a minimum of 2 parking spaces per dwelling unit. Roughly 60% of the parking demand per code is being met on-site and along W. 3<sup>rd</sup> Street. Moreover, the location of the site lends itself to greater pedestrian mobility in terms of being located within the downtown core area, near bus stops, and along high pedestrian corridors. Reserving on-site parking for residences would dictate that patrons attending the occasional gallery events would have to find parking around the site and walk to the location. While the subject property is not within the GID, it will likely function as though it is because of the location and nature of use.

- **Architecture:** General and core character areas urban design standards are type 2 standards that apply to new construction relating primarily to building design. The Artspace site falls on the fringe of the core character area and is located on a block in downtown that has a variety of uses and variation in building designs. Consequently, traditional downtown architecture is not how the Artspace building was designed. The

applicant has provided a justification statement (see **Attachment 4**), responding to how the project is in compliance with applicable design standards.

2. *The proposed development is consistent with the goals of the document, Destination Downtown: Heart Improvement Project Downtown Strategic Plan and Implementation Strategy.*

The goals of the Destination Downtown plan focus on three (3) general areas. Specific descriptions of these goals and ideas in which to achieve them are included in **Attachment 2** from the Destination Downtown plan for reference. The following is a brief description of the goals and an analysis of the Artspace project in reference to each:

*Incorporating sustainability through design, making downtown a destination area.*

The Artspace Lofts project is designed to respect and celebrate Loveland's history. Its focus towards art and artists is the basis behind the project which emphasizes the integration of art throughout downtown. However, it also functions in concert with the Feed & Grain building relative to scale, use of building materials, and potential future use of the building. Artspace is a significant redevelopment of downtown and catalyst towards restoration/redevelopment of the Feed & Grain building.

*Multi-modal street design that respects the safety for vehicles, pedestrians, and bicyclists.*

The Artspace site fronts along W. 3<sup>rd</sup> Street which is directly south of a primary pedestrian street (west side of Railroad Avenue) as depicted in Section 18.24.080 of the Loveland Municipal Code for the Be zoning district. Primary pedestrian streets are intended to facilitate comfortable pedestrian circulation to multiple destinations throughout downtown. The improvements that will be made along W. 3<sup>rd</sup> Street fronting the Artspace site demonstrate compliance with a downtown standard for development/redevelopment specific to creating strong emphasis to pedestrian connectivity abutting a designated primary pedestrian street. Wider sidewalks will be provided along W. 3<sup>rd</sup> Street separated from the street to provide a safer more pleasant pedestrian experience.

Primary vehicle access is separated from primary pedestrian access by utilizing the alley between W. 3<sup>rd</sup> Street and W. 2<sup>nd</sup> Street. All on-site vehicle parking is provided behind the building away from the primary pedestrian link along W. 3<sup>rd</sup> Street.

*Focus on public spaces that offer a variety of uses for a variety of users.*

Artspace will incorporate more opportunities for public art in downtown. The site is designed to include a central outdoor gathering space that can be shared between the Artspace Lofts and the Feed & Grain building. Redevelopment of the property is taking an under-utilized property that will add more residents to downtown by creating both living and working space.

3. *The proposed development is compatible with surrounding properties while considering its location in an urban environment characterized by a diversity of uses and building types.*

The proposed Artspace project is structured around these criteria. This is a development that is specifically geared towards a downtown setting by means of building scale, use, pedestrian emphasis, and exterior open spaces. Additionally, this particular block within the Loveland Addition includes a diversity of uses which the proposed Artspace project is compatible with. Artspace includes predominately residential but an overall use that is reflective of Loveland's culture in terms of art and artists. The scale and choice of exterior building materials of the Artspace Lofts is also reflective to that of the Feed & Grain.

## **X. RECOMMENDED CONDITION**

The following condition is recommended by City Staff.

1. Approval of the Artspace Lofts Site Development Plan shall be subject to approval of all facets associated with this redevelopment including but not limited to applications under review for Public Improvement Construction Plans, Boundary Line Adjustment/Lot Merger, Vacation of Public Right-of-Way, and Historic Landmark Designation Amendment.

## Chapter 18.24

### BE DISTRICT - ESTABLISHED BUSINESS DISTRICT

#### Sections:

<b>18.24.010</b>	<b>Purpose.</b>
<b>18.24.020</b>	<b>Uses permitted by right.</b>
<b>18.24.030</b>	<b>Uses permitted by special review.</b>
<b>18.24.040</b>	<b>BE zoned area on West Eisenhower Boulevard.</b>
<b>18.24.050</b>	<b>Proposals requiring approval by planning commission.</b>
<b>18.24.060</b>	<b>Standards applying to entire BE zoning district.</b>
<b>18.24.070</b>	<b>Description of general, core, Fourth Street, and neighborhood transition character areas.</b>
<b>18.24.080</b>	<b>General and core character areas urban design standards.</b>
<b>18.24.090</b>	<b>Fourth Street character area urban design standards.</b>
<b>18.24.100</b>	<b>Neighborhood transition character area urban design standards.</b>
<b>18.24.110</b>	<b>Landscaping.</b>

#### **18.24.010 Purpose.**

The BE - Established Business District is intended to promote the development of a pedestrian-oriented downtown mixed-use business district in which a variety of retail, commercial, office, civic and residential uses are permitted. The district is also intended to:

- A. Encourage preservation of the architectural and historic character of the district;
- B. Foster redevelopment through the application of flexible development standards;
- C. Encourage a diverse mixture of land uses throughout the district including arts and technology related uses and mixed-use development;
- D. Encourage revitalization and redevelopment of the downtown in a manner that preserves and complements its existing unique character;
- E. Increase housing density to support vitality downtown;
- F. Increase employment density and opportunities;
- G. Encourage high-quality design that is context appropriate;
- H. Encourage redevelopment and increased density, while maintaining compatibility between the downtown BE district and surrounding residential neighborhoods;
- I. Support multi-modal transportation, including higher density surrounding transit nodes; and;
- J. Allow for development to respond to infill conditions by utilizing type 2 standards.

#### **18.24.020 Uses permitted by right.**

The following uses are permitted by right in the BE district:

- A. Accessory buildings and uses;
- B. Accessory dwelling units;
- C. Art gallery, studio and workshop including live/work studio and workshop. Such facilities may include the display, sale, fabrication or production of paintings, sculptures, ceramics and other art media. Limited outdoor fabrication of art work may be permitted subject to special review as provided in Chapter 18.40;

- D. Bar or tavern in general, core, and Fourth Street character areas;
- E. Bed and breakfast establishment;
- F. Boarding and rooming house;
- G. Clubs and lodges;
- H. Combined use (or mixed-use) development of permitted uses;
- I. Commercial day care center, licensed according to the statutes of the state;
- J. Community facility;
- K. Convention & conference center;
- L. Essential public utility uses, facilities, services, and structures (underground);
- M. Financial services;
- N. Food catering;
- O. Funeral home without crematorium;
- P. Garden supply center;
- Q. Government or semipublic use;
- R. Health care service facility;
- S. Hospital;
- T. Indoor entertainment facility & theater;
- U. Indoor recreation;
- V. Light industrial entirely within a building;
- W. Lodging establishment;
- X. Long term care facility;
- Y. Lumberyard in the general character area;
- Z. Medical, dental and professional clinic or office;
- AA. Micro-winery, micro-brewery, and micro-distillery;
- BB. Multiple-family dwelling for the elderly;
- CC. Multiple-family dwelling;
- DD. Nightclub in core and Fourth Street character areas;
- EE. Office, general administrative;
- FF. One-family (attached or detached) dwelling, including mixed-use dwellings;
- GG. Open-air farmers market;
- HH. Parking garage in the general and core character areas;
- II. Parks and recreation area;
- JJ. Parking lot in the general character area;
- KK. Personal service shop;
- LL. Place of worship or assembly;
- MM. Printing and newspaper office;
- NN. Public or private school;
- OO. Research laboratory;
- PP. Restaurant, fast food without drive-in;
- QQ. Restaurant standard, indoor or outdoor;
- RR. Retail laundry;
- SS. Retail store and wholesale store;

- TT. Shelters for victims of domestic violence;
- UU. Special trade contractor's shop (any outdoor storage shall be subject to special review as provided in Chapter 18.40.);
- VV. Veterinary clinic;
- WW. Two-family dwelling; and
- XX. Workshop and custom small industry uses if entirely enclosed within a building and provided there is no excessive odor, glare, smoke, heat, vibration, etc.; Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40.

**18.24.030     Uses permitted by special review.**

The following uses are permitted by special review subject to the provisions of Chapter 18.40:

- A. Attended recycling collection facility;
- B. Antennas, as defined in Section 18.55.020(A), located on an existing tower or structure as provided in Section 18.55.030 and Section 18.55.030 and meeting all other requirements of Chapter 18.55;
- C. Bar or tavern in the neighborhood transition character area;
- D. Combined-use (mixed-use) development containing one or more special review use(s);
- E. Congregate care facility;
- F. Contractor's storage yard in the general character area;
- G. Domestic animal day care facility;
- H. Essential public utility uses, facilities, services, & structures (above ground);
- I. Gas station with or without convenience goods or other services in the general character area subject to Section 18.52.060 and Section 18.50.135;
- J. Greenhouse;
- K. Group care facility;
- L. Nightclub in the general and neighborhood transition character areas;
- M. Off-track betting facility;
- N. Outdoor recreation facility;
- O. Outdoor storage as an accessory use;
- P. Parking garage in the Fourth Street and neighborhood transition character areas;
- Q. Parking lot in the core and neighborhood transition character areas;
- R. Personal wireless service facility as defined in Section 18.55.020(A), located on a new structure, meeting all requirements of Chapter 18.55;
- S. Unattended recycling collection facility;
- T. Vehicle minor and major repair, servicing and maintenance in the general and core character areas;
- U. Vehicle rental, cars, light trucks and light equipment in the general and core character areas;
- V. Vehicle sales and leasing of cars and light trucks in the general and core character areas; and
- W. Warehouse and distribution uses enclosed within a building.

#### **18.24.040 BE zoned area on West Eisenhower Boulevard.**

The area zoned BE and shown in Figure 18.24.040-1 shall not be governed by the allowances, standards and provisions of this Chapter 18.24, with the exception that the uses allowed in this area shall be subject to Sections 18.24.020 and 18.24.030. For the purposes of determining allowed uses, this area shall be considered to be in the general character area (see section 18.24.070 for a discussion of character areas). All development in this area shall otherwise comply with Chapter 18.28, Chapter 18.53, Chapter 18.42, Chapter 18.50, Chapter 18.54 and all other applicable City code regulations.

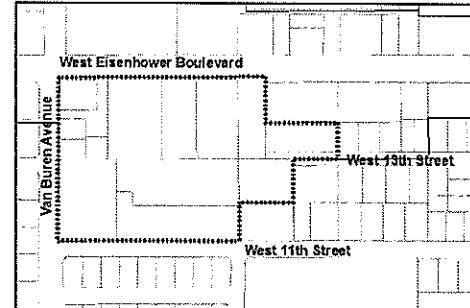


Figure 18.24.040-1

#### **18.24.050 Proposals requiring approval by the planning commission.**

- A. Structures, buildings or additions meeting the criteria listed in this section shall require approval by the planning commission at a public hearing noticed in accordance with Chapter 16.16.070. Uses listed in Section 18.24.030 as requiring a special review and meeting the thresholds listed in this section shall require approval by the planning commission at a public hearing in lieu of a special review.
  1. Any allowed uses located in the general, core or Fourth Street character areas containing more than 25,000 square feet of gross floor area construction.
  2. Any allowed uses located in the neighborhood transition character area containing more than 10,000 square feet of gross floor area construction.
  3. Any building or structure height above seventy (70) feet, exclusive of church spires, chimneys, ventilators, pipes, elevator shafts, or similar appurtenances.
- B. In evaluating proposals, the planning commissions shall make the findings included in this section.
  1. The proposed development complies with the standards of this chapter and any other applicable provisions of the Loveland Municipal Code.
  2. The proposed development is consistent with the goals of the document, *Destination Downtown: Heart Improvement Project Downtown Strategic Plan and Implementation Strategy*.
  3. The proposed development is compatible with surrounding properties while considering its location in an urban environment characterized by a diversity of uses and building types.

#### **18.24.060 Standards applying to entire BE zoning district.**

The following standards shall apply to all development within the BE zone district, except for that area described in Section 18.24.040 and depicted in Figure 18.24.040-1. The building envelopes depicted in this section are not intended to depict actual building forms. Building heights shall be defined and measured per Chapter 18.04.113.2. Therefore, portions of

a building including pitched or gabled roofs may extend outside of the building envelopes as depicted in this section.

A. Building height: Type 1 standards.

1. Building height for all structures, including primary and accessory uses, shall not exceed the maximum heights set forth in Figures 18.24.060-1, 18.24.060-2, and 18.24.060-3.

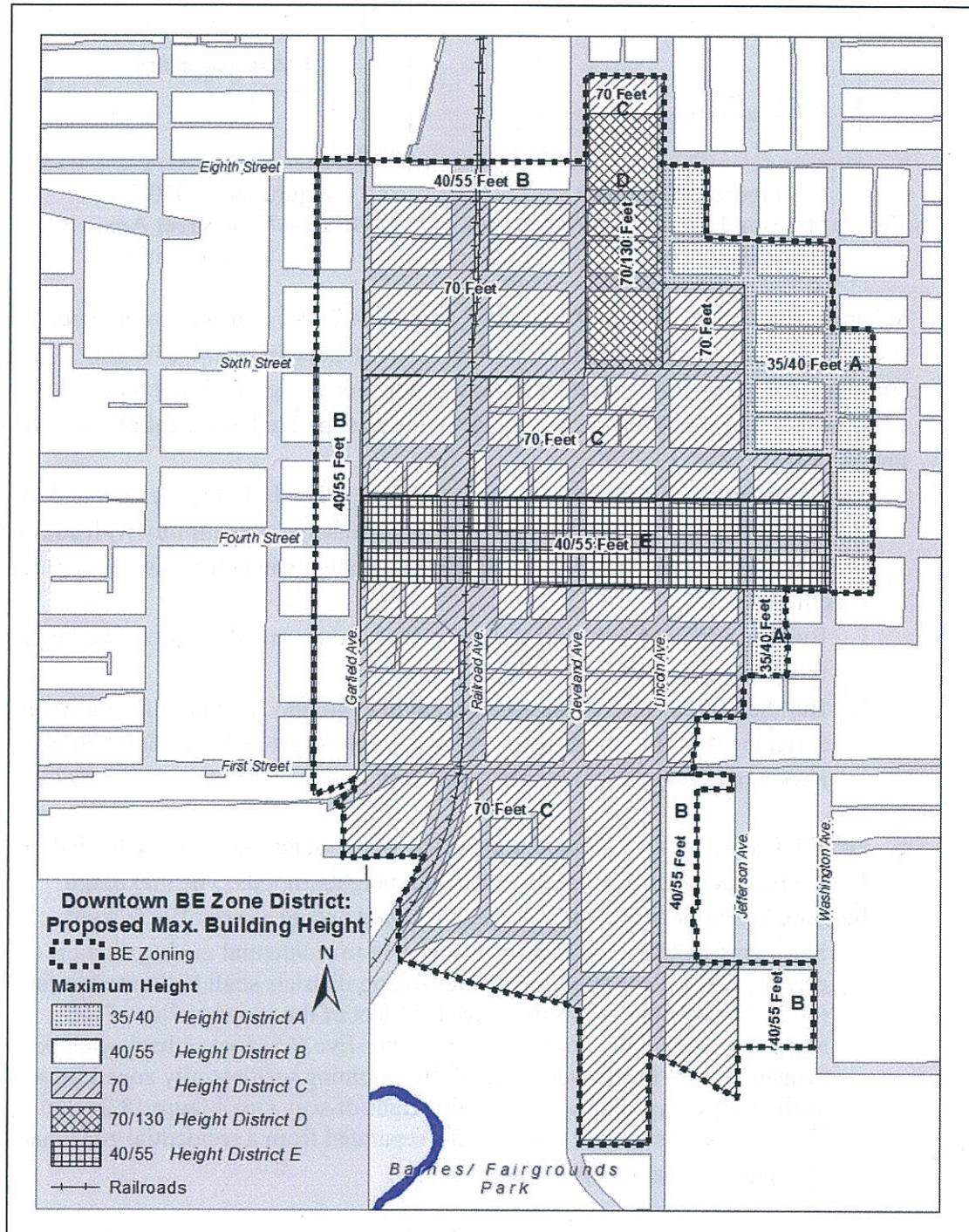


Figure 18.24.060-1: Downtown Area Height Limits

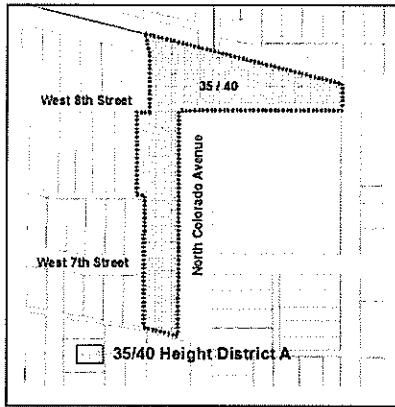


Figure 18.24.060-2  
BE Eighth Street and Colorado Avenue Area  
Height Limits

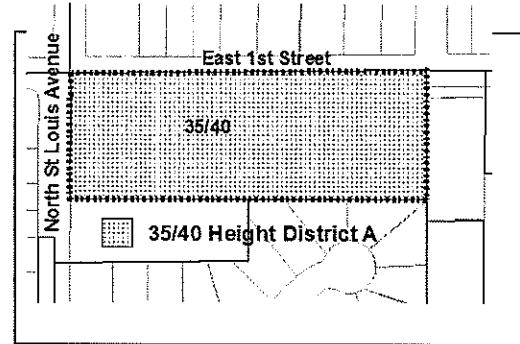


Figure 18.24.060-3  
BE East First Street Area  
Height Limits

2. Where Figures 18.24.060-1, 18.24.060-2, and 18.24.060-3 indicate two numbers, the lower of the two numbers shall be considered the standard allowable height.
3. Building heights up to the higher of the two numbers in Figures 18.24.060-1, 18.24.060-2, and 18.24.060-3 may be permitted as stipulated in the following height provisions:
  - a. Height district A - 35/40 residential buffer: These height limits are intended to maintain the existing character of the area and ensure compatibility with adjacent uses and residential zoning districts. Building heights in height district A are as specified below:
    - i. Buildings located in height district A shall have a standard allowable height of thirty five (35) feet.
    - ii. Buildings on property located adjacent to Colorado Avenue, Lincoln Avenue, Jefferson Avenue, Washington Avenue, First Street or West Eighth Street may have a maximum height of forty (40) feet.
  - b. Height district B - 40/55 residential buffer: These height limits are intended to protect the character of adjacent residential neighborhoods. The maximum building height of fifty five (55) feet is allowed except as specified below:
    - i. Structures on lots located directly adjacent to residential zoning districts or across public alleys from residential zoning districts shall be limited to forty (40) feet in height within sixty five (65) feet of the property line of the adjacent residentially zoned lot. This sixty-five (65) foot setback shall be measured from the property line of the adjoining residentially zoned lot and shall include any land within an alley right-of-way (see Figure 18.24.060-4).
    - ii. This provision shall not apply to lots separated from a residential zone district by a public street other than an alley.

**18.24.070 Description of general, core, Fourth Street, and neighborhood transition character areas.**

Character areas are established as depicted in Figure 18.24.070-1 and Figure 18.24.070-2.

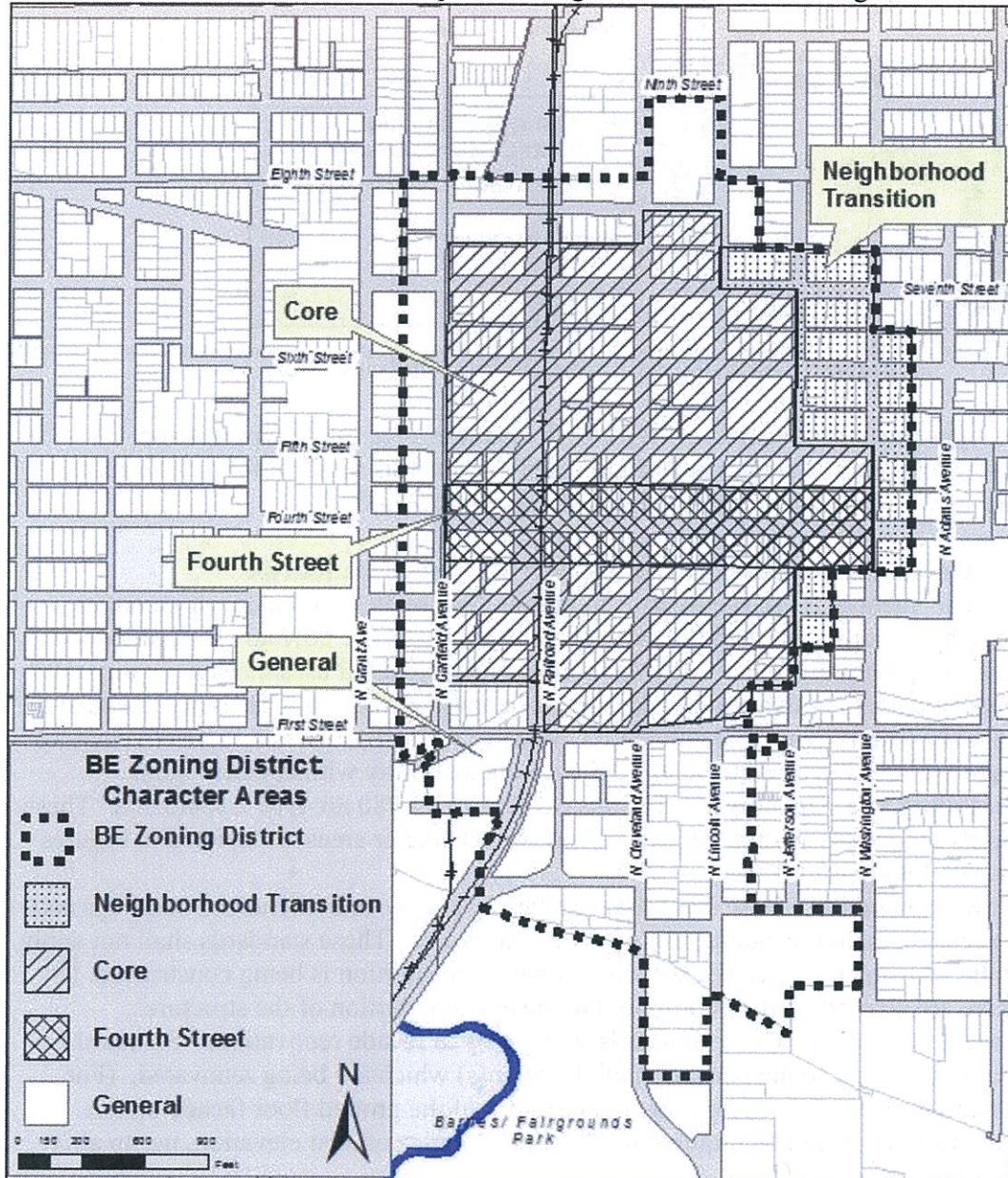


Figure 18.24.070-1: BE Zone District, Downtown Character Areas

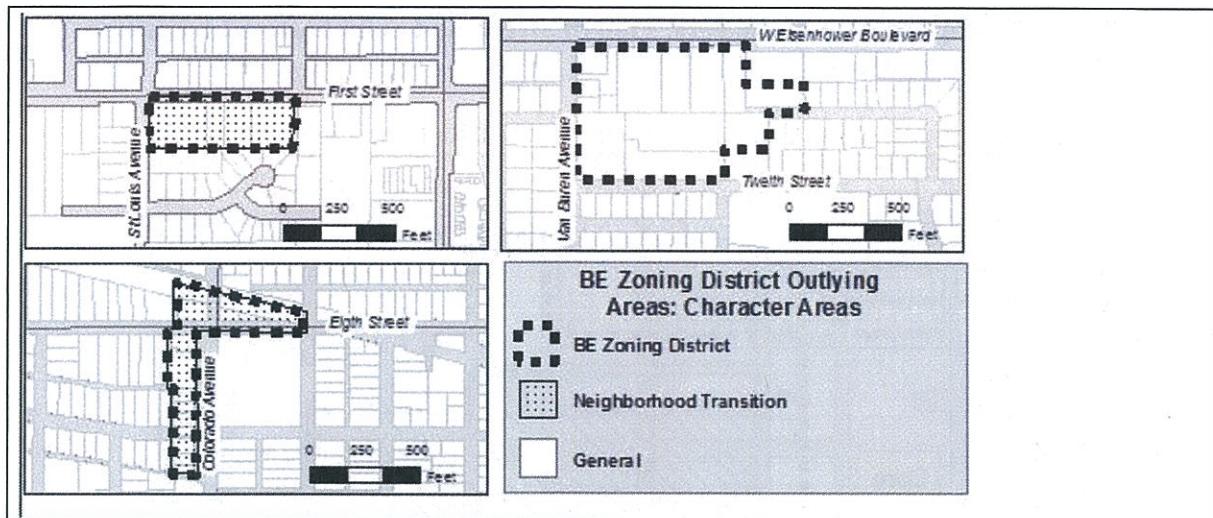


Figure 18.24.070-2: BE Zone District, Outlying Areas

Specific development standards are created for each character area. Development and redevelopment within each character area shall meet the standards set forth for that respective character area, as well as the standards set forth in Section 18.24.060.

**18.24.080 General and core character areas urban design standards.**

- A. Intent: The intent of these standards is to permit development and redevelopment in a manner that is consistent with the established character of the downtown BE district and the goals of promoting density of employment and residential uses through quality infill and redevelopment with a strong pedestrian orientation. These standards are intended to enhance the livability of residential areas, improve the appearance and attractiveness of land and buildings to customers, and enhance compatibility with adjacent uses.
- B. Applicability: The standards listed in this Section 18.24.080 are type 2 standards. These standards shall apply within the general and core character areas as depicted in Figures 18.24.070-1 and 18.24.070-2.
  1. New construction: These standards shall apply to new construction of buildings and structures, including additions to existing structures. These standards shall not apply to the existing portions of a structure to which an addition is being constructed, if there are no modifications proposed to the existing portion of the structure.
  2. Facade renovation: These standards shall apply to facade renovations. Standards shall apply only to the portion(s) of elevation(s) which are being renovated. (For example, an applicant proposing a renovation of the ground floor facade on one elevation would not be required to alter upper stories on that elevation, nor to alter other elevations.)
  3. Exemption for historic buildings: These standards shall not apply to designated historic structures altered or restored in compliance with a building alteration certificate authorized pursuant to Chapter 15.56 of the Loveland Municipal Code.
  4. These standards shall apply in lieu of Chapter 18.53 - Commercial and Industrial Architectural Standards.
- C. Primary pedestrian streets:
  1. Intent: The intent of this section is to ensure that primary pedestrian routes remain inviting to pedestrians; to maintain the established commercial architectural character along certain streets within the downtown; to maximize commercial activity by not

separating commercial areas with large areas of non-commercial facades; to facilitate comfortable pedestrian circulation between destinations; and to facilitate pedestrian circulation between parking areas and destinations to support “parking once” and walking to multiple destinations. Primary pedestrian streets are hereby established as shown in Figure 18.24.080-1.

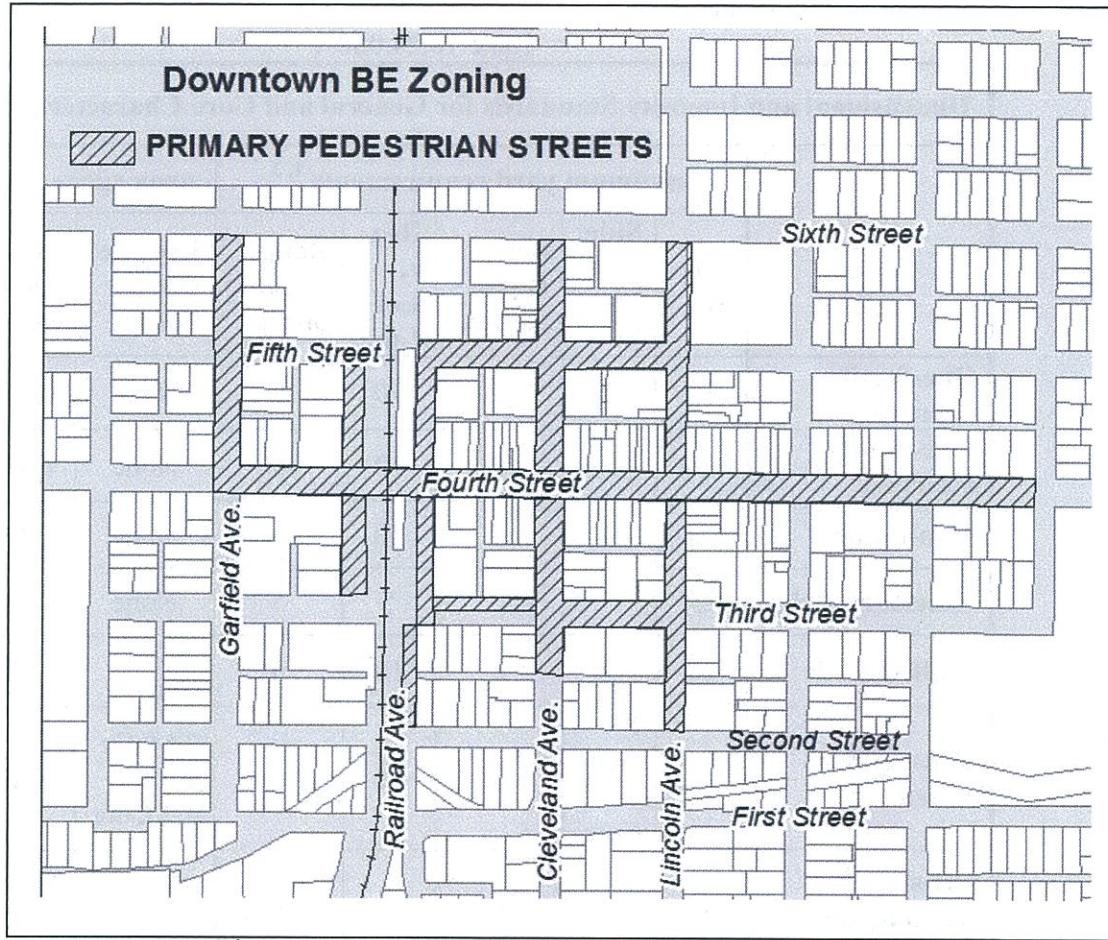


Figure 18.24.080-1: primary pedestrian streets

D. Primary and secondary elevations and lot frontage:

1. For buildings facing onto a public street right-of-way, the ground floor elevation facing onto said right-of-way shall be considered the primary elevation and the lot frontage on said right-of-way shall be considered the primary lot frontage.
  - a. For a building on a lot which is located on a street corner, one ground floor elevation and one lot frontage shall be determined to be the primary elevation and the primary lot frontage. If one of these public streets is designated as a primary pedestrian street per this section, then the ground floor elevation and lot frontage facing this primary pedestrian street shall be the primary elevation and lot frontage.
  - b. If the lot fronts onto two or more streets which are primary pedestrian streets then the application shall designate one ground floor elevation and lot frontage as the primary elevation and primary lot frontage.

- c. All other ground floor elevations and lot frontages are considered secondary elevations and lot frontages.

E. Dimensional standards: The standards set forth in this section and in Table 18.24.080-1 shall apply in the general and core character areas.

1. Dimensional standards

Table 18.24.080-1

Dimensional and Intensity Standards for General and Core Character Areas Only								
Use	minimum yard requirements <sup>1,3</sup>					open space, and lot size		
	Front	Side, Lot Line <sup>4</sup>	Side, Right-of-way	Rear, Lot Line	Rear, Right-of-way	Useable Open Space	Min Lot Size	Min Lot Width
One-family detached	10	5	5	10	5	None	4,000	35
One-family attached <sup>4</sup>	10	5	0	10	5	None	1,600	17
Two-family	10	5	0	10	5	None	4,000	40
Accessory Bldg	25	5	0	5	5	None	N/A	N/A
Multi-Family	10	5	0	10	0	10% Gen	5,000	50
Non-res & mixed	0	5 Gen 0 Core	0	10	0	7.5%Gen 0% Core	None	None
Off-street parking lots and structures <sup>2</sup>	8	8	8	0	5	N/A	N/A	N/A

Notes:

1. Setbacks for garage doors fronting public alleys shall be either five (5) feet or less; or eighteen (18) feet or more. Setbacks for garage doors fronting a public street shall be at least twenty (20) feet.
2. Setbacks may be reduced for surface parking when a decorative masonry wall at least three (3) feet in height is provided along public rights-of-way at least six (6) feet in height when adjacent to any residential use.
3. Structures fifty (50) feet in height or taller shall be set back a minimum of fifteen (15) from the face of curb.
4. Attached one-family dwelling units shall be allowed to have a zero (0) foot sideyard setback where party walls are used.
5. See section 18.24.080.E.2.c for setbacks from public streets in the core character area.

- a. Setbacks adjacent to one-family residential uses: Setbacks on lot lines adjacent to one-family residential uses or residential zoning shall be one (1) foot for each five

(5) feet of building height with a minimum setback of five (5) feet or the required setback listed in Table 18.24.080-1, whichever is greater.

2. Core character area supplementary dimensional standards
  - a. Intent: Dimensional standards within the core character area are intended to preserve and enhance the unique character of the area and encourage the renovation of existing buildings in a manner that preserves that character. The core character area has a strong pedestrian orientation and is characterized by historic buildings with zero or minimal setbacks.
  - b. Applicability: These standards shall apply to any development located within the core character area as defined in Section 18.24.070 and meeting the applicability standards set forth in Section 18.24.080.B.
  - c. Setbacks: Buildings shall be located as near as possible to the edge of the public sidewalk to enhance pedestrian access and continue the existing pattern of development which is characterized by buildings located in close proximity to the sidewalk. The minimum distance between a building facade and face of curb shall be fifteen (15) feet on primary pedestrian streets as defined in Figure 18.24.080-1, and twelve (12) feet on all other streets except as stated below. Building facades shall be placed at these minimum distances, or up to a maximum of twenty (20) feet from the face of curb, for a minimum of 75% of the primary lot frontage and 50% of the secondary lot frontage. Pedestrian easements shall be dedicated in that area between the portion of the building facade meeting the 50% to 75% requirement outlined above and the property line. This area shall be paved so as to function as part of the public sidewalk. See Figure 18.24.080-2.
    - i. Table 18.24.080-2 contains minimum distance from building facade to face of curb that must be met for the required 50% to 75% of lot frontage per section 18.24.080.E.2.c for segments of Third, Fifth and Sixth Streets between Railroad Avenue and Lincoln Avenue. These requirements are pursuant to the document: *Destination Downtown: HIP Streets Master Plan*.

Table 18.24.080-2

Minimum Distances between facade and face of curb between Railroad Avenue and Lincoln Avenue	
Road Segment	Minimum Distance (in feet)
Third Street	
North Side	16.5
South Side	17
Fifth Street	
North Side	10
South Side	15
Sixth Street	
North Side	16.5
South Side	14.5

- ii. The following may also be used to satisfy the above 50% and 75% frontage requirements.
  - 1) For buildings with ground floor residential uses; a setback of up to thirty-five (35) feet from the face of curb, on that portion of the building facade containing the ground floor residential use, provided that the area greater

than a minimum of fifteen (15) feet from the face of curb consists of landscape or quality hardscape.

- 2) For buildings or developments with frontage along more than one street a public open space such as a plaza on a maximum of one of a building's street frontages.
- 3) An arcade at least six (6) feet deep.
- 4) A setback of up to twenty-five (25) feet from the face of curb to allow for outdoor dining for up to a maximum of 25% of the total lot frontage.

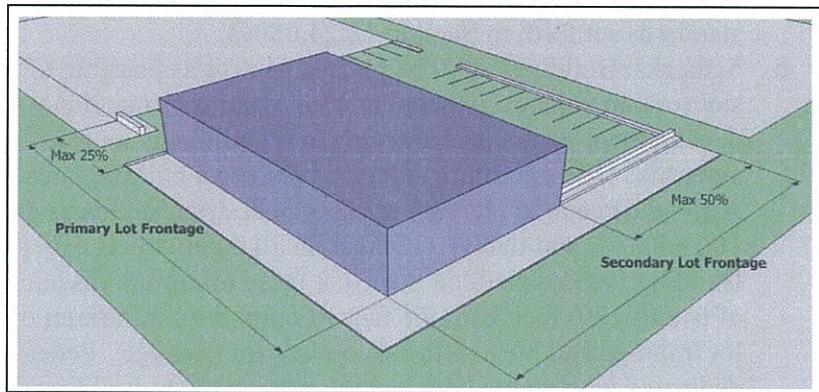


Figure 18.24.080-2

F. Architectural features: Traditional downtown buildings achieve quality appearance through the use of quality materials and proportions and architectural rhythm. Articulation of downtown buildings is often more subtle than articulation of typical suburban buildings.

1. Buildings shall incorporate a combination of the following features: columns, pilasters, window dormers, bay windows, corbels, balconies, porches, or other similar architectural features to add visual interest and diversity.
2. All elevations facing a public street right-of-way, public plaza or pedestrian space, or public parking lot shall contain a cornice parapet, capstone finish, eaves projecting at least twelve (12) inches, or other roof features.
3. All rooftop mechanical equipment shall be screened from view from public rights-of-way with screening materials comparable to the color, tone and texture of materials used on the building.
4. Each building fronting a public street shall have at least one primary entrance that shall be clearly defined and recessed or framed by elements such as awnings, porticos or other architectural features. Buildings fronting onto a primary pedestrian street shall place the primary entrance on the primary pedestrian street frontage.
5. Windows and doors shall comprise a minimum percentage of facades facing public streets rights-of-way, as set forth in Table 18.24.080-3.
6. No wall facing a plaza or public street shall extend more than twenty (20) horizontal linear feet on the ground floor without a window or other opening.

7. Facades greater than seventy-five (75) feet in length shall contain recesses or projections of a minimum depth of 3% of the facade length extending for a minimum of 20% of the length of the facade.
8. Facades visible from a public street, public plaza or public pedestrian space shall be finished with quality materials that reinforce the pedestrian character of the downtown. Minimum window and door openings shall be limited to the percentages indicated in Table 18.24.080-3.
  - a. At least 30% of facades shall consist of brick or stone or finish materials consistent with the historic character of the area. The area of windows and doors shall be excluded from the external wall area for this calculation.
  - b. The remainder of the facade not consisting of windows and doors shall consist of quality materials such as: brick, textured and/or ground face concrete block, textured architectural precast panels, masonry, natural and synthetic stone, exterior insulation finishing systems, stucco, and similar high quality materials as approved by the current planning manager.
  - c. Wood and metal are acceptable accent materials but should not account for more than 20% of any one facade.
  - d. No wall facing a plaza or public street shall extend more than twenty-five (25) horizontal linear feet without a window or other opening.
9. Historic compatibility: Facades in the core character area are not required to mimic historical architecture. However, certain areas of the core character area contain established patterns of historic building facades. Fifth Street between Railroad Avenue and Cleveland Avenue; or Lincoln Avenue between Fourth Street and Sixth Street are examples of this pattern. Where the surrounding block contains a pattern of historic buildings, new buildings should be designed to be compatible in scale, rhythm, materials, and mass with the historic buildings.

Table 18.24.080-3

Minimum Window and Door Percentage General and Core Character Areas				
Character Area	General		Core	
	Street Type		Street Type	
Facade Type / Location	Primary Pedestrian Street	Non-Primary Pedestrian Street	Primary Pedestrian Street	Non-Primary Pedestrian Street
Primary, Ground Floor	30%	30%	40%	40%
Secondary, Ground Floor	30%	20%	40%	30%
Residential, Ground Floor	20%	20%	20%	20%
Upper Floors, All Uses <sup>1</sup>	15%	15%	15%	15%

1. Upper floor surface area shall be measured excluding cornice or other roof features.

# Destination Downtown: HIP Streets Master Plan

5 May 2009

 City of Loveland Public Works Department



NUSZER KOPATZ  
urban **design** associates

The LDT represents broad interests and expertise within the Loveland community and was established to develop recommendations for downtown priorities and to assist with implementing downtown programs. The LDT provided comments and input on all project elements throughout the process, including recommendation for approval of the project by City Council.

#### PROJECT STUDY AREA AND SCOPE

Two levels of detail have been identified as part of the study area — the area of influence and core study areas. The area of influence encompasses the majority of the Downtown from 5th Street SE to 9th Street south to north and Garfield Avenue to the Civic Center west to east. (See Figure 1-1). Within the area of influence this Master Plan explores pedestrian, bicycle and vehicular connectivity and opportunities for gateways, signage and wayfinding. Key destinations within/adjacent to the area of influence include the Civic Center and Lagoon, Fairgrounds Park, US Highway 287 couplet (Lincoln and Cleveland Avenues) and Bill Reed Middle School.

The project core study area encompasses the core commercial, entertainment and civic hub of the Downtown. The core area boundary extends from 3rd to 6th from south to north and Garfield to Washington from west to east. Within the core study area, conceptual designs have been developed for 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Streets, the Thompson Pocket Park, Kitchen Alley and Museum Plaza. Key landmarks and destinations within the core study area include the 4<sup>th</sup> Street commercial businesses and eateries, the Rialto Theater, Loveland Museum/Gallery, Aims Community College, Loveland Reporter Herald, Feed and Grain site, the rail Depot and McKee Medical Center Facilities.

#### PROJECT VISION

Create a functional, aesthetically pleasing, eclectic Downtown environment that facilitates business vitality, fosters a sense of community, and accentuates the identity of the Downtown commercial district.

#### GOALS

Create a Downtown that sustains a good network of public spaces, streets, infrastructure, cultural destinations and retail corridors; providing a vibrant environment to live, work, shop and visit.

- Respect and celebrate Loveland's heritage, culture and history
- Promote quality of life and community investment
- Provide clear signage and wayfinding to and within Downtown
- Improve the physical appearance, functionality and safety of Downtown public spaces
- Enhance connectivity, safety and accessibility for pedestrians throughout Downtown
  - Create enhanced pedestrian connections from businesses to parking
  - Explore connectivity options to potential multi-modal corridors and transit
  - Consolidate refuse containers/enclosures in alleys and service corridors
  - Develop maintenance recommendations for streetscape amenities, walkways and roadways

- Partner with business owners for creative access solutions during project construction.
- Create an integrated network allowing businesses and destinations to support each other.
- Integrate art and sculptural elements throughout Downtown
- Implement short term "test projects".
- Create a series of well-connected public spaces that expose new people to Downtown.
- Strengthen the perception that Downtown is a safe place with a positive energy
- Establish clear pedestrian and vehicular gateways into Downtown.
- Program events to encourage more businesses to stay open in the evening hours, further activating the Downtown at night.

Design streets that take all users into account, include sidewalks lined with a variety of interesting features and activities and promote safety for vehicles, pedestrians and bicyclists.

- Prioritize pedestrian connectivity over vehicular movement and storage.
- Design streetscapes that are flexible for a variety of business types.
- Create memorable elements of the streetscape unique from other areas of Loveland.
- Provide wider sidewalks for a safer more pleasant pedestrian experience and to encourage restaurants and retailers to spill on to the sidewalk.
- Improve the pedestrian experience for shopping and encourage walking.
- Provide for temporary street closure during large community events, design for experience of street both open and closed to vehicles.

Provide public spaces that are well-programmed, accommodate a variety of uses and users, promote social interaction and a sense of community, and include memorable architectural, landscape and hardscape elements.

- Incorporate opportunities for public art and artistic design elements
- Provide areas for inspiration, contemplation, education, and interaction
- Utilize public spaces to expose new people to Downtown and all it has to offer
- Implement collective year-round programming of public spaces.
- Implement regular weekly programming for all key public spaces
- Create amenities that will draw local and regional users and help Downtown Loveland compete with other retail destinations such as an event plaza
- Program events to utilize more than one public space at a time; i.e. Museum Plaza provides support for events at Fairgrounds Park
- Provide convenient access from parking/transit to public gathering spaces, consider locations of transit stops, event shuttles, etc.
- Provide alternative pedestrian routes to Lincoln/Cleveland which are vehicle dominated.
- Utilize collective small details to add up to a great public space network.
- Capitalize on architectural design and contextual relationships
- Develop designs that reflect the community's local character and heritage
- Activate existing under-used spaces.

- Utilize Project for Public Spaces — Plazas and Squares rules for success
- 1. Image and Identity
- 2. Attractions and Destinations
- 3. Amenities
- 4. Flexible Design
- 5. Seasonal Strategy
- 6. Access
- 7. The Inner and Outer Square
- 8. Reaching Out
- 9. Central Role of Management
- 10. Diverse Funding Sources



Figure 1-1 Study Area

## INTRODUCTION

# Destination Downtown: HIP Streets Master Plan



While instructed in our initial CRT meeting on November 10, 2011 that the Artspace Loveland Lofts property was within the General Improvement District (GID) boundaries and therefore required no on-site parking, the design team determined that we would maintain a 1:1 on-site parking ratio for the convenience of our residents. During our May 2, 2013 CRT meeting, the design team learned the property is actually located adjacent to and immediately outside of the GID, requiring a 2:1 on-site parking ratio. (Please see *Map of Downtown Loveland*; attached)

Based upon the nature of the project, location, and available parking along West Third Street as well as the proposed City-owned parking lot to the north of the property, Artspace is confident that parking needs for Artspace Loveland Lofts can be met at a 1:1 parking ratio rather the 2:1 parking ratio traditionally required in this district.

#### **Nature of the project**

As demonstrated in a variety of other Artspace affordable housing properties across the United States, the uniqueness of and the demand for the Artspace product motivates tenants to live and work in Artspace buildings. Units feature open floor plans that allow for flexible use, larger than normal units, durable surfaces, and large windows with ample natural light. Artspace Loveland Lofts will have the capacity to act as a transformative platform for creative collaboration between the artist residents and the surrounding neighborhood, and a catalyst for economic development in the downtown core.

The Artspace team has come to understand that parking does not influence interest or occupancy or our properties. Please see the parking ratios and occupancy rates of some sample projects below.

Community	Property Name	# of on-site parking spaces			
			# of units	parking ratio	occupancy rate
Elgin, IL	Elgin Artspace Lofts	0	55	0	100%
Minneapolis, MN	Artspace Jackson Flats	35	35	1:1	(under construction)
Seattle, WA	Artspace Hiawatha Lofts	56	61	0.92:1	98%
Waukegan, IL	Karcher Artspace Lofts	36	36	1:1	100%

In addition – as a local example - The Gallery Flats, the most recent mixed-use apartment project in downtown Loveland, was granted a 0.7:1 on-site parking ratio.

#### **Accessibility of the site**

The proximity to the services and amenities of downtown Loveland allows for alternate

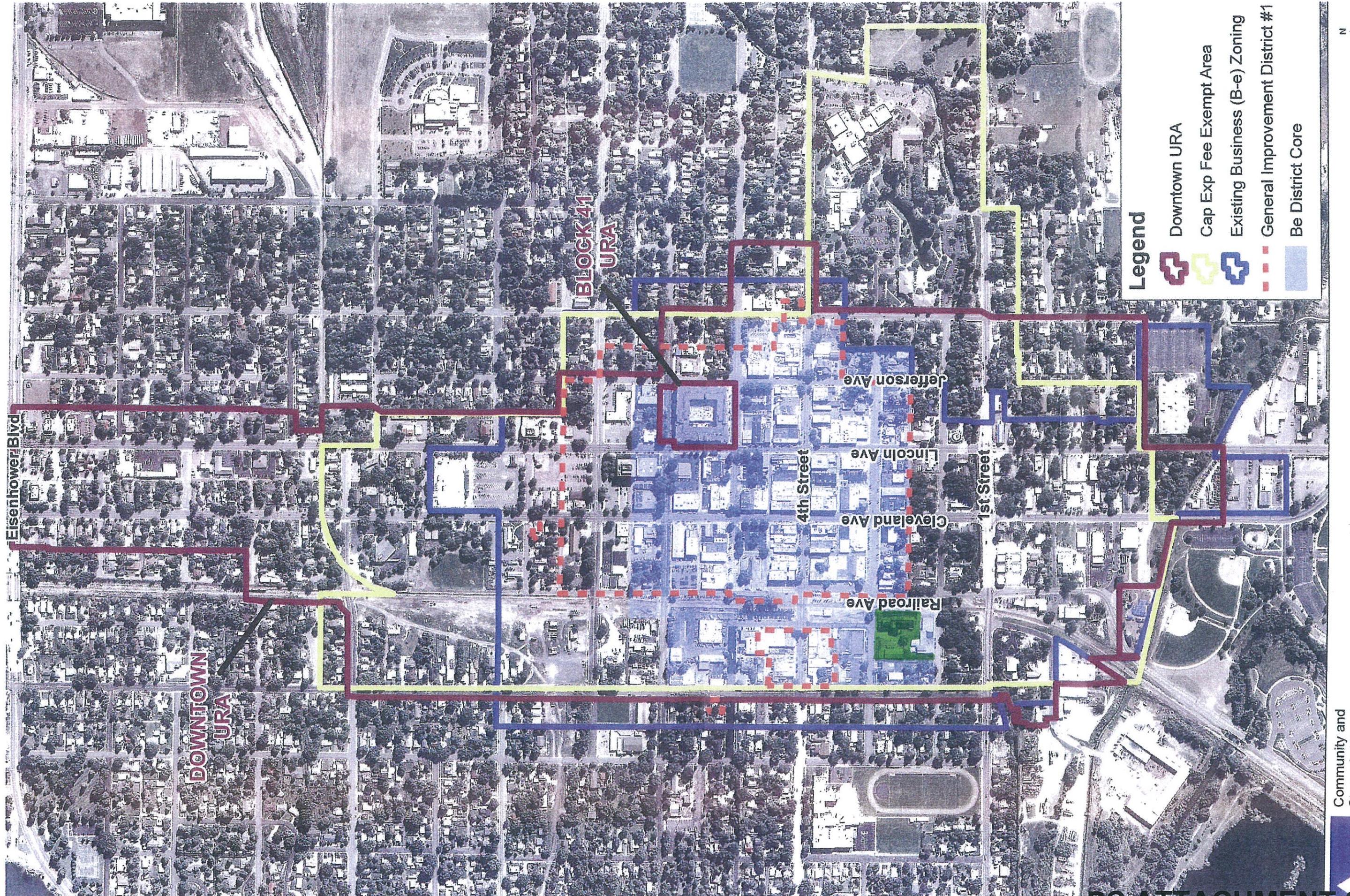
forms of transportation including walking and biking – promoting a healthier lifestyle while reducing the dependency on the automobile.

The Local Amenities map that was created by a third party market analyst and the Arts & Culture Context Map created with the City's assistance demonstrate the connectivity to services and amenities including a bank, pharmacy, medical center, grocery store, post office, police station, bus stops, open space, recreation, entertainment, schools, cultural facilities, and the rest of downtown Loveland. Most of these amenities are less than a mile away. The Loveland Feed & Grain Downtown Context Map demonstrates Loveland bus stop locations within a half mile of the property. The Walk Score Chart, also created by the third party market analyst, demonstrates the walkability of the Artspace Loveland Lofts site as compared to other residential communities in Loveland. The site is considered "Very Walkable."

*(Please see a) Local Amenities map, b) the Arts & Culture Context Map, c) Loveland Feed & Grain Downtown Context map, and d) the Walk Score Chart; attached)*

#### **Additional nearby parking**

A good amount of off-site parking spaces are located on the streets adjacent to the site. Twenty (20) parking spaces are available on West 3<sup>rd</sup> Street between Garfield Avenue and Railroad Avenue. Forty-eight (48) parking spaces are available on Railroad Avenue between West 2<sup>nd</sup> Street and West 3<sup>rd</sup> Street. In addition, the City is planning to develop a public parking lot just north of the site – the Railroad Street and 4<sup>th</sup> Street Parking Lot. The lot will provide 39 parking spaces and the City is currently planning that the parking lot will be completed later this year.

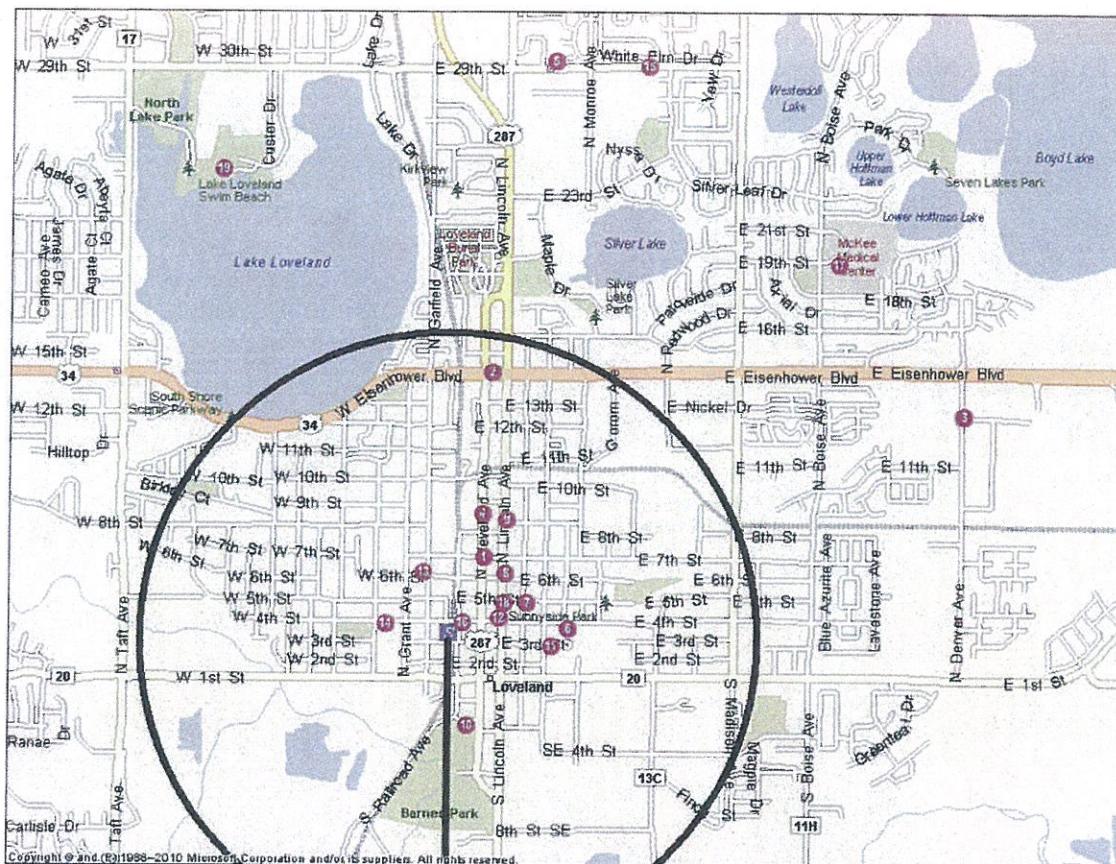


ATTACHMENT 3

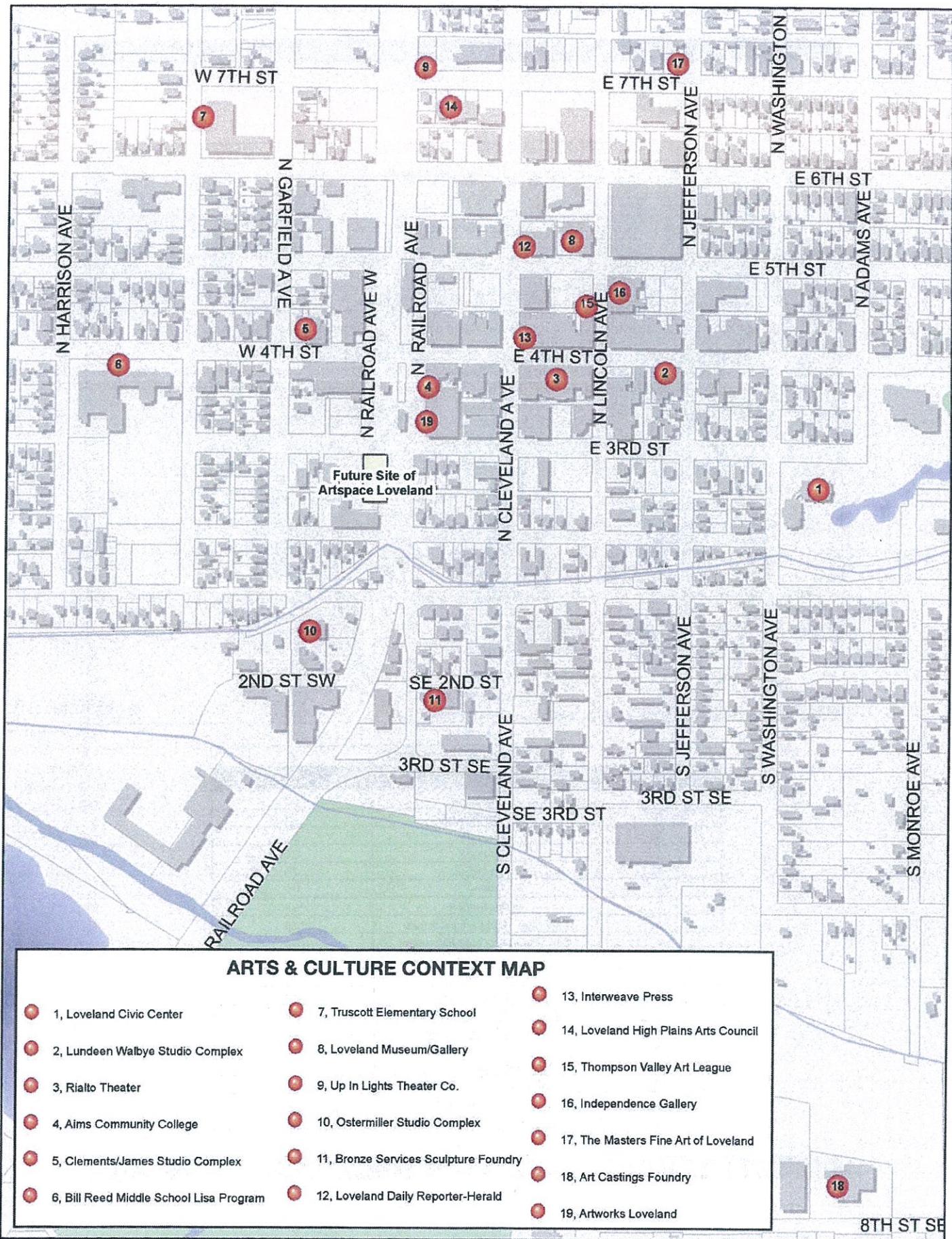
PC ATTACHMENT 3

Artspace Loveland, Loveland, CO; Market Study

LOCATION AMENITIES



LOCATIONAL AMENITIES		
Map Number	Service or Amenity	Miles From Subject
1	Chase Bank	0.5
2	Walgreens Pharmacy	1.1
3	Walmart	2.8
4	Safeway	0.8
5	Post Office	2.5
6	Library	0.5
7	Police Station	0.4
8	Bus Stop - COLT - local routes	0.4
9	Bus Stop - Flex - regional routes	0.6
10	Barnes Park	0.4
11	City Hall	0.3
12	Downtown Loveland	0.2
13	Trustcott Elementary School	0.3
14	Bill Reed Middle School	0.3
15	Loveland High School	2.7
16	AIMS Community College	0.1
17	McKee Medical Center	2.7
18	Loveland Museum	0.3
19	Lake Loveland Swim Beach	3.0





## Walk Score Charts for LIHTC Application

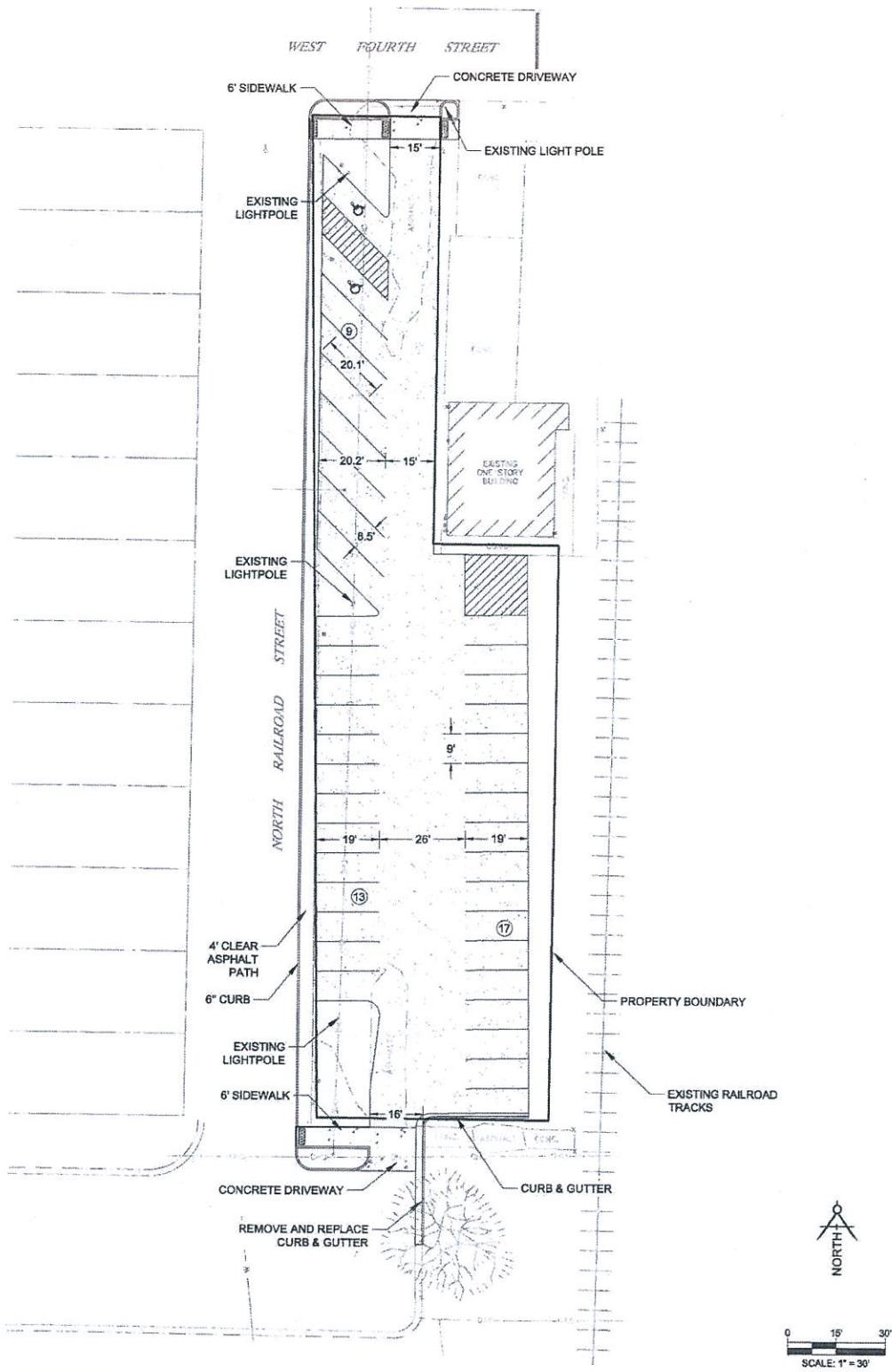
Name of Proposed Project: Artspace Loveland Lofts

Project	Walk Score (out of 100)	Transit Score (out of 100)	Avg.
<b>Artspace Loveland</b>	<b>82</b>	<b>N/Av</b>	<b>82</b>
Brookstone Apartment Homes	40	N/Av	40
Madison Avenue Apartments	57	N/Av	57
Reserve at Centerra	29	N/Av	29
Rock Crest	18	N/Av	18
The Meadows	38	N/Av	38
Waterford Place	31	N/Av	31
Eagle Ridge	48	N/Av	48
Lake Vista	45	N/Av	45
Lakemont Apartments	65	N/Av	65
Lincoln Place Apartments	83	N/Av	83
Peakview by Horseshoe Lake	37	N/Av	37
The Greens at Van Der Water	32	N/Av	32
Thompson Valley Apartments	52	N/Av	52
<b>Comp Averages</b>	<b>44</b>	<b>N/Av</b>	<b>44</b>
<b>Loveland, CO Average</b>	<b>38</b>	<b>N/Av</b>	<b>38</b>

Walk SCORE	
Range	Description
90-100	Walker's Paradise – Daily errands do not require a car.
70-89	Very Walkable-Most errands can be accomplished on foot.
50-69	Somewhat Walkable-Some services within walking distance.
25-49	Car-Dependent-A few services within walking distance.
0-24	Car-Dependent-Almost all errands require a car.

Transit SCORE	
Range	Description
90-100	Rider's Paradise – World-class public transportation.
70-89	Excellent Transit-Transit is convenient for most trips.
50-69	Good Transit-Many nearby public transit options.
25-49	Some Transit-A few nearby public transit options.
0-24	Minimal Transit-Car-dependent.



**RAILROAD STREET AND 4TH STREET PARKING LOT  
PRELIMINARY LAYOUT EXHIBIT**

JUNE 4, 2013

ATTACHMENT ~~PO~~ **ATTACHMENT 3**



12600 west colfax avenue  
suite c-200  
lakewood, colorado 80215-3758  
303-531-4990 ph  
303-531-4998 fax

principals  
ronald k. abo, aia, NCARB, LEED AP  
kevin k. yoshida, aia, NCARB  
john w. priebe, aia

## Current Planning

500 East Third Street, Suite 310  
Loveland, CO 80537

09.13.2013

### **ARTSPACE LOVELAND LOFTS – ZONING ARCHITECTURE JUSTIFICATION**

The following describes the architectural standards set forth in the Loveland Municipal Code Section 18.24.080 Section F and the projects compliance or justification for deviating from these standards.

In general the 100 block of West 3<sup>rd</sup> Street is a block that is on the edge of the historic downtown area and is a block that transitions from the historic urban area to the surrounding single family residential neighborhood. The historic context of the buildings on the street and the surrounding blocks consists primarily of the Loveland Feed & Grain, the Light and Power building and a number of single family homes. The design for Artspace Loveland Lofts has drawn inspiration from the materials and forms of the Loveland Feed and Grain. A contemporary style is used rather than a historical one to create an architecture that uses materials and color to reinforce individual forms and create texture that breaks down the scale and mass of the building. The variety, distribution and composition of materials help mediate between the urban architecture of masonry east of the railroad tracks and the predominately lap siding architecture of the residential neighborhood at the west end of the block. Our goal has been to address the intent of the zoning regulations by providing a living and working environment of enduring quality, that is pedestrian friendly, visually interesting and inviting while at the same time providing a design that address both its urban and residential neighborhood contexts.

#### ***18.24.080 General and core character areas urban design standards.***

***A. Intent:*** *The intent of these standards is to permit development and redevelopment in a manner that is consistent with the established character of the downtown Be district and the goals of promoting density of employment and residential uses through quality infill and redevelopment with a strong pedestrian orientation. These standards are intended to enhance the livability of residential areas, improve the appearance and attractiveness of land and buildings to customers, and enhance compatibility with adjacent uses.*

***F. Architectural features:*** *Traditional downtown buildings achieve quality appearance through the use of quality materials and proportions and architectural rhythm. Articulation of downtown buildings is often more subtle than articulation of typical suburban buildings.*

*1. Buildings shall incorporate a combination of the following features: columns, pilasters, window dormers, bay windows, corbels, balconies, porches, or other similar architectural features to add visual interest and diversity.*

**Justification:** Architectural visual interest and diversity is achieved through the variety of quality materials used, the distribution and composition of the materials and the use of color to clearly define individual volumes and break down larger ones. Premium materials include, metal wall paneling, ground face concrete masonry units, fiber cement panels and store front glazing. The large expanse of storefront glazing at the Flex Space and Entry Lobby adds visual interest at the pedestrian scale by allowing pedestrians a view of the interior of the building. Both the Flex Space and the Entry Lobby have an opportunity to showcase local art because of the use of the store front glazing. Additionally the building design does include three common exterior balconies.

*2. All elevations facing a public street right-of-way, public plaza or pedestrian space, or public parking lot shall contain a cornice parapet, capstone finish, eaves projecting at least twelve (12) inches, or other roof features.*

**Justification:** Cornice parapets, capstone finishes, and deep eaves or other roof features are architectural elements that are effective at providing visual interest for a large monolithic mass. The design of the building has many varying wall planes and roof heights, some of which contain projecting eaves. None of the eaves are able to project more than 6" at the public right-of-way due to the proximity of the building to the right-of-way line. The approach to the architecture is to create a visually interesting building that draws its inspiration from the assemblage of forms found in the Loveland Feed and Grain building, and by using the materials found in the Loveland Feed and Grain building to create building skins that articulate clearly defined forms in a contemporary language. To this end we have not employed traditional architectural elements such as cornice parapets and capstones but rather have chosen simple and clean parapet cap flashing instead.

*3. All rooftop mechanical equipment shall be screened from view from public rights-of-way with screening materials comparable to the color, tone and texture of materials used on the building.*

**Compliance:** Parapet walls extend above the roof to conceal roof top mechanical units. Please see attached perspective views from West 3<sup>rd</sup> Street.

*4. Each building fronting a public street shall have at least one primary entrance that shall be clearly defined and recessed or framed by elements such as awnings, porticos or other architectural features. Buildings fronting onto a primary pedestrian street shall place the primary entrance on the primary pedestrian street frontage.*

**Compliance:** The main entrance to the residential portion of the building is through a recessed portico off of West 3<sup>rd</sup> Street, and the main entrance to the Flex Space is off of West 3<sup>rd</sup> street under a large roof canopy.

**5. Windows and doors shall comprise a minimum percentage of facades facing public streets rights-of-way, as set forth in Table 18.24.080-3.**

**Justification:** The project is located in the Core Character Area. West 3<sup>rd</sup> Street between Garfield Avenue and Railroad Avenue is not classified as a primary pedestrian street. The building is primarily residential in nature. Based on the criteria above, the following minimum percentages of the façade shall be comprised of either windows or doors:

Residential Ground Floor	20%
Secondary Ground Floor	30%
Upper Floors	15%

The north elevation of the building, which faces West 3<sup>rd</sup> Street is comprised of the following percentage of windows and doors:

Entry Level / Level 1 (residential)	23.26%
Flex Space (Ground Floor)	80.13%
Level 2	26.06%
Level 3	14.62%
Level 4	09.57%

The design exceeds the requirements for the minimum window percentage on the first and second floors and slips below the requirement on Levels 3 & 4. The building steps back at levels 3 & 4 in order to provide a softer and friendlier street edge. This creates roofs and plane breaks that reveal core functions of the building and reduce the need and opportunity for as many openings. When taken as a whole, the north elevation contains a significant amount of openings.

**6. No wall facing a plaza or public street shall extend more than twenty (20) horizontal linear feet on the ground floor without a window or other opening.**

**Compliance:** The north wall facing West 3<sup>rd</sup> Street does not extend more than 20 linear feet without a door or window.

**7. Facades greater than seventy-five (75) feet in length shall contain recesses or projections of a minimum depth of 3% of the facade length extending for a minimum of 20% of the length of the facade.**

**Justification:** The north façade is 115' long at Level 1, approximately 105' on Levels 2 & 3, and approximately 87' on Level 4.

On Level 1, the façade includes a recess of at least 6' (5.2%) for 17' (14.8%).

On Level 2, there is a recess of at least 6' (5.7%) for 17' (16.2%).

On Level 3, there is a recess of at least 6' (5.7%) is 33' (31.4%).

On Level 4, there is a recess of at least 6' (6.9%) for 48' (55.2%).

Additionally there is a recess of 2' (1.7%) for 13' on all four levels (11.3%).

Depending on how this calculation is done (e.g. as a whole vs. by level) the design may qualify. In general, the north façade is not monolithic or planar and contains a significant amount of recess which seems to meet the spirit of the requirement.

**8. Facades visible from a public street, public plaza or public pedestrian space shall be finished with quality materials that reinforce the pedestrian character of the downtown. Minimum window and door openings shall be limited to the percentages indicated in Table 18.24.080-3.**

(See Item number 5 above for opening percentage calculation)

**a. At least 30% of facades shall consist of brick or stone **or finish materials consistent with the historic character of the area**. The area of windows and doors shall be excluded from the external wall area for this calculation.**

**Justification:** The historic context on the 100 block of West Third Street consists of the Light and Power Building located on the "corner" of Second and Railroad and the Feed & Grain Building located on the corner of Third and Railroad. The exterior materials of Light and Power Building are brick and stone. The exterior materials of the Feed & Grain include brick and lap siding, but the structure is mostly clad in metal paneling which is typical for the agricultural/industrial buildings along the railroad tracks through Downtown. The remaining structures on the 100 block of West Third Street are single family homes predominantly clad in siding.

While the scale, form, and massing of the Loveland Lofts respond to the character of the aforementioned historic structures and the District, high-quality materials were chosen to express a more contemporary feel to reinforce the transformation of Loveland's downtown. The pattern and arrangement of the materials also reflect a residential use as well as the industrial or agricultural use to help tie into the residential neighborhood(s) to the west. Therefore, the selected finish materials are consistent with the true historic character of the area.

**b. The remainder of the facade not consisting of windows and doors shall consist of quality materials such as: brick, textured and/or ground face concrete block, textured architectural precast panels, masonry, natural and synthetic stone, exterior insulation finishing systems, stucco, and similar high quality materials as approved by the current planning manager.**

**Justification:** The high-quality materials selected for the Loveland Lofts include ground face concrete block, fiber cement panels, fiber cement lap siding, metal wall panels, and aluminum-framed storefronts windows in a variety of patterns and colors to create interest at the pedestrian level and for the building as a whole. The durable, low maintenance material selection creates a contemporary expression that represents both the historic and residential context of the neighborhood.

**c. Wood and metal are acceptable accent materials but should not account for more than 20% of any one facade.**

**Justification:** While the north and east elevations include a higher percentage of metal finish material than the 20% suggested in the zoning regulations (23% at the north elevation and 28% at the east elevation), this finish material is consistent with

the historic character of the area - as metal paneling is widely used on the adjacent Feed & Grain Building. Metal paneling is used to clearly define individual forms and as a result certain elevations have higher concentrations. Overall, metal paneling is used on 16% of the exterior of the Loveland Lofts project.

*d. No wall facing a plaza or public street shall extend more than twenty-five (25) horizontal linear feet without a window or other opening.*

**Compliance:** See Item number 6 above. The east façade facing the private plaza does not extend more than 25' horizontally without a window.

**9. Historic compatibility:** *Facades in the core character area are not required to mimic historical architecture. However, certain areas of the core character area contain established patterns of historic building facades. Fifth Street between Railroad Avenue and Cleveland Avenue; or Lincoln Avenue between Fourth Street and Sixth Street are examples of this pattern. Where the surrounding block contains a pattern of historic buildings, new buildings should be designed to be compatible in scale, rhythm, materials, and mass with the historic buildings.*

**Compliance:** The surrounding block does not contain a significant number of historic buildings. The 100 block of West 3<sup>rd</sup> Street actually contains very few buildings to provide context for new construction and arguably is a block that contains the edge of the historic downtown area while quickly transitioning to the surrounding residential neighborhood. The north and south side of the 100 block of West 3<sup>rd</sup> Street include 5 total buildings, two of which are setback off of the street and address North Garfield Avenue more significantly. The north side of West 3<sup>rd</sup> Avenue is essentially fronted by surface parking. Adjacent to the proposed new construction is a small multi-family apartment building clad predominately in lap siding. Of the remaining two buildings, one is a metal shed that will be removed for the project and the other is the historic Loveland Feed and Grain building. 3 of the 5 buildings described above are fully clad with metal panels or include a significant amount of metal panels. The remaining buildings are mostly clad in lap siding.

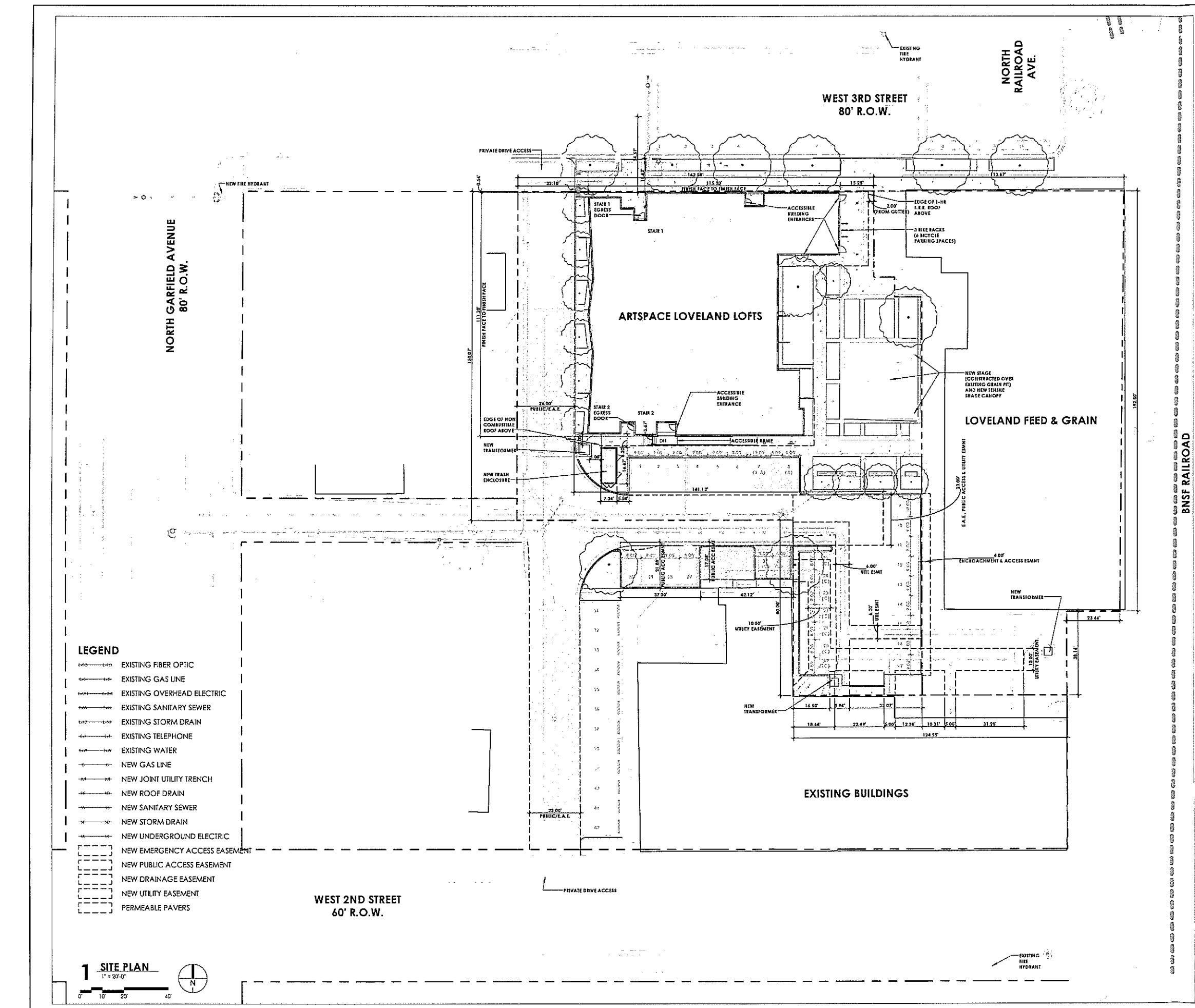
Thank you for considering our justifications for deviations from the architectural requirements in the zoning code. We hope that you understand the logic in our thinking and accept these justifications.

Respectfully,



Jason Kopecky  
Project Manager  
The Abo Group, Inc.





ZONING		
EXISTING ZONING: Be - Established Central Business District		
LAND USE		
ARTSPACE LOVELAND LOFTS: Mixed use Residential		
SITE AREA		
TOTAL SITE AREA	31,413 SF	0.72 AC
UNIT TYPES & TOTALS		
STUDIO		8
1BR ACCESSIBLE		1
1BR CORNER		8
2BR		10
3BR ACCESSIBLE		1
3BR		2
		30
GROSS AREA BY LEVEL		
LEVEL 1 GROSS FLOOR AREA	10,326 SF	
LEVEL 2 GROSS FLOOR AREA	9,789 SF	
LEVEL 3 GROSS FLOOR AREA	9,817 SF	
LEVEL 4 GROSS FLOOR AREA	7,993 SF	
TOTAL GROSS FLOOR AREA	37,925 SF	
BUILDING OCCUPANCY		
ARTSPACE LOVELAND LOFTS: Mixed Use Residential: R-2 & A-3		
GROSS AREA BY OCCUPANCY		
T.O. LEVEL 1 - 4979.00	A-3	1,145 SF
		1,145 SF
T.O. LEVEL 1 - 4979.00	R-2	9,181 SF
T.O. LEVEL 2	R-2	9,789 SF
T.O. LEVEL 3	R-2	9,817 SF
T.O. LEVEL 4	R-2	7,993 SF
		36,780 SF
		37,925 SF
CONSTRUCTION TYPE		
ARTSPACE LOVELAND LOFTS: Type 5-A Construction - NFPA 13 Sprinkler System		
PARKING		
ARTSPACE LOVELAND LOFTS: Required R3 Parking: 30 units @ 2/unit		
Required A3 Parking:	60	
Occupant Load 39: @ 1/occupant	39	
Total Required =	99	
Off Street Parking Spaces 1 - 30		
Standard Spaces	19	63%
Compact Spaces	09	30%
Accessible Spaces	02	07%
Total Spaces:	30	100%
ADJACENT PROPERTY		
Off Street Parking Spaces 31 - 42		
Standard Spaces	12	100%
Compact Spaces	00	00%
Accessible Spaces	00	00%
Total On Site Spaces:	30*	100%
West 3rd Ave Spaces:		
West 3rd Ave Spaces:	27	
Railroad Ave (from 3rd - 4th)	10	
New City Lot on Railroad Ave	39	
Total Adjacent Offsite Parking	76	
Additional Parking Lots are nearby on N. Railroad Ave. east of the railroad tracks		
LANDSCAPING		
Parking lot landscaped area:	959 SF	
Total landscaped area:	5,323 SF	
FEMA FLOOD PLAIN		
ARTSPACE LOVELAND LOFTS: None		
OPEN SPACE		
LOFTS FOOTPRINT	10,391 SF	33%
OPEN SPACE	21,021 SF	67%
	31,412 SF	100%

ARTSPACE PROJECTS INC

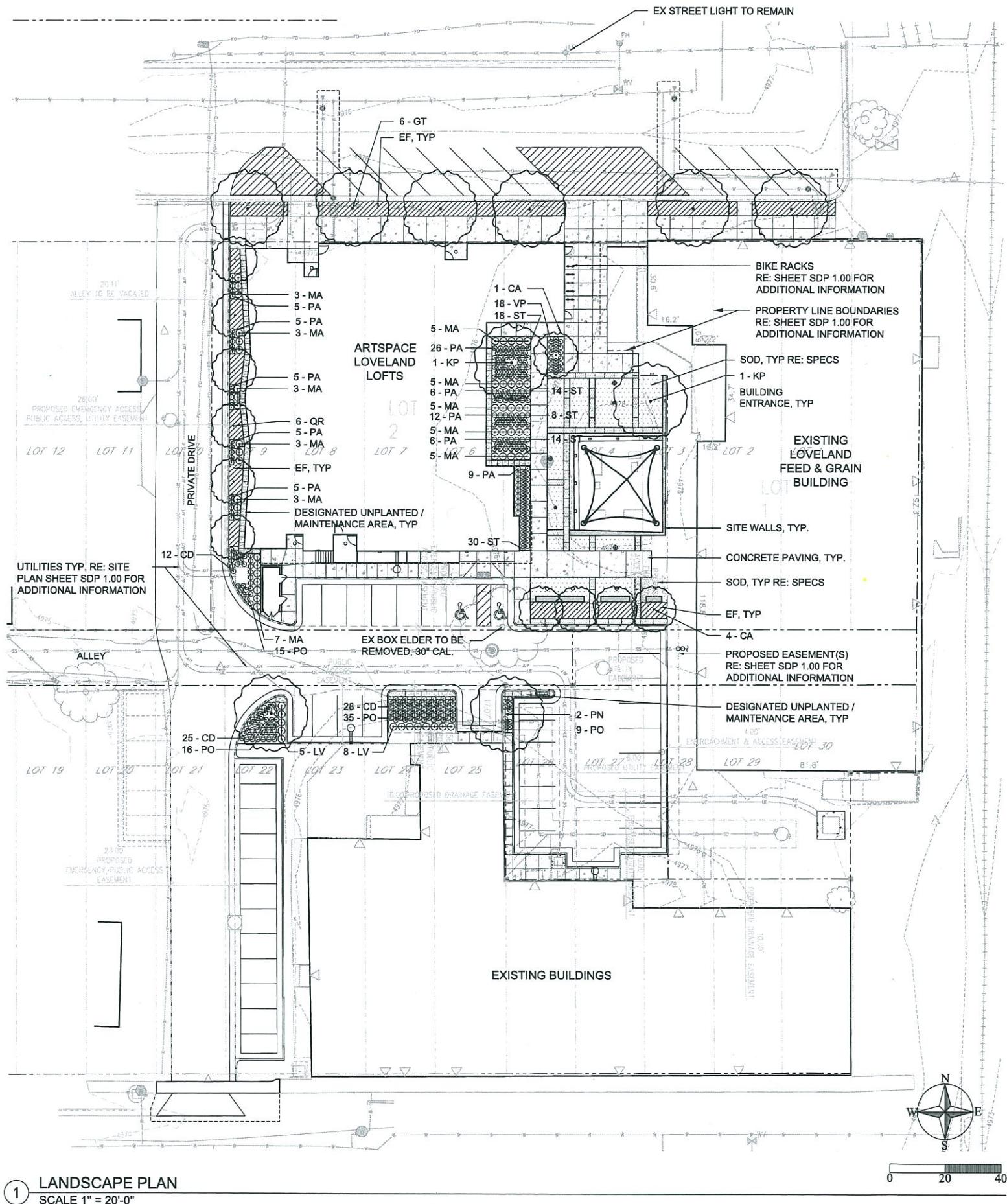
ARTSPACE LOVELAND LOFTS  
140 W. 3RD STREET  
LOVELAND, CO 80537

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denver@theabogroup.com

## SITE PLAN

SDP 1.00

PC ATTACHMENT 5



## GENERAL NOTES

1. TOPOGRAPHIC SURVEY WAS PREPARED BY WASHBURN LAND SURVEYING, LLC
2. LOCATION OF UNDERGROUND UTILITIES SHOWN ON THE PLANS ARE APPROXIMATE. OWNER AND CONSULTANTS ASSUME NO RESPONSIBILITY FOR THE LOCATIONS AND ACCURACY OF UTILITIES INDICATED ON THE PLANS. THE CONTRACTOR SHALL LOCATE, CLEARLY MARK AND MAINTAIN EXISTING UTILITIES ON THE SITE PRIOR TO WORK START UP. CALL THE UTILITY NOTIFICATION CENTER OF COLORADO (800) 922-1987 PRIOR TO WORK START UP.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND REPAIR OF UTILITIES IF DAMAGED. REPAIR SHALL BE DONE AT NO ADDITIONAL COST TO THE OWNER. ALL WORK IN UTILITY EASEMENTS SHALL BE PERFORMED ACCORDING TO THE REQUIREMENTS OF THE GOVERNING AGENCY.
4. THE CONTRACTOR SHALL PROVIDE TEMPORARY BARRICADES, SIGNAGE AND OTHER FORMS OF PROTECTION AS REQUIRED TO PROTECT THE OWNER'S PERSONNEL AND THE GENERAL PUBLIC FROM INJURY DUE TO CONSTRUCTION ACTIVITIES.
5. DO NOT DAMAGE ADJACENT PROPERTIES. THE CONTRACTOR SHALL PROMPTLY REPAIR ANY DAMAGE TO ADJACENT PROPERTIES AT NO ADDITIONAL COST TO OWNER.
6. THE CONTRACTOR SHALL CONDUCT CONSTRUCTION OPERATIONS IN A MANNER TO INSURE MINIMUM INTERFERENCE WITH ROADS, TRAILS, WALKS AND OTHER FACILITIES. DO NOT CLOSE, BLOCK OR OBSTRUCT ROADS, WALKS, OR OTHER FACILITIES WITHOUT OWNERS WRITTEN PERMISSION. PROVIDE ALTERNATE ROUTES AROUND CLOSED OR OBSTRUCTED TRAFFIC WAYS (INCLUDING SIDEWALKS, ETC.). ASSUME REQUIRED SAFETY AND ACCESS MEASURES NECESSARY TO PROTECT THE PUBLIC DURING CONSTRUCTION OPERATIONS.
7. THE CONTRACTOR SHALL ENSURE ALL PAVED SURFACES MEET ADA GUIDELINES.
8. THE CONTRACTOR SHALL ENSURE ALL GUARDRAILS MEET IBC.2012 CODE. ALL NOTES STATING 4" MAX REFER TO 4" SPHERE NOT PASSING THROUGH THIS POINT.
9. FOR REASONS OF COST, EASE OF CONSTRUCTION, AND FUTURE MAINTENANCE CONVENIENCE, PORTIONS OF THE ADJACENT PROPERTY'S IRRIGATION WILL BE INSTALLED, MAINTAINED AND CONTROLLED BY ARTSPACE PROJECT INC. THE TOTAL AREA OF THE ADJACENT PROPERTY TO BE IRRIGATED IS LESS THAN 700 SQFT.

## PLANTING and IRRIGATION NOTES

1. TREE SYMBOLS DRAWN ACCORDING TO THEIR SIZE AT (5) YEARS FROM DATE OF PLANTING.
2. SHRUB SYMBOLS DRAWN ACCORDING TO THEIR SIZE AT (2) YEARS FROM DATE OF PLANTING.
3. ALL PROPOSED GRASS / TURF AREAS WILL BE ESTABLISHED USING SOD.
4. ALL PROPOSED PLANT MATERIAL SHALL BE LOW AND VERY LOW WATER USE SPECIES.
5. ALL PLANTING BEDS SHALL RECEIVE QUALITY MULCH COVER - 3" MIN DEPTH.
6. SOIL AMENDMENTS (INCLUDING ORGANIC MATTER AND FERTILIZERS) SHALL BE PER CITY OF LOVELAND LANDSCAPE CODE REQUIREMENTS.
7. PROPOSED IRRIGATION METHOD TO BE USED FOR SHRUB BED AND GROUNDCOVER AREAS SHALL BE SUBSURFACE AND/OR Drip IRRIGATION SYSTEMS.
8. PROPOSED IRRIGATION METHOD FOR SOD/TURF AREAS SHALL BE POP-UP OVERHEAD SPRINKLER SYSTEMS.
9. IRRIGATION SYSTEM SHALL HAVE AUTOMATIC RAIN FALL SHUT-OFF.

## PLANT MATERIALS LIST

PLANT MATERIAL SHALL COMPLY WITH THE REQUIREMENTS OF THE COLORADO NURSERY ACT, 1973 C.R.S., TITLE 35, ARTICLE 26, AS AMENDED.

DECIDUOUS TREES such as;						
ABBR	COMMON NAME	BOTANIC NAME	SIZE	QTY	REMARKS	WATER USE
AN	Acer negundo	Box Elder	2 1/2" cal.	X	X-X' spread, XX'-XX' ht	L
CO	Catalpa occidentalis	Hackberry, Western	2 1/2" cal.	X	X-X' spread, XX'-XX' ht	L
CP	Crataegus ambigua	Hawthorn, Russian	2 1/2" cal.	X	X-X' spread, XXX-X' ht	L
GT	Gleditsia triacanthos inermis	Honeylocust, Thornless	2 1/2" cal.	X	X-X' spread, XX-X' ht	L
KP	Koelreuteria paniculata	Goldenrain Tree	2-1/2" cal.	X	8'-10' spread, 14'-16' ht	L
PN	Pinus nigra	Pine, Austrian	2 1/2" cal.	X	X-X' spread, XXX-X' ht	L
QR	Quercus robur 'Fastigiata'	Columnar English Oak	2-1/2" cal.	X	6'-8' spread, 12'-14' ht	L

## DECIDUOUS AND EVERGREEN SHRUBS such as;

All shrubs shall be containerized stock (#5 container, unless otherwise noted).						
ABBR	COMMON NAME	BOTANIC NAME	SIZE	QTY	REMARKS	WATER USE
AS	Amelanchier stolonifera	Serviceberry, Running	#5 cont.	X	X-X'spread, XX-XX' ht	L
AP	Arctostaphylos patula	Manzanita, Greenleaf	#5 cont.	X	X-X'spread, XX-XX' ht	L
AC	Artemisia cana	Sagebrush, Silver	#5 cont.	X	X-X'spread, XX-XX' ht	VL
BT	Berberis thunbergii	Barberry, Japanese	#5 cont.	X	X-X'spread, XX-XX' ht	L
CC	Caryopteris x clandonensis	Spirea, Blue Mist	#5 cont.	X	X-X'spread, XX-XX' ht	L
CD	Cotoneaster divaricatus	Cotoneaster, Spreading	#5 cont.	X	X-X'spread, XX-XX' ht	L
CM	Cowania mexicana	Cliffrose	#5 cont.	X	X-X'spread, XX-XX' ht	VL
DW	Dasyliion wheeleri	Sotol Yucca	#5 cont.	X	X-X'spread, XX-XX' ht	L
HP	Hesperaloe parviflora	Yucca, Red	#5 cont.	X	X-X'spread, XX-XX' ht	VL
PA	Perovskia atriplicifolia	Sage, Russian	#5 cont.	X	X-X'spread, XX-XX' ht	L
PH	Physocarpus opulifolius	Ninebark	#5 cont.	X	X-X'spread, XX-XX' ht	L
PT	Prunus tomentosa	Cherry, Nanking	#5 cont.	X	X-X'spread, XX-XX' ht	L
RT	Rhus trilobata	Sumac, Three Leaf	#5 cont.	X	X-X'spread, XX-XX' ht	VL
RS	Ribes sanguineum	Currant, Red Flowering	#5 cont.	X	X-X'spread, XX-XX' ht	L
VL	Viburnum lantana	Viburnum, Nannyberry	#5 cont.	X	X-X'spread, XX-XX' ht	L
YG	Yucca					

**SCREENING AND CONIFEROUS PLANT MATERIAL** such as; All shrubs shall be containerized stock (#5 container, unless otherwise noted). Plants shall create a 3' high

screen (as measured from parking surface) within (3) years.						
ABBR	COMMON NAME	BOTANIC NAME	SIZE	QTY	REMARKS	WATER USE
JC	Juniperus communis	Juniper, Common	#5 cont.	X	X'-X'spread, XX'-XX' ht	L
LV	Ligustrum vulgare	Privet, Common	#5 cont.	X	X'-X'spread, XX'-XX' ht	L
MA	Mahonia aquifolium	Oregon Grape Holly	#5 cont.	X	X'-X'spread, XX'-XX' ht	L
PM	Pinus mugo	Pine, Mugo	#5 cont.	X	X'-X'spread, XX'-XX' ht	L

**GROUNDCOVER AND PERENNIALS** such as;  
All shrubs shall be containerized stock (#5 container, unless otherwise noted).

All shrubs shall be containerized stock (#5 container, unless otherwise noted).						
ABB#	COMMON NAME	BOTANIC NAME	SIZE	QTY	REMARKS	WATER USE
AU	Arctostaphylos uva-ursi	Kinnikinnick	#5 cont.	X	X-X'spread, XX-XX' ht	L
EF	Euonymus fortunei 'Coloratus'	Wintercreeper, Purpleleaf	#5 cont.	X	X-X'spread, XX-XX' ht	L
FG	Festuca glauca	Fescue, Blue	#1 cont.	X	X-X'spread, XX-XX' ht	L
HS	Helictotrichon sempervirens	Grass, Blue Avena	#5 cont.	X	X-X'spread, XX-XX' ht	L
PO	Pennisetum orientale	Grass, Oriental Fountain	#5 cont.	X	X-X'spread, XX-XX' ht	L
ST	Stipa tenuissima	Grass, Mexican Feather	#5 cont.	X	X-X'spread, XX-XX' ht	L
VP	Veronica pectinata	Speedwell, Wooly Creeping	#5 cont.	X	X-X'spread, XX-XX' ht	L

 **DESIGNATED UNPLANTED / MAINTENANCE AREA** such as;  
Material shall be either cobble mulch, patterned concrete, or pavers.

the|abo|group<sup>inc.</sup>

## sustainable architecture

12600 west colfax avenue  
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phone: 303.531.4990  
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MUNDUS BISHOP

2601 Blake Street Suite 300  
Denver, Colorado 80025  
phone: 303.477.5244

ANSWER

ARISPACE  
140 WEST 3RD STREET  
LOVELAND, CO 80537

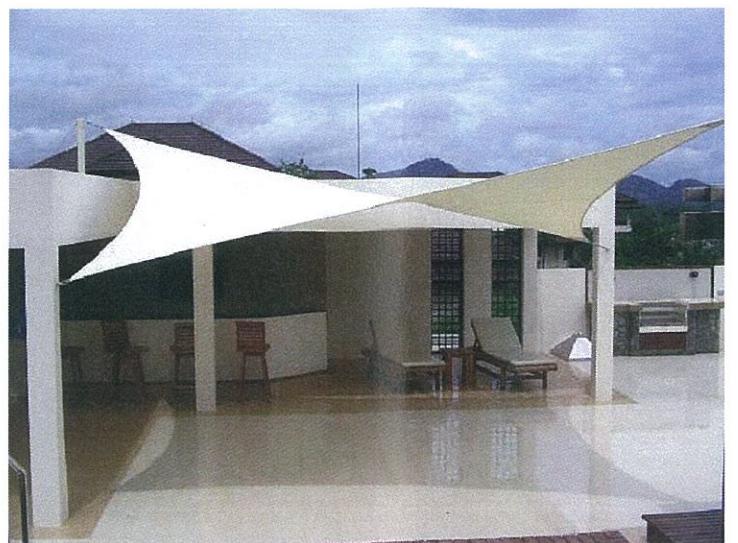
**SHEET NAME**  
**LANDSCAPE**  
**PLAN**

## SDP 2.00

### PC ATTACHMENT 5

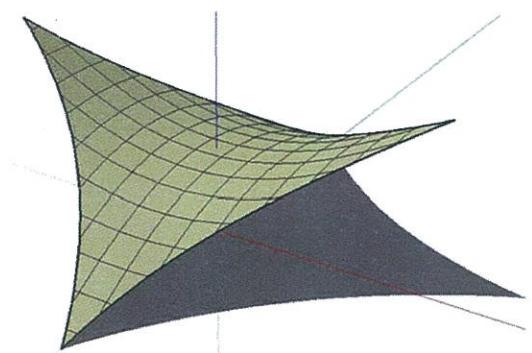


TENSILE SHADE CANOPY - CONCEPT IMAGES

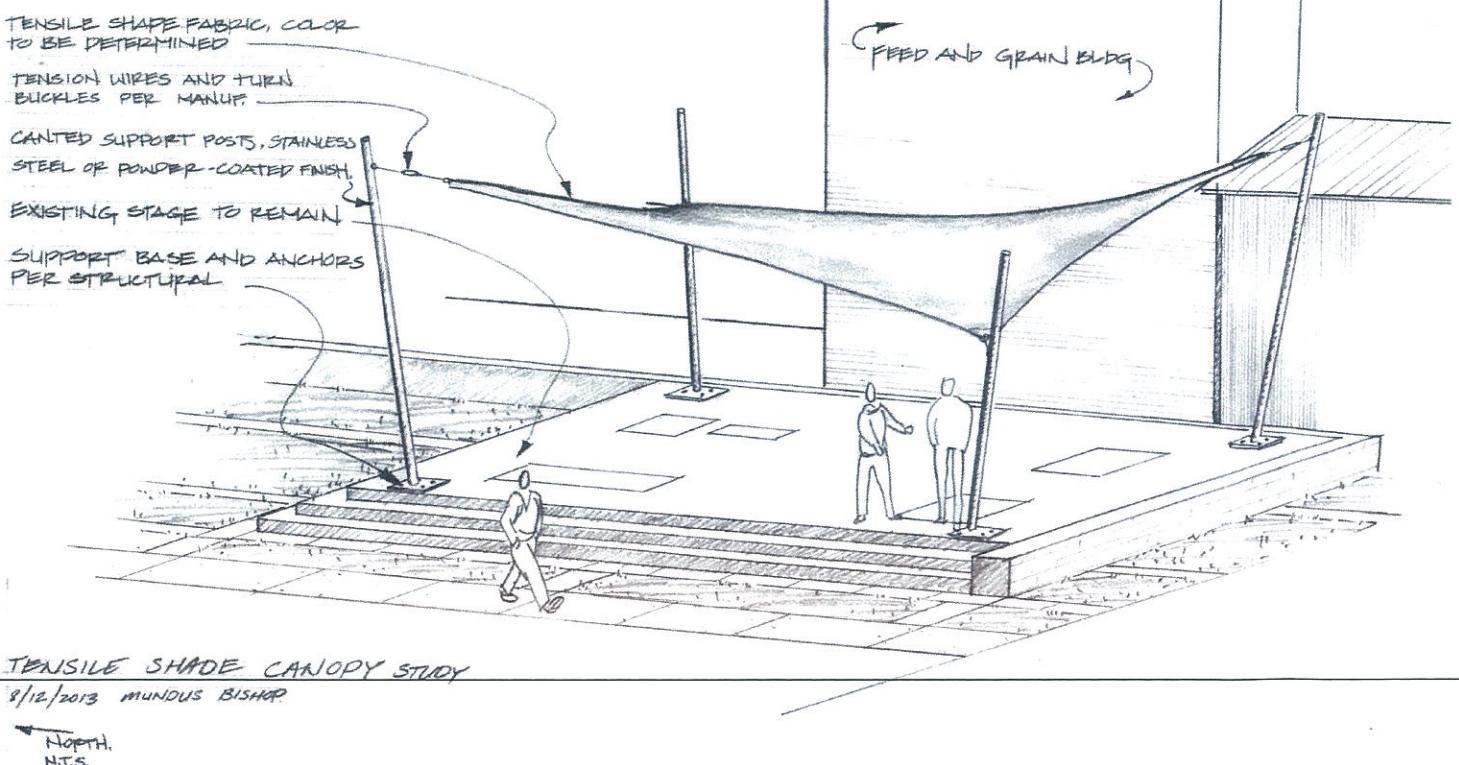


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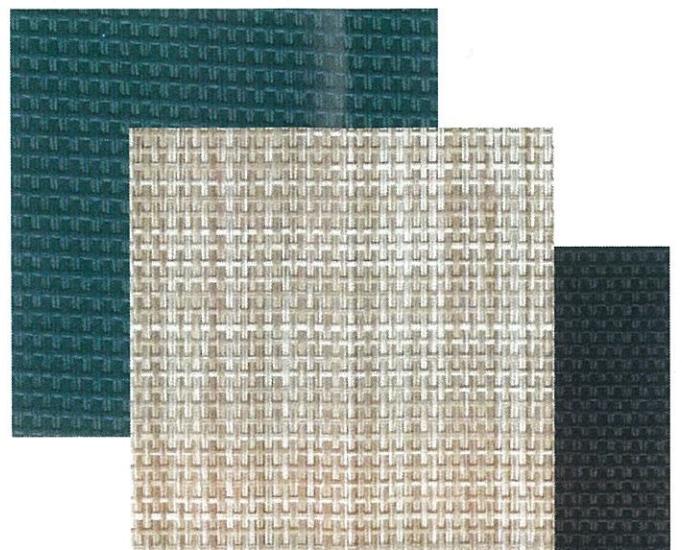
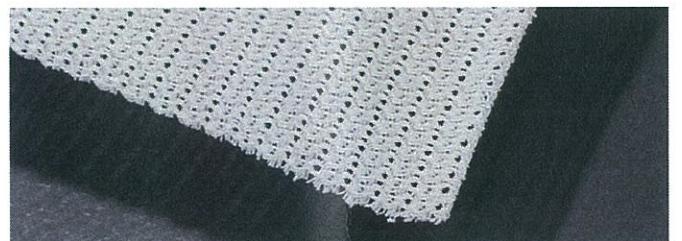


TENSILE SHADE CANOPY - EXAMPLE GEOMETRY



① TENSILE SHADE CANOPY STUDY  
8/12/2013 MUNDUS BISHOP

NORTH.  
N.T.S.



TENSILE SHADE CANOPY - SAMPLE MATERIALS

ARTSPACE PROJECTS INC.

ARTSPACE LOVELAND LOFTS  
140 WEST 3RD STREET  
LOVELAND, CO 80537

9-13-2013	Site Development Plan Sub.

DRAWN BY: BN/WB  
CHECKED BY: TB  
DATE: 9-13-2013  
PROJECT NO: 230.010

SHEET NAME  
TENSILE SHADE  
CANOPY

SDP 2.01  
PC ATTACHMENT 5

ARTSPACE PROJECTS INC.

ARTSPACE L  
140 W. 3RD STREET  
LOVELAND, CO 80537

NORTH FACADE WINDOW AND DOOR AREA PERCENTAGE	
BFRY LEVEL / LVEL	TOTAL WALL AREA
BFRY LEVEL / LVEL	TOTAL OPENING AREA
ENTRY LEVEL / LVEL	PERCENTAGE OF OPENING
FLEX SPACE TOTAL WALL AREA	
FLEX SPACE TOTAL OPENING AREA	
FLEX SPACE PERCENTAGE OF OPENING	
LEVEL 2 TOTAL WALL AREA	1,205 SF SQ. FT.
LEVEL 2 TOTAL OPENING AREA	314 SF. FT.
LEVEL 2 PERCENTAGE OF OPENING	24.06%
LEVEL 3 TOTAL WALL AREA	1,197 SF SQ. FT.
LEVEL 3 TOTAL OPENING AREA	175 SF. FT.
LEVEL 3 PERCENTAGE OF OPENING	14.62%
LEVEL 4 TOTAL WALL AREA	1,128 SF SQ. FT.
LEVEL 4 TOTAL OPENING AREA	108 SF. FT.
LEVEL 4 PERCENTAGE OF OPENING	9.57%

MATERIAL QUANTITIES - EAST FACADE	
4" & 6" Fiber Cement Lap Siding - Shewin Williams SW-6671 Curry	1,000
4" Fiber Cement Lap Siding - Shewin Williams SW-2803 Rockwood Terra Cotta	700
4" Fiber Cement Lap Siding - Shewin Williams SW-6671 Curry	22
4" Fiber Cement Lap Siding - Shewin Williams SW-7519 Mexican Sand	31
Fiber Cement Panel - Shewin Williams SW-4083 Sable	21
Fiber Cement Panel - Shewin Williams SW-4990 Caviar	12
Metal Siding - Berndige Copper Brown	81
Metal Siding - Berndige Copper Cote	50
Storefront	12
	4.

MATERIAL QUANTITIES - NORTH FACADE		
4" & 8" Fiber Cement Lap Siding - Sherwin Williams SW-6671 Curry	636 SF	12%
4" Fiber Cement Lap Siding - Sherwin Williams SW-2803 Rockwood Terra Cotta	678 SF	13%
4" Fiber Cement Lap Siding - Sherwin Williams SW-7519 Mexican Sand	688 SF	13%
Concrete Block - Basalt 638	493 SF	9%
Fiber Cement Panel - Sherwin Williams SW-6321 Red Bay	623 SF	11%
Ground Face Concrete Block - Basalt 339	320 SF	6%
Metal Siding - Berridge Copper Cote	1,234 SF	23%
Storefront	749 SF	14%
	5,420 SF	100%

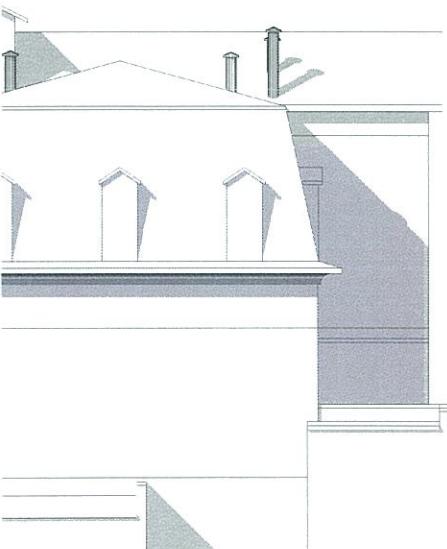
NOTE:  
THIS MATERIAL CHART INCLUDES STOREFRONT WINDOW AREA OF THE FLEX SPACE AND  
LOBBY BUT DOES NOT INCLUDE THE INDIVIDUAL WINDOW AREAS OF THE UNITS IN EITHER  
THE MATERIAL AREA OR THE TOTAL WALL AREA.

THIS MATERIAL CHART DOES NOT INCLUDE SLOPED ROOF AREAS

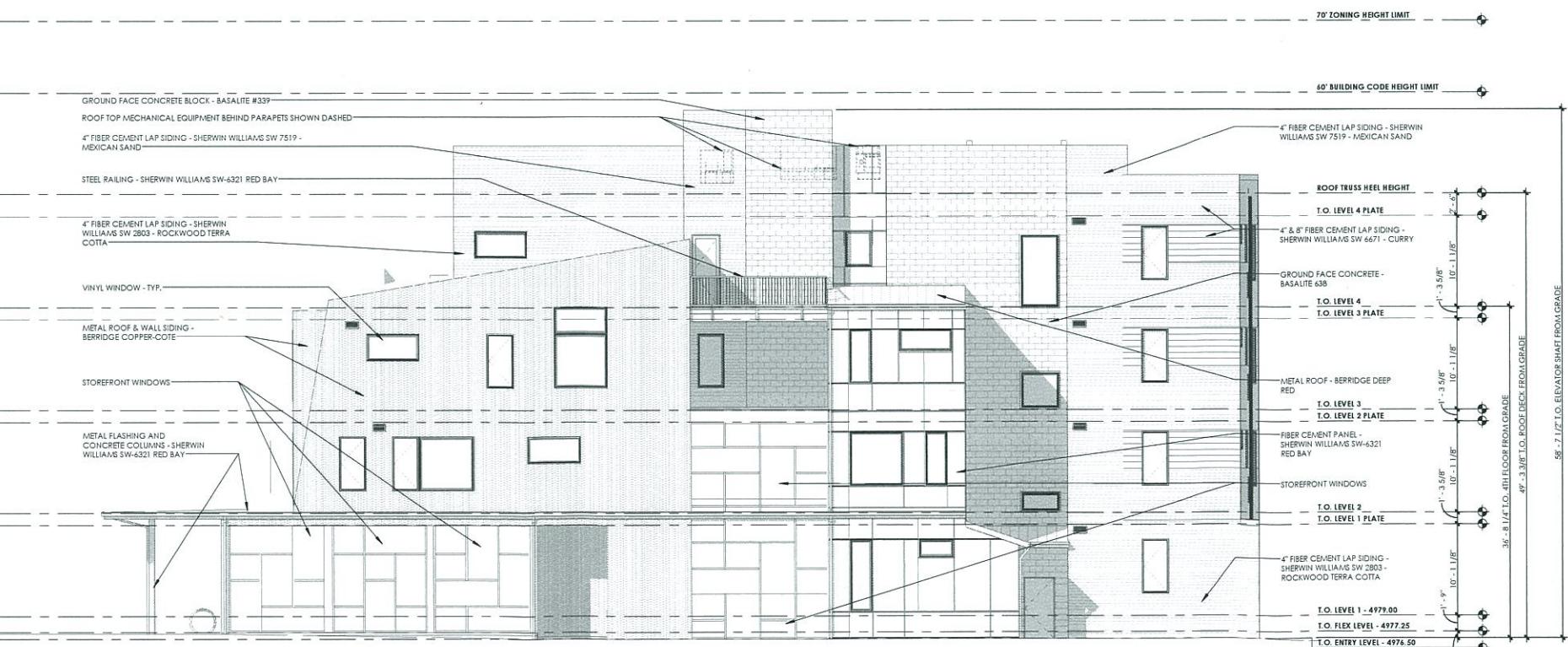
**2 EAST ELEVATION**



MATERIAL QUANTITIES - NORTH FACADE



**1 NORTH ELEVATION**  
1/8" = 1'-0"



DRAWN BY:	JNK
CHECKED BY:	JNK
DATE:	09.17.2013

## BUILDING ELEVATIONS

SDP 3.00

**PC ATTACHMENT 5**



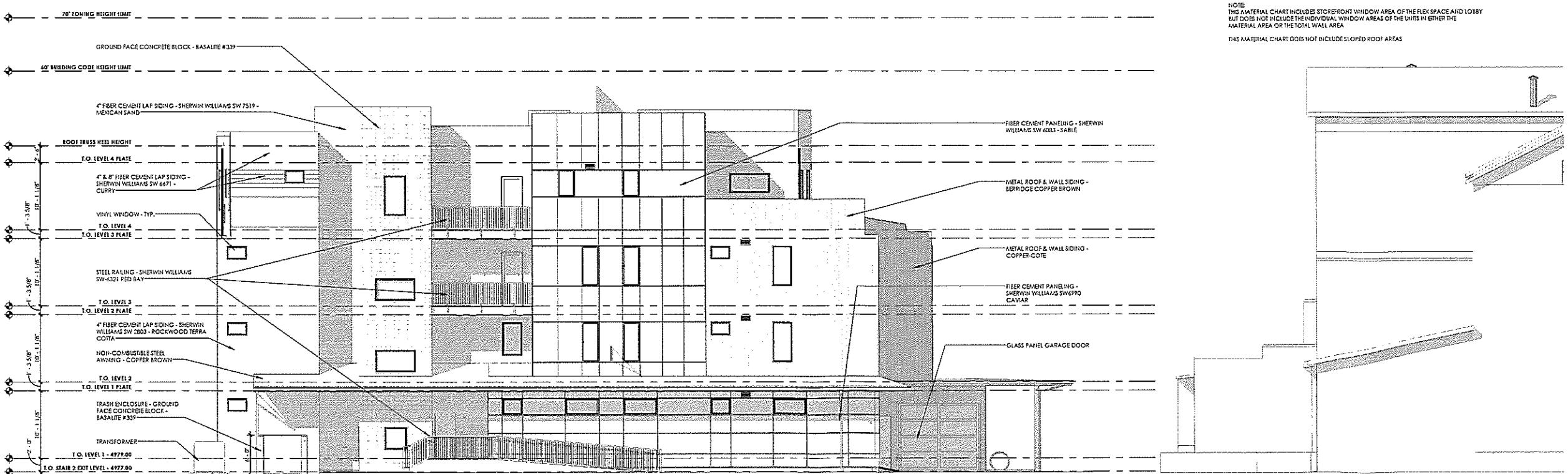
2 WEST ELEVATION

1/8" = 1'-0"

MATERIAL QUANTITIES - SOUTH FAÇADE		
4' Fiber Cement Lap Siding - Sherwin Williams SW-2903 Redwood Terra Cotta	527 SF	13%
4' Fiber Cement Lap Siding - Sherwin Williams SW-6671 Curry	737 SF	18%
4' Fiber Cement Lap Siding - Sherwin Williams SW-7519 Mexican Sand	297 SF	7%
Fiber Cement Panel - Sherwin Williams SW-6033 Sable	770 SF	19%
Fiber Cement Panel - Sherwin Williams SW-6790 Caviar	726 SF	16%
Ground Face Concrete Block - Basalite 339	474 SF	12%
Ground Face Concrete Block - Basalite 339	474 SF	12%
Metalsiding - Salsiga Copper Brown	504 SF	12%
	4,057 SF	100%

NOTE:  
THE MATERIAL CHART INCLUDES THE ROOF AND GUTTER AREA OF THE FLEX SPACE AND LOBBY  
BUT DOES NOT INCLUDE THE INDIVIDUAL WINDOW AREAS OF THE UNITS IN EITHER THE  
MATERIAL AREA OR THE TOTAL WALL AREA.

THIS MATERIAL CHART DOES NOT INCLUDE SLOPED ROOF AREAS.



1 SOUTH ELEVATION

1/8" = 1'-0"

ARTSPACE PROJECTS INC.  
ARTSPACE LOVELAND LOFTS140 W. 3RD STREET  
LOVELAND, CO 80537

DRAWN BY: JJK  
CHECKED BY: JJK  
DATE: 09.17.2013  
PROJECT NO: 1229

BUILDING ELEVATIONS

SDP 3.01

PC ATTACHMENT 5

## GENERAL NOTES:

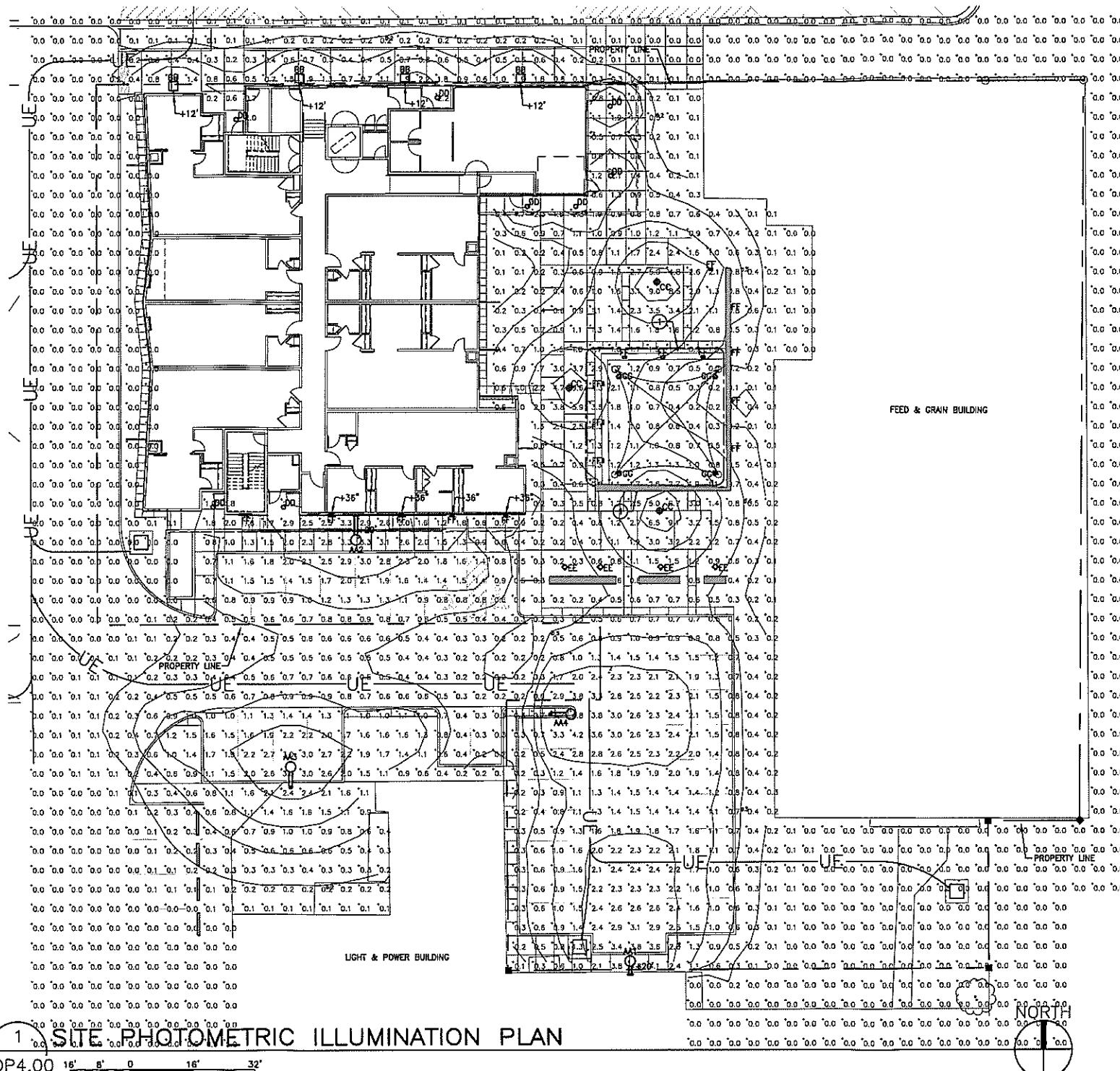
- ALL EXTERIOR LIGHTING FIXTURES ARE TO BE CONTROLLED BY A PHOTO SENSOR OR ASTRONOMICAL LIGHTING TIME CLOCK.
- PHOTOMETRIC CALCULATIONS HAVE BEEN DETERMINED USING A LIGHT LOSS FACTOR OF 1.0

## DRAWING NOTES:

① CANOPY LIGHTING (TYPE FF AND GG FIXTURES) SHALL BE CONTROLLED SEPARATELY FROM OTHER SITE LIGHTING AND WILL ONLY BE USED FOR SPECIAL EVENTS. LIGHTS WILL BE AUTOMATICALLY TURNED OFF WHEN NOT IN USE.

## LIGHTING STATISTICS

Description	Avg	Max	Min	Max/Min	Avg/Min
Parking Areas	1.3 fc	4.2 fc	0.2 fc	21.0:1	6.5:1
Paths, Plazas, Walkways	1.1 fc	9.1 fc	0.2 fc	45.5:1	5.5:1
Overall Site	0.6 fc	9.5 fc	0.0 fc	N/A	N/A

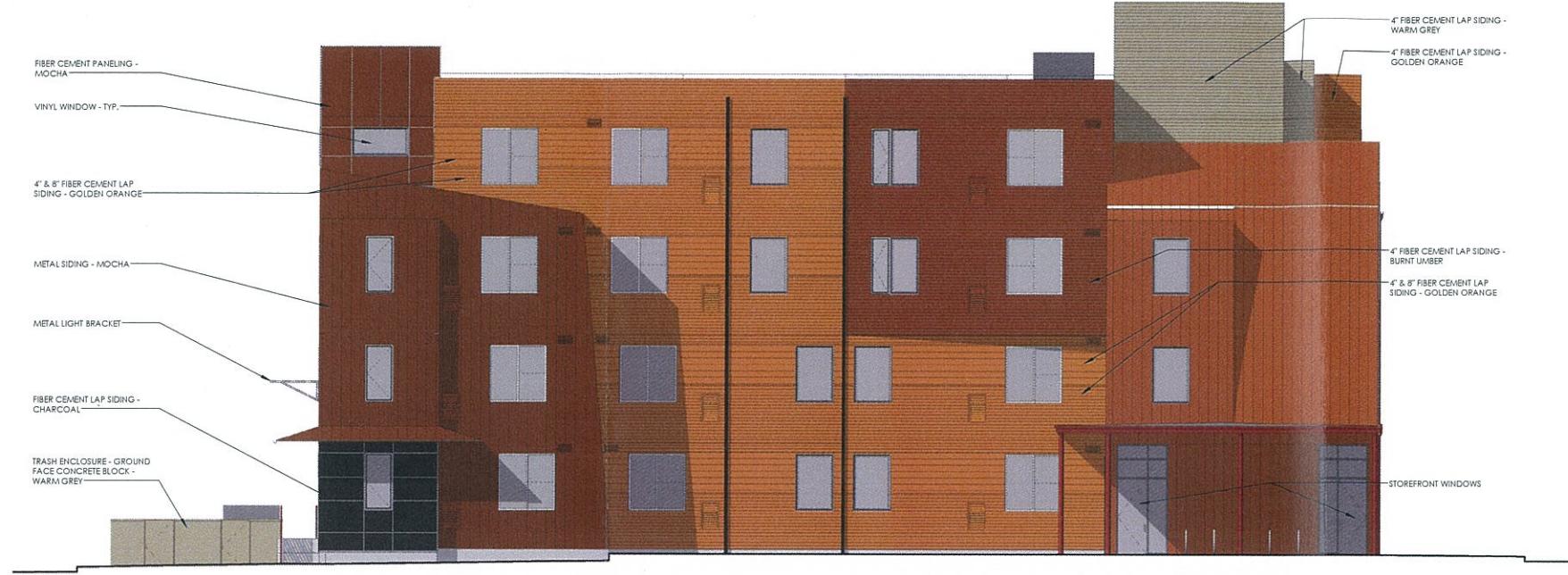


SITE LUMINAIRE SCHEDULE							
PLAN MARK	MOUNTING	DESCRIPTION	MANUFACTURER AND CATALOG NUMBER	VOLTAGE	NO. OF LAMPS	LAMP TYPE	REMARKS
AA1	WALL MOUNT	PARKING LIGHT BRACKET MOUNT	WE-EP 659-3450 RBL640-9340	208	1	70W MH	TYPE IV DISTRIBUTION COLOR PER ARCHITECT
AA2	WALL MOUNT	PARKING LIGHT W/ ARM MOUNT	WE-EP 659-3350 RBL640-9300	208	1	70W MH	TYPE III DISTRIBUTION COLOR PER ARCHITECT
AA3	POLE	PARKING LIGHT 20' POLE	WE-EP 659-3350 RBL640-9341	208	1	70W MH	TYPE III DISTRIBUTION COLOR PER ARCHITECT
AA4	POLE	PARKING LIGHT 20' POLE	WE-EP 659-3450 RBL640-9341	208	1	70W MH	TYPE IV DISTRIBUTION COLOR PER ARCHITECT
BB	WALL MOUNT	SCONCE	WE-EP 620-2740 QLS410	120	1	22W MH	WIDE THROW DISTRIBUTION COLOR PER ARCHITECT
CC	POLE	PEDESTRIAN LIGHT 10' POLE	SELUX BPC-L-R5-1-H050-208	208	1	50W MH	TYPE V DISTRIBUTION COLOR PER ARCHITECT
DD	RECESSED	6" DOWNLIGHT	LITHONIA BHF-1/180DT-F6LS4-4WVOLT	120	1	18W DTT	WHITE SPLASH, FRESNEL LENS COLOR PER ARCHITECT
EE	RECESSED IN GRADE	IN-GRADE UPLIGHT	HYDREL 4511-M35-120-NFL	120	1	35W MR11	COLOR PER ARCHITECT
FF	RECESSED	PATHWAY STEP LIGHT	WE-EP 615-1431 STL259	120	1	18W DTT	COLOR PER ARCHITECT
GG	SURFACE MOUNT TO STRUCTURE	CANOPY UPLIGHT	WE-EP 657-0351 FLC230	120	1	22W MH	COLOR PER ARCHITECT





MATERIAL SAMPLES & COLOR SWATCHES



2 EAST ELEVATION  
1/8" = 1'-0"



1 NORTH ELEVATION  
1/8" = 1'-0"

ATTACHMENT 3

ARTSPACE PROJECTS INC.  
ARTSPACE LOVELAND LOFTS  
140 W. 3RD STREET  
LOVELAND, CO 80537

DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
DATE: 08.13.2013  
PROJECT NO: 1229

COLOR BOARD

CB 1.00

PC ATTACHMENT 6

MATERIAL SAMPLES & COLOR SWATCHES



2 WEST ELEVATION  
1/8" = 1'-0"



ATTACHMENT 3

ARTSPACE PROJECTS INC.

ARTSPACE LOVELAND LOFTS  
140 W. 3RD STREET  
LOVELAND, CO 80537

DRAWN BY: \_\_\_\_\_ Author \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_ Checker \_\_\_\_\_  
DATE: 08.13.2013  
PROJECT NO: 1229

COLOR BOARD

CB 1.01

PC ATTACHMENT 6



## 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](http://www.cityofloveland.org)

## Planning Commission Staff Report

October 28, 2013

### **Agenda #2: Regular Agenda – PUBLIC HEARING**

**Title:** Amendments to Chapter 18.77 and Chapter 18.78 relating to 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:** 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

1. Ordinance amending Code Chapter 18.77 and Chapter 18.78 of the Loveland Municipal Code
2. Zoning Overlay Districts

## 3. EXECUTIVE SUMMARY

Since the Planning Commission's last reviewed on July 22, 2013 of proposed changes to Code Chapters 18.77 and 18.78, a number of additional grammatical, minor editing, and substantive amendments are proposed to these Chapters, all of which are shown in blue font in **Attachment 1**. The substantive changes are the following:

### **A. Chapter 18.77**

1. **Page 7 of 36: Section 18.77.025.FF** – Amending the definition of “oil and gas facility” to exclude aboveground and underground power supply, underground flowlines and underground water lines. Setbacks for new development from an existing oil and gas facility (see Section 18.78.050) are measured from the closest edge of an existing oil and gas facility as defined in this Section 18.77.025.FF. The purpose for the setbacks for new development from existing oil and gas facilities is to keep new development a safe distance from the improvements and equipment of such a facility that pose a hazard to public health and safety. Aboveground and underground power lines, underground flowlines and underground waterlines associated with oil and gas facilities do not pose a greater hazard to public health and safety than when these same facilities are associated with other types of development.
2. **Page 9 of 36: Section 18.77.040** –
  - a. Increasing the time period after a CRT meeting from 10 days to 15 days in which the Current Planning Division must provide a CRT applicant with the Development Review Team's written

comments. Given the complexity and multi-jurisdictional nature of oil and gas applications, the additional time is necessary to allow City staff to meet to review all comments from the Development Review Team (DRT) for consistency, clarity and accuracy, development comprehensive recommendations and coordinate, as necessary, with the Colorado Oil and Gas Conservation Commission (COGCC).

- b. Clarifying that the time period after the CRT meeting in which the applicant must file an application to obtain a permit to operate an oil and gas facility is 90 days, not 3 months.
- c. Clarifying that, when the DRT written comments are not provided to the CRT applicant in a timely manner, the additional time period to submit an application for permit is 90 days, not 3 months.
- 3. **Page 24 of 36: Section 18.77.065.A** – Provision added to require the director to send a site plan to the COGCC showing the exact setback as determined in accordance with Table A in this section.

**B. Chapter 18.78**

- 1. **Page 33 of 36: Title** – Clarifying that this chapter establishes overlay zoning districts for development setbacks from existing oil and gas facilities.
- 2. **Page 33 of 36: Section 18.78.010** – Again, clarifying that the setbacks established in this chapter are for new development from existing oil and gas facilities.
- 3. **Page 33 of 36: Section 18.78.020. B** – Correcting the definition of “high occupancy building zone” to be consistent with the graphic depiction (see *Attachment 2*).
- 4. **Page 33 of 36: Section 18.78.020. C** – Clarifying the conditions under which it has been demonstrated to the director that a well has been legally abandoned.
- 5. **Page 33 of 36: Section 18.78.020. D** – Correcting the definition of “restricted zone” to be consistent with the graphic depiction (see *Attachment 2*).
- 6. **Page 35 of 36: Section 18.78.060.B** – Clarifying that if the land uses listed in this section are approved through the special review process, then such land uses shall be permitted even if not permitted in the underlying zoning district as either a use-by-right or special review use.
- 7. **Page 35 of 36: Section 18.78.070.A** – Revised to take out the reference to this section applying to a variance requested on the grounds of the existence of a vested right. Section 18.78.070.B has been added to address the case when a variance is requested on the grounds of the existence of a vested right.
- 8. **Page 35 of 36: Section 18.78.070.B** – This section has been added to describe the procedures for requesting and obtaining a variance on the grounds of the existence of a vested right or a regulatory taking. All such variances would go directly to City Council for a decision. Pursuant to Section 18.78.070.A, all other variance requests would follow the current Zoning Board of Adjustments procedures in Code Chapter 18.60.

**4. 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.

**FIRST READING:** \_\_\_\_\_

**SECOND READING:** \_\_\_\_\_

**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:**

<b>18.77.010</b>	<b>Authority.</b>
<b>18.77.015</b>	<b>Purpose.</b>
<b>18.77.020</b>	<b>Applicability.</b>
<b>18.77.025</b>	<b>Rules of Construction and Definitions.</b>
<b>18.77.030</b>	<b>Zoning.</b>
<b>18.77.035</b>	<b>Alternative Permit Processes.</b>
<b>18.77.040</b>	<b>Conceptual Review.</b>
<b>18.77.045</b>	<b>Planning Commission Review Process.</b>
<b>18.77.050</b>	<b>Administrative Review Process.</b>
<b>18.77.055</b>	<b>Baseline Standards for Planning Commission Review Process.</b>
<b>18.77.060</b>	<b>Baseline Standards for Planning Commission and Administrative Review Processes.</b>
<b>18.77.065</b>	<b>Enhanced Standards for Administrative Review Process.</b>
<b>18.77.070</b>	<b>Application Requirements.</b>
<b>18.77.075</b>	<b>Variances.</b>
<b>18.77.080</b>	<b>Transfer of Permits.</b>
<b>18.77.085</b>	<b>Other Applicable Code Provisions.</b>

- 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 ~~E~~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.

AA. "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.

BB. "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.

CC. "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.

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

EE. "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.

FF. "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, aboveground flowlines, and other equipment directly associated with oil wells, gas wells, or injection wells. However, "oil and gas facility" shall not include aboveground or underground power supply, underground flow lines, or underground water lines.

GG. "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.

HH. "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.

II. "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.

JJ. "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.

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

LL. "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.

MM. "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.

NN. "Planning commission" shall mean the city's planning commission as established in code section 2.60.210.

OO. "Planning commission review process" shall mean the review process set out in section 18.77.045.

PP. "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.

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)~~ ~~fifteen (15)~~ 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~~ ~~ninety (90) days~~ 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~~ ~~ninety (90) days~~ 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, 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," under section 18.80.020. 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
Sensitive Area	Setback Distance (ft.)	Setback to be measured to the following nearest feature of sensitive area:
Building	500	Wall or corner of the building
Public road, major above-ground utility facility, or railroad tracks	200	Right-of-way or easement property line
Property on which the oil and gas facility is located	200	Property line
Lease area on which the oil and gas facility is located	200	Property line

Column A	Column B	Column C
Natural area or wetland	500	Property line
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	500	Property line of property or easement
Surface water body	500	Operating high-water line
FEMA floodway zoning district	500	Boundary line as shown by the Flood Insurance Rates Map (FIRM) revised to reflect a Letter of Map Revision effective May 24, 2010, published by the FEMA.
Domestic or commercial water well	500	Center of wellhead
Outdoor assembly area	1,000	Property line
High occupancy building	1,000	Wall or corner of the building

Once the setbacks for a well permitted under the administrative review process have been approved and established, the director shall submit to the commission a site plan showing the exact location of those setbacks for the permitted well.

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 B 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 B- 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 manner 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. *Sound Limitations.* 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-Code Chapter 18.78 is hereby repealed and reenacted to read in full as follows:

## Chapter 18.78

### **Overlay Zoning Districts for Oil and Gas Facility Development Setbacks from Existing Oil and Gas Facilities**

#### **Sections:**

<b>18.78.010</b>	<b>Purpose</b>
<b>18.78.020</b>	<b>Definitions</b>
<b>18.78.030</b>	<b>Establishment of zoning overlay districts</b>
<b>18.78.040</b>	<b>Applicability</b>
<b>18.78.050</b>	<b>Zoning overlay district boundaries</b>
<b>18.78.060</b>	<b>Land use restrictions within zoning overlay districts</b>
<b>18.78.070</b>	<b>Variances</b>

#### **18.78.010      Purpose**

The purpose of this chapter is to establish zoning overlay districts in the vicinity of existing 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. Nothing in this chapter is intended to regulate the location of an oil and gas facility, but only to regulate the use of land proposed to be developed for other uses and purposes.

#### **18.78.020      Definitions**

The following words, terms and phrases 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 five hundred (500) feet or greater but less than one thousand (1,000) feet or less 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, as a matter of law, be reopened or reentered in the future for any type of oil and gas operation without the city's prior written consent.
- D. "Restricted zone" shall mean all land and water surface area two hundred (200) feet or greater but less than 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 overly 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;

These land uses shall be permitted if approved as a special review under this paragraph B, notwithstanding the fact that the underlying zoning or approved development plan governing the subject property may prohibit such approved land use.

- 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.

#### **18.78.0780 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 under this paragraph must be in compliance with the underlying zoning or approved development plan governing the subject property.~~

A. An 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. However, any variance approved under this paragraph must be in compliance with the underlying zoning or approved development plan governing the subject property.

B. An owner may also request a variance from any of the requirements of this chapter on the basis of the existence of a vested right under chapter 18.72 or Colorado law or on the grounds that application of chapter 18.78 would constitute a regulatory taking under Article II, Section 3 of the Colorado Constitution. A variance request under this paragraph shall be made to the city council by filing with the city's current planning division a written variance request stating all the facts and law the owner is relying on for the variance. A quasi-judicial hearing before the city council to consider the variance request shall be scheduled and held not less than thirty (30) days but not more than sixty (60) days after filing of the owner's written variance request. Notice of the hearing shall be provided in accordance with all applicable requirements of chapter 18.05. At the conclusion of the hearing, the city council may grant, grant with conditions, or deny the variance request. In so doing, the city council shall adopt its written findings and conclusions within thirty (30) days of its decision at the hearing. However, any variance approved under this paragraph must be in compliance with the underlying zoning or approved development plan governing the subject property. The city council's decision may be appealed to the district court for Larimer County under rule 106(a)(4) of the Colorado Rules of Civil Procedure by the

applicant, by any person receiving mailed notice of the hearing, or by any other person considered a “party in interest” under section 18.80.020.

**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.

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Cecil A. Gutierrez, Mayor

ATTEST:

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City Clerk

APPROVED AS TO FORM:

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City Attorney

