



City of Loveland

## LOVELAND PLANNING COMMISSION MEETING AGENDA

Monday, May 09, 2016  
500 E. 3<sup>rd</sup> Street – Council Chambers  
Loveland, CO 80537  
6:30 PM

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**LOVELAND PLANNING COMMISSIONERS:** Jeremy Jersvig (Chair), Carol Dowding (Vice-Chair), John Crescibene, Michelle Forrest, Pat McFall, Buddy Meyers, Rob Molloy, and Mike Ray.

### 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. 5/23/16 Agenda Preview:

###### i. Harrison Ave Vacation

###### ii. Planning Commission Decision Making and CDA Map Presentation

##### 2. Planning Commission Vacancies Update: Jamie Roskie and David Cloutier will be nominated at the 5/17/16 City Council Meeting.

##### 3. Marcie Erion, Business Development Specialist with Economic Development, has resigned.

##### 4. Hot Topics:

- c. Committee Reports
- d. Commission Comments

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

##### **Review and approval of the April 25, 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. Mountain Pacific Business Park - Preliminary Development Plan**

The Planning Commission held a public hearing on April 25, 2016 to consider plans for four light industrial/flex space buildings totaling 46,800 sq ft in an undeveloped area within the Mountain Pacific Planned Unit Development (PUD). The PDP also seeks approval of minor changes to the office building at the existing storage facility on the lot to the north of the Business Park, which is also within Mountain Pacific. Commissioners unanimously supported the development and instructed city staff to prepare a resolution approving the Mountain Pacific Business Park Preliminary Development Plan. Staff has provided the Commission with a brief memo and a resolution for approval of the Preliminary Development Plan.

#### **VI. REGULAR AGENDA:**

#### **2. Thompson School District Location and Extent Review (Presentation Time: 10 minutes)**

In accordance with State Statutes, the Thompson School District R2-J is informing the Commission as to its plans to acquire a site that is intended for future school use. The district is in the process of acquiring approximately 42 acres of property from McWhinney located directly south of the Mountain View High School. The district owns 48 acres of land designated as a future middle school in the Millennium Addition, west of Sculpture Drive and south of the Great Western Railroad. The district is looking to trade the existing property for the new property south of the high school.

#### **3. Water's Edge Annexation and Zoning (Presentation Time: 40 minutes)**

This is a public hearing on a legislative matter to consider the annexation and zoning of 82.68 acres located north of 28<sup>th</sup> Street SW, south of Ryans Gulch Reservoir and directly west of the Lakeside Terrace Estates PUD and Lakeside Terrace Estates PUD Second. The owners of this property are proposing to annex and zone the Water's Edge Addition as the first step towards developing a low density residential subdivision. The property is contiguous to city limits and borders the Lakeside Terrace Estates developments. The property is designated as low density residential in both the

City's current Comprehensive Master Plan and the proposed Create Loveland Master Plan. The proposed R1 zone district aligns with the residential designation in the Master Plan. Staff is recommending approval of the annexation and zoning of the Water's Edge Addition as the property lies within the City's growth management area, is in compliance with statutory annexation requirements and is consistent with the Intergovernmental Agreement with Larimer County, and it is consistent with the City's Comprehensive Master Plan.

**4. Flexible Zoning Overlay Code Amendments (Presentation Time: 10 minutes)**

This public hearing item concerning a legislative matter that was continued from the April 25<sup>th</sup> meeting. This amendment would allow property owners within designated and approved 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. Prior to the public hearing, staff has prepared revisions to the code provisions based on recommendations received from Commissioners on April 25<sup>th</sup>. Staff is recommending that the Commission recommend approval of the code provisions to the City Council.

**VII. ADJOURNMENT**

**CITY OF LOVELAND**  
**PLANNING COMMISSION MINUTES**  
**April 25, 2016**

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A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on April 25, 2016 at 6:30 p.m. Members present: Chairman Jersvig; and Commissioners Meyers, Molloy, Dowding, Forrest, Ray, and McFall. Members absent: Commissioner Crescibene. City Staff present: Bob Paulsen, Current Planning Manager; Moses Garcia, Assistant City Attorney; Jenell Cheever, Planning Commission Secretary.

*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, discussed the agenda for the upcoming 5/9/16 Planning Commission meeting.
2. **Mr. Paulsen** noted that the Current Planning office moved in to the new Development Center and opened for business today. Staff provided a tour to the commissioners prior to the Planning Commissioners meeting tonight. The grand opening will be held on June 10<sup>th</sup>.
3. **Mr. Paulsen** stated that interviews for the Planning Commission vacancies will be held April 26<sup>th</sup>.
4. **Mr. Paulsen** updated the commissioners on the following Hot Topics:
  - a. Loveland Classical Schools is moving forward with pursing a new location.
  - b. Plans for the demolition of buildings in the South Catalyst site are proceeding.

**COMMITTEE REPORTS**

1. **Commissioner Meyers** stated that the city's Title 18 Committee met on April 14th and discussed the Zoning Overlay Provisions that will be heard by the Planning Commission this evening.

**COMMISSIONER COMMENTS**

**Commissioner Meyers** motioned to move Item #1, Mountain Pacific Business Park Preliminary Development Plan, from the Regular Agenda to the Consent Agenda. Upon a second by **Commissioner Ray** the motion was approved with 5 ayes and 2 nays.

**APPROVAL OF THE MINUTES**

**Commissioner Dowding** made a motion to approve the April 11, 2016 minutes; upon a second from **Commissioner McFall** the minutes were unanimously approved.

## **CONSENT AGENDA**

### **1. Mountain Pacific Business Park Preliminary Development Plan**

**Project Description:** This is a public hearing on a quasi-judicial matter concerning a preliminary development plan for Mountain Business Park. This site is located at the southeast quadrant of the intersection of Garfield Avenue (Hwy 287) and 71<sup>st</sup> Street (LCR 30). The site includes a total of 20 acres and is zoned Planned Unit Development. The Business Park Plan proposes development of four light industrial/flex buildings totaling 48,000 sf along with minor changes to an existing office building that is part of the storage business that is located on the lot to the north.

The Planning Commission has final authority on this application barring appeal. In the view of staff, all issues have been resolved and staff is in support of the application.

**Commissioner Comments:** Several commissioners commented on the high quality of the project and thanked the applicant for their nice work.

*Commissioner Meyers motioned to approve the Consent Agenda. Upon a second by Commissioner Forrest, the motion was unanimously approved.*

## **REGULAR AGENDA**

### **2. Flexible Zoning Overlay District Code Amendments.**

**Project Description:** This is a public hearing on a legislative matter 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 and approved areas to be exempted from standard zoning requirements. City Council approval of an overlay district must occur prior to development. The purpose of this concept is to stimulate development in locations that are experiencing disinvestment or a lack of development activity.

The proposed code amendments were originally reviewed by the Planning Commission in a public hearing on March 14, 2016. Subsequent to the public hearing, staff has prepared revisions to the code provisions in collaboration with the city's Title 18 Committee. Staff is recommending that the Commission recommend approval of the code provisions to the City Council.

**Mr. Paulsen** provided background on the Flexible Zoning Overlay District provisions. **Mr. Paulsen** described several important components of the provisions and noted that districts

could only be located on non-greenfield sites. Several commissioners discussed the benefit of including this condition in the provision.

**Mr. Paulsen** noted that the provisions would not make allowances to waive or remove city infrastructure requirements. Districts would be established for specific locations and would “float” over existing zoning. The underlying zoning would be suspended until the district expired.

**Mr. Paulsen** discussed the application requirements and application steps.

**Mr. Paulsen** reviewed the changes to the provisions since the March 14<sup>th</sup> Planning Commission meeting.

**Commissioner Jersvig**, after learning that staff would be allowed to approve amendments for density/intensity increases up to 20%, he expressed interest in allowing staff to also approve lower densities through the amendment process. After discussion, commissioners agreed that the provision should be amended to allow approval of both increased and decreased density. **Mr. Paulsen** recommend amending 18.44.050 E to state that the district plan “may vary from the density/intensity and use provisions.” The commissioners approved this wording.

**Mr. Paulsen** noted that the provisions specify that unless City Council’s approval of a district plan specifies otherwise, district plans would expire after 48 months. **Mr. Paulsen** also discussed the issue of non-conformance and noted that the issuance of a building permit would be the threshold at which point the district plan would be given continued legal standing even if the district plan expires. He elaborated, indicating that the non-conformance provisions were designed to assure property owners that they could rely on city-approved plans and that their investments in carrying out the plans would be protected.

**Commissioner Jersvig** expressed concerns with allowing an applicant to achieve permanent district status after 48 months by only obtaining a building permit seemed insufficient. **Commissioner Jersvig** indicated that obtaining a building permit alone does not indicate substantial progress towards implementing a district plan.

After a lengthy discussion with **Brett Limbaugh**, Director of Development Services, and **Mr. Paulsen**, the commissioners were unable to arrive at a consensus with regards to the proposed nonconformance and expiration provisions.

**Commissioner Ray** asked that the provisions include wording that states “substantial investment as determined by City Council” and not tie the continuance of the district to anything else. **Commissioner Ray** also stated that “substantial effort” should not be based on financial contribution.

**Commissioner Ray** also recommended the following changes: Change the word “runs” in 18.44.100 Item C and remove the word “abutted” from 18.44.050 Item A.

**Commissioner Meyers** asked for clarification as to when the agreement should be recorded

with the county. **Mr. Paulsen** stated that staff can work with **Terry Andrews**, City Clerk, to determine when the agreement should be recorded.

**Commissioner Dowding** noted that in section 18.44.060 and 18.44.090, the “0” is missing prior to the “60 and “90.”

Commissioners directed staff to review and amend the overlay provisions for review at the next Planning Commission meeting. Prior to finalizing the provisions for the next Planning Commission meeting, commissioners asked that the language be emailed to them so they can comment and make recommendations. **Moses Garcia**, Assistant City Attorney, clarified that commissioners cannot discuss the provisions among themselves and comments and recommendations can only be emailed directly to **Mr. Paulsen**; however, commissioner emails can be included in the Planning Commission Agenda packet.

*Commissioner Dowding motioned to continue the Flexible Zoning Overlay District Code Amendments to the May 9<sup>th</sup> Planning Commission meeting. Upon a second by Commissioner Meyers the motion was unanimously approved.*

## **ADJOURNMENT**

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

**Commissioner Jersvig adjourned the meeting at 8:38 p.m.**

Approved by: \_\_\_\_\_  
Jeremy Jersvig, Planning Commission Chair

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Jenell Cheever, Planning Commission Secretary



**Current Planning Division**  
410 E. 5th Street • Loveland, CO 80537  
(970) 962-2523 • [eplan-planning@cityofloveland.org](mailto:eplan-planning@cityofloveland.org)  
[www.cityofloveland.org/DC](http://www.cityofloveland.org/DC)

## MEMORANDUM

May 9, 2016

To: Planning Commissioners  
From: Noreen Smyth, Senior Planner  
**RE: Mountain Pacific Business Park Preliminary Development Plan Resolution**

Attached please find a resolution documenting the Planning Commission's April 25<sup>th</sup> vote on the Mountain Pacific Business Park Preliminary Development Plan (PZ-15-206). As Commissioners will recall, the application proposes four industrial/flex office buildings within the Mountain Pacific Planned Unit Development (PUD), along with improvements to an existing office at a self storage facility that is also within the PUD. The Commissioners approved the item on the consent agenda at the April hearing and directed staff to prepare a resolution finalizing the approval.

**Recommended Motion:**

*Move to approve the resolution documenting the Planning Commission's vote of approval for the Mountain Pacific Business Park Preliminary Development Plan, subject to the included conditions.*

PLANNING COMMISSION  
**RESOLUTION # 16-04**

**A RESOLUTION APPROVING MOUNTAIN PACIFIC BUSINESS PARK PUD #P-105  
PRELIMINARY DEVELOPMENT PLAN SUBMITTED UNDER APPLICATION NO.  
15-205, LOCATED WITHIN THE #P-105 MOUNTAIN PACIFIC BUSINESS PARK PUD  
GENERAL DEVELOPMENT PLAN, CITY OF LOVELAND, LARIMER COUNTY,  
COLORADO**

**WHEREAS**, on March 7, 2006, the City Council adopted Ordinance No. 5069, zoning the Mountain Pacific Addition to the City of Loveland as Mountain Pacific Addition PUD (#P-93); and

**WHEREAS**, Ordinance No. 5069 also approved the General Development Plan for Mountain Pacific Addition PUD (“the Old GDP”) and stipulated that the Mountain Pacific Addition PUD would be subject to the Old GDP; and

**WHEREAS**, a preliminary development plan for the Mountain Pacific Addition PUD was not submitted to the City within one year of approval of the Old GDP; and

**WHEREAS**, on October 21, 2014, the City Council adopted Ordinance No. 5890, rezoning the Mountain Pacific Addition PUD (#P-93) as MOUNTAIN PACIFIC BUSINESS PARK PUD (#P-105) (the “PUD”) and approving a new general development plan for the Mountain Pacific Addition PUD, to be known as “MOUNTAIN PACIFIC BUSINESS PARK PUD GENERAL DEVELOPMENT PLAN” (the “New GDP”); and

**WHEREAS**, a Preliminary Development Plan submitted under Application #15-205 (“PDP”) for the PUD has been submitted to the City of Loveland Planning Commission (“Planning Commission”) for consideration pursuant to Chapter 18.41 of the Loveland Municipal Code; and

**WHEREAS**, pursuant to Code Section 18.41.050(E)(2), the Planning Commission held a public hearing on April 25, 2016, regarding the PDP; and

**WHEREAS**, at said hearing the recommendations of the City of Loveland Current Planning Division (“Planning Division”) were received and duly considered by the Planning Commission, as well as all necessary testimony by the applicant and public; and

**WHEREAS**, the Planning Commission considered the application for the PDP in light of the intent and objectives of Chapter 18.41 of the Loveland Municipal Code, and more specifically the factors set forth in sections 18.41.050(E)(2)(a-c) and expressly including those set forth in sections 18.41.050(D)(4)(b) and (c), and determined that pursuant to said factors the PDP may be approved.

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

**Section 1.** That Mountain Pacific Business Park PUD (#P-105) Preliminary Development Plan submitted under Application #15-205 (“PDP”), being a portion of the New GDP, which PDP is on file in the office of the Planning Division and is incorporated herein by reference, is hereby conditionally approved, consistent with the recommendations of the Planning Staff Report, as amended on the record by the Planning Commission at the public hearing on April 25, 2016 (the “Staff Report”).

The PDP applies to the following described real property:

A PARCEL OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 25, TOWNSHIP 6, RANGE 69 BEING MORE PARTICULARLY DESCRIBED AS LOTS 1 AND 2, BLOCK 1, AMENDED PLAT OF PARCELS B AND C, MOUNTAIN PACIFIC FIRST ADDITION TO THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO.

**Section 2.** That the Planning Commission hereby makes the findings regarding the PDP set forth in Section VIII of the Staff Report for the reasons set forth therein, and hereby adopts this resolution, including the findings set forth in Section VIII of the Staff Report as its written findings and conclusions in support of its approval pursuant to Section 18.41.050.E of the Loveland Municipal Code.

**Section 3.** This Resolution shall be recorded with the Clerk and Recorder for Larimer County, Colorado, as soon as is reasonably possible after the expiration of the ten (10) day appeal period set forth in Code Section 18.41.050.E.3 and satisfaction of any condition set forth in Section 2. above.

Resolved this \_\_\_\_ day of May, 2016.

ATTEST:

PLANNING COMMISSION:

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Planning Commission Secretary

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Jeremy Jersvig, Chairperson  
City of Loveland Planning Commission

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Nasar Garcia  
Assistant City Attorney



## Current Planning Division

410 E. 5th Street • Loveland, CO 80537  
(970) 962-2523 • [eplan-planning@cityofloveland.org](mailto:eplan-planning@cityofloveland.org)  
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## Planning Commission

May 9, 2016

**Agenda #:** Regular Agenda - 2

**Title:** Thompson School District Location and Extent Review

**Applicant:** Skip Armatoski, Planning Manager  
Thompson School District

**Request:** **Location and Extent Review**

**Location:** West of Boyd Lake Avenue, south of Eisenhower Boulevard and Mountain View High School

**Existing Zoning:** County FA -Farming

**Staff Planner:** Kerri Burchett

### **Staff Recommendation**

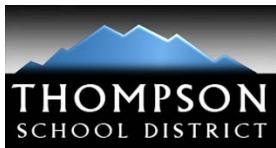
There is not a motion needed for this item. This is an opportunity for the Planning Commission to provide comments to the school district regarding the location and extent review. If the Commission identifies concerns over the proposed location of the school property, the Commission can request a meeting with the Board of Education.

### **Summary of Project**

The Thompson School District R2-J is in the process of acquiring approximately 42 acres of property for future school development located directly south of the Mountain View High School. The district owns 48 acres of land designated as a future middle school in the Millennium Addition, west of Sculpture Drive and south of the Great Western Railroad. The district is looking to trade the existing property for the new property south of the high school.

State Statutes require that the school district consult with and advise the Planning Commission prior to acquisition of land. The land currently lies in unincorporated Larimer County and the district will pursue annexation to the city in the future. At this time, there are no immediate plans from the district to develop the property.

The district has provided the attached narrative and location maps for the Commission's review. City staff has not identified concerns with the land acquisition. Representatives from the district will be present to further explain the land trade and answer questions.



800 South Taft Avenue • Loveland, CO 80537 • Office (970) 613-5017 • Fax (970) 613-5087

April 26, 2016

Planning Commission  
City of Loveland  
500 E. 3<sup>rd</sup> ST  
Loveland, CO 80537

Dear Planning Commission members,

Colorado Revised Statute 22-32-124(1)(a) states that: *“Prior to the acquisition of land or any contracting for the purchase thereof, the board of education of the school district in which the land is located shall consult with and advise in writing the planning commission, or governing body if no planning commission exists, that has jurisdiction over the territory in which the site is proposed to be located in order that the proposed site shall conform to the adopted plan of the community insofar as is feasible.”*

On March 20, 2016, the Board of Education of the Thompson School District R2-J authorized the acquisition of approximately 42 acres adjacent to Mountain View High School, pending contractual details and notification to the Planning Commission. This land will be acquired as part of a trade, not as additional property. At this time, the district does not have any plans to develop the property in the near future, other than annexation and zoning.

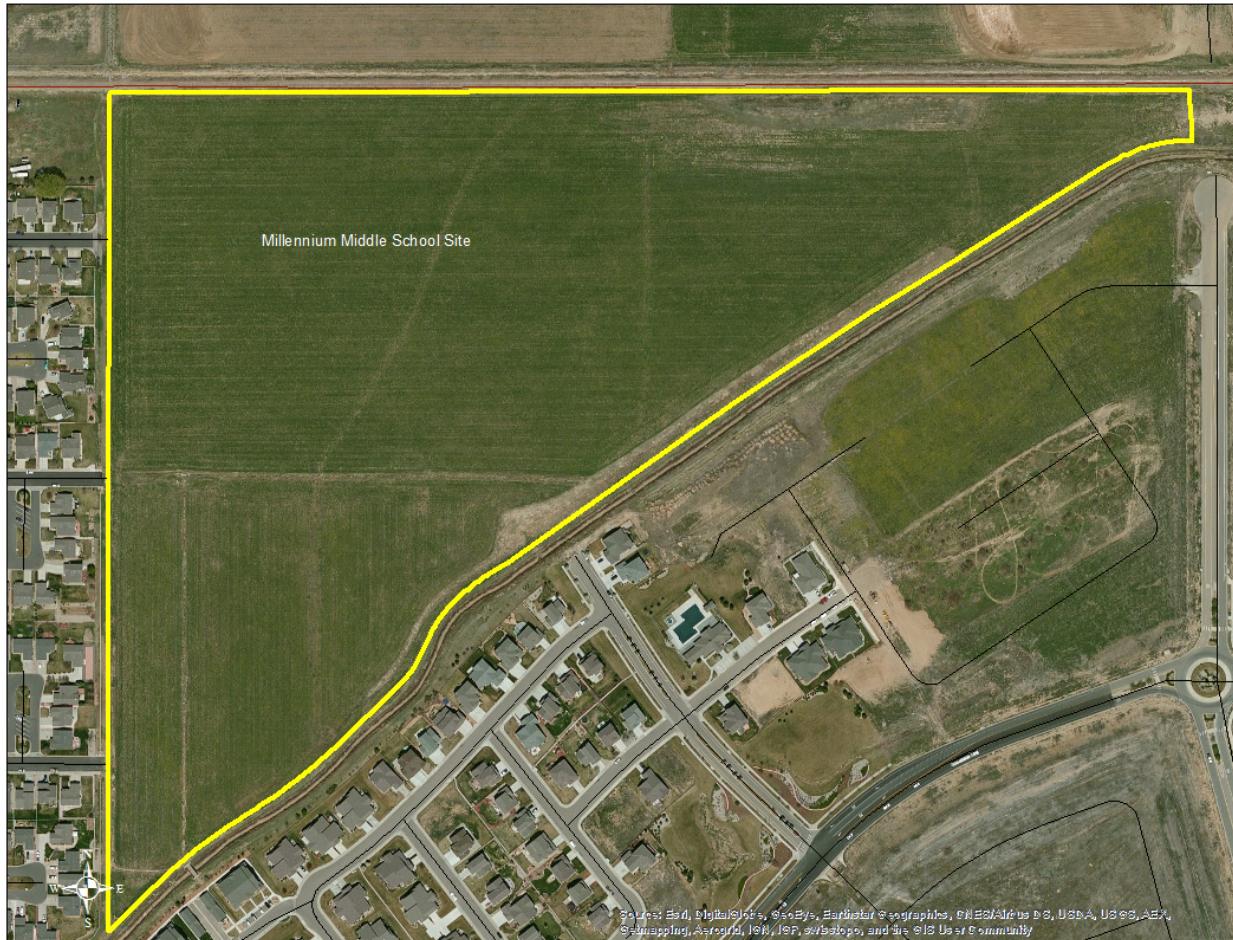
Attached you will find maps detailing the property to be acquired and the immediate vicinity. School district staff will be present to record your comments and to answer any questions you may have.

Respectfully yours,

Skip Armatoski  
Planning Manager  
Thompson School District R2-J

## Millennium Middle School/Pfeiff Farm Trade

### Millennium Middle School Site



The Millennium Middle School site is 48 acres owned by the District, acquired through dedication and donation. It is bounded by railroad on the north, a ditch along the entire southern side, and a subdivision to the west.

## Pfeiff Farm



The Pfeiff farm is 71 acres, split by an irrigation ditch. The northern part is approximately 41 acres. Bounded on the north by Mountain View HS, on the west and south by ditches.





## Planning Commission Staff Report

May 9, 2016

**Agenda #:** Regular Agenda - 3  
**Title:** Waters Edge Addition  
**Applicant:** Luxor LLC, Linda Beierwaltes  
**Request:** **Annexation and Zoning**  
**Location:** North of 28<sup>th</sup> Street SW, south of Ryans Gulch Reservoir and west of Taft Avenue and McKenzie Drive.  
**Existing Zoning:** County FA -Farming  
**Staff Planner:** Kerri Burchett

### **Staff Recommendation**

**APPROVAL** of the annexation and zoning.

#### **Recommended Motions:**

1. *Move to make the findings listed in Section VII of the Planning Commission staff report dated May 9, 2016 and, based on those findings, recommend that City Council approve the Waters Edge Addition, subject to the conditions listed in Section VIII, as amended on the record, and zone the addition to R1-Developing Low Density Residential.*

### **Summary of Analysis**

The public hearing is to consider the following items:

- Annexation of 82.68 acres
- Zoning to R1-Developing Low Density Residential

The proposal is to annex and zone the Waters Edge Addition as the first step towards developing a low density residential subdivision. The property is contiguous to city limits and borders the Lakeside Terrace Estates developments. The property is designated as low density residential in both the City's current Comprehensive Master Plan and the proposed Create Loveland Master Plan. The proposed R1 zone district aligns with the residential designation in the Master Plan.

Concerns regarding the development of the property have been expressed by the neighborhood and include density, traffic, change in the character of the area and loss of habitat, views and housing values. As the application is for annexation and zoning, the subdivision layout and detailed traffic and infrastructure studies have not been completed. These plans and studies would be included in the next step of the development process, which is a preliminary subdivision plat. The preliminary plat requires a neighborhood meeting and a public hearing with the Planning Commission.

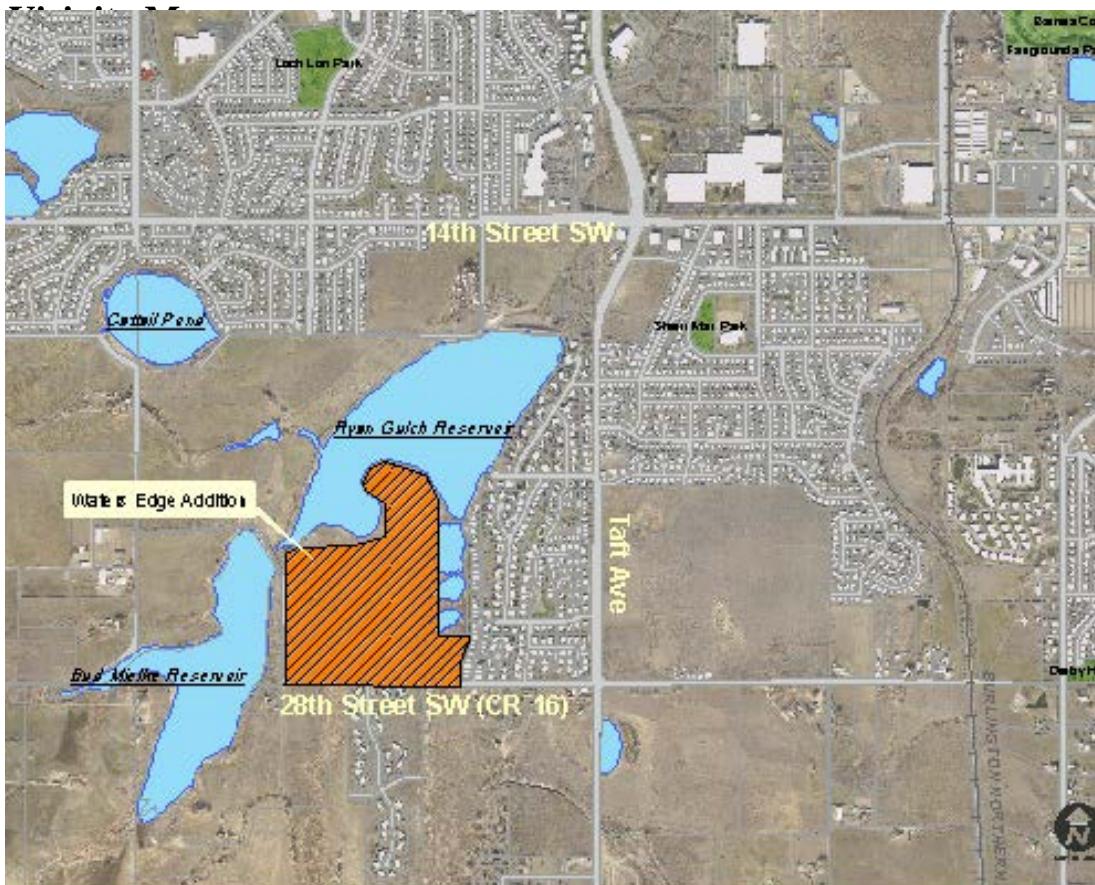
Staff is recommending approval of the annexation and zoning of the Waters Edge Addition as the property lies within the City's growth management area, is in compliance with statutory annexation requirements and the Intergovernmental Agreement with Larimer County, and is consistent with the City's Comprehensive Master Plan.

## I. SUMMARY

This proposal is to annex and zone 82.68 acres located north of 28<sup>th</sup> Street SW, south of Ryans Gulch Reservoir and directly west of the Lakeside Terrace Estates PUD and Lakeside Terrace Estates PUD Second (see vicinity map below and neighborhood map on page 7). The requested zoning is R1-Developing Low Density Residential. This zoning aligns with both the City's Comprehensive Master Plan and the proposed Create Loveland Master Plan. Both documents designate the site as Low Density Residential with a target density of 2-4 units per acre.

Annexation and zoning is the first of three steps in developing a residential subdivision in the City. Annexation requires findings of compliance with State Statutes regarding contiguity with municipal boundaries, an intent to develop at an urban level and an indication that the property can be served with infrastructure. Additionally, annexations are subject to compliance with the Intergovernmental Agreement with Larimer County which requires the annexation of properties located within the City's Growth Management Area that are eligible for annexation. In determining appropriate zoning, the City's Comprehensive Master Plan and associated philosophies describe the City's vision for development.

The second planning step for a residential development is a preliminary subdivision plat. This step is where the specific design and lot layout of the subdivision occurs. Detailed studies are performed with the preliminary plat, including a traffic study, drainage report and environmental report. A neighborhood meeting and a public hearing with the Planning Commission are required for approval. The last planning step is the final subdivision plat, which is administratively reviewed and approved. The final plat requires detailed infrastructure design and a finalization of lot boundaries.



As the Waters Edge Addition application is in the annexation and zoning stage, detailed studies on traffic and infrastructure have not been completed and a lot layout for the subdivision has not been designed. A conceptual plan, however, has been included below that shows an illustrative concept of lot size ranges from 7,000 to 22,000 square feet. The plan also shows two access points from 28<sup>th</sup> Street SW and an emergency access drive connecting to McKenzie Drive. These general access locations comply with the City's standards. The conceptual plan also identifies wetland areas in green that were described in the environmentally sensitive report that was provided by the applicant (see **Attachment E**). The concept plan is for illustrative purposes only and is not part of the annexation and zoning approval.

## Conceptual Plan



## Regionally Preserved Open Space

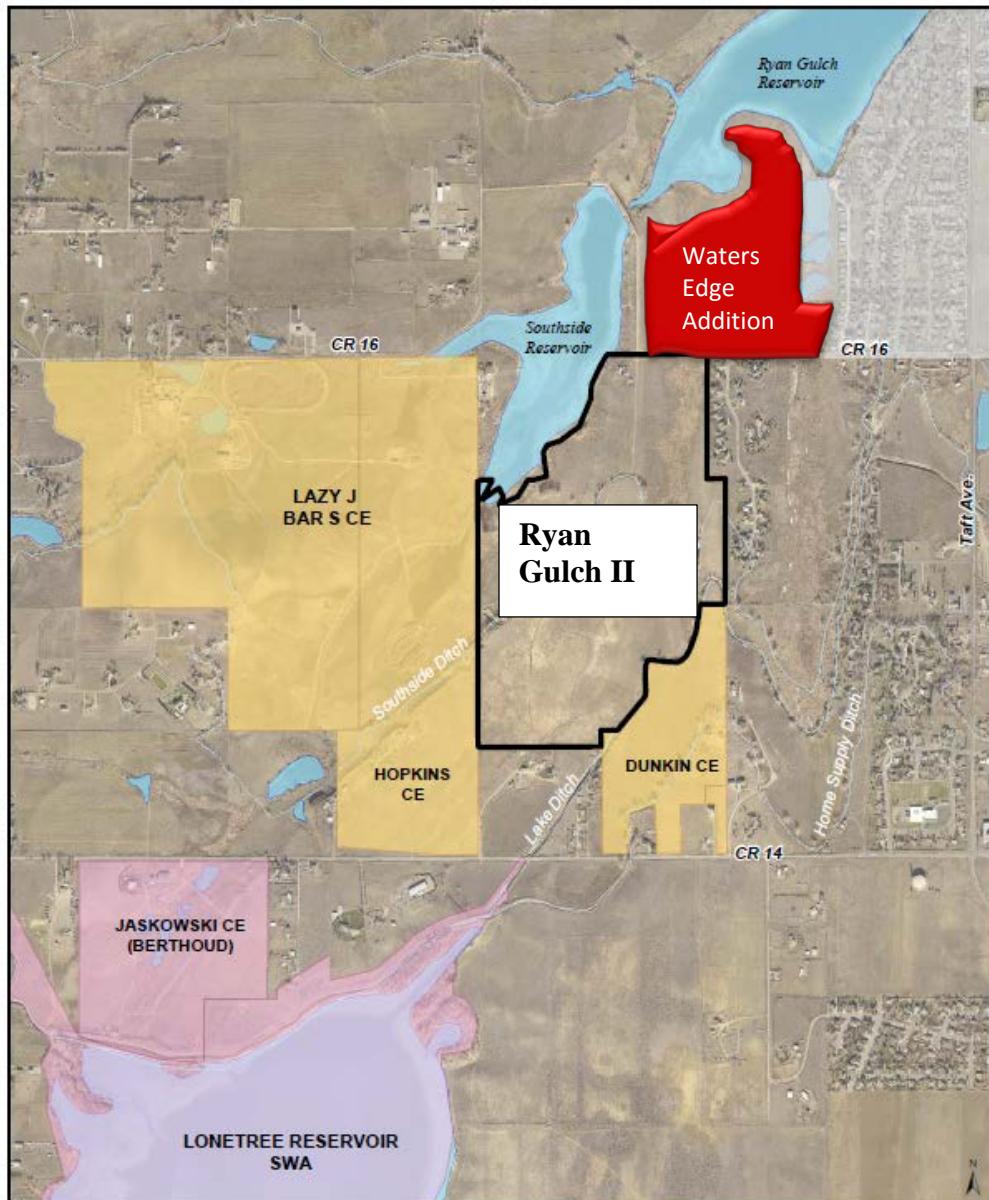
In the surrounding area, efforts have been made to purchase conservation easements to preserve valuable regional open space. The below map shows properties that have been designated as open space through permanent conservation easements purchased by the City, Larimer County and Town of Berthoud. This includes the following:

- Ryan Gulch II: 185 acres funded by Loveland, Larimer County & Berthoud
- Lazy J Bar S: 326 acres funded by Loveland, Larimer County, Berthoud & GOCO
- Hopkins: 60 acres funded by Loveland & Larimer County
- Dunkin: 52 acres funded by Loveland, Larimer County & Berthoud
- Jaskowski: 80 acres donated to Berthoud; conservation easement held by Colorado Open Lands

## Regional Open Space

The Ryan Gulch II open space area was originally owned by Luxor LLC, the owners of the Waters Edge Addition. The 185 acres was a desired location for a regional trail connection and was rated as a high wildlife area with a documented Golden Eagle nest. This site was purchased in January of 2016 as a joint preservation effort between the City of Loveland, Larimer County and the Town of Berthoud. The purchase price was \$2,950,000 and of that amount, the City contributed \$2,475,000.

In selecting and purchasing the Ryan Gulch II open space, the City's Open Lands Advisory Commission (OLAC) also reviewed and evaluated the Waters Edge property over the last several years. More recently, OLAC reviewed the property in March of this year as requested by the surrounding neighbors. Wildlife ratings, property cost and trail connectivity



are all factors of consideration in selecting priority sites for preservation and determining projects that work within the Open Lands budget. The Commission did not select the Waters Edge property to pursue as an open space acquisition. A letter from OLAC is included as **Attachment F** to this report. A petition from the neighborhood requesting that the City, County and/or State purchase the property for open space is included as **Attachments G.1.d.**

## **II. ATTACHMENTS**

- A. Narrative provided by the Applicant
- B. Rezoning Assessment provided by the Applicant
- C. Chapter 18.12 R1-Developing Low Density Residential
- D. Notes/questions from the Neighborhood Meeting recorded by The Birdsall Group
- E. Excerpt from Environmental Sensitive Areas Report
- F. Letter from the Open Lands Advisory Commission
- G. Information provided by the Surrounding Property Owners:
  - 1. Neighborhood Agenda Outline
    - a. Proposal by Lakeside Terrace HOAs
    - b. Photographs of wildlife
    - c. Top concerns to keep property as open space
    - d. Petition requesting the City to purchase the property as open space
  - 2. Email from Rhonda Koons
- H. Annexation Map
- I. Rezoning Map

## **III. SITE DATA**

ACREAGE OF SITE GROSS .....	82.68 AC
MASTER PLAN DESIGNATION .....	LOW DENSITY RESIDENTIAL
EXISTING ZONING .....	LARIMER COUNTY FA FARMING
PROPOSED ZONING .....	R1 DEVELOPING LOW DENSITY RESIDENTIAL
EXISTING USE .....	VACANT
EXIST ADJ ZONING & USE - NORTH .....	COUNTY: RYANS GULCH RESERVOIR
EXIST ADJ ZONING & USE - SOUTH .....	COUNTY FA / 28 <sup>TH</sup> STREET SW, OPEN SPACE & AGRICULTURAL PROPERTY
EXIST ADJ ZONING & USE - WEST .....	COUNTY: RYANS GULCH RESERVOIR
EXIST ADJ ZONING & USE - EAST .....	R-1 RESIDENTIAL AND PUD / SF RESIDENTIAL
UTILITY SERVICE – WATER, SEWER .....	CITY OF LOVELAND
UTILITY SERVICE – ELECTRIC .....	CITY OF LOVELAND

#### **IV. KEY ISSUES**

City staff believes that all technical issues have been addressed regarding the annexation and zoning. At the neighborhood meeting, concerns were voiced regarding the development of the property. Information received from the neighborhood, including letters of concern, photographs and a petition, is included as **Attachment G**.

#### **V. BACKGROUND**

The 82 acre property is vacant, zoned FA in Larimer County, and has been used for ongoing livestock grazing. The majority of the area is grasslands, wetlands and weedy habitats. There is a single cottonwood tree located near the southwest corner of the property, which is the only mature vegetation on the site. There are wetlands mapped in the western and eastern portion of the site. The eastern wetlands and ponds are partially on property that has already been annexed into the City. The wetlands may be jurisdictional and regulated by the US Army Corps of Engineers since they have connection to Ryans Gulch Reservoir. More information regarding the nature of the wetlands and a wetland survey will be provided with a preliminary subdivision plat application.

Traversing the site is also an underground Xcel Energy regional gas line. The pipeline lies within a 50 foot easement shown on the Annexation Map in **Attachment H**.

#### **VI. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION**

- A. Notification:** An affidavit was received from Cathy Mathis with The Birdsall Group, who is serving as the representative for the owner, certifying that written notice was mailed to all property owners within 1,200 feet of the property on April 21, 2016 and notices were posted in 3 prominent locations on the perimeter of the site at least 15 days prior to the date of the Planning Commission hearing. There were no mineral owners associated with the property. In addition, a notice was published in the Reporter Herald on April 23, 2016.
- B. Neighborhood Response:** A neighborhood meeting was held at 6:00 p.m. on March 24, 2016 at the Calvary United Reformed Church on 14<sup>th</sup> Street SW. The meeting was attended by 82 neighbors and interested parties along with City staff and consultants. At the meeting, there were concerns voiced regarding development of the property. The concerns focused on accesses to the development being only from 28<sup>th</sup> Street SW, traffic on 28<sup>th</sup> Street SW and through the adjacent neighborhood, loss of habitat and views, loss of the rural character of the area and concern over declining property values. The Lakeside Terrace Estates developments, adjacent to the east, were developed without sidewalks and residents were concerned about pedestrian and vehicular conflicts. Many of the questions at the meeting focused on specific development of the property and staff explained that if annexed, there would be another neighborhood meeting and Planning Commission public hearing to consider the design and development of the subdivision.

At the neighborhood meeting, there was also a strong desire from residents to have the City, County and/or State purchase the property for open space preservation. A petition signed by 172 residents was submitted requesting that the property be purchased for open space. The petition is included as **Attachment G.1.d**. As previously stated, the City's Open Lands Advisory Commission considered the Waters Edge Addition property several times, however did not select the property for open space acquisition. A letter from the Commission is included as **Attachment F**.

## Surrounding Neighborhoods



Lastly, staff has received comments from the neighborhood requesting that the City deny the annexation. If the annexation is denied, per the Intergovernmental Agreement with the County, the applicant can request to develop the property in the County and connect to City infrastructure services. If developed in the County under a Planned Land Division, the County would be permitted a gross density of 2 units per acre, which could be clustered to preserve the environmentally sensitive areas. Rob Helmick, Senior Planner for the County, also indicated that as the property lies within the City's Growth Management Area, the County would also look towards the City's Comprehensive Plan to determine appropriate densities should the property not be annexed.

Neighborhood questions from the neighborhood meeting are included as **Attachment D** and additional information provided by the neighborhood is included as **Attachment G** to this report.

## **VII. 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 annexation complies with the Colorado State Statutes regarding annexation of lands and is within the City's Growth Management Area (GMA).
- No enclaves will be created by this annexation and there is no evidence that two or more of the conditions listed in Section 17.04.020 of the Municipal Code, cited above, have been met.
- The development of the property will encourage a compact pattern of urban development and will not be leapfrog or scattered site development. The land is immediately contiguous to the Lakeside Terrace Estates developments that are already receiving City services.
- The annexation complies with the Intergovernmental Agreement with Larimer County to annex property within the City's GMA that are eligible for annexation.

## B. City Utilities/Services and Transportation

### 1. Loveland Comprehensive Master Plan, Section 4.2

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

### 2. Loveland Municipal Code

#### a. Section 17.04.040:

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

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

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

b. **Section 17.04.040;:** *Whether all existing and proposed streets in the newly annexed property are, or will be, constructed in compliance with City street standards, unless the City determines that the existing streets will provide proper access during all seasons of the year to all lots and that curbs, gutters, sidewalks, bike lanes, and other structures in compliance with City standards are not necessary to protect public health, safety, and welfare.*

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

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

- Annexing and zoning property does not warrant compliance with the City's Adequate Community Facilities (ACF) ordinance. A condition is recommended to clearly ensure that all future development or land application within this proposed property shall be in compliance with the City of Loveland Street Plan, the Larimer County Urban Area Street Standards and any updates to either in effect at the time of development application.
- As identified in the City Municipal Code Title 16, a Traffic Impact Study will be required with all future development or other land use applications. The annexation will also be required to dedicate, free and clear, all applicable right-of-way to the City, at no cost to the City, at the time of development.
- The property will be accessed from 28<sup>th</sup> Street SW (Country Road 16). Vehicular access across the dam and spillway of the South Side Reservoir is not permitted by the County. The County's Public Works staff worked with the Reservoir Company to accommodate filling the reservoir to its maximum approved storage capacity and to comply with requirements of the State Engineer's office relative to spillway maintenance and elevation control. The County adopted Findings and Resolution in February of 2010 to restrict the use of the right-of-way that crosses the dam and spillway to non-vehicular traffic.
- Pending future proposed development within this property, of which review and approval by the City is required, the Transportation Engineering staff does not object to the proposed annexation and zoning.

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

- The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company.
- The proposed annexation/zoning will not negatively impact fire protection for the subject development or surrounding properties.
- Pending future proposed development within this property, of which review and approval by the Fire Authority is required, staff does not object to the proposed annexation and zoning.

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.
- Regarding water, the subject annexation is adjacent to an existing City 24" water main along the west and south side of the property. This main can be connected to for future development. The current Water Master Plan shows a new 36" water main to be installed in parallel to the existing 24" water main. At this time the only requirements for future development would be to preserve a 25' utility easement adjacent to the existing water main for a future water main.
- Regarding wastewater, there is no adjacent facilities to serve the annexation. The subject area is located within Future Sewer Basin B07 as indicated in the current Wastewater Master Plan. This basin is intended to drain to a low point on the north end to a lift station. This lift station would be ejected to the east to a point just west of the Railroad and County Road 16 where it would connect to a future gravity interceptor and ultimately connect to the existing 12" wastewater main just east of Cora Place. The Developer has proposed to the City an alternative connection point to the existing wastewater main. The current proposal is to connect to the existing 18" stub located west of the intersection of Taft and 14th Street SW. The Developer would be responsible in the future to verify this off-site solution is acceptable and develop infrastructure from the terminus to the development.
- The Department finds that the annexation and zoning is consistent with the Department's Water and Wastewater master plan by being consistent with the 2005 Comprehensive Master Plan.
- Public water facilities are available to serve the development.
- Public wastewater facilities are not readily available to serve the development and the conditions of approval are included that requires special conditions of the Developer to extend wastewater mains to serve any future development within the annexation.

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

- Property to the east is currently being served by the City of Loveland for power services.
- Additional housing units in the area will add load to the feeder system and a supplemental feeder may be required to serve the development. Additional review of the available power services to feed the development will occur with the preliminary subdivision plat.

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.
- A condition has been included to protect future residential home owners who abut Ryan Gulch Reservoir from the anticipated 100-year high water surface elevation of the reservoir.

## C. Land Use

### 1. Loveland Comprehensive Master Plan, Section 4.7

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

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

- The Comprehensive Master Plan designates the site as Low Density Residential with a target density range of 2-4 units per acre. The requested R1 zone district aligns with the low density residential designation in the Master Plan.
- The zoning is consistent with the future Create Loveland Master Plan.
- A condition of approval is included that limits development of the property to a density of 3 units per acre, calculated based on developable area instead of a gross land area. Based on the environmental assessment, this would equate to a density of approximate 2.3 units per acre, which is consistent with the Master Plan.

### 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:

- Development of the property will provide adequate light and air and prevent overcrowding of the land. The R1 zone district requires a minimum lot size of 7,000 square feet and side yard setbacks of 1 foot for every 3 feet of building height. This typically results in a minimum of 14 feet between structures. This is consistent with the side yard setback for Lakes Side Terrace Estates and is greater than the side yard setback for Lakeside Terrace Estates PUD Second which stipulates a minimum of 10 feet between structures.
- The character of the district will preserve the value of buildings and encourages the most appropriate use of the land. The land use requested of low density residential development is consistent with the low density residential developments to the east. The gross density of Lakeside Terrace Estate PUD Second is 2.74 units per acre and the gross density of Lakeside Terrace Estates PUD is 1.8 units per acre. With the recommended condition limiting the density of the Waters Edge Addition to 3 units per acre on the

developable area, the project will have a gross density of approximately 2.3 units per acre.

- As the project is contiguous to existing developments receiving city services, an extension of infrastructure services is practical. The developer will be required to construct needed infrastructure to serve the development.

## 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.*

Parks and Recreation: Staff believes that this finding can be met, based on the following facts:

- This property is adjacent to Natural Area Sites #35, #36, #46, #128 and #129. Each of these sites have a rating of 4 or 5 out of 10 for overall habitat value in the City's Natural Areas Sites report (2008) with the exception of Site #46 which has a rating of 6.
- Condition of approvals have been included that requires compliance with the environmentally sensitive areas report and preservation of environmentally sensitive areas and buffers. The conditions further require that these areas be placed in tracts or outlots to be owned and maintained by the home owners association.

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

- An environmentally sensitive areas report was submitted with the annexation and zoning and was prepared by Cedar Creek Associates (see excerpts in **Attachment E**). The report indicates that the habitat value and wildlife use of the property is limited by the lack of woody vegetation, dominance by non-native grass and weed species and current and past livestock grazing practices. The report indicates that wetlands along the western and eastern portions of the property are the most valuable habitats since they typically support a greater diversity of plants and animals.

## **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 facts:

- The annexation and zoning of the property into a low density residential development is compatible with development in the surrounding area. Future subdivision plats will need to demonstrate compliance with City standards including traffic studies and infrastructure plans.
- Conditions of approval have been included that would require preservation of environmentally sensitive areas and the establishment of a 40 foot bufferyard and detached meandering sidewalk along 28<sup>th</sup> Street SW to maintain a rural character. The sidewalk system will connect with the regional trail and will provide a safe link for pedestrians through the development.
- A preliminary subdivision plat application requires a neighborhood meeting and a public hearing with the Planning Commission. This will provide the neighborhood with an opportunity to participate and provide input on future subdivision designs.

## **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 certification from Zeren Land Services was submitted indicating that there are no mineral leasehold owners on the property.
- The configuration of the property, wetlands on the western and eastern boundaries, proximity to adjacent residential development and the location of the regional gas line traversing the site, would pose difficulties for mining operations.
- A mineral extraction report will be prepared prior to the City Council public hearing for the annexation and zoning.

## **VIII. RECOMMENDED CONDITIONS**

The following conditions are recommended by City Staff.

### Planning

1. Development of the property shall not exceed a gross density of 3 units per acre, as identified in the Low Density Residential Classification in the Comprehensive Master Plan. This density shall be calculated based on the developable area of the property, excluding environmentally sensitive areas identified in the Environmental Sensitive Areas Report dated December 14, 2015.
2. Subsequent development plans and subdivision plats for the property shall include residential design standards to demonstrate compliance with the City's Comprehensive Master Plan and the city policies for creating non-garage dominated streetscapes.
3. The streetscape on 28th Street SW shall include a detached meandering sidewalk within a 40 foot landscape bufferyard. Landscaping within the bufferyard shall be consistent with the rural character of the surrounding area, incorporating an informally arranged mix of deciduous and coniferous trees and shrubs with naturalized grasses.
4. The concept plan submitted with the annexation proposal is not vested or approved as part of the annexation and zoning of the property.

### Parks are Recreation

5. This project is adjacent to the future Front Range Regional Trail (former CR 16 ROW on west side being abandoned for trail and utility access). No permanent structures or landscape shall be permitted within this easement without Parks and Recreation permission. The City may allow some permanent landscape improvements if such improvements meet the Parks and Recreation Dept. planting standards. Any improvements or connections to the future trail shall be installed, owned and maintained by the developer.
6. Future development plans and subdivision plats shall demonstrate compliance with the findings and recommendations from the submitted Environmentally Sensitive Areas Report (ESAR) dated December 14, 2015.
7. Any environmental buffer setbacks resulting from the findings in the Environmentally Sensitive Areas Report shall be located within a separate tract or outlot that will be owned and maintained by the homeowners association.

### Transportation Development Review

8. All public street improvements will need to comply with the Larimer County Urban Area Street Standards. Residential street lengths shall not exceed 660. No dead end streets are permitted. Standards require the development to connect to adjacent developed parcels at exiting street stubs or provide for a future connection to adjacent developable parcels every 1320 feet minimum around the all sides.

Water/Wastewater

9. With any development plans or subdivision plat the developer shall provide a 25 foot wide utility easement for a future water main at a location as shown in the current water master plan at the time of development.
10. With any development plans or subdivision plat the developer shall submit an approvable water and wastewater impact demand analysis that also determines a feasible wastewater solution for the development area.
11. With any development plans or subdivision plat the developer shall, unless previously constructed by others, design and construct a wastewater solution for this development.

Stormwater

12. Prior to approval of a Final Plat, the Developer shall design the residential lots which abut Ryan Gulch Reservoir such that the minimum abutting rear lot corner elevations are no lower than 5019.28 (NGVD29 datum). In addition, the Developer shall design the residential lots which abut Ryan Gulch Reservoir such that the residential home basement finished floor elevations are no lower than 5020.28 (NGVD 29 datum).

# Waters Edge

## Annexation and Zoning

Loveland, Colorado

### Project Description

#### **1. Zoning:**

- Existing: FA-Farming (Larimer County)
- Proposed: R1 Low Density Residential (City of Loveland)
- The property is within the City of Loveland's Growth Management Area and has a designation of Low Density Residential (LDR) with the City's Comprehensive Plan.

#### **2. Annexation:**

- The property is currently located outside the City Limits and contiguous to the City limits on the east side.

#### **3. Total area of project:**

- The site is approximately 82.68 acres more or less.

#### **4. Land Use:**

- The proposed project consists of developing approximately 143 single family lots that will limit disturbance of existing natural areas.

#### **5. Public Facilities:**

##### **a. General**

- Due to Annexation and Zoning process and requirements, there would be the usual impact on public facilities and services including fire, police, water, sanitation, roadways, parks, schools and transit.

##### **b. Sewage Disposal**

- The property is located within the City of Loveland service area. Adjacent Lakeside Terrace to the east is currently serviced by the City of Loveland. Existing sewage disposal facilities at Lakeside Terrace will be used to service this property. Attached are City of Loveland Utility Maps for reference only.

**c. Water Supply**

- The property is located within the City of Loveland service area. There are existing water lines to the east at Lakeside Terrace, an existing 24" water line to the south in 28th Street SW and to the west in West County Road 16. Attached are City of Loveland Utility Maps for reference only.
- Each single family lot will be serviced with a 3/4" water service for a total of approximately 143 new water services.

**d. Fire Protection**

- Fire protection is provided by Loveland Fire Rescue Authority. All Fire Code requirements will be complied with for the proposed project.
- Fire hydrants will be installed to meet City of Loveland and Loveland Fire Rescue Authority requirements.
- Street system will meet Loveland Fire Rescue Authority access requirements including secondary emergency access.

**e. Roadways**

- The property will be developed in accordance with the Larimer County Urban Area Street Standards and with the City of Loveland Adequate Community Facility Ordinance.
- A Traffic Impact Study will be provided.
- The development will be responsible for the design and construction of adjacent roadways to the ultimate standard street section.
- All internal streets within the development will be classified as residential local streets.
- 28th Street SW is designated as a major collector according to the attached City of Loveland 2035 Transportation Plan. City major collector typical section total right-of-way width is 80'. Unless additional right-of-way width is required based on the Traffic Impact Study this development will dedicate 40' of right-of-way ( $\frac{1}{2}$  total right-of-way) adjacent to this development. This right-of-way dedication is equal to Lakeside Terrace 2nd 28th Street SW right-of-way dedication attached.

- West County Road 16 is designated as a residential local according to the City of Loveland Concept Review Comments. This development will not have access off of West County Road 16. Based on the Larimer County Board of County Commissioners "Findings and Resolution Restricting the Use of Part of County Road 16 Right-of-Way to Non-Vehicular Traffic" attached, existing West County Road 16 right-of-way adjacent to this development is permanently closed to public vehicular traffic.

**f. Parks and Recreation**

- The property will be developed in accordance with the Parks and Recreation Master Plan (2014).
- The enhancement recommendations noted in the Natural Areas Sites Report (2008) will be implemented or updated in an Environmental Sensitive Areas Report.

**6. Drainage:**

- The existing site generally drains from the south to the north towards Ryan Gulch Reservoir. Existing onsite grades do not exceed 20%.
- A site specific conceptual, preliminary and final drainage and erosion control report will be prepared in accordance with City storm drainage criteria and construction standards.
- The property is located within the Ryan Gulch Basin as shown on the attached City of Loveland Master Drainage Plan.

**7. Shallow Utilities:**

- Electric, cable, natural gas and telephone exist adjacent to the site.

**8. Floodplain:**

- The property is not in a floodplain according to the FIRM (Flood Insurance Rate Map) attached:
  - FIRM Community Panel Number 08069C1400G; Map effective February 6, 2013

**9. Geotechnical:**

- Preliminary subsurface exploration has been completed by Soilogic, Inc. and that documentation is attached. Ground water depth information is included with the bore logs. Bore log locations are included with the diagram attached and with the attached Site Inventory Map.

## **Waters Edge Rezoning Assessment Report**

**12.14.15**

The property will be annexed and zoned to R1 and will subsequently be subdivided into 143 single-family lots. The project will have lot sizes and densities that are consistent with the R1 Zone District Standards and the Land Use Map of the Comprehensive Plan from February 2007, which is currently designated as LDR – Low Density Residential. The 82.68-acre site is located southwest of 14<sup>th</sup> Street SW between South Taft Avenue and the Ryan Gulch Reservoir, north of 28<sup>th</sup> Street SW. The east side of the property is adjacent to the Lakeside Terrace subdivision. The site is surrounded on the south, north and west by agricultural land, all of which is unincorporated and part of Larimer County.

**The Waters Edge Annexation and Zoning complies with the following Land Use Goals and Objectives in Section 4.2 of the Loveland Comprehensive Plan:**

**LU2:** Place an equal importance on the quality and character of new residential neighborhoods in each quadrant of the city, while at the same time maintaining or upgrading of existing neighborhoods.

- The Waters Edge project will maintain the quality of the existing residential neighborhood. The character will be similar with the primary focus on similar-sized single family detached homes.

**GM7:** Proactively annex all eligible areas, including enclaves, within the Loveland Growth Management Area.

- Waters Edge is located within the Loveland Growth Management Area.

**ANX1:** The capacity of community services and facilities to accommodate development should be considered when annexing new lands into the City.

- The property is located within Loveland's service area and can be adequately served by water and sewer.

**ANX2:** A compact pattern of urban development should be encouraged when considering the annexation of new lands into the City.

- The proposed neighborhood design of Waters Edge will maintain a compact development by creating lots and streets that are logical. The neighborhood's edges are formed by the existing reservoirs and wetlands.

**ANX3:** Appropriate consideration should be given to the need for open space and natural areas within the city limits.

- The Waters Edge development will provide open space and maintain the natural wetlands areas that exist in and around the property. The majority of the lots will back up to either water or wetlands that will remain as permanent open space.

**ANX4:** Environmental impacts of development should be identified and considered when considering an annexation proposal.

- An Environmental Report was prepared and submitted with the annexation. It addresses the existing wetlands and impacts to wildlife.

**ANX5:** The City's annexation objectives, policies, and regulations should promote quality developments.

- Waters Edge will be consistent with the surrounding neighborhoods in terms of quality. A master concept plan is included with the annexation.

**ANX6:** Guidelines for Contiguous Development

- Waters Edge is contiguous to existing City limits being adjacent to the Lakeside Terrace neighborhood.

**ANX7:** Functional plans for extension of utilities should provide for a phased program of extension of utilities in accordance with the requirement for contiguous development, subject to the need to maintain the City utilities' ability to service their customers adequately and efficiently.

- The development is located within the City of Loveland's service plan for water and sewer. Adjacent Lakeside Terrace to the east is currently serviced by the City of Loveland. Existing sewage disposal facilities at Lakeside Terrace will be used to service this property. There are existing water lines to the east in Lakeside Terrace, an existing 24" water line to the south in 28th Street SW and to the west in West County Road 16.

**RES1:** Orderly development which is phased and coordinated with the community's fiscal and service capacity is encouraged.

- Waters Edge is consistent with the established land use pattern in the adjacent neighborhoods. The extension of 28<sup>th</sup> Street and the availability of existing utilities will not create a burden on the existing system. The property is also contiguous to existing development within the City limits.

**RES2:** Development should only be permitted where provision of facilities and services (i.e., police, fire, water, sewer, parks, schools, roads, communications systems, etc.) will be made available in a timely manner.

- Water, sewer, electric, roads, police, and fire can all serve this development.

**RES3:** The development of a full range of housing types to meet the needs of all age and socio-economic groups is encouraged.

- The residential development and the construction of new single family lots fills a community-wide need for housing. The range of lot sizes will encourage diversity and attract people of all income levels.

**RES4:** A mix of housing densities throughout the City is encouraged.

- Waters Edge will provide a mix of housing densities by providing a range of lot sizes, from 4,800 square foot patio home lots to estate lots that are over 1/3-acre in size.

**RES5:** Quality design and compatible land use relationships with all proposed and existing developments is encouraged.

**RES6:** Residential development in areas which have been officially designated as floodplain areas is discouraged.

**RES7:** Pedestrian and bicycle friendly development is encouraged by considering among other things.

- Waters Edge will provide on-street sidewalks and walking trails. There is an existing County road that currently is being used as a walking path. This project will protect and enhance the path, making it accessible to all users within the area. The property is located 1/4-mile from a shopping center located at Taft and 14<sup>th</sup> Street. BF Kitchen Elementary school is also within walking and biking distance from the property.

**RES8:** Energy-conscious land use and site planning practices are encouraged.

- The concept plan is energy conscious by providing a network of local streets that have on-street sidewalks and off-street trails that encourage walking and bicycling as an alternative to vehicles.

**RES9:** Applicable elements of the Open Lands Plan and Parks and Recreation Master Plan should be considered when evaluating in residential development proposals.

- The property will be developed in accordance with the Parks and Recreation Master Plan (2014).

**RES10:** Residential development proposals are encouraged where appropriate to incorporate the “clustering” of units to promote open space.

- Waters Edge contains clusters of lots and lot types. Ample open space is provided.

**RES11:** Motor vehicle access to low density lots should be from local streets (not collectors).

- Motor vehicle access will be via an extension of 28<sup>th</sup> Street SW, which is a major collector street. There will be no lots fronting this street. All of the lots in the development will be accessed by local streets.

**RES12:** The developer of a residential project should consider assembling available land parcels and prepare a master plan design for the larger area, rather than submit separate individual proposals.

- A concept plan is included with the annexation.

**Specific evidence on which to make each of the following findings:**

- a) The purpose set forth in Section 18.04.010 of the Loveland Municipal Code would be met if any use permitted by right in the zone district being requested was developed on the subject property.
  - The property is requesting straight R1 zoning, with the intention of providing a single family residential subdivision. The purpose would be met if any R1 uses were to be developed on the property.
- b) Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in development that is compatible with existing land uses adjacent to and in close enough proximity to the subject property to be effected by development of it.
  - The proposed residential development of the property will be compatible with the existing adjacent land uses.
- c) Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in impacts on city infrastructure and services that are consistent with current infrastructure and services master plans.
  - Impacts from the proposed development are minimized as the subject property is currently within the City of Loveland's service plans for services.
- d) Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in development that is consistent with the policies contained in Section 4 of the Loveland Comprehensive Master Plan.
  - The development of the property results in consistency with all of the land use goals and objectives contained within Section 4.
- e) Development of the subject property pursuant to any of the uses permitted by right under the zoning district being requested would result in development that is not detrimental to the health, safety, or welfare of the neighborhood or general public.
  - The development of the property will not be detrimental to the health, safety, or welfare of the neighborhood or general public.

## Chapter 18.12

### R1 DISTRICT-DEVELOPING LOW-DENSITY RESIDENTIAL DISTRICT

#### Sections:

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

#### **18.12.010      Purpose.**

The developing low-density residential zoning district provides standards for establishing and preserving low density residential neighborhoods that include single family detached dwellings and complementary uses.

#### **18.12.015      Uses permitted by right.**

The following uses are permitted by right in a developing low-density residential (R1) district:

- A. One-family dwellings;
- B. Essential aboveground pad-mount transformers, electric and gas meters, telephone and electric junction and service locations, and underground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production facilities are not included;
- C. Open land for the raising of crops, plants and flowers;
- D. Accessory buildings and uses;
- E. Public schools; and
- F. Place of worship or assembly. In addition to standard buffering requirements of the site development performance standards and guidelines, parking areas and drive aisles shall be screened from adjacent residential uses and residentially-zoned land by a six-foot high opaque wall, fence, or landscaping which achieves a similar effect, unless such screening would serve no practical purpose, as determined by the current planning manager.

#### **18.12.020      Uses permitted by special review.\***

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

- A. Preschool nurseries;
- B. Parks, recreation areas and golf courses;
- C. Cemeteries;
- D. Estate areas;
- E. Two-family dwellings;
- F. Private schools;
- G. Essential aboveground public utility and public service installations and facilities for the furnishing of gas, electric, water, sewer, telephone and other utility services for the protection and welfare of the surrounding area; provided, business offices, repair, storage and production

facilities are not included;

- H. Child care centers licensed according to the statutes of the state and in conformity with the minimum rules and regulations for child care centers adopted in accordance with such statutes; such use may be conducted in conjunction with the residential use of the property;
- I. Governmental or semipublic uses;
- J. Group care facilities;
- K. Housing for elderly;
- L. Receiving foster care homes for up to eight children licensed according to the statutes of the state;
- M. Accessory dwelling units; and
- N. Personal wireless service facilities, as defined in Section 18.55.020, in compliance with Chapter 18.55.

\*See Chapter 18.40.

**18.12.030      Lot area.**

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

- A. When a group of ten or more single-family dwellings are proposed for development as a unit, the minimum lot area may be varied in order to achieve flexibility and creativity in design. However, in no case shall the lot area be less than five thousand square feet, the average lot size for the unit be less than seven thousand square feet, and more than twenty percent of the lots be less than seven thousand square feet. When such development procedures are followed, the city-approved subdivision plat must be of record in the Larimer County Clerk and Recorder's Office.
- B. The minimum area of the lot for a two-family dwelling shall be at least nine thousand square feet in the R1 district.
- C. The minimum lot area for a place of worship or assembly shall be three times the total floor area of the place of worship or assembly building.

**18.12.040      Lot width.**

The minimum width of a lot in a R1 district shall be sixty-five feet, except that there shall be no minimum lot width requirement for cul-de-sac lots. Cul-de-sac lots shall be designed so that driveways on adjacent lots will either be contiguous or separated by a minimum of twenty-two feet as measured along the face of curb.

**18.12.050      Front yard.**

The minimum front yard in a R1 district, being the minimum distance of any building from the front lot line, shall be twenty feet.

**18.12.060      Rear yard.**

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

- Principal building, fifteen feet;
- Detached accessory building, five feet.

**18.12.070      Side yard.**

The minimum side yard in a R1 district, being the minimum distance of any building from each side lot line, shall be one foot for each three feet or fraction thereof of building height; except that no side yard shall be less than five feet for a one-family dwelling or two-family dwelling, nor less than twenty-five feet for any other permitted principal building. Variations to this requirement may be

approved by the current planning manager for groups of three or more single-family dwellings; however, the minimum spacing between two adjacent structures shall not be less than ten feet. On corner lots the side yard setback adjacent to the street shall be no less than fifteen feet.

**18.12.075 Height limitations.**

Buildings and structures in this zone shall comply with Chapter 18.54.

**18.12.080 Off-street parking.**

The minimum off-street parking in the R1 district shall be provided in Chapter 18.42.

**18.12.090 Special considerations.**

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

**A. Preschool nurseries.**

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

**B. Noncommercial recreational uses, including swimming pools, community buildings, tennis courts, and similar uses as a principal use.**

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

**C. Cemeteries.** The minimum area of any cemetery shall be at least twenty acres, and gravesites shall be located at least twenty-five feet from the boundaries of the cemetery.

## Water's Edge Neighborhood Meeting 3.24.16

1. Lakeside Terrace 99%  
Spring Mountain 1%
2. Inadequate number of signs / posting location. Move locations to where folks can better see.
3. Will presentation be posted on the City's website?
4. What are recommendation requirements?
5. How many lots per acre? Averaged over entire development? How many acres in the wetlands?
6. Any reason this won't go through or is it a forgone conclusion?
7. Is there a State law that says the City has to annex it?
8. Any interest in City buying the site?
9. County vs City development – difference?
10. If a considerable number of residents approach City to buy land, what will make them listen?
11. What is a "Use by Right?"
12. Any restrictions on size of house? A big concern of neighbors.
13. Is this a PUD like LTE? Why not?
14. Will they have a HOA?
15. Does the city ever restrict building height in a development?
16. Is traffic part of Step 1?
17. Does R-1 allow apartments?
18. Any attempt to open road back up?
19. What are black arrows? Entrances to project? Will it be gated? Locked?
20. Is there a traffic study being presented tonight?
21. Is there an access in NW corner? Only access is out to 28<sup>th</sup>?
22. Are you going to build houses on top of the gas line?

23. 130-260 houses, 2 cars for every house – all going out to 28<sup>th</sup> street at the same time. Any traffic lights? 28<sup>th</sup> two way, left out road – everyone will cut through to 26<sup>th</sup> to get to Taft.
24. What kind of input to citizens have? Frequent bike and pedestrians mixing w/traffic.
25. Trees on south side of 28<sup>th</sup> – south side County & north side city?
26. Ask group who wants to urge the city that this should be open space?
27. Does the environmental evaluation take into consideration wildlife, birds, eagles, etc.? Poisoning Prairie Dogs – loss of eagles, hunters valued hunting ground.
28. Show of hands – who doesn't want this as open space?
29. There will be a parking lot for open space and increase in traffic – take that into consideration as well.
30. Many people walk on 28<sup>th</sup> Street & gravel road and they wont be able to use them because of this.
31. There are not sidewalks on Taft – you are contradicting yourself.
32. Isn't there another development under review east of Taft?
33. Concerns of folks from Lakeside Terrace walk along 28<sup>th</sup>.  
No sidewalks along Taft / sketchy
34. McKensie & 26<sup>th</sup> – lot of traffic – who maintains streets?  
HOA or City – maintained roads
35. Will there be improvements required on both sides of road along 28<sup>th</sup> Street?
36. Trail along west – why not allow this to become a road?  
Put the money into improving old county road  
Why won't county allow access?
37. Property land – locked. Traffic will increase greatly,  
28<sup>th</sup> & Taft very dangerous intersection
38. Has Bill put a price tag on A, B & C?  
What is fair market price? 7 million
39. What about traffic?
40. Who would be responsible? Developer or City?
41. So many questions without answers, especially traffic.
42. How soon can we start using the open lands area?

Can we use land now without trail?

43. Who will pay for improvements on 28<sup>th</sup>?
44. Wetlands – What is difference between town lines – Why are you showing lots in wetlands?
45. Since Lakeside Terrace is a PUD, could this be a gated community?
46. What can this group do to facilitate the city to purchase this as open space?
47. What are the impacts to Ryan's Gulch? Surface rights? Number cap?
48. Where is access to lake if you don't have lakefront property?
49. Can you put all info on website? Send email?
50. How can we have input at city council?
51. When was the last time open lands looked at this? Can we have input?
52. Can there be an appeal?
53. Would Bill consider a compromise for some open space west of C or a part of C?
54. Are there houses on top of the rise?
55. Cattails provide songbirds / redwing blackbirds
56. Was there cash in lieu for sidewalks along Taft when Lakeside Terrace was developed?

**ENVIRONMENTAL AND NATURAL AREAS ASSESSMENT REPORT  
FOR THE WATERS EDGE PROPERTY**

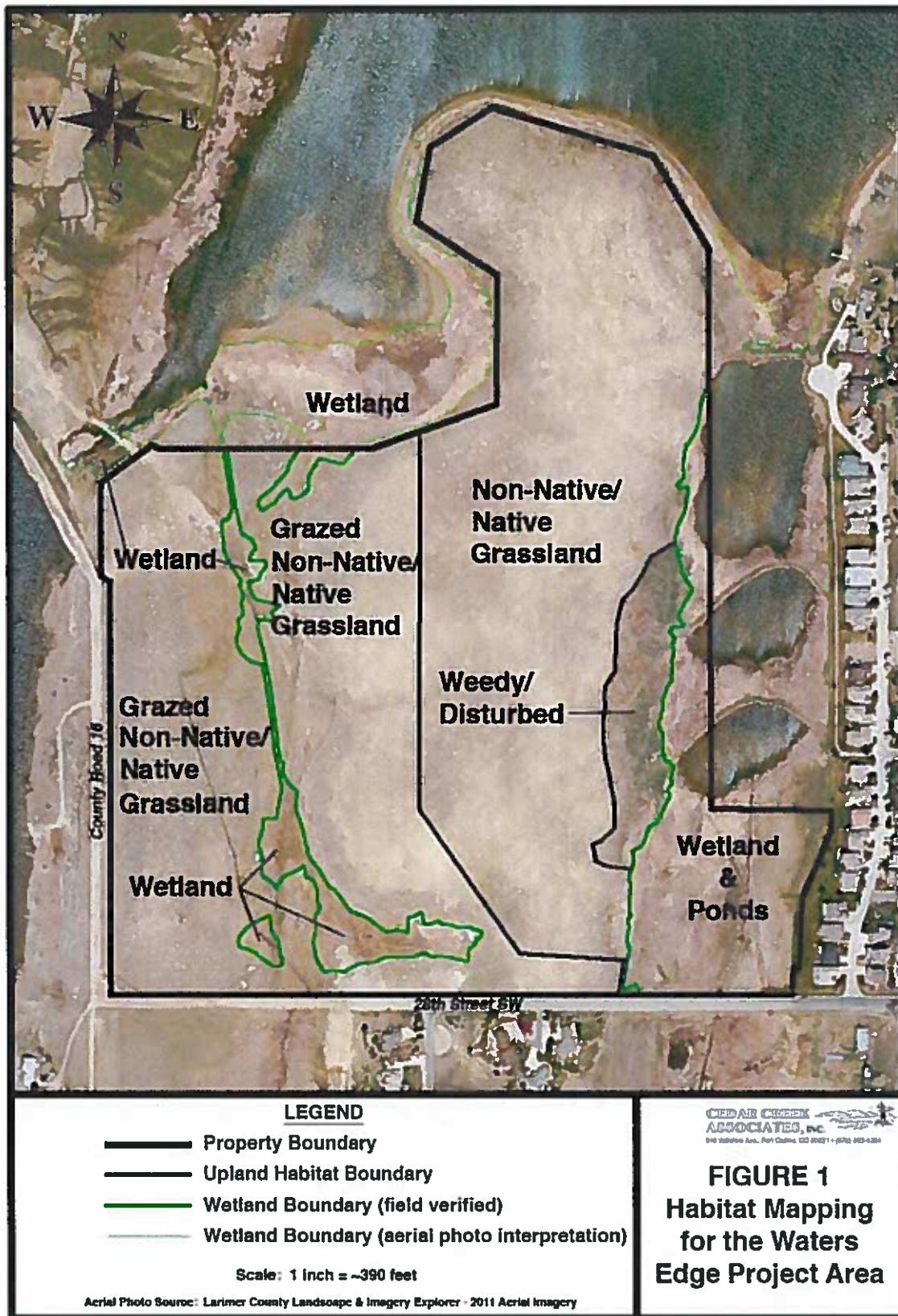
Prepared  
by  
**Cedar Creek Associates, Inc.**  
Fort Collins, Colorado

Prepared  
for  
**Luxor LLC**  
Loveland, Colorado

December 14, 2015

**CEDAR CREEK  
ASSOCIATES, INC.**   
916 Wilshire Ave., Fort Collins, CO 80521 • (970) 493-4394

ATTACHMENT E



Non-native/native grassland in the eastern portion of the project area supports relatively sparse stands of grass cover over, although grass stands are more diverse and dense along the perimeter of this habitat, especially near the shoreline of Ryan Gulch Reservoir. In the more upland, hilltop portions of this habitat, it is apparent that past heavy grazing pressure has altered vegetation community composition. Grass cover is generally lacking, and unpalatable forb and small shrub species, which typically increase under heavy grazing pressure, are dominant. Dominants in this habitat are primarily fringed sage (*Artemesia frigida*) and broom snakeweed (*Gutierrezia sarothrae*) with field bindweed (*Convolvulus arvensis*) in the understory. The perimeter sites support increased vegetation diversity and more dense grass cover. Common grasses include western wheatgrass, Canada wildrye (*Elymus canadensis*), crested wheatgrass (*Agropyron cristatum*), smooth brome, cheatgrass (*Bromus tectorum*), and inland saltgrass. Western wheatgrass, Canada wildrye, and inland saltgrass are the only natives. Mixed stands of rubber rabbitbrush, broom snakeweed, field bindweed, flixweed (*Descurainia sophia*), curly dock (*Rumex crispus*), and kochia (*Bassia scoparia*) are also evident in these perimeter areas. Photos 2 and 5 through 8 provide representative views of non-native/native grassland habitats.

Weedy/disturbed habitat is supported on an east-facing slope between non-native/native grassland and wetlands at the east side of the project area. This area appears to have been cleared of native vegetation by disturbance, prairie dog grazing, or a combination of both, and now supports dense stands of predominantly tall weeds including kochia, flixweed, neilseed lambsquarters (*Chenopodium berlandieri*), littlepod false flax (*Camelina microcarpa*), prickly lettuce (*Lactuca serriola*), Canada thistle (*Cirsium arvense*), and Scotch thistle (*Onopordum acanthium*). Photos 9 and 10 provide representative views of weedy/disturbed habitat.

Habitat value and wildlife use of non-native/native grassland and weedy/disturbed habitats are limited by the lack of woody vegetation, dominance by non-native grass and weed species, and current and past livestock grazing practices. Mice, voles, black-tailed prairie dogs, pocket gopher, western meadowlark, and horned lark are the only species likely to establish resident populations in these habitats. Other birds such as Brewer's blackbird, common grackle, black-billed magpie, and Canada goose may also occasionally use these habitats but would not be present as full time residents. Open-country raptors including red-tailed hawk, northern harrier, and great horned owl and mammalian predators like coyote, striped skunk, and red fox may occasionally hunt non-native grassland and weed/disturbed habitats. Prairie dog populations previously resided on the property but are currently absent.

Wetlands supported in the western half of the project area and along the eastern property boundary and associated water bodies are the most valuable habitats in or adjacent to the project area since they typically support a greater diversity of plants and animals than that found in adjacent dryland habitats. In addition, many wildlife species from adjacent upland habitats rely on wetland habitats for obtaining food, cover, and water on a regular or intermittent basis. However, the overall wildlife habitat value of the wetland swale in the western portion of the project area is relatively low since these wetlands are relatively small and narrow, have low herbaceous vegetation cover due to grazing, and lack any open surface water areas. In addition, these wetland areas are not well developed in terms of herbaceous species diversity and lack of woody species. Wildlife species potentially present in this wetland area include: small mammals, Woodhouse's toad, chorus frog, and wandering garter snake.

The pond and wetland mix along the project area eastern boundary and the wetlands associated with Ryan Gulch Reservoir are the most valuable and unique habitat features within or near the Waters Edge project area in terms of vegetation and wildlife species diversity and wildlife habitat value. However, dominance primarily by monotypic stands of cattail and bulrush and a lack of any woody vegetation diversity limit overall habitat diversity in these areas. Housing development immediately adjacent to the east boundary of the east side wetland swale also reduces the overall habitat value of this wetland swale. Wetlands and associated open water lake and pond habitats provide foraging, resting, and breeding habitat for some urban adapted species of waterfowl such as mallard and Canada goose. Wetlands with

### **Irrigation Canals, Ditches, and Water Courses**

The grazed non-native/native grassland portion of the property was formerly flood irrigated for use as livestock pasture but has not been irrigated for at least 10 years (Bill Beierwaltes, personal communication). Small irrigation feeder ditches used for this irrigation practice are still evident in the western portion of the property, but they are no longer actively used for irrigation.

The two wetland swales are the only natural watercourses on or near the project area. The wetland swale in the western portion of the project area is ephemeral and carries water only seasonally in response to precipitation events. Surface water flow and open water ponds were evident in the east side wetland swale (Natural Area #35) at the time of the field surveys.

### **Existing Slopes Over Twenty Percent**

Some slopes along the western property boundary and along the west side of the north-south ridge that runs down the center of the property exceed 20 percent. Erosion problem areas were not observed along these slopes, but additional erosion control and soil stabilization measures may need to be implemented in these areas if proposed development occurs in the Waters Edge property.

### **Soils With a High Water Table or Being Highly Erodible**

The NRCS indicates that the Aquepts loamy and Longmont clay soil-mapping units have a water table within 6 to 18 inches and 24 to 30 inches of the surface, respectively. The water table is greater than 80 inches below the surface for the other project area soils.

Soils contained within the project area are: Aquepts loamy, Heldt clay loam, Longmont clay, Midway clay loam, Fort Collins loam, Kim loam, Longmont clay, Midway clay loam, and Tassel sandy loam. The NRCS (<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>) indicates these are all well-drained soils, except for Aquepts loamy and Longmont clay, which are poorly drained. Runoff is high to very high on all the project area soils. Aquepts loamy and Longmont clay have a slight to medium erosion hazard potential. The remaining project area soils with slopes over 3 percent have severe erosion potential (NRCS). No problem erosion sites were noted on the property during the December 2015 field surveys.

### **Land Formerly Used for Landfill Operations or Hazardous Industrial Use**

These topics are addressed in separate documents submitted for the for the Water Edge property.

### **Fault Areas and Aquifer Recharge and Discharge Areas**

These topics are addressed in separate documents submitted for the for the Waters Edge property.

## **ASSESSMENT OF POTENTIAL IMPACTS OF PROPOSED DEVELOPMENT**

Proposed development would occur in primarily in non-native/native grassland and weedy/disturbed habitats. Because of past disturbance, livestock grazing, and a predominance of non-native and weedy species these habitat areas provide relatively low wildlife habitat value and do not support any special habitat features or environmentally sensitive areas.

Environmentally sensitive areas identified within or adjacent to the Waters Edge project area include Ryan Gulch Reservoir (Natural Areas #36), the Wetland Swale (Natural Areas #35) along the east project area boundary, and the wetland swale and ephemeral drainage in the western portion of the project area. *City of Loveland Parks and Recreation Master Plan* (2014) recommends a 50-foot setback from Natural Areas with a overall habitat rating of "5" or less to protect water quality and wildlife habitat would apply to the

east Wetland Swale (Natural Areas #35). A buffer setback of 75 feet is recommended for lake edges rated "5" or less and this would apply to #36 Ryan Gulch Reservoir. As per The *City of Loveland Parks and Recreation Master Plan* (2014) guidelines, buffer zones for these Natural Areas should be planted with native vegetation and intrusion by invasive weedy or non-native species should be controlled. These setbacks and vegetation planting guidelines would preclude any direct development impacts to these two Natural Areas and also minimize the potential surface water runoff degradation to water quality these Natural Areas. Buffer setbacks for Natural Area #35 would also maintain this swale as a wildlife movement corridor between Natural Areas to the south of the Waters Edge project area and Ryan Gulch Reservoir.

Preliminary concept plans for the proposed Waters Edge development indicate that development impacts to the wetland swale in the west portion of the project area would be restricted to a single road crossing. The extent of this impact is unknown at this time. Any wetland impact would need to be permitted through the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act, and wetland mitigation may be required if wetland losses reach or exceed 0.10 acre. A 50-foot buffer setback for other impervious surface developments near this wetland swale would protect the wetlands and water quality within this ephemeral drainage. This buffer would also maintain this swale as a wildlife movement corridor between Natural Areas to the south of the Waters Edge project area and Ryan Gulch Reservoir.

Based on this evaluation, project development would not result in any impacts to important wildlife corridors, environmentally sensitive areas, or potential habitat for federally listed threatened or endangered species. Development would result in loss of relatively low value non-native/native grassland and weedy/disturbed habitats and loss or displacement of wildlife currently residing or seasonally present in these habitats. However, no unique, sensitive, or State or Federal protected species would be impacted.

#### **RECOMMENDED PROTECTION MEASURES, MITIGATION, AND ENHANCEMENT**

Maintenance of Natural Areas and wetlands and establishment of appropriate buffer zone setbacks are the principal measures that would preclude or minimize impacts to Natural Areas and other environmentally sensitive areas. Other recommended mitigation measures to protect or enhance habitats within undeveloped portions of the project area are provided below.

- The intensity of night lighting from portions of the proposed development facing Natural Areas, wetlands, and their buffer zones should be shielded or directed to minimize the intrusion of artificial nighttime light into these areas.
- Existing weed-dominated areas within the buffer zones should be revegetated with appropriate native herbaceous and woody species to enhance wildlife habitat conditions within the two Natural Areas and the one unnamed wetland swale in the western portion of the project area.
- Impacts to existing stands of native herbaceous vegetation should be avoided to the extent possible.
- The road crossing of the western wetland swale should incorporate an appropriately sized and designed culvert to permit small mammal, reptile, and amphibian movement under the roadway.
- Removal of livestock grazing as soon as possible and continued control of prairie dogs would serve to greatly enhance existing stands of herbaceous vegetation in the western wetland swale. Additional plantings of native shrubs and trees would also increase vegetation diversity and cover as well as wildlife habitat value.
- Removal of weedy species and plantings of native shrub and trees in the existing weedy/disturbed habitat area would also substantially enhance wildlife habitat along the eastern portion of the project area.
- Any recreational trail development within the buffer zones should avoid existing wetland areas to the extent possible. Elevated boardwalks or small footbridges may be appropriate to span wetlands and minimize wetland impacts.

- Backyards of residential lots bordering Ryan Gulch shoreline areas may be attractive to Canada geese if planted to turf grass. In order to minimize potential human/goose conflicts on these lots, it may be necessary to construct low fences or shrub rows that limit goose line-of-sight views of the lake shoreline from these lots making them less attractive to grazing geese.



**PARKS AND RECREATION DEPARTMENT**  
Civic Center • 500 East Third Street • Loveland, Colorado 80537  
(970) 962-2727 • FAX (970) 962-2903 • TDD (970) 962-2620  
[www.cityofloveland.org](http://www.cityofloveland.org)

April 13, 2016

City of Loveland Planning Commission

**Re: Waters Edge Proposed Development and Open Lands Purchase of Luxor 184 ac at 2440 CR 16**

Dear Jeremy Jersvig,

The Loveland Planning Staff has asked the Open Lands Staff and Advisory Commission (OLAC) to make a statement regarding our interest in the Waters Edge Development for open land purposes. Staff has been in contact with the owner of the property for several years and this property has been discussed with OLAC several times. The property owner, Bill Beierwaltes, owned 184 acres south of CR 16 and 90 acres north of CR 16 (proposed Waters Edge). After a review and evaluation of both properties in 2015, OLAC recommended the fee simple purchase of the south parcel only. In January 2016, the City of Loveland closed on the 184-acre property south of CR 16 for open land and trail purposes.

The 184-acre property south of CR 16 was prioritized because:

- It provides a much needed trail connection south to CR 14 and then to the Town of Berthoud
- It is a highly-rated Natural Area with abundant wildlife including an active Golden Eagle nest
- It provides riparian and wetland areas along Southside Reservoir, Southside Extension Ditch

Both parcels were evaluated and discussed by OLAC and subsequently they did not recommend the 90 acres north of CR 16 (Waters Edge) as a project for Loveland's Open Lands program.

Recommended acquisitions and preservation projects are periodically reviewed by OLAC and there are currently more than 20 prioritized open land acquisitions under consideration with limited funding.

Sincerely,

Marilyn Hilgenberg  
Open Lands and Trails Manager

William Zawacki  
Chair, Open Lands Advisory Commission

Cc: Elizabeth Anderson, Director of Parks and Recreation

Cc: Kerri Burchett, Current Planning

Cc: Tree Ablao, Assistant City Attorney

Cc: Hugh McKean, City Council Liaison to the Open Lands Advisory Commission

**ATTACHMENT F**

## Agenda

### Waters Edge Counter Proposal to Development

May 9, 2016

1. Who We Are
2. Pictures of the Current Open Space
3. Top 10 Reasons to keep it Open
4. Statements of Support for Open Space  
from the HOAs in the Area

# Proposal By Lakeside Terrace HOAs

## To Keep Waters Edge “OPEN”

### Who We Are:

- 5 HOAs that border the proposed Waters Edge Development (from the North to the South)
  - Shoreline HOA
  - Lakeside Terrace Estates HOA
  - Lakeside Commons HOA
  - Lakeside Terrace Estates II HOA
  - Spring Mountain HOA
- Concerned Citizens that are looking forward to the keeping the future of the City of Loveland with open lands and wildlife

### Where We Live:

- From 14<sup>th</sup> Street SW to 28<sup>th</sup> Street SW along the west side of South Taft, bordering the proposed development on the entire east side and south side. Spring Mountain, while in the county, is directly south of the proposed development.

### Why We Are Here:

- Protect the wildlife and natural areas of south Loveland.
- Keep an area with two wetlands and 5 lakes in just over a third of a mile wide and less than a mile long protected from development
- Exhort the city and county to protect this natural area from development
- Demonstrate the unanimity of the residents of southwest Loveland in protecting its environs.
- Request that the city/county and state work together to take advantage of the opportunity to preserve a natural wetlands

# *Wildlife On the Prairie*



*May 9, 2016*



*Bald Eagle*



*Bald Eagles*



*Coyote*



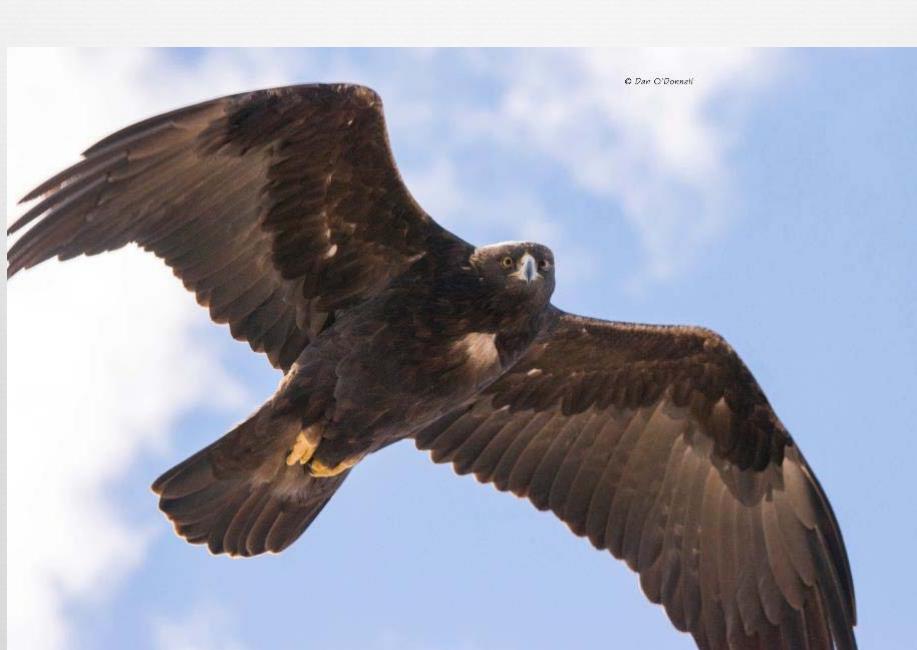
*Coyote*



*Ferruginous Hawk*



*Ferruginous Hawk*



*Golden Eagle*



*Golden Eagle*



*Northern Harrier Hunt*



*Northern Harrier*



*Red Fox Female*



*Red Fox Male*



*Red-Tailed Hawk*



*Swainson's Hawk*



*Rough-legged Hawk*

## TOP TEN CONCERNS OF RESIDENTS ABOUT THE PROPOSED WATERS EDGE DEVELOPMENT

- 10-- Disruption of the natural animal habitat and the Colorado Trail/ No. Colorado Corridor (Deer, elk, foxes, coyotes, bear etc.)
- 9-- Light and Noise Pollution (from 130+ added houses and construction)
- 8-- Natural Gas Pipeline and Construction through Adjacent Wetlands to Ryans Gulch
- 7-- Air Pollution (200+ vehicles)
- 6-- Access ("emergency" route through narrow passage between north pond and Ryans Gulch) (Corps of Engineers permit?)
- 5-- Major disruption of view for Lakeside Terrace residents
- 4-- Significant traffic increase on Cty Road 16 (residents will soon discover gate on 16 west access is not padlocked)
- 3-- Traffic increase on 28<sup>th</sup> Street (additional 4-500 trips per day)
- 2-- Traffic increase on McKenzie Drive (Waters Edge residents driving north will cut down McKenzie, a narrow street with no sidewalks and many walkers)
- 1-- Erosion of housing values of all homeowners in the developments east and south of the proposed Waters Edge explosion of houses.

**A POSSIBLE SOLUTION IS A CONTIGUOUS NATURAL AREA WITH THE RECENTLY ACQUIRED ONE TO THE SOUTH JUST ACROSS COUNTY ROAD 16**

A neighbor recently stopped by to request your signature on this statement. Because you were not home I left this signature section below. An outpouring of support is necessary to have our concerns heard. Please sign this statement and deposit it in the receptacle at : 2665 McKenzie Dr. AND plan to attend the Planning Commission meeting on May 9<sup>th</sup> at 6:30 pm at the City Council Chambers.

**Statement of Support  
Regarding the proposed Water's Edge Development Area**

**We, the undersigned, agree and give our support to the following statement.  
We further affirm that our signature is given by our free will.**

**STATEMENT:**

**As residents, constituents, and neighbors near the proposed Waters Edge Development (as indicated by the attached map), we have concerns regarding increased traffic, environment, and limited access. We thereby request that:**

**Collectively or individually, the City of Loveland, Larimer County, and/or the State of Colorado purchase the land in question and designate it as Open Land in perpetuity.**

*Total  
Signatures  
172  
C. 5/20/16*

NAME	Address	In: City	County	Date
Dick Malb <sup>t</sup>	2765 McKenzie Dr	X		4/25/16
Dick Siefenbrun	2746 McKenzie Dr	X		4/25/16
Carl R. Wren	2766 McKenzie Dr	X		4/25/16
Phillip Preston	2710 Lynn Ct	X		4/25/16
Mark <sup>Stam</sup>	2752 Lynn Ct	X		4/25/16
(P. Wright as 2732 Lynn)	2732 Lynn	X		4/25/16
Deb C. <sup>Wright</sup>	2764 Lynn	X		4-25-16
Don Johnson	2764 Lynn Ct	Y		4-25-16
Don Muller	2763 Lynn Ct	X		4. 25. 16
Donald Muller	2763 Lynn Ct	X		4/25/16
Victoria Carden	2731 Lynn Ct	X		4/25/16
David Balsiger	2731 Lynn Ct	X		4/25/16

**Statement of Support**  
**Regarding the proposed Water's Edge Development Area**

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NAME	Address	In: City	County	Date
<u>Jay Sh</u>	1488 27 <sup>th</sup> st SW Loveland CO 80537	X		4/25/16
<u>John W</u>	2733 27 <sup>th</sup> Ct. SW Loveland, CO 80537	✓		4/25/16
<u>Jan Chapman</u>	2734 27 <sup>th</sup> Ct. SW Loveland, CO 80537	X		4/25/16
<u>Malissa and Christopher</u>	2734 27 <sup>th</sup> Ct SW Loveland, CO 80537	X		4/25/16
<u>Eric Harting</u>	2690 27 <sup>th</sup> Ct SW Loveland, CO 80537	X		4/25/16
<u>Alexa Harting</u>	2690 27 <sup>th</sup> Ct SW Loveland, CO 80537	X		4/25/16
<u>Jennifer Klagge</u>	1487 27 <sup>th</sup> St SW Loveland, CO 80537	X		4/25/16
<u>Lin Lain</u>	1501 27 <sup>th</sup> St SW 80537	X		4/25/16
<u>Harry D. McWay</u>	2745 McWayne Dr	X		4/27/16
<u>Naomi G McWay</u>	2745 McWayne Dr	X		4/27/16
<u>Barbara Waller</u>	2745 McWayne Dr	X		4-27-16
<u>12 Rhonda Edgeman-Kobus</u>	707 W 5 <sup>th</sup> St. Loveland, CO	X		4-28-16

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Address of persons who have signed the Statement		Number of Signatures		Number of Signatures		Number of Signatures		Number of Signatures	
Frances Dr	26th St	McKenzie	Helena Ct	Frances Dr	26th St	McKenzie	Helena Ct	Frances Dr	26th St
2524	1	1669	2	2599	1	2318	1		
2525	1	1708	1	2575	1	2330		left stmt to sign	
2458	1	1733	2	2539	1	2342	1		
2486	1	1680	1	2527	2	2307	2		
2493	2	1708	1	2491	1	2331			
2459	2	1658	2	2456	2	2318			
2525	2	1636	2	2432	1				
2307				2342					
2569	3								
2591									
2546	1								
2568	1								
2500	1								

2547 did not want to sign

16

11

9

5

41

President of the HOA, they had sent out 50 emails to their HOA re the WE development with information about the May 9 meeting probably, he will discuss w/his wife this evening 4/28

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NAME	Address	In:	City	County	Date
Steven Lawrence	2459 Frances Dr	Loveland	Larimer		12 April 2016
Kathy Lawrence	2459 Frances Dr	Loveland	Larimer		12 April 2016
Rebecca Ledermann	2525 Frances Dr	Loveland	"		04/22/2016
Brynn Ledermann	2525 Frances Dr	Loveland	"		04/22/2016
Donna T. Peltz	2307 Frances Dr	"	"		04/22/2016
Charles Kramer	2569 Frances Dr	"	"		4/22/2016
Jane Kramer	2569 Frances Dr	Loveland	"		4/22/2016
Jennifer Kramer	2569 Frances Dr	Loveland	"		4/22/16
Karen Johnson	2591 Frances Dr	"	"		4-22-16
Kathy Jacobson	1680 26th St SW	Loveland	"		4-22-16
Ruth-Edie Sanguino	2318 Helena Ct	Loveland	"		4-22-16
12 Alan L. Yirak	1708 26th St. SW	Loveland	"		4-22-16

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✓ Stacy Yirak	708 26 <sup>th</sup> St. SW	Loveland		4-22-16
✓ Donald & Faith Matula	1733 28 <sup>th</sup> St. SW	Loveland		4-22-16
✓ Faith Matula	1933 26 <sup>th</sup> St. SW	Loveland		4-22-16
✓ Capria & Brad Pitt	2599 McKenzie Dr.	Loveland		4/22/16
✓ Nancy J. Jumper	2575 McKenzie	Loveland		4/22/16
✓ Helen Bonnige	2539 McKenzie	Loveland		4-22-16
✓ Deborah J. Jansen	2527 McKenzie Dr.	Loveland		4-22-16
✓ L. G. Lewis	2527 McKenzie Dr.	Loveland		4-22-16
✓ Carol M. Tomlin	2491 McKenzie Dr.	Loveland		4-22-16
✓ J. L. Lewis	2456 MCKENZIE	Loveland		4/22/16
✓ Linda & Tom Lewis	2452 MCKENZIE Dr.	Loveland		4/22/16
✓ Henry G. Lewis	2422 MCKENZIE Dr.	Loveland		4/22/16

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NAME	Address	Inc	City	County	Date
Donna Carr	1669 2657 SW		Loveland	Larimer	4-22-16
Danielle Carr	"	"	"	"	4/22/16
Paul Mat	2524 Frances Dr	"	"	"	4/22/16
John Kelly	2525 Frances Dr.		Loveland	Larimer	4/22/16
Pamela J.	2458 FRANCES DR		Loveland	Larimer	4/22/16
Melodie Beam	2486 Frances Dr.		Loveland	Larimer	4-22-16
K. B. Spenbarken	2493 FRANCES DR.	"	"	"	4/22/16
Adrienne Johnson	2493 Frances Dr.	"	"	"	4/22/16
Karen Lofgren	2342 Helena Ct	"	"	"	4/27/2016
Lynn A. Schmidt	2307 Helena Ct	"	"	"	4/28/16
Jeanette Schmidt	2307 Helena Ct	"	"	"	4/28/16
Dee Correll	2331 Helena Ct	"	"	"	4/28/16

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NAME	Address	In:	City	County	Date
Lyndsey Anthony	2546 Frances Drive	Loveland	Larimer		5/1/16
John Mills	2568 Frances Dr	"	"	"	"
Dan Marthman	1658 26 <sup>th</sup> St SW	"	"	"	5/1/16
Jessica Marlowe	1658 26 <sup>th</sup> St SW	Loveland	Larimer		5/1/16
LEONARUS GRASSENS	1636 26 <sup>th</sup> ST SW	LOVELAND	LARIMER		5/1/16
Guenthera Grassen	1636 26 <sup>th</sup> St. SW	Loveland	Larimer		5/1/16
James Murphy	1500 Frances Dr	Loveland	Larimer		5/1/16
Henry Murphy	2560 Frances Dr.	Loveland			5/1/16

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NAME	Address	In:	City	County	Date
Karen J. Bratzig	2613 McKenzie Dr.	Love.	Lar.		4/26/16
Sheri K. Bratzig	2613 McKenzie Dr.	Love.	Lar.		4/26/16
Gary S. Walton	2707 McKenzie Dr.	Love	Lar		4/26/2016
Elizabeth K. Watt	2707 McKenzie Dr.	Love.	Lar.		4/26/2016
Thomas Yman	2721 McKenzie Dr.	Love	Wyo		4/26/16
Veggy Donovan	" "	LV	Lar		4/26/16
Terri Cittadino	2722 McKenzie	W	Lar		4.26.16
John Witten	"	"	"		"
Tim Heas	1698 McKenzie	"	"		4/26/16
Tim Heas	1698 McKenzie	"	"		4/26/16
Joseph Donahue	1682 McKenzie Ct.	LV.	Lar		4/26/16
Carol Van Delle	1682 McKenzie Ct	LV	Lar		4/26/16
Q. Earl Page	1729 McKenzie Ct	LV	Lar		4/26/16

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NAME	Address	In: City	County	Date
Paul Wimow	2479 McKenzie Dr.	Loveland ✓	LAR	April 25, '16
Marcia Wiener	2479 McKenzie Dr	✓	LAR	Apr. 25, '16
Jane Snell	1528-27 1/2 SW	✓	LAR	Apr. 25 '16
Kathleen Atkins	1714 McKenzie Ct	✓	LAR	April 25, 2016
James Atkin	✓	✓	LAR	✓
John Wm.	1649 McKenzie	✓	LAR	April 26, 2016
GREG TIZIK	1730 McKenzie Ct	✓	LAR	4/26/16
SHIRLEY TIZIK	1730 McKenzie Ct	✓	LAR	4/26/16
Lauri Rogers	1697 McKenzie Ct.	✓	LAR	4/26/16
Quinn Martin	1681 McKenzie Ct	✓	LAR	4/26/16
Bob Martin	1681 McKenzie Ct	✓	LAR	4/26/16
12 Mary Jo George	1751 McKenzie	✓	LAR	4/26/16

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NAME	Address	In: City	County	Date
Julie A Harden	2673 Amber Drive	Loveland	Larimer	4-26-16
Richard L. Harden	2673 Amber Drive	Colorado	Larimer	4-26-16
Robert A. Benedict	2735 Amber Dr.	Loveland	Larimer	4-26-2016
John Elliott	2673 Amber Dr.	Loveland	Larimer	4/26/2016
Donald J. Corp	2791 Amber DR	Loveland	Larimer	4/26/2016
Laura D. Corp	2791 Amber Dr	Loveland	Larimer	4/26/2016
Robert Strom	2792 Amber Dr	✓	✓	26 April 2016
Karl R. Kessler	2768 Amber Dr.	Loveland	Larimer	4/26/16
Susan H. Kessler	2768 Amber Dr.	Loveland	Larimer	4/26/16
Don D. Shaw	2740 Amber Dr	Lov	LAR	4/26/16
Terry Weigert	1556 SW 27th St	Lov	LAR	4-26-16
Debra B. Linn	1555 27th St. SW	Lov	LAR	4-26-16

12

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<u>L. Fara</u>	<u>1757 1/2 Kegs</u>	<u>✓</u>	<u>Lar.</u>	<u>Lar.</u>	<u>4-26-16</u>
<u>James Mr Dennis Mr McKenzie</u>	<u>2626</u>	<u>✓</u>	<u>Lar.</u>	<u>Lar.</u>	<u>4-26-16</u>
<u>James L. McKenzie</u>	<u>2626 McKenzie</u>	<u>✓</u>	<u>Lar.</u>		
<u>Andrea Schneider</u>	<u>2689 McKenzie NW</u>	<u>✓</u>	<u>Lar.</u>		<u>4-27-16</u>
<u>Ron Schneider</u>	<u>2689 McKenzie Dr</u>	<u>✓</u>	<u>Lan</u>		<u>4-27-16</u>
<u>Cheryl Courtney</u>	<u>2672 McKenzie Dr</u>	<u>✓</u>	<u>Lan</u>		<u>4-28-16</u>
<u>Russell Pickering</u>	<u>2672 McKenzie Dr.</u>	<u>✓</u>	<u>Lar</u>		<u>4-28-16</u>

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NAME	Address	In: City	County	Date
Judeth Mamate	2204 Frances	yes	Larimer	4-28-16
Joseph T. Mamate	2204 Frances Dr.	yes	Lo.	04/28/16
Mary Louise Myers	2211 Frances Dr	yes	Larimer	4-28-16
S. L.	2208 Frances	yes	as always	28 April, 16
Barry D. C.	2208 Frances Dr.	yes	Larimer	4-28-16
Carla R.	2208 Frances Dr.	yes	Larimer	4-28-16
Cody R.	2208 Frances Dr.	yes	Larimer	4-28-16
Kathleen B. Hill	2106 Frances Dr.	yes	Larimer	5-1-16
Don C. Hill	2106 Frances Dr.	yes	Larimer	5-1-16
P. Margaret Bentham	2203 Frances Dr	yes	Larimer	5-1-16

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NAME	Address	In: City	County	Date
Kirk Ball	2801 Spring Rite Ln	✓		5/1/16 <i>please come</i>
Beth Hieb	2880 Spring Mtn	✓		5/1/16
Gari Gartner	2815 Spring Mtn	✓		5/1/16
Robert Hill	1956 Mtn (5/1/16)	✓		5-1-16
Janice Goldberry	1674 Mtn	✓		5-1-16
Zack Samuel-Burnett	3142 Spring Mountain	✓		5-1-16
Seamus Samuel-Burnett	3142 Spring Mountain	✓		5-1-16
Paul J Cigler	3155 Spring Mtn. Cr.	✓		5-1-16

SM HOA

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Harry Wileman	3003 Spring Mtn Dr		X	1 May 16
Don E Steph	3002 Spring mtn Dr		X	5-1-16
Marilyn Stephine	3002 Spring Mtn Dr		X	5-1-2016
Tom M. Rice	2954 Spring Mtn Dr		X	5-1-2016
Kathy Lampert	2962 Spring Mtn Dr		X	5-1-2016
G. Schmitz	2950 Spring Mtn Dr		X	5-1-2016
Jacquie Schmitz	2950 Spring Mtn Dr		X	5-1-2016
Quincy Scott	2927 Spring Mtn Dr		X	5-1-2016
TTT	2927 Spring Mtn Dr.		X	5-1-2016
Paul E. Williamson	2903 Spring Mtn Dr		X	5-1-2016
Arnold Williamson	2903 Spring Mtn. Dr.		X	

SM

HOA

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Ted Torrez	3118 Spring Mtn. Ct.	X		5-1-2016
Jesse Torrez	" "	X		5-1-2016
Sadie Torrez				
Shirley L. Payne	3232 Spring Mtn. Ct.	X		5-1-2016
Shirley L. Payne	3232 Spring Mtn. Ct.	X		5-1-2016
Christopher L. Payne	3314 Spring Mtn. Ct.	X		5-1-2016
Thomas L. Shilcock	3314 Spring Mtn. Ct.	X		5-1-2016
Donna S.	3303 Spring Mtn. Ct.	X		5-1-2016
Donald M. S.	3303 Spring Mtn. Ct.	X		5-1-2016
Leanne L. S.	3107 Spring Mtn. Ct.	X		5-1-2016
Ruben S.	3107 Spring Mtn. Ct.	X		5-1-2016
Angie A. Koch	3431 Spring Mtn. Dr.	X		5-1-2016

SM

HOA

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NAME	Address	City	County	Date
Jean M. Fisher	3105 Friends Dr	yes	Larimer	May 1, 2016
Mark H. Fisher	3105 Friends Dr	yes	Larimer	5-1-2016
Mark Tuck	3105 Fl. 1	yes	Larimer	5-1-16
Tom Tuck	3105 Fl. 2a	yes	Larimer	5-1-16
Paul H.	3105 Friends	yes	Larimer	5-1-16
Reinhard Lohmeyer	2105 Fl. 1	yes	Larimer	5-1-16
Joseph J. Wiesen	2101 Flora Ct	yes	Larimer	5/1/16
Debby Mayes	2208 Flora Ct	yes	Larimer	5/1/16
Janet Mayes	2208 Flora Court	yes	Larimer	May 1, 2016
Robert L. Campagna	2209 Flora Ct	yes	Larimer	May 1, 2016
Robert A. Campagna	2216 Flora Ct	yes	Larimer	May 1, 2016
Judson L. Campagna	2216 Flora Ct	yes	Larimer	May 1, 2016

## Kerri Burchett

---

**From:** Rhonda Koons <rcekoons@yahoo.com>  
**Sent:** Friday, April 29, 2016 3:26 PM  
**To:** Kerri Burchett  
**Cc:** David Koons  
**Subject:** Proposed Water's Edge Addition Commentary

Dear Kerri,

We're writing you with regards to a proposed annexation and development called "Water's Edge" located north and west of 28th Street SW, south of Ryan Gulch Reservoir, west of the existing Lakeside Terraces division. This proposal will be under consideration at the May 9, 2016 Planning Commission session.

We'd like to ask Loveland to **deny annexation** and instead consider it an extension of the Loveland Natural Area recently acquired near Southside reservoir to preserve the natural environment of this area, its access to the Colorado Trail and Loveland's Open Spaces.

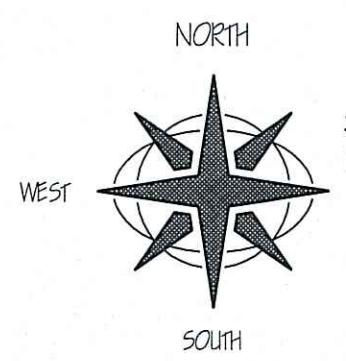
Reasons against:

- PUBLIC SAFETY: There is limited and questionable access to the proposed development for 911 alternative emergency access.
- PUBLIC ACCESS: The *one & only road* into the proposed development is 28th St SW causing dramatic increase in traffic along 28th St/County Road 16 and a myriad of difficulties with entry onto/off of Taft which is only 1 lane at that point. An increase of traffic will also be felt in the existing Lakeside Terraces neighborhoods as drivers try to circumvent the 28th and Taft entry. The proposed density will add up to *190 households* for a single entry/exit.
- PROPERTY VALUE: Property values for residences in existing neighborhoods are positively affected by the location of the open space and natural areas. A development of this size in this location will certainly affect the property values in a *negative* manner. We ourselves have a contract on a house adjacent to 28th St SW and will reconsider our purchase if 28th becomes the major thoroughfare for Water's Edge.
- OPEN SPACE ACCESS: This area is one of the few natural areas in Loveland that allows for open space access to Southside and Ryan Gulch reservoirs. We'd rather see this become a natural area for *all Loveland citizens* to enjoy rather than an environmentally stressed area available only to private residences.
- PROTECTION: This area has two natural wetlands which support untold numbers of birds, bald and golden eagles, small animals, occasional elk & deer, and various water creatures. A development of this density will *adversely affect* these populations.
- INFRASTRUCTURE: The infrastructure required to support the level of development proposed will be very difficult given the terrain, and be a drain on Loveland's finances to develop roads, sewage, utilities, etc.

In closing, we'd like to ask you to **deny annexation** of the proposed Water's Edge development and choose to pursue an Open Space addition to support the Loveland Natural Area. Thanks for listening!

Best Regards,

David Koons & Rhonda Edgmon-Koons  
Loveland Residents since 1985



# WATERS EDGE ADDITION

BEING AN ANNEXATION OF PORTIONS OF SECTIONS 27 AND 34, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M.,  
TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

ORIGINAL SCALE: 1" = 200'

Date of Initial Preparation: November 13, 2015

STATEMENT OF LINEAR UNITS USED:

Linear Units Used for this Survey - U.S. Survey Feet

Reservoir Summary Table

Ryan Gulch Reservoir

Intervall (NVD72 datum) Book (NAD83 datum) Cadastral (NAD83 datum) Cadastral (NVD72 datum)

Normal WSEL 5012.90 N/A N/A N/A

Dam Crest EL. 5019.44 to 5019.73 5019.8\* N/A N/A

Spikey Creek EL. 5013.17 to 5013.23 5013.40 N/A N/A

SE0 100-Year WSEL N/A 5018.28\* N/A N/A

10% PMP N/A N/A N/A

\*See Bkly Spikey Creek and Profk

Bud Mielke Reservoir (South Side Reservoir)

Intervall (NVD72 datum) Book (NAD83 datum) Cadastral (NAD83 datum) Cadastral (NVD72 datum)

Normal WSEL 5040.40 N/A N/A N/A

Dam Crest EL. 5043.69 to 5043.70 5049.00 5043.80

Spikey Creek EL. 5040.43 to 5040.51 5043.50 5043.30

SE0 100-Year WSEL N/A 5018.50 5043.00

10% PMP N/A N/A N/A

Note: data under Intervall represents recent topo sheet (NVD72 datum)

Note: Ryan Gulch Reservoir Final Design Report was completed by Boyle Engineering Corporation

Note: Ryan Gulch Reservoir design shows a rounded corner on the dam crest with approximately 1.5-ft of floodwall on the dam crest

Note: Bud Mielke Reservoir (South Side Reservoir) Survey by King Surveyors Inc., NAD83/98 datum

Note: Bud Mielke Reservoir (South Side Reservoir) design shows a rounded corner on the dam crest with 0.5-ft of floodwall on the dam crest

x-5045.69 (OC)

Easement Property As Described in Reception No. 97073349 and Reception No. 204-0338872

Approximate Limits of Bud Mielke Reservoir

DC: Indicates Dam Crest Elevation measured on February 26, 2016 (1929 Vertical Datum)

BUD MIELKE RESERVOIR (UNINCORPORATED LARIMER COUNTY)

HIGH WATER LINE: 5040.44 (1929 Vertical Datum)

DC: Indicates Dam Crest Elevation measured on February 26, 2016 (1929 Vertical Datum)

Approximate Limits of Bud Mielke Reservoir

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x-5046.23 (OC)

x-5046.38 (OC)

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**Current Planning Division**  
410 E. 5th Street • Loveland, CO 80537  
(970) 962-2523 • eplan-planning@cityofloveland.org  
[www.cityofloveland.org/DC](http://www.cityofloveland.org/DC)

## Staff Report: Flexible Zoning Overlay District

May 9, 2016

FROM: Bob Paulsen, Current Planning Manager, 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 April 25, 2016, the Planning Commission conducted a public hearing to consider incorporation of proposed chapter 18.44 – Flexible Zoning Overlay District into Title 18 of the Municipal Code. This was the Commission's second hearing on the proposed code amendments. The primary areas of Commission concern at the April 25<sup>th</sup> meeting addressed the provisions for termination and expiration of Flexible Zoning Overlay Districts and associated District Plans. Related to this issue was the issue of vesting: meaning, what threshold of investment or level of progress in pursuit of an approved plan would need to be made by a property owner to ensure that the district and associated plans could be relied upon in perpetuity. The Commission did not come to consensus on these matters at the meeting and voted to continue the public hearing until May 9, 2016. The Commission directed staff to review and amend the provisions in order to remedy the concerns.

On March 14, 2016, the Planning Commission conducted an initial public hearing to consider incorporation of proposed chapter 18.44 – Flexible Zoning Overlay District into Title 18 of the Municipal Code. After review of the provisions, the Planning Commission unanimously voted to recommend that City Council approve the provisions as presented.

Subsequent to the March 14, 2016 Planning Commission hearing, staff determined that the code provisions would benefit from clarifications and minor adjustments prior to consideration by the City Council. On March 28<sup>th</sup>, Planning staff requested that the Planning Commission consent to further consideration of the proposed code provisions by staff along with review by the Title 18 Committee. The Commission agreed to this request with the understanding that the delay would be minimal.

The attached redline version (**ATTACHMENT A**) of the proposed code provisions incorporate the recent revisions prepared by Current Planning staff.

This staff report is an updated supplement to the April 25, 2016 and March 14, 2016 staff reports.

## **RECOMMENDED ACTION**

Staff recommends that the Commission recommend 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 May 9, 2016 and as described in the Planning Commission staff report dated May 9, 2016 as specified in the attachments thereto and as further amended on the record.

## **ATTACHMENTS**

- A. Chapter 18.44 FLEXIBLE ZONING OVERLAY DISTRICT (Revised for 5-9-16)
- B. April 25, 2016 Planning Commission Staff Report Packet addressing the Flexible Zoning Overlay District, including attachments thereto and further including the March 14, 2016 Staff Report Packet. The footers of the attachments have been given a color-coding by date to provide easy reference.

## **SUMMARY OF THE FLEXIBLE ZONING OVERLAY DISTRICT**

As proposed, the Flexible Zoning Overlay District provisions would establish a new chapter of the zoning code (18.44). The provisions represent a 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 to property anywhere in the city, with the exception of greenfield sites. 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.

For a more detailed description of the code provisions, please refer to the April 25, 2016 Planning Commission staff report packet; see **ATTACHMENT B**.

## SUMMARY OF MAJOR REVISIONS AS PRESENTED ON MAY 9, 2016

Revisions to the proposed code provisions as presented to the Planning Commission in a public hearing on April 25, 2015 are indicated by redline adjustments as shown in **ATTACHMENT A**. The main revisions are itemized below with an explanation for each change.

1. Adjustment to **Subsection 18.44.050.E.** clarifies that district plans can vary in terms of use, density and intensity from the policies specified in the land use plan component of the Comprehensive Plan.
2. New **Section 18.44.085 – Flexible zoning project plan required.** has been inserted. The purpose of this Section is to clarify that a *project plan* must be approved prior to development. A project plan is equivalent to a site development plan, and it is reviewed and typically approved administratively.
3. **Section 18.44.110** has been relabeled **Continuance, expiration and termination of districts and district plans.** to clarify an expanded purpose of this Section.
4. **Subsection 18.44.110.A.** has amended to address the issue of “substantial development-related activity.” This term relates to the next subsection.
5. New text has been inserted into **Subsection 18.44.110.B.** This new text specifies that districts, district plans and project plans continue in force if substantial development-related activity, as defined with the Council’s approval of the district and district plan, has been achieved. Once the specified threshold is demonstrated, the district, the district plan and any approved project plans remain in effect unless vacated by the property owner. This status is certified by the current planning manager and this certification is recorded.

### 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 to:

- A. Further the intent and goals of adopted land use plans;
- B. Encourage investment in areas experiencing blight, disinvestment or underutilization of land;
- C. Create opportunities for development and redevelopment that would otherwise be unachievable.
- D. Promote coordination and cooperation between property owners that are interested in pursuing redevelopment initiatives;
- E. Facilitate design innovation with the reduction or elimination of certain land use and zoning controls;
- F. Ensure adequate public safety within and adjacent to district boundaries;
- G. Maintain quality standards for the provision of city services for properties within and adjacent to district boundaries; and
- H. 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. "Greenfield sites" shall mean open land that is not surrounded by or substantially constrained by development, including leapfrog development, and where there has been no previous development activity other than agricultural uses or similar low-intensity uses.
- F. "Sensitive uses" shall mean single family and two-family homes, ~~public and private~~ schools ~~with on-site enrollment of 25 or more students and daycare facilities~~, 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.

All districts shall meet the following eligibility requirements:

- A. District boundaries shall be consistent with the city's infill definition where at least eighty percent of the district boundary is ~~abutting and~~ contiguous to properties within the city limits; greenfield sites are unsuitable for district designation;
- B. Property within the district boundaries is contiguous or separated only by public rights-of-way;
- C. District boundaries are reasonably discernable and distinguishable from adjacent land;

- D. The district use meets applicable Adequate Community Facilities (ACF) standards set forth in chapter 16.41;
- E. The district plan is consistent with the intent and goals of applicable land use plans and policies; however, a district plan may exceed vary from the use, density and intensity provisions specified in the land use plan component of the Comprehensive Plan;
- F. The district plan has been designed to prevent incompatibility with adjacent and nearby property and land uses, particularly sensitive uses;
- G. 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
- H. Establishment of the district encourages property investment and development which might otherwise not occur, and furthers a valid public purpose.

### **18.44.060 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 written explanation of the community benefit that the district and district plan will provide and how the proposed development furthers the intent and goals of applicable land use plans and policies;
  2. A written explanation of how the proposed development achieves compatibility with surrounding uses, particularly sensitive uses;
  3. A purpose statement indicating how the district plan achieves compliance with the eligibility criteria listed in Section 18.44.050;
  4. A map of the proposed district boundaries, including all lots, tracts, outlots and rights-of-way;
  5. A list of all owners of real property within the district boundaries;

6. A district plan which specifies the type and extent of development proposed, including the following components:
  - a. A master plan indicating the intensity and general configuration of the proposed use or uses;
  - b. An architectural concept plan that includes a building massing and height study;
  - c. A phasing plan, including a projected timeframe for each phase; and,
  - d. A listing of zoning standards that will be applicable to development within the district.

### **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, and conform to the notice distance requirements for rezoning applications as specified in Table 18.05-1.
- 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

## Flexible Zoning Overlay District Provisions / May 5 Revision

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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 Larimer 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.F.~~ 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.G.~~ 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~~ change in development density or intensity greater than 20%;
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 manager may forward a minor amendment to the planning commission for determination at a public hearing with public notice.

~~I.H.~~ 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.

### **18.44.085 Flexible zoning project plan required.**

~~Project plans are approved subsequent to or concurrently with approval of an associated district and district plan. Project plans are specific and detailed development plans that are reviewed and approved administratively unless approved concurrently with a district or district plan as specified in Section 18.44.80. Development within a flexible zoning overlay district must conform to an approved project plan.~~

### 18.44.090 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 and any conditions adopted by Council.

### 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. ~~Once a project plan is approved, the approval runs with the land unless the district or the district plan expires or is terminated prior to the issuance of a building permit for one or more structures within the district boundaries.~~
- D.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 Establishment, extension, expiration and termination of a district and district plan.

Council has exclusive authority to establish with or without conditions, limit, terminate and extend districts and district plans.

- A. Districts and associated district plans shall be established for a period of forty-eight months from the date of the approval of the adopting ordinance, unless such ordinance specifies otherwise. When a district expires or is terminated, the district overlay designation on the official zoning map is removed and the authority of the underlying zoning regulations is reestablished. Any nonconforming uses or buildings resulting from a district expiration or termination will be subject to Chapter 18.56 of this title.
- 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. To be considered, a written extension request must be submitted to the city 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.
- D. At the request of all property owners within a district or upon failure of the property owners to maintain any ongoing conditions of the district or district plan, or upon abandonment of the use permitted by the district and district plan, council may terminate the district and district plan.

## **Flexible Zoning Overlay District Provisions / May 5 Revision**

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- E. Subject to the foregoing, once a project plan is approved and any and all district or district plan conditions set by council have been fully satisfied, the district and the district plan shall not expire or terminate.
  1. Upon such approval and full satisfaction of any and all such conditions, the district property owner may request written certification from the current planning manager to this effect; and
  2. Upon receipt of such certification, the city clerk's office shall record the ordinance establishing the district and the district plan with the Larimer County clerk and recorder's office.



## Development Services Current Planning

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

## Staff Report: Flexible Zoning Overlay District

April 25, 2016

FROM: Bob Paulsen, Current Planning Manager, 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 conducted a public hearing to consider incorporation of proposed chapter 18.44 – Flexible Zoning Overlay District into Title 18 of the Municipal Code. After review of the provisions, the Planning Commission unanimously voted to recommend that City Council approve the provisions as presented.

Subsequent to the March 14, 2016 Planning Commission hearing, staff determined that the code provisions would benefit from clarifications and minor adjustments prior to consideration by the City Council. On March 28<sup>th</sup>, Planning staff requested that the Planning Commission consent to further consideration of the proposed code provisions by staff along with review by the Title 18 Committee. The Commission agreed to this request with the understanding that the delay would be minimal.

The attached redline version of the proposed code provisions incorporate the recent revisions prepared by Current Planning staff. These adjustments were reviewed and agreed upon at the Title 18 Committee meeting on April 14, 2016. This staff report is an updated supplement to the April 14, 2016 staff report.

### **RECOMMENDED ACTION**

Staff recommends that the Commission recommend 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 April 25, 2016 and as described in the Planning Commission staff report dated April 25, 2016 as specified in the attachments thereto and as further amended on the record.

## ATTACHMENTS

- A. Chapter 18.44 FLEXIBLE ZONING OVERLAY DISTRICT (Revised for 4-25-16)
- B. Flexible Zoning Summary (Revised for 4-25-16)
- C. March 14, 2016 Planning Commission Staff Report: Flexible Zoning Overlay District

## SUMMARY OF THE FLEXIBLE ZONING OVERLAY DISTRICT

As proposed, the Flexible Zoning Overlay District provisions would establish a new chapter of the zoning code (18.44). The provisions represent a 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 across the city, with the exception of greenfield sites. 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.

For a more detailed description of the code provisions, please refer to the March 14, 2016 Planning Commission staff report; see **ATTACHMENT C**.

## SUMMARY OF THE REVISIONS AS PRESENTED ON APRIL 25, 2016

Revisions to the proposed code provisions as presented to the Planning Commission in a public hearing on April 14, 2015 are indicated by redline adjustments as shown in **ATTACHMENT A**. The revisions are itemized below with an explanation for each change.

1. Text has been inserted into two sections of the provisions indicating that the Flexible Zoning Districts and District Plans are to be consistent with the intent and goals of adopted plans; see Sections 18.44.020.A and 18.44.050.E. The purpose of these two insertions is to guide city decision making that furthers the intent of adopted plans, including the Comprehensive Plan, the Highway 287 Strategic Plan and the Downtown Heart Improvement Project Plan.
2. Inserted text in Section 18.44.050.E referenced above, includes a clarification that a District Plan may exceed the density and intensity policies specified in the Land Use Plan component of the Comprehensive Plan. This clarification is provided to give City decision makers the clear authority to approve a District Plan that does not comport with this specific policy.

3. A definition of “Greenfield sites” has been added. This definition ties to the district eligibility criteria in Section 18.44.050.A. This adjustment specifies that Districts must fit the City’s infill definition and further states that Districts are unsuitable for greenfield sites. The purpose of these additions is to strengthen the policy emphasis that the Flexible Overlay Districts are designed to encourage reinvestment in properties that are experiencing blight or disinvestment. Greenfield sites are not generally subject to such factors.
4. Two additions have been made to Section 18.44.070 which addresses application requirements, including the requirement that an applicant provide an explanation as to the community benefit of the District and how it furthers the policies and goals of applicable plans; secondly, an additional application requirement specifies that the applicant explain how the proposed development achieves compatibility with surrounding uses. The purpose of these additions is ensure that the applicant has a clear purpose and justification for the waiving zoning requirements and articulates how compatibility with other uses is to be achieved.
5. A third adjustment to the application requirements is provided in Subsection 18.44.070.D.6 that better clarifies that a District Plan includes a master plan for the property.
6. In Section 18.44.080.B replacement text specifies that the public notice distance requirements for Districts is the same as the distance requirements for rezonings. This adjustment ties the notice process to existing standards, creating more consistency within the code.
7. Inserted text in Section 18.44.080.H specifies that the current planning manager has authority to amend District Plans with proposed density and intensity increases of up to 20%. This adjustment provides more flexibility to grant administrative approvals, but within clear limitations.
8. A minor clarification has been added to 18.44.090 to specify that Project Plans, in addition other requirements, are subject to conditions adopted by Council.
9. New Subsection 18.44.100.C addresses the issue of nonconformity, specifying that if a District Plan is approved and a building permit is issued for property within the established District, then the District Plan approval runs with the land and does not terminate even if District expires or the City Council terminates the District Plan. This addition protects a property owner who has relied on and invested in a District Plan.
10. Based on direction at the April 14<sup>th</sup> Title 18 Committee meeting, Subsection 18.44.110.A has been adjusted to specify that Districts and District Plans shall be established for a period of 48 months unless the City Council specifies otherwise when approving a District. Committee members indicated that they did not want Districts, especially Districts that were not active, to extend beyond a time period that is reasonable for development to occur.
11. On April 14<sup>th</sup>, the Title 18 Committee also requested that new Subsection 18.44.110.D be added to clarify that property owners within an established District can request vacation of the District by City Council.

### 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 to:

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

## Flexible Zoning Overlay District Provisions

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### 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. "Greenfield sites" shall mean open land that is not surrounded by or substantially constrained by development, including leapfrog development, and where there has been no previous development activity other than agricultural uses or similar low-intensity uses.
- E.F. "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 All districts shall meet the following eligibility requirements:

- A. District boundaries shall be consistent with the city's infill definition where at least eighty percent of the district boundary is abutting and contiguous to properties within the city limits; greenfield sites are unsuitable for district designation;
- B. Property within the district boundaries is contiguous or separated only by public rights-of-way;
- C. District boundaries are reasonably discernable and distinguishable from adjacent land;

## Flexible Zoning Overlay District Provisions

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- D. The district use meets applicable Adequate Community Facilities (ACF) standards set forth in chapter 16.41;
- E. The district plan is consistent with the intent and goals of applicable land use plans and policies; however, a district plan may exceed the density and intensity provisions specified in the land use plan component of the Comprehensive Plan;
- F. The district plan has been designed to prevent incompatibility with adjacent and nearby property and land uses, particularly sensitive uses;
- G. 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
- H. 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 written explanation of the community benefit that the district and district plan will provide and how the proposed development furthers the intent and goals of applicable land use plans and policies;
  2. A written explanation of how the proposed development achieves compatibility with surrounding uses;
  3. A purpose statement indicating how the district plan achieves compliance with the eligibility criteria listed in Section 18.44.050;
  4. A map of the proposed district boundaries, including all lots, tracts, outlots and rights-of-way;
  5. A list of all owners of real property within the district boundaries;

## Flexible Zoning Overlay District Provisions

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6. A district plan which specifies the type and extent of development proposed, including the following components:
  - a. The district plan shall~~A~~ master plan indicating the intensity and configuration of the proposed use or uses;
  - b. an~~An~~ architectural concept plan that includes a building massing and height study;
  - c. a~~A~~ phasing plan, including a projected timeframe for each phase; and,
  - d. a~~A~~ listing of zoning standards that will be applicable to development within the district.

### **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, and conform to the notice distance requirements for rezoning applications as specified in Table 18.05-1. 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.

## Flexible Zoning Overlay District Provisions

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- 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 greater than 20%;
  - 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 manager 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 and any conditions adopted by Council.

## Flexible Zoning Overlay District Provisions

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### 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. Once a project plan is approved, the approval runs with the land unless the district or the district plan expires or is terminated prior to the issuance of a building permit for one or more structures within the district boundaries.
- D. 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, vacate, limit and extend districts, and to approve and terminate district plans.

- A. Districts and associated district plans shall be established for a period of forty-eight months from the date of the approval of the adopting ordinance, unless the adopting ordinance specifies otherwise. 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~~. When a district expires or is terminated or removed, reestablishment of the authority of the underlying zoning regulations is reestablished except as specified in Section 18.44.100.
- 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.
- D. At the request of all property owners within a district, council may vacate the approval of the district and terminate district plans. Upon council approval, the district overlay designation on the official zoning map is removed and the authority of the underlying zoning regulations is reestablished. Any nonconforming uses or buildings resulting from a district vacation will be subject to Chapter 18.56 of this title.

## FLEXIBLE ZONING DISTRICT OVERLAY SUMMARY

[Last Revision: 4-20-16]

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, except in greenfield areas or sites which do not meet the definition for infill.
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. Building code and 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 development standards specified in the approved Overlay District Plan. All other city standards/requirements would need to be met unless specifically waived by City Council.



## **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

**Staff Report-**

**Flexible Zoning Overlay District for March 14, 2016 Planning Commission Public Hearing** **ATTACHMENT B**

## **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

**Staff Report-**

**Flexible Zoning Overlay District for March 14, 2016 Planning Commission Public Hearing** **ATTACHMENT B**

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 Staff Report.

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 25<sup>th</sup> study session, staff has modified the provisions to allow overlay districts to be established anywhere within the municipal limits. In addition to this revision, 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 25<sup>th</sup> 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 13<sup>th</sup> 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 14<sup>th</sup> and offering to provide further information upon request. In response to this email, Planning staff have received approximately five inquiries; those inquiring were supportive of the content of the provisions.
- The March 14<sup>th</sup> 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.

## 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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