



## LOVELAND PLANNING COMMISSION MEETING

### AGENDA

Monday, October 10, 2016

500 E. 3<sup>rd</sup> Street – Council Chambers

Loveland, CO 80537

6:30 PM

### NOTICE OF NON-DISCRIMINATION

It is the policy of the City of Loveland to provide equal services, programs and activities without regard to race, color, national origin, creed, religion, sex, disability, or age and without regard to the exercise of rights guaranteed by state or federal law. It is the policy of the City of Loveland to provide language access services at no charge to populations of persons with limited English proficiency (LEP) and persons with a disability who are served by the City.

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**Title VI and ADA Grievance Policy and Procedures can be located on the City of Loveland website at: [cityofloveland.org/](http://cityofloveland.org/)**

**LOVELAND PLANNING COMMISSIONERS: Jeremy Jersvig (Chair), Carol Dowding (Vice-Chair), Michelle Forrest, Pat McFall, Rob Molloy, and Mike Ray, David Cloutier, Jamie Baker Roskie.**

**Note: the Planning Commission currently has one vacant position.**

### 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. October 24, 2016 Planning Commission Agenda Preview:**
  - i. No items on the agenda at this time**
- 2. October 24, 2016 ZBA Hearing:**
  - i. Deck Variance for 4752 Parachute Drive (4:00 PM in the EOC located at 410 East 5<sup>th</sup> Street)**
- 3. Planning Commission Vacancy:**
  - i. Application deadline is 5:00 PM on October 17, 2016**
- 4. Planning Commission Fall Recruiting Cycle:**
  - i. New applicants and incumbents seeking reappointment must submit their application by 5:00 PM on November 14, 2016**
- 5. Hot Topics:**

**c. Committee Reports**

**d. Commission Comments**

- 1. Motion to cancel the October 24, 2016 Planning Commission meeting.**

**IV. APPROVAL OF MINUTES**

**Review and approval of the September 26, 2016 Meeting minutes**

**V. CONSENT AGENDA**

The Consent Agenda includes items for which no discussion is anticipated. Upon request by a Commissioner, staff member or citizen, any item may be removed 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?

**VI. REGULAR AGENDA:**

**1. The Foundry (Presentation Time: 20 Minutes):**

Mike Scholl, Economic Development Manager, will provide an update on the Foundry project along with other economic development initiatives in the downtown area. This is an administrative item, and Commissioners are encouraged to ask questions pertinent to the City's downtown activities.

**2. Unified Development Code Update (Presentation Time: 15 Minutes):**

Bob Paulsen, Current Planning Manager, will provide an update on the process for creating a Unified Development Code (UDC) that incorporates subdivision, annexation and zoning components. This administrative item will provide a preview of the November 14, 2016 Planning Commission study session at which the UDC staff project team will be presenting detailed information to the Planning Commission on Task 1 and Task 2 of the 6-part UDC project.

**2. ADJOURNMENT**

**CITY OF LOVELAND**  
**PLANNING COMMISSION MINUTES**  
**September 26, 2016**

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A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on September 26, 2016 at 6:30 p.m. Members present: Chairman Jersvig; and Commissioners Dowding, Meyers, Molloy, Forrest, Ray, McFall, Roskie, and Cloutier. Members absent: None. City Staff present: Bob Paulsen, Current Planning Manager; Moses Garcia, Assistant City Attorney; Linda Bersch, Interim Planning Commission Secretary.

*These minutes are a general summary of the meeting. A complete video recording of the meeting is available for two years on the City's web site as follows: <http://loveland.pegcentral.com>*

**CITIZEN REPORTS**

There were no citizen reports.

**STAFF MATTERS**

**1. Recognition of Commissioner Meyers**

**Mr. Paulsen, Current Planning Manager**, recognized that this was **Commissioner Meyers'** last meeting as a member of the commission. It has been an honor for **Mr. Paulsen** to serve with **Commissioner Meyers** all these years and is delighted to have the privilege of presenting a plaque to **Commissioner Meyers** on behalf of the City of Loveland, City Council, the Planning Staff, Citizens of Loveland and the Members of the Planning Commission. **Commissioner Meyers** was thanked for his many years of service. **Commissioner Meyers** joined the commission in 2008 and has been a diligent member of the commission since that time. In addition, he served as an excellent chair of the committee in 2012, 2013 and 2014 where he always kept order and gave citizens the time and opportunity to participate in the process. Since 2011, **Commissioner Meyers** has also been a member of the Title 18 Committee, where he has contributed greatly to the Create Loveland process; the Highway 287 Strategic Plan; the Flexible Zoning Code provisions; and the Oil and Gas Regulations. **Mr. Paulsen and staff** appreciates his contribution over this time. All **Commissioners** expressed their gratitude and appreciation to **Commissioner Meyers** and stated that he and his expertise will be missed.

**Commissioner Meyers** said it has been an honor and privilege to serve on the Commission and, although commissioners serve at the pleasure of City Council, they in reality serve the citizens of Loveland and there is no greater honor than that.

## 2. 10/10/16 Agenda Preview:

- **Downtown Update: The Foundry Project and DDA activities.**

The commission will receive an update from **Mike Scholl** of the Economic Development Office and **Jacque Wedding-Scott** with the Loveland Downtown Team. If the commissioners have any question regarding the downtown activities, please forward to **Mr. Paulsen** by e-mail so **Mr. Scholl** can be prepared to respond.

- **Zoning Code Update Process**

**Mr. Paulsen** will be providing an update on the progress of the unified zoning code updates. Six separate pieces are being developed so everyone involved in the process can become familiar with these segments rather than being overwhelmed with the whole document at once.

## 3. Zoning Code Update

On November 14th there will be a study session with this commission, staff and the consultant for the Zoning Code Update Project to provide insight on the first phase of the process. City Council will then have a study session on that phase followed by a full public hearing with this commission. Please forward an e-mail to Mr. Paulsen or to Cita Lauden with any questions you may have on this process.

## 4. Council actions:

- **Lee Farms GDP Amendment**

City Council postponed action on this application until October 18<sup>th</sup>. This was done to give the applicant time to address some citizen concerns regarding the alignment of 35<sup>th</sup> Street and other related matters.

- **Mirasol Annexation / GDP Amendment**

This amendment was approved by Council on first reading and should pass on second reading. In the next several months, this commission will be receiving a preliminary development plan for consideration.

## **COMMITTEE REPORTS**

**Commissioner Molloy** reported the Title 18 Committee participated in the Zoning Code Update kickoff meeting on September 14<sup>th</sup>. The consultant, **Mr. Messenger**, also presented at the regular Title 18 meeting on September 15<sup>th</sup>. **Commissioner Molloy** said these meetings provided insight into the project. The schedule is very aggressive and he is motivated to pursue this process. **Commissioner Roskie** attended her first Title 18 meeting and noted that this update should make the process more efficient, more transparent and a less expensive process for everyone.

**Commissioner Forrest** reported there was no action from the Zoning Board of Adjustment.

## **COMMISSIONER COMMENTS**

Commissioner McFall made a disclosure that he lives in the Kendall Brook area and, even though he participated in previous actions on this project before becoming a commissioner, he has not participated in or reviewed any aspect of the Kendall Brook Townhomes project that is before the commission this evening until he received his planning commission packet. Therefore, he does not plan to recuse himself from action on the Kendall Brook Townhome Development Plan. He plans to vote on what is in the best interest of this city and its citizens and not for himself.

**Commissioner Jersvig** brought forward a glass plaque the Commission received from the Thompson School District last Wednesday (September 21<sup>st</sup>) during an awards program celebrating the opening of the High Plains School meeting. It states “In deepest appreciation of your outstanding support. High Plains School, August 2016”. The plaque was given to the planning staff for display.

## **APPROVAL OF THE MINUTES**

*Commissioner Dowding made a motion to approve the September 12, 2016 minutes; upon a second from **Commissioner Meyers**, the minutes were approved with **Commissioner Forrest** abstaining.*

## **CONSENT AGENDA**

There were no items on the consent agenda.

## **REGULAR AGENDA**

### **1. Follow-up Report to the Commission on Taft Avenue Properties**

At the September 12, 2016 meeting, a number of issues arose concerning access for properties to the south of the Taft Gardens project. Staff will provide the Commission with information regarding the Taft widening project, access afforded to the properties in question and response to other concerns raised by citizens on September 12<sup>th</sup>. This is an administrative item and the Commission may entertain public comment.

**Noreen Smyth**, Staff Planner, provided information on the questions that arose at the last meeting concerning access to properties at 877 and 873 North Taft Avenue. She noted that when this property was annexed to the city in 2004, those property owners were compensated for giving up direct access to Taft Avenue. This was done to facilitate the widening of Taft Avenue at this location. **Mr. Maizland** will provided more detail later in the presentation.

There was concern about whether the shared access provided at that time would continue to be provided under this project. **Ms. Smyth** said this access will be provided for on the recorded plat of the Taft Gardens Project and that access is part of an emergency access road that will be maintained by the Taft Gardens Homeowners Association. Regarding

the question of waste water disposal, **Ms. Smyth** noted that a lift station is not in the plans. There is a waste water main extension that the Taft Gardens project will connect to and the property owners to the south can tap into this facility at their expense if they wish.

**Randy Maizland**, Civil Engineer, reported on research into this access issue and found that the city did construct a parallel private gravel driveway for both the parcels in question along the eastern boundary of each parcel and aligning with Gard Place. The recorded agreements and physical improvements appear to indicate the City has fulfilled its obligation to provide reasonable access per the terms of the agreements signed by each property owner. The Taft Gardens plat will dedicate a permanently platted access easement to this private driveway. That road will be an all-weather surface for emergency access by the fire department and for access to these properties. The roadway will be maintained and plowed by the developer or the HOA in perpetuity and can only be vacated by city council action.

#### **COMMISSIONER QUESTIONS AND COMMENTS:**

- **Commissioner Meyers** asked if owners of these two properties want to build, will they be denied use by right because of this limited access to the properties. **Mr. Maizland** indicated that any residential type development would not be a problem but if they wanted to do something of a higher density they would probably have to work with the property owner to the south for access from 8<sup>th</sup> Street.
- **Commissioner Molloy** asked if this information was conveyed to the property owners and what their recourse was if access wasn't maintained in a timely manner. He also asked if the owners have been made aware of this information. **Mr. Maizland** stated the access road had to be maintained for emergency access purposes, but he was not aware of any timeline for that maintenance or the consequences for the lack of timely maintenance. He will confer with the fire department and inform the commission. **Mr. Maizland** reported he has communicated with both property owners and they seemed satisfied with the information.
- **Commissioner McFall** asked if there were other access situations like this in the city. **Mr. Maizland** said he was not aware of any others. **Mr. Paulsen** remarked that the fire department would be contacted regarding maintenance requirements for these access roads and any issues the fire department has encountered and a report will be given back to the commission. He also brought attention to a copy of an e-mail from Mr. Dellabetta that is attached to the information packet. Mr. Paulsen indicated that staff will continue to communicate with these or any other property owners who may want to connect to city utilities. That is usually done at the property owner's expense.

#### **CITIZEN COMMENTS:**

**Commissioner Jersvig** opened the meeting for public comment at 7:08 p.m.

- **Kyle Dellabetta**, resident, owns the lot at 805 N. Taft Avenue and inquired if this access road applies to this lot as well. Also, he would like to know how to work with the

developer on a shared expense basis to gain access to the sewer line. **Mr. Dallabetta** also expressed concern about not having access to street parking along his entire property that borders 8<sup>th</sup> Street.

**Commissioner Jersvig closed public comment at 7:12 p.m.**

#### **COMMISSIONER COMMENTS:**

- **Mr. Paulsen** explained that the developer is extending a sewer line to his development and staff will provide **Mr. Dallabetta** with information on how to work with the developer to pursue access to that line. He will also work with **Mr. Dallabetta** on the parking issue. Resolution may not include street parking, but **Mr. Paulsen** will ensure that an explanation is provided to **Mr. Dallabetta** on the issue and will keep the Commissioners updated.
- **Commissioner Ray** asked for confirmation that the issues just discussed would not have an impact on the Taft Gardens project proceeding. **Mr. Paulsen** replies that was correct.

#### **2. Kendall Brook Townhomes Preliminary Development Plan and Preliminary Plat**

**Project Description:** This is a public hearing item on a quasi-judicial matter relating to a proposed residential townhome development located along the south side of 50<sup>th</sup> Street within the Kendall Brook PUD. The proposal is for 84 townhouse units within 16 buildings located on a 7.6-acre site that is currently vacant. Access to the development is from two points on 50<sup>th</sup> Street. The Planning Commission has final authority on the two application components unless an appeal is filed.

City staff has reviewed the two associated applications and has determined that the proposed project meets applicable City standards and is in conformance with the General Development Plan for the Kendall Brook PUD that was approved in 2000. Staff is recommending approval with conditions.

**Noreen Smyth**, Staff Planner, presented a proposal from Landmark Solutions, Inc., for a Preliminary Development Plan and Preliminary Plat for a proposed residential development within the Kendall Brook Planned Unit Development (PUD). The Preliminary Development Plan is titled “Kendall Brook Townhomes” and the associated plat is the “Kendall Brook Second Subdivision”. A General Development Plan for the Kendall Brook PUD was approved in 2000 and allows townhomes, among other residential uses, on the subject property. The Eagle Brook Meadows development is north of the subject property, on the opposite side of 50<sup>th</sup> Street, and other parcels within the Kendall Brook PUD are on the other three sides.

The 7.6-acre subject property is currently vacant. The proposal under consideration at this hearing concerns 84 townhomes on separate (fee simple) lots in 16 buildings of five or six attached units. The units are accessed off of a private drive that connects to 50<sup>th</sup> Street at two points. The density proposed is about 11 units per acre which is lower than the GDP max of 18 units per acre. Sidewalks are detached.

**Jason Sherrill**, Landmark Homes, continued the presentation by highlighting the process that brought forth this proposal. Because of the opposition to the previous proposal, Landmark Homes and the property owner, **Troy McWhinney**, reached out to the HOAs in the area to understand the concerns of the neighbors. He wanted to commend **Charles White**, committee chair, and the HOA committee that worked with them to alleviate those concerns and develop a plan and product that was acceptable to the neighborhood. The project now includes a 2 car garage that must be maintained for parking and 2 off street parking spaces for each unit. The number of units has been reduced from 100 to 84. The front of the buildings face the project perimeters or a park. Parking is at 372 spaces instead of the 204 required. Ranch units were put in when adjacent to other buildings.

### **COMMISSIONER QUESTIONS AND COMMENTS:**

- **Commissioner Molloy** asked to clarify if there is any concern about **Commissioner McFall** voting on this issue since, before he joined the commission, he was involved as an opponent of a previous plan for this area. Assistant City Attorney, **Moses Garcia** responded that **Commissioner McFall** has no financial interest in this project; therefore, there would be not conflict of interest.
- **Commissioner Dowding** questioned the indication that there were 34 visitor parking spaces available when she only counts 30 on the plan. **Commissioner Meyers** concurred with the 30 count. **Mr. Sherrill** said he would review the drawings and emphasized that the provided parking well exceeds the minimum standard.
- **Commissioner Cloutier** said he likes the product. But, he indicated concern regarding the canal on the east and south hindering emergency access when, especially with a 24 foot wide street, snow covers the street and drives and people are parked on street. He is concerned about where plowed snow would be stored. **Mr. Sherrill** indicated that with the added driveway width of 6 to 8 feet between driveways, lack of landscape islands and space available at the street corners, snow storage is adequate. Since the HOA requires that the garages be maintained for parking, and the HOA provides snow removal for the driveways as well as the street, adequate access will be maintained.
- **Commissioner Molloy** asked for clarification on the garage parking. **Mr. Sherrill** said it is a requirement of the covenants that garages be maintained for vehicle parking only.
- **Commissioner McFall** asked whether this development is part of the Master Kendall Brook HOA. **Mr. Sherrill** responded that there will be a sub-HOA and covenants for these townhomes, but it will be part of the master HOA for Kendall Brook.
- **Commissioner Meyers** asked for clarification regarding whether the fire department reviewed and was satisfied with the plans for this project. **Ms. Smyth** replied that the fire department reviewed and signed off on this project.

### **CITIZEN COMMENTS**

**Commissioner Jersvig** opened the public hearing at 7:40 p.m.

- **Chris White**, resident, is chair of the Committee for the Responsible Development of Outlot A, that worked with the developer on this project. He noted that all the expectations of the community in regard to what is to be developed on this property have been met through numerous meetings and cooperation between the communities and this developer. The community meeting held at the end of the committee's work brought majority approval and support for this project. He stated that this is the way projects of this type should be done.
- **Joseph Robert**, resident, bought his property at 1585 Tennessee in the spring and had he known of this proposal, he would not have made the purchase. The back of his property faces this townhouse lot directly and is the only lot that does. The proposed buildings will result in loss of privacy, loss of view and loss of property value.
- **Charley Armstrong**, resident, commended the developer and committee for their efforts. He is a user of the recreation trail and is concerned with the crossing at 50<sup>th</sup> and Georgetown and would like to see the addition of rapid flash beacons at that crossing. There is also no crosswalk painted at that intersection. He would like be a part of working with the city/developer on this issue.

**Commissioner Jersvig closed the public hearing at 7:54 p.m.**

#### **COMMISSIONER COMMENTS:**

- **Commissioner Jersvig** asked **Randy Maizland**, Loveland Transportation Engineer, to address Mr. Armstrong's concerns. **Mr. Maizland** indicated that the city has had a request to look at rapid flashing beacon and crossing at that location. The traffic study showed there was not a need for the one. The counts seemed extremely low for crossings at that trail and he would encourage Mr. Armstrong and the developer to work with **Bill Hange** in Traffic Engineering and also the Parks Department to take another look.
- **Commissioner McFall** expressed concern about the proposed tree planting at the intersection of 50<sup>th</sup> and Georgetown causing a traffic problem with the sight distance due to the curve in 50<sup>th</sup> Street. He said the amount of traffic that is there after 4 pm should be considered. **Mr. Maizland** responded that there are requirements for limbing trees to 8 feet and plants for 30 inches to assure visibility. There is a clear sight zone for landscaping designed there. **Commissioner McFall**'s second question was in regard to the timing of the traffic light at 50<sup>th</sup> and Taft. There is a lot of back up there beginning at 6am. **Mr. Maizland** indicated that there is opportunity for signal optimization at this location and he will have a traffic engineering take a look at that intersection to see if there are some improvements that can be done.
- **Commissioner Ray** wanted more input about the private drive that provides access to the homes in this development. **Ms. Smyth** responded that even though this internal street is a private drive, it must meet all fire department standards. It does not have to meet the public street standards. **Mr. Sherrill** indicated they have developed other projects with this layout and it works very well and appeals to home buyers.
- **Commissioner Jersvig** asked about the price point on these homes. **Mr. Sherrill** indicated price would be between \$289,000 and \$359,000.
- **Commissioner McFall** asked about drainage on the homes next to the Louden Ditch. **Mr. Sherrill** said a soils test showed 13 feet as the highest ground water. There will be a

perimeter drain on the whole project, each building would have a perimeter drain and there will be a sub drain to the out lot structure and water quality ponds. Individual units will have sump pumps.

- **Commissioner Jersvig** asked about the demographic of potential buyers. Will this be marketed to age 55 and up? **Mr. Sherrill** indicated this would be attractive to those buyers but it will appeal to first time home buyers as well.
- **Commissioner Dowding** had a few comments regarding what this looked like a few years ago and what is presented now. This is the way proposals should work with community input. She finds it a well thought out project that addresses the deficiencies of the previous proposal and will vote for approval.
- **Commissioner Cloutier** thanked the citizens for coming in and for their input. It is very well laid out project and he will approve.
- **Commissioner Molloy** commented on the improvements from the previous project. He appreciates the developer's efforts in working with the community and will support this application.
- **Commissioner McFall** commended the developer for working with the community to make this project more acceptable. While you can't make everyone happy, this is far superior to the last proposal and he will vote for it. This is something that should be looked at as a baseline for how things should be done in this city.
- **Commissioner Meyers** echoes the sentiments of the other commissioners. The product before us tonight is an example of builder and community partnering. This project is in harmony with the other developments and is an asset to and compliments the area. He commends all those involved.
- **Commissioner Roskie** commended developers for working with the community and will be voting for it. She hopes this kind of effort with the community will become part of the Unified Code process.
- **Commissioner Ray** is delighted with this proposal and the community's work with the developer and for the time they put in. This project elevates the entire city. He will be supporting it. He thanked **Mr. Robert** for his presentation and hopes he will, when this is developed, see that it will not detract from his resale value.
- **Commissioner Forrest** like the unified presentation to the commission and commends the developer and the HOA for their efforts. She likes the project and will support it.
- **Commissioner Jersvig** commends the neighbors for their presentations previously and tonight. All of the previous concerns were addressed in this project and is supportive.

*Commissioner Dowding moved to make the findings listed in Section VIII of the Planning Commission staff report dated September 26, 2016, and based on these findings approve the Kendall Brook Preliminary Development Plan, subject to the conditions listed in Section IX, as amended on the record. Commissioner Meyers seconded the motion which passed unanimously after Mr. Sherrill accepted those conditions.*

*Commissioner Dowding moved to make the findings listed in Section VIII of the Planning Commission staff report dated September 26, 2016, and based on these findings approve the Kendall Brook Second Subdivision Preliminary Plat, subject to the conditions listed in Section IX, as amended on the record. Commissioner Meyers seconded the motion which passed unanimously after Mr. Sherrill accepted those conditions.*

**Commissioner Jersvig called for a recess at 8:23 p.m.**

**Commissioner Jersvig called the meeting to order at 8:36 p.m.**

### **3. Loveland Classical Schools Location, Extent and Site Plan Review**

**Project Description:** Loveland Classical Schools is proposing a new location and facility to house their middle and high school programs, and eventually their elementary program. The location is on the north side of W. 29<sup>th</sup> Street and west of N. Wilson Avenue between the King of Glory Church (to the east) and the Hunter's Run Subdivision (to the west). The property is zoned DR – Developing Resource, containing approximately 12 acres. Public schools are permitted by-right under the current zoning based on allowances governed by the State of Colorado. Loveland Classical is public charter school authorized through the Thompson School District. The proposed school is two stories with the initial phase including 53,000 sf of building area. The site improvements include landscaping, parking, and a stacking/queuing lanes to provide for student drop-off. The school is targeting the opening for August of 2017.

As per State Statute, the review and permitting of the school is primarily a function of the State of Colorado. The Planning Commission review of the proposed location and site plan is also a requirement of the statute. The City is working to finalize review and approval of the Site Development Plan and associated Public Improvement Construction Plans.

**Mr. Troy Bliss**, Staff Planner, gave background regarding the proposed site for a new charter school in NW Loveland. On an interim level this school will be for middle and high school students. This site at intersection of Wilson and 29<sup>th</sup> Street was generally master planned within Hunter's Run subdivision. There was not a development plan for this parcel included in the subdivision plan, thus the property was assigned DR zoning. DR zoning doesn't necessarily provide for a school but because of the zoning powers of the state of Colorado in regard to schools, there is no re-zoning required for this project. Most of the site is surrounded by Hunters Run and the King of Glory Church and is in the city of Loveland limits. The old Mahaffey farm site across 29<sup>th</sup> Street is still in unincorporated Larimer County. The planning commission is asked to provide comment and feedback on the site plan the charter school has presented and look at the plan in terms of compliance with city standards for utilities, storm water conveyance and roadway improvements. No action is required, consequently if any action/direction by the Planning Commission is needed as a result of the site plan review those concerns will be communicated to the Board of Education for consideration.

There are no city requirements for neighborhood outreach for a school as this is all handled through the state. This is not a public advertised hearing. Outside of this process, the school chose to conduct two neighborhood meetings to inform the neighborhood. One of the board members of Hunters Runs HOA provided their comments on the meeting. Those comments are included in the commissioner's packet.

**Mr. Bliss** provided an overview of the site plan. One improvement requirement is the addition of a right turn lane off 29<sup>th</sup> Street into the site. A second improvement was access to the site off of Wilson Avenue as a right out only. This provides emergency access as well. The site also has a dedicated emergency access lane all through the site that will be a separate easement. A water line easement will also be needed. This site is not located in the water pressure 2 zone, therefore it can develop without the need for a new pump station. All other utilities will be provided by the City of Loveland. Drainage is sufficient with the use of the existing pond. Matters that are still pending in terms of resolution include an off-site sidewalk along the west side of N. Wilson Avenue, south of W. 29<sup>th</sup> Street. This was identified in the Traffic Impact Study. Complications for design/installation include the possibility of obtaining an easement from the adjoining property owner and extending a sidewalk on unincorporated land or considering an interim solution.

#### **COMMISSIONER COMMENTS:**

- **Commissioner Meyers** questioned what will happen to Springfield Drive as it now dead-ends into this property. **Mr. Bliss** said the original intent was to extend this street into this property but that will not happen with this project. **Commissioner Meyers** asked how dead ending this street will be handled so it blends well into the Hunters Run neighborhood and to prevent a vehicle from barreling onto the school property. **Mr. Bliss** indicated that the roadway could be barricaded or fenced off but that detail has not been worked out yet.
- **Commissioner Forrest** asked if a drainage study had been done to assure that the existing pond would have the capacity for this project. **Mr. Bliss** stated that this had been studied and a determination made that the existing pond was adequate.

**Ian Stout**, Principal of Loveland Classical School, thanked the city staff for their help in assuring the school met the city requirements. He provided background on the school and indicated that this location is now to be used as a middle/high school facility only. The elementary students will remain at their current location for the foreseeable future. He introduced the architect for the new building, **Lisa Gardner**, who presented the design of the school building and grounds.

A traffic analysis was done that led to the provisions of drop-off lanes as seen in the plat. The loop road provides for a right turn only exit onto Wilson Ave. and for egress onto 29<sup>th</sup>. Access to the parking lot is immediate upon entering the grounds. The queuing lanes were established to exceed the recommended standards. Fire lanes and parking also meet the recommended standards. Landscaping standards are also met. The school was positioned on the site to provide the greatest distance from existing homes. A proposed sports field is to the north which, in the future, will include a sidewalk into the neighborhood. At the recent neighborhood meeting a request was made for fencing between the neighborhood and the drop off lane. In a compromise, the fence will be provided as well as landscaping on both sides of a vinyl fence that will be purchased and maintained by the school. Turf grass for outdoor space for students in the northwest corner of the loop road.

## COMMISSIONER QUESTIONS AND COMMENTS:

- **Commissioner Jersvig** asked if there were any plans to go K-12 at this site. **Mr. Stout** indicated that is not in the current plan for the short term. He sees any expansion of the building in the projected wings as more of a growth of middle/high school students.
- **Ms. Gardner** showed an architectural drawing of the school building. It is designed to look like a classic school. Various commissioners lauded the design. A protected entryway was discussed. Bollards are proposed for security. Security plans were discussed extensively and laminates available for glass protection will be looked into.
- **Commissioner Jersvig** asked about the number of students that can drive. **Mr. Stout** indicated that number will be less than 20. Parking is sufficient and there is room for expansion of the lot if needed. The campus is normally a closed campus.
- **Commissioner Ray** asked about busses. **Mr. Stout** indicated that busing is not provided at this time or in the near future. Provisions can be made for bus queuing if it is added in the long term. Pedestrian traffic and cross walks were also discussed. **Mr. Maizland** indicated that school zones are not provided for at this location based on the traffic analysis on a projection of 880 students and a low number of walkers. Many commissioners expressed concerns about the lack of a school zone on Wilson, a primary road between Loveland and Ft. Collins. The risk of a loss of life on such a high speed road as Wilson is great and a school zone should be strongly considered. **Mr. Maizland** will take this concerns to the traffic engineer. **Commissioner Jersvig** commented that the traffic study done for this site was the most comprehensive he had ever seen.

**Commissioner Jersvig** offered the members of the public present an opportunity to comment even though this was not a public hearing.

- **Russell Thye**, resident, commented that he lives in the area and cars are going down Wilson at a high rate of speed even in the posted 35 mph area. He appreciates the commissioner's comments on a need for a school zone. A slow down would be good.

## COMMISSIONER COMMENTS:

- **Commissioner Meyers** likes the site plan and the placement of the building and the traffic control plan. He definitely supports this. To the city staff, he would like to see a school zone established and a definite plan for the closing of Springfield Drive.
- **Commissioner McFall** commended the school for the outreach to the community. He likes the building design. He will recommend.
- **Commissioner Forrest** likes the plan, especially the placement of the building in the center of the site from a security standpoint. She likes the classical look of the building design and is in favor of this project going forward.
- **Commissioner Cloutier** also commended the outreach effort. He likes the design and the traffic management within the site. He is concerned about the speed of the traffic on

Wilson and encourages the City to look into a way to slow traffic near the school. He supports this project.

- **Commissioner Molloy** appreciates the complete packet received on this project. The architecture looks like a school and he appreciates that. He likes the location and recommends the project.
- **Commissioner Roskie** thanked all the audience for their turn out. The project meets all the city standards and she will be voting to recommend.
- **Commissioner Ray** thanked the school for wanting to be good neighbors. He will be voting for the project and encouraging the school board to work with the city to establish a school zone.
- **Commissioner Dowding** is seeing tonight what she only hopes will become a trend in working with neighborhoods before projects are brought before this commission. She is supportive of this project and thinks something should be done about the speed on Wilson such as taking the speed down to 35. She thanks the supporters of this project for coming out.
- **Commissioner Jersvig** also likes the trend of the two projects before them tonight in working with the neighborhoods. This a good use of the property. Perhaps the school will be a catalyst for the slowing of the traffic on Wilson. He also thanks the supporters for coming out and recommends the project.

*Commissioner Meyers moved to communicate to the Thompson School District R2-J Board of Education that the City of Loveland Planning Commission has reviewed the proposed location and associated site development plans for Loveland Classical School and has determined that the said plans are in compliance with City standards for public utilities, storm water conveyance and roadway connections related thereto, recommend that the site be used as depicted and described on said plans. Commissioner Dowding seconded the motion which passed with a unanimous vote.*

## **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 9:52 p.m.**

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

---

Linda Bersch, Interim Planning Commission Secretary.



## Memorandum

**To:** Planning Commission  
**From:** Mike Scholl, Economic Development Manager  
**Date:** October 10, 2016  
**RE:** Foundry Project/Staff Briefing

### **Background:**

On February 16, 2016, City Council approved an Exclusive Negotiation Agreement (ENA) with the Brinkman Partners as the preferred developer for the South Catalyst project. The ENA was for six months and was renewed for 90 days on August 16, 2016. The ENA included specific benchmarks on conceptual plans, project financing and the final Disposition and Redevelopment Agreement. Brinkman Partners was selected after a competitive selection process approved by City Council. The Disposition and Redevelopment Agreement (DRA) is expected to come before Council for consideration on November 15, 2016.

### **The Project:**

The South Catalyst project, renamed the “Foundry” is proposed to be a large scale infill development that will accelerate downtown revitalization and have a broad impact on the downtown as a whole. This project has been contemplated by the City since the approval of the 2009 Downtown Strategic Plan.

The Foundry will include:

- 625 seat first run Movie Theater
- 59,150 square feet of office or hotel
- 142 residential units
- 15,000 square feet of retail/service uses
- 460 space public parking structure
- Public plaza
- Significant improvements to the alleyway and streetscapes to promote connectivity to the rest of downtown

Since the approval of the ENA in February, staff and the Brinkman Partners have completed the following actions:

- the site plan and conceptual plan was completed and reviewed

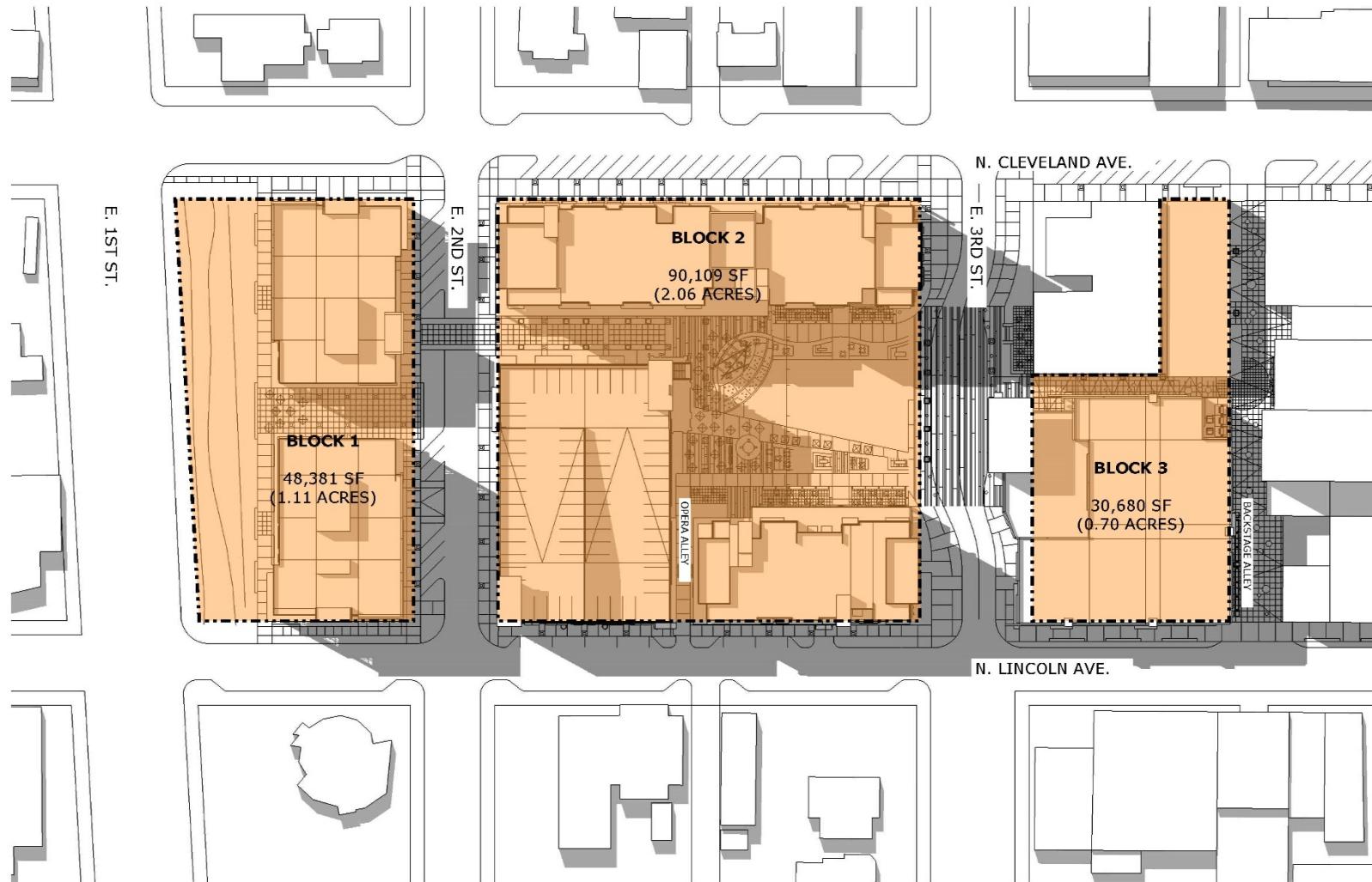
- the preliminary construction budget has been developed and refined
- a full parking analysis was completed
- a full financial analysis was completed and is being updated and refined as necessary
- a hotel market study has been completed
- the DRA has been completed and is being review by staff
- bond counsel has been engaged
- three public meetings were hosted to gather community input about the project with at least two additional public meetings planned through the end of the year

**Schedule/Next Steps:**

The City Council is expected to consider the DRA at the November 15, 2016 regular meeting. If the agreement is approved the City will begin the process of issuing Downtown Development Authority Bonds, which is anticipated to take up to 90 days.

The Brinkman Design Team and the City's Design Review Team met on Thursday, October 6 to begin the design review process. It is expected that if DRA is approved, Brinkman would break ground on by the first week of April with construction of the first phase expected to take 10 to 12 months.

# SITE PLAN



SITE AREA APPROX:  
(NOT INCL. R.O.W.)  
169,170 SF (3.88 ACRES)

OVERALL BUILDING AREA: 389,542 GSF

**RESIDENTIAL: 134,014 GSF**  
OVERALL UNIT COUNT (AVERAGE)

4 STORIES + 1 STORY  
GROUND FLOOR RESIDENTIAL/RETAIL

**WEST APARTMENTS**

- 95 UNITS
- AVERAGE UNIT SIZE: 780 GSF
- TOTAL: 73,736 GSF
- COMMON/CIRCULATION: 18,130 GSF

**EAST APARTMENTS**

- 48 UNITS
- AVERAGE UNIT SIZE: 720 GSF
- TOTAL 34,224 GSF
- COMMON/CIRCULATION: 7,924 GSF

**RETAIL: 37,108 GSF**

- MOVIE THEATER: 25,000 GSF
- GROUND FLOOR RETAIL: 12,108 GSF

**OFFICE: 52,590 GSF**

- 3 STORY OFFICE BUILDING: 52,590 GSF

**PUBLIC/COMMUNITY: 2,914 GSF**

- CONFERENCE SPACE (GROUND FLOOR EAST APARTMENTS): 2,914 GSF

**PARKING GARAGE: 162,916 GSF**

- 4 LEVELS ABOVE GRADE
- 1 LEVEL BASEMENT
- APPROX. 456 SPACES



0 40 80 160



3003 LARIMER STREET  
DENVER, COLORADO 80205  
PHONE: 303.861.5704  
WWW.OZARCH.COM



**THE FOUNDRY**  
LOVELAND, CO

PROJ. NO. 115253.00  
DRAWN: (MT/JB/SL)  
CHECKED: (PM)  
APPROVED: (PM)  
DATE: 06/09/16  
08/10/16

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THE FOUNDRY  
ISSUED FOR:  
CONCEPT DESIGN

SHEET TITLE:  
CONCEPT PLAN  
SCALE: T.B.D.  
SHEET NUMBER:

L1.01







PERSPECTIVE VIEW LOOKING SOUTHEAST FROM 3RD ST.

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ARCHITECTURE

3003 LARIMER STREET  
DENVER, COLORADO 80205  
PHONE: 303.861.5704  
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BRINKMAN  
PARTNERS

THE FOUNDRY  
LOVELAND, CO

PROJ. NO. 115253.00  
DRAWN: KR  
CHECKED: AI  
APPROVED: EI  
DATE: 08/10/16

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SHEET TITLE:  
PERSPECTIVES

SCALE: N/A  
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A7.09



AERIAL VIEW LOOKING SOUTHWEST FROM LINCOLN AVE. & 3RD ST.



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THE FOUNDRY  
LOVELAND, CO

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SHEET NUMBER:  
PERSPECTIVES

SCALE: N/A  
SHEET NUMBER:

A7.02



PERSPECTIVE VIEW LOOKING NORTHWEST FROM LINCOLN AVE. & 1ST ST.



ARCHITECTURE

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SHEET TITLE:  
PERSPECTIVES

SCALE: N/A  
SHEET NUMBER:

A7.07



AERIAL VIEW LOOKING NORTH FROM 1ST ST.

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ARCHITECTURE

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**BRINKMAN**  
PARTNERS

**THE FOUNDRY**  
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PROJ. NO. 115253.00  
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<https://vimeo.com/183515325>



**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

October 10, 2016

To: Loveland Planning Commission  
From: Bob Paulsen, Current Planning Manager  
**Subject: Unified Development Code Process Update**

At the Planning Commission's regularly scheduled meeting on October 10, 2016, I will provide an update on the status of the Unified Development Code. The purpose of the update is to provide commissioners with the opportunity to gain a preliminary understanding of this project in advance of the November 14<sup>th</sup> study session. Response to detailed questions or requests for specific information will be provided at the study session. Discussion at the October 10<sup>th</sup> meeting will include the following:

- Progress to date
- Major Tasks
- General Schedule
- Review Involvement Process
- Key project goals
- Completion Timeline

### Progress to Date

The City has hired Todd Messenger, a land use attorney with the Denver firm of Fairfield and Woods, as the prime consultant for developing the Unified Development Code. The UDC will incorporate the subdivision, annexation and zoning provisions into a single Title of the City Code. For many years, Mr. Messenger worked with national planning firm that assisted communities in the West and Midwest in writing and revising their zoning and subdivision codes. A recent local example of his work is the code for Centennial, Colorado. Mr. Messenger was the prime author of this code.

- In late August, Mr. Messenger completed Task 1 of the UDC project for Loveland: [Strategic Assessment of City of Loveland, Colorado Land Development Regulations](#). **This document is attached.**
- Mr. Messenger has maintained regular communication with the Internal Project Team. A draft of the Simplified Procedures (**see attached flow chart**) has been submitted by Mr. Messenger. Comments from the Title 18 Committee, the Technical Team and staff have been provided and revisions are due from Mr. Messenger on October 11<sup>th</sup>.

## **Major Tasks**

The City has divided the UDC project into 6 tasks:

1. Code Assessment: This analysis includes recommendations for code reforms that will provide a foundation for the tasks that follow.
2. Simplified Procedures: This Task will result in simplified and standardized review and approval procedures. A specific change is to replace the very cumbersome special review process with a combination of clearer and more functional alternatives.
3. Infill and Corridor Standards: Code standards will be formulated to address the complex and unique design factors involved in infill and corridor redevelopment projects. The basic idea is to ensure that there is sufficient flexibility to accommodate unique site characteristics.
4. New Residential Districts: The existing residential districts are outdated and limited in their effectiveness. New districts will provide for varied housing products and density options. With these additions, the use of PUD zoning for large residential subdivisions may become unnecessary.
5. Development Standards: Standards for development will be modernized, providing for more flexible options to achieve compliance. Graphics will be built into the code to clarify requirements and simplify the code presentation.
6. General Modernization: This final task will ensure that all components of the UDC are integrated into a functional and understandable document.

## **General Schedule**

Materials for each Task will be developed individually, and processed in a series of individual yet overlapping review efforts. As Tasks 2-6 are developed and drafts finalized, the drafts for each individual task will be presented to the Planning Commission. This process of reviewing drafts will continue over a period of 12 months as the respective drafts are developed.

The draft for Task 2 will be presented at a Planning Commission study session on November 14<sup>th</sup>. Following Planning Commission review, a study session will be held by the City Council to review the Task 2 draft. Following Council review, the Planning Commission will conduct a public hearing on Task 2 (January 23, 2017). The Planning Commission will make a recommendation on the code provisions contained in this Task, but the code provisions for Task 2 will remain on hold and will not proceed to City Council for adoption until all Tasks are completed and the Planning Commission has made a recommendation on each Task.

When all tasks are completed and have been reviewed in public hearings by the Planning Commission, the Council will hold an adoption hearing for the entire Unified Development Code. Final adoption is scheduled for the end of 2017.

## **Review Involvement Process**

The involvement process for Task 2 (Simplified Procedures) is provided (**see Attached Simplified Procedures scheduling chart**). This process will be repeated for Tasks 3-6. You will note that the schedule is complex and rigorous. It includes numerous meetings and review sessions. Success depends

on the timely completion of work by the consultant and by the various committees working on the project.

Internal Team: This team from Development Services is led by project manager Greg George. Brett Limbaugh, Bob Paulsen, Kerri Burchett and Karl Barton are team members. This team meets weekly, often in video conference with Todd. This team also attends all other committee meetings and associated activities. This team is responsible for setting day-to-day direction, maintaining communications, reviewing all draft materials and keeping the process on track.

Title 18 Committee: This committee is integral to the process, meeting at least monthly on the UDC with staff to set direction and review progress. T-18 Committee also meets (in addition to the regular monthly meetings) as part of the Stakeholders Committee.

Stakeholder Committee: This committee consists of about 15 interested development community representatives. Stakeholders will be provided with draft documents for review and will meet collectively with the Title 18, Technical, and Internal Team committees before draft materials are finalized and scheduled for Planning Commission review.

Technical Team: This includes representatives from departments that participate in the development review and building permit processes. Team members are responsible for ensuring that UDC provisions align with other City requirements and can be implemented through the review process. The Team will review draft materials and meet before draft materials are finalized and scheduled for Planning Commission review.

Open Houses: Prior to public review study sessions and hearings, a final draft for each Task will be presented in a publically notice open house. The open house events will occur immediately before Planning Commission study sessions, enabling the Commissioners to attend and understand the questions and concerns of interested citizens.

Planning Commission: As materials for each Task are assembled into a final draft, the Commission will conduct a study session. This will be followed by a City Council study session. Following the Council study session on each task, any recommended revisions will be made and a Planning Commission public hearing will occur. The Planning Commission recommendations will be on hold until all Tasks undergo this process.

City Council: Once all Tasks have undergone public hearings with the Planning Commission, a final adoption hearing on the full Unified Development Code will be held by the City Council.

## **Key Project Goals**

- Create development standards that provide flexibility to accommodate site variables
- Facilitate administrative approvals to the extent appropriate and possible
- Simplify review and approval processes to reduce project timelines
- Develop standards that facilitate redevelopment of corridors and infill sites
- Align code standards with adopted plans and policies, including Create Loveland
- Employ state of the art software, making the code more efficient to manage and use

## **Completion Timeline**

Completion is targeted for the end of 2017.

## **Attachments**

1. Strategic Assessment of City of Loveland, Colorado Land Development Regulations
2. Simplified Procedure flow chart
3. Simplified Procedures Sub Task scheduling chart

# Strategic Assessment of City of Loveland, Colorado Land Development Regulations

—Draft—

August 26, 2016

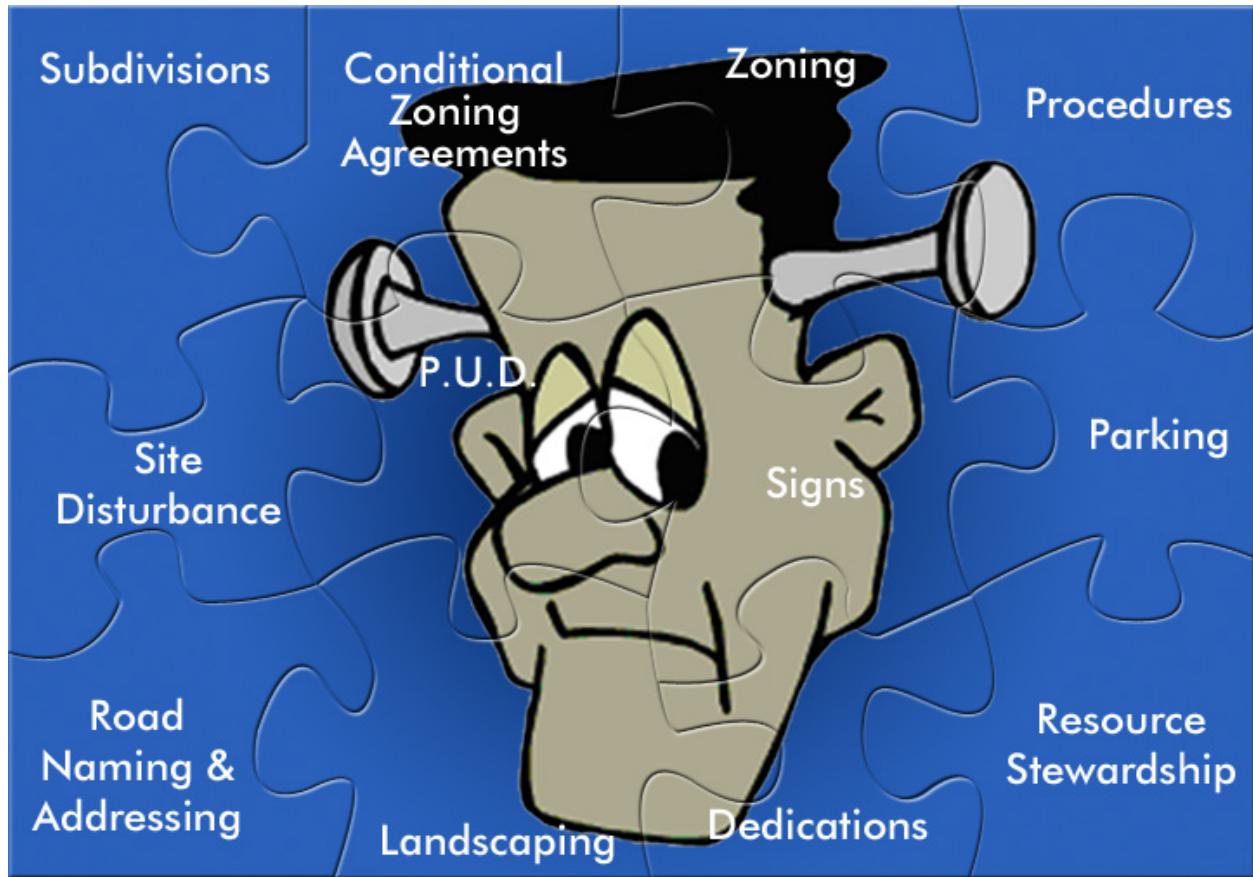
Respectfully submitted by:  
Fairfield and Woods, P.C.  
1801 California St., Ste. 2600  
Denver, CO 80202

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Sometimes good ideas get assembled into a code in ways that do not “work” well together.  
The resulting “FrankenCode” can be a monster to deal with.

## Background

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### *A Short History of this Project.*

In May 2016, the City of Loveland retained Fairfield and Woods, P.C. and Logan Simpson to help evaluate and reform the City's land development regulations (collectively, the "CODE"). The project includes six key components:

- This "Strategic Assessment," which provides analysis and strategic recommendations for Code reform;
- Suggested procedural reforms, with an emphasis on streamlining special use review and simplifying and standardizing other development review procedures;
- Suggested infill and corridor development standards to incentivize infill development and redevelopment with an appropriate form and character that implements the Comprehensive Plan and corridor plans;
- Suggested new residential districts that allow a mix of housing types and densities and implement the "complete neighborhoods" policies of the Comprehensive Plan;
- Suggested landscaping, lighting, and noise standards to simplify and modernize the City's approach in these areas; and
- General modernization and reorganization of the Code to improve accessibility and clarity, remove unnecessary regulatory layers and cross-references, and resolve internal inconsistencies.

While evaluation of the sign regulations is part of the project, specific reforms for the sign regulations are not currently within the project scope.

### *The General Condition of Loveland's Code.*

Codes have a relatively predictable shelf-life. Over time, they tend to become increasingly complex—in both structure and substance—as amendments that respond to the immediate issues of the day bring different vocabularies, approaches, procedures, and perspectives into the mix. Even when a code is intended to be a collection of good ideas and "best practices," it often turns into an unmanageable "monster"—a "FrankenCode," so to speak. Simply put, it is inevitable that there is a point at which any code should be re-examined and comprehensively revised or rewritten. This report concludes that the Code has reached that point.

### *We Know the Code is "Broken," so Why do We Need a "Strategic Assessment"?*

There is a big difference between the level of detail in planning documents and the codes that are intended to carry them out. Plans are by nature very general. Codes are very specific. This document is intended to bridge the gap between planning objectives (e.g., a walkable mixed-use downtown) and regulatory standards (e.g., allowable land uses, building heights, parking, landscaping, and the like).

Additionally, just as it is easier to put a puzzle together when one knows what it is supposed to look like, restructuring a code and reforming development review procedure is most efficient when the objectives are clear. As such, in addition to linking the City's plans to suggested code reforms, this document articulates the objectives with regard to the structural and administrative components of the code.

# Project Summary

---

## *Purpose of This Document.*

As the first step in the process, this Strategic Assessment document examines the “big picture” with respect to:

- Improving accessibility, removing unnecessary layers of regulation, adding precision to definitions and discretionary standards;
- Plan implementation, that is, how the Code could be reformed to more effectively implement the City’s adopted plans, and how to create the basic structure for new zoning districts;
- Making the procedures (standard and PUD) in the Code more efficient, while still respecting the values and culture of the community; and
- A brief evaluation of the sign regulations, and a recommended approach to reform.

## *Other Documents Reviewed*

The analyses and recommendations in this report are based on a comprehensive review of:

- City of Loveland Municipal Code Title 16, Subdivision Code (the “SUBDIVISION CODE”)
- City of Loveland Municipal Code Title 17, Annexation Code (the “ANNEXATION CODE”)
- City of Loveland Municipal Code, Title 18, Zoning Code (the “ZONING CODE”)
- City of Loveland Site Development Performance Standards and Guidelines (the “GUIDELINES”)
- Larimer County Urban Area Street Standards (the “URBAN STREET STANDARDS”).
- Create Loveland Comprehensive Plan (February 2016) (the “COMPREHENSIVE PLAN”)
- Loveland 287 Strategic Plan (December 2015) (the “287 PLAN”)
- City of Loveland Parks and Recreation Master Plan (July 2014) (the “PARKS PLAN”)
- City of Loveland Updated Water Conservation Plan (July 2013) (the “WATER PLAN”)
- City of Loveland Economic Development Strategic Plan (February 2012) (the “ECONOMIC DEVELOPMENT PLAN”)
- The City of Loveland Urban Renewal Plan (the “URBAN RENEWAL PLAN”)
- Master Plan Update: Fort Collins-Loveland Municipal Airport (the “AIRPORT PLAN”)
- Destination Downtown: Heart Improvement Project Downtown Strategic Plan and Implementation Strategy (the “DOWNTOWN PLAN”)
- A Plan for the Region Between Fort Collins & Loveland (April 1995) (the “FT. COLLINS-LOVELAND REGIONAL PLAN”)
- US 34 Corridor Plan (September 1993) (the “34 PLAN”)

## Improving Accessibility

Experience shows that the laws of people are not exempt from the laws of nature. On the one hand, zoning code amendments add wisdom and experience from the community into the laws that shape the landscape. On the other hand, they also tend to add a corresponding dose of internal conflict, inconsistent vocabulary, and disorganization. Ironically, over time, the zoning law—which is intended to bring order to the landscape—breaks down and trends towards disorder.

It is apparent that the Code has been amended repeatedly—to implement plans, to respond to political imperatives, and to adapt to a changing real estate market. As such, the Code has multiple “voices,” an inconsistent vocabulary, a challenging organizational structure, internally inconsistent standards, and remnants of regulatory provisions that were likely intended to be repealed.

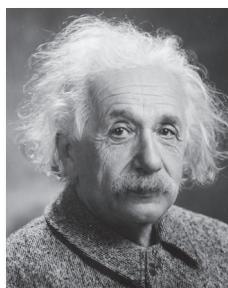
The structural problems with the Code tend to obscure its wisdom and priorities. This Strategic Assessment recommends that the Code structure be repaired and reinforced. Ultimately, its text should be made “as simple as possible, but not simpler.” To that end, the City should:

1. Create a consolidated and well-organized “unified development code” (“UDC”) that includes subject matter currently covered within the Subdivision Code, the Annexation Code, the Zoning Code, the Guidelines, and certain parts of the Urban Street Standards (see Figure 1, next page).



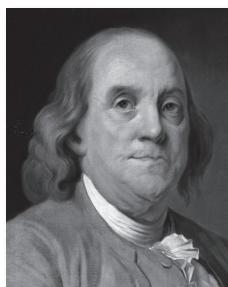
**“The law that entropy always increases holds, I think, the supreme position among the laws of Nature.”**

~ Sir Arthur Stanley Eddington, *The Nature of the Physical World* (1927).



**“Make things as simple as possible, but not simpler.”**

~ Albert Einstein



**“For every minute spent organizing, an hour is earned.”**

~ Benjamin Franklin

## **Figure 1: Suggested Outline of Unified Development Code**

---

1. Preliminaries
  - » Title, purpose, applicability, authority, jurisdiction, property rights, interpretation, and severability
2. Districts and Land Use
  - » District purposes and land use / district matrix
  - » Use-specific performance standards
  - » Standards for accessory uses that are intensive enough to justify regulation
3. Density, Intensity, Bulk, and Scale
  - » Density, intensity, bulk (dimensional), scale and open space requirements in tabular format
  - » “Housing palette” for new residential districts
  - » Standards for redevelopment and building expansions in established residential districts
4. Supplemental Standards
  - » “Supplemental standards” for walls, fences, and other structures.
5. Development Design and Performance
  - » Standards that relate to the layout of development (*e.g.*, connectivity, relationship to the street, etc.), landscaping, buffering, parking, drainage, lighting, noise, etc.
  - » Design standards for buildings and structures in certain districts
6. Signs
  - » Standards for signs
7. Natural Resources and Hazard Mitigation
  - » Standards for protection of floodplains, irrigation ditches, and environmentally sensitive resources, and avoidance or mitigation of geologic hazards
  - » Oil and gas standards
8. Management of Development Impacts
  - » Standards for infrastructure, land dedication, capital expansion fees, and fees-in-lieu
9. Annexation Policies
  - » Policies such as those set out in the Annexation Code.
10. Administration
  - » Nonconforming situations
  - » Development review bodies
  - » Development review procedures
  - » Enforcement
11. Measurements, Calculations, and Definitions
  - » Explanations of the measurements and calculations used in the Code, definitions of words, phrases, and acronyms used in the Code

2. Modernize the list of land uses, remove development standards from the land use table, and create a land-use / zoning district table to replace the existing lists of land uses that are “permitted by right” and “permitted by special review” in each zone district (see Figure 2).

## **Figure 2: Use Lists vs. Land Use / Zone District Table**

---

Currently, each zoning district has its own chapter in the Code, and each Chapter sets out its own list of “uses permitted by right” and “uses permitted by special review.” For example:

### **18.28.010 Uses permitted by right.**

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

- A. Financial services;
- B. Gas station with or without convenience goods or other services subject to Sections 18.52.060 and 18.50.135 and located three hundred feet or more from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district);
- C. Place of worship or assembly; . . .
- X. One-family dwelling;

\*\*\*

### **18.28.020 Uses permitted by special review.**

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

- A. Vehicle sales and leasing of cars and light trucks;
- B. Vehicle minor and major repair, servicing and maintenance;
- C. Car wash;
- D. Combined-use (or mixed-use) developments containing one or more special review use(s);
- E. Dairy processing plants, laundry and dry-cleaning plants;
- F. Gas station with or without convenience goods or other services subject to Sections 18.52.060 and 18.50.135 and located less than three hundred feet from a residential use or zone district (measurement shall be made from the nearest site or lot line of the gas station to the nearest lot line of the residential use or zone district)

\*\*\*

This existing structure has five inherent problems:

1. It is challenging for a person who is looking for a place to locate a particular use to determine where that use will be allowed;
2. The language that is used to describe a particular use is not necessarily consistent from district to district (e.g., the B district uses the phrase “one-family dwelling,” while the MAC district uses the phrase “dwelling, detached single-family” and the ER district uses the phrase “single-family dwellings”);
3. Unrelated uses with different functional or aesthetic impacts tend to become merged (e.g., “dairy processing plants, laundry and dry-cleaning plants”).
4. Development standards tend to become incorporated into the enumerated use itself (e.g., “gas station . . . subject to . . . and located . . .”); and
5. The standards or procedures that are used to manage the impacts of a particular use may be inconsistent from district to district, even if the impacts are not perceptibly different.

## Figure 2: Use Lists vs. Land Use / Zone District Table (continued)

Organizing the use lists into a single table, with the uses listed in the left-hand column and the districts listed in a top row addresses all of the inherent problems of the current approach:

- People who own land or are looking for a location for a particular use have the same level of access to information (landowners look at columns first based on their zoning designation, while investors look at rows first based on their desired use).
- Language remains consistent across zoning districts because it is not repeated.
- Individual uses may be specified as appropriate based on their functional and aesthetic impacts, state or national licensing or permitting requirements, or other differentiating characteristics.
- Development standards may be cross-referenced in the table.
- The table sets out which approval procedure applies to each use in each district. When the City amends the table, it will be more likely to take a comprehensive view. For example, if a new use is added to the table, the City will have to determine whether and how the use will be permitted in each district, and if a new district is added to the table, the City will have to consider whether and how each enumerated use will be permitted in that district.

Illustrative Land Use / Zone District Table											
Land Use	District										Add'l Standards
	ER	R1e	R1	R2	R3e	R3	BE	B	MAC	E	
Residential	P	P	P	P	P	P	P	L	P	L	18.35
Retail	-	-	-	-	-	L	P	P	P	L	18.36
Office	-	-	-	-	-	L	P	P	P	P	18.37
Restaurant	-	-	-	-	-	L	P	P	P	L	18.38
Storage yard	-	-	-	-	-	-	-	-	-	C	18.39
Light industrial	-	-	-	-	-	-	-	-	-	P	-

In the table above, “P” means “permitted use,” “L” means “limited use” (an administrative approval that includes additional development standards), and “C” means “conditional use” (a public hearing review process). Cross-references to additional standards are provided when the row includes an “L” or a “C.” Note that the land uses and approval procedures are for illustrative purposes only and are not specific recommendations for Loveland.

3. Provide tabular parking standards for all land uses, using the enumerated land uses in the land use / zone district table as the basis for the standards.
  - » Currently, the Code does not provide parking standards for certain land uses, such as “fraternity and sorority houses” and “group care facility.”
  - » For other uses, there are parking standards, but the vocabulary is not consistent. For example, there is a parking standard for “one-family or two-family dwellings, multiple family dwellings.” That standard would clearly apply to “dwelling, detached single-family” and “single-family dwelling.” However, it is not clear whether it would apply to “multiple-family dwellings for the elderly.”
4. Present numerical regulatory provisions (e.g., bulk, setback, lot cover, density, intensity, and open space) in tabular format wherever practicable (see Figure 3, next page).

### **Figure 3: Using Tables**

The UDC should use tables wherever possible to remove unnecessary words. For example, Zoning Code Section 18.16.040 (R3e District) provides:

“The minimum width of a lot shall be fifty 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. Where a lot is divided into three lots for the purpose of separate conveyance of each lot after a three-family dwelling has been constructed thereon, the minimum width of each parcel shall be thirty feet.”

Section 18.16.040 could be restated as follows:

<b>Minimum Lot Width</b>	
Generally	50 ft.
Townhomes (3 or more units)	30 ft.
Cul-de-sac lots	no minimum

The driveway standard (contiguous driveways or 22-foot separation) should be set out in a section on design standards for residential cul-de-sacs.

### **Figure 4: Non-Mandatory Language**

Non-mandatory language has no place in development standards. For example, how should a zoning official or code enforcement officer enforce each of the following Code standards?

- “Wood and metal are acceptable accent materials but *should* not account for more than twenty percent of any one facade.”
- “The following design guidelines *should* be used in the administration of development and redevelopment within the Existing Industrial Character District.”
- “Loading areas *should* be screened from entrances and other highly visible areas of the site. Adequate turn around and backing areas shall be provided without disruption of circulation or parking facilities.”
- “*Recommended Implementation Strategies . . .* (2) The underlying jurisdiction *shall approve up to* a 25% increase in permitted density over what is allowed in the zoning district for vertically integrated mixed-use development, e.g., residential over commercial use.”

5. Provide clear direction in the UDC by abandoning the use of “guidelines” and other provisions that use non-mandatory vocabulary such as “should” (see Figure 4). The Guidelines should be merged into the UDC to the extent they are intended to be mandatory, and mandatory standards should use clear language (e.g., the building design shall incorporate four of the following eight elements . . . ). Non-mandatory provisions may be retained as an advisory document that is not an adopted part of the Code.
6. Strip away unnecessary and obsolete layers of design and development standards, overlays, and “character districts” (see Figure 5, next page).
7. Standardize the style, voice, and vocabulary throughout the UDC, and ensure that standards, procedures, and definitions are separated from each other in order to avoid untimely and unwelcome “discoveries” of additional substantive requirements during project design and development review (see Figure 6, page 9).
8. Illustrate Code provisions where illustrations will provide interpretive value or convey concepts that may be unfamiliar to the reader.
9. Use a robust electronic code publishing system that allows for intuitive browsing and searching, hyperlinked definitions and cross-references, and real-time updates by City staff.

**Figure 5: Unnecessary and Obsolete Layers of Regulation**

The Guidelines are an adopted part of the Zoning Code by virtue of Section 18.47.010. Figure 2.07(C) of the Guidelines (top right) sets out “recommendations” for maximum building height in different areas of downtown.

Section 1.03 of the Guidelines provides, "In the event any provision of these Site Development Standards and Guidelines are inconsistent with any other regulations adopted by the Loveland City Council, or any state law, the more restrictive provision shall apply."

Figure 18.24.060-1 of the Zoning Code (bottom left) establishes five height districts in the Be District. The Zoning Code figure conflicts with Guidelines Figure 2.07(C) in terms of maximum heights, area boundaries, and overall boundaries of the Downtown area.

In parts of the “North Fringe / Financial Area,” the Zoning Code allows more than twice the building height that the Guidelines recommend. It is likely that the Zoning Code provisions express the City’s intent.

If there was ever a dispute about height in the “North Fringe / Financial Area,” there are colorable arguments on both sides regarding which standards apply.

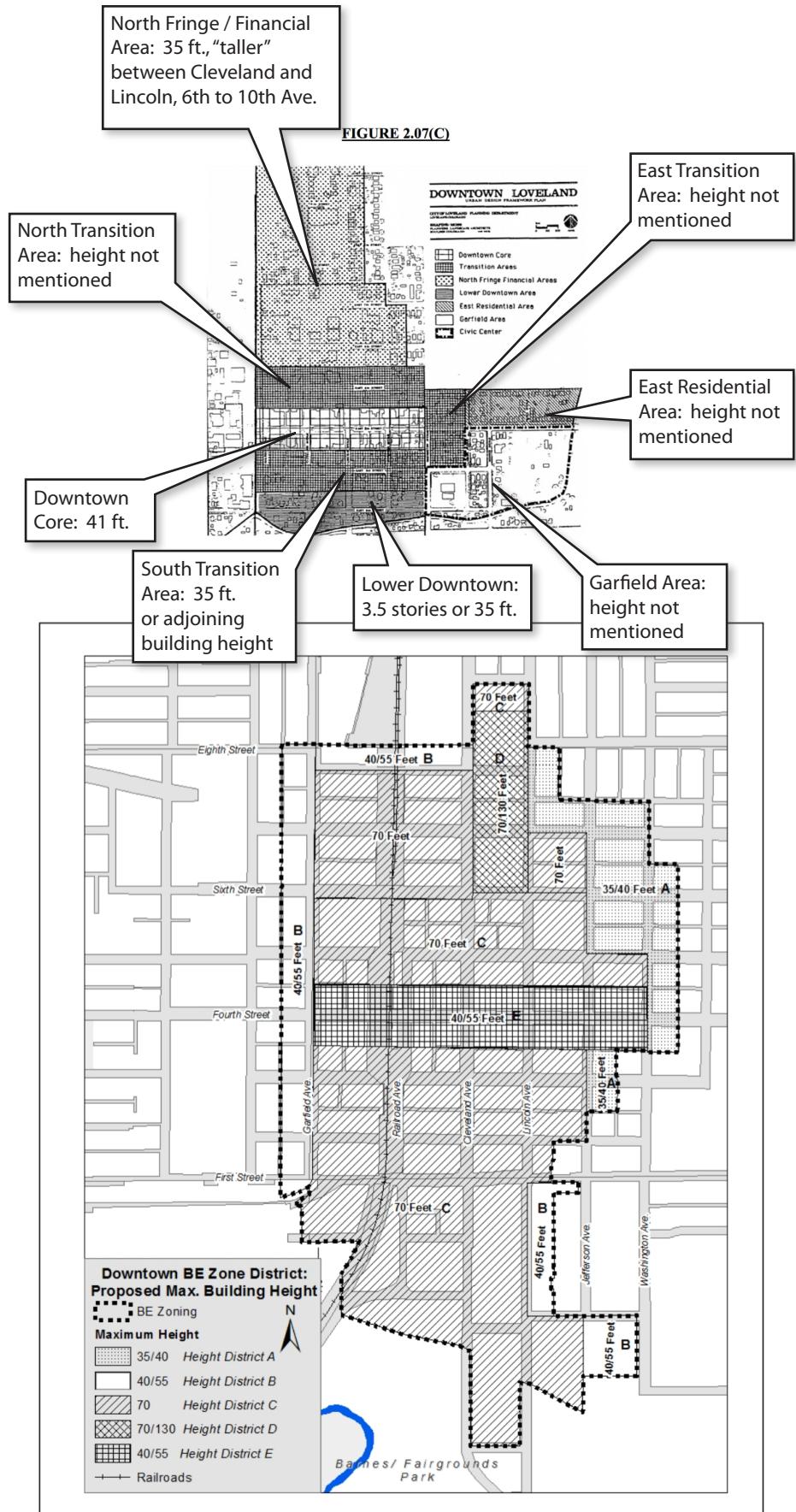


Figure 18.24.060-1: Downtown Area Height Limits

## Figure 6: Drafting for Clarity

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There are several key strategies for writing clear Code—

### #1. Separate standards, definitions, and procedures.

Consider the definition of “Neighborhood Shopping Center.”

“Neighborhood shopping center” means a group of contiguous or adjoining small retail stores or service buildings, not less than two, serving the neighborhood in which they are located, such as the following: food products, barbershop, beauty shop, laundry and dry cleaning, sundries, and such others of a similar nature including establishments selling fermented malt beverages or malt, vinous or spirituous liquors. No such store or service building shall contain more than one thousand two hundred fifty square feet. No neighborhood shopping center shall exceed a total floor area of seven thousand two hundred square feet.”

The “neighborhood shopping center” appears to be a subset of the “retail” land use. The last two sentences of the definition are development standards that limit floor area. The appropriate location for such standards would be in a division that includes use-specific standards. It is unlikely that a designer of a neighborhood shopping center will refer to a definition to see if there are any limitations on retail floor area.

### #2 Eliminate unnecessary language.

The current Code includes a number of enumerated permissible uses that are mixed with development standards, like “Outdoor storage subject to Section 4.06 of the Site Development Performance Standards and Guidelines.” Presumably all outdoor storage is subject to Section 4.06 of the Guidelines. All of the words after “Outdoor storage” should be deleted.

### #3 Consolidate definitions.

The current Code has definitions scattered throughout. The Subdivision Code, the Annexation Code, and the Zoning Code each have their own definitions, and certain chapters of the Zoning Code also include definitions. All definitions should be set out in one place, and language should be used consistently across all land development regulations.

For example, the Subdivision Code provides: “Dwelling, one-family’ means a detached building, arranged and designed as a single dwelling unit other than a mobile home and intended to be occupied by not more than one family and which has not less than one bathroom and a minimum floor area of six hundred fifty square feet.” The Subdivision Code does not define family. The definition of “family” is in the Zoning Code. The Zoning Code does not define “Dwelling, one-family.” The definitions in the Subdivision Code apply only to the Subdivision Code, and the definitions in the Zoning Code apply only to the Zoning Code.

### #4 Standardize words and phrases and use them consistently.

The vocabulary of the Code should be standard and consistent. To illustrate, under the current Code, the various zoning districts refer to:

- single-family detached homes as “dwelling, detached single-family,” “dwelling, one-family,” “one-family dwellings,” “one-family dwelling,” or “single-family dwellings;”
- parks and recreation areas as “parks and recreation area,” “park or recreation area,” “parks, recreation areas and golf courses or driving ranges . . . ,” or “parks, recreation areas, and golf courses;” and
- veterinary facilities as “small animal hospitals and clinics,” “veterinary clinic,” “veterinary facilities, small animal,” “veterinary facility, clinic, or hospital,” and “veterinary hospital.”

# Plan Implementation

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## *Generally*

The Comprehensive Plan and most of the various special area and special purpose plans explicitly or implicitly recognize that Loveland is a tapestry of development forms, functions, and patterns. In developing areas, the UDC is the regulatory framework within which such forms, functions, and patterns will take shape, often on a large scale. By contrast, in developed areas, the UDC will normally function to help the City manage (or promote) incremental changes. The available zoning “tools” do not necessarily work equally well in both roles.

For example, in the R1e district, which is intended to apply to established neighborhoods, the minimum lot area is 6,000 square feet. Lot area may be reduced in instances where a group of 10 or more homes are proposed for development as a “unit.” The district does not provide standards for integrating the homes into the surrounding neighborhood, nor does it provide standards to deal with an existing lot that is less than 6,000 square feet. The districts in the UDC should apply the right “tools” to appropriately address the context at hand.

It is anticipated that the creation of new opportunities with new zoning districts and (potentially) new overlay districts (for example, in the Highway 287 corridor) will be the primary approach to Comprehensive Plan implementation. To the extent possible, the City will avoid rezoning private property or materially changing use regulations that apply to private property. The City may, however, simplify existing zoning districts and allow for a wider range of use of private property in nonresidential and mixed-use zoning districts.

## *Approach Regulation from the Vantage Point of Community Character*

### **WHAT IS “COMMUNITY CHARACTER”?**

The phrase “community character” is often used in planning and public hearings, but tends to have different meanings to different people. For the purposes of this Strategic Assessment, community character is the perceived (visual) relationship among the natural (or cultivated) landscape, buildings and structures, and paved areas. The relative balance of these three elements in the landscape form a continuum of sorts, bounded on one side by “natural” character (visually dominated by plants and natural landscape elements), and on the other by “urban” character (visually dominated by buildings and structures). In the middle are “rural” character, “estate” character, “suburban” character (elements in relative balance) and “auto-urban” or “auto-oriented” character (dominated by paved areas) (see Figure 7, next page)

Conceived in this way, community character provides a solid basis for drafting, evaluating, and administering land development regulations. That is because the approach emphasizes the relationship among basic elements that are controlled (either directly or by close proxies) in zoning and subdivision regulations:

- The height, bulk and mass of buildings, the intensity of development, and the relationship of buildings to the street;
- The amount of “open space” and landscaped areas, and the density and types of landscaping within them; and

**Natural character** is visually dominated by natural vegetation and other natural features, such as rock outcroppings, rivers, and streams. Road infrastructure is scarce.



**NATURAL**

**Rural character** is dominated by vegetation or natural features, but buildings dot the landscape. Road infrastructure is scarce.



**Estate character** is still dominated by vegetation or natural features. However, compared to rural character, there are more buildings and paved areas.



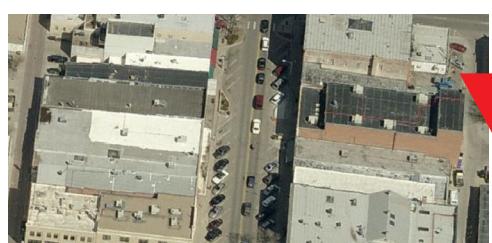
**Suburban character** is a relative balance of vegetation, paved areas, and buildings.



**Auto-urban character** is dominated by pavement, generally due to large surface parking fields. Auto-urban character may be softened by landscaping.



**Urban character** is dominated by buildings. Urban character may be enhanced by formal landscaping and well-designed buildings and civic spaces.



**URBAN**

**Figure 7:**  
**The Community Character Scale**

The community character scale is based on the relative visual relationship among:

- vegetation and natural features;
- paved areas; and
- buildings

Natural character is visually dominated by vegetation and natural features. Roads and buildings are scarce.

By contrast, urban character is visually dominated by buildings, which may be softened by formal landscaping (e.g., street trees).

Between rural and urban character types are:

- Rural character, which is still mostly vegetation and natural landscapes, with a few buildings that are, in general, used for agricultural purposes;
- Estate character, which is still mostly vegetation, but includes more buildings and pavement than rural areas;
- Suburban character, which is a relative balance among vegetation, buildings, and pavement; and
- Auto-urban character, which is dominated by paved areas.

- The width of streets, sidewalks, and drive aisles, and the number and dimensions of parking spaces and loading areas.

## HOW DOES THE APPROACH WORK?

Using the community character approach, regulations can promote flexibility and creativity without over-reliance upon planned unit development procedures. For example, a residential zoning district may provide for maximum density and minimum open space, and then allow for a variety of housing types, each with their own development standards (e.g., minimum lot sizes and setbacks). The maximum density and minimum open space provides: (1) a unit count (development yield); and (2) a defined area of “buildable” land. The housing palette provides minimum lot sizes, setbacks, and development intensities for a variety of housing types (e.g., single-family detached, duplex, townhome, etc.). Different housing types may be constructed on the buildable land, up to the maximum unit count for the property. This allows new residential projects to be responsive to both the landscape and the market.

## WHY USE THE COMMUNITY CHARACTER APPROACH?

The community character approach is especially useful for addressing new development, and for implementing plan policies that call for transitions between areas of different “character.” For example, Policy 1.3 in the Neighborhoods Element of the Comprehensive Plan calls for transitions between urban and rural areas. Such transitional areas could be developed with products of suburban or estate character, or both.

Using the community character approach, and integrating existing or revised standards for streets, trail connectivity, resource protection, and other subdivision design elements, projects with a variety of housing types (and even a mix of residential and nonresidential uses) could be approved (and amended) administratively. This Strategic Assessment suggests that such a process would be an appropriate “tool” to implement a large number of policies in the Comprehensive Plan. Highlights are provided in Table 1, below.

**TABLE 1**  
**Implementing Comprehensive Plan Policies with the Community Character Approach**

The community character approach ...	... which supports the following plan policies:
... encourages the development of diverse housing types, and can allow for the integration of context-sensitive nonresidential uses in residential neighborhoods.	“Encourage development of diverse housing types and complete neighborhoods.”
... tends to reduce hard and soft development costs and increase housing diversity.	“Support housing that meets the needs of low and moderate income households.”
... sets the stage for procedures that allow for efficient and timely approvals of plans and amendments that respond to market conditions, while protecting the essential elements of community character that residents value.	“Align new housing development with resident needs and community values.”

**TABLE 1**  
**Implementing Comprehensive Plan Policies with the Community Character Approach**

The community character approach ...	... which supports the following plan policies:
... can be used to allow for the integration of context-sensitive residential development in commercial and employment centers.	"Promote integration of housing in commercial and employment centers."
... directly manages the relationship among open spaces and developed areas, and is therefore a very effective tool to protect natural resources.	<ul style="list-style-type: none"> <li>• "Protect important regional lands and facilities."</li> <li>• "Protect sensitive natural areas and wildlife habitats from development impacts."</li> <li>• "Strengthen community resiliency to flooding and natural disasters through development patterns, hazard identification and mitigation, and communication."</li> <li>• "Maintain natural areas according to management type."</li> <li>• "Protect and maintain environmental resources and quality."</li> <li>• "... lead in protecting open lands using a variety of protection techniques in partnership with willing landowners . . ."</li> </ul>
... is centered on the character of growth.	<ul style="list-style-type: none"> <li>• "Coordinate the timing, location, and character of growth within the Growth Management Area."</li> <li>• "Maintain and enhance Loveland's existing small-town feel, sense of community, and distinct identity."</li> </ul>
... to the extent that it can be used to simplify process, enhances development opportunities, and efficiently brings desired products to market.	"Remain regionally competitive."

*Revise or Create Residential Zone Districts for Developing Areas to Include Character-Based Standards Instead of Conventional Lot Area and Bulk Standards*

The residential future land use categories of the Comprehensive Plan describe the desired form of residential development in terms of density and product type. For example, the Estate Residential ("ER") category calls for density up to 2 units per acre, with clustering of development to protect natural resources. The Low Density Residential ("LDR") category calls for density of 2 to 4 units per acre with a curvilinear or grid street pattern, and 15 to 40 ft. front setbacks. LDR-designated land could be developed in suburban or auto-urban formats.

To implement the Comprehensive Plan, maximize flexibility to respond to site and market conditions, and deliberately manage community character outcomes, the residential zone districts that are applied to developing areas should be updated so that they use a community character approach. That is, each district should establish a maximum density and minimum open space, and a housing palette should be developed to provide flexibility with regard to housing product and subdivision layout.

## *Add Flexibility to Regulations that Apply to Existing Neighborhoods, in Order to Protect—or Help Transform—their Character*

The Code includes two zoning districts that are nominally for “established” areas: R1e and R3e. However, the approach of these districts is not very different from the other residential districts in the Code, in that all focus on minimum lot area, minimum lot width, minimum setbacks, and maximum height.

In an undeveloped “greenfield,” such standards are easy to apply. However, in the built environment—and in particular in a built environment that “evolved” over time—there is a great potential for “nonconformities” that may limit the ability to improve or expand a building. Moreover, as a practical matter, even if an existing building complies with the zoning requirements, expanding the building will often require deviations from the fixed numerical standards of the underlying zoning district.

It follows that to add flexibility, promote investments in existing buildings or redevelopment, and protect (or transform, as applicable) neighborhood character requires:

- Acceptance of the existing developed landscape as “conforming.” That is, buildings that conformed to (or were not subject to) zoning requirements when they were built should be presumed to be an acceptable (even valued) part of the neighborhood, and should not be labelled as “nonconforming.”
- Calibration of a set of standards for lot size, building placement, and building mass that:
  - » Allows for the combination, subdivision, or resubdivision of lots in a manner that is consistent with other lots in the neighborhood (without making existing lots nonconforming);
  - » Establishes a three-dimensional building envelope that either promotes buildings that “fit” well into the neighborhood in terms of their bulk and mass, or promotes buildings that are intended to transform the neighborhood into a more intensely developed area (depending upon the policy to be applied in a particular area); and
  - » Provides qualitative standards for changing the building envelope, so that the individual circumstances of a developed lot may be addressed administratively in a manner that directly mitigates the impacts of the change. To illustrate, the R1e district allows the current planning manager to vary side yards for “groups of three or more single-family dwellings.” This Strategic Assessment recommends that staff should be able to vary side yards—subject to qualitative standards—for a single lot in order to promote reinvestment in existing buildings.

This Strategic Assessment suggests that the creation of new “Established Neighborhood” or “Transitioning Neighborhood” districts modeled on the approach described above would implement most of the policies related to the Comprehensive Plan goal of “Invest in Loveland’s Older Neighborhoods,” such as:

- “Continue investing in older neighborhoods as they age.”
- “Reinforce the unique identity and visual appeal of neighborhoods.”
- “Preserve historical residential character.”
- “Refresh distressed neighborhoods.”

## Create a New District for Downtown Loveland

Central to the Comprehensive Plan is the objective to “Support Downtown as the iconic cultural and civic heart of Loveland.” Downtown should be covered by its own zoning district, within which the City should, as it states in the Downtown Plan, “make the right thing easy” and reduce barriers to re-use and re-development. Ultimately, the boundaries of the new Downtown zoning district should be refined to include the couplet and align with the Downtown Development Authority area, as recommended by Action 3.1 of the 287 Plan, but rezoning should be adopted only after a public outreach process to educate and receive feedback from area landowners.

For now, the three “outlying areas” that are currently within the Be District should continue to be zoned “Be,” with revisions to the district to remove the standards that only apply downtown. Ultimately, the Be district should probably be merged into another district that protects the uses that are in place at the time of the merger.

In order for the new Downtown district to “[o]ffer a mix of uses and destinations that encourage residents and visitors to live, work, play, and learn in Downtown” (as recommended by the Comprehensive Plan), this Strategic Assessment recommends the following:

- The UDC should set the stage for catalytic redevelopment, and for land uses that promote employment and services (*i.e.*, office uses and small-scale industries) in addition to dining, entertainment, assembly, culture, retail, education, and residential uses. To that end, the new district should:
  - » Ensure that the land uses that are allowed Downtown promote economic development and protect such investments from incompatible uses (see Figure 8).
  - » Consider and clarify allowable residential density. The Downtown Plan suggests that Downtown density should be 25 units per acre, “a level commensurate with the existing zoning.” Presently, neither the Comprehensive Plan nor the Code address Downtown density. The UDC should ensure that residential density (if limited at all) is sufficiently high to encourage a residential base to support downtown business, with housing products such as residential-over-retail (including in relatively small existing buildings), micro-units, and conversions of existing single-family homes into multi-unit buildings.
  - » Incentivize land assembly and redevelopment where adaptive re-use of buildings is not applicable or not practicable. Consider removing layers of procedure and amorphous approval standards that may discourage desirable investment. For example:

## Figure 8: Downtown Land Use

Some of the land uses that are permissible in the existing Be District may not support the objective of promoting Downtown as the “iconic cultural and civic heart of Loveland,” and may be incompatible with desired Downtown land uses and transportation objectives. Such uses include:

- garden supply center (by definition, this use is operated in conjunction with a nursery or tree farm);
- lumberyard in the general character area;
- special trade contractor’s shop;
- attended recycling collection facility;
- contractor’s storage yard in the general character area;
- greenhouse;
- outdoor storage as an accessory use;
- vehicle sales and leasing of cars and light trucks (unless inside); and
- warehouse and distribution facilities.

- There appear to be physical opportunities for catalytic block-level and half-block level redevelopment in the Lincoln and Cleveland corridors.
- The BE district regulations require Planning Commission approval of buildings that are more than 70 feet tall or 25,000 square feet in floor area (10,000 square feet in the neighborhood transition character area). The Planning Commission's standards for approving the buildings are:
  - ▷ The development complies with the Code;
  - ▷ There is adequate infrastructure to support the development;
  - ▷ The buildings are “compatible with surrounding properties when considering the allowances for development intensity specified in this chapter and the urban orientation of the downtown which is characterized by a diversity of uses and building types;” and
  - ▷ The development is consistent with the Downtown Plan.

These requirements add time and risk to development and redevelopment, and offer little corresponding opportunity to consistently improve the quality of development, because:

- ▷ They require the application to be processed through a public hearing;
- ▷ The adequacy of infrastructure, normally an engineering question, is posed for qualitative review by laypersons on a case-by-case basis;
- ▷ The compatibility standard does not appear to be articulated in a way that reasonable people would routinely reach the same conclusion on the same set of facts; and
- ▷ The Downtown Plan has more of a strategic orientation than a land use or design orientation, so consistency with the Downtown Plan is not a very meaningful standard.

- The BE district regulations are not consistent with the Guidelines (see Figure 5, *infra*).
- Development standards should promote the rehabilitation and adaptive re-use of historic buildings; and where rehabilitation is not feasible (or not applicable), the construction of new buildings that are compatible with their context. To that end, this Strategic Assessment suggests:
  - » The essence of the existing historic preservation regulations should be retained. Rehabilitation of historic Downtown buildings is promoted by Chapter 15.56, City's historic preservation ordinance. Under Chapter 15.56, when a building cannot be reasonably rehabilitated, demolition is allowed if the impacts on historic character of the property and adjacent properties are mitigated.
  - » To the extent that the BE district regulations (e.g., design standards, setbacks, height, etc.) are calibrated to reinforce Downtown's historic character, they should be retained in the new Downtown zone district. However, the standards should be simplified, consolidated, and tabulated to the extent practicable.
- As to the Comprehensive Plan's policy of creating and maintaining “quality transportation options Downtown,” which include infrastructure for cars, busses, rail, bicycles, and pedestrians:

- » Parking standards should facilitate the use of precast parking structures.
  - Currently, the standards require 9 ft. x 19 ft. parking spaces with 24 ft. access aisles for parking spaces in 90-degree configurations. Generally, parking structures constructed with precast components (which are more economical than custom parking structures) are designed with 60 foot wide parking “modules” (9 ft. x 18 ft. spaces with 24 ft. aisles).
  - The Code is not clear about whether current setback, buffering, and access standards for parking apply to both surface and structured parking. If applied to structured parking, the standards may be too restrictive, such that they discourage desired parking facilities.
- » Redevelopment standards should ensure that sidewalk widths are sufficient to accommodate pedestrian traffic, street trees, and street furniture.
- » Transit stations should be a permitted use in appropriate areas of Downtown.
- » Bicycle parking standards should be retained.
- The Downtown Plan anticipates “urban villages” around downtown. The Downtown district should address how the “urban villages” will relate to the downtown core and the abutting residential areas.

*Revise Nonresidential and Mixed-Use Zone District Regulations to Promote Desired Investment and Reinvestment in Corridors and Centers.*

**PLAN POLICIES, COMMUNITY CHARACTER, AND DEVELOPMENT QUALITY**

The Comprehensive Plan seeks to “[f]oster reinvestment in existing corridors and concentrate commercial activity at prominent intersections and within centers.” Several plan policies articulate the desired forms and patterns of new development, redevelopment, and infill development. In sum, the Comprehensive Plan policies appear to promote three different development patterns, each with a different character:

- Relatively intense vertically mixed-use development (“urban” character);
- Auto-oriented strip commercial development, in places where such development already exists (“auto-urban” character); and
- Mixed-use, “campus-like” environments (“suburban” character).

In the “big picture,” the most intensive development should occur at (or create) transit-oriented development (“TOD”) or multimodal “nodes.” These tend to be located at strategic intersections along major thoroughfares. The plan calls for the TODs and “nodes” to be connected by attractive and comfortable corridors that have a cohesive streetscape. Such corridors, depending upon their existing development patterns, could be redeveloped or built out with auto-urban character (to “blend” with existing development) or suburban character (to enhance the appearance of developing areas).

Whether the community character is urban, auto-urban, or suburban, the Comprehensive Plan calls for a quality, cohesive streetscape, and for multimodal connectivity between and among different areas. For example, site planning standards should ensure that parking lots are well-designed in terms of circulation and landscaping, targeted, practical design standards should ensure that residential products are of high quality, and that transitional buffers are provided between areas with different character or function. Even in areas that are dominated by automobiles, landscaping and architecture should be used to help mitigate the environmental and aesthetic impacts of paved areas.

## ANALYSIS OF EXISTING CODE PROVISIONS

### Community Character

Outside of Downtown and PUD zones, most of the land bordering Loveland's major corridors is currently zoned Developing Business ("B"), Industrial ("I"), Employment Center ("E"), or Mixed-Use Activity Center ("MAC"). In theory, a combination of these zoning districts could deliver the mix of products and community character outcomes that are anticipated by the Comprehensive Plan (See Table 2, below). However, in practice, the B and I districts are likely to deliver "auto-urban" character, even in areas where "urban" character is desired; and the E and MAC districts could be used to create suburban, auto-urban, or urban character because their development standards are so flexible that they do not promote a specific character type.

<b>Table 2</b> <b>Current Nonresidential and Mixed-Use Zoning Districts:</b> <b>Comparison of Purpose, Bulk and Area Standards, and Likely Community Character Outcomes</b>				
	Zoning District			
	B	I	E	MAC
Purpose	“... to provide for auto-oriented and auto-dependent [retail and service] uses, primarily along established commercial corridors ...”	“... to provide ... for a variety of employment opportunities such as manufacturing, warehousing and distribution, and a wide range of commercial and higher intensity industrial operations.”	“... to encourage the development of [mixed-use] planned office and business parks ...”	to implement the “Mixed Use Activity Center” designation of the Comprehensive Plan
Setbacks				
Front	20 ft. to 25 ft.*	25 ft.	20 ft. to 80 ft.**	
Side	0 ft. to 25 ft.*	25 ft.	0 ft. to 50 ft., based on required buffers in Sec. 4.04, Design Guidelines	
Rear	15 ft. to 25 ft.*	25 ft.		
Height	35 to 40 ft., depending upon use and location	35 to 50 ft., depending upon use and location	varies by use from 40 ft. to 120 ft.	
Min. Lot Area	7,000 sf.	2 x floor area	Not specified	
Open Space	10%	10%	Not specified, but must be “campus like”	Not specified
Character	Auto-Urban	Auto-Urban	Suburban, Auto-Urban, or Urban	Suburban, Auto-Urban, or Urban
Table Notes:				
* depending upon land use and district boundary location.				
** depending upon land use and location of parcel proposed for development; may be reduced for “new urbanism” development				
*** applies only to multiple-family dwellings and multiple-family dwelling for the elderly				

## *Land Use*

As described in Figure 2 on page 6, this Strategic Assessment suggests that permissible land uses should be enumerated in a Land Use / Zone District table in which land uses are named in the left-hand column, and zone districts are listed across the top row. In each cell of the table, the type of approval that is required for the particular use in the particular district is indicated.

In developing the list of permissible land uses, the City should re-examine its current uses and vocabulary and re-calibrate them so that the Code addresses the needs of current markets. That examination should be guided by the following principles:

- All land uses should be defined, and the definitions should not overlap with each other. For example, in the current Code, “undertaking establishments” are a permissible use that is not defined, while “funeral home” and “crematorium” are related uses that are defined. Unless its impacts are special, “undertaking establishment” should not be included in the UDC.
- Land uses should be defined as generally as possible to maximize the flexibility of the UDC to adapt to a changing real estate marketplace. The land uses that are currently set out at a high level of detail should be consolidated according to their functional impacts. For example, “financial services” could be grouped with “office” and “convenience store” could be grouped with “retail.”
- A process should be created to allow the Director to classify a new or novel land use according to its closest functional equivalent in the Land Use / Zone District table, applying standards related to the comparability of the proposed use to the allowed uses in terms of traffic impacts, pollution, noise, risk of fire or explosion, parking, hours of operation, outdoor storage or activities, and so forth.
- Business use of the home should be grouped into four categories: (1) home occupations that have no external impacts (and therefore do not require a permit); (2) home businesses that have modest external impacts; (3) cottage industries that have potentially significant external impacts; and (4) business uses of the home that are not allowed at all. Different standards and procedures would apply to home businesses and cottage industries, depending upon the zoning district in which they are located.
- Industrial, logistics, and technology-oriented uses should be consolidated into groups of uses that are general enough to be inclusive of new and emerging industries, but specific enough to ensure that such uses are located or buffered to mitigate their impacts.

To illustrate the final point, the current I district allows following “uses permitted by right”:

- A. Administrative, insurance and research facilities;
- B. Experimental or testing laboratories;
- C. Manufacturing, assembly or packaging of products from previously prepared materials;
- D. Manufacture of electric or electronic instruments and devices;
- E. Manufacture and preparation of food products;
- F. Warehouses, distribution and wholesale uses;

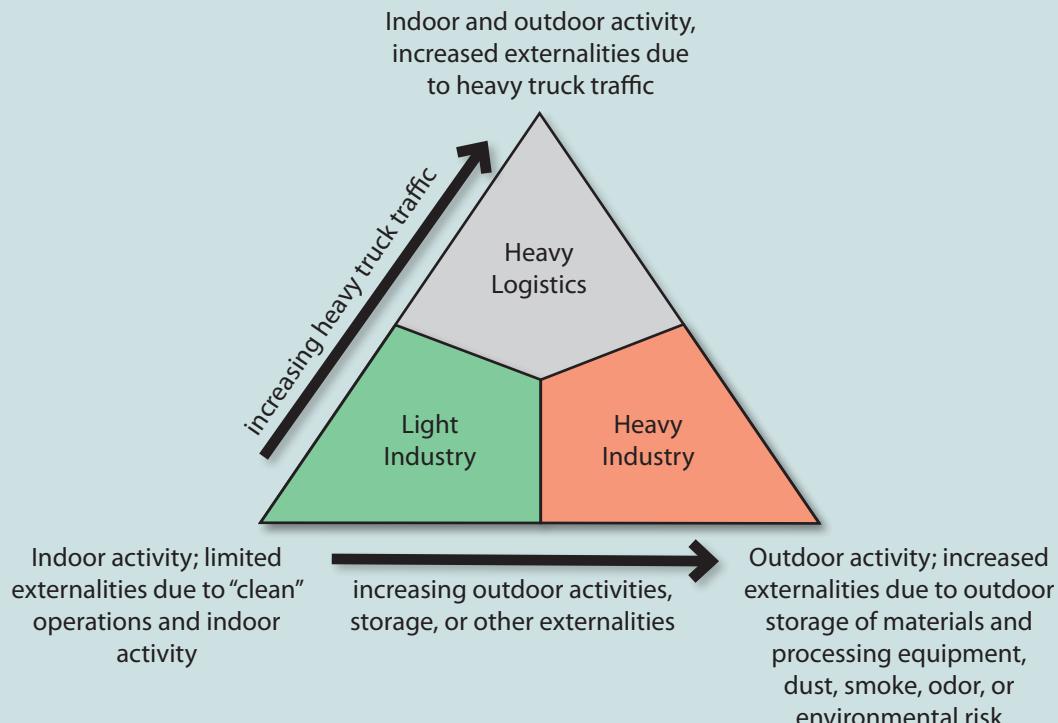
- G. Any industrial or manufacturing use similar in character and external effects to above uses;
  - ... Y. Light industrial
  - ... RR. Workshop and custom small industry ....

On its face, it is not clear whether item G. would also allow a comparison with item Y. or item RR (because they are not “above uses”). But digging deeper into the Code, it is not even clear why items B., C., D., E., and G. are still in the list at all, since they appear to be expressly subsumed by, or included by implication in, the definition of “light industrial uses”:

“Light industrial uses” means uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building. Further, light industrial shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, re-

**Figure 9: Classifying Industrial and Logistics Uses**

A large number of existing, emerging, and future industrial and transportation / logistics uses can be classified by establishing thresholds for truck traffic and externalities such as outdoor storage of materials and equipment, and dust, smoke, odors, and environmental risk. The illustration below suggests creating three “land uses” to accommodate most of the “primary employment” uses in the industrial zone district. The boundaries between the uses are a matter of definition, to be worked out according to community tolerances.



search and scientific laboratories or the like. Light industrial shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal or related industries.

This Strategic Assessment suggests that many industrial and logistics (storage and distribution) uses can be grouped into three categories: light industry, heavy industry, and heavy logistics (see Figure 9, previous page).

#### *Heavy Industrial Land Inventory*

The current regulations and zoning entitlements allow for extensive dilution of the industrial use of the I zoning district. That is, there are a full range of desirable nonresidential land uses that are allowed in the I district that have little to do with industry. The City could consider creating a heavy industrial district to promote heavy industrial uses in targeted areas where such uses are appropriate and the current landowner consents to the heavy industrial zoning.

#### *Align Zone Districts with Future Land Use Categories and Amend the Comprehensive Plan as Appropriate*

The Comprehensive Plan provides for 13 future land use categories and three “overlays.” Each of the categories sets out current zone districts that are (more or less) consistent with the objectives of the category. Table 3 sets out the categories and zone districts, and suggests how the zone districts could be refined to improve plan implementation.

**Table 3**  
**Recommendations for Implementing Future Land Use Categories**

Future Land Use Category	Implementing Districts	Recommendations
Estate Residential (ER)	ER; PUD	ER density may be slightly higher than 2 units per acre under current Code; amend Code to establish “estate” character using open space and density.
Low Density Residential (LDR)	R1; R1e; PUD	R1 and R1e density may be higher than 4 units per acre under current Code; consider creating a new district for “suburban” character development at LDR densities.
Medium Density Residential (MDR)	R2; R3e; PUD; PP	R1 and R1e may fit into the desired density range; however, it is unlikely that four “straight zone” residential districts are needed to implement this category. Consider creating one or two new residential districts with “auto-urban” character, and one or two new residential districts to protect or promote change in established neighborhoods.
High Density Residential (HDR)	R3; R3e; PUD	HDR allows 10 to 20 units per acre density. R3 currently allows approximately 27 units per acre for standard multifamily projects, with higher densities allowed for age-restricted multifamily. Consider increasing allowable density in HDR and creating new “auto-urban” and “urban” residential districts to implement this category.  PUD allows up to 16 units per acre; consider increasing PUD density limits.

**Table 3**  
**Recommendations for Implementing Future Land Use Categories**

Future Land Use Category	Implementing Districts	Recommendations
Regional Activity Center (RAC)	MAC; PUD; B	<p>Decide whether MAC district should be used to promote “urban” character, and if so, refine its standards to promote “TOD” and mixed use “node” development.</p> <p>For RAC and CAC designated areas, increase residential density in MAC district (currently limited to 16 units per acre for residential-only buildings) to allow for urban apartment buildings that do not have to include a vertically mixed-use component. Consider amending MAC district to scale height limits to the desired intensity of development based on the nature of the future land use district (e.g., tall buildings in RAC, smaller buildings in CAC, smallest buildings in NAC).</p>
Community Activity Centers (CAC)	B; MAC; PUD	<p>Delete “crematorium” from uses permitted by special review in MAC district.</p> <p>The B district is appropriate for auto-oriented regional retail centers and auto-oriented mixed-use “lifestyle centers.” Consider allowing additional building height in B district, particularly for large projects in which the impacts of the additional height can be internalized.</p> <p>The PUD district restricts commercial floor area ratio to 0.5, residential density to 16 units per acre, and industrial floor area ratio to 1.0, all calculated by land area dedicated to the particular use. Consider increasing PUD intensity for implementation of activity center designations.</p>
Neighborhood Activity Centers (NAC)	B; R3e; MAC; PUD	<p>The B district is appropriate for auto-oriented small-scale retail, and for conversions of residential buildings to nonresidential uses in areas where increases in traffic have reduced the desirability of the property as a residential address. If the R3e district will also be applied this way, consider making it easier to use (or construct) buildings for offices and retail by providing staff-level approvals. See RAC and CAC for discussion of MAC district.</p>
Downtown Activity Center (DAC)	BE; B	Create new Downtown district for DAC-designated land.
Corridor Commercial (CC)	BE; B; MAC; PUD	BE (updated as recommended in this Strategic Assessment), B, and PUD are appropriate for CC implementation, although the use of PUD for this purpose should be minimized to reduce future administrative complexity. If MAC district is reformed to create “urban” character, remove it from the implementing district lists for the CC designation.

**Table 3**  
**Recommendations for Implementing Future Land Use Categories**

Future Land Use Category	Implementing Districts	Recommendations
Employment (E)	B; I; PUD; E	<p>The E future land use category “emphasizes open space and preservation of natural features as buffers,” suggesting a suburban character. Although the B and I district standards allow for suburban character, they promote “auto-urban” character.</p> <p>The B district allows some “primary employment” uses such as light industrial, office, and research laboratory. However, since the primary focus of the B district appears to be retail, entertainment, dining, and services, and since its character is predominately auto-urban, consider whether it should be refocused and removed from the list of implementing districts for the E future land use designation.</p> <p>The I district allows a wide range of “primary employment” uses, but also allows a wide range of other uses. Moreover, many existing I district entitlements allow a wide range of non-industrial uses as of right. If the I district is retained in the list of implementing districts for the E future land use designation, consider using buffers to create an open space appearance. Also consider adjusting the list of permissible uses in the I district to preserve an inventory of land for industry.</p> <p>The E district allows a wide range of “primary employment” uses that one would expect to find in an office park or health care campus. Its regulations seek to maintain a campus-like (suburban) character, and a “balance of land uses” that favor employment uses. Retain the E district in the list of implementing districts for the E future land use designation. The Guidelines suggest that employment centers should be urban or suburban in character. Consider whether an urban version of the E district is needed for infill sites, to “minimize setbacks, encourage taller buildings, a mix of uses, and pedestrian access,” or whether a revised MAC district would be effective for that purpose.</p> <p>The PUD district density and intensity limits should be increased.</p>
Industrial (I)	I; B; PUD	<p>The I future land use designation “provides for a wide range of industrial uses and related services, where appropriate.” The designation recommends that the City “avoid residential, restaurant, and retail encroachment.” To that end, even though the B zone district allows light industrial uses, consider removing it from the list of implementing districts for the I future land use designation.</p> <p>The character of the I zone district is likely to be consistently “auto-urban.” Consider the use of district boundary and major thoroughfare bufferyards to soften the visual impacts of this district and implement the corridor policies of the Comprehensive Plan.</p> <p>The PUD district is appropriate for implementation of this category, although the use of PUD for this purpose should be minimized to reduce future administrative complexity.</p> <p>Consider creating a new zoning district for the Airport property, in which implementation of the airport master plan according to its terms is allowed “by-right.”</p>

**Table 3**  
**Recommendations for Implementing Future Land Use Categories**

Future Land Use Category	Implementing Districts	Recommendations
Public and Quasi-Public (PQP)	not specified	The uses that are considered “public” and “quasi-public” are diverse, and different uses are allowed in different districts. This designation appears to be more focused on identification of existing or future facilities than implementation through zoning reform. As such, no changes are recommended.
Parks, Open Lands, and Environmentally Sensitive Places (POL)	PP and other districts	Add DR district to list of implementing districts, and update DR to allow agricultural uses “by-right”. Community character-based residential zone districts could implement the POL designation by ensuring that such lands are part of the development’s open space.

### *Consolidate, Simplify, and Standardize Development Standards*

#### **GENERALLY**

In the Corridors and Centers element, the Comprehensive Plan advises the City to use its role as regulator and incentivizer with “wisdom and restraint.” It recommends that the City provide flexibility to allow for expansions and changes that may be necessary to retain existing businesses. The level of complexity in the current Code is a potential disincentive to small-scale reinvestment.

Zoning is a blunt instrument to manage the quality and character of development. Micromanagement of land use (e.g., regulating uses like, “Multiple-family dwellings for the elderly, where at least one occupant of each unity is elderly and such unit is not occupied by any person who is not elderly, unless such other occupant is the spouse of the elderly occupant”) and fine distinctions in bulk standards (e.g., setback of 1 foot per 5 feet in height or fraction thereof—but not less than 5 feet—in a zone district that does not allow buildings more than 35 feet in height) may have so little impact that the value of including them in the Code is questionable. In sum, the UDC should identify and focus on the critical elements of community function, character, and quality that people notice and value.

Applying this principle, the landscaping requirements represent a significant opportunity for Code simplification. Currently, the Zoning Code and the Guidelines set out extensive standards for landscaping. This Strategic Assessment recommends that all landscaping requirements be consolidated into one division of the UDC that addresses topics such as: plant size and quality, water-wise options, bufferyard types, district boundary bufferyards, parking bufferyards, street landscaping, parking lot landscaping, open space and natural area landscaping, and tree protection. A list of approved trees that may be used to meet the landscaping requirements should be provided as an appendix to the UDC.

#### **FLOODPLAINS**

The City’s floodplain regulations are set out in Chapter 18.45. Floodplain regulations that meet certain minimum standards are required in order for the City to participate in the National Flood

Insurance Program. Chapter 18.45 should be revised to conform to the most current model ordinance and State of Colorado floodplain management requirements.

## OTHER ENVIRONMENTAL STANDARDS

Standards for natural resource protection and stewardship should be consolidated and updated to implement policies from the Parks & Recreation Master Plan, and to buffer designated wetlands and certain natural areas to lessen the impacts of adjacent development. The standards should also include provisions to assess the risks and apply techniques to avoid or mitigate the effects of identified natural hazards on the built and natural environment. Drainage, lighting, and noise standards should be included with other resource protection and stewardship standards.

## Suggested Procedural Reform

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### *Generally*

This Strategic Assessment recommends a code organization that groups all procedures and “quasi-procedural” provisions for ease of access. The suggested order is: nonconforming situations; development review bodies (composition, powers, and rules for decision-making bodies); development review procedures; and enforcement.

Currently, these matters are scattered throughout the Code. For example, the Planning Commission’s organizational provisions and authority are set out in the Subdivision Code (and not in the Zoning Code), but the Planning Commission’s responsibilities are not limited to the administration of the Subdivision Code. Likewise, in both the Subdivision Code and the Zoning Code, notice provisions are separate from the procedures to which they relate.

### *Nonconformities*

“Nonconformities” are attributes of the use or development of land that were lawful (or not regulated) when established, but no longer conform to Code requirements. The Code deals with nonconformities differently, depending upon what they are:

- Nonconforming signs (Sec. 18.50.150, Zoning Code)
- Nonconforming uses (Sec. 18.56, Zoning Code)
- Nonconforming buildings (Sec. 18.56, Zoning Code)
- Nonconforming screening of unsightly areas (Sec. 18.56.100, Zoning Code)
- Nonconforming buildings or uses, where the nonconformity relates to Chapter 18.45, Floodplain Regulations (Sec. 18.45.090, Zoning Code)

Generally, regulations regarding nonconformities allow the continuation of the nonconformity, but do not allow changes in the use or the building that add to the nonconformity. Further, typical regulations require the nonconformity to cease if the use is terminated for a certain period, or if the building is damaged beyond a certain threshold. Except with respect to screening of unsightly areas (for which compliance is required within 2 years), Loveland’s regulations reflect the typical model.

Since Loveland is a place that has grown over a long period of time, chance are there are many nonconforming situations in the landscape. Not all of them will fit neatly into the classifications that are in the Code. As such, the nonconformity provisions of the Code should be enhanced as follows:

- Nonconforming uses should be divided into “major” and “minor.” “Minor” nonconforming uses should be given the opportunity to become “conforming” so that they are not subject to termination if the use stops for a period of time or the building is damaged.
- Nonconforming structures (*e.g.*, fences) should be addressed separately from buildings, as different thresholds for bringing structures into compliance (as opposed to buildings) are likely appropriate.
- Nonconforming site improvements (*e.g.*, drainage, pavement, sidewalk width, etc.) should be addressed separately, so that it may be incrementally improved as investments are made in the site.
- Nonconforming landscaping (*e.g.*, percentage of open space, density of buffers, street trees) should be addressed separately, so that it may be incrementally improved as investments are made in the site.
- Nonconforming lots (*e.g.*, too little lot area or width) should be addressed separately so that it is clear that they may be built upon, and so that conformity may be required in certain circumstances upon consolidation of ownership.

Additionally, the UDC should establish priorities and sliding-scale compliance opportunities for re-use and improvement of existing nonconforming properties. That is, when the owner of a property with nonconforming buildings, site improvements, and landscaping applies for permits to improve the property, the UDC should promote bringing the property *towards* conformity without discouraging the landowner from reinvesting in the property to avoid the expense of bringing it into total conformity.

## *Development Fees*

The City should consider creating a consolidated list of development review fees, fees-in-lieu, and capital facilities fees, including the amount of the fee (or the basis for calculating the fee), the timing of the fee, and the recipient of the fee. Authorization for the fees (and timing of payment) should be included in the UDC. The fee amounts should be set out in a fee resolution that is attached to the UDC and annually revisited by City Council.

## *Decision-Making Bodies*

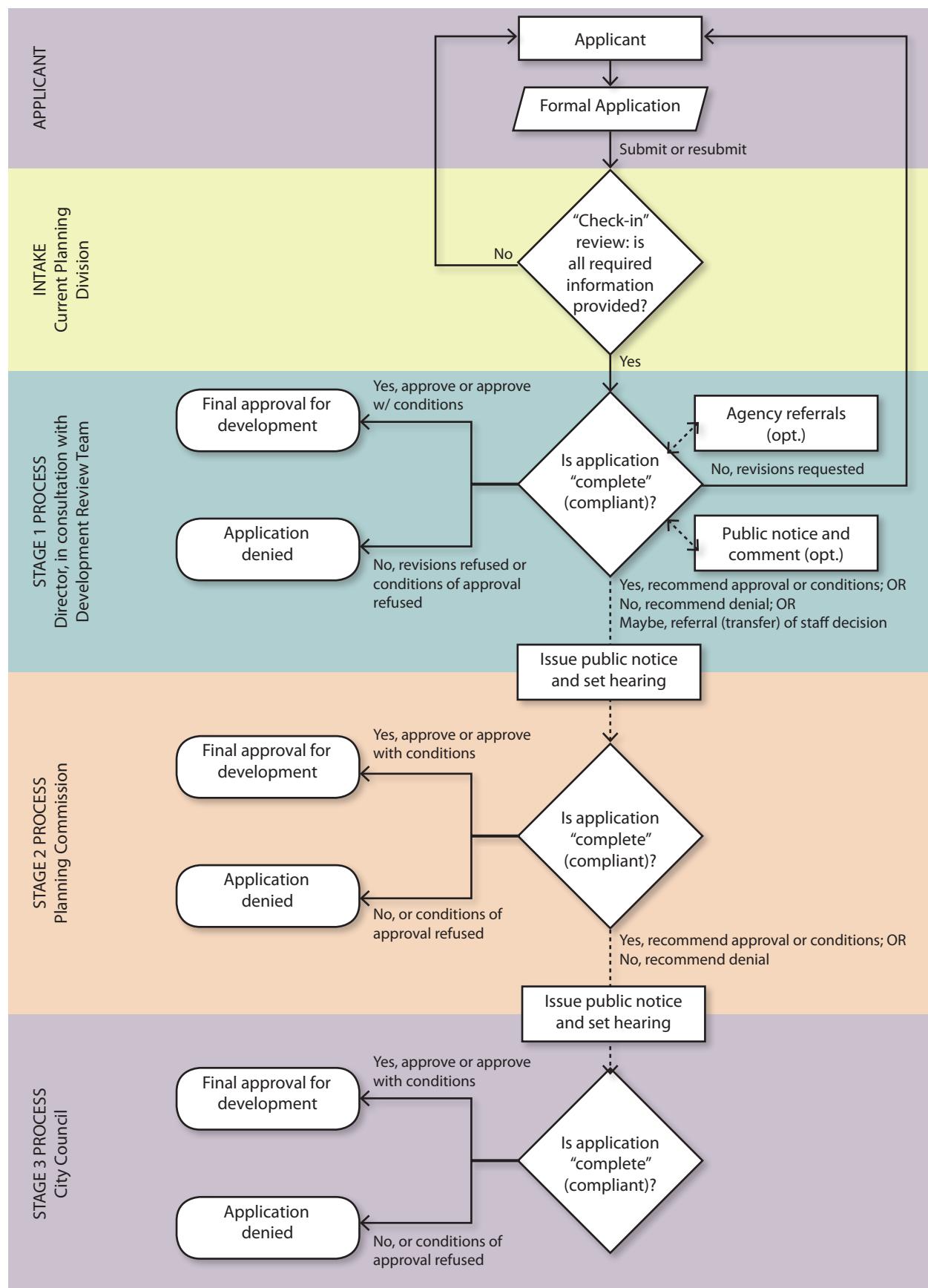
This Strategic Assessment recommends that a portion of the UDC be allocated to each development review body, establishing its composition (including eligibility for membership, appointments, and filling of vacancies), authority and responsibilities, and basic rules.

## *Suggested Procedural Reforms*

### **GENERALLY**

The existing Code includes scattered procedural provisions and “quasi-procedural” provisions (*e.g.*, Planning Commission composition and rules of procedure, provisions related to noncon-

**Figure 10: Overview of Suggested Formal Development Review Process**



formities, etc.). The procedures in the Subdivision Code are generally straightforward, but many of the provisions of the Zoning Code are less standardized than they could (and should) be. This Strategic Assessment recommends that:

- To the extent the law permits, a standardized procedure should be applied; and
- To the extent that standards in the Code are update for clarity and consistent application, approval authority should be delegated to Staff to the greatest practicable extent.

## A MODEL FOR STANDARDIZED PROCEDURE

Figure 10 (previous page) illustrates a potential standardized procedural framework. Like the process set out in the Subdivision Code, the suggested process illustrated in Figure 10 (previous page) includes several “stages” of review—staff, Planning Commission, and City Council. Under this model, different approval types would be decided at different “stages.” For example:

- A “Stage 1 process” would be a staff-level approval, which could include use-specific standards, agency referrals, or public notice and comment in cases where such additional standards or procedures will tend to add value;
- A “Stage 2 process” would be a Planning Commission decision after full staff-level processing and agency referrals (if needed); and
- A “Stage 3 process” would be a City Council decision after full staff-level processing, agency referrals, and Planning Commission recommendation after public hearing.

The application process should begin informally with a “concept review” (as it does today). (see Figure 11, next page). The current planning manager should continue to have the discretion to waive the concept review requirement upon a determination that it is unnecessary in a given case.

In terms of land use approvals, the Stage 1 procedures would include approval of “**permitted uses**” and approval of a new classification of uses called “**limited uses**,” which would be uses that are allowed in a zoning district upon administrative approval according to both generally applicable and use-specific zoning standards.

A variant of Stage 1 procedure could also be used to approve another classification of uses, tentatively called “**adaptable uses**,” after a public notice and comment and agency referral period. These uses would be allowed upon administrative approval according to generally applicable standards, use-specific standards, and qualitative impact-mitigation measures to ensure that they are appropriately adapted to their context. For adaptable uses, the current planning manager would decide the application after referral and public comment, and then post the decision. A third-party appeal opportunity would be provided within a certain number of days after the administrative decision is announced. This type of Stage 1 procedure would be a more streamlined way to process uses that the City may otherwise choose to continue to process as “uses permitted by special review.” It could also be used to approve preliminary subdivision plats.

Another variant that could be applied to applications with unique impacts or characteristics (whether the use is “limited” or “adaptable”) is to allow the current planning manager or Director to escalate the application from “Stage 1 process” to “Stage 2 process.”

Stage 2 procedures would include approvals of a new classification of “**conditional uses**,” that is, uses that are approved upon compliance with generally applicable standards, use-specific standards, and conditional use standards, as determined by the Planning Commission after a public hearing.

Stage 3 procedures would not apply to land uses on individual parcels, but may apply to establishing permissible uses in planned unit developments or annexation agreements.

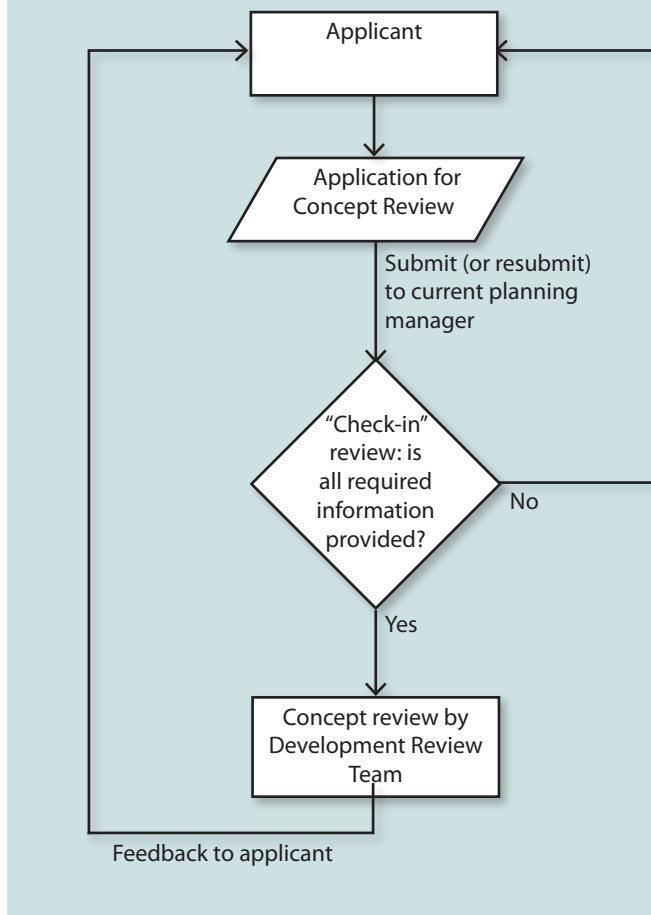
This Strategic Assessment recommends removing all existing variations of the “uses permitted by special review” procedure, as it does not appear to provide a satisfactory balance among the desire for public involvement, the advancement of community planning objectives, and the recognition of the timing imperatives of private landowners and developers. Generally, “uses permitted by special review” would become “permitted uses” or “limited uses.” It is recommended that only a few of the existing “uses permitted by special review” become “adaptable uses” or “conditional uses.”

For existing “uses permitted by special review,” the process that is used for amendments would depend upon how the use is reclassified in the district in which it is located. That is, on the one hand, if a use that is currently “permitted by special review” in a given district is reclassified to “permitted” in that district, then no amendment process would be necessary (because the use would be allowed without conditions). On the other hand, if the use is reclassified to “limited,” then amendments that conform to applicable standards would be allowed administratively.

Where referrals are appropriate, the City should work with referral agencies to ensure efficient and coordinated review. This Strategic Assessment recommends reaching out to utilities, adjacent and nearby local governments, special districts, school districts, State agencies, and ditch companies to ensure that review procedures are as integrated as practicable and that costs and time frames for such review are understood. Additionally, code standards that affect referral agencies should be updated to address referral agency needs (e.g., Sec. 16.24.070, Zoning Code, allows the City to require landscaping between lot lines and ditch banks, but such landscaping may create conflicts with ditch maintenance access, cause seepage, or compromise the stability of the ditch bank).

**Figure 11:  
Conceptual Review (Pre-Application) Process**

The conceptual review process allows the applicant to meet with Staff to identify and begin to work out potential issues in complex applications.





**“[P]eople’s number one fear is public speaking. Number two is death . . . . This means to the average person, if you go to a funeral, you’re better off in the casket than doing the eulogy.”**

~ Jerry Seinfeld

image credit: David Shankbone, [https://commons.wikimedia.org/wiki/File:Jerry\\_Seinfeld\\_2011\\_Shankbone.JPG](https://commons.wikimedia.org/wiki/File:Jerry_Seinfeld_2011_Shankbone.JPG)

## DELEGATION TO PROFESSIONAL STAFF

This Strategic Assessment recommends that, along with substantive reform and simplification of the Code, the number of development approvals that are granted at the Staff level should be sharply increased. First, clear development standards mean less need for public hearings. The increased use of “special use review” and planned unit development procedures over time suggests that decision-makers and the public have lost faith in obsolete standards (and applicants don’t want to navigate them). However, the increased use of public process does not prove that public hearings are necessary to improve development quality.

Second, provided that the community has faith in the development standards, staff-level approvals are more efficient than public hearings. Staff approvals save time and money for the applicant and the City. For the applicant, they allow faster turnaround from concept to market, less risk, and less expense allocated towards carrying costs, design and redesign, and advocacy. For the City, they allow staff resources to be allocated to decision-making instead of advice, coordination, and public presentations, and they reduce the amount of time elected and appointed officials must spend on processing routine land use cases.

Third, as Jerry Seinfeld so eloquently observed, most people are terrified to speak in public. As such, unless a public hearing is really needed in order to protect public interests or to ensure a proper character and quality for the development or land use, landowners and entrepreneurs should not be required to make their case at a public hearing.

Consequently, after substantive standards have been clarified, updated, and organized for access, this Strategic Assessment recommends:

- All special review uses that are comparable to “by-right” uses in the same district should also be allowed “by-right.” For example, in the RE district, “public schools” and “place of worship or assembly” are allowed “by-right,” while “preschool nurseries” and “private schools,” which have comparable impacts, are allowed only by special review.
- Use-specific standards (where they exist or are desirable) should be calibrated to allow for more administrative “limited use” approvals. The limited use approval process would be a middle-ground between “by-right” and special review, in which the application is approved by Staff after review for compliance with additional use-specific standards. The process may or may not (depending upon community preference) include a public notice and comment component.

Table 4 illustrates how the suggested procedural reforms could be used to standardize the review and approval procedures in the Code.

Table 4 Suggested Procedural Reforms			
Approval Type	Existing Code Ref.	Existing Procedure	Suggested Approval Type
<b>Subdivision Code</b>			
Plat Corrections	16.16.060	Director decision	Stage 1
Simple Plat	16.20.120 and 18.39	Director decision	Stage 1
Lot Merger	16.32 and 18.39	Director decision; Director may transfer to Planning Commission ("PC")	Stage 1
Boundary Line Adjustment	16.28 and 18.39	Director decision; Director may transfer to PC	Stage 1
Minor Subdivision	16.20.100, Table 16.18-3, and 18.39	Director decision after public notice and comment	Stage 1 + agency referrals + public comment
Major Subdivision: Preliminary Plat	16.20.060, Table 16.18-1, and 18.39	PC decision after Director recommendation and Neighborhood Meeting	Stage 1 + agency referrals + public comment
Major Subdivision: Final Plat	16.20.080 and 18.39	Director decision	Stage 1 (no change)
Vacation of Right-of-Way or Easement	16.36 and 18.39	City Council ("CC") ordinance after notice	Generally, no change, but add exception for easements that are not yet used and do not impact City planning objectives or nearby properties
Vacation of Obsolete Subdivision	16.36 and 18.39	CC ordinance after notice	No change
Exceptions to Subdivision Requirements	16.16.050	CC decision after Director or PC recommendation	Stage 3
<b>Zoning Code</b>			
Rezoning	18.04.060	CC ordinance after PC recommendation	No change
Exemption	18.04.070	CC ordinance after notice (recommendations not required)	Delete Sec. 18.04.070, Zoning Code, use variances or code amendments for this purpose, as appropriate
Site Development Plan	18.04.90 and	Director (may be reviewed concurrently with other applications)	Stage 1
Site Development Plan (Be District)	18.24.050	PC decision; neighborhood meeting required if also a special use (Type 2 permit)	Stage 1 + public comment <i>consider increasing thresholds for public comment requirement</i>

**Table 4**  
**Suggested Procedural Reforms**

Approval Type	Existing Code Ref.	Existing Procedure	Suggested Approval Type
Major Home Occupation / Business Occupancy Permit	18.48.020, Table 18.05-1	Director decision after notice, neighborhood meeting (if requested by neighborhood), notice of intent to issue permit, and expiration of appeal period	Stage 1 + public comment
Conceptual Master Plan	18.29.050; 18.30.050	CC decision with rezoning ordinance after notice and neighborhood meeting; currently used in MAC District and E District	Simplify this concept and broaden its use as an option to facilitate phased projects in all districts; use Stage 1 + public comment or Stage 2 procedure
Conceptual Master Plan modification	18.29.050; 18.30.050	Director decision or PC decision, depending upon level of change	Stage 1 or Stage 1 + public comment, depending upon thresholds
Type 2 zoning permit ("special review")	18.40	Director decision after neighborhood meeting, negotiation, and expiration of appeal period	Allocate special review uses among Stage 1, Stage 1 + public comment, and Stage 2 approval types, as appropriate
Type 3 zoning permit ("special review")	18.40	PC decision upon referral by Director of Type 2 permit or appeal of Director decision on Type 2 permit; or CC decision upon appeal of PC decision	Delete Type 3 zoning permit
Oil and Gas Permit	18.77	PC decision after public hearing, neighborhood meeting, and Staff review; OR Director decision after neighborhood meeting, applying "enhanced standards"	Stage 2
Height Exception	18.54.050 OR 18.54.070	PC decision (or incorporated into PUD)	Stage 1 + public comment, but first re-calibrate height to desired development patterns by district
PUD General Development Plan	18.41	CC decision with rezoning after recommendation from PC after recommendation from Director after neighborhood meeting after notice to proceed after conceptual review	Retain current concept but improve efficiency by removing unnecessary delays (e.g., waiting for PC to approve minutes before transmitting recommendation to CC); consider removing "notice to proceed"; consider making neighborhood meeting optional or contextual); and by keeping GDP simple in scope

**Table 4**  
**Suggested Procedural Reforms**

Approval Type	Existing Code Ref.	Existing Procedure	Suggested Approval Type
PUD Preliminary Development Plan	18.41	If GDP is approved, PC decision after recommendation from Director after neighborhood meeting; if no GDP is approved, CC decision after PC recommendation after recommendation from Director after neighborhood meeting	Consolidate PDP with GDP; use Conceptual Master Plan concept at developer's option for phased projects / vested rights
PUD Final Development Plan	18.41	Director decision	Stage 1
Variance	18.60	PC decision after public hearing (sitting as the Zoning Board of Adjustment)	Stage 2, but standards should be flexible enough to avoid the need for variances in almost every case
<b>Guidelines</b>			
All Approval Types	<i>passim</i>	varies	all approvals and appeals in the Guidelines should be deleted, and review according to Guideline standards should be integrated into applicable Zoning Code reviews

### *Planned Unit Development*

Ideally, the use of planned unit development procedures in Loveland would decline over time. Planned unit development offers flexibility, but creates substantial administrative overhead in the long run. In the meantime, as suggested in Table 4, the Planned Unit Development process could be simplified and the standards that limit the density and intensity of use in a planned development should be re-examined in light of the Comprehensive Plan's stated objectives and policies. A simplified planned unit development process would involve two steps: first, a consolidated general development plan / preliminary development plan (which would still be named "preliminary development plan"). Preliminary development plans would be approved with a Stage 3 process, and would set the stage for final development plans, which would be approved with a Stage 1 process. Modifications to preliminary development plans could be processed as a Stage 2 process.

Due to the administrative overhead associated with planned unit development, the UDC should provide incentives for landowners to convert existing PUD approvals to "straight zones." In order to make the incentive meaningful, the straight zones must be calibrated to allow for efficient approval of quality products that are in demand in Loveland.

### *Appeals*

Currently, appeals from staff decisions are made to the Planning Commission, and appeals of Planning Commission or Zoning Board of Adjustment decisions (even their decisions on appeals)

are made to the City Council. That means that a party that appeals a staff decision gets “two bites at the apple” before the opportunity to file in Court. This Strategic Assessment recommends that only one administrative appeal right be provided before an appellant must file in court.

The City should also consider creating a reasonable process to ensure that appeals are prosecuted only by people who have “standing” to appeal based on a combination of: (1) their demonstration that the decision affects them in a manner that is qualitatively and quantitatively different from the community at-large, and (2) their participation in the process from which the appeal is taken. These threshold requirements help prevent the filing of appeals for improper purposes. The standards are not qualitatively different from what a court would require to hear a land use case. Moreover, the process would allow those appellants who decide bring a case as far as court to provide evidence of their standing in the record that the court will be called upon to review.

### *Enforcement*

Violations of the current Code are subject to criminal penalties. This Strategic Assessments recommends a compliance-oriented civil approach to enforcement. That is, those who violate the UDC would be served with a citation and given an opportunity to comply with the UDC requirements prior to enforcement. Failure to comply with the terms of the citation would result in a summons to municipal court (or a hearing officer) for a civil hearing. Ultimately, civil fines or injunctions may be imposed for continued noncompliance, but criminal penalties would not be available.

## Principles for Sign Code Reform

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### *Generally*

Relatively recent developments in First Amendment case law, as well as controlling Colorado statutes, provide the following framework for local sign regulation:

1. Sign codes that classify signs for the purposes of regulation based on their content are “presumptively unconstitutional.” Even if the sign regulations are “content-neutral” on their face, the City cannot apply regulations with censorial intent. *See Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015).
2. Sign codes that classify signs for the purposes of regulation based on the “speaker” (e.g., a particular land use) are highly suspect. *See Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015).
3. Applicants for sign permits (even discretionary sign permits) must have their applications processed within a “reasonable time” and have a quick route to judicial review. *See Mahaney v. City of Englewood*, 226 P.3d 1214 (Colo. App. 2009).
4. Local governments may not require amortization of nonconforming signs. *See Ft. Collins v. Root Outdoor Advertising, Inc.*, 788 P.2d 149 (Colo. 1990).

## *Current Sign Code*

This Strategic Assessment recommends a total rewrite of the current sign regulations because:

- They are too complicated and present significant practical problems for code enforcement.
- They include definitions such as “election sign,” “construction sign,” “identification sign,” and “temporary event sign,” which are classifications that are based on the content of the signs (and, indeed, classifications that are in some cases nearly identical to those challenged in *Reed*).
- They include a variance procedure that, on its face, appears relatively content-neutral, but allows administrative “allowances” to be granted to businesses (not noncommercial speakers) on a “case-by-case” basis.
- They also include regulations for “governmental signs,” and for signs displayed by “subdivision sales offices”—classifications of signs that are based on the “speaker” as opposed to the physical structure of the sign.
- The City has five days to issue a sign permit, but the time periods for variances and discretionary sign program approvals are not specified.
- Sec. 18.50.150, *Nonconforming Signs*, requires amortization of some nonconforming signs.

## *Suggested Framework for Sign Code Reform*

The sign regulations should be restructured around sign classifications that relate to the physical structure of the sign. That is, what a resident of Loveland currently thinks of as a “real estate sign” should be defined according to its physical shape—for example, a “yard sign” or a “swing sign.” That way, the contents of the sign are not referenced, and the sign could be used to display whatever message the speaker wants to display (e.g., a “real estate sign” an “election sign” and an “informational sign” could all have the same inverted “U” frame format). Regulating based on the physical structure of the sign avoids content-based provisions and prevents censorial conduct.

The sign regulations should be organized according to zone district. That is, the expectations for the display of signage in the R1 district are different than those in the B district. Using zone district for geography and physical sign type for classification, tables can be constructed that include objective standards for all types of signs in all districts, without reference to content or speaker.

The sign regulations should provide precise time frames for all approval types. The time frames must be “reasonable” given the level of staffing and sophistication of the City. Flexible sign programs should be used instead of variances to provide standards-based flexibility that does not invite the use of discretion based on sign content or speaker.

The duration of display of temporary signs should be based on the quality of their materials and the level of maintenance, and not on the message that they display.

## TASK 2 – SIMPLIFIED PROCEDURES

10/4/16

Sub-Task	2016						2017
	Month						
	Aug	Sept	Oct	Nov	Dec	Jan	
Internal team meeting	8/22 1:00 pm	9/6 9/20	10/4 10/18	11/1 11/15 11/29	12/13 12/27		
Meeting with Todd	8/25 9:30 am	9/8 9/14 9/23	10/6 10/20	11/3 11/14 5:30 pm	12/1 12/13 6:30 pm	12/29	
Title 18 Committee		9/1 9/14 9/15		10/20	11/17	12/15	
Proposed Updated Procedures		9/16					
Technical Committee		9/14 3:00 pm 9/23 10:30 am					
Staff written response			9/29				
Revised updated procedures				10/11			
Stakeholder Committee		9/14		10/20 8:00 am			
Title 18 Committee				10/20 7:00 am			
Planning Commission Study Session/Open House					11/14 Planning Commission - 6:30 pm Open House - 5:30 pm		
City Council Study Session						12/13 6:30 pm	
Planning Commission Public Hearing							1/23 6:30 pm

- ★ Internal team meeting    ☆ Meetings with Todd (video conference)    ★ Staff written response    ★ Deliverable    ★ Title 18 Committee    ☆ Technical Committee
- ★ Stakeholder Committee    ★ Planning Commission Study Session / Open House    ★ City Council Study Session    ★ Planning Commission Public Hearing
- ▲ Title 18, Stakeholder and Technical Committee Kick-off Meeting

# Simplified Procedure

