

**CITY OF LOVELAND
PLANNING COMMISSION MINUTES
October 28, 2013**

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on October 28, 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.

COMMISSIONER COMMENTS

Commissioner Crescibene made comments in reference to statements published in the Reporter Herald following the City Council meeting on October 15th. He stated that a City Council member accused Commissioners of making a decision on Artspace at the October 14th Planning Commission based on the current election cycle, suggesting that it was politically motivated. He emphasized that none of the Commissioners have ever announced a political affiliation and strongly denied the allegation. He further explained that the Planning Commission makes decisions based on facts, and explained that questions are asked of applicants in order to understand the bigger picture of a project. He finished by stating that Planning Commissioners are volunteers that work to do what is best for the City of Loveland citizens.

Commissioner Krenning stated that he was happy to see a large turnout at the meeting. He explained that he has had a few conversations with citizens regarding the Artspace project. He shared that he was presented with a packet of petitions that were provided to him by a local business owner and distributed copies to the Commission. The petition was from business and property owners in the downtown area disputing concerns about parking issues. **Mr. Krenning** reminded the Commission and citizens his “no vote” on Artspace was driven solely by parking concerns in downtown Loveland. **Mr. Krenning** went on to say he felt the petition represented the downtown business owners desire to see the Artspace project approved. He also explained that the assessment of the required parking spaces was flawed in the original staff report.

Commissioner Middleton noted that the petition submitted had the same signature in three different places in the document.

Commissioner Dowding stated she agreed with the statements **Mr. Krenning** shared. She also noted the new colors in the revised staff report and said she liked the new colors much better than the old. She thanked Artspace for revisiting the color scheme. With the revised parking numbers and colors, she feels Artspace is a good project.

Commissioner Massaro stated since he was not in attendance in the last vote, he would be abstaining from discussion of Artspace for the evening.

Commissioner Ray explained that while the new colors are better, it still doesn't address what color the feed and grain will look like in the future.

Mr. Krenning followed up and said that he sensed the audience would like to address the Commission; however the meeting was not a public hearing. He wanted to determine if there was a procedural mechanism to allow for public comment from attendees in the audience.

Chair Meyers stated that the purpose of the Planning Commission is to perform a scientific analysis of any project brought before it. He explained 80% of decisions are based on code with the other 20% based on review and hearings held with public comment. He reminded the audience that the Artspace project did have a public hearing on October 14, 2013 and there was no turnout from citizens at that meeting. He encouraged citizens to use the privilege under the charter of the City of Loveland to attend meetings at any time when matters are important to them. He reiterated that the Planning Commission is an apolitical entity.

STAFF MATTERS

Ms. Judy Schmidt, Deputy City Attorney, shared that historically, the citizen comments section of the agenda are not used to comment on items that are on the agenda, but rather for comments that are *not* on the agenda. She explained the staff report contained updated information on the number of required parking spaces. The original number was inadvertently miscalculated too high. Rather than 99 spaces, the required number is actually 80. Based on that fact, staff has brought forth a motion to allow the Planning Commission to reconsider their original vote on the Artspace project.

Ms. Schmidt pointed out that while tonight's meeting is a public meeting, it has not been noticed as a public hearing. Alternatives to the motion would be to reconsider the Artspace vote and reschedule the public hearing to a future date so it could be noticed; or to not reconsider and make a motion to adopt the findings and conclusions supporting the decision from the October 14, 2013 Planning Commission meeting. Because tonight's meeting has not been noticed as a public hearing, staff did not advise the Commission to open a public hearing.

CITIZEN REPORTS

There were no citizen reports.

REGULAR AGENDA

1. Artspace Lofts

At the October 14, 2013 public hearing, the Planning Commission voted unanimously to deny the site plan for the four-story, 30-unit Artspace project, specifying that written Findings and Conclusions be brought back to the Planning Commission on October 28, 2013 for final action.

The October 28, 2013 Planning Commission staff report indicated that an error had been 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.

The staff 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 14th 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.

Mr. Krenning stated that the Planning Commission could vote to adopt the findings and conclusions and assist the applicant in their appeal to City Council or they could vote to reopen the public hearing, regardless that it has not been noticed.

Chair Meyers reminded the Commission that parking was one of numerous items that needed to be addressed in the Artspace project. The color and integrated view of the project as it relates to the feed and grain were also of concern. He stated that he was also in favor of having citizens comment at this evenings meeting.

Mr. Middleton questioned if the Commission decided to revoke on the Artspace project, would the decision from the Commission be final or would it go before City Council. **Ms. Schmidt** explained that if the public hearing was reopened, and because the meeting was not noticed as a public hearing, any concerned citizen could file an appeal within ten (10) days of the decision to City Council.

Chair Meyers asked for a motion to move Committee Reports to the end of the agenda. **Mr. Middleton** moved to move the item to the end of the agenda. With a second from **Ms. Dowding**, the motion was unanimously approved and Committee Reports was moved to the end of the agenda.

Mr. Krenning restated his wish to reopen the public hearing, noting that an appeal could be filed to City Council within ten (10) days of a decision from any citizen who felt they should have been noticed.

Commissioner Molloy questioned what other implications there would be if a public hearing was reopened without being noticed. He was concerned that doing so was opening up the risk of an appeal. He also expressed concern about fees related to an appeal.

Chair Meyers asked the applicant to come forward and share her wishes related to a public hearing.

Ms. Leah Swartz, Artspace Project Manager, addressed the Commission and requested a recess to discuss options with her team.

Mr. Krenning stated that he was happy to take a recess, but wanted to address a concern he had from the last meeting. He shared that the Mayor accused the Planning Commissioners of taking a recess break during the October 14, 2013 Planning Commission meeting in order to have a private meeting to discuss Artspace, prior to taking a vote. **Mr. Krenning** wanted to make clear that did not happen.

Per the request of the applicant, the Planning Commission granted a 10 minute recess.

After the recess, **Ms. Swartz** requested the Commission keep the discussion to the three items of concern; color, parking, and the affiliation with the feed and grain building. She stated that if the Commission would like to see an entire presentation to help see the bigger picture, then she would request a public hearing be held at a later date.

Mr. Crescibene questioned why citizens in the audience did not attend the October 14, 2013 Planning Commission public hearing. He encouraged citizens to attend public hearings for issues that they have a concern with.

Mr. Krenning made a motion to reopen the Artspace public hearing from October 14, 2013. **Ms. Dowding** made a second to the motion.

In the interest of fairness, **Mr. Molloy** asked the city to waive any fees that would be associated to a possible appeal.

Ms. Schmidt explained that the city could waive the appeal fee; however staff would determine if it could be approved administratively or if it would require City Council approval.

Mr. Massaro requested that he be permitted to participate and vote on Artspace, should the public hearing be opened. He explained he watched the October 14, 2013 meeting video in its entirety, and felt prepared to assist the Commission in the discussion and vote.

Chair Meyers asked for a vote for those all in favor to reopen the public hearing. The vote passed 8-1 with **Commissioner Prior** voting nay. The public hearing was reopened, with agreement from Commissioners to focus on the three items of concern.

Chair Meyers asked for a motion to include **Commissioner Massaro** in the Artspace public hearing and vote. **Chair Ray** made a motion to include **Commissioner Massaro**. Upon a second from **Ms. Dowding** the motion was unanimously approved. For the record, **Mr. Massaro** confirmed he watched the prior proceedings from the video provided by the city on Artspace.

Ms. Swartz explained that because Artspace is a non-profit organization, the timing and requirements of the funding sources are extremely critical to each project. CHFA (Colorado Housing and Finance Authority) required the Artspace team to separate the feed and grain commercial component of the project from the residential component. The other funding source with restrictions is the Colorado State Historic Fund. \$200,000 was granted and is committed to the project, but the contract with the State Historic Fund cannot be finalized until the site plan is approved; therefore work on the feed and grain component cannot begin. **Ms. Swartz** explained

that while Artspace would have liked to present the Commission with the entire project, including the feed and grain, funding restrictions prevented them from doing so.

Ms. Swartz went on to explain that she was extremely confident that a color pallet that would be agreeable to the community would be found. She reminded the Commission that the Historic Preservation Committee (HPC) would need to give final approval on colors.

Ms. Swartz addressed the concerns regarding parking and stated that Artspace is requesting a one-to-one ratio for the residential component. She explained most tenants of other Artspace projects have no more than one car due to income limitations. She felt the justification for a one-to-one waiver from the Commission had been met. Regarding the shared gallery space, 20 spaces will be required. 15 spaces are being provided in diagonal parking in front of the future building. The other 5 could be accounted for in the adjacent city parking lot to the north. She stressed that Artspace is completely committed the Loveland community to follow through with both projects.

Chair Meyers asked **Ms. Swartz** to explain what the future feed and grain might look like, from a conceptual perspective. **Ms. Swartz** explained the building would not change dramatically from how it looks now, however life/safety concerns and enhancements including paint, electrical, and plumbing needs will be met. She explained there would never be residential units in the feed and grain building.

Mr. Middleton asked if the community room would be considered a gallery or museum. **Ms. Swartz** stated it would not be a museum. Although the space could be used a temporary gallery space, it will be referred to as a community room. She also confirmed that the space would absolutely not be used to sell work out of.

Ms. Swartz confirmed that the likely color for the feed and grain would be brick red, although the HPC would have the final say.

Mr. Crescibene questioned how many levels of the feed and grain would be restored. **Ms. Swartz** replied only one level of the building would be restored; the remaining levels would be sealed off and not used. She explained there are two phases to the feed and grain, to be completed within two years of getting the certificate of occupancy for the residential component of Artspace.

Ms. Swartz explained that Artspace is requesting an administrative waiver to the two-to-one parking requirement, reiterating that in other Artspace projects this requirement has more than met the parking needs of tenants.

Mr. Krenning asked if each tenant would be guaranteed at least one assigned parking space. **Ms. Swartz** confirmed that was the case. She also explained that Artspace held numerous neighborhood meetings to address concerns, and to date, has not received negative feedback.

Mr. Molloy stated he felt the justification for a one-to-one parking requirement has been met by Artspace and didn't see it as an issue in his opinion.

Mr. Prior asked how the Artspace fits in with the downtown redevelopment effort. **Ms. Swartz** responded that in the downtown Loveland strategic plan, there is an effort to get more dwelling units of different kinds, which includes affordable housing. She continued that the City of Loveland has a huge creative element and there are efforts underway to use art as a catalyst to redevelop downtown. She feels that Artspace fits in perfectly with those plans.

Mr. Massaro asked for the total number of parking spaces on 3rd Street and the new parking structure. **Mr. Troy Bliss, Planner II**, explained that there are 27 parking spots on 3rd Street and approximately 39 more that will be available once the new parking lot is complete.

Mr. Massaro asked what the capacity of the community room will be. **Ms. Swartz** stated the maximum capacity will be 39 people. She went on to repeat that the one-to-one parking requirement in other Artspace projects has been more than adequate.

Mr. Crescibene asked what criteria would be used to define an artist which would allow them to be a tenant in Artspace. **Mr. Swartz** explained that a better way to approach the topic is to explain what kind of work would not be allowed, such as a kiln or dangerous chemicals. She also stated applicants would have to be income eligible, and explained that Artspace would not be discriminating otherwise in the definition of an “artist”.

Mr. Middleton asked how many parking spaces would be required once the feed and grain is finished. **Ms. Swartz** explained that the answer would not come until final plans include the occupancy of the building. She did say that the Site Development Plan would be presented to the Commission for the feed and grain when ready.

Ms. Felicia Harmon, Artspace local liaison, shared with the Commission that there is 12,000 square feet for use in the feed and grain building. She explained that in the next two years the feed and grain will undergo life/safety issues with future planning for other phases still underway. **Ms. Schmidt** stated the feed and grain improvements are required to be completed 24 months after the certificate of occupancy is issued for the residential units of Artspace.

Chair Meyers opened the hearing for public comment.

Mr. Roger Clark, 1220 W 6th St., Loveland, CO stated he is an avid supporter of downtown Loveland. He urged the Commission to reconsider their decision from the October 14, 2013 meeting. He feels Artspace is a remarkable opportunity for downtown revitalization efforts.

Mr. Rick Padden, owner of Kitchen Alley at 121 E 4th St, thanked for the Commission for the opportunity to speak. He stated that although he was originally against refurbishing the feed and grain, he has come to appreciate the potential and has attended many events in the recent past. He stated he would welcome events that would saturate the downtown area and increase foot traffic and didn't think parking is a problem downtown.

Mr. Richard Ball, 218 E 6th St., Loveland Co, stated his involvement with the feed and grain goes back 8 years when efforts to save the building first began. He said he has never had to walk more than one block to attend a busy feed and grain event and doesn't feel parking is an issue

downtown. He feels that Artspace is the premium group for projects of this sort. Over 9 million dollars of outside money is being brought forth for the Artspace project, which is a wonderful opportunity for the City of Loveland. He stated that Artspace has been part of 30 successful projects that have revitalized old buildings. He thanked the Commissioners for their service to the community.

Mr. Roland Demers, President of the Downtown Loveland Association, explained that Loveland holds its identity in the art community. He believes the downtown area is run down and asked the Commission to allow the Artspace project to move forward. He felt the parking in downtown is sufficient. He stated he was the person who started the petition for downtown residents and business owners and presented it to **Mr. Krenning**.

Mr. Bob Torson, 2064 Vista Dr., Loveland CO, stated he is a member of the Loveland Downtown Association. He states that downtown is seeing increased visitors in the past few years. He believes the parking situation today is sufficient; however it might need to be addressed in the future and he asked the Commission to support the Artspace project. He finished by thanking the Commissioners for the opportunity to speak.

Mr. Clay Caldwell, owner of 'Mo Betta Gumbo, 141 E 4th St., Loveland, CO stated he chose to open his restaurant in Loveland because it is an art community. He supports efforts to refurbish the feed and grain and strongly supports the Artspace project. He feels there is not a parking issue but a parking pattern issue. He thinks Artspace is a perfect match for downtown Loveland.

Ms. Ingrid Porter, 706 Grant St., Loveland, CO shared she chose to relocate her home and business to Loveland because of the vibrant art community and the Artspace project in particular. She feels Artspace is extremely important for the revitalization of downtown and urged the Commission to support the project.

Mr. David Young, 115 W. 2nd St., Loveland CO thanked the Commission for the chance to speak. As an artist he feels he represents the type of applicant who would apply for housing at Artspace. He supports efforts to restore the feed and grain building. He strongly supports downtown business and plans to revitalize the area.

Ms. Lynn Kincanon, 1125 N. Garfield, Loveland, CO strongly supports the efforts to rebuild the feed and grain and was a part of the initial efforts to save it. She thinks the feed and grain building is a big part of the identity of Loveland. She believes the Artspace project is a very worthy project that will help support artists and asked the Commissioners to support the project.

Ms. Robin Dodge, 427A E. 4th St., Loveland, CO stated that she owns a business at 5th and Cleveland and never has had a problem with parking but would like to see more people in the downtown area. She encouraged the Commission to support the Artspace project and future efforts to revitalize downtown.

Mr. Nick Callaway, owner of Loveland Aleworks, 118 W. 4th St., Loveland, CO stated he came to Loveland at the urging of Loveland's Economic Development Manager. He stated that

events at the feed and grain do increase his business. He shared that parking is not a problem. He asked the Commission to support the project.

Mr. Ben Aste, 810 Taylor Ave., Loveland, CO. spoke of his support of the feed and grain and the Artspace project. He feels this project is the best thing to happen in downtown Loveland in the last ten years. He questioned why the Commission didn't consider the old Leslie Cleaners building as a parking lot rather than a walking area. He thanked the Commission for their time. **Chair Meyers** stated the issue was never brought before the Planning Commission, and explained that not all projects are reviewed by the Commission.

Mr. Dustin Brunson, 536 W. 5th St., Loveland, CO supports the Artspace project and believes it's a great opportunity for Loveland. He thanked the Commission for the chance to speak and urged them to support the project.

Mr. Alexi Grewal, 5531 W. 1st St., Loveland, CO stated he felt the citizens who spoke this evening addressed the Commission's concerns with the Artspace project soundly. He stated his belief that the feed and grain building is an irreplaceable part of Loveland and hopes the Commission votes to support the Artspace project.

Chair Meyers closed the public hearing.

Chair Meyers explained that the Artspace project was not banned, but initially not approved due to issue with color, parking and the feed and grain.

Ms. Dowding explained that the Leslie Cleaners project was not brought before the Commission because it was city owned. She also explained the Commission did not see the actual color pallet at the original Planning Commission meeting. **Ms. Dowding** explained that she does support the Artspace project and agrees that concerns with the original project have been addressed. She supports the idea of having a parking garage underground. She thanked **Mr. Demers** for presenting the petition to community members.

Mr. Ray explained he supports revitalization efforts downtown but revisited concerns about parking in downtown and feels that it continues to be an issue of the unknown. He restated his concerns that the plans presented are not an integrated project showing what will happen for the feed and grain.

Mr. Massaro agrees an integrated project would be good to see, but only one project at a time can be presented. He agrees there is not a problem with parking downtown, especially west of the railroad tracks on 4th Street. He thinks the feed and grain is a historic landmark in the city. He thinks the Artspace project is a catalyst for downtown revitalization. He said he supports the project and will be voting in favor of it.

Mr. Crescibene shared that his biggest objection was not Artspace in its entirety but its affiliation to the feed and grain. He stated that having the understanding the feed and grain would only have the first floor refurbished help change is opinion about the project. He thanked the citizens for their comments as it showed the passion for the project in the community.

Mr. Molloy explained that the parking in downtown Loveland is no different than other communities; in some cases you will need to walk several blocks to reach your destination. He felt 30 parking spaces for the Artspace residential building is plenty. He felt the HPC would make a good decision regarding the color of the feed and grain and stated he would be supporting the project.

Mr. Krenning explained his only concern about the Artspace project was the parking and he wanted to be assured that business owners would not be negatively impacted by this project. He appreciated hearing from owners of downtown businesses. He stated he would be supporting the project as his concerns about parking have been overcome.

Mr. Middleton thanked the audience for their comments. He stated he is still unsatisfied with the parking or how the feed and grain will be developed. He shared he won't support the project as it is presented today.

Mr. Prior stated that although he still has some concern how the residential building will coexist with the feed and grain, knowing the color of the building will be red, if approved by the HPC, belied those concerns.

Chair Meyers still has some level of concern about the parking, especially since the feed and grain parking will have to be considered in the future. He believes a parking garage is needed in downtown. He felt these concerns are not enough to not support the Artspace project, and thanked citizens for coming in to share their thoughts.

Ms. Dowding moved to make a motion 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. After applicant, **Ms. Swartz** accepted the conditions in the staff report and upon a second from **Mr. Molly** the motion was passed 7-2, with **Commissioners Middleton and Ray** voting nay.

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.

Greg George, Development Services Director, addressed the Commission and explained he would be presenting proposed amendment changes to two chapters of Chapter 18 of the Municipal Code: Chapter 18.77 which deals with regulations on oil and gas development, and Chapter 18.78 which establishes overlay zoning districts for new development from existing oil and gas facilities.

He asked the Commission to turn to page 7 of the 18.77 ordinance, and stated the revisions were noted in blue font. The first change is to revise the definition of oil and gas facilities to remove some improvements that might typically be found in a development that do not have impacts that normal developments see within city limits. The associated improvements include above ground

and underground power lines, flow lines and water lines. It's important to make the modification to the definition because the measurements for the overlay zoning district in cases of new development are measured from the equipment of the oil and gas facility. Given that the lines go in many directions from the surface pad site, it would create difficulty when measuring setbacks.

On page 9 of 18.77, changes relate to Concept Review timeframes for meetings held for oil and gas facilities. The modification specifies an extension of the timeframe from ten (10) days to fifteen (15) days. That is the timeframe in which the Current Planning Division has to notify the applicant of a Conceptual Review meeting with comments and recommendations issued by the Development Review Team. The request for the extension is due to the fact that oil and gas applications are complex, and also require additional coordination with the COGCC. Other changes on page 9 simply standardizes terminology; for example, stating ninety (90) days instead of three (3) months.

Turning to page 24 of 18.77, **Mr. George** explained the next change was made at the request of the legal department of the oil and gas commission. Specifically it states that, "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."

On page 33 of 18.77, it was necessary to clarify the differences between 18.77 and 18.78. Chapter 18.77 establishes standards that apply to new oil and gas facilities developed within city limits. Chapter 18.78 develops standards for zoning restrictions on new development when that development is within close proximity to existing oil and gas facilities. **Mr. George** explained that in the purpose section on page 33, a definition was added that clarified, "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." Changes to the definitions section contain corrections in order to be consistent with the diagram that establishes the zoning overlay districts.

Mr. George stated that changes to item c in 18.78.020 addressed concerns about abandoned wells. Abandoned wells needed to be defined as a matter of law, requiring some sort of a legal document in order to establish that an existing well was truly abandoned and could never be reopened. The language was purposely made to be general because of the different types of wells and procedures for abandoning wells.

On page 35 of 18.77, changes were made to make clear that if someone is developing land adjacent to, or in close proximity to, an existing oil and gas facility, and the overlay zoning is applied, "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."

Mr. George explained that changes to 18.78, on page 35, have been reworked to define two different kinds of variances. First, in paragraph A, was kept mainly the same as it was, and refers back to chapter 18.60 of the zoning code which outlines the zoning board of adjustment hearing process. One small change removes any reference to a variance that might be requested based on

the existence of a vested right. In paragraph B, the language establishes that when there is a request for a variance based on a claim of vested right, it outlines a process that states such requests would go before City Council for approval.

Mr. Molloy asked about the abandoned well definition and shared his belief that it needed to be documented as abandoned. He questioned if a well has been capped and is not currently in use, but hasn't been documented as abandoned, can a property owner research city code to determine if the well can be listed as abandoned. **Mr. George** responded that there is no provision in the city code that deals with how an abandoned well is classified. He explained that the process is defined at the state level. He clarified that there will need to be a legal document that guarantees the city that the well will never be reopened.

Mr. Ray stated that having a legal document defining an abandoned well will be extremely important because if an owner of a well fills it with concrete or grout, and is abandoned without a legal document, the owner of the well can go back into the well and over drill it, regardless of its location. He expressed concern that a permit would only be required to reopen the well had it been properly documented as abandoned. Simply capping and not using a well does not legally document it as "abandoned".

Mr. Middleton thanked **Mr. George** and **Mr. Duval** for their work on the oil and gas amendments. He questioned if the change on page 35 stating that if a quasi-judicial hearing should go before the City Council to consider a variance request with vested rights, would that do away with the special review requirement. He also asked if the provision would essentially leave the Planning Commission out of the process. **Mr. Duval** explained that all future requests for variance's claiming vested rights would go before the City Council in place of the Planning Commission. He stated the reason for the decision was based on the fact that variance requests of vested rights are very technical, legal requests which involve potential monetary risks to the city. He felt the City Council was the best entity to determine if the city should take such risks.

Mr. Krenning referred to pages 35 and 36 and asked if the last sentence which stated, "The City Council's decision may be appealed to the district court for Larimer County under rule 106(a)(4)" and said that although the rules of procedure do not change often, he questioned if it would be better to simply say, "may be appealed to the Larimer County district court under the applicable rules of civil procedure". **Mr. Duval** responded that the same verbiage is similar in all of the city code in so many different places, and felt it was appropriate to be specific. He explained that if the rule of procedure did change, it would be changed in all of the code.

Ms. Dowding asked for a correction on page 36, under definitions, item c, after the Development Services Director, and stated that another comma is required in the sentence.

Mr. Crescibene questioned the definitions of a setback which states "setbacks shall be measured from a wall or a corner", and asked if it should include the phrase, "whichever is closest". **Mr. George** replied that on page 23 of the ordinance the table states, "setbacks to be measured to the following nearest feature of sensitive area". **Mr. Crescibene** thanked him for the clarification.

Mr. Meyers asked **Ms. Kreutzer, Planning Commission Secretary**, to note for the record that

Commissioner Prior asked to be excused from the remainder of the meeting during the break to attend a work matter. He was given permission to leave for the evening.

Chair Meyers opened the public hearing. Given there were no comments, the public hearing was closed.

Mr. Ray commented that several weeks ago there was a flood in the City of Loveland. He continued that oil and gas wells are currently allowed in the floodway. He questioned why oil and gas development was permitted in the floodway when no other development is allowed anywhere in a floodway. **Mr. George** explained that if an applicant gets a permit from the state and then goes through the city's baseline standards, then oil and gas development is allowed in the flood plain. He further explained that if the city prohibited oil and gas development in the baseline standards, they would have been preempted by the state. **Mr. Ray** re-iterated that nothing, besides oil and gas drilling, is allowed to be developed in the flood plain within city limits and feels that the decision to allow it to continue is disappointing. He went on to say that the city has had very little opportunity to try and regulate oil and gas development because of the oil and gas commission laws and legislation, and stated he feels that is inappropriate. **Mr. Ray** acknowledged that city staff has worked very hard to bring as much opportunity to the city as possible, and voiced his appreciation for that effort.

Mr. Middleton made a motion to move to recommend that City Council adopt the proposed amendments to Chapters 18.77 and 18.78 of the Loveland Municipal Code. Upon a 2nd from **Ms. Dowding** the motion was approved 8-0, with **Mr. Prior** being absent from the vote.

APPROVAL OF THE MINUTES

Chair Meyers asked if there were any corrections needed in the October 14, 2013 meeting minutes. Needing no amendments, **Commissioner Middleton** moved to approve the minutes. Upon a second by **Commissioner Crescibene**, the meeting minutes were approved 8-0, with **Mr. Prior** being absent from the vote.

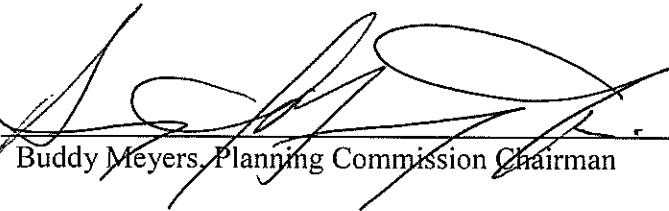
COMMITTEE REPORTS

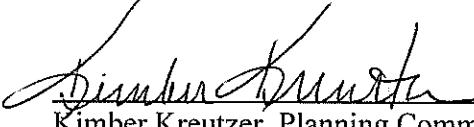
Mr. Molloy shared that at the last Title 18 Committee meeting, the new Current Development Activities Map (CDA) was presented to Committee members. He explained that it will be presented to the Planning Commission at a future date and stated that it will be a very useful tool for developers and citizens of Loveland. **Mr. Ray** echoed his satisfaction with the CDA map and also feels it will be extremely helpful for citizens wondering about development in their neighborhoods.

ADJOURNMENT

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

Approved by:


Buddy Meyers, Planning Commission Chairman


Kimber Kreutzer, Planning Commission Secretary