



LOVELAND PLANNING COMMISSION MEETING AGENDA

Monday, March 14, 2016
500 E. 3rd Street – Council Chambers
Loveland, CO 80537
6:30 PM

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I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. REPORTS:

a. Citizen Reports

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

b. Staff Matters

1. 3/28/16 Agenda Preview:

i. Development Services Update

ii. Temporary Uses Code Amendments

iii. Thompson School District Master Plan Presentation

iv. FCC Code Amendments – Study Session

2. Distribution of Monthly Division Updates (“Dashboard” for Building and Planning) and Monthly Building Newsletter.

3. 2015 Annual Report Findings

4. Create Loveland – City Council Study Session scheduled for April 12th

5. New Director of Development Services, Brett Limbaugh, to begin March 21st

6. Planning Commission Vacancies: Advertisement posted, close date is March 30th at 4:00 p.m.

7. Hot Topics:

c. Committee Reports

d. Commission Comments

IV. APPROVAL OF MINUTES

Review and approval of the February 22, 2016 Meeting minutes

V. CONSENT AGENDA

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

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

- Does any Staff Member or Commissioner wish to remove an item from the Consent Agenda?
- Does any Community Member wish to remove an item from the Consent Agenda?

1. 5726 Byrd Drive

The Planning Commission held a public hearing on February 22, 2016 to consider an appeal of the Planning Division's decision that an electronic message sign is not permitted on the I-25 frontage of 5726 Byrd Drive. The Commissioners voted 6-1 to reverse staff's decision and find that the applicant's property qualifies for an electronic sign on I-25. Staff has provided the Commission with a brief memo and a resolution for approval of the Findings and Conclusions documenting the Planning Commission's vote on February 22, 2016.

VI. REGULAR AGENDA:

2. Fairgrounds 8th Addition Annexation and Zoning (Presentation: 30 minutes for staff/applicant)

This is a public hearing on a legislative matter to consider the annexation and zoning of a 4 acre property at 1040 S. Roosevelt Avenue. The property, which has been purchased by the city, is immediately west of the existing Loveland Fire Training Facility. It currently contains a few industrial buildings, and the industrial uses that were constructed prior to the city purchase continue to lease and operate on the property. The Fire Authority is interested in redeveloping the property as an expansion of the Fire Training Facility. The Fire Authority is beginning its master planning process for both development of the fire training use on this lot and for improvements to the existing facility on the lot to the east.

Staff believes that all key issues have been resolved based on city codes and standards relevant to annexation and designation of the I-Developing Industrial zoning district for the property. The development of the lot as a Fire Training Facility will require a special review application and a

neighborhood meeting along with a site development plan and building permit application. Upon submittal, these applications will be reviewed by staff for compliance with all code requirements.

3. Zoning Overlay District Code Amendments (Presentation: 15 minutes for staff)

This is a public hearing to consider incorporation of proposed chapter 18.44 – Flexible Zoning Overlay District into Title 18 of the Municipal Code. This amendment would allow property owners within designated areas to be exempted from standard zoning requirements. The purpose of this concept is to stimulate development in locations that are experiencing disinvestment or a lack of development activity. Consideration the proposed code amendment is a legislative matter.

VII. ADJOURNMENT

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
February 22, 2016

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on February 22, 2016 at 6:30 p.m. Members present: Chairman Jersvig; and Commissioners Dowding, Meyers, Molloy, Forrest, Ray, and McFall. Members absent: Commissioner Crescibene. City Staff present: Bob Paulsen, Current Planning Manager; Moses Garcia, Assistant 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 Development Services office.

CITIZEN REPORTS

There were no citizen reports.

STAFF MATTERS

1. **Robert Paulsen**, Current Planning Manager, reviewed the March 14, 2016 agenda.
2. At the January 25th Planning Commission meeting, **Commissioner Meyers** asked if **Mr. Paulsen** could research and provide an update to the Planning Commission regarding the cause of the high chlorine levels reported by a citizen while testing water west of town. In response to this request, **Mr. Paulsen** provided the following information received from **Chris Matkins**, Water Division Manager: The typical chlorine levels range between 1.2 and 1.5 ppm. Occasionally, the Water Division will see higher levels approaching 1.7 ppm; however, this is infrequent and typically related to complicated construction staging. **Mr. Paulsen** advised that any additional questions or concerns be directed to the Water Division.
 - a. **Mr. Paulsen** noted that **Chris Matkins** will be pursuing a new job and **Mr. Paulsen** can provide another contact if needed. **Commissioner Meyers** stated that he will pass this information on to the citizen.
3. In response to **Commissioner Dowding's** request for more information about the Professional Services Contracts presented by **City Manager Cahill** at the January 25th Planning Commission meeting, **Mr. Paulsen** stated that Shadow Play Films produces short films and videos used for outreach efforts by the Water and Power Department.
4. **Mr. Paulsen** stated that **Commissioner Jersvig** and **Commissioner Dowding** will attend the Boards and Commission Summit on March 3rd.
5. **Mr. Paulsen** stated that the 2015 Annual Report Findings will be finalized and sent to the commissioners prior to next meeting.
6. **Mr. Paulsen** stated that development review applications have nearly doubled since 2014; however, performance levels stayed consistent to the division's 4-year average.
 - a. **Commissioner Molloy** stated that the electronic submittal process the City of Loveland utilizes has been one of the cleanest, most reliable, and timely processes compared to other cities and counties he has worked with.
7. **Commissioner Molloy** asked the status of filling the two Planning Commissioner vacancies. **Jenell Cheever**, Planning Commission Secretary, stated that the positions will be posted soon and need to be advertised for a period of 30 days. This advertisement will be sent to

developers, participants of the Create Loveland outreach, and the Loveland Chamber of Commerce. **Commissioner Ray** recommended sending the advertisement to other boards and commissions within the city.

COMMITTEE REPORTS

- **Title 18 Committee - Commissioner Molloy:** The Title 18 February meeting addressed the downtown sign code and wireless antennas downtown. **Commissioner Molloy** stated that the Title 18 code provisions for wireless antennas need to be updated to be in alignment with the FCC requirements.
- **Zoning Board of Adjustments - Commissioner Forrest:** Findings for the February 8th hearing pertaining to a second story deck were sent out last week.

COMMISSIONER COMMENTS

- Commissioners discussed the Highway 402 Corridor joint study session held on February 10th with the Larimer County Planning Commission.

APPROVAL OF THE MINUTES

Commissioner Dowding made a motion to approve the January 25, 2016 minutes; upon a second from **Commissioner McFall** the minutes were unanimously approved.

REGULAR AGENDA

1. 5726 Byrd Drive Appeal

Project Description: This is a public hearing on a quasi-judicial matter to consider an appeal of the Planning Division's decision that an electronic message sign is not permitted on the I-25 frontage of 5726 Byrd Drive. To be eligible for an electronic message sign, the provisions require that the premise directly abut I-25 for more than 500 lineal feet, based on staff's reading of the zoning code and the property frontage is only 370 lineal feet.

The property owner, **Josh Elliott** with Autoplex, is appealing staff's interpretation of the eligibility for the electronic message sign. The appeal alleges that the code provision does not specify that the property's lot frontage must abut I-25 for more than 500 lineal feet and that the entire perimeter of the property can count towards the 500 foot requirement. The appeal states that planning staff has erred in failing to properly interpret the signage provisions in the Code.

The appeal hearing is a de novo hearing which means that the Planning Commission can receive and review all information presented. The Planning Commission's decision is final pending a further appeal to City Council.

Kerri Burchett, Principal Planner, outlined the basis of the appeal and stated that per Chapter 18.50.120 of the Municipal Code, electronic message signs are only permitted on a premise directly abutting I-25 for more than 500 linear feet. Staff has consistently applied the rule that only property directly abutting I-25 will count towards this 500 linear feet; therefore, the applicant is ineligible for an electronic sign because the property directly abutting I-25 is only 370 feet. **Ms. Burchett** stated that this sign is considered an ineligible electronic sign and therefore there is not a variance mechanism to approve this electronic sign.

Ms. Burchett described several options the applicant has to pursue other signage opportunities on their premise, including working with the adjacent property owner to establish a larger premise. This would allow an electronic sign on the I-25 frontage to be shared between the two businesses.

Ms. Burchett introduced the applicant's representative, **Danielle Llewellyn** with DaVinci Sign Systems. **Ms. Llewellyn** showed a diagram of the site location and noted that the Municipal Code does not state that the property must abut parallel to I-25. Thus, the perimeter of the property could count towards the 500 foot requirement.

Ms. Llewellyn noted that working with the adjacent property owner to obtain a shared electronic sign is not an option. This adjacent property owner has an empty warehouse and wouldn't benefit from the electronic sign and therefore is not willing to combine properties.

Ms. Llewellyn noted that the property owner, **Josh Elliott**, is actually proposing a smaller electronic sign than the Code allows for properties having 500 feet abutting I-25.

COMMISSIONER QUESTIONS AND COMMENTS

- **Commissioner Dowding** asked **Ms. Llewellyn** if the property owner purchased the property expecting to put up an electronic sign and **Ms. Llewellyn** stated "yes."

CITIZEN COMMENTS

Commissioner Jersvig opened the public hearing at 7:22 p.m.

- There were no public comments.

Commissioner Jersvig closed the public hearing at 7:22 p.m.

COMMISSIONER COMMENTS

- Commissioners discussed other sign options for the property. The property owner, **Mr. Elliot**, noted that aside from signs on the building, there are no other signs on the

property. **Mr. Elliot** also noted that the only purpose of the electronic sign is to advertise the business.

- **Commissioner McFall** stated that although city staff has consistently used the definition that only property parallel to I-25 is considered when determining the number of feet abutting I-25, he can see how the applicant interprets the code to allow property with a road perpendicular to I-25 to count their property perimeter towards the 500 foot requirement.
- **Commissioner Ray** stated that he was a Planning Commissioner when the sign code was updated in 2009 and at that time the intention of the sign code was to only consider property abutting parallel to I-25. Allowing properties that have a perpendicular crossing to I-25 to include the property perimeter to make 500 feet would potentially lead to light pollution and overcrowding.
 - **Commissioner Molloy** stated that based on the layout of other properties in the area, he did not see an issue with overcrowding if properties with perpendicular crossing to I-25 were allowed to include their perimeter to meet the 500 foot requirement.
- Commissioners discussed the definition of abut and agreed that the code is open to interpretation because the term “abut” is vague. Commissioners recommend updating the sign code to remove the word abut and replace with a better defined word.
- **Moses Garcia**, Assistant City Attorney, stated that the Planning Commission’s decision today will define how staff interprets the code and would also apply to all future applicants. There is not a variance procedure so no conditions can be placed on their decision or interpretation.

***Commission Dowding** moved to find that staff has properly interpreted the provision in Section 18.50. 120.J of the Municipal Code and direct staff to prepare written findings and conclusions for adoption by the Planning Commission within 30 days from the date of this hearing. Upon a second by **Commissioner Meyers**, the motion was defeated with one aye and six nays.*

Commissioner Jersvig called for a recess at 7:50 p.m.

Commissioner Jersvig called the meeting to order at 8:00 p.m.

***Commissioner Dowding** moved to find that the phrase “directly abutting” in Section 18.50.120 J. of the Municipal Code may be interpreted to mean “perpendicular and parallel to I-25” where there is adjacent street right-of-way, and that based on such interpretation the applicant’s property qualifies for electronic signage. Upon a second from **Commissioner McFall**, the motion passed with six ayes and one nay.*

1. Create Loveland Resolution

Project Description: This is a public hearing on a legislative matter. Create Loveland is Loveland’s new comprehensive plan; as such, it is Loveland’s road map to the future. The Plan depicts the general location, type, and intensity of future development, and establishes policies that will be used to guide growth and inform decision making. While it is an

advisory document, not regulatory document, this plan sets a framework for that will be used to develop future regulations. At this hearing, Planning Commission will be asked to recommend that City Council adopt Create Loveland.

Karl Barton, City Planner, reviewed the work, accomplishments, and revisions that were completed in order to draft the Create Loveland Comprehensive Plan. **Mr. Barton** thanked the Planning Commission, citizens, and consultants that have provided comments and contributed their time to help draft this plan. **Mr. Barton** stated that if Create Loveland is approved by the Planning Commission, he will hold a Study Session with City Council on March 22nd.

COMMISSIONER QUESTIONS AND COMMENTS

Commissioners recommended the following changes:

- Comments Table: Asked for consistency in the naming format used between the green and the red fonts. Recommended changing names listed in green print to use people's last names instead of their first names.
- Table of Contents: Noted that the page numbers listed for the appendices need to be corrected.
- Page 227: The labels of the 2 overlays need to be switched.
- Page 4-7: The date listed for the "Comprehensive Plan Text Amendments" should be changed from 2005 to 2015.

CITIZEN COMMENTS

Commissioner Jersvig opened the public hearing at 8:20 p.m.

- **Don Marostica**, member of the Stakeholder Committee, commended Karl for his hard work and supports the plan. Asked that they city work with CDOT officials when developing the I-25 corridor.
- **Marigail Jury**, representative for Loveland Senior Advisory Board, provided a copy of "The Highland Group Strategic Research, Planning, and Marketing Solutions." This document provides detail on Loveland and Larimer County Communities and provides recommendations on implementing the Comprehensive Plan. **Ms. Jury** stated that she was looking forward to partnering with the city.
- **Irene Fortune**, Transportation Advisory Board representative on Stakeholder Committee, stated that she thinks Create Loveland is a good plan but would ask that the commissioners look ahead to anticipate future conflicts and to turn down development that is not conducive to quality of life in Loveland. **Ms. Fortune** discussed the walkability within different city subdivisions and felt that Create Loveland improves the walkability of Loveland.
- **Kelly Hayworth**, coordinator with CanDo Loveland, stated her support for the plan and noted the impressive staff outreach effort and communication.

- **Katie Guthrie**, CanDo Built Environment Coordinator, stated her support for the plan and commented that the plan maintains the quality of Loveland because it was developed through a rich public process.

Commissioner Jersvig closed the public hearing at 8:43 p.m.

COMMISSIONER COMMENTS

All of the commissioners expressed support for the plan and thanked Karl for his time and community outreach effort. **Commissioner Meyers** stated that it is important to codify and institutionalize the management system so it reportable to citizens, businesses, elected officials and city staff. Also noted that it is important to consider CDOT plans, power alternatives, and homeland defense when implementing the plan.

Commissioner Meyers moved to adopt the Resolution, recommending adoption of the City of Loveland 2016 comprehensive master plan known as Create Loveland, as amended on the record. Upon a second by Commissioner McFall, the motion was unanimously adopted.

ADJOURNMENT

Commissioner Meyers, made a motion to adjourn. Upon a second by **Commissioner Forrest**, the motion was unanimously adopted.

Commissioner Jersvig adjourned the meeting at 8:55 p.m.

Approved by: _____
Jeremy Jersvig, Planning Commission Chair

Jenell Cheever, Planning Commission Secretary



Development Services Current Planning

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MEMORANDUM

March 14, 2016 – Consent Agenda 1

To: Planning Commissioners

From: Kerri Burchett, Principal Planner

RE: 5726 Byrd Drive Appeal of a Staff Decision

Attached please find the Findings and Conclusions documenting the Planning Commission's February 22, 2016 vote on the 5726 Byrd Drive Appeal. The appeal of the City Staff Decision was regarding the interpretation of the I-25 electronic message sign provision in Section 18.50.120.J of the Municipal Code. The Commissioners voted 6-1 to reverse staff's decision and find that the applicant's property qualifies for an electronic sign on I-25.

Recommended Motion:

Move to approve the Findings and Conclusions documenting the Planning Commission's vote on February 22, 2016 regarding the 5726 Byrd Drive Appeal.

**PLANNING COMMISSION
IN AND FOR THE CITY OF LOVELAND, COLORADO**

5726 Byrd Drive Appeal of a Final Staff Decision

FINDINGS AND CONCLUSIONS

Regarding: An appeal of a final staff decision regarding the interpretation of the I-25 electronic message sign provision in Section 18.50.120. J. of the Municipal Code. The applicant is Josh Elliott on behalf of Autoplex and 6050 LLC (“Applicant”).

The above matter came to be heard on February 22, 2016 by the City of Loveland Planning Commission (the “Commission”). The Commission considered the presentation by City of Loveland Staff and Applicant at the hearing, invited public comment and reviewed the Staff Report dated February 22, 2016. Pursuant to Chapter 18.80.040 of the Loveland Municipal Code (the “Code”), the Commission hereby

FINDS:

1. That the Applicant seeks to place an electronic message sign pursuant to the provisions of Section 18.50.120 of the Code on the portion of the perimeter of Applicant’s property that is parallel to I-25; and
2. That in order to qualify for such signage, the Applicant must have a premises directly abutting I-25 for more than 500 lineal feet; and
3. That, for the purposes of measuring the 500 lineal feet, the phrase “directly abutting” in Section 18.50.120. J. of the Code may be interpreted to include the length of the portions of the perimeter of property perpendicular and parallel to I-25 where there is an adjacent street right-of-way along such portions; and
4. That based on such interpretation, the Applicant’s property at 5726 Byrd Drive qualifies for an electronic message sign.

NOW, THEREFORE, IT IS ORDERED BY THE PLANNING COMMISSION that the final decision by City Staff be and hereby is, **REVERSED**.

Adopted this 14 day of March, 2016.

ATTEST:

PLANNING COMMISSION:

Planning Commission Secretary

Jeremy Jersvig, Chairperson



Planning Commission Staff Report

March 14, 2016

Agenda #: Regular Agenda - 2
Title: Fairgrounds Eighth Addition
Applicant: City of Loveland, Mark Miller, Fire Chief
United Civil Design Group, Sam Eliason
Request: **Annexation and Zoning**
Location: 1040 S. Roosevelt Ave
Existing Zoning: Larimer County Industrial
Staff Planner: Noreen Smyth

Staff Recommendation

APPROVAL of the annexation and zoning

Recommended Motions:

Move to make the findings listed in Section VIII of the Planning Commission staff report dated March 14, 2016 and, based on those findings, recommend that City Council approve the Fairgrounds Eighth Addition to the City of Loveland and zone said land as "I-Developing Industrial".

Summary of Analysis

This is a public hearing concerning the annexation and zoning of a 4 acre property at 1040 S. Roosevelt Avenue. The property, which has been purchased by the city, is immediately west of the existing Loveland Fire Training Facility. It currently contains a few industrial buildings, and the industrial uses that were on the property prior to the city purchase continue to lease and operate on the property. The Fire Authority is interested in redeveloping the property as an expansion of the Fire Training Facility. The Fire Authority is beginning its master planning process for both development of the fire training use on this lot and for improvements to the existing facility on the lot to the east.

Staff believes that all key issues have been resolved based on city codes and standards relevant to annexation and designation of the I-Developing Industrial zoning district for the property. The development of the lot as a Fire Training Facility will require a special review application and a neighborhood meeting along with a site development plan and building permit application. Upon submittal, these applications will be reviewed by staff for compliance with all code requirements.

I. SUMMARY

Description of Property

This is an application to annex as the “Fairgrounds Eighth Addition” a four acre city owned lot and designate it within the I-Developing Industrial district. The lot contains three frame buildings and two sheds, with the remainder of the lot largely covered with gravel. It is used for light industrial and warehousing purposes, including the outdoor storage of shipping containers. The subject property is bordered to the west by active Burlington Northern-Santa Fe Railroad right-of-way followed by S. Roosevelt Avenue (also known as S. Railroad Avenue). Vehicular access to the property is off of S. Roosevelt Avenue to the west, with the access drive extending over the railroad to the property. A railroad spur extends from the Burlington Northern-Santa Fe Railroad onto the property, entering at the northwest corner of the lot. The southwest portion of the lot is within a FEMA-designated 500 year floodplain, with the remainder of the lot in the 100-year floodplain.

Fire Training Facility

The property was purchased by the City of Loveland two years ago with the intention of expanding the adjacent Fire Training Facility onto the lot. The existing facility is already within city limits and is accessed and addressed off of Fire Engine Red Street, which extends from S. Railroad Ave and through the adjacent Fairgrounds Park (to the north) to the facility. The existing facility contains a number of structures for training, office, and storage purposes and a large paved area for training and vehicle parking. The Fire Authority is beginning the development of a master plan for the improvement of the existing facility and its expansion onto the subject property. Because the master planning process is in its beginning stages, there is no site plan available yet for the subject property. Like the existing facility, the subject property is anticipated to include multiple structures for training purposes and possibly office and storage purposes along with paved parking and training areas. A burn tower is currently present on the existing facility, and a new burn tower is planned for the subject property. The burn tower’s exact location is not yet determined, but it would likely be situated towards the south end of the lot.

“Safety Training Facilities” are uses by special review in the I-Developing Industrial district. Following annexation and zoning, a special review application must be submitted and approved, along with a site development plan and building permit, before development of a fire training facility on the property can occur. The special review application is a staff review process that includes a publicly noticed neighborhood meeting, so neighbors will have an opportunity to comment on a detailed site development plan prior to any decision on a special review. In addition, the staff decision on a special review can be appealed by parties of interest, resulting in a public hearing on the proposal. The special review application would likely encompass not only development of the subject property but the redevelopment of the existing training facility to the east, so neighbors will have opportunity to review and comment on the larger master plan prior to any final decision on the special review.

Zoning and Land Use

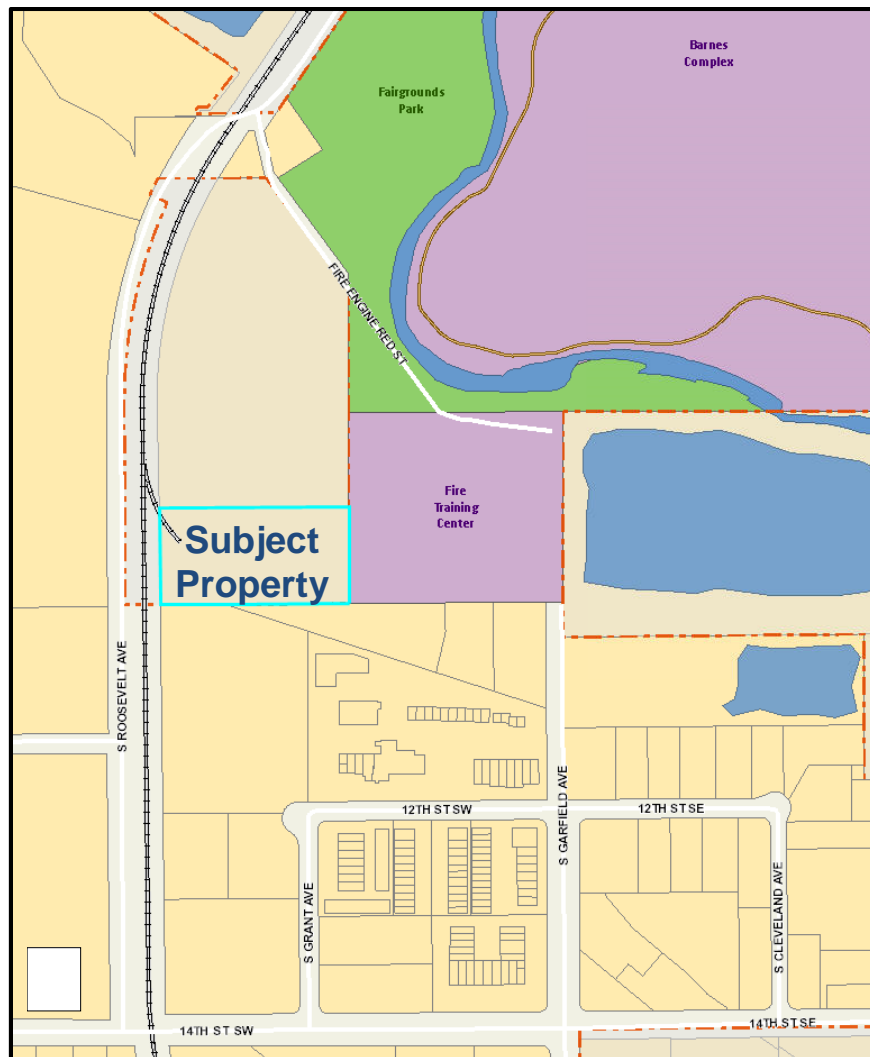
The subject property is surrounded by a self-storage facility and an industrial use to the south. These lots are within city limits and zoned I-Developing Industrial and Flood Fringe. Beyond the railroad property to the west, which would remain unincorporated, is the Roosevelt Avenue right-of-way followed by a property that is zoned I-Developing Industrial and utilized for agriculture. Both the Roosevelt Avenue right-of-way and this property are within city limits. To the north is a property outside city limits that is zoned Industrial by Larimer County and used for residential purposes.

The Future Land Use Map of the Comprehensive Plan designates the area of the subject property *Industrial* and *Floodway*. The proposed I-Developing Industrial zoning designation and expansion of the Fire Training Facility onto the subject property is in line with the Comprehensive Plan's goal of industrial development in this area. The Comprehensive Plan's goal of protecting the flood fringe on the property would be enacted at the time of site development plan review, during which staff will ensure that all code requirements and policies relevant to floodplain are followed.

II. ATTACHMENTS

1. Site Inventory Narrative
2. Annexation Map (*draft*)
3. Zoning Map
4. Zoning Assessment
5. Site Exhibits

III. VICINITY MAP



IV. SITE DATA

ACREAGE OF SITE GROSS	4 AC
COMPREHENSIVE PLAN DESIGNATION	INDUSTRIAL AND FLOODPLAIN
EXISTING ZONING	LARIMER COUNTY INDUSTRIAL
PROPOSED ZONING	CITY OF LOVELAND I-DEVELOPING INDUSTRIAL
EXISTING USE	INDUSTRIAL
EXIST ADJ ZONING & USE - NORTH	LARIMER COUNTY INDUSTRIAL / RESIDENTIAL
EXIST ADJ ZONING & USE - SOUTH.....	I DEVELOPING INDUSTRIAL / SELF-STORAGE
EXIST ADJ ZONING & USE - WEST.....	I DEVELOPING INDUSTRIAL / RAILROAD (UNINCORPORATED) AND STREET RIGHTS-OF- WAY FOLLOWED BY AGRICULTURE
EXIST ADJ ZONING & USE - EAST.....	I DEVELOPING INDUSTRIAL / LOVELAND FIRE TRAINING FACILITY
UTILITY SERVICE – WATER, SEWER	WELL & CITY OF LOVELAND SEWER; CAN CONNECT TO CITY OF LOVELAND WATER
UTILITY SERVICE – ELECTRIC	CAN CONNECT TO CITY OF LOVELAND POWER

V. KEY ISSUES

City staff believes that all key issues associated with the annexation and zoning of the property have been addressed. Issues associated with the development of the property will be addressed by staff at the time of the special review/site development plan application and the building permit application, with neighborhood input provided at that time through the public meeting held as part of the special review process. Some technical corrections need to be made to the attached annexation map and legal description of the property; staff is working with the applicant on this matter will ensure a corrected version is available no later than the City Council hearing.

VI. BACKGROUND

The City of Loveland purchased the property proposed for annexation two years ago for the purpose of expanding the adjacent Fire Training Facility. The property is zoned Industrial in Larimer County and private industrial uses currently operate on the property through a lease agreement.

VII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

- A. **PC Hearing Notification:** An affidavit was received from the applicant’s consultant certifying that written notice of the Planning Commission hearing was mailed to all property owners within 1,200 feet of the property on February 27, 2016 and a notice was posted in a prominent location on the perimeter of the site at least 15 days prior to the date of the hearing. In addition, a notice was published in the Reporter Herald on February 27, 2016.
- B. **Neighborhood Response:** Prior to submitting an annexation and zoning application to the city, the applicant held an informal meeting with neighbors to solicit feedback on the proposal. A formal neighborhood meeting was then held at 5:30 p.m. on February 1, 2016 in the Gertrude Scott Room of the Loveland Public Library, with Planning staff, the applicant, and the applicant’s consultant in

attendance. The meeting was attended by two neighbors, although particularly inclement weather on the night of the meeting may have dissuaded more people from attending.

At the meeting, there were no objections voiced to the proposed annexation or I-Developing Industrial zoning. While a site plan is not yet available for the proposed development of the lot, the applicant provided a generalized description of what is intended to be constructed on the property, and no specific concerns were voiced. Planning staff explained the annexation and zoning process along with the special review application that would need to be submitted in the future for development of a Fire Training Facility on the property, and the applicant fielded questions from attendees.

After the February 1 neighborhood meeting, it was determined that the area to which letters for the neighborhood meeting were mailed did not encompass all properties within the 1,200 ft notification distance required by code. In addition, there was concern that the inclement weather on the night of the neighborhood meeting may have impacted attendance, so an additional neighborhood meeting has been scheduled for March 14, 2016, prior to the Planning Commission hearing. Notice of that neighborhood meeting has been sent to all required recipients along with the required posting of a sign on the property. Staff has not received any inquiries as a result of the public notice for the second neighborhood meeting, and will inform the Commission at the hearing of comments, if any, provided by neighbors at the second neighborhood meeting.

VIII. FINDINGS AND ANALYSIS

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

Annexation and Zoning

A. Annexation Policies and Eligibility

1. Loveland Comprehensive Master Plan, Section 4.2

- a. Annexation ANX2.A:** *Whether the annexation encourages a compact pattern of urban development.*
- b. Annexation ANX2.B:** *Whether the annexation would result in the creation of an enclave*
- c. Annexation ANX5.B:** *Whether the applicant has demonstrated that reasonable efforts have been made to assemble adjoining land parcels to allow for the preparation of a master plan for a larger area, rather than submit separate individual proposals.*
- d. Annexation ANX1.C and 6:** *Whether the annexation encourages infill development and ensures that land is immediately contiguous to other land in the City that is already receiving City services, discouraging leapfrog and scattered site development.*
- e. Growth Management GM7:** *Whether the land proposed for annexation is within the City of Loveland Growth Management Area.*

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

- a.** *Less than 50% of the adult residents of the area proposed to be annexed use some of the recreation, civic, social, religious, industrial or commercial facilities of the municipality and less than 25% of its adult residents are employed in the annexing municipality.*

- b. *One-half or more of the land proposed to be annexed is agricultural, and the landowners of such agricultural land have expressed an intention under oath to devote the land to agricultural use for at least five years.*
- c. *It is not physically practical to extend urban service which the municipality provides normally.*

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

- The expansion of the Fire Training Facility that is proposed to occur after the annexation will be a compact form of urban development.
- No enclaves will be created by this annexation.
- The annexation of this land and the expansion of the Fire Training Facility at this location is an effort to assemble adjoining land parcels to prepare a master plan for the Fire Training Facility. The development of this lot is infill development that does not leap over undeveloped or unincorporated land. The land is immediately contiguous to other land in the city that is already receiving city services. The lot already has city sewer service and can readily access city water and power.
- The subject property is within the Loveland's Growth Management Area.
- The subject property is more than one-sixth contiguous with the city.
- The annexation complies with the Colorado State Statutes regarding annexation of lands. There is no evidence that two or more of the conditions listed in the Colorado Revised Statutes and in Section 17.04.020 of the Municipal Code, cited above, have been met.

B. City Utilities/Services and Transportation

1. Loveland Comprehensive Master Plan, Section 4.2

a. Annexation ANX1.A and B: *Whether the annexation of land minimizes the length of vehicle trips generated by development of the land and whether the annexation minimizes the short and long term costs of providing community facilities and services for the benefit of the annexed area.*

2. Loveland Municipal Code

a. Section 17.04.040:

(i) *Whether certain public facilities and/or community services are necessary and may be required as a part of the development of any territory annexed to the City in order that the public needs may be served by such facilities and services. Such facilities include, but are not limited to, parks and recreation areas, schools, police and fire station sites, and electric, water, wastewater and storm drainage facilities. Such services include, but are not limited to, fire and police protection, provision of water, and wastewater services.*

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

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

b. Section 17.04.040,: *Whether all existing and proposed streets in the newly annexed property are, or will be, constructed in compliance with City street standards, unless the City determines that the existing streets will provide proper access during all seasons of the year to all lots and that curbs, gutters, sidewalks, bike lanes, and other structures in compliance*

with City standards are not necessary to protect public health, safety, and welfare.

- c. **Section 18.04.010:** *The zoning, as proposed, would: lessen congestion in the streets; secure safety from fire, panic, and other dangers; and promote health and general welfare.*

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

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

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

- The development site will be required to comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company.
- The annexation will not negatively impact fire protection for the subject development or surrounding properties if all code requirements are met.

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

- The subject annexation is situated within the City's current service area for both water and wastewater. The existing structures on the site are served water by a well and have a City of Loveland wastewater service.
- The annexation and zoning is consistent with the Department's Water and Wastewater master plan by being consistent with the 2005 Comprehensive Master Plan.
- Public facilities are available to serve the development.

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

- This change to zoning and annexation will neither negatively impact our power delivery in this part of the system, nor will it interfere with any proposed projects that are underway.
- The project will comply with the requirements in the ACF ordinance.

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

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

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

- The proposed annexation of the property from County to City will not negatively impact

surrounding properties in regard to the adopted building codes.

C. Land Use

1. Loveland Comprehensive Master Plan, Section 4.7

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

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

- The Comprehensive Master Plan designates the site in two categories: Industrial and Floodplain. The proposed zoning of the property to the I-Developing Industrial district is consistent with the Comprehensive Master Plan *Industrial* designation. The Plan's policies for areas designated as *Floodplain* will be enacted at the time a site development plan for the property is submitted for review by staff.
- The I-Developing Industrial district requires that "Safety Training Facilities" obtain a special review prior to development. The special review process requires a neighborhood meeting and allows for public comment throughout the process.

2. Loveland Municipal Code

a. **Section 18.04.010:**

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

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

- The I-Developing Industrial zoning district is suitable at this location. The property is similarly zoned Industrial under County zoning, and industrial uses are already taking place on the property. Industrial zoning and/or industrial uses are present on all adjacent properties. Development of industrial uses that are allowed by right or by special review on this property will not negatively impact light, air, crowding, transportation, utilities, schools, or parks as long as all city site development standards and other code requirements are met.
- Development of the property as an expansion of the adjacent Fire Training Facility will serve a public need for the training of emergency personnel, facilitating public safety.
- The uses allowed by right in the I-Developing Industrial district are generally appropriate for this location.

D. Environmental Impacts

1. Loveland Comprehensive Master Plan, Section 4.2

- a. **Annexation ANX3.A:** *Whether the annexation will comply with the recommendations contained in the adopted Open Lands Plan and preserves open space or natural areas.*
- Annexation ANX3.B:** *Annexation will be allowed for the purpose of preserving or acquiring open space or natural areas.*
- Annexation ANX4.A and B:** *If the planning staff and/or the City have determined that significant negative impacts on the environment may occur from development allowed under the proposed zoning, an Environmental Impact Report, including a Wetlands*

Reconnaissance Report, has been prepared by a qualified specialist.

Annexation ANX4.B: *Whether the annexation application includes a Phase I Environmental Report, prepared by a qualified specialist, ensuring that the land to be annexed does not contain hazardous or toxic substances that may pose a danger to the City or that reasonable mitigation measures can be taken in the event that such contamination exists.*

Annexation ANX4.D: *All development agreements must deal satisfactorily with any environmental impacts upon the property.*

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

- A Phase I and a Phase II Environmental Site Assessment (ESA) was performed by CTL Thompson in March and May of 2014. The ESA concluded that there is some soil contamination on the site as a result of various uses that have occurred on the property through the years and recommends mitigation by overexcavating the site on development, profiling the soil for disposal, and disposing of it at an appropriate offsite landfill that accepts contaminated soils.
- The Open Lands Plan does not recommend this property for open space.

E. Miscellaneous

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

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

- The property proposed for annexation is owned by the City of Loveland and was purchased for the purpose of expanding the existing Fire Training Facility. The annexation and development of the property is in the best interest of the citizens and will assist in providing fire protection services to both the citizens of the city and of the broader Fire District.

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

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

- A geologic hazards and mineral extraction evaluation was prepared for the property by Earth Engineering Consultants, LLC. The assessment concluded that based on the review of geologic maps, published reports, satellite and aerial imagery, and the examination of the site, the potential for commercial mineral resources on the site is negligible.

IX. RECOMMENDED CONDITIONS

No conditions are recommended by city staff in conjunction with annexation and zoning. Conditions, if any, will be added by staff at the time of development of the property.

Site Inventory

Project: Loveland Fire Training Expansion at 1040 S. Railroad Avenue

Site Description

The site is developed with three main buildings: the southwest building, approximately 1,530 square feet, the southeast building, approximately 1,296 square feet and the central building, approximately 6,600 square feet, with is divided into 8 bays. A railroad spur dead ends on the property. A small pump house on the north side of the lot houses a well for potable water.

Adjacent properties

- North: Residence and open pasture
- East: Loveland Fire Training Center
- Southeast: Warehouses
- South: Self-storage facility
- West: Burlington Northern Santa-Fe Railroad is located directly west of the property, then South Railroad Avenue ROW with vacant land further west.

Features

Features listed below are shown on the Site Inventory Map or noted documents.

- a) There are no bodies of water adjacent to the property. There is an existing reservoir approximately 1000 feet to the east.
- b) There is an irrigation easement on south and west side of the property which is listed in the Title commitment and shown on the ALTA survey. No known evidence of an open irrigation lateral was observed on the property
- c) There appears to be no wetlands on the property.
- d) The property is within the 100-year and 500-year flood plain. See the ALTA survey for flood zone delineation.
- e) There are no Stream corridors or estuaries near the property.
- f) The Phase II ESA report indicates that soil types are Post-Piney Creek Alluvium, which is described as humic, sandy to gravelly and should be capable of minimum percolation requirements.
- g) The water table was estimated at 8-12 feet based on geotechnical borings.
- h) The site was historically used as a fertilizer plant and Recognized Environment Conditions have been identified at the site and at the adjacent site to the west, including contaminated ground water. Additional details are provided in the Phase I & Phase II ESA, by CTL Thompson, March 2014 and May 2014 respectively.
- i) There are no slopes over 20%
- j) No aquifer recharge or discharge areas were noted.
- k) Mature stands of vegetation are found on adjacent property.

- l) No wildlife habitat or corridors were identified on the site.
- m) The site is not directly adjacent to any natural areas and open space.
- n) The River's Edge Natural Area is 1500' to the north and west of the site on the west side of Railroad Avenue. King's Crossing Natural Area is to the east of the site approximately 2500'. The Big Thomspon River and Barnes Complex / Fairgrounds Park are to the north of the site approximately 550'.

Attachments:

Site Inventory map

ALTA Survey

Documents noted that are included separately in the submission:

Phase I & Phase II ESA

Title Commitment



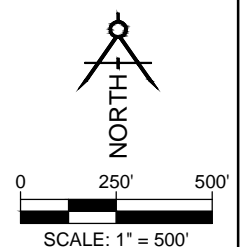
Site Inventory:

- | | |
|-----------------------------------|---------------------------------|
| A. Reservoir | E. Big Thompson River |
| B. Irrigation Ditch | F. REC listing (see ESA) |
| C. FEMA 500 yr Flood Plain | G. Mature Trees |
| D. FEMA 100 yr Flood Plain | H. Open Space |



LOVELAND FIRE TRAINING SITE INVENTORY

NOVEMBER 5, 2015



ALTA / ACSM LAND TITLE SURVEY

FOR A PARCEL OF LAND IN UNINCORPORATED LARIMER COUNTY, SITUATE IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO

(SHEET 1 OF 2)

EXCEPTIONS AS TAKEN FROM THE LAND TITLE GUARANTEE COMPANY COMMITMENT FOR TITLE INSURANCE (Order No. FCC25121140, Effective Date of February 10, 2014)

- Any facts, rights, interests, or claims thereof, not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
(May affect subject property. Not addressed or researched by Interim Land Surveying, Inc. Refer to Map for possible encroachment areas).
- Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
(May affect subject property. Not addressed or researched by Interim Land Surveying, Inc. Refer to Map for possible encroachment areas).
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
(May affect subject property. Not researched by Interim Land Surveying, Inc. Refer to Map for possible discrepancies, conflicts in boundary lines, shortage in area, and/or encroachment areas).
- Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
(May affect subject property. Not addressed or researched by Interim Land Surveying, Inc.).
- Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date of the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.
(May affect subject property. Not addressed or researched by Interim Land Surveying, Inc.).
- (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
(May affect subject property. Not addressed or researched by Interim Land Surveying, Inc.).
- (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
(May affect subject property. Not addressed or researched by Interim Land Surveying, Inc.).
- TERMS, CONDITIONS AND PROVISIONS OF APPLICATION FOR SEWER TAP OUTSIDE CITY LIMITS RECORDED DECEMBER 07, 1964 IN BOOK 1273 AT PAGE 171.
(Affects subject property. This application for sewer tap outside of City Limits of Loveland, Colorado appears to be appurtenant to the subject property).
- RIGHT OF WAY FOR DITCHES AS SET FORTH IN DEED RECORDED DECEMBER 10, 1964 IN BOOK 1273 AT PAGE 463.
(Affects subject property. Right of way for ditches location as described in Book 1273 at Page 463 depicted on Map).
- TERMS, CONDITIONS AND PROVISIONS OF NOTICE RECORDED JANUARY 20, 1982 IN BOOK 2151 AT PAGE 169.
(Affects subject property. Notice of Underground Facilities per Book 2151, Page 169 includes a reference to S23-T5N-R69W of the 6th P.M., Larimer County, Colorado, in which the subject property lies).
- MATTERS AS SET FORTH ON SURVEY RECORDED DECEMBER 24, 1992 AT RECEPTION NO. 92083197
(Affects subject property as the survey recorded at Reception No. 92083197 was a previous survey of the subject property prepared in 1992. This survey was used as a reference document in the preparation of this ALTA/ACSM Land Title Survey). Certain items depicted on the survey recorded at Reception No. 92083197 have been depicted on this Map).
- RIGHT OF WAY EASEMENT AS GRANTED TO PUBLIC SERVICE COMPANY OF COLORADO IN INSTRUMENT RECORDED APRIL 18, 1988, UNDER RECEPTION NO. 88017341.
(Does not affect subject property. Right of way easement as described in Reception No. 88017341 lies West of the subject property. Right of way easement location depicted on Map).
- TERMS, CONDITIONS AND PROVISIONS OF DECLARATION RECORDED DECEMBER 29, 1994 AT RECEPTION NO. 940101719.
(Affects subject property. This declaration of terms, conditions and provisions appears to be appurtenant to the subject property).
- EXISTING LEASES OR TENANCIES, IF ANY.
(May affect subject property. Not addressed or researched by Interim Land Surveying, Inc., although evidence of tenants (users) of the property was observed during the course of survey).

GENERAL SURVEY NOTES:

- Commitment For Title Insurance was furnished to Interim Land Surveying, Inc., by the client. Commitment For Title Insurance was prepared by Land Title Guarantee Company (Order No. FCC25121140, Effective Date of February 10, 2014). Only those easements and/or rights of way which are definable, as listed in Schedule B-2 (Exceptions) Items 1-14 of said Commitment For Title Insurance are addressed and/or shown on this Map. No further easement and/or right of way research, other than may be shown on this Map, was requested by the client or performed by Interim Land Surveying, Inc. for the preparation of this survey. Property Description as shown on this Map is the same as identified in said Commitment For Title Insurance.
- FLOOD ZONE NOTE: Per the Federal Emergency Management Agency (FEMA) Flood Zone Mapping for this area (Map Number 08069C1189F, Panel 1189 of 1420, Effective Date of December 19, 2006) the subject property lies within a FEMA regulated Flood Zone "AE" and a FEMA Zone "X". As there are FEMA regulated flood zones affecting the subject property and the subject property lies within FEMA regulated flood areas, it is always in one's best interest to consult with Larimer County, Colorado and/or the City of Loveland, Colorado to discuss the regulated flood hazard areas affecting the subject property and the possibility of additional "local" flood hazard areas affecting the subject property.
- There is no above ground observable evidence that site is being used as a dump, sanitary landfill, or cemetery, unless otherwise shown hereon, and no visible evidence of earth moving work, building construction or building additions was evidenced during the course of this survey.
- Any utilities and/or evidence of utilities shown hereon are based upon on-site observation and/or known information and mapping only. Underground utility locates, if shown on this Map, were obtained by others and field located by Interim Land Surveying, Inc. during the course of this survey.
- Evidence of striped on-site parking areas was not observed on the subject property during the course of survey.
- There are no buildings encroaching onto adjoining properties, easements and/or rights-of-ways, except as may be shown on this Map.
- Ownership of fences, if shown on this Map, cannot and will not be determined by Interim Land Surveying, Inc.
- Property Address: 1040 South Railroad Avenue, Loveland, Colorado, 80537
- Site Area: 174,841.4± S.F. / 4.01± AC.
- Existing Zoning: I-Industrial (Per the current Larimer County Zoning Map, dated January 24, 2014).
- Adjacent property depiction and ownership per the most recent records of the Office of the Assessor of Larimer County, Colorado (February 26, 2014). No further adjacent property owner verification of ownership or research was performed by Interim Land Surveying, Inc. for the preparation of this survey.
- Control Monumentation and External Boundary Monumentation as shown on Map (Sheet 2 of 2).
(Meas.): Indicates Measured Bearing and/or Distance from field survey.
(Calc.): Indicates Calculated Bearing and/or Distance.
(Rec.): Indicates Record bearing and/or distance per the property description contained within the Commitment For Title Insurance as prepared by Land Title Guarantee Company (Order No. FCC25121140, Effective Date of February 10, 2014).
(PR): Indicates Pro-Rated bearing and/or distance.

SURVEYOR'S CERTIFICATE:

TO: (i) THE CITY OF LOVELAND, COLORADO, A Municipal Corporation
and (ii) LAND TITLE GUARANTEE COMPANY;

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 6(a), 7(a), 8, 9, 11(a), 13, 16, and 18 of Table A thereof. The field work for this survey was completed on March 5, 2014.

PREPARED BY AND ON BEHALF OF:

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

Robert George Perschitte
Colorado PLS 34174

Date: May 28, 2014



BASIS OF BEARINGS STATEMENT: Basis of Bearings for this survey are based on an assumed bearing of N89°57'44"E (Meas: 2653.13') on the South line of the Southeast Quarter of Section 23, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado. Note: Monumentation of said line as shown on Map.

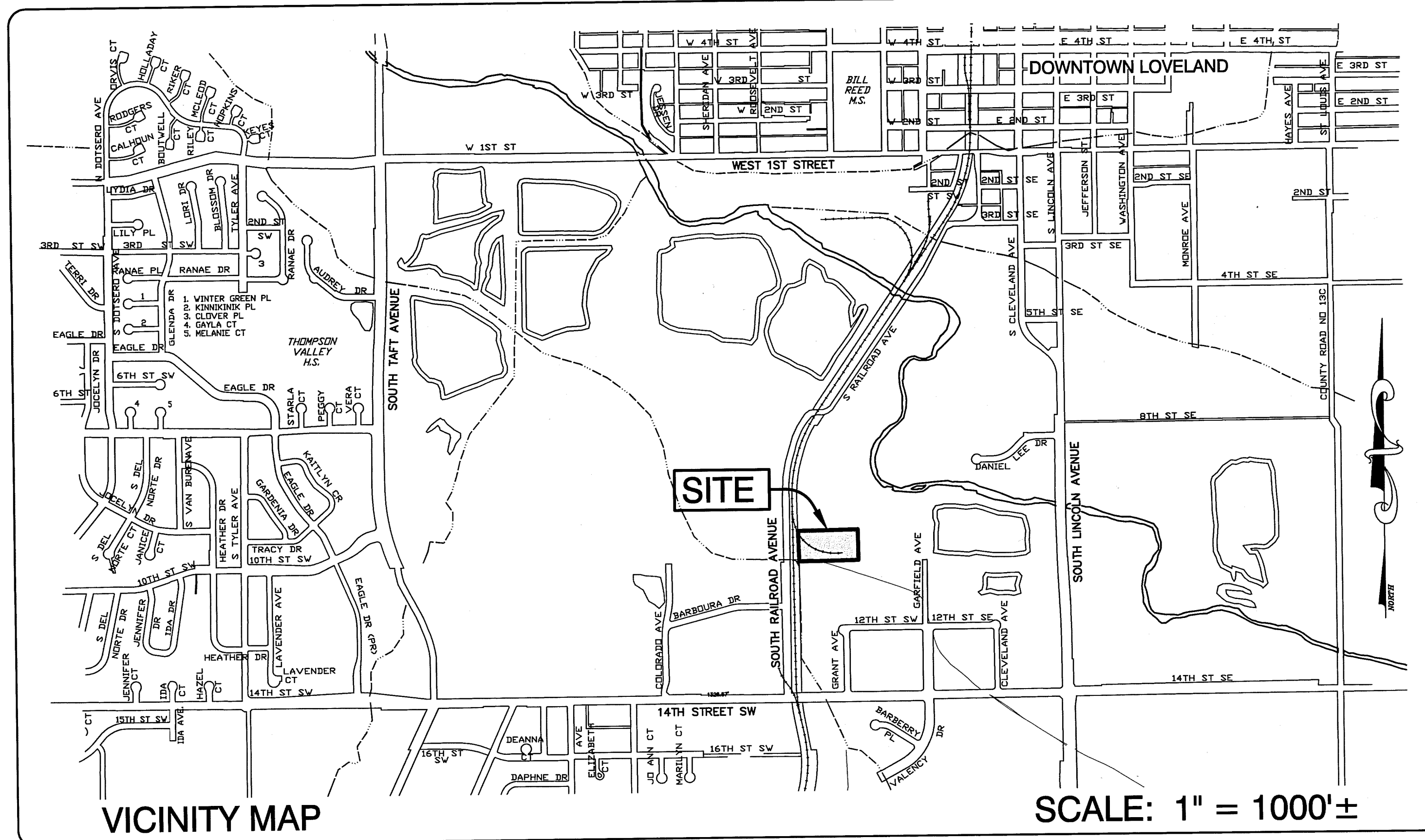
According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

SUBJECT PROPERTY DESCRIPTION:

ALL THAT PORTION OF THE SE 1/4 OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO, DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SECTION; THENCE ALONG THE SOUTH LINE OF SAID SECTION S 89° 57' 44" W, 1326.59 FEET TO THE WEST LINE OF THE E 1/2 OF THE SE 1/4 OF SAID SECTION; THENCE ALONG SAID WEST LINE N 0° 14' 27" E, 1316.18 FEET TO A 1 1/2" IRON PIPE WITH SEAL LS 4845, SAID PIPE BEING AT THE SW CORNER OF THE NE 1/4 OF THE SE 1/4 OF SAID SECTION; THENCE ALONG THE SOUTH LINE OF THE NE 1/4 OF THE SE 1/4 OF SAID SECTION N 89° 56' 25" E, 83.19 FEET TO A 1 1/2" IRON PIPE, THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTH LINE N 89° 56' 25" E, 580.03 FEET TO A 1 1/2" IRON PIPE ON THE EAST LINE OF THE W 1/2 OF THE E 1/2 OF THE SE 1/4 OF SAID SECTION; THENCE ALONG SAID EAST LINE N 0° 14' 15" E, 300.00 FEET TO A 1 1/2" IRON PIPE; THENCE S 89° 56' 25" W, 586.15 FEET TO A 1 1/2" IRON PIPE; THENCE S 0°55' 50" E, 300.03 FEET TO THE TRUE POINT OF BEGINNING.

Address of Property (for identification purposes only): 1040 South Railroad Avenue, Loveland, Colorado 80537

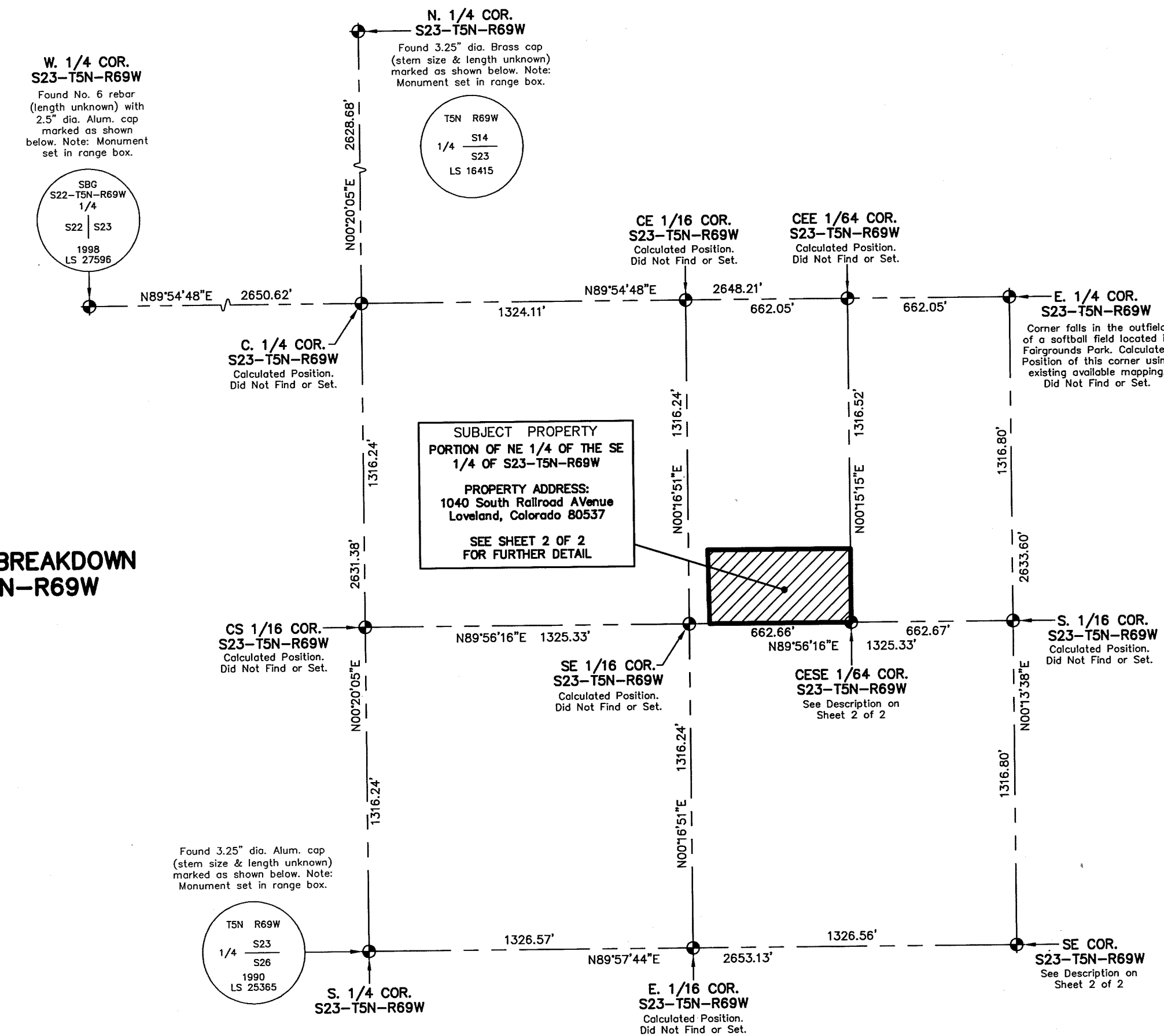
NOTE: The Property Description, as shown above is the same as that identified in the Commitment For Title Insurance as prepared by Land Title Guarantee Company (Order No. FCC25121140, Effective Date of February 10, 2014) as provided to Interim Land Surveying, Inc. by the client for the preparation of this survey.



VICINITY MAP

SCALE: 1" = 1000'±

PARTIAL SECTION BREAKDOWN SECTION 23-T5N-R69W (NTS)



AT THE TIME OF PREPARATION OF THIS SURVEY
SUBJECT PROPERTY IS OWNED BY:

JOHN F. PREBISH and PAULA B. PREBISH
3656 NORTH COUNTY ROAD 3 - LOVELAND, COLORADO 80538

LARIMER COUNTY PARCEL I.D. NO.: 95234-00-006

Note: The information shown above per the
Larimer County Assessor's Website on February 19, 2014

SURVEY PREPARED FOR:
CITY OF LOVELAND, COLORADO, A MUNICIPAL CORPORATION
500 EAST THIRD STREET - LOVELAND, COLORADO 80537

DATE:

BY:

REVISIONS:

INTERMILL LAND SURVEYING, INC.
1301 NORTH CLEVELAND AVENUE
LOVELAND, COLORADO 80537

CITY OF LOVELAND, COLORADO

ALTA / ACSM LAND TITLE SURVEY
PORTION OF THE SE 1/4 OF S23-T5N-R69W, LARIMER COUNTY, CO.

DRAWN BY: RGP

CHECKED BY:

APPROVED BY:

DATE: 03-17-2014

SCALE: N/A

PROJECT NO.:

P-14-7565

SHEET OF

1 2

CLIENT: CITY OF LOVELAND, COLORADO
ALTA/ACSM LAND TITLE SURVEY
PORT. OF SE 1/4 OF S23-T5N-R69W, LARIMER COUNTY, CO.
ATTACHMENT 1

ALTA / ACSM LAND TITLE SURVEY

FOR A PARCEL OF LAND IN UNINCORPORATED LARIMER COUNTY, SITUATE IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO

(SHEET 2 OF 2)

PREPARED BY AND ON BEHALF OF:

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

Robert George Persichitte
Colorado PLS 34174

Date: May 28, 2014



LOT 2, BLOCK 1,
FAIRGROUNDS FIRST SUBDIVISION

PROPERTY OWNER:
CITY OF LOVELAND, COLORADO
410 EAST 5TH STREET
LOVELAND, COLORADO 80537



ORIGINAL SCALE: 1" = 30'

Date of Initial Preparation: March 17, 2014

STATEMENT OF LINEAR UNITS USED:
Linear Units Used for this survey - U.S. Survey Feet

BASIS OF BEARINGS STATEMENT: Basis of Bearings for this survey are based on an assumed bearing of N89°57'44"E (Meas.: 2653.13") on the South line of the Southeast Quarter of Section 23, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado. Note: Monumentation of said line as shown on Map.

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

SALE:

BY:

REVISIONS:

INTERMILL LAND SURVEYING, INC.
10000 CLEVELAND AVENUE
LOVELAND, COLORADO 80537
BUS. (970)-669-0516 / FAX (970)-669-0517

CITY OF LOVELAND, COLORADO

ALIA/ACSM LAND TITLE SURVEY

PORTION OF THE SE 1/4 OF S23-T32N-R37W, CARROLL COUNTY, COLORADO

DRAWN BY: RGP/TSC

APPROVED BY:

DATE: 03-17-2014

SCALE: 1"=30'

PROJECT NO.:

P-14-7565

SHEET	OF
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2	2
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CLIENT: CITY OF LOVELAND, COLORADO

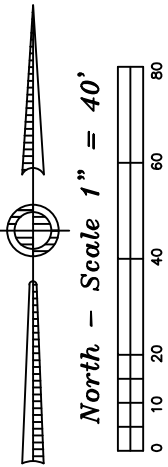
ALTA/ACSM LAND TITLE SURVEY

IMMER COUNTY, CO.
ATTACHMENT 1

Fairgrounds Eighth Addition

TO THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO

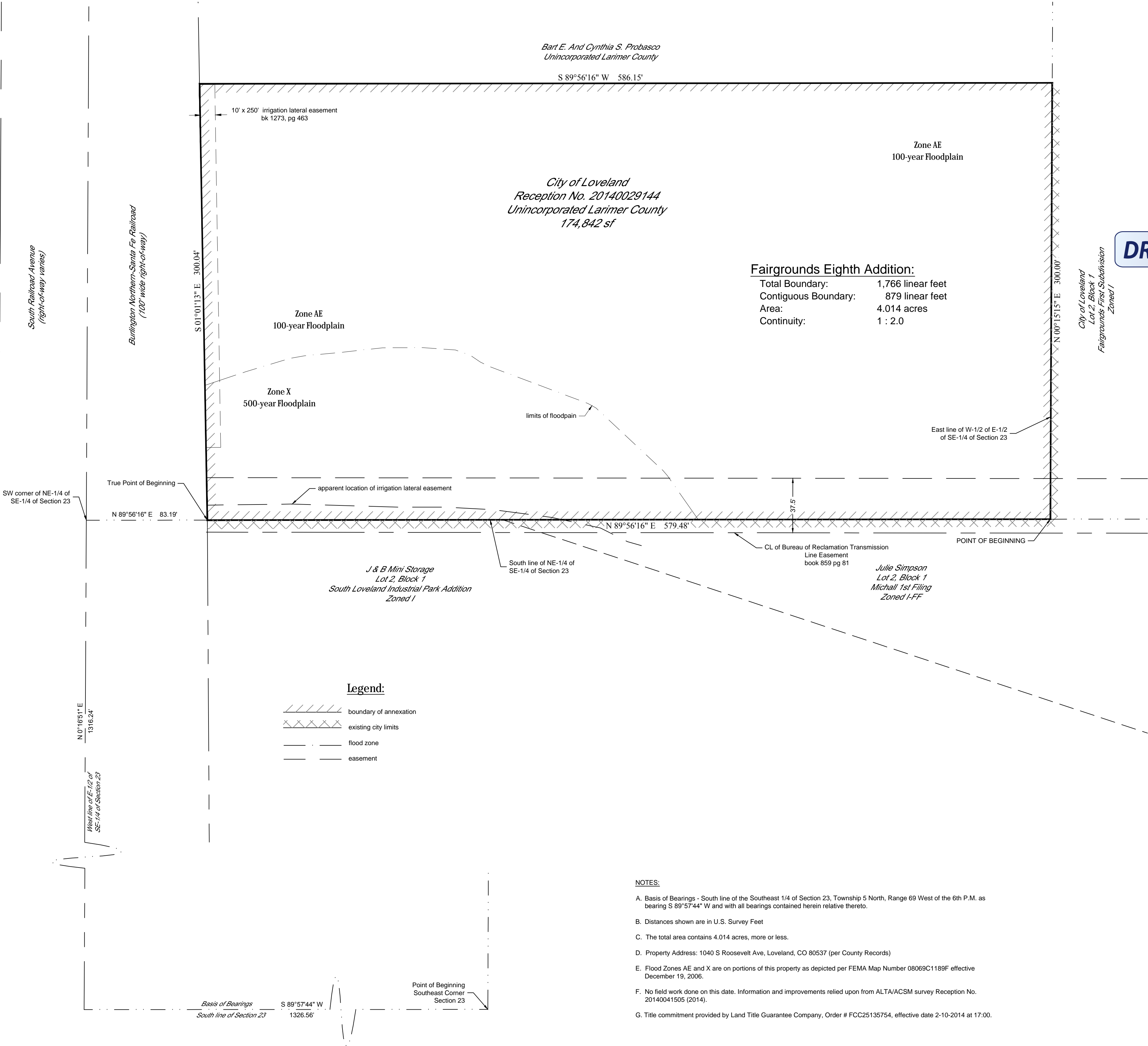
A Parcel of Land lying within the Southeast 1/4 Section 23, Township 5 North, Range 69 West, 6th P.M., Larimer County, State of Colorado



Rocky Mountain Center For Innovation and Technology LLC
Lot 2, Block 2
Amended Plat of Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition, Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1, Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1, Big Thompson Industrial Park, Tract 3 and Tract 4, Fairgrounds First Subdivision, Outer A, Hewlett-Packard Roosevelt Addition, Tract A, Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2 Loveland Technological Center First Subdivision, Tract 3, Second South Industrial Addition, Tract 1, Third South Industrial Addition, Tract 2
Zoned I

South Railroad Avenue
(right-of-way varies)

Burlington Northern-Santa Fe Railroad
(100' wide right-of-way)



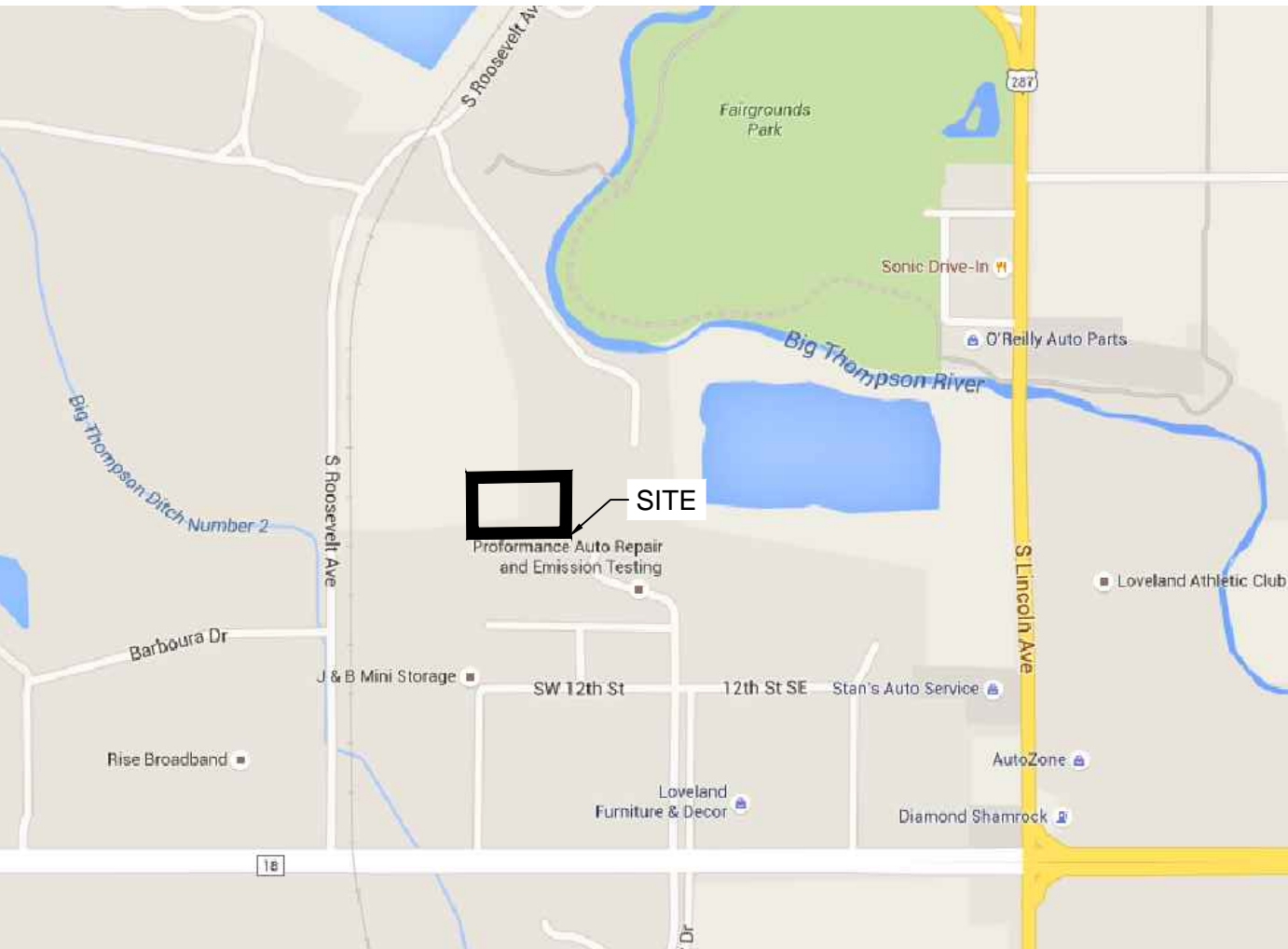
Legend:

- boundary of annexation
- existing city limits
- flood zone
- easement

Fairgrounds Eighth Addition:

Total Boundary: 1,766 linear feet
Contiguous Boundary: 879 linear feet
Area: 4.014 acres
Continuity: 1 : 2.0

DRAFT



Certificate of Ownership

Know all men by these presents that City of Loveland, a Municipal Corporation being all the owners and lienholders of the following described property, except any existing public streets, roads or highways, which property located in the Southeast 1/4 of Section 23, Township 5 North, Range 69 West of the 6th P.M., being more particularly described as follows:

All that portion of the SE 1/4 of Section 23, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado, described as follows: Beginning at the SE corner of said Section; thence along the South line of said Section S 89°57'44" W, 1326.59 feet to the West line of the E 1/2 of the SE 1/4 of said Section; thence along said West line N 00°14'27" E, 1316.18 feet to a 1 1/2" iron pipe with seal LS 4845, said pipe being at the SW corner of the NE 1/4 of the SE 1/4 of said Section; thence along the South line of the NE 1/4 of the SE 1/4 of said Section N 89°56'25" E, 83.19 feet to a 1 1/2" iron pipe, the True Point of Beginning; thence continue along said South line N 89°56'25" E, 580.03 feet to a 1 1/2" iron pipe on the east line of the W 1/2 of the E 1/2 of the SE 1/4 of said Section; thence along said East line N 00°14'15" E, 300.00 feet to a 1 1/2" iron pipe; thence S 89°56'25" W, 586.15 feet to a 1 1/2" iron pipe; thence S 00°55'50" E, 300.03 feet to the True Point of Beginning.

THE ABOVE PROPERTY ALSO DESCRIBED AS FOLLOWS:

All that portion of the SE 1/4 of Section 23, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado, described as follows: Beginning at the Southeast corner of Section 23, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; thence S 89°57'44" W for a distance of 1326.56 feet along the South line of said Section 23 to the West line of the East 1/2 of the Southeast 1/4 of said Section 23; thence N 00°16'51" E for a distance of 1316.24 feet along said West line to the Southwest corner of the Northeast 1/4 of said Southeast 1/4; thence N 89°56'16" E for a distance of 83.19 feet along the South line of said Northeast 1/4 of the Southeast 1/4 to the TRUE POINT OF BEGINNING; thence continue N 89°56'16" E for a distance of 579.45 feet along said South line to the East line of the West 1/2 of aforesaid East 1/2 of the Southeast 1/4; thence N 00°15'15" E for a distance of 300.00 feet along said East line; thence S 89°56'16" W for a distance of 586.15 feet; thence S 00°01'13" E for a distance of 300.04 feet to the True Point of Beginning.

Thus described parcel contains 4.014 acres more or less, together with and subject to all easements and rights-of-way existing and/or of public record.

Executed this ____ day of _____, 20 ____.

Owner: _____
City of Loveland, a Municipal Corporation

State of Colorado)
County of) ss

The foregoing certificate of ownership was acknowledged before me by _____ and _____ this ____ day of _____, 20 ____.

Witness My Hand and Seal

Notary Public _____

My commission expires : _____

Mayor Certificate

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

By: _____ Mayor

Attest: _____ City Clerk

Recorder's Certificate

This Annexation Map was filed for record in the office of the County Clerk and Recorder of Weld County at _____ o'clock, ____ M., on the ____ day of _____, A.D., 20____, in the Book _____ Page, _____ Map _____, Reception No. _____.

Larimer County Clerk and Recorder

by: _____

Deputy

Surveyor Certificate

I, M. Bryan Short, a registered Land Surveyor in the State of Colorado, do hereby certify that the annexation map shown hereon is a reasonably accurate depiction of the parcel of land legally described hereon and, to the extent described herein, that at least one sixth (1/6) of the peripheral boundary of said parcel is contiguous to the boundary of the City of Loveland, Colorado. The map was compiled using existing plats, deeds, legal descriptions, and other documents and is not based on the field survey nor should it be construed as a boundary survey.

M. Bryan Short, PLS 32444 Surveyor Signature

The foregoing instrument was acknowledged before me this ____ day of _____, 20 ____.

by _____

Witness my hand and official seal

My commission expires: _____

Notary Public

NOTES:

- A. Basis of Bearings - South line of the Southeast 1/4 of Section 23, Township 5 North, Range 69 West of the 6th P.M. as bearing S 89°57'44" W and with all bearings contained herein relative thereto.
- B. Distances shown are in U.S. Survey Feet
- C. The total area contains 4.014 acres, more or less.
- D. Property Address: 1040 S Roosevelt Ave, Loveland, CO 80537 (per County Records)
- E. Flood Zones AE and X are on portions of this property as depicted per FEMA Map Number 08069C1189F effective December 19, 2006.
- F. No field work done on this date. Information and improvements relied upon from ALTA/ACSM survey Reception No. 20140041505 (2014).
- G. Title commitment provided by Land Title Guarantee Company, Order # FCC25135754, effective date 2-10-2014 at 17:00.

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

Z:\PLS Group\Projects\2015\15108\dwg\15108.dwg March 03, 2016 - 2:55pm

REVISIONS		
Date	By	Description
3/3/2016	mbs	minor rev to bdy, rewrite description
2/2/2016	mts	add improvements
2/2/2016	mts	remove improvements

Field Date	n/a	ST	n/a
Party Chief	n/a	PM	MTS
Scale	1"= 40'	PLS	MBS

CLIENT

City of Loveland



PLS Group
6843 North Franklin Avenue, Loveland, Colorado 80538
Phone: 970.669.2100 Fax: 970.669.3652



TITLE

Annexation Map
Fairgrounds Eighth Addition
Section 23, Township 5 North, Range 69 West, 6th P.M., Larimer County, Colorado

PROJECT NO.	SHEET NO.	NO. OF SHEETS
15108.001	1	1

1040 S. ROOSEVELT AVENUE



1. SUBDIVISION #2629001002 Amended Plat of Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett-Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2 Amended Plat of Amended Plat of CMS Addition and The Fourth South Industrial Addition, Tract 1 Fourth South Industrial Addition; Amended Plat of Tracts 1 and 2 Block 1, Loveland Technological Center First Subdivision, Tract 2, Block 1; Big Thompson Industrial Park Second Subdivision, Lot 2, Block 1; Big Thompson Industrial Park, Tract 3 and Tract 4; Fairgrounds First Subdivision, Outlot A; Hewlett-Packard Roosevelt Addition, Tract A; Hewlett-Packard Big Thompson First Subdivision, Tracts 1 and 2; Loveland Technological Center First Subdivision, Tract 3; Second South Industrial Addition, Tract 1; Third South Industrial Addition, Tract 2

SURVEYOR
PLS GROUP
6843 NORTH FRANKLIN AVENUE
LOVELAND, CO 80538
PHONE: 970-669-2100
CONTACT: BRYAN SHORT, PLS



Rezoning Assessment Report

Project: Loveland Fire Training Expansion at 1040 S. Railroad Avenue

Current Zoning: Unincorporated Larimer County – Industrial

Proposed Zoning: City of Loveland – I Industrial & FF Flood Fringe

The proposed use of the property will be a fire training facility and equipment storage in existing buildings. The Comprehensive Master Plan Land Use map calls for this area to be Industrial.

Compatibility with existing uses and Zoning in the Vicinity:

1. The existing use and zoning of all the adjacent properties is Industrial. The property to the north is currently unincorporated, but zoned Industrial in the County. The Loveland Fire Department has an existing fire training facility on the adjacent property to the east that is zoned Industrial. This property is proposed to be an extension of the current uses on that property. This use is not permitted by right and would be subject to the Special Review Process for development of a Fire Training Facility.
2. Uses permitted by right in the Industrial zone district as shown in Section 18.36.010 of the Loveland Municipal Code include the following:
 - A. Administrative, insurance and research facilities;
 - B. Experimental or testing laboratories;
 - C. Manufacturing, assembly or packaging of products from previously prepared materials;
 - D. Manufacture of electric or electronic instruments and devices;
 - E. Manufacture and preparation of food products;
 - F. Warehouses, distribution and wholesale uses;
 - G. Any industrial or manufacturing use similar in character and external effects to above uses;
 - H. Utility service facilities;
 - I. Retail and wholesale sales of products produced on site or products incidental to such products, provided such use is incidental to the primary manufacturing use;
 - J. Minor recycling processing facilities;
 - K. Accessory uses which are reasonably required to provide necessary maintenance or security of the principal use, including, a dwelling unit for occupancy as a caretaker's quarters or for occupancy by the business or property owner;

- L. Accessory buildings and uses including commercial child day care centers when incorporated as part of a development project and compatible with surrounding uses;
- M. 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;
- N. 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.
- O. Bar or tavern;
- P. Car wash;
- Q. Clubs and lodges;
- R. Convention and Conference Center;
- S. Domestic animal day care facility;
- T. Food catering;
- U. Funeral home;
- V. Greenhouse;
- W. Health care service facility;
- X. Indoor recreation;
- Y. Light industrial;
- Z. Lodging establishments (hotel and motel);
- AA. Lumber yards with outdoor storage screened as required by Section 4.06 of Site Development Performance Standards and Guidelines;
- BB. Parking garage and parking lot;
- CC. Personal and business service shop;
- DD. Place of worship or assembly;
- EE. Special trade contractor's shop (any outdoor storage screened as required by Section 4.06 of Site Development Performance Standards and Guidelines);
- FF. Medical or professional office/clinic;
- GG. Office, general administrative;
- HH. Outdoor storage subject to Site Development Performance Standards and Guidelines, Section 4.06;
- II. Restaurant standard; (Ord. 5845 § 6 (part), 2014)
- JJ. Retail store;
- KK. Self-service storage facility;
- LL. Vehicle minor and major repair, servicing, & maintenance;
- MM. Vehicle rentals for cars, light trucks and light equipment;
- NN. Vehicle rentals for heavy equipment, large trucks and trailers;
- OO. Vehicle sales and leasing for cars and light trucks;

- PP. Sales & leasing of farm equipment, mobile homes, recreational vehicles, large trucks & boats with outdoor storage; and
 - QQ. Veterinary facility, clinic or hospital; and
 - RR. Workshop and custom small industry. Limited outdoor fabrication of products may be permitted subject to special review as provided in Chapter 18.40.
 - SS. Crematorium located more than 500 feet, as measured by a straight line, from any property boundary zoned R1, R1e, R2, R3, R3e, or located more than 500 feet from any residential property within a Planned Unit Development, subject to Section 18.52.080. (Ord. 5446 § 7, 2009; Ord. 5114 § 2, 2006, Ord. 4246 § 1 (part), 1997; Ord. 4236 § 10, 1997; Ord. 4221 § 1 (part), 1996; Ord. 3648 § 4, 1990; Ord. 3630 § 4, 1990; Ord. 1934 §§ 1, 2, 1980; Ord. 1276 § 23, 1973; Ord. 1004 § 11.1, 1968)
 - TT. Firing range, indoor; (Ord. 5845 § 6 (part), 2014)
3. The property is in the Flood Fringe District, which allows all uses by right of the underlying Industrial District with the exception of outside storage.

Consistency with Comprehensive Master Plan

The proposed development pursuant to any use for the proposed Industrial Zoning is consistent with the Comprehensive Master Plan.

1. The proposed Change of Zoning to Industrial is consistent with the surrounding properties.
2. The proposed development would not result in impacts on City infrastructure and services.
 - a. The property is currently on City of Loveland sanitary sewer.
 - b. The property is currently served by a well. There is existing City of Loveland water infrastructure adjacent to the site that could be used by the site.
 - c. The use of the property will be an expansion of the existing fire training facilities to the east, minimizing the volume of new traffic created. Demand for additional city services would be minimal.
3. The Comprehensive Master Plan Land Use map calls for this area to be Industrial. The site is an infill of a current gap within the City of Loveland's outer boundary.
4. The development of the subject property pursuant to any of the uses permitted by right or the proposed use of the property by the fire department as a training facility will not be a detriment to the health, safety and welfare of the general public.



LOVELAND FIRE
TRAINING SITE
1040 SOUTH
RAILROAD AVENUE



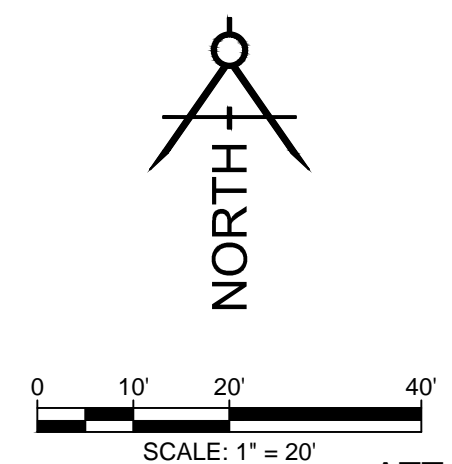


LOVELAND FIRE TRAINING SITE EXPANDED EXISTING SITE PLAN

DECEMBER 2, 2015



LOVELAND FIRE TRAINING SITE
EXISTING SITE PLAN





Staff Report: Flexible Zoning Overlay District

March 14, 2016

FROM: Bob Paulsen, Interim Director, Development Services Department
TO: Loveland Planning Commission
SUBJECT: Proposed amendment to Title 18 of the Municipal Code to incorporate new chapter 18.44 - Flexible Zoning Overlay District

SUMMARY

On March 14, 2016, the Planning Commission will conduct a public hearing to consider incorporation of proposed chapter 18.44 – Flexible Zoning Overlay District into Title 18 of the Municipal Code. Consideration of the proposed code amendment is a legislative matter and Planning Commissioners are free to discuss this material outside of the public hearing process. Upon action on this matter by the Planning Commission, this proposed amendment to the zoning code will be forwarded to the City Council for final action.

RECOMMENDED ACTION

Staff recommends that the Commission recommends approval of the Flexible Zoning Overlay District to the City Council.

RECOMMENDED MOTION

Move to recommend that City Council approve the proposed Flexible Zoning Overlay District and incorporate these provisions into the Municipal Code as Chapter 18.44 as presented to the Planning Commission in a public hearing on March 14, 2016 and as described in the Planning Commission staff report dated March 14, 2016 as specified in the attachments thereto and as further amended on the record.

ATTACHMENTS

- A. Chapter 18.44 FLEXIBLE ZONING OVERLAY DISTRICT
- B. Flexible Zoning Summary
- C. February 13, 2016 Reporter Herald article on the Flexible Zoning Overlay District
- D. February 15, 2016 Reporter Herald editorial on the Flexible Zoning Overlay District

SUMMARY OF THE AMENDMENTS

As proposed, the Flexible Zoning Overlay District provisions would establish a new chapter of the zoning code (18.44). The provisions represent a significant departure from traditional practice of establishing new or revised standards, as these provisions would allow development to be partially or completely exempt from existing zoning standards like landscaping, building setbacks, architectural design and parking requirements. As such, the provisions are designed to stimulate development and redevelopment on properties that are experiencing disinvestment or under-utilization. The provisions would allow a property owner or group of owners to pursue a development plan that does not conform to some or all existing zoning standards, thereby increasing the financial feasibility of the project and allowing for design innovations that would otherwise be unavailable. In short, the intent is to provide regulatory relief that will encourage investment and new development.

The Flexible Zoning Overlay District provisions could be applied anywhere within the City. An overlay district, once approved, would “float over” the existing zoning designation establishing a set of tailored or exclusive development standards for the designated property. All new development occurring within an approved district would have to meet the specified standards. The standards could provide relief from any or all zoning standards of the underlying zoning district. An established district could not exempt development from the Building Code or from the City’s street standards or infrastructure requirements; exemptions would be limited to zoning.

The City Council would have exclusive authority to approve a Flexible Zoning Overlay District and the associated District Plan. The approval process would follow standard City development review approval procedures, including the following sequence:

1. Concept Review meeting with the development review team (DRT)
2. Administrative review by the DRT to ensure plans are complete and applicable City standards are adhered to
3. A noticed neighborhood meeting
4. A public hearing before the Planning Commission
5. A public hearing before the City Council

To achieve Council approval, the property owner(s) would need to identify the designated district and provide a district plan that identifies the scope of development within the district and indicates what the zoning exemptions will be. The Council would have the ability to establish any conditions and would be able to establish a sunset date for the district. The conceptual (district) plan is designed to set the parameters for development within the district without requiring detailed engineering or architectural plans until the district is established. This approach will allow developers to minimize their costs (and their financial risks) until the discretionary approvals are made. Once a district is established, site specific plans would proceed through the city’s development review process and building permit process. Site specific plans would need to comply with the approved district plan.

A summary of the proposed amendment is provided as Attachment B to this report.

BACKGROUND

The original concept for the Flexible Zoning Overlay emanated from discussions at the City Council level. This concept was viewed as a means to provide regulatory relief to incent development of difficult sites as an alternative to fee reductions or other financial incentives. In response to the Council’s interest in this topic, the City Manager directed staff to conduct research and to work with

the Title 18 Committee in developing an ordinance to implement this concept. In early 2015, Planning staff brought forward a code amendment proposal to the Title 18 Committee that would allow for the waiving of zoning requirements within a specified or designated area. This was labeled the “No Zoning Zone.” Over a series of meetings, the Title 18 Committee worked with Current Planning staff to develop a more complete approach that has resulted in the provisions described in this memo.

In a study session on January 25, 2016, the Planning Commission conducted a study session on the proposed Flexible Zoning Overlay District provisions. The Commission expressed support for the provisions and directed staff to move forward to the public hearing process. At the February 11, 2016 Title 18 Committee meeting, the Committee indicated support for Commission’s directive, requesting that a public outreach effort be conducted and that a final review of the provisions be completed by the City Attorney’s office.

Subsequent to the January 25th study session, staff has modified the provisions to allow overlay districts to be established anywhere within the municipal limits. In addition to this revision as directed by the Commission, Planning staff has incorporated numerous technical adjustments into the code provisions in response to comments from the City Attorney’s office. These adjustments have not substantially altered the purpose or application of the provisions.

NOTICE AND OUTREACH

In addition to the notice provided for the January 25th Planning Commission study session the following steps have been taken to inform the public of the proposed Flexible Zoning Overlay District provisions:

- A prominent feature article was published in the Reporter Herald on February 13th that described the purpose of the Flexible Zoning Overlay District.
- On February 15, 2016 the Reporter Herald published an editorial in qualified support of the Flexible Overlay provisions.
- The proposed code provisions have been posted on the Current Planning pages of the city’s web site. In addition to the actual code provisions, a one-page summary has also been posted.
- On February 26, 2016 an email was sent to over 100 planning and development review customers summarizing the Flexible Zoning Overlay District provisions, alerting recipients to the web site posting, informing them of the Planning Commission hearing on March 14th and offering to provide further information upon request. In response to this email, Planning staff have received approximately five inquiries; each of those inquiring was supportive of the content of the provisions.
- The March 14th public hearing has been properly noticed in the Report Herald.

Chapter 18.44

FLEXIBLE ZONING OVERLAY DISTRICT

Sections:

- 18.44.010 Purpose.**
- 18.44.020 Objectives of the flexible zoning overlay district.**
- 18.44.030 Definitions.**
- 18.44.040 Establishment of flexible zoning overlay districts.**
- 18.44.050 Eligibility criteria.**
- 18.44.060 Permitted uses and applicable development standards.**
- 18.44.070 Overlay district application requirements.**
- 18.44.080 Procedures for approval of flexible zoning overlay districts.**
- 18.44.090 Flexible zoning project plan application requirements.**
- 18.44.100 Procedures for approval of flexible zoning project plans.**
- 18.44.110 Expiration of a district and termination of a district plan.**

18.44.010 Purpose.

The purpose of this chapter is to provide standards and procedures for the establishment of flexible zoning overlay districts in areas of the community that are experiencing disinvestment or under-utilization of land. The flexible zoning overlay is intended to stimulate innovative development and promote reinvestment by providing relief from regular land use controls, including the opportunity for relief from use restrictions, development intensity limitations and associated standards included in the provisions of the underlying zoning.

18.44.020 Objectives of the flexible zoning overlay district.

Objectives to be achieved through the establishment of a flexible overlay zoning district are:

- A. Encourage investment in areas experiencing blight, disinvestment or underutilization of land;
- B. Create opportunities for development and redevelopment that would otherwise be unachievable.
- C. Promote coordination and cooperation between property owners that are interested in pursuing redevelopment initiatives;
- D. Facilitate design innovation with the reduction or elimination of certain land use and zoning controls;
- E. Ensure adequate public safety within and adjacent to district boundaries;
- F. Maintain quality standards for the provision of city services for properties within and adjacent to district boundaries; and

- G. Protect land uses and neighborhoods that are adjacent to flexible overlay zoning districts from material negative impacts.

18.44.030 Definitions.

The words, terms and phrases in this section shall have the meanings as set forth below, unless the context requires otherwise.

- A. “Flexible zoning overlay district” or “district” shall mean all land within a designated area that has been approved by the council following a public hearing with public notice that will be subject to the provisions of this chapter.
- B. “Flexible zoning overlay district plan” or “district plan” shall mean a general plan of development that complies with the requirements specified in this chapter.
- C. “Flexible zoning project” or “project” shall mean a development project located within a district that conforms to the established district plan.
- D. “Flexible zoning project plan” or “project plan” shall mean a site specific plan of development located within a district that complies with the requirements specified in this chapter.
- E. “Sensitive uses” shall mean single family and two-family homes, public and private schools with on-site enrollment of 25 or more students, medical care facilities including hospitals, clinics and nursing facilities, or other uses that may be materially impacted in a negative manner by the location of a district or development project.

18.44.040 Establishment of flexible zoning overlay districts.

Establishment of a flexible zoning overlay district includes the following:

- A. Submittal of a complete application signed by owners of real property within the district boundaries;
- B. Review of the application by the development review team for completeness;
- C. Conducting a neighborhood meeting and public hearings by the planning commission and the council all of which shall be publicly noticed; and
- D. Approval of the district, district plan, and, if applicable, the project plan by council following the public hearing.

18.44.050 Eligibility criteria.

Property within a proposed district shall meet the following eligibility requirements:

- A. Property within the district boundaries is contiguous or separated only by public rights-of-way;
- B. District boundaries are reasonably discernable and distinguishable from adjacent land;
- C. The district use meets applicable Adequate Community Facilities (ACF) standards set forth in chapter 16.41;
- D. The district plan has been designed to prevent incompatibility with adjacent and nearby property and land uses, particularly sensitive uses;

- E. Community benefits of the flexible zoning overlay district and the associated district plan shall outweigh any negative impacts to surrounding properties or to the community; and
- F. Establishment of the district encourages property investment and development which might otherwise not occur, and furthers a valid public purpose.

18.44.60 Permitted uses and applicable development standards.

- A. When a flexible zoning overlay district is established, the underlying zoning designation remains in place except as modified by the district plan.
- B. Once a district has been established and a district plan approved, subsequent development and redevelopment within the district must conform to the district plan.
- C. All property within a flexible zoning overlay district is subject to this title, except where specifically exempted in the district plan.

18.44.070 Overlay district application requirements.

- A. An application for establishment of a flexible zoning overlay district may be submitted by a property owner within the proposed district boundaries or by written consent of three city council members.
- B. An applicant must present preliminary plans for a proposed district at a concept review meeting prior to making an application to establish a district.
- C. Written consent from all owners of property within the proposed district boundaries must be provided before notice of a public hearing before the planning commission.
- D. The application shall include the following information along with information specified on the city's submittal checklist for establishment of a district:
 - 1. A map of the proposed district boundaries, including all lots, tracts, outlots and rights-of-way;
 - 2. A list of all owners of real property within the district boundaries;
 - 3. A purpose statement demonstrating compliance of the district plan with the eligibility criteria listed in Section 18.44.050; and
 - 4. A district plan which specifies the type and extent of development proposed. The district plan shall indicate the intensity and configuration of the proposed use or uses; an architectural concept plan that includes a building massing and height study; a phasing plan, including a projected timeframe for each phase; and, a listing of zoning standards that will be applicable to development within the district. The district plan must indicate how the proposed development achieves compatibility with surrounding uses and the community.

18.44.080 Procedures for approval of flexible zoning overlay districts.

- A. Review process. Upon receipt of a complete application within the allowed timeframe, the development review team will undertake the review procedures specified in chapter 18.39 of this title.
- B. Public notice requirements. Notice shall be provided in accordance with chapter 18.05, except that mailed notice distance shall be six hundred feet from the boundaries of an

overlay district that is less than five acres and one thousand and two-hundred feet for a district larger than five acres.

- C. Neighborhood meeting. Prior to completion of the review process by the development review team, the applicant shall provide public notice for and conduct a neighborhood meeting.
- D. Planning commission.
 - 1. A public hearing shall be conducted with public notice before the planning commission following the neighborhood meeting.
 - 2. Notes from the neighborhood meeting, relevant application materials, written input from interested parties and a recommendation from the current planning manager as to whether the district plan meets the eligibility criteria of section 18.44.050 shall be forwarded to the planning commission for review at the public hearing.
 - 3. Based upon information received at the public hearing, the planning commission shall, by resolution within thirty days of the hearing, recommend approval, approval with conditions or denial of the district and district plan based on eligibility criteria of Section 18.44.050.
 - 4. The public hearing may be continued if the planning commission determines that additional information is necessary to consider before a decision can be rendered.
 - 5. If the applicant objects to any condition of approval placed by the planning commission upon the district plan, the planning commission shall recommend denial.
 - 6. The planning commission's recommendation shall be forwarded to the council along with the approved minutes of the public hearing and all other material considered by the planning commission in making its recommendation.
- E. City council. The council shall conduct a public hearing with public notice upon receipt of the recommendation of the planning commission, the approved minutes of any planning commission public hearing, and all materials considered by the planning commission in making its recommendation, and any materials submitted following any such planning commission hearing.
 - 1. Council shall approve, approve with conditions or to deny the district and the associated district plan based on eligibility criteria of section 18.44.050.
 - 2. Council may establish an expiration date for a district and for associated district plans.
 - 3. If the applicant objects to any condition of approval placed upon the district plan by the council, the district plan shall not be approved.
 - 4. The council may remand a district plan to the planning commission for any reason.
 - 5. If the council approves a district plan, it shall adopt an ordinance establishing the district and the district plan. The adopted plan, signed by the mayor, the city attorney and the current planning manager, shall be recorded with the county clerk and recorder's office along with the adopting ordinance.
 - 6. The adopted overlay zone shall be designated on the official zoning map.
- F. Development within a designated overlay zone shall not occur unless a project plan has been approved for the district.

- G. A project plan may be considered concurrently with a district plan. When a concurrent submittal is made, the council shall have final decision making authority on both plans.
- H. A district plan shall be amended in the same manner it was approved unless the current planning manager determines that the proposed amendment meets the following criteria:
 - 1. The amendment would not allow new uses;
 - 2. The amendment would not allow an increase in development density or intensity;
 - 3. The amendment would not alter a condition approved by council; and
 - 4. There is no reason to believe that any party would be aggrieved by the amendment.

Where these criteria have been met, the amendment shall be considered minor and the current planning manager shall have the authority to approve, approve with conditions or deny the amendment. Alternatively, the current planning may forward a minor amendment to the planning commission for determination at a public hearing with public notice.

- I. Planning commission decisions on district plan amendments may be appealed to council by a party in interest. The appeal shall be processed and heard as specified in chapter 18.80.

18.44.90 Flexible zoning project plan application requirements.

Applications for flexible zoning project plans, including associated subdivision, infrastructure and related applications, shall be subject to the requirements for site development plans specified in chapter 18.46.

18.44.100 Procedures for approval of flexible zoning project plans.

- A. Development within an established district must be consistent with the approved district plan.
- B. Applications for approving or amending project plans shall be subject to the procedures for site development plans specified in chapter 18.39 and 18.46 unless project plans are approved as otherwise authorized by this chapter.
- C. Building permits. Any building permit issued for development or redevelopment within a district shall be consistent with the district plan and with the project plan approved for the property.

18.44.110 Expiration of a district and termination of a district plan.

Council has exclusive authority to establish, terminate, limit and extend districts, and to approve and terminate district plans.

- A. When establishing a district, the council may specify a date upon which the district designation would expire and any associated plans would be terminated. Expiration of a district results in the removal of the district overlay designation on the official zoning map and reestablishment of the authority of the underlying zoning regulations.
- B. The established expiration date for a flexible zoning overlay district may be extended by the council at the request of all property owners within the district. An extension must occur prior to the expiration date.

- C. Any district with an expiration date shall be approved only after the applicant has provided an agreement, in a form approved by the city attorney, that acknowledges the limited term of the district and the absence of any right to use or rely on the district beyond such term and indemnifies the city for any claim related to the expiration of the district.

FLEXIBLE ZONING DISTRICT OVERLAY SUMMARY

Provided by the Current Planning Division

1. The Flexible Zoning District Overlay is intended to stimulate innovative development and promote reinvestment by providing relief from regular land use controls.
2. The City Council would have final authority to approve an Overlay District and a District Plan following staff review, a neighborhood meeting and a Planning Commission hearing.
3. Flexible Zoning Districts could be located anywhere in the City, upon City Council approval.
4. The approved District Plan would replace standard zoning requirements.
5. Flexible Zoning Overlay Districts would allow development that does not meet standard zoning requirements. Requirements like building setbacks, height limitations, parking, landscaping and architectural standards could be reduced or completely eliminated.
6. Infrastructure requirements for development could not be waived. Existing standards for street, stormwater, water, sewer, emergency services and building safety would still apply.
7. Flexible Zoning Overlay Districts would be established for specific locations and would “float” over existing zoning. Therefore, the existing, underlying zoning would not change, but would be suspended unless the District expired or was terminated by the City Council.
8. Property owners (or City Council) could apply to establish a Flexible Zoning Overlay District.
9. Each district could include one or more properties, with no minimum size requirement.
10. Prior to submitting an application for an Overlay District, participating owners would be required to have a concept review meeting with development review staff.
11. To apply for Overlay District designation, applicants would be required to submit conceptual plans for the project area, provide a narrative explanation of their proposal, and indicate what standard zoning requirements (if any) they are seeking to apply—similar to a PUD.
12. Upon staff review of an Overlay District application, a neighborhood meeting would be conducted with notice provided to property owners within an established radius of the site.
13. The Overlay District request could proceed to a Planning Commission public hearing only if the development review team determined that the necessary infrastructure is available to serve the site—ie. the project is feasible in terms of the provision of adequate water, sewer, stormwater, fire and transportation facilities.
14. The Planning Commission would review the proposal in a public hearing and make a recommendation to City Council, including any recommended conditions.
15. Council would conduct a public hearing and approve, approve with conditions or deny.
16. If approved, the applicant(s) could then submit a site development plan for (administrative) review and approval of any sites within the overlay area. Projects would only be subject to the zoning requirements, if any, specified in the approved Overlay District Plan. All other city standards/requirements would need to be met unless specifically waived by City Council.

Last Revision: 3-3-16

Stretching the rules for development

City explores 'flexible zoning overlays' to encourage owners to revive moribund properties

By Craig Young

Reporter-Herald Staff Writer

POSTED: 02/13/2016 02:35:30 PM MST



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Areas in Loveland such as the city's designated South Catalyst Project between First and Third streets and Lincoln and Cleveland avenues, shown here in January 2014, could benefit from the "flexible zoning overlay" concept, according to City Councilman Troy Krenning. (Jenny Sparks / Reporter-Herald file photo)

The city is exploring a way to provide incentives to develop property that doesn't involve "throwing money at" a project.

The idea, called a "flexible zoning overlay," would allow a property owner to obtain permission from Loveland's Planning Commission and City Council to disregard certain zoning requirements in order to build something on a specifically designated plot.

"We spend an awful lot of time talking about ways to incentivize development," said City Councilman Troy Krenning, who first brought the idea to a city committee to study. Those incentives often involve "throwing money" at a developer, he said.

"I hear from those in the development community and from economic development as well that it's not always about money," Krenning said. "Sometimes, it's about process."

The city already has procedures through which zoning regulations can be relaxed, such as the special review process and planned unit development, but they can be complicated and costly.

"Sometimes, it's not cost-effective to develop a piece of dilapidated property," Krenning said. "If I didn't have to worry about going through the various codes, rules and regulations, would that serve as an incentive?"

Planning Commission interest

Bob Paulsen, the city's acting director of Development Services, presented the concept during a Planning Commission study session Jan. 25, and he said the commission liked the idea and encouraged the staff to move forward with it.

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He said a more formalized version of the concept could be presented to the commission in a public hearing in the next month and a half.

"The idea is that there may be areas in town, whether they're blighted or experiencing a lack of investment, where this overlay zone may give the owners an opportunity to pursue innovative design solutions that might not otherwise be allowed," Paulsen said.

"Things like height, setback, landscaping and even use limitations could be waived in a final approval by the City Council," he said.

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The concept would keep in place infrastructure requirements such as water, power, sewer and streets, Paulsen said, as well as safety rules.

Buddy Meyers, a member of the Planning Commission who studied the flexible zoning overlay concept as a member of the Title 18 Committee, said there are areas in downtown Loveland, on West Eisenhower Boulevard and on North U.S. 287 that are languishing that could benefit from relaxed rules.

Achieving an eclectic community

He gave as an example an area with zoning that allows only commercial structures, where a landowner could obtain an overlay zone that would permit a two-story mixed-use building with retail downstairs and residential upstairs.

He said such development would hark back to earlier times when shopkeepers lived above their stores, and neighborhoods had a more eclectic feel.

On the other hand, Meyers, Krenning and Paulsen all said the idea isn't to create a free-for-all where any kind of building goes.

"Of course, you don't want to have a city that doesn't have any zoning in it," Krenning said.

"If adjoining property owners don't see any objections, this is a way for the city of Loveland to get out of the way and see what would happen," he said.

Paulsen said the city hasn't run the idea past the real estate, development or business communities yet.

Krenning called the idea a "test tube experiment."

"This is thinking outside the box, which is something we don't tend to do very often," he said. "If it works, great. If it doesn't, then there's no harm. I just don't see any downside to it."

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Editorial: New zoning overlays could be attractive

POSTED: 02/15/2016 10:52:13 PM MST

By dribs and drabs, some long-vacant buildings are starting to draw interest from developers — either for the buildings themselves or for the property on which they sit.

In north Loveland, a developer's plan to replace the former restaurant at 30th Street and Garfield Avenue with a KFC franchise will start a new chapter at a location that had become an attractor to trespassers and birds. In downtown, properties are filling with new businesses that see the energy that events such as the Loveland Fire and Ice Festival have brought to the core of Loveland.

Yet still more properties sit idle, in part because of zoning restrictions created for a user that might be long departed or from a time that has long since passed.

Last month, the Loveland Planning Commission heard about a program that would create a "flexible zoning overlay" to allow the property owner to bypass certain requirements that might have been included in the original zoning designation for the land or building. It's not the same as seeking a rezoning or a special review, which can call for costly studies and other bureaucratic hoops through which a developer would have to jump.

Instead, the city would be more flexible on issues such as building heights, the landscaping requirements or even the allowable uses — but not without the opportunity for neighbors and residents to have their voices heard. Such overlays would require a public hearing and City Council approval.

City officials rightly note the flexibility cannot extend to elements of public safety, or infrastructure requirements such as water, power and sewer services.

However, in the long run, such flexibility might allow what could be considered a return to the good old days, when mixed-use buildings allowed both commercial and residential uses in several areas of the city beyond the downtown core.

As long as the city remains committed to the notion that zoning overlays are to promote development of existing properties — and not for "greenfield" developments at the city's edge, the idea could be one that makes Loveland stronger for years to come.

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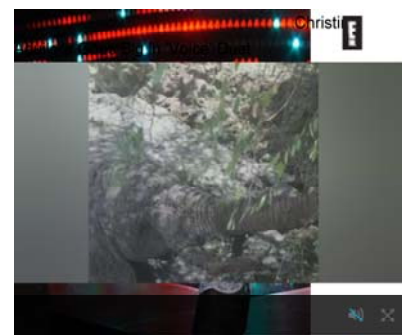
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