



LOVELAND PLANNING COMMISSION MEETING AGENDA

Monday, February 27, 2017
500 E. 3rd Street – Council Chambers
Loveland, CO 80537
6:30 PM

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“La Ciudad de Loveland está comprometida a proporcionar igualdad de oportunidades para los servicios, programas y actividades y no discriminar en base a discapacidad, raza, edad, color, origen nacional, religión, orientación sexual o género. Para más información sobre la no discriminación o para asistencia en traducción, favor contacte al Coordinador Título VI de la Ciudad al TitleSix@cityofloveland.org o al 970-962-2372. La Ciudad realizará las acomodaciones razonables para los ciudadanos de acuerdo con la Ley de Discapacidades para americanos (ADA). Para más información sobre ADA o acomodaciones, favor contacte al Coordinador de ADA de la Ciudad en ADAcordinator@cityofloveland.org.”

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

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. Current Planning Updates

1. Monday, March 13, 2017 Agenda Preview

i. The Foundry SDP Review

ii. UDC – Infill and Corridor Development Standards Study Session

2. Boards and Commission Summit: March 9th (5:00 p.m. – 9:00 p.m.)

3. Housing Tour Date: Potential tour date options are March 23rd or March 31st

4. Hot Topics:

c. City Attorney's Office Updates:

- d. **Committee Reports**
- e. **Commission Comments**

IV. APPROVAL OF MINUTES

Review and approval of the February 13, 2017 Meeting minutes

V. CONSENT AGENDA

The consent agenda includes items for which no discussion is anticipated. However, any Commissioner, staff member or citizen may request removal of an item from the consent agenda for discussion. Items requested to be 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 anyone in the audience wish to remove an item from the Consent Agenda?
- Does any staff member wish to remove an item from the Consent Agenda?
- Does any Commissioner wish to add any item from the Regular Agenda to the Consent Agenda or remove an item from the Consent Agenda?

1. Vacation of Rights-of-Way Request – Anderson Farms 12th Subdivision

This is a public hearing to consider a request for vacating emergency access, utility, and drainage easements to accommodate a proposed coffee kiosk drive-through development located on Peridot Avenue. This site is located north of the future intersection of Peridot Avenue and East 1st Street, which is west of the Denver Avenue and 1st Street intersection. This location is immediately adjacent to the Larimer County office complex proposed for development at the NW corner of Denver Avenue and 1st Street. The Coffee Kiosk project has recently been approved through the special review process. City review staff have no objection to the easement vacation. The role of the Planning Commission is to forward a recommendation to the City Council for final action.

VI. REGULAR AGENDA:

2. Affordable Housing Code Changes (Presentation Time: 15 Minutes)

This is a public hearing item on a legislative matter. Alison Hade with the Community Partnership office has been working with the Affordable Housing Commission in preparing amendments to the City's affordable housing provisions. The amendments respond to the general direction provided by the City Council in a July 12, 2016 study session. The provisions are contained predominantly in chapters 16.38 and 16.43 of the Municipal Code. The changes are intended to clarify the City's incentives and limitations for both for-profit and non-profit developers of affordable housing. A primary purpose of the amendments is to ensure that affordable housing units that have benefitted from City incentives remain part of the City's affordable housing inventory. The role of the Planning Commission is to forward a recommendation to the City Council for final action on the amendments.

3. Unified Development Code, Chapter 2 (Presentation Time: 15 Minutes)
Continued from February 13, 2017

This is a public hearing item that was continued from the February 13th Planning Commission meeting. The original continuance was from the January 23rd Planning Commission meeting at which the Commission provided several comments about the contents of Chapter 2 of the Unified Development Code, including the following:

- Descriptions of the proposed approval procedures
- Specification of "Threshold Review" criteria for determining when neighborhood meetings are required
- Further information and justification relating to the recommended public notification process, including some mapped examples of mailed notice radius distances

Staff has responded with information that addresses these and other items of concern. Staff requests that the Commission provide direction on the above items and any other items of concern in order for staff to prepare a final draft of Chapter 2 for the Commission's review on March 13, 2017.

Because this is a continuance of a public hearing item, the Planning Commission should re-open the public hearing, providing interested parties with the opportunity to address the Commission.

VII. ADJOURNMENT

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
February 13, 2017

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on February 13, 2017 at 6:30 p.m. Members present: Chairman Jersvig; and Commissioners Dowding, Molloy, Ray, Roskie, Cloutier and Fleischer. Members absent: Commissioners Forrest and McFall. 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: <https://loveland.viebit.com/>

CITIZEN REPORTS

There were no citizen reports.

CURRENT PLANNING UPDATES

1. **Mr. Robert Paulsen, Current Planning Manager**, noted that **Laurie Stirman, Assistant City Attorney**, will be the filling in for **Moses Garcia** at the March 13th Planning Commission meeting.
2. **Mr. Paulsen** reported that effective February 8th, **Terry Andrews** retired as City Clerk. **Beverly Walker** is now the **Acting City Clerk**. Some Commissioners may remember Beverly as a former Planning Commission Secretary.
3. **Mr. Paulsen** reported that the February 27th Planning Commission meeting agenda is very full and some items may have to be moved to a later date. The agenda preview includes:
 - a. The site plan for the Foundry Project
 - b. The Anderson Farm 12th Subdivision Vacation. This is related to the County project at 1st Street and Denver Ave.
 - c. Affordable Housing code changes which are part of the amendments to Chapter 16, the Subdivision Code. **Alison Hade** from the Community Partnership office will be at the meeting to explain those amendments. This item, as well as the Foundry Project, will remain on the agenda as City Council is expecting them.
 - d. The Unified Development Code (UDC) – Simplified Procedures (final draft). As previously communicated to the Commissioners, updates to the UDC, Chapter 2 will not be available for consideration tonight. After updated materials were sent to the Commissioners, significant adjustments to those materials were required and are now in progress. This has prompted staff's request to open the public hearing tonight in case there are people in the audience who wish to comment on the proposed updates and then continue this matter until the meeting on the 27th. If there is insufficient time on that agenda, a continuance may again be requested.

4. In regard to the **Housing Tour scheduled for Friday afternoon, March 3rd**, **Mr. Paulsen** reported that a COLT bus is not available on this date. Once he hears from COLT regarding dates a bus is available on a Friday afternoon later in March, he will contact all participants by e-mail to determine their availability for a reschedule.
5. There were no **Hot Topics** to report. However, **Mr. Paulsen** had the following additional information to share:
 - He provided a copy of an article from the *Fort Collins Coloradoan* regarding narrow sidewalks and commented that this may be of interest in regards to observations made at the recent tour of Eisenhower Boulevard.
 - He also referenced the “Planning Commissioners Guide” that Commissioners have received a copy of, specifically that Chapter 6 and 7 is pertinent to Commissioners recent conversions. If you have any questions or concerns, staff we would be happy to assist you. **Commissioner Ray** commented the he finds that this book provides a lot of very good information and would encourage everyone to read it

CITY ATTORNEY’S OFFICE UPDATES

Moses Garcia, Assistant City Attorney has nothing to report from the City Attorney’s office.

COMMITTEE REPORTS

Commissioner Molloy reported that the next Title 18 meeting is Thursday, February 16th.

COMMISSIONER COMMENTS

There were no Commissioner comments.

APPROVAL OF THE MINUTES

***Commissioner Dowding** made a motion to approve the **January 23, 2017** minutes as corrected; upon a second from **Commissioner Roskie** the minutes were unanimously approved.*

CONSENT AGENDA

1. Vacation of Rights-of-Way Request

This is a public hearing item on a legislative matter concerning the vacation of right-of-way in the downtown area associated with The Foundry redevelopment project. The proposal is to vacate Opera Alley and portions of East Third Street to accommodate this project. The rights-of-way proposed for vacation will no longer be needed. Plans associated with The Foundry project will ensure the provision of adequate vehicular and pedestrian circulation as well as adequate utility provision. The Planning Commission's role is to make a recommendation on the vacation

request to City Council for final action. Staff believes that all key issues have been addressed and staff supports the proposed vacation.

Commissioner Jersvig asked if there were any public, staff or commissioner requests to remove this item from the consent agenda. Seeing none, the following motion was made.

***Commissioner Dowding** moved to approve the Consent Agenda consisting of the Vacation of Rights-of-Way Request. **Commissioner Roskie** seconded the motion and it was unanimously approved.*

REGULAR AGENDA

Commissioner Jersvig reported he has a request for items 2 and 3 to be switched on the agenda.

***Commissioner Dowding** made a motion to put item 3 in front of item 2 on our regular agenda. Following a second by **Commissioner Ray**, the motion was unanimously approved.*

3. Unified Development Code, Chapter 2 (Continued from January 23, 2017)

At the January 23, 2017 Planning Commission meeting, the public hearing on Chapter 2 of the Unified Development Code was continued to February 13, 2017. The continuance was needed to provide staff with the opportunity to address Planning Commission comments. Commission comments included a request for the following:

- Further information and justification relating to the recommended public notification process, including some mapped examples of mailed notice radius distances
- Descriptions of the proposed approval procedures
- Specification of "Threshold Review" criteria for determining when neighborhood meetings are required

Staff has responded with information that addresses these and other items of concern. Staff requests that the Commission provide direction on the above items and any other items of concern in order for staff to prepare a final draft of Chapter 2 for the Commission's review on February 27, 2017.

Because this is a continuance of a public hearing item, the Planning Commission should reopen the public hearing on this matter, providing interested parties with the opportunity to address the Commission.

Mr. Paulsen stated that after the updated materials were prepared and sent out, the staff project team revisited the revisions and felt the release was premature. Staff needs another two weeks to adjust them. After hearing from the public and any Commissioner comments tonight, I would ask that this matter be continued to the next meeting on February 27th.

CITIZEN COMMENTS:

Commissioner Jersvig opened the public hearing at 6:43 p.m.

There were no public comments.

Commissioner Jersvig closed the public hearing at 6:43 p.m.

COMMISSIONER COMMENTS:

There were no comments.

Commissioner Dowding moved to continue the Unified Development Code, Chapter 2 until February 27, 2017. After a second by Commissioner Ray, the motion was unanimously approved

2. Mirasol Community General Development Plan Fourth Amendment

Kerri Burchett, Staff Planner reported this is a public hearing to consider a request to amend the General Development Plan (GDP) for the Mirasol Community Planned Unit Development (PUD). The site is located at the southeast corner of 4th Street SE and South Saint Louis Avenue. Amending the GDP is considered a change to the zoning as the request would allow for an additional land use option within the PUD. The amendment would allow the development of three "Green House skilled nursing homes" in GDP Area I. As currently approved, ten single family or duplex units are permitted in this area.

A neighborhood meeting was held to discuss the proposed amendment. There were 22 neighbors who attended. At the meeting, general questions were raised regarding the nature of the Green House homes, inclusion into the Mirasol community, noise, construction timing, buffering from the single family homes, and increased traffic. Generally, the proposal was well received by the neighborhood.

The Planning Commission's role is to make a recommendation on the GDP Amendment to City Council for final action. Staff believes that all key issues have been addressed and staff supports the proposed amendment. A neighborhood meeting has been scheduled on February 23rd for the next step in the development process; the preliminary development plan (PDP). This meeting will focus on the specific site plan, landscape plan, and architectural elevations. The PDP will be scheduled for a future Planning Commission public hearing.

Jeff Feneis with the Loveland Housing Authority of the City of Loveland began by answering **Commissioner Jersvig's** question concerning when ground breaking would begin. He stated that no target has been set yet for the Green House homes but the Housing Authority would like to break ground on the apartments sometime this year. He went on to state that this change to the GDP is requested because of the need for quality skilled nursing facilities. The wait list for their current Green Houses is over 100 seniors with more added every day. This proposal would add 3 homes with 10 beds each. He explained the name "Green House homes" represents growing healthy, vibrant elders.

CITIZEN COMMENTS:

Commissioner Jersvig opened the public hearing at 6:55 p.m.

Lori Goebel came forward stating that her father is a current resident of a Green House home in Mirasol and that he receives phenomenal care. She is supportive of the GDP Amendment proposal to permit additional Green House homes in Mirasol. She indicated that she is unable to attend the upcoming neighborhood meeting on February 23rd and would like to share some concerns about the usability of the garages for transferring residents to a vehicle. Also, she would like for all trash enclosures to be screened from view.

Commissioner Jersvig closed the public hearing at 6:57 p.m.

Commissioner Jersvig asked Mr. Paulsen where Ms. Goebel could address her concerns since she cannot attend the February 23rd neighborhood meeting. Mr. Paulsen reiterated that this hearing does not concern the site designs of the project but indicated Ms. Goebel's concerns should be addressed to Kerri Burchett in Current Planning and she would see they are carried forward.

COMMISSIONER COMMENTS:

Commissioner Ray thanked Ms. Goebel for coming forward and assured her that Kerri Burchett would do a good job when it comes to addressing her comments at the upcoming neighborhood and planning commission meetings.

Commissioner Dowding commented that the Green House concept is successful and that there is definitely a need to expand. She indicated that the proposal addresses the needs of the community.

Commissioners Molloy notes that the proposal for Green House homes is a more limited use than what was previously approved and it fits well into the Mirasol development.

Commissioner Dowding moved to make the findings listed in Section VII of the Planning Commission staff report dated February 13, 2017 and, based on those findings, recommend that City Council approve the Mirasol Community PUD General Development Plan Fourth Amendment. After a second by Commissioner Roskie, the motion was unanimously approved.

ADJOURNMENT

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

Commissioner Jersvig adjourned the meeting at 7:02 p.m.

Approved by: _____



Development Services Current Planning

410 E 5th Street • Loveland, CO 80537
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

Planning Commission Staff Report February 27, 2017

Agenda #: Consent Agenda - 1
Title: Anderson Farm 12th Subdivision Vacation (PZ #16-0231)
Applicant: Ken Merritt
Request: Vacation of access, drainage and utility easements
Location: Northwest corner of N. Denver Avenue and E. 1st Street
Existing Zoning: I – Developing Industrial
Proposed Use: Easements are encumbering the proposed development.
Staff Planner: David Eisenbraun

Staff Recommendation

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

Recommended Motions:

1. *Move to make the findings listed in Section VIII of the Planning Commission staff report dated February 27, 2017, and, based on those findings, recommend that Planning Commission approve the requested vacation of the access, drainage and utility easements.*

Summary of Analysis

This is a public hearing to consider a request for vacating emergency access, utility, and drainage easements within Lot 1, Block 1, of the Anderson Farm Fourth Subdivision. The vacation of this easement is necessary because it unnecessarily encumbers future development and is no longer needed. More specifically, the easement vacation will allow for the development of a planned drive-thru coffee shop, giving the applicant the necessary area to build the associated structure. All of the functions of this original 2007 easement have been reestablished with a newly platted Access, Emergency Access, Landscape, Drainage and Utility Easement that was approved with the Anderson Farm Twelfth Subdivision. The portion of the easement proposed for vacation does not include any public utilities and will not impact any surrounding lots or users. There have been no key issues identified with this request; and, City staff has no objection to the vacation.

I. SUMMARY

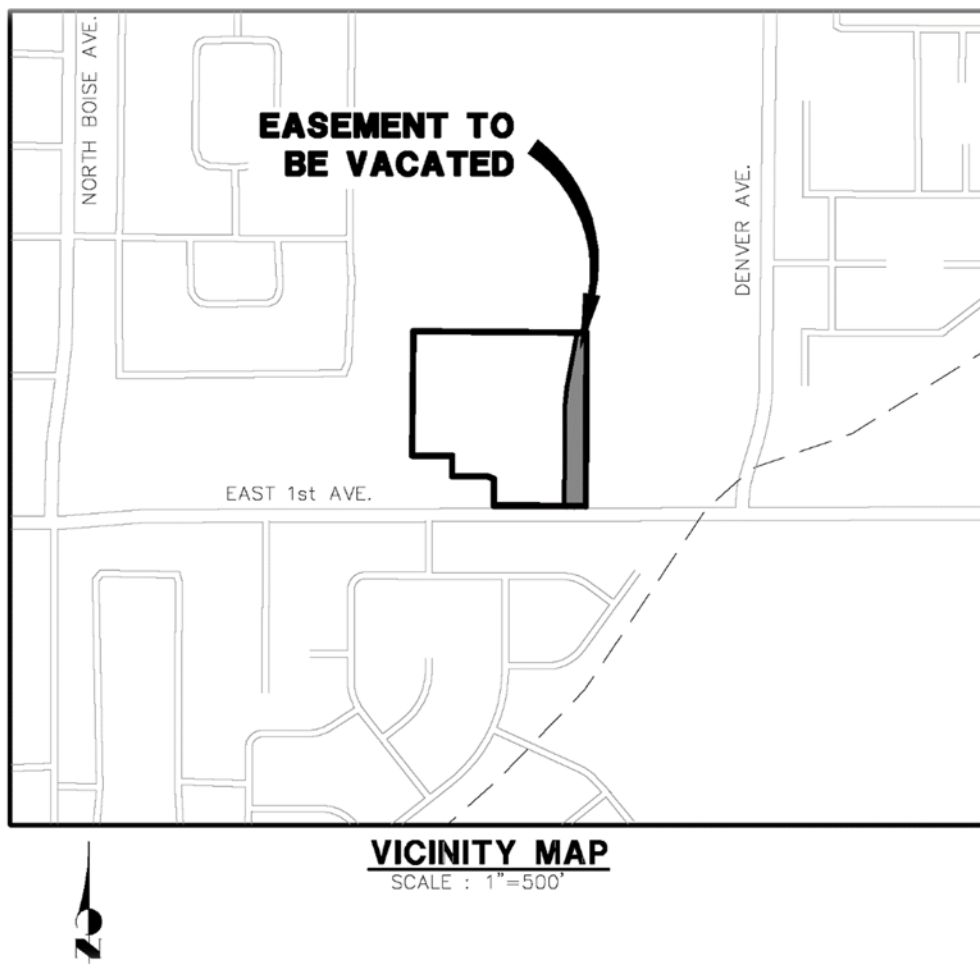
The easement vacation request is associated with the proposed Freedom Drive-Thru Coffee Shop project. The coffee shop has been approved as a special review use and will be constructed along the future private street known as Peridot Avenue (Lot 1, Block 1 Anderson Farm Fourth Subdivision). The project includes a new 250SF coffee kiosk, drive thru lane off of Peridot Ave, and additional landscaping. A vacation of this easement is requested since the existing access, utility and drainage easements recorded on the original Anderson Farm Fourth Subdivision have all been reestablished on the Anderson Farm twelfth Subdivision in ways that accommodate the proposed coffee shop and will not encumber access, function, or future development.

Due to it being vacant land, there is no impact to public use. There are no existing utilities within the easements. Agencies outside of the City which provide utility services including Century Link, Comcast, and Xcel Energy were referred this vacation request. No concerns have been voiced by these agencies.

II. ATTACHMENTS

1. Vacation of Easements Legal Description and Exhibit
2. Anderson Farm Twelfth Subdivision

III. VICINITY MAP



IV. SITE DATA

ACREAGE OF SITE: 47,464 SQ. FEET (AREA OF EASEMENT TO BE VACATED)

PROPERTY ZONING / USE I – DEVELOPING INDUSTRIAL

EXISTING ZONING / USE - NORTH I – DEVELOPING INDUSTRIAL / VACANT

EXISTING ZONING / USE - SOUTH PUD P-86/RESIDENTIAL

EXISTING ZONING / USE - EAST I – DEVELOPING INDUSTRIAL / VACANT

EXISTING ZONING / USE - WEST PUD P-54/RESIDENTIAL

V. KEY ISSUES

There are no key issues regarding this vacation request. All City Divisions and all applicable outside City utility providers have no objection to the vacation.

VI. BACKGROUND

The site was recently platted to provide for a shared access style development. All needed easements have been created to better serve the property being developed, including the adjacent vacant parcel to the north and east. These adjacent parcels are slated for development and will not be effected by this vacation.

VII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

A. Notification: Confirmation was received from Ken Merritt, certifying that notice was posted in a prominent location (i.e. open land facing E 1st Street) on February 13th, 2017. In addition, a notice was published in the Reporter Herald on February 11th, 2017.

B. Neighborhood Response: A neighborhood meeting is not required in conjunction with an application to vacate easements. At least 50% of owners abutting the easement must be party to the application. Given these requirements and the configuration of the property, this requirement was met.

VIII. FINDINGS AND ANALYSIS

Chapter 16.36, Section 16.36.010.B

1. *That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another reestablished public or private right-of-way:*

Since there is no right-of-way being dedicated, this finding is not applicable.

2. *That the right-of-way or easement to be vacated is no longer necessary for the public use and convenience.*

The easement proposed to be vacated is located on vacant land that will be developed as a private street. All necessary easements have been reestablished through the Anderson Farm 12th Sub.

Development Review Team Analysis

Current Planning

The portions of easement to be vacated currently serve no purpose as all new necessary easements have been reestablished with the Anderson Farm 12th Subdivision.

Transportation Development Review

The vacation of access, utility and drainage easements will not negatively impact access to the City's public street network. New easements have been dedicated within the Anderson Farm Subdivision to serve the affected properties.

Fire

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

- The vacation of the previously recorded easement will not negatively impact the development or surrounding ones, as the new plat establishes the Emergency Access Easement as needed.

Water/Wastewater

The subject area to be vacated is the City's current service area for both water and wastewater. There are no existing water mains and/or wastewater mains in the area to be vacated. The Department finds that:

- The existing easement to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development.
- The existing easement to be vacated is no longer necessary for public use and convenience.

Stormwater

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

- The existing easement is not used to convey Stormwater and thus is not necessary for the public use and conveyance of Stormwater.

Power

The subject area to be vacated is the City's current service area for power. There are no existing power lines in the area to be vacated.

- The existing easement to be vacated does not negatively impact the existing power utility configuration within and adjacent to this development since the new plat establishes the public utility easement as needed.

IX. RECOMMENDED CONDITIONS

No conditions are being recommended by City staff in regards to this vacation request.

LEGAL DESCRIPTION

UTILITY, DRAINAGE AND EMERGENCY ACCESS EASEMENT REC. NO. 20070035698
LOT 1, BLOCK 1, ANDERSON FARM FOURTH SUBDIVISION

A PARCEL OF LAND BEING A PART OF LOT 1, BLOCK 1, ANDERSON FARM FOURTH SUBDIVISION WHICH IS LOCATED IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 05 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING: THE SOUTH LINE OF WEST 1/2 OF SAID SOUTHEAST 1/4, BEING MONUMENTED ON THE WEST END BY A 2 ½ INCH ALUMINUM CAP STAMPED "LS 20676" IN A MONUMENT BOX AND ON THE EAST END BY A 2 ½ INCH ALUMINUM CAP STAMPED "LS 20676" IN A MONUMENT BOX, IS ASSUMED TO BEAR N89°40'35"E, WITH A DISTANCE OF 1319.02 FEET BETWEEN SAID MONUMENTS.

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST 1/2 OF SAID SOUTHEAST 1/4; THENCE N89°40'35"W, ON THE SOUTH LINE OF THE WEST 1/2 OF SAID SOUTHEAST 1/4, A DISTANCE OF 658.97 FEET;

THENCE N00°19'25"E, A DISTANCE OF 40.00 FEET, TO THE SOUTHEAST CORNER OF SAID LOT 1, TO THE **POINT OF BEGINNING**;

THENCE N89°40'02"W, ON THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 81.60 FEET;

THENCE N00°36'06"E, A DISTANCE OF 388.71 FEET, TO A POINT OF CURVATURE;

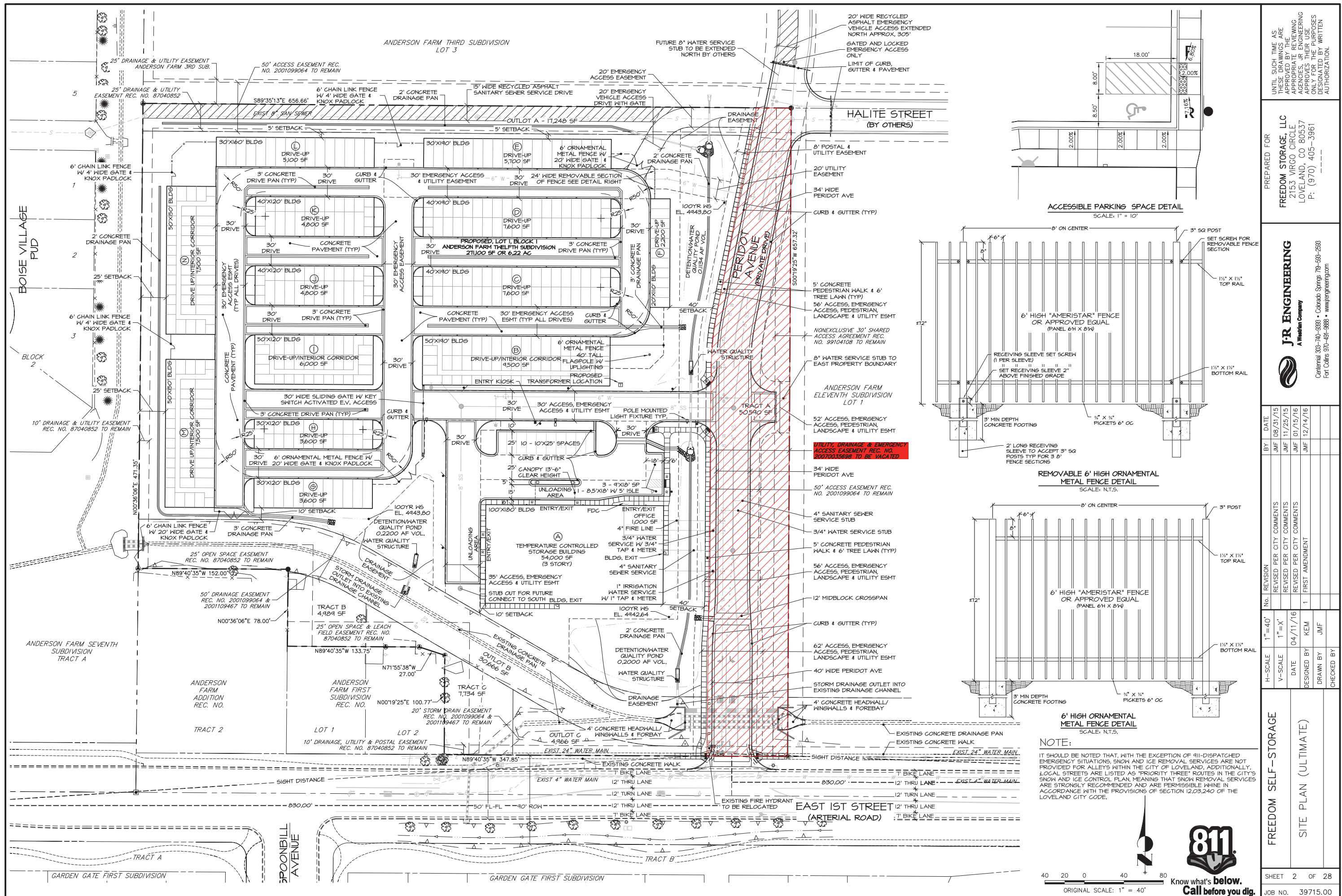
THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 345.14 FEET, A CENTRAL ANGLE OF 10°12'51" AND AN ARC LENGTH OF 61.53 FEET, TO A POINT OF TANGENCY;

THENCE N10°48'57"E, A DISTANCE OF 211.01 FEET, TO THE NORTH LINE OF SAID LOT 1;

THENCE S89°35'13"E, ON THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 35.52 FEET, TO THE NORTHEAST CORNER OF SAID LOT 1;

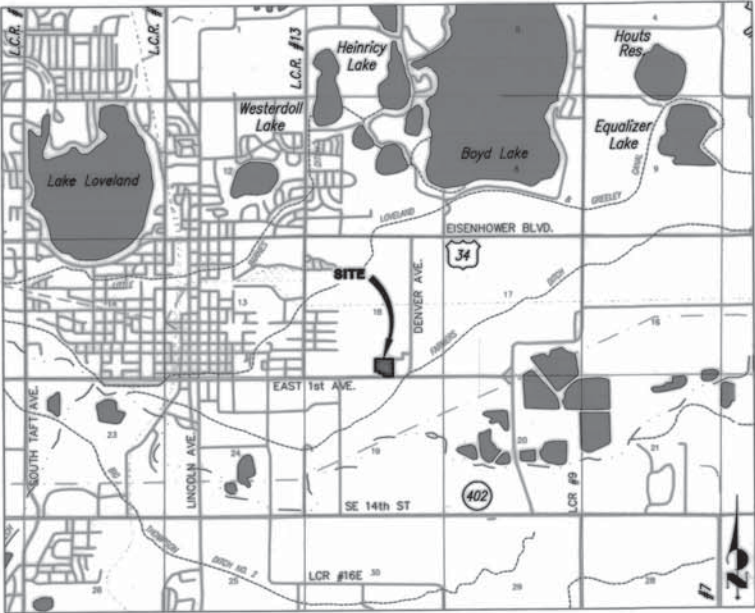
THENCE S00°19'25"W, ON THE EAST LINE OF SAID LOT 1, A DISTANCE OF 657.32 FEET, TO THE **POINT OF BEGINNING**.

CONTAINING A CALCULATED AREA OF 47,464 SQUARE FEET.



H-SCALE	1"=40'	NO.	REVISION	BT	DATE
V-SCALE	1"=X'		REVISED PER CITY COMMENTS	JMF	08/31/15
DATE	04/11/16		REVISED PER CITY COMMENTS	JMF	11/25/15
DESIGNED BY	KEM	1	REVISED PER CITY COMMENTS	JMF	01/15/16
DRAWN BY	JMF		FIRST AMENDMENT	JMF	12/14/16
CHECKED BY					

ANDERSON FARM TWELFTH SUBDIVISION
BEING A REPLAT OF LOT 1, BLOCK 1, ANDERSON FARM FOURTH SUBDIVISION
LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 18, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO.



VICINITY MAP
NOT TO SCALE

PRIVATE DEDICATION STATEMENT.

THE OWNER HEREBY DEDICATES THE DESIGNATED PRIVATE DRIVES TO THE RESIDENTS, PATRONS, BUSINESS INVITEES, AND GUESTS OF FREEDOM SELF-STORAGE FOR THEIR RECIPROCAL AND MUTUAL USE AND ENJOYMENT. THIS DEDICATION SHALL RUN WITH THE LAND, BE BINDING AND ENFORCEABLE UPON THE OWNER AND THE OWNER'S SUCCESSORS AND ASSIGNS AND IT SHALL INURE TO THE BENEFIT OF ALL CURRENT AND FUTURE RESIDENTS, PATRONS, BUSINESS INVITEES AND GUESTS OF THE FREEDOM SELF-STORAGE. THIS PRIVATE DEDICATION SHALL BE MAINTAINED BY THE PROPERTY OWNER(S).

OWNER: Carol R. Croft
DATE: 3/31/16

DEDICATION/ACKNOWLEDGMENTS.

KNOW ALL PERSONS BY THESE PRESENTS THAT FREEDOM SELF-STORAGE, LLC., BEING ALL THE OWNERS AND LIEN HOLDERS OF THE FOLLOWING DESCRIBED PROPERTY, EXCEPT ANY EXISTING PUBLIC STREETS, ROADS OR HIGHWAYS, WHICH PROPERTY IS LOCATED IN SECTION 18, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ANDERSON FARM TWELFTH SUBDIVISION BEING A REPLAT OF LOT 1, BLOCK 1, ANDERSON FARM FOURTH SUBDIVISION, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO AS RECORDED IN THE OFFICES OF THE CLERK AND RECORDER OF LARIMER COUNTY UNDER RECEPTION NUMBER 87040852 CONTAINING 8.8910 ACRES OR 387,292 SQUARE FEET MORE OR LESS, AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY ON RECORD OR EXISTING, DO HEREBY SUBDIVIDE THE SAME INTO LOTS, BLOCKS, TRACTS, OUTLOTS, RIGHTS-OF-WAY AND EASEMENTS, AS SHOWN ON THIS PLAT; AND DO HEREBY DESIGNATE AND DEDICATE: (1) ALL SUCH RIGHTS-OF-WAY AND EASEMENTS, OTHER THAN UTILITY EASEMENTS AND PRIVATE EASEMENTS, TO AND FOR PUBLIC USE, EXCEPT WHERE INDICATED OTHERWISE ON THIS PLAT; AND (2) ALL SUCH UTILITY EASEMENTS TO AND FOR PUBLIC USE FOR THE INSTALLATION AND MAINTENANCE OF UTILITY, IRRIGATION AND DRAINAGE FACILITIES; AND DO HEREBY DESIGNATE THE SAME AS ANDERSON FARM TWELFTH SUBDIVISION TO THE CITY OF LOVELAND, COLORADO.

OWNER: HIGHLAND PROPERTIES 5915 LLC,
A COLORADO LIMITED LIABILITY COMPANY

BY: Carol R. Croft
CAROL R. CROFT, OPERATING MANAGER

STATE OF COLORADO }
COUNTY OF BOULDER } ss.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME
THIS 31st DAY OF March, 2016, BY CAROL R. CROFT,
AS OPERATING MANAGER OF HIGHLAND PROPERTIES 5915 LLC,
A COLORADO LIMITED LIABILITY COMPANY.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 12/20/2019

Samantha Barros
NOTARY PUBLIC

SAMANTHA BARROS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20074004089
MY COMMISSION EXPIRES DECEMBER 20, 2019

IMPROVEMENT STATEMENT.

ALL EXPENSES INVOLVING NECESSARY IMPROVEMENTS FOR WATER SYSTEM, SANITARY SEWER SYSTEM, STORM SEWER SYSTEM, CURBS AND GUTTERS, SIDEWALKS, STREET IMPROVEMENTS, STREET SIGNS, TRAFFIC CONTROL SIGNS, ALLEY GRADING AND SURFACING, GAS SERVICE, ELECTRIC SYSTEM, GRADING AND LANDSCAPING SHALL BE PAID BY FREEDOM SELF-STORAGE, LLC.

TITLE COMMITMENT NOTES.

THIS LAND SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY JR ENGINEERING, LLC TO DETERMINE OWNERSHIP OF THIS TRACT, VERIFY THE DESCRIPTION SHOWN, VERIFY THE COMPATIBILITY OF THIS DESCRIPTION WITH THAT OF ADJACENT TRACTS, OR VERIFY EASEMENTS OF RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHT-OF-WAY OR TITLE OF RECORD, JR ENGINEERING, LLC RELIED UPON TITLE COMMITMENT NUMBER 459-H0425296-082-KT6, AMENDMENT NO. 2, PREPARED BY HERITAGE TITLE COMPANY FOR CALVIN KELLEY AND ERIC KELLEY, DATED SEPTEMBER 17, 2015 AT 7:00 A.M.

LIENHOLDER: A.W. FLEMING CREDIT SHELTER TRUST

BY: Cynthia G. Bement
CYNTHIA G. BEMENT, TRUSTEE

STATE OF COLORADO }
COUNTY OF CHAFFEE } ss.
Larimer

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME
THIS 1 DAY OF April, 2016, BY CYNTHIA G. BEMENT,
AS TRUSTEE OF THE A.W. FLEMING CREDIT SHELTER TRUST.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 12-7-17

Barbara Medina
NOTARY PUBLIC

BARBARA MEDINA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 35084022889
MY COMMISSION EXPIRES 12/07/2017

GENERAL NOTES.

- THE BASIS OF BEARINGS IS THE WEST LINE OF LOT 1, BLOCK 1, ANDERSON FARM FOURTH SUBDIVISION, BEING MONUMENTED AT THE NORTH AND SOUTH BY A NUMBER 5 REBAR WITH RED PLASTIC CAPS STAMPED LS: 20676 AND IS ASSUMED TO BEAR N00°36'06"E.
- UNLESS OTHERWISE APPROVED BY THE CITY, ALL UNSATISFIED CONDITIONS OF APPROVAL FOR THE ORIGINAL SUBDIVISION SHALL CONTINUE TO APPLY TO THIS PROPERTY.
- TRACT AND OUTLOT OWNERSHIP, MAINTENANCE AND PURPOSE:

TRACT A SHALL BE OWNED AND MAINTAINED BY FREEDOM SELF-STORAGE OR ITS ASSIGNS. PURPOSE IS FOR ACCESS, EMERGENCY ACCESS, PEDESTRIAN, LANDSCAPE AND UTILITY EASEMENTS.

TRACT B SHALL BE OWNED AND MAINTAINED BY FREEDOM SELF-STORAGE OR ITS ASSIGNS. PURPOSE IS FOR LEACH FIELD AND OPEN SPACE EASEMENTS.

TRACT C SHALL BE OWNED AND MAINTAINED BY FREEDOM SELF-STORAGE OR ITS ASSIGNS. PURPOSE IS FOR DRAINAGE, UTILITY, POSTAL, STORM DRAIN, LEACH FIELD AND OPEN SPACE EASEMENTS.

OUTLOT A SHALL BE OWNED AND MAINTAINED BY FREEDOM SELF-STORAGE OR ITS ASSIGNS. PURPOSE IS FOR DRAINAGE, UTILITY AND ACCESS EASEMENTS.

OUTLOT B SHALL BE OWNED BY FREEDOM SELF-STORAGE OR ITS ASSIGNS. MAINTENANCE WILL BE PROVIDED BY THE CITY OF LOVELAND. PURPOSE IS FOR DRAINAGE, UTILITY, LEACH FIELD AND OPEN SPACE EASEMENTS.

OUTLOT C SHALL BE OWNED BY FREEDOM SELF-STORAGE OR ITS ASSIGNS. MAINTENANCE WILL BE PROVIDED BY THE CITY OF LOVELAND. PURPOSE IS FOR DRAINAGE, UTILITY, POSTAL AND STORM DRAIN EASEMENTS.

- MAINTENANCE AND UPKEEP OF STORMWATER DETENTION PONDS, STORM SEWER SYSTEMS, SWALES, AND PERMANENT STORMWATER QUALITY IMPROVEMENTS ARE REQUIRED BY THE CITY OF LOVELAND AND ARE A CONTINUING OBLIGATION OF THE HOMEOWNER ASSOCIATION, BUSINESS OWNER ASSOCIATION, OR PRIVATE PROPERTY OWNER. THE OWNER OR RESPONSIBLE PARTIES SHALL PROVIDE ONGOING MAINTENANCE TO THE PRIVATE STORMWATER IMPROVEMENTS AS NEEDED TO MAINTAIN COMPLIANCE WITH THE APPROVED CONSTRUCTION PLANS AND REPORTS.
- TOTAL AREA IN SQUARE FEET OF EASEMENTS DEDICATED TO THE PUBLIC OR THE CITY BY THIS PLAT. TOTAL AREA IN SQUARE FEET 160,545.
- PER C.R.S. 38-51-106, "ALL LINEAL UNITS DEPICTED ON THIS LAND SURVEY PLAT ARE U.S. SURVEY FEET. ONE METER EQUALS 39.37/12 U.S. SURVEY FEET, EXACTLY ACCORDING TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY."
- THE 56 FOOT PUBLIC ACCESS, EMERGENCY ACCESS, PEDESTRIAN, LANDSCAPE AND UTILITY EASEMENT DEDICATED BY THIS PLAT IS TO BE MAINTAINED BY THE PROPERTY OWNER. IT SHOULD BE NOTED THAT, WITH THE EXCEPTION OF 911-DISPATCHED EMERGENCY SITUATIONS, SNOW AND ICE REMOVAL SERVICES ARE NOT PROVIDED FOR ALLEYS WITHIN THE CITY OF LOVELAND. ADDITIONALLY, LOCAL STREETS ARE LISTED AS "PRIORITY THREE" ROUTES IN THE CITY'S SNOW AND ICE CONTROL PLAN, MEANING THAT SNOW REMOVAL SERVICES ARE UNLIKELY EXCEPT IN EXTREME CIRCUMSTANCES. PRIVATELY CONTRACTED SNOW REMOVAL SERVICES ARE STRONGLY RECOMMENDED AND ARE PERMISSIBLE WHEN IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12.16.240 OF THE LOVELAND CITY CODE.

NOTICE.

PER C.R.S. 13-80-105, YOU **MUST** COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

SURVEYOR'S CERTIFICATE.

I, JARROD ADAMS, BEING A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY OF ANDERSON FARM TWELFTH SUBDIVISION WAS MADE BY ME OR UNDER MY SUPERVISION AND THAT THE SURVEY IS ACCURATELY REPRESENTED ON THIS PLAT AND THAT THE STATEMENTS CONTAINED HEREON WERE READ BY ME AND THE SAME ARE TRUE TO THE BEST OF MY KNOWLEDGE.

DATED THIS 4th DAY OF April, 2016

JARROD ADAMS SEAL

PLS NO. 38252



CITY'S CERTIFICATE.

THIS PLAT IS APPROVED BY THE DIRECTOR OF DEVELOPMENT SERVICES OF THE CITY OF LOVELAND, LARIMER COUNTY, COLORADO, THIS 14th DAY OF April, 2016, FOR FILING WITH THE CLERK AND RECORDER OF LARIMER COUNTY AND FOR CONVEYANCE TO THE CITY OF THE PUBLIC DEDICATIONS SHOWN HEREON, WHICH ARE ACCEPTED; SUBJECT TO THE PROVISION THAT APPROVAL IN NO WAY OBLIGATES THE CITY OF LOVELAND, FOR THE FINANCING OR CONSTRUCTING OF IMPROVEMENTS ON LAND, STREETS, OR EASEMENTS DEDICATED TO THE PUBLIC EXCEPT AS SPECIFICALLY AGREED TO BY THE DIRECTOR OF DEVELOPMENT SERVICES.

Ben C. J. J. J.
DIRECTOR OF DEVELOPMENT SERVICES

WITNESS MY HAND AND SEAL OF THE CITY OF LOVELAND.

ATTEST:
Deputy City Clerk
Deputy CITY CLERK



ATTORNEY'S CERTIFICATE.

I, Janie Baker Rodde, AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF COLORADO, CERTIFY THAT I HAVE EXAMINED TITLE TO THE ABOVE DESCRIBED LAND DEDICATED TO THE CITY OF LOVELAND, COLORADO, AND THAT THE PARTIES EXECUTING THE DEDICATION ARE THE OWNERS THEREOF IN FEE SIMPLE AND THE DEDICATED LAND IS FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES, EXCEPT AS SET FORTH HEREIN.

SO SWORN THIS 31 DAY OF March, 2016

JBR
ATTORNEY AT LAW

ANDERSON FARM TWELFTH SUBDIVISION
FINAL PLAT
JOB NO. 39715.00
MARCH 2, 2016
SHEET 1 OF 2

J-R ENGINEERING
A Westrian Company

Centennial 303-740-9993 • Colorado Springs 719-593-2593
Fort Collins 970-491-9888 • www.jrengineering.com



Community Partnership Office

500 E 3rd Street • Loveland, CO 80537
(970) 962-2517 • TDD (970) 962-2903
www.cityofloveland.org

MEMORANDUM

To: Loveland Planning Commission

Through: Rod Wensing, City Manager's Office

From: Alison Hade, Community Partnership Office

Date: February 27, 2017

Subject: Proposed amendments to Title 16 at Chapters 16.38 and 16.43 of the Municipal Code regarding affordable housing

I. SUMMARY

The affordable housing code changes described below outline a process for non-profit and for-profit developers to receive an incentive from the City of Loveland to build affordable housing. City Council would like assurance that any project that receives an incentive remains affordable and if not, that the incentive is returned to the City (see #6 and #8 below). To simplify the process of seeking an incentive, parts of 16.38 that are used for affordable housing will be merged into 16.43, thereby ensuring that all affordable housing code exists in one section.

The recommendations conclude work completed by the Affordable Housing Commission throughout 2016 and stem from direction originally received from City Council during a study session in 2015. All of the recommendations listed below received either unanimous or majority support from the Affordable Housing Commission.

II. BACKGROUND

The City of Loveland supports affordable housing primarily through the waiver of development, capital expansion (CEF) and other fees for non-profit and for-profit developers. Other fees include utilities and charges that must be reimbursed, or backfilled, by the general fund and cannot be waived outright by City Council. Non-profit developers, namely the Loveland Housing Authority and Habitat for Humanity, have historically received a waiver of close to 100% of building permit and capital expansion fees, as well as utility fees that require backfilling. For-profit organizations have only received fee waivers that do not require backfilling.

III. RECOMMENDATIONS

1. Move relevant subsections of 16.38 to 16.43 and change name of the Affordable Housing code subsection to Community Housing Development (16.43.020, 16.43.030)

The Affordable Housing code exists primarily at 16.43 with sections of 16.38 addressing the waiver of CEFs and other fees for designated affordable housing developments. The Affordable Housing Commission recommends merging the two sections used by developers of affordable housing and changing the name of section 16.43 to Community Housing Development.

The name of the fund used for affordable housing would be changed from the Affordable Housing Fund to the Community Housing Development Fund.

2. Revised purpose (16.43.010)

The Purpose of the affordable housing code was amended to reflect two policies described in the 2015 Comprehensive Plan (Chapter 2, Page 16). The third purpose mirrors one of the goals of the Affordable Housing Commission.

- A. Encourage development of diverse housing types and complete neighborhoods.
- B. Support housing that meets the needs of low and moderate income households.
- C. Reduce homelessness by providing supportive housing with services.

3. Update Affordable Housing Designation process (16.43.035, 16.43.040, 16.43.080)

An affordable housing designation is granted through an application process that is presented to the Affordable Housing Commission. If the Commission supports the project requesting the designation, the application is heard by City Council for final approval.

The purpose of an affordable housing designation is to lock fees to the date on which the designation is granted and to allow a for-profit developer to request a waiver of fees. A fee lock means that a developer will be charged the fees in place as of the date of the lock. For example, a project that receives an affordable housing designation dated in 2015 will pay 2015 rates for fees if the fees are not waived altogether. A non-profit developer may also use the designation process to lock fees but does not require the designation to ask for a fee waiver.

The affordable housing designation process description will be changed to say that the application process and a request for a waiver of fees may not be combined in one meeting, which serves the purpose of allowing Council to affirm whether they would be interested in granting a fee waiver incentive during the original designation meeting. The code also now states that exemptions from fees “are granted at the sole discretion of council and under the specific terms approved by council.”

Additionally, due to some confusion about the difference between a “designated” affordable housing development and “qualified” affordable housing, the defined term “qualified affordable housing” has been removed from the definitions in Title 16, and replaced throughout with “designated”.

4. Deed restriction duration increased for multi-family housing and public facilities

The Affordable Housing Commission recommends making the following changes to the duration of deed restrictions:

- Multi-family housing: Change the duration from 20 years to 50 years.
- Single-family housing: Keep the duration at 20 years.
- Public facility: Change the duration from 20 years to 25 years.

A deed restriction ensures that a property cannot be sold without notifying the Community Partnership Office. Increasing the duration of the deed restriction for multi-family housing and public facilities safeguards the City's investment in affordable housing and community facilities. See #7 below.

5. Incentives for rental housing simplified and granted only for units rented to residents living at or below 60% of the Area Median Income (AMI) (16.43.080)

NOTE: For information about the Area Median Income, including a description of maximum rents charged at each level of the AMI by apartment size, please see Appendix 1.

The current code includes a table showing potential exemptions from capital expansion and other fees.

1. If granted for rental housing, the exemption shall be as follows:

Percentage of area median income to be served	Minimum percentage of units in development set aside as affordable housing	Percentage of fees waived for affordable housing only
30%	10%	100%
40%	15%	90%
50%	20%	80%
60%	40%	70%

The current table suggests that a for-profit developer is required to set aside a specific percentage of units at each AMI level in order to receive a fee waiver. Recent rent restricted multi-family projects built by for-profit developers were restricted at the 60% AMI level for 100% of the units (see Appendix 1 for more information about rental costs). These projects requested a waiver of 70% of the capital expansion and building permit fees in order to fill a gap in funding using Low Income Housing Tax Credits. No incentives were granted to for-profit developers that required backfilling utility and enterprise fees.

The Affordable Housing Commission recommends removing the middle column in the table shown above because it is not used to determine the percentage of units that are set aside for each AMI level. For builders that produce units at each level of the AMI, the percentage is determined by the ability of the organization to pay the loan and is driven by the amount of rent that must be raised each month. Removing the middle column still allows an incentive to be granted for only those units that are rent restricted at 60% of the AMI or below, with no incentive for fees that require backfilling and at councils discretion based on annual housing goals.

6. Retention of affordable housing (16.43.100)

The goal of City Council and the Affordable Housing Commission is to retain as affordable any housing that has received a waiver of fees. The Affordable Housing Commission voted unanimously to strengthen deed restrictions so that the City's stock of affordable housing units is maintained. To that end, 16.43.090 now states, "the owner of a deed restricted affordable housing unit may only sell or transfer the unit to another income-qualified household unless council approves a hardship waiver."

The current code allows the owner of an affordable single family home to sell the home at market rate and repay a portion of net proceeds using the table below. The proposed change will ensure that affordable housing units that receive an incentive will remain affordable for the entire 20-year deed restriction period.

7. Hardship Waiver changed to require repayment of a portion of net proceeds (16.43.100C)

The hardship waiver described in the current code allows the seller of an affordable home to make a request of City Council to waive altogether the repayment obligation. The change to the hardship waiver, made in connection with strengthening the deed restriction, now means that the owner can to sell the home but must always repay a portion of net proceeds as described under #8.

8. Use only one repayment table

The Affordable Housing Commission recommends using the table shown below for a fee waiver repayment if an affordable single family home is sold before the 20-year deed restriction has expired. The purpose of the repayment table is to recover an incentive based on market conditions without overly burdening the seller of the home. The table is currently shown as Table C2 under 16.43.080. Table C1 will be removed from 16.43.080.

Number of years from date of original sale	Percentage of net proceeds due to city
0-5 years	25%
5-10 years	20%
10-15 years	15%
15-20 years	10%

Table C1 has historically been used for fee waivers granted to Habitat for Humanity and will be removed completely from 16.43. Table C1 reduced the total cost of the incentive over 20 years. For example, if an affordable home were sold in year 10, the owner would be required to repay 50% of the original fee waiver. If the fee waiver was \$25,000, this means the home owner must repay \$12,500 regardless of the profit made on the home. Using Table C2 takes into account market conditions.

Table C2 has been used by for-profit developers in the Giuliano First and Koldeway Industrial Third subdivisions for single-family homes sold to residents that are income qualified at 70% of the AMI (i.e., \$54,740 in annual income for a family of 4. See Appendix 1 for more information). An owner wishing to sell a home that was purchased with a fee waiver incentive in one of these subdivisions has two options: sell to another buyer with income at the 70% AMI level at a price the buyer can afford or sell at market rate and pay a percentage

of net proceeds to the City of Loveland. Selling to another income-qualified buyer also requires that buyer to carry the deed restriction for the remaining years.

Changes described under #7 now allow the owner of an affordable home to sell the home at a market rate prior to the expiration of the deed restriction by showing a hardship. It also mandates that the owner must repay the higher of the full fee waiver amount or a portion of the net proceeds returned to the city, not to exceed the owner's amount of net proceeds from the sale of the home. For example, a home that was purchased for \$200,000 and sold for \$300,000, (with a fee waiver of \$20,000) and paying approximately \$20,000 in closing costs, would receive net proceeds of \$80,000. If the home were sold in year 10, the owner would repay the \$20,000 because the full fee waiver is higher than the amount calculated using the table (\$15% of the net proceeds, or \$12,000), and does not exceed the net proceeds of \$80,000 received from the sale.

IV. FUTURE CHANGES

The Affordable Housing Commission intends to begin discussing two additional proposed revisions to the code as soon as possible:

- 16.43.080(2), exemption from fee table used by for-profit developers for single-family homes will require additional input from developers and builders of affordable housing and will be presented to the Planning Commission at a later date.
- Density bonus – The City of Loveland does not currently grant density that may help to make housing more affordable for developers. A Density Bonus code section will be researched and will also be presented to the Planning Commission at a later date.

V. ATTACHMENTS

- Attachment 1 – Area Median Income table and rent/Income chart and rent description.
- Attachment 2 – Title 16 Code revisions
- Attachment 3 – February 27, 2017 Planning Commission PowerPoint

VI. PLEASE DIRECT QUESTIONS TO:

Please contact Alison Hade for any questions regarding the items listed above by telephone, email, or in-person.

Alison Hade, Administrator
Community Partnership Office
alison.hade@cityofloveland.org
970-962-2517

ATTACHMENT 1 – Area Median Income

AMI tables are distributed annually by the U.S. Department of Housing and Urban Development (HUD).

2016 HUD Income Guidelines Larimer County Issued March 2016

# of Persons in Household	1	2	3	4	5	6	7	8
100%	\$54,800	\$62,600	\$70,400	\$78,200	\$84,500	\$90,800	\$97,000	\$103,300
80%	\$43,840	\$50,080	\$56,320	\$62,560	\$67,600	\$72,640	\$77,600	\$82,640
75%	\$41,100	\$46,950	\$52,800	\$58,650	\$63,375	\$68,100	\$72,750	\$77,725
70%	\$38,360	\$43,820	\$49,280	\$54,740	\$59,150	\$63,560	\$67,900	\$72,310
60%	\$32,880	\$37,560	\$42,240	\$46,920	\$50,700	\$54,480	\$58,200	\$61,980
50%	\$27,400	\$31,300	\$35,200	\$39,100	\$42,250	\$45,400	\$48,500	\$51,650
40%	\$21,920	\$25,040	\$28,160	\$31,280	\$33,800	\$36,320	\$38,800	\$41,320
30%	\$16,440	\$18,780	\$21,120	\$23,460	\$25,350	\$27,240	\$29,100	\$30,990

Maximum rents are calculated by the Colorado Housing and Finance Administration (CHFA) by using the AMI table. The maximum rent that could be charged for a 2-bedroom unit at 60% AMI is \$810, including utilities. Rent is generally set at 30% of income (ex: 30% AMI income for 1 person is \$16,440. Efficiency unit pays rent of \$411, which is 30% of monthly income of \$1,370).

2016 MAXIMUM RENTS								2016 INCOME LIMITS							
County	HERA	AMI	0 BDRM	1 BDRM	2 BDRM	3 BDRM	4 BDRM	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Larimer		120%	1,644	1,761	2,112	2,440	2,724	65,760	75,120	84,480	93,840	101,400	108,960	116,400	123,960
Larimer		100%	1,370	1,467	1,760	2,033	2,270	54,800	62,600	70,400	78,200	84,500	90,800	97,000	103,300
Larimer		80%	1,096	1,174	1,408	1,627	1,816	43,840	50,080	56,320	62,560	67,600	72,640	77,600	82,640
Larimer		65%	890	953	1,144	1,321	1,475	35,620	40,690	45,760	50,830	54,925	59,020	63,050	67,145
Larimer		60%	822	880	1,056	1,220	1,362	32,880	37,560	42,240	46,920	50,700	54,480	58,200	61,980
Larimer		55%	753	807	968	1,118	1,248	30,140	34,430	38,720	43,010	46,475	49,940	53,350	56,815
Larimer		50%	685	733	880	1,016	1,135	27,400	31,300	35,200	39,100	42,250	45,400	48,500	51,650
Larimer		45%	616	660	792	915	1,021	24,660	28,170	31,680	35,190	38,025	40,860	43,650	46,485
Larimer		40%	548	587	704	813	908	21,920	25,040	28,160	31,280	33,800	36,320	38,800	41,320
Larimer		30%	411	440	528	610	681	16,440	18,780	21,120	23,460	25,350	27,240	29,100	30,990

2016 MAXIMUM RENTS							
County	HERA	AMI	0 BDRM	1 BDRM	2 BDRM	3 BDRM	4 BDRM
Larimer		120%	1,644	1,761	2,112	2,440	2,724
Larimer		100%	1,370	1,467	1,760	2,033	2,270
Larimer		80%	1,096	1,174	1,408	1,627	1,816
Larimer		65%	890	953	1,144	1,321	1,475
Larimer		60%	822	880	1,056	1,220	1,362
Larimer		55%	753	807	968	1,118	1,248
Larimer		50%	685	733	880	1,016	1,135
Larimer		45%	616	660	792	915	1,021
Larimer		40%	548	587	704	813	908
Larimer		30%	411	440	528	610	681

Title 16

SUBDIVISION OF LAND*

Chapters:

16.08 Definitions

16.38 Capital Expansion Fees

16.43 Affordable Community Housing Development

Chapter 16.08

DEFINITIONS

16.08.010 Definitions.

B. As used in this title:

“Affordable housing development” means a development that received a designation designated as such by council by resolution in accordance with Section 16.43.035 and that is: ~~(1) a housing development in which at least twenty percent of the total proposed units are sold to households earning seventy percent or less of qualified income and in which the units are owner-occupied; (2) a housing development in which at least twenty five percent of the total proposed units are sold to households earning seventy five percent or less of qualified income, and in which the units are owner-occupied; (3) a housing development in which at least thirty percent of the total proposed units are sold to households earning eighty percent or less of qualified income, and in which the units are owner-occupied; (4) a rental housing development in which at least twenty percent of the total proposed units are affordable to households earning fifty percent or less of qualified income; (5) a rental housing development in which at least twenty five percent of the total proposed units are affordable to households earning fifty five percent or less of qualified income; (6) a rental housing development in which at least forty percent of the total proposed units are affordable to households earning sixty percent or less of qualified income; or (7) any other housing development~~ a housing development, either for-sale or for-rental housing in which a percentage of the total proposed units, as determined by council, are affordable to households earning a percentage of qualified income, as determined by council. As used herein, “affordable” shall mean that the monthly cost of a rental housing unit is no more than the monthly rent set forth by income and rent tables released annually by the United States Department of Colorado Housing and Urban Development Finance Authority, a copy of which is on file with the city clerk’s office.

“Cost” for rental units means the gross monthly rental payment, plus estimated monthly utilities, or any other mandatory charges.

The following subsections of chapter 16.38 are revised as follows:

Chapter 16.38

CAPITAL EXPANSION FEES

Sections:

- ~~16.38.010 — Purpose.~~
~~16.38.020 — Fees imposed.~~
~~16.38.030 — Change in use credit.~~
~~16.38.050 — Unlawful to occupy.~~
~~16.38.060 — Unpaid capital expansion fee — Lien.~~
~~16.38.070 — Exemption from capital expansion fees — Generally.~~
~~16.38.071 — Deferral of fees~~
~~16.38.072 — Exemption for historic downtown Loveland.~~
~~16.38.075 — Exemption from capital expansion fees — Not-for-profit facilities.~~
16.38.080 — Exemption from capital expansion fees – Community development Qualified affordable housing.
~~16.38.085 — Capital expansion fees for affordable housing developments.~~

16.38.075080 Exemption from capital expansion fees – Not-for-profit facilities.Community development

~~A.~~ Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, ~~upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide for~~ not-for-profit facilities ~~open to Loveland area residents that might otherwise be provided by the city at taxpayer expense, that such facilities relieve the pressures of growth on city provided facilities, designated affordable housing developments, and affordable housing units. Such exemptions shall be granted at the sole discretion of council, and only in accordance with the application procedures and requirements described in Chapter 43 of this Title 16. that such facilities do not create growth or growth impacts. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.~~**080**

~~===== Exemption from capital expansion fees — Qualified affordable housing.~~

~~A.~~ Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, ~~upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed is a qualified affordable housing development. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.~~

~~B.~~ Exemptions granted pursuant to this section shall be done in accordance with the following tables:

~~1. If granted for rental housing, the exemption shall be as follows:~~

Percentage of area median income to be served	Minimum percentage of units in development set aside as affordable housing	Percentage of fees waived for
--	---	--

		affordable housing only	
30%	10%	100%	
40%	15%	90%	
50%	20%	80%	
60%	40%	70%	
Percentage of area median income to be served	Minimum percentage of units in development set aside as affordable housing	Percentage of fees waived for affordable housing only	
40%	5%	90%	
50%	10%	80%	
60%	15%	70%	
70%	20%	60%	
75%	25%	25%	
80%	30%	15%	

3. ~~Notwithstanding the above provisions of this Subsection B., council may increase the percentage of fees waived under this section upon making a finding in its resolution waiving the fees that such percentage increase will serve a public purpose, which public purpose shall be specified in the resolution.~~

~~C. Exemptions granted pursuant to this section shall be effective for one year from the date on which the exemption is granted unless extended by council for good cause shown. Any such extension shall be set forth in an amendment to the development agreement approved by resolution of council.~~

~~A. Capital expansion fees, water rights requirements and fees, and any other fees imposed by the city upon an affordable housing development, whether for capital or other purposes (collectively, "development fees"), shall be calculated as of the date on which council adopts a resolution designating the housing development as affordable (the "designation date"). The development fees calculated under this section shall be valid for five years thereafter. At the end of the five-year period, the development fees shall be calculated each year thereafter on the basis of those development fees in effect five years prior. This adjustment shall continue each year until the last affordable housing unit within the affordable housing development receives a building permit, or the housing development loses its affordable designation in accordance with Subsection B. below.~~

~~B. Ten years after the designation date, the housing development shall lose its affordable designation unless at least one affordable housing unit within the housing development has received a certificate of occupancy, in which case the development fees shall continue to be calculated as set forth in Subsection A. above. Notwithstanding the foregoing, any developer that has not obtained a certificate of occupancy at the end of the ten-year period may request that the affordable housing commission consider and make a recommendation to council to extend the housing development's affordable designation and the fee reduction provided for herein for good cause shown. Any such extension shall be set forth in a development agreement approved by resolution of council.~~

~~C. Notwithstanding anything herein to the contrary, the developer shall be entitled to pay the lower of the development fee in effect as of the designation date and the development fee in effect at the time such fees are paid.~~

|

Chapter 16.43 is repealed in its entirety and re-enacted to read:

Chapter 16.43

AFFORDABLECOMMUNITY HOUSING DEVELOPMENT

Sections:

- 16.43.010 Purpose.**
- 16.43.020 AffordableCommunity housing development fund established.**
- 16.43.030 Revenue sources for affordablecommunity housing development fund.**
- 16.43.035 Designation of Affordable housing developments.**
- 16.43.040 Calculation of capital expansion fees for designated affordable housing developments.**
- 16.43.045 Dispersion and phasing of affordable housing units required.**
- Design standards for affordable housing. 16.43.050 Design standards for affordable housing.**
- 16.43.055 Expedited development review for affordable housing developments.**
- 16.43.060 Dispersion of affordable housing units.Exemption from capital expansion fees – nNot for-profit or public facilities.**
- 16.43.070 Exemption from capital expansion fees – designated affordable housing developments and affordable housing units.**
- 16.43.071 Deferral of fees – community development. Designation of affordable housing units required.**
- 16.43.080 Deed restriction for affordable housing units and not-for-profit or public facilities required.**
- 16.43.090 Sales of deed-restricted affordable housing units.**
- 16.43.100 Use tax credit for qualified affordable housing units.**
- 16.43.110 Annual review of affordable housing ownership.**

16.43.010 Purpose.

The purposes of this chapter are to:

- ~~A. Implement the housing goals of the city's affordable housing policy as adopted by resolution of council;~~
- ~~A. Promote the construction of~~Encourage development of diverse housing types and complete neighborhoods;
- ~~B. Support housing that is affordable to~~meets the ~~community's~~ workforce;
- ~~C. Retain opportunities for people that work in the city to also live in the city;~~
- ~~D. Maintain a balanced community that provides housing for people~~needs of ~~all income levels; and~~
- ~~E.B. Promote availability of housing options for low and moderate income residents and for special needs populations.~~households;
- C. Reduce homelessness by providing supportive housing with services.

16.43.020 AffordableCommunity housing development fund established.

There is created a special fund to be known as the affordablecommunity housing development fund for the purpose of receiving all revenues related to affordable housing programs and services and other appropriations from the general fund or other funds as approved or established by council. The fund and any interest earned in that fund shall be for the specific use of those programs and services as determined by council.

16.43.030 Revenue sources for affordablecommunity housing development fund.

The affordablecommunity housing development fund shall be funded through revenues derived from payments to the city as set forth in Section 16.43.080B090C., from gifts or grants, and from appropriations from the general fund or other funds, as council may from time-to-time establish or approve.

16.43.035 Designation of Affordable housing developments---~~designation.~~

All applications for designation of a housing development as affordable shall be submitted to the affordable housing commission for review and recommendation to council. A decision by the affordable housing commission not to recommend designation may be appealed to council. Council shall review such applications and recommendations and make the final determination to approve, approve with conditions, or deny such applications by resolution. An application for designation of a housing development as affordable may not be combined with or include a request for exemption from a capital expansion fee or other fees. A designation of a housing development as affordable does not guarantee a reduction or exemption of capital expansion fees or other fees by council.

16.43.040 Calculation of capital expansion fees for designated affordable housing developments.

- A. Capital expansion fees, water rights requirements and fees, and any other fees imposed by the city upon an affordable housing development, whether for capital or other purposes (collectively, “development fees”), shall be calculated as of the date on which council adopts a resolution designating the housing development as affordable (the “designation date”). The development - fees calculated under this section shall be valid for five years thereafter. At the end of the five-year period, the development fees shall be calculated each year thereafter on the basis of those development fees in effect five years prior. This adjustment shall continue each year until the last affordable housing unit within the affordable housing development receives a building permit, or the housing development loses its affordable designation in accordance with Subsection B. below.
- B. Ten years after the designation date, the housing development shall lose its affordable designation unless at least one affordable housing unit within the housing development has received a certificate of occupancy, in which case the development fees shall continue to be calculated as set forth in Subsection A. above. Notwithstanding the foregoing, any developer that has not obtained a certificate of occupancy at the end of the ten-year period may request that the affordable housing commission consider and make a recommendation to council to extend the housing development’s affordable designation and the fee reduction provided for herein for good cause shown. Any such extension shall be set forth in a development agreement approved by resolution of council.
- C. Notwithstanding anything herein to the contrary, the developer shall be entitled to pay the lower of the development fee in effect as of the designation date and the development fee in effect at the time such fees are paid.

~~16.43.040 Design standards for affordable housing.~~

~~The design standards set forth in Chapter 16.24 may be modified for subdivisions which are affordable housing developments in accordance with the Site Development Performance Standards and Guidelines for affordable housing found in Chapter 7 of the Site Development Performance Standards and Guidelines, so long as the design of the subdivision remains at all times consistent with the overall health, safety, and welfare of the future residents of the subdivision. All design modifications for affordable housing developments shall be subject to the approval of the director.~~

~~16.43.050 Expedited development review for affordable housing developments.~~

~~The city shall process all applications for affordable housing developments on an expedited time line. Complete applications for affordable housing developments shall be placed ahead of all other~~

~~complete applications in the review process. All required reviews of applications for affordable housing developments by city staff members and city boards and commissions shall be accomplished in as expeditious a manner as possible consistent with good planning principles.~~

16.43.06016.43.045 Dispersion and phasing of affordable housing units required.

- A. Where affordable housing units are part of a residential development also containing market-rate housing units, the planning commission shall review the preliminary plat to ensure that the affordable housing units shall, to the extent possible without creating practical difficulties, be mixed with the market-rate housing units and not clustered together or segregated from market-rate housing units in the development. The director, in all instances, shall have the discretion to approve the final location and distribution of affordable housing units in the development ~~on the final plat~~, provided that such locations are in substantial compliance with the planning commission's approval of the preliminary plat.

16.43.070 Designation of affordable housing units required.

- B. All development plans for affordable housing developments or that include affordable housing units shall indicate which dwelling units shall be constructed as affordable housing units. For single-family detached dwelling units, each lot upon which an affordable housing unit is to be constructed shall be designated on the development plan. For multi-family housing or duplex housing, the development plan shall indicate the percentage of units within the development that shall be constructed as affordable housing units. An affordable housing development may be developed in phases. For a phased development, each development plan shall indicate which dwelling units shall be constructed as affordable housing units. The director, in all instances, shall have the discretion to approve the number and location of affordable housing units within a phased development so long as the required percentage-ratio of affordable housing units ~~is met to the overall number of market-rate units is maintained for each phase of the development. The development agreement for the affordable housing development shall specify the required affordable housing ratio of affordable housing units to market-rate units to be maintained during construction of each phase of the development.~~ The director shall also have the authority to approve administrative amendments to development plans changing the location of affordable housing units designated on a development plan for non-phased developments, provided that such locations are in substantial compliance with the planning commission's approval of the preliminary plat and with all other applicable provisions of this chapter.

16.43.050 Design standards for affordable housing.

The design standards set forth in Chapter 16.24 may be modified for subdivisions which are affordable housing developments in accordance with the Site Development Performance Standards and Guidelines for affordable housing found in Chapter 7 of the Site Development Performance Standards and Guidelines, so long as the design of the subdivision remains at all times consistent with the overall health, safety, and welfare of the future residents of the subdivision. All design modifications for affordable housing developments shall be subject to the approval of the director.

16.43.0505 Expedited development review for affordable housing developments.

The city shall process all applications for affordable housing developments on an expedited time line. Complete applications for affordable housing developments shall be placed ahead of all other complete applications in the review process. All required reviews of applications for affordable housing developments by city staff members and city boards and commissions shall be accomplished in as expeditious a manner as possible consistent with good planning principles.

16.43.060 Exemption from capital expansion fees – not-for-profit or public facilities.

Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide not-for-profit or public facilities open to Loveland area residents that might otherwise be provided by the city at taxpayer expense, that such facilities relieve the pressures of growth on city-provided facilities, and that such facilities do not create growth or growth impacts. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund. No certificate of occupancy shall be issued for any project that obtains a fee waiver pursuant to this section unless the project is encumbered by a deed restriction that meets the requirements described in Section 16.38.080.

16.43.0780 Exemption from capital expansion fees —~~Qualified~~ designated affordable housing developments and affordable housing units.

- A. Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed by the city upon new development, whether for capital or other purposes, upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed is an ~~an~~ qualified-affordable housing development, and the development has been previously designated as such by resolution of council. When a capital-related fee is waived pursuant to this section, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund, unless the capital-related fee is a utility fee or charge in which case the affected utility fund shall be reimbursed by the general fund.
- B. Exemptions granted pursuant to this section shall be done in accordance with the following tables:
1. If granted for rental housing, the exemption shall only apply to individual affordable housing units and, and shall not apply to market-rate units. The exemption shall be calculated as follows:

<u>Percentage of area median income to be served for a particular affordable housing unit</u>	<u>Percentage of fees waived for the particular affordable housing unit</u>
<u>30%</u>	<u>100%</u>
<u>40%</u>	<u>90%</u>
<u>50%</u>	<u>80%</u>
<u>60%</u>	<u>70%</u>

2. If granted for “for-sale” housing, the exemption shall be as follows:

<u>Percentage of area median income to be served</u>	<u>Minimum percentage of units in development set aside as affordable housing</u>	<u>Percentage of fees waived for affordable housing only</u>
<u>40%</u>	<u>5%</u>	<u>90%</u>
<u>50%</u>	<u>10%</u>	<u>80%</u>
<u>60%</u>	<u>15%</u>	<u>70%</u>
<u>70%</u>	<u>20%</u>	<u>60%</u>
<u>75%</u>	<u>25%</u>	<u>25%</u>
<u>80%</u>	<u>30%</u>	<u>15%</u>

3. Notwithstanding the above provisions of this Subsection B., council may increase the percentage of fees waived under this section upon making a finding in its resolution waiving the fees that such percentage increase will serve a public purpose, which public purpose shall be specified in the resolution.

C. Exemptions granted pursuant to this section shall be effective for one year from the date on which the exemption is granted unless extended by council for good cause shown. Any such extension shall be set forth in an amendment to the development agreement approved by resolution of council.

D. Exemptions for fee waivers under this Title 16, including those capital-related utility fees and charges that must be reimbursed by the general fund are granted at the sole discretion of council and under the specific terms approved by council.

16.43.071 Deferral of fees – community development

Council may allow for the deferral of fees imposed on not-for-profit or public facilities, designated affordable housing developments, or affordable housing units under the same procedures and requirements described in section 16.38.071.

16.43.080 Deed restriction for affordable housing units and not-for-profit or public facilities required.

A. “For sale” affordable housing units. No certificate of occupancy shall be issued for any “for-sale” single-family dwelling, multi-family building, or duplex containing an affordable housing unit(s) unless: ~~(i) the~~

1. The applicant provides documentation satisfactory to the director of development services that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat; ~~and (ii) a~~

2. For a single-family dwelling only, the contract household-buyer of such unit has been income-qualified for purchase of such unit by the community partnership administrator; and

3. A deed restriction or encumbrance has been placed on the property in a form approved by the city attorney, prohibiting the sale of the affordable housing unit(s) to any person or entity other than a qualifying household, and prohibiting the rental of the property, for a period of twenty years from the date of the initial purchase of the affordable housing unit(s) ~~has been placed on the property.~~ The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (i) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender’s successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (ii) twenty years after the date of the initial purchase of the affordable housing unit by the initial qualifying household, provided there is no existing default under the deed restriction or encumbrance. All “for-sale” affordable housing units must be owner-occupied.

B. “For rent” units. No certificate of occupancy shall be issued for any “rental” multi-family building or duplex containing an affordable housing unit(s) unless: ~~(i) the~~

1. The applicant provides documentation satisfactory to the director of development services that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat; ~~and (ii) a~~

2. A deed restriction or encumbrance, has been placed on the property in a form approved by the city attorney, prohibiting the rental of the affordable housing units to any person(s) other than a qualifying household, and prohibiting the conversion of the affordable housing units from “rental” units to “for-sale” units without the prior written approval of the city, for a period of ~~twenty~~fifty years from the date of the issuance of a certificate of occupancy. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden

any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (i) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender's successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (ii) fifty years after the date on which a certificate of occupancy was first issued for the property, provided there is no existing default under the deed restriction or encumbrance.

- C. Not-for-profit facilities. No certificate of occupancy shall be issued for a not-for-profit or public facility building that meets the requirements of Section 16.43.070 and that obtains a fee waiver pursuant to this section unless a deed restriction or encumbrance has been placed on the property in a form approved by the city attorney, prohibiting the sale of the not-for-profit or public facility to any person or entity for a use that does not meet the requirements of Section 16.43.070 for a period of twenty-five years from the date on which a certificate of occupancy was first issued for the property. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (~~1~~) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender's successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (~~2~~) twenty-five years after the date on which a certificate of occupancy was first issued for the property, provided there is no existing default under the deed restriction or encumbrance.

- C. ~~Payment required. If an owner sells a "for sale" unit to a household that does not meet the city's definition of a qualifying household, or rents a "for rent"~~

16.43.090 Sales of deed-restricted affordable housing units.

- A. Every household-buyer of a deed-restricted affordable housing unit must be income-qualified by the community partnership administrator.
- B. Within the deed-restriction period of a particular affordable housing unit, the owner of a deed-restricted affordable housing unit may only sell or transfer the unit to another income-qualified household unless council approves a hardship waiver of the requirements of this section. The requirements of this section shall not apply to the owner of an affordable housing unit with a deed restriction recorded prior to July 1, 2017, but an owner who sells such a prior deed-restricted unit shall be required to pay the city the amounts set forth in the table below.
- C. Deed restriction hardship waiver and payment required. Council may waive the requirement provided in subsection A, above, to allow an owner of a "for sale" affordable housing unit to sell such unit to a household that does not meet the definition of a qualifying household~~at a rent defined as affordable by the Colorado Housing and Finance Authority Rent and Income Table.~~Any requests for such deed restriction hardship waiver must be approved first by the affordable housing commission. The affordable housing commission's denial of a waiver may be appealed to council. A deed restriction waiver granted by council, shall require the owner shall to pay the city the amounts to be calculated as follows: either the amount of capital expansion fees or other fees waived by the City for such affordable housing unit in accordance with this chapter, or the amount set forth by applying the calculation in the table below, whichever amount is higher: -
1. ~~If all or any part of the capital expansion fees or any other fees imposed by the city upon new development were waived in accordance with Section 16.38.080, the owner shall pay the city an amount as required by the following table:~~

<u>Number of years from original sale (if a "for sale" unit), or number of years from the issuance of the first certificate of occupancy (if a "for rent" unit)</u>	<u>Amount owed to city</u>
<u>1</u>	<u>95% of amount waived</u>

2	90% of amount waived
3	85% of amount waived
4	80% of amount waived
5	75% of amount waived
6	70% of amount waived
7	65% of amount waived
8	60% of amount waived
9	55% of amount waived
10	50% of amount waived
11	45% of amount waived
12	40% of amount waived
13	35% of amount waived
14	30% of amount waived
15	25% of amount waived
16	20% of amount waived
17	15% of amount waived
18	10% of amount waived
19	5% of amount waived
20	\$0

~~2. If capital expansion fees or any other fees imposed by the city upon new development were not waived in accordance with Section 16.38.080, the owner shall pay the city an amount as required by the following table:~~

Number of years from date of original sale	Percentage of net proceeds due to city
0-5 years	25%
5-10 years	20%
10-15 years	15%
15-20 years	10%

In no instance shall the payment required shall not exceed the owner's amount of net proceeds from sale of the affordable housing unit.

~~D. C.Hardship waiver. Council may waive all or any portion of the repayment obligations set forth in this section on a case by case basis for good cause shown. Any requests for such hardship waiver must be approved first by the affordable housing commission and recommended for approval of city council. The affordable housing commission's denial of a waiver may be appealed to council.~~

16.43.100100 Use tax credit for ~~qualified~~ affordable housing units.

- A. Incentives provided. An applicant who meets all of the applicable criteria set forth in this section may receive, as a credit against any fees assessed by the city in connection with the construction of new ~~qualified~~ affordable housing units within the city, or in connection with the reconstruction or remodel of an existing dwelling unit within the city, a sum equal to the building materials use tax paid to the city in connection with the construction of such units.
- B. Criteria to receive credit. The credit shall be issued at the time a certificate of occupancy is issued for the single family dwelling, multi-family building or duplex containing an affordable housing unit. In order to receive the use tax credit set forth in Subsection A., the applicant shall meet one of the following criteria:
 1. For "for-sale" dwelling units, the applicant shall provide documentation satisfactory to the director that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat.

2. For “rental” dwelling units, the applicant shall provide documentation satisfactory to the director and the city attorney that the multi-family building or duplex containing affordable housing rental unit(s) are located in an affordable housing development and will provide affordable housing units to qualifying households for not less than twenty years.
- C. Application. Any person or entity that wishes to receive the incentive credit provided for in Subsection A., shall submit a completed use tax credit application to the community partnership administrator. The application shall be accompanied by documentation in support of the criteria set forth in this section. An application which fails to contain complete information and sufficient documentation to support the criteria set forth above shall not be considered. The completed application for the incentive credit shall be submitted and approved prior to issuance of a use tax credit and prior to issuance of a certificate of occupancy.

16.43.110 Annual review of affordable housing ownership.

Once each year, the community partnership administrator shall obtain an ownership report concerning each “for-sale” affordable housing unit for which the city has issued a certificate of occupancy. In the event an affordable housing unit is owned or occupied by a person other than the initial qualifying household, the current owner of the affordable housing unit shall submit documentation to the administrator verifying that the affordable housing unit is owned by a qualifying household and has not been rented. In the event the current owner fails to provide such information in a timely manner, or the information provided fails to support continuing compliance with the requirements set forth in this chapter, the administrator shall advise the current owner in writing that the payment set forth in Section 16.43.080B090C. shall be paid to the city. If the current owner fails to pay the city within thirty days of the date any decision is made by the administrator pursuant to this section, the city may institute appropriate legal proceedings to recover the amount owed. Any such funds recovered shall be placed in the affordable housing fund.

End Title 16

Affordable Housing Code

Presentation to the Planning Commission
February 27, 2017

1

Affordable Housing Code Revisions

Change name to
Community
Housing
Development

Purpose to
mirror the
Comprehensive
Plan and
Affordable
Housing
Commission
goal

2

Affordable Housing Code Revisions

Designation process is two steps:

- Fee lock
- Request for fee waiver

Increase deed restriction on multi-family housing to 50 years

3

Affordable Housing Code Revisions

Simplify multi-family incentive structure:

- Incentive only for affordable units

Do not release deed restriction unless there is a hardship

4

Hardship means
owner must
return a
percentage of
net proceeds
to the City

Simplify fee
waiver
repayment
schedule

5

Discussion

6



Development Services Administration

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MEMORANDUM

To: Loveland Planning Commission

From: Greg George, Special Projects Manager

Date: February 27, 2017

Subject: **Unified Development Code – Development Review Procedures (Second Working Draft) – January 23, 2017**

I. ATTACHMENTS

1. Response to Planning Commission Comments
2. Development Review Procedures (Second Working Draft)
3. Table 2.03.202 – Administrative and Public Hearing Development Approvals
4. Current Notice Radius Distances

II. INTRODUCTION

The document entitled Development Review Procedures (Second Working Draft) (**Attachment 2**) is the same document included in the packet for the January 23th Planning Commission meeting. A revised redlined version of the Second Working Draft will be prepared once the Planning Commission has agreed on revisions. The revised document will become the Development Review Procedures (Third Working Draft) and the document put on hold until, in Task 6, the Planning Commission has another opportunity for review.

The Planning Commission had several questions and comments regarding the Second Working Draft at the January 23, 2017 public hearing. **Attachment 1 - Responses to Planning Commission Comments** catalogues those comments for tracking purposes. The column headed “Recommendation” provides a response from the project team for each comment. Some responses identify comments where corrections will be made and reflected in the Third Working Draft. Other responses identify comments where, in this memorandum, the planning team is providing additional information and recommendations to the Planning Commission.

The project team requests that the Planning Commission consider the information and recommendations presented in this memorandum and give the project team further direction on revisions to the Second Working Draft. The project team would also like to know of any other questions or concerns regarding additional revisions. The project team will present final revisions to the Second Working Draft at the March 13th Planning Commission meeting.

III. PROJECT TEAM RECOMENDATIONS

The page numbers in **bold** font refer to the page numbers in the Development Review Procedures (Second Working Draft). Please refer to those pages in the Second Working Draft as you review the information and recommendations provided in this memorandum.

ITEM A. Review Procedures: The project team recommends the following revisions relative to the development review procedures for Uses-by Right, Limited Use, Adaptable Use and Conditional Use applications. Revisions to **Table 2.03.202 – Administrative and Public Hearing Development Approvals (Attachment 3)** are also recommended to identify application types requiring a neighborhood meeting.

2.03.301 Process Overview (page 14 of 33): Add the following descriptions for the four development review procedures to subsection 2.03.301.A. This language makes it clear that a neighborhood meeting is required for Adaptable Uses and Conditional Uses.

A. Generally. This Division sets out the steps in the standardized development review process. ~~Some types of applications may involve additional or alternative procedures. Those applications, and their unique procedural attributes, are set out in Division 2.07.06. Appeals are subject to Division 2.03.06, Administrative Appeals, and not this Division. The four types of review procedures for approving land uses are generally described as follows:~~

1. **Use-by-Right** means a land use approved by the Director upon a finding of compliance with the generally applicable standards of this UDC.
2. **Limited Use** means a land use approved by the Director upon a finding of compliance with generally applicable and use specific standards of this UDC.
3. **Adaptable Use** means a land use approved by the Director upon a finding of compliance with generally applicable and use specific standards of this UDC. During the review, the applicant conducts a neighborhood meeting in accordance with Section 2.03.305, Neighborhood Meetings. The decision of the Director may include conditions of approval requiring qualitative impact mitigation measures.
4. **Conditional Use** means a land use approved by the Planning Commission upon a finding of compliance with generally applicable and use specific standards of this UDC. During the review, the applicant conducts a neighborhood meeting in accordance with Section 2.03.305, Neighborhood Meetings. The Planning Commissions conducts a public hearing in accordance with Section 2.03.310, Public Hearing Notice and Schedule. The Director's recommendation may include conditions of approval requiring qualitative impact mitigation measures. The Planning Commission decision may include conditions of approval requiring qualitative impact mitigation measures.

ITEM B. (page 16 of 33) Threshold Review: The project team makes the following recommendations relative to the Director having discretion to require a neighborhood meeting.

2.03.304 Threshold Review: Delete the following language to eliminate the Director's discretion to require a neighborhood meeting. A neighborhood meeting would be a requirement for all Adaptable Uses and Conditional Uses. These revisions would simplify and create more certainty in the process. As is the case now, the applicant and City staff could conduct the neighborhood meeting early in the review process instead of waiting for the Director to decide if a neighborhood meeting is required based on comments received after notice to and comments from the neighborhood.

2.03.304 Threshold Review

~~A. **Generally.** Proposed development that meets certain thresholds shall be presented at a neighborhood meeting pursuant to Section 2.03.305, Neighborhood Meetings, before a formal application is filed.~~

~~B. **Timing of Threshold Review.** The Director shall conduct a threshold review determination at the pre-submittal conference. If the proposed development is modified between the pre-submittal conference and formal application, the Director shall also conduct a threshold review at the applicant's request or upon formal application, whichever is earlier. If a neighborhood meeting is required, a formal application shall not be accepted until the neighborhood meeting is conducted.~~

~~C. **Thresholds.** A neighborhood meeting shall be conducted pursuant to Section 2.03.305, Neighborhood Meetings, if:~~

- ~~1. The subject property is located (TBD)~~
- ~~2. The development involves (TBD)~~

~~Note: Thresholds could be based on use, intensity, density, adjacency, traffic impacts, etc.~~

2.03.305 Neighborhood Meetings

~~A. **Generally.**~~

~~1. If any threshold established by Section 2.03.304, Threshold Review, is met, then the applicant shall conduct a neighborhood meeting.~~

~~2. The Director may also require a neighborhood meeting for the following types of applications if, based on written comments received from the public pursuant to Section 2.03.312, Public Comment, and the level of compliance with this Code that is demonstrated by the application, the Director determines that a neighborhood meeting would be a productive means to resolve outstanding issues of code compliance:~~

- ~~a. adaptable or conditional uses;~~
- ~~b. zoning map amendments;~~
- ~~c. certificates of designation;~~
- ~~d. height exceptions;~~
- ~~e. oil and gas permits;~~
- ~~f. sketch plat;~~
- ~~g. vacation of easement or right of way;~~

- ~~h.—vacation of access easement;~~
- ~~i.—exceptions to subdivision requirements;~~
- ~~j.—general development plans; and~~
- ~~k.—preliminary development plans.~~

~~3.—The Director may also require a neighborhood meeting for proposed text amendments that are likely to have a significant impact on particular neighborhoods.~~

ITEM C. (page 16 of 33) Neighborhood Meetings: To clarify that City staff will prepare a summary of the neighborhood meeting, the project team recommends the addition of the following subsection to **Section 2.03.305 - Neighborhood Meetings**.

City Staff Summary. City staff shall create a summary of the neighborhood meeting for inclusion in the Planning Commission staff report and/or project file for the development, based upon the type of approval process.

ITEM D. (page 17 of 33) Neighborhood Meetings: To clarify the responsibilities of the applicant and City staff at a neighborhood meeting, the project team recommends the addition of the following language to subsection 2.03.305.B.2.

2. *Intent.* Neighborhood meetings are ~~intended to be~~ forums in which the applicant and ~~City residents~~ community members work together in good faith. However, they are not required to ~~generate complete~~ achieve consensus on all aspects of the application, nor to supplant or add to the standards of this Unified Development Code. The applicant is primarily responsible for describing the development and answering questions about the development and potential impacts on the community. City staff is primarily responsible for describing applicable review procedures and opportunities for public input.

ITEM E: (page 32 of 33) Standing to Appeal Versus Ability to Comment: Some Planning Commission members had questions concerning the difference between parties who have standing to appeal a decision by the Director and individuals who do not have standing to appeal but wish to provide comments at a Planning Commission public hearing. Section 2.03.603 includes a definition of “party”, which clearly establishes persons that may file an appeal petition. Section 2.03.313.B (**page 21 of 33**) clearly establishes procedures for public hearings; including persons that may appear at a public hearing, submit evidence, and be heard. Therefore, the project team recommends no revisions to either of these sections.

ITEM F. (page 24 of 33) Vested Rights: The project team recommends no revisions to the language in subsection 2.03.315.F. City Council should have the ability to exercise its full legislative discretion in granting extensions of vested rights based on the merits of the development and the criteria in subsection 2.03.315.E.

ITEM G. (page 28 of 33) Standardization of Notice Radius for Neighborhood Meetings: The following illustrations and recommendations are to assist the Planning Commission in making decisions

regarding standardizing the notice radius distances for neighborhood meetings and public hearings as reflected in Section 2.03.503 and Table 2.03.503.

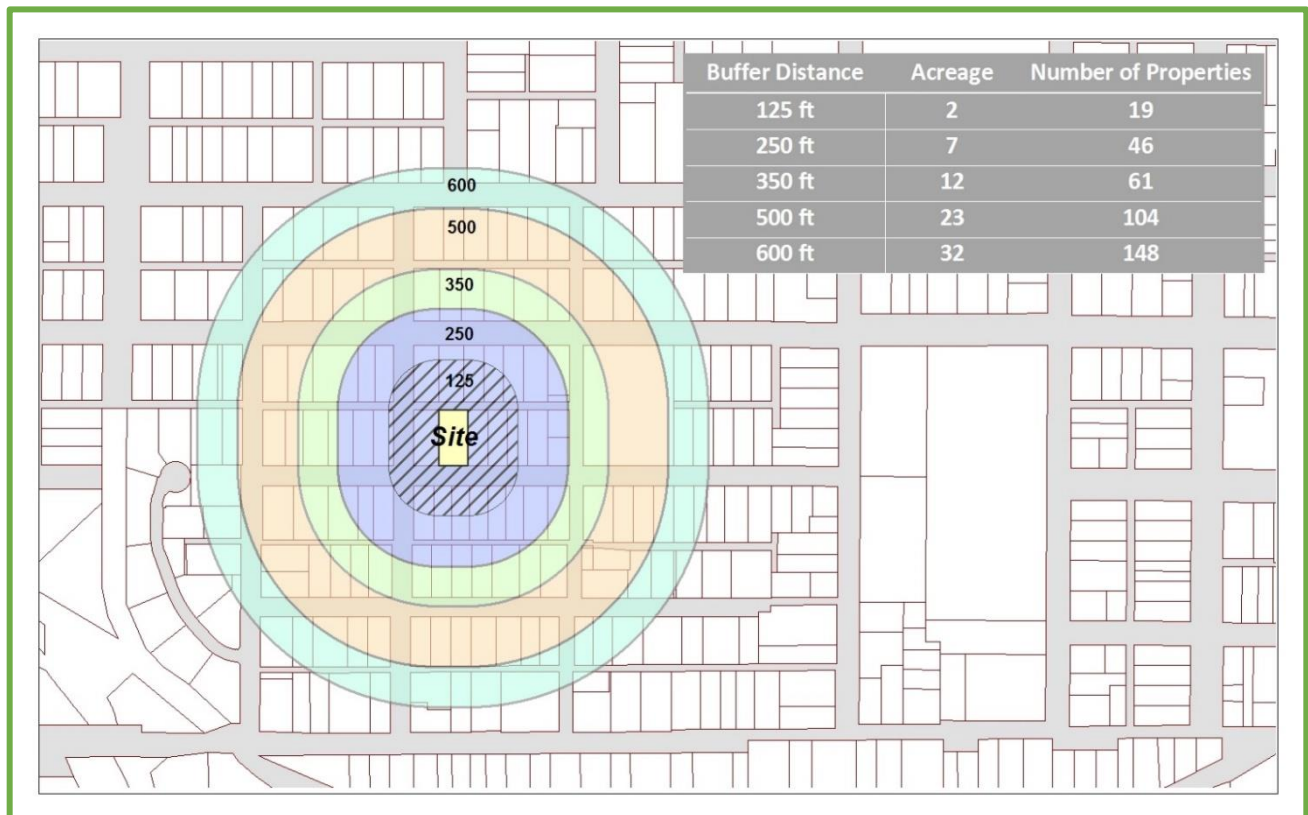
For comparison, the two tables in **Attachment 4** show the radius distances required under the City’s current zoning and subdivision codes for neighborhood meetings and public hearings.

The following diagrams show examples of different notice radius distances for four sample development sites. The table in each illustration shows the number of property owners notified and the acreage included within the respective notice areas.

Site A. Downtown Residential: This sample site shows different radius distances if, for example, the owner proposed to construct an accessory dwelling unit. Under current regulations, the use is a special review use in the R1e zone, so the current notice radius distance is 300 feet (see **Attachment 4**). The 300 feet reflects a 50% reduction for an infill site. The definition of infill in the current code is property having at least 80% of its boundary adjacent to properties within existing City limits.

If under the new UDC the use is designated an Adaptable Use in the R1e zoning district, then the Development Review Procedures (Second Working Draft) would require a notice radius distance of 125 feet for an “infill” development. The recommendations in this staff memorandum are to eliminate the reduction in notice distance radius for “infill” development and, therefore, the required notice radius distance would be 300 feet.

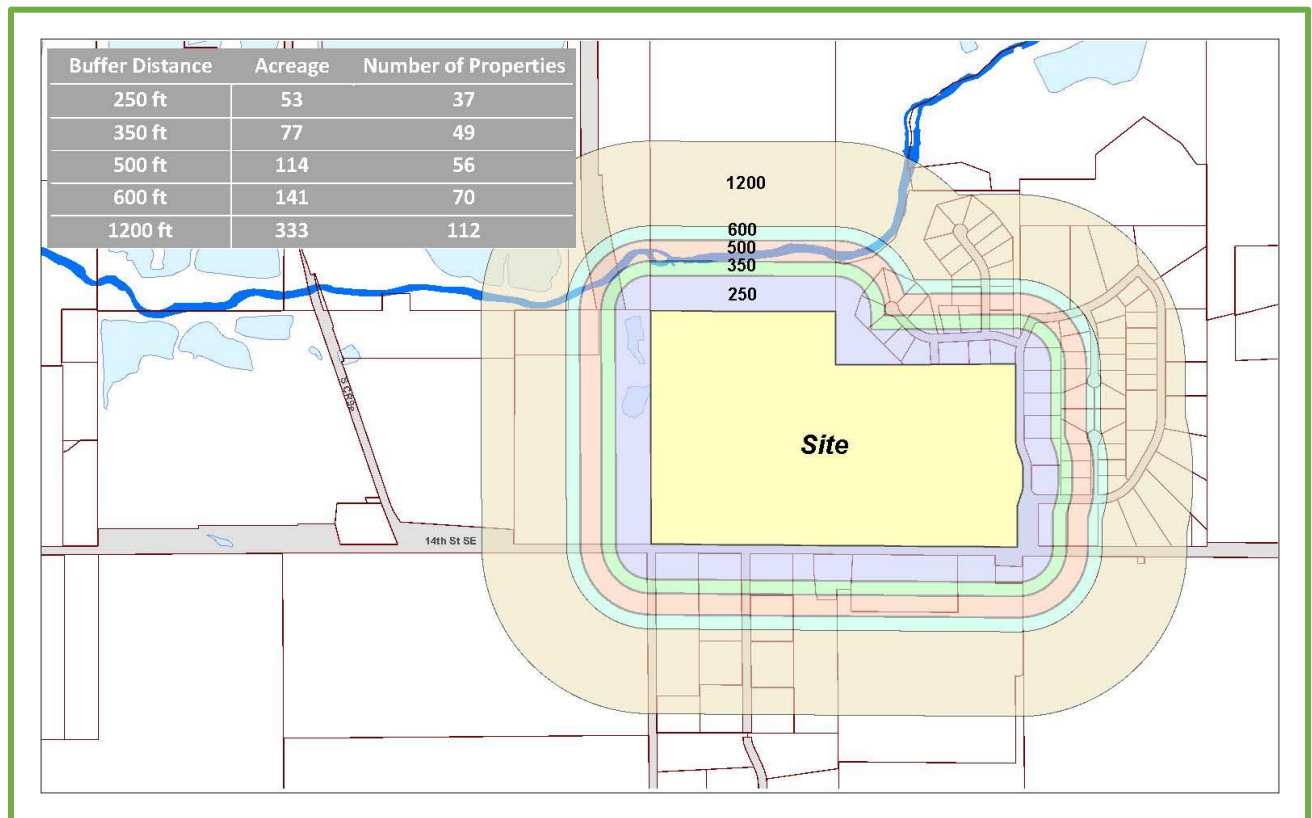
Site A - Downtown Residential



Site B. Rural Fringe: This sample site shows different radius distances in a rural setting along Highway 402 if a major amendment was proposed to the Conceptual Master Plan approved under the Mixed-Use Activity Center (MAC) zoning. The current notice radius distance (see **Attachment 4**) would be 1,200 feet for property greater in size than 50 acres.

The Development Review Procedures (Second Working Draft) would require a notice radius distance of 250 feet. The recommendations in this staff memorandum would require a notice radius distance of 500 feet.

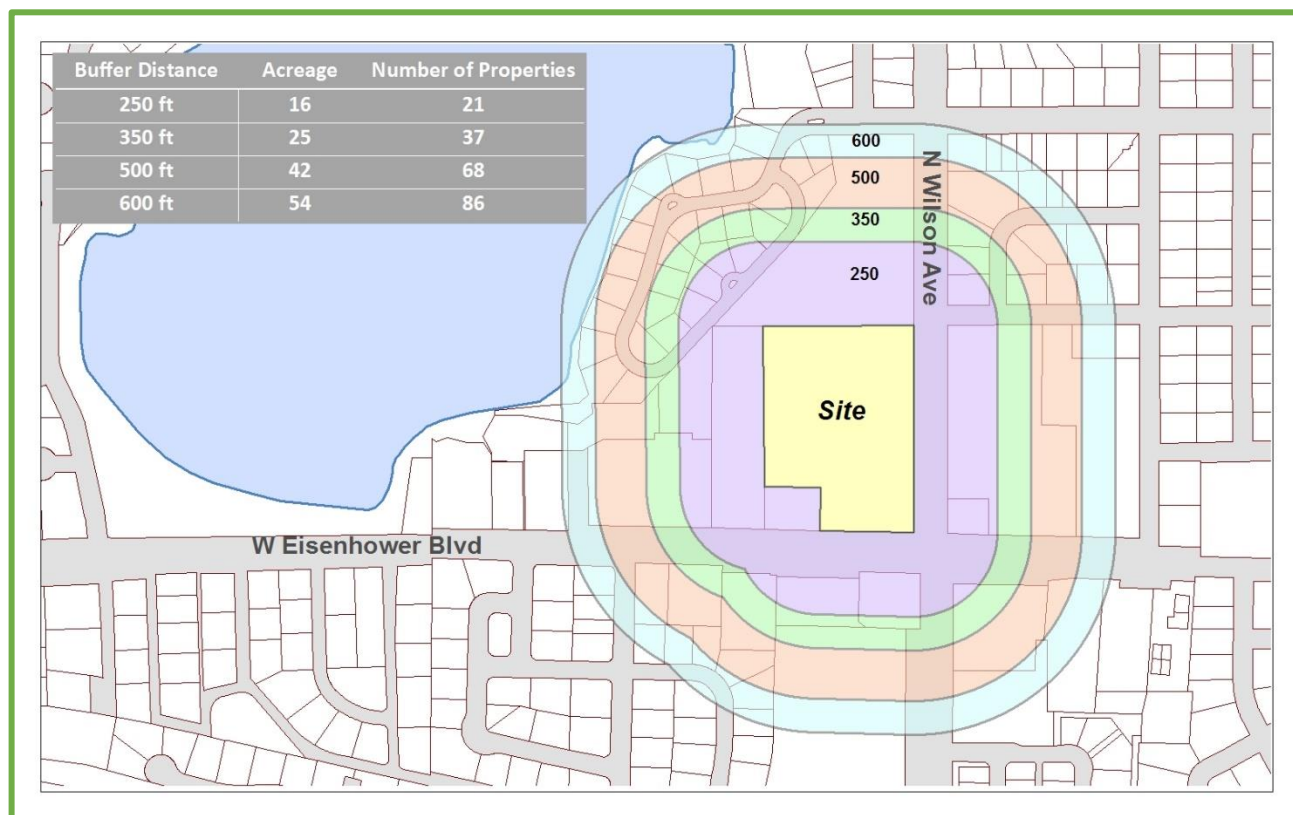
Site B - Rural Fringe



Site C. Large Commercial Redevelopment Site: This sample site shows different radius distances for a commercial redevelopment site containing approximately 12 acres along east Eisenhower Boulevard. If such a development included special review uses, such as a convenience store, the current notice radius distance (see **Attachment 3**) would be 300 feet, reflecting a 50% reduction for an infill site.

If the use is designated an Adaptable Use in the new UDC, then the Development Review Procedures (Second Working Draft) would require a notice radius distance of 250 feet. The recommendations in this staff memorandum would require a notice radius distance of 300 feet.

Site C. - Large Commercial Redevelopment Site



Project Team Recommendations: The project team recommends a three-tier method for determining notice radius distances. The illustrations show that a notice distance radius of 250 feet may not provide adequate notice for larger development sites and certain application types. The Development Review Procedures (Second Working Draft) also includes complicated provisions allowing a reduction in the notice distance radius for infill projects and expansion in the notice radius distance at the Director's discretion. The project team recommends the elimination of these provisions to simplify and provide more certainty.

The three-tier method would include radius distances of 150, 300 and 500 feet, except that the notice distance for oil and gas permits would remain at 2,200 feet. A radius distance of 150 feet is included for application types that inherently have little impact on property beyond those adjacent to the project, such as vacation of right-of-way. The 250-foot radius is increased to 300 feet to better align with current practices and to physical features, such as typical block size. A radius distance of 500 feet is included to

expand the notice area for application types and land uses projects that may have impacts on a broader segment of the community, such as heavy vehicle traffic and noise in an established neighborhood. **Table 2.03.503** has been revised, as shown on the next page, to assign these three radius distances to each application type and land use review procedure.

The following is an example of the revisions to **Table 2.03.503 (Page 29 of 33)**. Creation of the final table would occur after creation of the development standards in Task 4 and 5 and review by Planning Commission.

Table 2.03.503 Notice Area ^{1, 2}	
Approval Type	Notice Distance
Zoning / Amendments	
Rezoning (Map Amendment)	250 <u>300</u> ft.
<u>Annexation / Zoning</u>	<u>500 ft.</u>
<u>Conceptual Master Plan / Major Amendment</u>	<u>500 ft.</u>
Zoning / Land Use	
Adaptable Use (also Major Home Occupation)	250 <u>300</u> ft. ³
<u>Adaptable Use</u>	<u>300 ft.</u>
Conditional Use	250 <u>500</u> ft.
Certificate of Designation	2,000 <u>500</u> ft.
Zoning / Development Permits and Approvals	
Height Exception	<u>250 ft.</u>
Setback Modifications	Abutting property closest to modified setback
Oil and Gas Permit (Administrative)	2,000 <u>2,200</u> ft. ⁴
Oil and Gas Permit (Public Hearing)	2,000 <u>2,200</u> ft. ⁴
Subdivision / Plat	
Sketch Plat for Subdivision Plat	250 ft. <u>300</u>
Vacation of Right-of-Way	250 <u>150</u> ft.
Vacation of Access Easement	250 ft. <u>Notice to parties having interest in easement</u>
Vacation of Obsolete Subdivision	250 <u>300</u> ft.
Exceptions to Subdivision Requirements	250 <u>300</u> ft.
<u>Planned Unit Developments (prior adoption of UDC)</u>	
General Development Plan/ <u>Major Amendment</u>	250 <u>500</u> ft.
Preliminary Development Plan/ <u>Major Amendment</u>	250 <u>300</u> ft.

Approval Type	Notice Distance
<u>Planned Unit Development (upon adoption of UDC)</u>	
<u>PUD Concept Plan</u>	<u>500 ft.</u>
<u>PUD Zoning Document</u>	<u>500 ft.</u>
Variances and Appeals	
Variance	250 <u>150</u> ft.
Approval Type	Notice Distance
Administrative Appeal from Director's Decision	same as original decision
Administrative Appeal from Planning Commission Decision	same as original decision
Comprehensive Plan	
Amendments to Future Land Use Map	250 <u>300</u> ft.
<u>Development Requiring Approval by Planning Commission in BE Zoning District</u>	<u>300 ft.</u>

RESPONSES TO PLANNING COMMISSION COMMENTS

UNIFIED DEVELOPMENT CODE

Task 2 – Development Review Procedures (Second Working Draft)

The table tracks comments received from the Planning Commission at their January 23, 2017 meeting. The table will include additional comments as review of the Development Review Procedures (Second Working Draft) continues.

For each comment, the column headed “Recommendation”, identifies:

- (i) Revisions to be made and reflected in the redlined version of the Second Working Draft;
- (ii) Recommendations where the project team is providing additional information to the Planning Commission in the staff memorandum for the February 27th meeting; and
- (iii) Comments where the project team will present additional information and recommendations to the Planning Commission at the March 13th meeting.

Note: 1. Bold page numbers in parenthesis in the column headed **Comment/Questions** correspond to the page numbers in the Development Review Procedures (Second Working Draft), dated January 23, 2017. The information and recommendations from the project team referred to in the column headed **Recommendation** are presented in the staff memorandum.

#	Topic	Comment By	Comment/Question ¹	Recommendation
1	Grammatical	Carol Dowding	Subsection 2.02.101.A (page 3 of 33) The second sentence should be two sentences.	Correction to be made
2	Formatting	Carol Dowding	Subsection 2.02.202.B.1(c) (page 5 of 33) The parentheses should be removed around “Public Hearing”.	Correction to be made
3	Elected and appointed officials	PC members	Division 2.02.02 (page 5 of 33) Is it necessary to set forth all the items in this division with respect to City Council and Planning Commission?	The project team will present a recommendation to the Planning Commission at the March 13 th meeting.
4	Planning Commission membership	Carol Dowding	Subsection 2.02.202.C (page 6 of 33) States that Planning Commission members must be residents of Loveland.	Correction to be made consistent with amended Boards and Commissions Handbook
5	Required development approvals	Carol Dowding	Table 2.03.202 (page 8 of 33) Add an additional column to the table instead of using an asterisk to denote application types that are appealable to a higher-level decision body.	Correction to be made

RESPONSES TO PLANNING COMMISSION COMMENTS

#	Topic	Comment By	Comment/Question ¹	Recommendation
6	Numbering	PC members	<i>Subsection 2.03.301.A (page 8 of 33)</i> The reference to appeals being subject to Division 2.03.06 is incorrect. Number system is confusing.	Project Team will consider numbering options and present a recommendation to Planning Commission at the March 13 th meeting.
7	Neighborhood meeting	PC members	<i>Subsection 2.03.305.A.2 (page 14 of 33):</i> <ul style="list-style-type: none"> Need definition of four review procedures for development applications (Use-by-Right, Limited Use, Adaptable Use and Condition Use) Should a neighborhood meeting be required for a Conditional Use? 	Recommendation: Add definitions of the four review procedures to <i>Subsection 2.03.301.A Review Procedures</i> . In the definitions of Adaptable Use and Conditional Use establish the requirement for a neighborhood meeting. (See staff memorandum, page 2, ITEM A. Review Procedures).
8	Capitalization	Carol Dowding	<i>Subsection 2.03.303.B.1 (page 15 of 33)</i> Capitalize "zoning board of adjustment".	Correction to be made
9	Neighborhood meetings		<i>Sections 2.03.304 and 2.03.305 (page 16 of 33)</i> Should the Director have discretion to require a neighborhood meeting and, if so, is the threshold criteria sufficient?	Recommendation: Delete <i>Section 2.03.304</i> and <i>Section 2.03.305</i> to eliminate Director's discretion and include a table to establish those application types requiring a neighborhood meeting. (See staff memorandum, page 3, ITEM B. Threshold Review).
10	Neighborhood meetings	PC members	<i>Section 2.03.305.B (page 16 of 33)</i> Should the UDC contain language clarifying that City staff will prepare a summary of the neighborhood meeting?	Recommendation: Add language to <i>Subsection 2.03.305.B.2</i> to clarify that City staff include a summary of the meeting in the staff report to the Planning Commission. (See staff memorandum, page 4, ITEM C. Neighborhood Meetings).
11	Neighborhood meetings	PC members	<i>Subsection 2.03.305.B (2) (page 17 of 33)</i> Provide more information to explain the role of City staff at neighborhood meetings.	Recommendation: Add language to <i>Subsection 2.03.305.B (2)</i> . to clarify the role of City staff at neighborhood meetings. (See staff memorandum, page 4, ITEM D. Neighborhood Meetings).

#	Topic	Comment By	Comment/Question ¹	Recommendation
12	Grammatical	Carol Dowding	<i>Subsection 2.03.313.A (page 21 of 33)</i> Do not use the words “public hearing” twice in the same sentence.	Correction to be made
13	Standing to appeal versus ability to comment	PC Members	<i>Section 2.03.313.B (pages 21 and 32 of 33)</i> Some Planning Commission members had questions about the difference between an individual having standing to appeal and being able to provide comment at a public hear.	Recommendation: No change to <i>Section 2.03.603</i> , establishing parties who have standing to appeal. No change to <i>Section 2.03.313.B</i> , establishing hearing procedures for public hearings. (<i>See staff memorandum, page 4, ITEM E. Standing to Appeal Versus Ability to Comment</i>).
14	Vested rights	PC members	<i>Subsection 2.03.315. F (page 24 of 33)</i> Should there be a limit on the number of times City Council can grant an extension to vested rights?	Recommendation: Current language to remain unchanged allowing City Council to determine how many extensions to approve based on the merits of the project. (<i>See staff memorandum, page 4, ITEM F. Vested Rights</i>).
15	Standardized notice radius for neighborhood meetings	PC members	<i>Section 2.03.503 (page 28 of 33)</i> <ul style="list-style-type: none"> Does the notice area using the recommended standardized radius distance of 250 feet provide adequate notice. The 250-foot distance seems arbitrary. 	Recommendation: Consider the information, illustrations and recommendations included in the Planning Commission staff memorandum dated February 27 th . Project team recommends a three-tier standardized method. (<i>See staff memorandum, pages 4-9, ITEM G. Standardization of Notice Radius for Neighborhood Meetings</i>).

UNIFIED DEVELOPMENT CODE UPDATE

Development Review Procedures (Second Working Draft)

**Presented to:
Loveland Planning Commission**

January 23, 2017 Public Hearing

TABLE OF CONTENTS

	PAGE
Division 2.02.01 City Staff and Referral Agencies	2 of 33
Division 2.02.02 Elected and Appointed Officials	4 of 33
Division 2.03.01 Purpose and Application	6 of 33
Division 2.03.02 Required Development Approvals	7 of 33
Division 2.03.03 Standardized Development Review Procedures	13 of 33
Division 2.03.05 Required Notices	25 of 33
Division 2.03.06 Administrative Appeals	31 of 33

CHAPTER 2.02 DEVELOPMENT REVIEW BODIES

Division 2.02.01 City Staff and Referral Agencies

2.02.101 Director of Development Services

- A. **Generally.** The Director of Development Services ("Director") is the member of the City Staff who is ultimately responsible for processing an application to decision (in the case of administrative approvals) or making a recommendation to an approving body (in the case of public hearing approvals). The Director shall designate staff members to manage applications through the review process and be points of contact for applicants, and may also delegate review responsibilities to other members of the City Staff with relevant technical training or expertise, or, as appropriate, to consultants that are authorized by the City Council.
- B. **Duties and Responsibilities.** The Director shall allocate and supervise staff from the Development Services Department to administer this Code, including the following functions:
1. Coordinating and conducting concept review meetings.
 2. Coordinating and conducting various meetings with applicants and citizens relating to development review and planning activities.
 3. Receiving and logging applications for development approval.
 4. Keeping records of development applications, including materials and outcomes.
 5. Reviewing application materials and verifying that applications are complete.
 6. Communicating with applicants to inform them that their applications are complete or not complete; and if the applications are not complete, what items are required to complete the application.
 7. Managing the processing of applications according to Chapter 2.03, Review Procedures.
 8. Processing and reviewing all applications (or causing applications to be reviewed) and either deciding the applications or making a recommendation regarding how the application should be decided based on the record documents and the applicable provisions of this Code.
 9. Setting applications on agendas of the Planning Commission or City Council, as appropriate.
 10. Setting applications on agendas for the Zoning Board of Adjustment and other boards and commission as appropriate.
 11. Providing public notice (or verifying public notice) as required by this Code.
 12. Promptly issuing written approvals, permits, resolutions, or orders that reflect the substance of approvals granted pursuant to this Code.
 13. Maintaining the Zoning Map, including:
 - a. Updates to reflect rezoning;
 - b. Appropriate annotations to indicate adaptable use approvals;
 - c. Appropriate annotations to indicate limited use approvals; and
 - d. Resolution numbers to indicate conditional use approvals.
 14. Tracking the term of approvals, and keeping records of approvals that have expired.
 15. Enforcing the provisions of this Code and approvals granted hereunder.
 16. Making recommendations regarding amendments to this Code and to the Comprehensive Plan and other land use or strategic plans approved or adopted by the City.
 17. Developing or supervising the development of master plans, special area plans, or strategic plans, however titled, as directed by the City Council.

2.02.102 Referral Agencies

- A. **Generally.** The Director shall maintain a list of referral agencies, including but not limited to: special districts, fire protection districts, school districts, ditch or reservoir companies, irrigation districts, and utility providers that may be affected by land use and development within the City. The Director shall refer applications to affected referral agencies as required by this Code or, if not required by this Code, as the Director may determine appropriate
- B. **Referral Agency Review.** The applicant for development approval shall be responsible for the payment of review fees charged by referral agencies, if any.

Division 2.02.02 Elected and Appointed Officials

2.02.201 City Council

- A. **Powers.** The City Council shall have all powers conferred upon it by the City of Loveland Home Rule Charter.
- B. **Delegations.** The City Council delegates authority to the Director, the Planning Commission, and the Board of Adjustment and Appeals as provided in this Code.
- C. **Appointments.** The City Council shall have the power to appoint members of the Planning Commission, the Board of Adjustment and Appeals as provided in Article 10 of the City of Loveland Home Rule Charter.
- D. **Meetings and Procedures.** Meetings of the City Council shall be conducted as provided in Article 4 of the City of Loveland Home Rule Charter.
- E. **Decisions.** The City Council shall decide applications for:
 - 1. Code Text Amendments
 - 2. Rezoning
 - 3. Certificates of Designation
 - 4. Vacations of Existing Right-of-Way
 - 5. Vacation of Obsolete Subdivisions
 - 6. General Development Plan
 - 7. Creation of Vested Rights
 - 8. Extension of Vested Rights
 - 9. Administrative Appeals from decisions of the Planning Commission (except decisions by the Planning Commission on appeals from decisions of the Director)
 - 10. City Council shall also adopt the comprehensive plans and other plans for the physical development of the City.

2.02.202 Planning Commission

- A. **Generally.** There is established a Planning Commission consisting of nine members appointed by the City Council.
- B. **Powers and Duties.** The Planning Commission shall:
 - 1. Consider and decide the following types of applications:
 - a. Conditional Use
 - b. Height Exception
 - c. Oil and Gas Permit (Public Hearing)
 - d. Preliminary Development Plan
 - 2. The Planning Commission shall consider and recommend to the City Council approval, approval with conditions, or disapproval of the following types of applications:
 - a. Rezoning
 - b. Certificate of Designation
 - c. General Development Plan
 - d. Amendments to the Unified Development Code
 - 3. The Planning Commission shall decide appeals from final decisions of the Director.

4. The Planning Commission also shall consider and advise the City Council on all proposed changes to the Unified Development Code and recommend adoption of comprehensive plans for the physical development of the City, which plans may be adopted by resolution of the City Council, and perform such other duties as the City Council may by ordinance or resolution prescribe.
- C. **Qualifications for Membership.** All members of the Planning Commission shall be bona fide residents of the city of Loveland.
- D. **Selection of Membership.** Planning Commissioners shall be appointed by majority vote of a quorum of the City Council.
- E. **Term of Office.** The term of office for each member shall be three years.
- F. **Vacancies.** Vacancies shall be filled by majority vote of the City Council. The person appointed to fill a vacancy shall serve for the remainder of the original term, and may thereafter be re-appointed.
- G. **Order of Business.** The order of business at all regular meetings shall be established by the Planning Commission.
- H. **Regular Meetings.** Regular meetings of the Planning Commission shall be held in Council chambers, or other place designated by the Planning Commission Chairperson, in accordance with the schedule of meetings adopted by Council.
- I. **Special Meetings.** Special meetings shall be held upon the call of the chairperson or vice-chairperson or upon written request of two members of the Planning Commission. Notice of special meetings shall be given as much in advance as is reasonable under the circumstances requiring the meeting by notice to each of the members. Such notice shall set forth a time, place, date and purpose of the meeting.

2.02.203 Zoning Board of Adjustment

- A. **Generally.** The Zoning Board of Adjustment is hereby created and delegated the authority to grant variances to the regulations contained in this Title.
- B. **Powers and Duties.** The Zoning Board of Adjustment shall be empowered to grant variances from certain standards set forth in this Title according to the standards set out in [Section 2.05.303, Variances](#).
- C. **Membership.** The Zoning Board of Adjustment shall be composed of the members of the Planning Commission as it may be constituted from time to time.
- D. **Hearing Officer.** The Zoning Board of Adjustment may appoint a Zoning Hearing Officer from within the Board to conduct public hearings and make decisions on variances. The Hearing Officer may forward any matter on to the full Zoning Board of Adjustment.
- E. **Order of Business.** The order of business at all regular meetings shall be established by the Board of Adjustment and Appeals.
- F. **Regular Meetings.** Regular meetings of the Zoning Board of Adjustment shall be held in Council chambers, or other place designated by the Zoning Board of Adjustment Chairperson, in accordance with the schedule of meetings adopted by Council.
- G. **Special Meetings.** Special meetings shall be held upon the call of the chairperson or vice-chairperson or upon written request of two members of the Zoning Board of Adjustment. Notice of special meetings shall be given as much in advance as is reasonable under the circumstances requiring the meeting by notice to each of the members, personally served or left at their usual places of residence. Such notice shall set forth a time, place, date and purpose of the meeting.

Division 2.03.01 Purpose and Application

2.03.101 Purpose

The purpose of this Chapter is to set out a standardized process for development review and administrative appeals in the City.

2.03.102 Application

- A. **Generally.** All procedures for obtaining development approvals and for appealing decisions of the Director or the Planning Commission are set out in this Chapter.
- B. **Required Development Approvals.** [Division 2.03.02, Required Development Approvals](#), sets out the approvals and permits that may be required by the City for the use and development of real property. Section [2.03.202, Administrative and Public Hearing Development Approvals](#), sets out a comprehensive list of approvals and permits, along with their associated procedural requirements.
- C. **Standardized Development Review Procedures.** [Division 2.03.03 Standardized Development Review Procedures](#), sets out the standardized procedures for development review in the City.
- D. **Modifications and Corrections.** [Division 2.03.04, Modifications and Corrections](#), establishes the procedures to modify existing approvals and to correct scrivener's errors.
- E. **Required Notices.** [Division 2.03.05 Required Notices](#), details the notice requirements for each type of application that requires one or more public notices.
- F. **Administrative Appeals.** [Division 2.03.06 Administrative Appeals](#), sets out the process for appealing a decision of the Director or the Planning Commission.

Division 2.03.02 Required Development Approvals

2.03.201 Development Approval Required

Development approval is required for development within the City of Loveland unless specifically exempt from the application of this Code.

2.03.202 Administrative and Public Hearing Development Approvals

- A. **Generally.** Administrative development approvals are issued by the Director, the Floodplain Administrator or the City Engineer. Public hearing development approvals are granted by the Planning Commission, the Board of Adjustment and Appeals, the Floodplain Appeals Board, or the City Council after public hearing.
- B. **Approval Types.** Table 2.03.202, *Administrative and Public Hearing Development Approvals* sets out the development approvals that are required by this Code and whether they are approved administratively or after public hearing. Applications that can be appealed to a higher level decision body are identified with an asterisk *.

Table 2.03.202 Administrative and Public Hearing Development Approvals					
Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Zoning / Amendments					
Text Amendment	Amending the text of this Code	Yes	Yes	Planning Commission ("PC")	City Council ("CC")
Rezoning (Map Amendment)	Amending zoning district boundaries on the official zoning map	Yes	Yes	PC	CC
Zoning / Land Use					
Permitted Use	Establishment or material modification of a Permitted Use	No	No	NA	Director
Limited Use	Establishment or material modification of a Limited Use	No	No	NA	Director
Adaptable Use (also Major Home Occupation)*	Establishment or material modification of an Adaptable Use	Yes	Yes	NA	Director
Conditional Use*	Establishment or material modification of a Conditional Use	Yes	Yes	Director	PC

Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Certificate of Designation	As provided by Colorado Statutes (e.g., hazardous waste disposal sites (see C.R.S. § 25-15-201, et seq.); hazardous waste incinerators (see C.R.S. § 25-15-501, et seq.); solid waste disposal site or facility (see C.R.S. § 30-20-100.5, et seq.); waste tire monofills (see C.R.S. § 30-20-1415))	Yes	Yes (including CDPHE)	PC	CC
Zoning / Development Permits and Approvals					
Master Sketch Plan	Phased development where site development plan is not submitted for all phases at one time	No	No	NA	Director
Sketch Site Development Plan	All development except agriculture, single-family detached residential, and duplex	No	No	NA	Director
Final Site Development Plan	All development except agriculture, single-family detached residential, and duplex, including final civil improvement drawings	No	No	NA	Director
Design Approval	Approval of architectural design in locations where architectural standards are applicable	No	No	NA	Director
Height Exception*	Approval of exceptions to the building height limitations of this Code	Yes	No	Director	PC
Setback Modification*	Approval of modifications to required setbacks	Yes	Yes, if modification affects easement holder	NA	Director
Oil and Gas Permit (Administrative)	Approval of oil and gas operations that involve surface use, pursuant to Chapter TBD	Yes	Yes	NA	Director
Oil and Gas Permit (Public Hearing)*	Approval of oil and gas operations that involve surface use, pursuant to Chapter TBD	Yes	Yes	Director	PC

Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Sign Permit	Installation of sign, or modification of sign for which permit is required pursuant to Section TBD	No	No	NA	Director
Erosion and Sediment Control Permit	Approval of cutting, dredging, filling, excavating, or stockpiling more than TBD cubic yards of rock, soil, or other fill material, but not including such activities with regard to agricultural operations or maintenance of existing ditches, reservoirs, or constructed wetlands.	No	Discretionary	NA	City Engineer
Site Work Permit	Authorizes horizontal construction	No	Yes	NA	City Engineer
Subdivision / Plat					
Plat or Annexation Map Corrections	Correcting minor errors and omissions on a plat or annexation map	No	Discretionary	NA	Director
Simple Plat, Lot Merger, or Boundary Line Adjustment	Platting a single lot that is contiguous with the boundaries of a single parcel that is described by metes and bounds; removing lot lines from a plat in order to merge abutting lots into a single lot; or moving a lot line that is shown on a subdivision plat	No	Discretionary	NA	Director
Sketch Plat*	Preliminary approval of plat design, a prerequisite to approval of a subdivision plat	Yes	Yes	NA	Director
Subdivision Plat	Creation of one or more new lots	No	Discretionary	NA	Director
Vacation of Right-of-Way	Vacation of a right-of-way that was dedicated to the City by plat, deed, or other recorded instrument	Yes	Discretionary	Director	CC

Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Termination of Required Private Easement*	Termination of a private easement that was required by a development approval and subsequently created by plat, deed, or other recorded instrument	Yes	Yes	NA	Director
Vacation of Required Obsolete Subdivision	Vacation of an obsolete subdivision as defined in Section TBD	Yes	Yes	Director	CC
Exceptions to Subdivision Requirements*	Approval of a subdivision plat that does not strictly comply with the applicable requirements of this Code	Yes	Yes	NA	City Engineer
Planned Unit Developments					
General Development Plan	Approval of zoning for a Planned Unit Development and general layout of a PUD project	Yes	Yes	PC	CC
Preliminary Development Plan*	Approval of land use and general patterns of development in a PUD project	Yes	Yes	Director	PC
Final Development Plan	Approval of specific development within a PUD project	No	Yes	NA	Director
Vested Rights					
Creation of Vested Rights	Vesting the right to implement a site specific development plan for a period of 3 years or more	See Sec. 2.01.411	Discretionary	Director	CC
Extension of Vested Rights	Extending a vested rights period	See Sec. 2.01.411	Discretionary	Director	CC
New PUD Process					
Zoning Document	Approval of land use zoning and general design of PUD, including a land plan, building and bulk standards and land use schedule	Yes	Yes	PC	CC
Concept Plan	Approval of a plan showing streets and zoning on adjacent properties and development areas, vehicular access and other features within the PUD	Yes	Yes	NA	Director

Approval Type	Required For	Notice and Comment	Agency Referrals	Recommendation	Decision
Variances and Appeals					
Variance*	Obtaining relief from the strict application of Code requirements, except Chapter TBD	Yes	Discretionary	Director	ZBA
Administrative Appeal from Director's Decision	Appealing a decision of the Director	No	No	NA	PC
Administrative Appeal from Planning Commission Decision	Appealing a decision of the Planning Commission	No	No	NA	CC

2.03.203 Improvements Agreements

- A. **Generally.** Development approvals may include requirements for the provision of public improvements, drainage improvements, or landscaping to serve the proposed development or land on which development is to occur, or to mitigate the impacts of the development, pursuant to the requirements of this Code.
- B. **Public Improvements Determination.** The Director shall determine whether the dedication, acquisition, relocation, modification, improvement, installation or construction of public improvements, drainage improvements, or landscaping shall be required for a proposed development or property based on applicable standards.
- C. **Improvements Agreement Required.** If the provision of public improvements, drainage improvements, or landscaping is required, the applicant (and landowner, if different) shall be required to enter into an improvements agreement in a form approved by the City Attorney and executed by the City Manager.
- D. **Essential Terms.** Improvements agreements shall include the following essential terms:
 1. *Identification of Improvements.* The improvements agreement shall identify the public improvements, drainage improvements, and landscape improvements that are required.
 2. *Assurances.* The improvements agreement shall provide adequate assurances that:
 - a. The improvements will be constructed to the City's established standards in a timely manner; and
 - b. The improvements will be maintained, repaired, or replaced, as appropriate, during their applicable warranty periods.
 3. *Security.* The improvements agreement may require the applicant to submit a cash deposit, irrevocable letter of credit, or bond to provide appropriate security for the assurances in the agreement. The City may require that the security be provided to the City prior to and as a condition of the issuance of permits for construction of the proposed development.
 4. *Subordination of Liens.* Except as otherwise agreed by the City, all mortgagees shall be required to subordinate their liens and interest in the property to the covenants and the restrictions of the improvements agreement.

- E. **Phasing.** The improvements agreement may, if approved by the Director, authorize the installation, construction, or reconstruction of public improvements, drainage improvements, or landscaping to be carried out in phases. Any phase of development approved through an improvements agreement must be an integrated, self-contained project consisting of all improvements and landscaping necessary to serve the portion of property to be developed as part of such phase. The City may impose reasonable conditions on phasing in order to preserve the integrity of the development, or to protect the public health, safety and welfare of the community or adjacent properties.
- F. **Construction Plans.** Prior to issuance of any development approval or permit for which an improvements agreement is a prerequisite, construction plans and specifications must be submitted to the City for review and approval. The City-approved construction plans shall be used as the basis for the cost estimates that are used to calculate the amount of security that is required by the improvements agreement.
- G. **Early Building Permits.** The improvements agreement may authorize the issuance of building permits prior to installation, construction, or reconstruction of certain public improvements, drainage improvements, or landscaping (collectively, the "Improvements") provided the applicant demonstrates and the Director finds that:
1. Unanticipated difficulties beyond the applicant's control make it commercially impracticable to install the required improvements prior to the issuance of building permits, but it is reasonably probable that the Improvements will be installed within six months after the issuance of the building permits;
 2. Issuance of such building permits will not create a threat to public health, safety, or welfare;
 3. Prior to the issuance of any such building permits:
 - a. Adequate all-weather access to the construction site is provided for fire and emergency vehicles and approved by the Loveland Fire and Rescue Authority;
 - b. All underground electric lines and related equipment are installed, unless such installation is waived by the Loveland Water and Power Department;
 - c. Temporary erosion control measures are installed on the site in compliance with City standards;
 - d. Prior to the delivery of any combustible building materials to the construction site, adequate water supply for fire protection is provided to the construction site, and the water supply system is approved by the Loveland Water and Power Department and Loveland Fire and Rescue Authority;
 - e. The Director has verified that any other conditions the Director has determined to be necessary to avoid a threat to public health, safety, or welfare have been met; and
 - f. Financial security in a form satisfactory to the City, in the amount of 110 percent of the cost of installation of the Improvements that remain to be constructed at the time the building permits are issued has been provided to the City.
- H. **Temporary Certificates of Occupancy.** The Director may issue temporary certificates of occupancy prior to installation of all required improvements if the Director determines that issuance of such certificates of occupancy will not cause a threat to public health, safety or welfare.
- I. **Clear Certificates of Occupancy.** No inspections shall be made by the City for purposes of issuing a clear certificate of occupancy until all final improvements and other requirements imposed by the provisions of this Code or by the City at the time an annexation map or subdivision plat is approved have been installed or performed by the applicant in compliance with plans and specifications approved by the City engineer and as required by this Code or any other applicable ordinance or resolutions passed by the City.

Division 2.03.03 Standardized Development Review Procedures

2.03.301 Process Overview

- A. **Generally.** This Division sets out the steps in the standardized development review process. Some types of applications may involve additional or alternative procedures. Those applications, and their unique procedural attributes, are set out in [Division 2.07.06](#). Appeals are subject to [Division 2.03.06, Administrative Appeals](#), and not this Division.
- B. **Decisions by the Director.** Applications that are decided by the Director (see Section [2.03.202, Administrative and Public Hearing Development Approvals](#)), require the following process:
 - 1. Conceptual review meeting (Section [2.03.302](#))
 - 2. Threshold review (Section [2.03.304](#))
 - 3. Neighborhood meeting (if applicable, Section [2.03.305](#))
 - 4. Formal application (Section [2.03.306](#))
 - 5. Completeness review (Section [2.03.307](#))
 - 6. Stale applications (Section [2.03.308](#))
 - 7. Administrative review (Section [2.03.309](#))
 - 8. Agency referrals (if Section [2.03.202](#) requires agency referrals for the application type, or if Section [2.03.202](#) allows such referrals in the Director's discretion and the Director determines that they are necessary) (Section [2.03.311](#))
 - 9. Public comment (if Section [2.03.202](#) requires notice and comment for the application type, or if Section [2.03.202](#) allows such notice and comment in the Director's discretion and the Director determines that it is necessary) (Section [2.03.312](#))
 - 10. Effect of approval (Section [2.03.314](#))
 - 11. Effect of denial; successive applications (Section [2.03.316](#))
- C. **Decisions by the Planning Commission, Board of Adjustment and Appeals, and City Council.**
 - 1. Decisions by the Planning Commission, Board of Adjustment and Appeals, and City Council are subject to Sections [2.03.302](#) to [2.03.316](#), inclusive.
 - 2. If a decision requires a recommendation of the Planning Commission before a decision of the City Council, then the public hearing notice requirements of Section [2.03.310](#) and the hearing procedures requirements of Section [2.03.313](#) shall apply to the Planning Commission hearing and the City Council Hearing.

2.03.302 Conceptual Review Meeting

- A. **Generally.** A conceptual review meeting is required for all application types except sign permits and administrative appeals. The Director may establish and post a regular schedule for conceptual review meetings and for intake of required materials. The Director may make provisions for telephonic or video conferences.
- B. **Waiver.** The Director may waive the conceptual review meeting for good cause shown.
- C. **Purpose.** The purpose of the conceptual review meeting is threefold:
 - 1. To ensure the applicant is familiar with the procedural and substantive requirements of this Code;
 - 2. To coordinate with representatives from agencies and departments with an administrative interest in the development in order to discuss issues concerning the development early in the review process;
 - 3. To review the applicant's conceptual plan and to identify a list of application requirements.

- D. **Required Materials.** A conceptual review meeting shall be requested on a form approved by the Director, which may include requirements for supplemental materials (*e.g.*, preliminary plans) based on the type of application to which the conceptual review meeting relates. At a minimum, the request shall include sufficient supporting materials to explain:
1. The location of the proposed project;
 2. The proposed uses (in general terms);
 3. The proposed general arrangement of buildings, parking, access points, open spaces, and drainage facilities (including water quality and stormwater detention facilities);
 4. The relationship to existing development;
 5. Generally, the presence of natural resources, irrigation ditches or reservoirs, wetlands, open water, floodplains, and floodways on the subject property; and
 6. Such other preliminary materials that the applicant or the Director believes will be pertinent to the application.
- E. **Conceptual Review Meeting Report.** The Director shall provide written comments to the potential applicant at the conceptual review meeting.
- F. **Formal Application Timing.** The applicant shall have 90 days from the date of transmittal by the City to file an application.

2.03.303 Ex Parte Communications

- A. **Generally.** *Ex parte* communications are communications between applicants or others (including, but not limited to, City residents) and the zoning board of adjustment or its designated hearing officer, Planning Commissioners or City Council members about the merits of a pending application for development approval or appeal outside of a noticed public hearing at which the development approval or appeal will be heard. It is the policy and practice of the City to decide applications and appeals only on the merits presented in the application or petition for appeal, in on-record public comments, and at public hearings (if public hearings are required). *Ex parte* communications are not allowed.
- B. **Timing.**
1. **Zoning Board of Adjustment.** The prohibition on *ex parte* communications begins on the date that an appeal to the zoning board of adjustment or its designated hearing officer is filed pursuant to the requirements of this code and ends when the appeal period for a variance has expired.
 2. **Planning Commission.** The prohibition on *ex parte* communications begins on the date that an appeal to the Planning Commission is filed pursuant to the requirements of this code and ends when the appeal period for a development approval has expired.
 3. **City Council.** The prohibition on *ex parte* communications begins on the date that an appeal to City Council is filed pursuant to the requirements of this code and ends when the appeal period for a development approval has expired.
- C. **Inadvertent Communications.** It is not always possible to prevent *ex parte* communications. The zoning board of adjustment or its designated hearing officer, Planning Commissioners and City Council members shall not privately discuss the merits of a pending application or appeal. If a communication is received outside of the record (*e.g.*, it is not in the application, agency comments, or public comments, nor was it presented at a noticed public hearing) then the member shall disclose the communication, including the speaker and the substance of the communication, on the record of the public hearing before the application is heard. The decision-maker or recommending body must base its decision only on the evidence presented on the record. The contents of the *ex parte* communication shall not be considered part of the record for decision-making unless the information in the communication is also presented at the hearing (other than through the required disclosure).

2.03.304 Threshold Review

- A. **Generally.** Proposed development that meets certain thresholds shall be presented at a neighborhood meeting pursuant to Section 2.03.305, Neighborhood Meetings, before a formal application is filed.
- B. **Timing of Threshold Review.** The Director shall conduct a threshold review determination at the pre-submittal conference. If the proposed development is modified between the pre-submittal conference and formal application, the Director shall also conduct a threshold review at the applicant's request or upon formal application, whichever is earlier. If a neighborhood meeting is required, a formal application shall not be accepted until the neighborhood meeting is conducted.
- C. **Thresholds.** A neighborhood meeting shall be conducted pursuant to Section 2.03.305, Neighborhood Meetings, if:
 - 1. The subject property is located (TBD)
 - 2. The development involves (TBD)

Note: Thresholds could be based on use, intensity, density, adjacency, traffic impacts, etc.

2.03.305 Neighborhood Meetings

- A. **Generally.**
 - 1. If any threshold established by Section 2.03.304, Threshold Review, is met, then the applicant shall conduct a neighborhood meeting.
 - 2. The Director may also require a neighborhood meeting for the following types of applications if, based on written comments received from the public pursuant to Section 2.03.312, Public Comment, and the level of compliance with this Code that is demonstrated by the application, the Director determines that a neighborhood meeting would be a productive means to resolve outstanding issues of code compliance:
 - a. adaptable or conditional uses;
 - b. zoning map amendments;
 - c. certificates of designation;
 - d. height exceptions;
 - e. oil and gas permits;
 - f. sketch plat;
 - g. vacation of easement or right-of-way;
 - h. vacation of access easement;
 - i. exceptions to subdivision requirements;
 - j. general development plans; and
 - k. preliminary development plans.
 - 3. The Director may also require a neighborhood meeting for proposed text amendments that are likely to have a significant impact on particular neighborhoods.
- B. **Purposes and Intent.**
 - 1. **Purposes.** The purposes of the neighborhood meeting are:
 - a. To educate and inform City residents of pending development proposals in and near their neighborhood;
 - b. To encourage applicants to pursue early and effective communications with the affected residents in conjunction with applications, giving the applicant an opportunity to understand and attempt to mitigate any documentable adverse impact of the proposed project on the adjoining community;

- c. To provide residents and property owners a forum to work together to resolve potential concerns at an early stage of the process; and
 - d. To facilitate ongoing communication between the applicant, interested residents and property owners, the Director, and City officials throughout the application review process.
- 2. *Intent.* Neighborhood meetings are intended to be forums in which the applicant and City residents work together in good faith. However, they are not required to generate complete consensus on all aspects of the applications, nor to supplant or add to the standards of this Unified Development Code.
- C. **Notice.** Notice of the neighborhood meeting shall be prepared by the City per the requirements of Division 2.03.06, Required Notices.
- D. **Conduct of Meetings.**
 - 1. *Meeting Plan.* Neighborhood meetings shall be conducted according to a meeting plan approved by the Director, and shall be attended by a City staff member.
 - 2. *Sign-In Sheet.* Participants in the meeting shall be invited to provide contact information on a sign-in sheet, and shall be notified that signing in will give them the opportunity to provide formal comments on the application at a later date.
- E. **Community Participation Report.** If a neighborhood meeting is required, the applicant shall include a written Community Participation Report on the results of the neighborhood meeting with the formal application. At a minimum, the Community Participation Report shall include the following information:
 - 1. Dates and locations of all meetings where residents were invited to discuss the applicant's proposal;
 - 2. Copies of the sign-in sheets;
 - 3. A summary of concerns, issues and problems expressed by participants; and
 - 4. A summary of:
 - a. How the applicant has addressed identified issues; and
 - b. Issues that cannot or should not be addressed, and why those issues cannot or should not be addressed.

2.03.306 Formal Application

- A. **Generally.** Every application for development approval required by this Code shall be submitted on a form approved by the Director, along with the corresponding development review fee. Applications shall include electronic versions of application forms and all attachments in a format approved by the Director.
- B. **Forms.** The Director shall promulgate and periodically revise forms for each type of application required by this Code. The specific information requirements for each application shall have the purpose of facilitating:
 - 1. The administration of the development review process;
 - 2. The evaluation of the applications for compliance with the standards of this Code; and
 - 3. Efficient and appropriate record-keeping.
- C. **Waiver of Application Requirements.** The Director may waive specific submittal requirements, except application fees, if the Director determines that such requirements are unnecessary for the processing of the application for which the waiver is requested. However, if the Director subsequently finds that such information is pertinent to the evaluation of compliance with the standards of this Code, the Director may require the applicant to supplement the application.

- D. **Schedule.** The Director is authorized, but not required, to establish regular intake days for any or all classifications of applications for development approval, except sign permits and appeals.

2.03.307 Completeness Review

- A. **Generally.** Within three business days after an application is submitted, the Director shall review the application to verify that it is complete.
- B. **Complete Applications.**
 - 1. A complete application is an application that includes:
 - a. All of the information requested on the application form (except any items waived by the Director);
 - b. All supporting documents required by the application form (except any items waived by the Director);
 - c. Verification that there are no unpaid fines or delinquent property taxes or special assessments related to the subject property;
 - d. All supporting documents requested by the Director as a result of the Conceptual Review meeting; and
 - 2. Complete applications shall be processed according to the applicable procedures of this Code.
- C. **Incomplete Applications.**
 - 1. Incomplete applications shall be returned to the applicant with a written explanation that describes in general terms the materials that must be submitted in order to complete the application.
 - 2. Incomplete applications are not considered filed.
- D. **Application Filing Fee.** The applicable application filing fee shall be paid prior to the application being accepted for processing.

2.03.308 Stale Applications

- A. **Generally.** Applications for development approval shall be diligently pursued by the applicant. This section is intended to extinguish applications that become stale due to inaction by the applicant.
- B. **Expiration of Stale Applications.** When an action by the applicant is required for further processing of an application (for example, if revisions are requested after agency referrals), the application shall become void six months after the date that the action is requested if the applicant either fails to take action or fails to request an extension of time pursuant to subsection C., below.
- C. **Extension of Time.** The Director may extend the time for expiration of an application by up to six additional months upon written request of the applicant before the end of the period set out in subsection B., above.

2.03.309 Administrative Review

- A. **Generally.** Upon determination that an application is complete, the Director shall cause the application to be reviewed for technical compliance with all applicable requirements of this Code.
- B. **Referrals.** The Director shall refer applications to referral agencies pursuant to Section [2.03.311 Agency Referrals](#), when such referral is required by this Code. The Director may refer any application to one or more referral agencies if the Director determines that the agency will be affected by the application and the agency's expertise will be helpful to the review of the application.
- C. **Notice and Comment.** If the application type requires public notice and comment, the Director shall provide notice as required by [Division 2.03.05 Required Notices](#).
- D. **Recommended Revisions.**
 - 1. After the referral period and the notice and comment period, as applicable, and upon completion of the Director's review, the Director shall provide to the applicant the comments from City staff,

and if applicable, referral agencies or the public. The applicant shall respond to the comments by either revising the application materials or by providing a response that describes why revisions are not necessary.

2. The Director may refer a revised application or response to comments to referral agencies again if changes substantially affect the interests of the agency in ways not anticipated by the agency's original comments (or lack thereof), or if the response requires the agency's technical expertise for adequate review.
 3. The resubmittal shall not require an application fee unless both of the following conditions are met:
 - a. The revisions are clearly inappropriate or incomplete; and
 - b. Repeated failure to address comments requires more than three rounds of revisions.
- E. **Administrative Decision or Recommendation.** Promptly after submittal of an application that appropriately addresses comments pursuant to subsection D., above, or promptly after the Director determines that no revisions to an original application are necessary:
1. If the application is for an administrative development approval, the Director shall approve, approve with conditions, or deny the application, as appropriate.
 2. If the application is for an administrative development approval for which public notice is required, the Director shall issue notice of the decision (see Section [2.03.503, Specific Requirements by Notice Type](#)).
 3. If the application is for a public hearing development approval, the Director shall make a recommendation regarding the application and forward the recommendation to the next body that will consider it for further recommendation or approval. The recommendation shall include the comments of the referral agencies and the public, if such comments are provided.
- F. **Decision on Sign Permits.** The Director shall approve or deny a sign permit within three business days after it is determined to be complete pursuant to Section [2.03.307, Completeness Review](#). If the Director fails to timely decide the sign permit, it shall be deemed approved. Denial of a sign permit shall be in writing, which shall include the reasons for the denial.

2.03.310 Public Hearing Notice and Schedule

- A. **Generally.** For applications that require public hearings, when administrative review pursuant to Section [2.03.309 Administrative Review](#), is complete, the Director shall coordinate with the applicant to cause notice to be issued according to the requirements of [Division 2.03.05 Required Notices](#), and set the application on the next available agenda of the next body that will consider the application, consistent with the legal requirements for public notice.
- B. **Coordination with Decision-Making Bodies.** The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings.
- C. **Notice to Applicant.** The Director shall notify the applicant regarding the time and place of public hearings.

2.03.311 Agency Referrals

- A. **Generally.** As part of the review process, referral agencies may be notified and provided the opportunity to comment on the application.
- B. **Review Fees.** Referral agencies may charge a fee or require reimbursement for their review. The applicant shall be responsible for the payment of agency review fees.
- C. **Referral Period.**

1. The referral period is 21 days, which commences upon delivery of the application and any applicable review fee to the referral agency.
 2. Failure of an agency to respond within the prescribed time period (or extended period) shall indicate consent by that agency to the contents of the application.
- D. **Extension of Referral Period.** Upon written request by the applicant or referral agency, the Director may extend the referral period or suspend the development review process in order to allow time for the applicant and the referral agency to resolve conflicts.

2.03.312 Public Comment

Certain administrative review procedures (*e.g.*, adaptable use review) require a public notice and comment period. During the public notice and comment period, the Director shall make application materials available at reasonable times for inspection, and shall accept written comments from the public regarding the application's compliance with this Code. The Director shall not consider public comments that are not pertinent to the evaluation of whether the application complies with the requirements of this Code.

2.03.313 Hearing Procedures

- A. **Generally.** All public hearing development approvals that require a public hearing before the Planning Commission, Zoning Board of Adjustment, or City Council are subject to the procedural requirements of this Section and the applicable rules of the body conducting the hearing.
- B. **Hearing Procedures.** The Planning Commission, Zoning Board of Adjustment, and City Council shall adopt rules of procedure for the conduct of public hearings. The following general procedures shall be reflected in the adopted rules of procedure:
1. Any person may appear at a public hearing, submit evidence, and be heard. Persons (other than the applicant) who seek party status shall provide written evidence regarding why such status should be recognized.
 2. If a speaker represents an organization, the body conducting the hearing may request written evidence of that person's authority to speak on behalf of the group in regard to the matter under consideration.
 3. Persons appearing at a public hearing shall identify themselves and state their address and similar information about any organization they represent.
 4. Citizens, applicants, and the City shall have the right to present expert witnesses.
- C. **Continuances or Withdrawals.**
1. Requests for continuance may be granted at the discretion of the body holding the public hearing. If granted, the applicant shall pay all additional costs associated with the rescheduling of the hearing.
 2. Any application may be withdrawn, either in writing or on the record during the hearing, provided that the application is withdrawn before the vote on the recommendation or decision.
- D. **Decision or Recommendation.**
1. If the hearing is before the Planning Commission, the Planning Commission shall:
 - a. If the Planning Commission is to decide the application according to [Section 2.03.202, Administrative and Public Hearing Development Approvals](#):
 1. Approve the application;
 2. Approve the application with conditions;
 3. Deny the application; or
 4. Continue the hearing on the application; or

- b. If the Planning Commission is to make a recommendation on the application according to Section [2.03.202, Administrative and Public Hearing Development Approvals](#):
 - 1. Make a corresponding recommendation to the City Council on the application; or
 - 2. Continue the hearing on the application.
- 2. If the hearing is before the Zoning Board of Adjustment the Board shall:
 - a. Approve the application;
 - b. Approve the application with conditions;
 - c. Deny the application; or
 - d. Continue the hearing on the application.
- 3. If the hearing is before the City Council, the City Council shall:
 - a. Approve the application;
 - b. Approve the application with conditions;
 - c. Deny the application;
 - d. Continue the hearing on the application; or
 - e. Refer the application back to the Planning Commission for further review and recommendation if the Planning Commission previously considered the application.

2.03.314 Effect of Approvals

- A. **Generally.** The development approvals set out in Section [2.03.202, Administrative and Public Hearing Development Approvals](#), shall have the effects set out in this Section.

[THIS SECTION WILL BE COMPLETED AFTER DISCUSSION WITH STAFF REGARDING DURATION OF APPROVALS]

2.03.315 Vested Rights

- A. **Purpose.** The purpose of this Section is to provide procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended.
- B. **Vested Property Right Created.**
 - 1. A vested property right shall be deemed to have been created only upon the approval of a site specific development plan in accordance with this Section.
 - 2. Any approval of a site specific development plan, or amendment to an existing site specific development plan, that creates vested property rights shall be adopted by ordinance as a legislative act and shall be subject to referendum. When creating a vested property right, City Council may expressly exempt, in whole or in part, administrative amendments to a site specific development plan from additional review and approval by City Council under this Section.
 - 3. The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and which are applicable to all property subject to land use regulation by the City, including but not limited to the regulations concerning uniform building codes, uniform design standards, regulations concerning subdivision improvements and right-of-way dedications, and regulations establishing requirements and specifications for any public improvements.
 - 4. The establishment of a vested property right shall not preclude the application of any legislatively adopted fees which are general in nature, uniform in character and applicable to all properties or a similarly situated class of properties.

5. The City may approve a site specific development plan subject to such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare of the City and its residents.
 6. Any site specific development plan for a multiple-phase development may have separate vesting periods created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the City Council. Such review shall include but not be limited to whether the landowner or developer is in compliance with its obligations to the City, including but not limited to the site specific development plan, the improvements agreement and any other agreements between the landowner and the City, as they may have been amended from time to time.
- C. **Notice and Hearing.** Consideration of a site specific development plan for creation of vested property rights must be preceded by the applicable notice and public hearing in compliance with TBD.
- D. **Notice of Approval.**
1. Each document constituting a site specific development plan shall contain the following language: "Approval of this plan or agreement constitutes a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, and Section 2.03.315 of the Loveland Unified Development Code as amended." The failure of the document constituting a site specific development plan to contain the language specified this subsection shall invalidate and void the creation of the vested property right.
 2. A notice stating that a vested property right has been created shall be published once by the City in a newspaper of general circulation in the City not more than 14 days after final adoption of the ordinance approving the site specific development plan. The notice shall include the following information:
 - a. A statement advising the public of the site specific development plan approval, including the name of the project and general location of the specific property or development parcels affected;
 - b. A statement that a vested property right has been created in accordance with Article 68 of Title 24, Colorado Revised Statutes, and Section 2.03.315 of the Loveland Unified Development Code.
- E. **Duration of Vested Right.**
1. *Generally.* A property right vested pursuant to this Section shall remain vested for a period of three years.
 2. *Extended Vesting Periods.* The City Council, in its legislative discretion, may approve an initial vesting period that is longer than three years, in consideration of the following factors:
 - a. The size and phasing of the development, and specifically but not limited to, whether the development can be reasonably completed within three years;
 - b. Economic cycles (including, local, regional, and state economic cycles, and national economic cycles);
 - c. Market conditions, and specifically but not limited to, absorption rates for leasing and sales of similar development projects;
 - d. Consistency with the City of Loveland Comprehensive Plan and other adopted plans;
 - e. Proposed public amenities and benefits that enhance the project and the overall attractiveness of the community, including the degree to which such public amenities and benefits are defined in terms of design, timeframe, and phasing with development;
 - f. Projected public financial benefits or costs anticipated to result from the development, including the timeframe for realization by the City or other public entities and potential costs

for operation and maintenance of any new public amenities or infrastructure dedicated to the City or other public entities;

- g. The breadth and scope of the requested vested property right, including but not limited to, the extent to which such vested property right restricts the City's ability to apply future regulations for the purpose of providing public infrastructure, public services, or public facilities and for the purpose of meeting evolving community needs;
 - h. Any proposed modifications to previously approved vested property rights to address changed conditions within the City, consistency with the Comprehensive Plan and other community plans, or performance of previously approved site specific development plans; and
 - i. Any other factors deemed relevant to the City Council.
- F. **Extension of Vested Property Rights.** A landowner may request an extension of vested property rights by submitting an application for extension of vested property rights at least 120 days prior to the expiration of the period of vested property rights. The extension request shall be processed in accordance with the procedural requirements of this Chapter, including but not limited to notice, public hearing, adoption by ordinance, and post-approval publication. The criteria in subsection E., above, shall be considered by City Council when determining whether to grant an extension to a vested property right.
- G. **Forfeiture of Vested Property Rights.**
 - 1. Failure to abide by the terms and conditions of a site specific development plan may result in a forfeiture of the vested property rights in accordance with the procedures set forth herein.
 - 2. The process to consider forfeiture of vested property rights shall be initiated by passage of a resolution by the City Council stating the grounds therefor.
 - 3. No vested property right shall be deemed forfeited until after notice and a public hearing. Notice shall be provided at least 30 days prior to the date of the public hearing, by publishing notice in a newspaper of general circulation in the City of Loveland and by mailing notice to the property owner(s), sent to the address of record according the County Assessor's records via first class United States mail. A copy of the resolution initiating the process to consider forfeiture of the vested property right shall be included with the mailed notice to the property owner(s).
 - 4. At the hearing, the City Council shall consider all evidence and testimony presented concerning any failure to abide by the terms and conditions of a site specific development plan. The City Council may continue the public hearing to allow additional evidence to be presented.
 - 5. If City Council finds a failure to abide by the terms and conditions of an approved site specific development plan, the City Council may take action by ordinance to declare the vested property rights forfeited. The forfeiture of a vested property right shall have no effect upon public streets, alleys, rights-of-way, or other lands or easements previously dedicated or conveyed to the City or other public entities pursuant to the terms of a site specific development plan. Upon forfeiture of vested property rights, the site specific development plan shall be subject to all zoning, land use, and general regulations in effect at the time of forfeiture and as such may be amended from time to time thereafter.

2.03.316 Effect of Denial; Successive Applications

- A. **Generally.** It is the policy of the City not to allow successive applications for the same development approval after an application is denied. The limitations of this Section limit the consideration of successive applications.

- B. **Minimum Interval Between Submittal of Substantially Similar Applications.** If an application is denied, the City shall not accept any application that is substantially similar to the denied application for a period of 12 months, unless:
1. After the application is denied, the City amends the applicable provisions in this Code in a manner that could allow for approval of the application; or
 2. The Planning Commission waives the minimum interval requirement of this Section for good cause shown.

Division 2.03.05 Required Notices

2.03.501 Required Notice by Application Type

Public notice of pending administrative decisions or scheduled hearings shall be provided as set out in Table 2.03.501, *Notice Requirements by Application Type*.

Table 2.03.501 Notice Requirements by Application Type				
Approval Type	Notice Type			
	Published	Posted	Mailed	Internet
Zoning / Amendments				
Text Amendment	✓	-	-	✓
Rezoning (Map Amendment)	✓	✓	✓	✓
Zoning / Land Use				
Permitted Use	-	-	-	-
Limited Use	-	-	-	-
Adaptable Use (also Major Home Occupation)	-	✓	✓	✓
Conditional Use	-	✓	✓	✓
Certificate of Designation	✓	✓	✓	✓
Zoning / Development Permits and Approvals				
Master Sketch Plan	-	-	-	-
Site Development Plan	-	-	-	-
Design Approval	-	-	-	-
Height Exception	-	✓	✓	✓
Setback Modifications	-	-	✓	✓
Grading Permit	-	-	-	-
Oil and Gas Permit (Administrative)	-	✓	✓	✓
Oil and Gas Permit (Public Hearing)	-	✓	✓	✓
Subdivision / Plat				
Plat Corrections	-	-	-	-
Sketch Plat for Simple Plat, Lot Merger, Boundary Line Adjustment	-	-	-	-
Sketch Plat for Subdivision Plat	-	✓	✓	✓
Subdivision Plat	-	-	-	-
Vacation of City Right-of-Way or Easement	✓	✓	-	✓
Termination of Required Private Access Easement			✓	✓
Vacation of Obsolete Subdivision	✓	✓	✓	✓
Exceptions to Subdivision Requirements	-	✓	✓	✓
Planned Unit Developments				
General Development Plan		✓	✓	✓

Approval Type	Notice Type			
	Published	Posted	Mailed	Internet
Preliminary Development Plan		✓	✓	✓
Final Development Plan		-	-	-
Vested Rights				
Creation of Vested Rights	See Sec. 2.03.315	-	-	✓
Extension of Vested Rights	See Sec. 2.03.315	-	-	✓
Variances and Appeals				
Variance	-	✓	✓	✓
Administrative Appeal from Director's Decision	-	-	✓	✓
Administrative Appeal from Planning Commission Decision	-	-	✓	✓

2.03.502 Contents of Public Notice

- A. **Generally.** Table 2.03.502, *Information Requirements by Application Type*, sets out the information that is required for each type of required notice. Information requirements for appeal notices are set out in subsection B., below, and information requirements for vested rights notices are set out in subsection C., below.

Table 2.03.502 Information Requirements by Application Type				
Required Information	Notice Type			
	Published	Posted	Mailed	Internet
Application Information				
The application type(s) for which notice is provided	✓	✓	✓	✓
Case number	✓	✓	✓	✓
Project name	✓	✓	✓	✓
Vicinity map identifying the site with respect to major cross-streets and community landmarks	✓	-	✓	✓
Address of the subject property	✓	-	✓	✓
Legal description of subject property	✓	-	✓	✓
Statement that legal description of subject property is on file with current planning division	-	-	-	-
Applicant name	✓	-	✓	✓
Project Description				
Existing zoning (and proposed zoning, if different)	✓	-	✓	✓
Summary of proposed development, including subject matter of application	✓	-	✓	✓
Contact Information				
Primary contact (applicant or applicant's representative) (name, company name, phone number, email address)	-	-	✓	✓

Required Information	Notice Type			
	Published	Posted	Mailed	Internet
Contact Information (cont.)				
Secondary contact (current planning division) (reviewing planner name, phone number, email address)	✓	✓	✓	✓
URL where additional project information is provided	✓	✓	✓	✓
Additional Contents for Public Hearing Notices				
Time, date, and location of public hearing	✓	✓	✓	✓
A statement that interested parties may appear and speak on the matter at the public hearing and/or file written comments with the current planning division, and that the right to appeal an administrative decision may be limited by Division 2.03.06 , Administrative Appeals, Loveland Unified Development Code	✓	-	✓	✓
Additional Contents for Administrative Decision Notices				
Deadline for public comments	NA	✓	✓	✓
Earliest date for administrative decision on application	NA	-	✓	✓
A statement that the right to appeal an administrative decision may be limited by Division 2.03.06 , Administrative Appeals, Loveland Unified Development Code	NA	✓	✓	✓

- B. **Appeal Notices.** Notices of a pending appeal must include a copy of the petition for appeal and a date, time, and location for the appeal hearing, a copy of the rules of procedure for the Appellate Body. Such notices must be mailed to the applicant (if different from the appellant), the appellant, any person or entity that has applied for party status, and by internet posting.
- C. **Vested Rights Notices.** Notice of a decision to grant vested rights shall be published in accordance with the requirements of C.R.S. § 24-68-101, as it may be amended from time to time.

2.03.503 Specific Requirements by Notice Type

A. Mailed Notice.

1. *Certified Mailing List.* The applicant shall submit a certified mailing list to the Director, including the names and addresses of all surface owners of record of all properties within the Notice Area described in Table 2.03.503, Notice Area, as may be modified pursuant to subsection A.3., below. The list shall be compiled from the names and addresses that appear in the records of the Larimer County Assessor not more than 30 days before the date the list is submitted to the Director.
2. *Method of Mailing.* Mailed notice shall be mailed first-class, postage pre-paid (at the applicant's expense), to all property owners on the certified mailing list.
3. *Modification of Notice Area.*
 - a. Subject Property Adjacent to Lake, Golf Course, or Park.
 1. In general, if the subject property abuts a lake, golf course, or park (including properties that are separated from the lake, golf course, or park by an undevelopable parcel of land

up to 50 feet in width, the notice area shall be doubled in the direction of the lake, golf course, or park.

2. The Director may expand the required notice area to include up to all properties that abut the same lake, golf course, or park if the Director reasonably anticipates that the proposal may impact the use, enjoyment or viewshed of the other properties beyond the distance specified in subsection A.3.a.1., above.
- b. Reduction in Notice Area for Infill Projects. Subject to subsection A.3.c., below, the distances in Table 2.03.503, Notice Area, shall be reduced by 50 percent for applications related to infill projects (except for oil and gas permits and variances) that are less than five acres in area. For the purposes of this provision, a project is an "infill project" if it is adjacent, on at least eighty percent of its boundary, to properties within the existing City limits.
- c. Expansion of Notice Area. The distances in Table 2.03.503, Notice Area, may be expanded up to twice the specified distance if the Director reasonably anticipates that due to unusual elements of the application, material interest or concern regarding the application from community members beyond the required distance is probable. The reduction in notification area as described in subsection A.3.b., above, shall not apply when there is an expansion of the Notice Area pursuant to this provision.
- d. Notice to Applicant Regarding Expanded Notice Area. The Director shall notify the applicant in writing of any determination to expand the required notification area, including the reasons for the expansion, at least 7 days prior to the deadline for postmarking the notice as set forth in subsection A.4., below.
4. *Deadlines.* Mailed notices shall be postmarked not later than:
 - a. 21 days before an administrative decision for which notice and comment is required; or
 - b. 15 days before a public hearing or appeal.
5. *Affidavit of Compliance.* An affidavit of the applicant's compliance with the mailed notice requirements shall be provided to the Director prior to the decision or public hearing to which the notice relates. For mailed notices of public hearings, failure to provide the affidavit of compliance shall result in continuation of the public hearing.

Table 2.03.503 Notice Area ^{1, 2}	
Approval Type	Notice Distance
Zoning / Amendments	
Rezoning (Map Amendment)	250 ft.
Zoning / Land Use	
Adaptable Use (also Major Home Occupation)	250 ft. ³
Conditional Use	250 ft.
Certificate of Designation	2,000 ft.
Zoning / Development Permits and Approvals	
Height Exception	250 ft.
Setback Modifications	Abutting property closest to modified setback
Oil and Gas Permit (Administrative)	2,000 ft. ⁴
Oil and Gas Permit (Public Hearing)	2,000 ft. ⁴

Approval Type	Notice Distance
Subdivision / Plat	
Sketch Plat for Subdivision Plat	250 ft.
Vacation of Right-of-Way	250 ft.
Vacation of Access Easement	250 ft.
Vacation of Obsolete Subdivision	250 ft.
Exceptions to Subdivision Requirements	250 ft.
Planned Unit Developments	
General Development Plan	250 ft.
Preliminary Development Plan	250 ft.
Final Development Plan	250 ft.
Variances and Appeals	
Variance	250 ft.
Administrative Appeal from Director's Decision	same as original decision
Administrative Appeal from Planning Commission Decision	same as original decision
Comprehensive Plan	
Amendments to Future Land Use Map	250 ft.

B. Additional Requirements for Published Notice.

1. *Generally.* Published notice shall be published at the applicant's expense in a newspaper of general circulation in the City that is published not less frequently than weekly.
2. *Certification of Notice.* The applicant shall provide certification of notice from the newspaper prior to the public hearing or decision for which published notice is required. Failure to provide the certification of notice shall result in continuation of the public hearing.

C. Posting Requirements.

1. *Signs to be Posted by Applicant.* Posted notice shall be provided on signs provided by the applicant at the applicant's expense. It is the applicant's responsibility to post the sign(s) and ensure that they remain in place from the date of posting to the date of the decision or hearing to which they relate.
2. *Minimum Requirements.* Posted notice shall be provided with one sign per 600 feet of frontage or fraction thereof along each frontage of the subject property. Such notice shall be printed on wood, metal, or coroplast material, or other comparable material approved by the Director, and shall be not less than 8 sf. in area. Signs shall be located so that they are clearly visible from the abutting street.
3. *Deadline for Posting.* Notices shall be posted not less than 21 days before the decision; or 15 days before the public hearing to which the notices relate.
4. *Affidavit of Compliance.* An affidavit of the applicant's compliance with the posted notice requirements shall be provided to the Director prior to the decision or public hearing to which the notice relates. For posted notices of public hearings, failure to provide the affidavit of compliance shall result in continuation of the public hearing.

- D. Internet Requirements.** The City shall create and maintain web pages upon which Director shall provide timely notice of applications and decisions for which Internet notice is required. Such internet

notice shall provide, at a minimum, a way for interested persons to request an opportunity to review the application materials; and may provide for electronic access to the application materials.

2.03.504 Mineral Estate Notices

The notification of mineral estate owners of the property which is the subject of a public hearing shall be given by the applicant at least 30 days prior to the public hearing in accordance with the requirements of the Colorado Notification of Surface Development Act, C.R.S. 24-65.5-101 *et seq.* (the “Act”). An affidavit of the applicant’s compliance with such requirements shall be provided to the Director prior to the public hearing for which the notice was given and shall meet the provisions of the Act.

Division 2.03.06 Administrative Appeals

2.03.601 Purpose

The purpose of administrative appeals is to provide an opportunity for affected parties to seek review of a final decision of the Director or Planning Commission (the "Decision Below") to ensure that it is correct.

2.03.602 Appellate Body

Appeals shall be heard by the Planning Commission or the City Council. The Planning Commission shall hear appeals from final decisions of the Director. The City Council shall hear appeals from final decisions of the Planning Commission, except that the City Council shall not hear appeals of decisions made in the Planning Commission's role as an appellate body.

2.03.603 Party Status Required

- A. **Generally.** Appeals may be brought only by parties to the Decision Below.
- B. **Qualifications.** A person or entity is a "party" if the person is:
 - 1. The applicant;
 - 2. An abutting property owner;
 - 3. A property owner who received notice of the pending decision and timely provided written comments to the Director; or
 - 4. A property owner who received notice of public hearing and either participated in the public hearing or provided written comments to the Director at or before the public hearing.

2.03.604 Initiation of Appeal

- A. **Generally.** An administrative appeal is initiated by filing a petition, along with the required fee, with the Director.
- B. **Contents of Petition.** The petition for appeal shall include all of the following information:
 - 1. The name, address, email address; and telephone number of the appellant.
 - 2. The case number of the Decision Below.
 - 3. The date of the Decision Below.
 - 4. The reasons why the petitioner should be granted party status pursuant to Section [2.03.603 Party Status Required](#).
 - 5. A short statement regarding how the Decision Below did not conform to the applicable requirements of this Code. The statement shall refer to the specific section numbers upon which the appellant relies, and describe how the decision did not conform to the referenced Code sections.
 - 6. The petition for administrative appeal shall be filed within ten (10) calendar days after the Decision Below.

2.03.605 Threshold Review

- A. **Referral to City Attorney.** The Director shall promptly refer all petitions for appeal to the City Attorney for a determination of:
 - 1. Whether the petitioner has party status pursuant to Section [2.03.603 Party Status Required](#); and
 - 2. Whether the petitioner has provided sufficient detail in the petition to put the City on notice as to the legal basis of the appeal.

B. Threshold Findings.

1. If the City Attorney finds that the petitioner does not have party status or that the petition lacks the required specificity, then the appeal shall be summarily denied, and the City Attorney shall notify the applicant of the findings made as the basis for denial.
2. If the City Attorney finds that the petitioner has party status and that the petition includes the required level of specificity, then the City Attorney shall refer the application back to the Director, who shall promptly issue the required notices and place the item on the agenda of the Planning Commission or City Council, as appropriate, for the meeting that is set out in the notice.

- C. Effect of Threshold Decision.** Decisions of the City Attorney regarding threshold review are not subject to review under this [Division 2.03.06 Administrative Appeals](#).

2.03.606 Standards for Review

Appeals are decided according to the same standards that applied to the Decision Below.

2.03.607 Scope of Review

- A. Generally.** The scope of appellate review is limited to the issues raised in the petition. Issues that are not described or obviously implied by the petition will not be considered on appeal.
- B. New Evidence.** New evidence shall not be introduced on appeal.

2.03.608 Decision

- A. Generally.** Upon review of the record evidence in light of the arguments advanced on appeal, the Appellate Body shall determine whether the Decision Below was correct based on the evidence presented to the original decision-maker and the applicable Code provisions.
- B. Nature of Relief on Appeal.**
1. If the Decision Below was incorrect, the Appellate Body shall reverse and correct the decision below, and approve the original application, approve the original application with appropriate conditions, or deny the original application.
 2. If the Decision Below was correct, the Appellate Body shall affirm it.
- C. Decisions Reduced to Writing.** The decision of the Appellate Body shall be promptly reduced to writing and shall include findings of fact and conclusions of law. The written decision shall be reviewed and executed by a member of the Appellate Body (as appropriate) who is designated by the members who cast votes in the majority.
- D. Further Appeal.** The decision of the Appellate Body is a final quasi-judicial decision of the City that may be appealed to a court pursuant to the applicable Colorado Rules of Civil Procedure. The date of execution of the written decision shall be considered the date the administrative appeal was adjudicated.

Table 2.03.202 Administrative and Public Hearing Development Approvals					
Approval Type	Required For	Notice and Comment <u>Neighborhood</u> <u>Meeting</u>	Agency Referrals	Recommendation	Decision
Zoning / Amendments					
Text Amendment	Amending the text of this Code	Yes <u>No</u>	Yes	Planning Commission ("PC")	City Council ("CC")
Rezoning (Map Amendment)	Amending zoning district boundaries on the official zoning map	Yes	Yes	PC	CC
Zoning / Land Use					
Permitted Use	Establishment or material modification of a Permitted Use	No	No	NA	Director
Limited Use	Establishment or material modification of a Limited Use	No	No	NA	Director
Adaptable Use (also Major Home Occupation)*	Establishment or material modification of an Adaptable Use	Yes	Yes	NA	Director
<u>Major Home Occupation</u>	<u>As defined in this UDC</u>	<u>Yes</u>	<u>Discretionary</u>	<u>NA</u>	<u>Director</u>
Conditional Use*	Establishment or material modification of a Conditional Use	Yes	Yes	Director	PC
Certificate of Designation	As provided by Colorado Statutes (e.g., hazardous waste disposal sites (see C.R.S. § 25-15-201, et seq.); hazardous waste incinerators (see C.R.S. § 25-15-501, et seq.); solid waste disposal site or facility (see C.R.S. § 30-20-100.5, et seq.); waste tire monofills (see C.R.S. § 30-20-1415))	Yes	Yes (including CDPHE)	PC	CC

Approval Type	Required For	Notice and Comment Neighborhood Meeting	Agency Referrals	Recommendation	Decision
Zoning / Development Permits and Approvals					
Master Sketch Plan	Phased development where site development plan is not submitted for all phases at one time	No	No	NA	Director
Sketch Site Development Plan	All development except agriculture, single-family detached residential, and duplex	No	No	NA	Director
Final Site Development Plan	All development except agriculture, single-family detached residential, and duplex, including final civil improvement drawings	No	No	NA	Director
Design Approval	Approval of architectural design in locations where architectural standards are applicable	No	No	NA	Director
Height Exception*	Approval of exceptions to the building height limitations of this Code	Yes	No	Director	PC
Setback Modification*	Approval of modifications to required setbacks	Yes	Yes, if modification affects easement holder	NA	Director
<u>Director authority to grant 20% exception to certain standards</u>	<u>TBD – Examples of standards that may be subject to this authorization include building height and setbacks, parking and landscaping.</u>	<u>No</u>	<u>Discretionary</u>	<u>NA</u>	<u>Director</u>

Approval Type	Required For	Notice and Comment <u>Neighborhood</u> <u>Meeting</u>	Agency Referrals	Recommendation	Decision
Oil and Gas Permit (Administrative)	Approval of oil and gas operations that involve surface use, pursuant to Chapter TBD	Yes	Yes	NA	Director
Oil and Gas Permit (Public Hearing)*	Approval of oil and gas operations that involve surface use, pursuant to Chapter TBD	Yes	Yes	Director	PC
Sign Permit	Installation of sign, or modification of sign for which permit is required pursuant to Section TBD	No	No	NA	Director
Erosion and Sediment Control Permit	Approval of cutting, dredging, filling, excavating, or stockpiling more than TBD cubic yards of rock, soil, or other fill material, but not including such activities with regard to agricultural operations or maintenance of existing ditches, reservoirs, or constructed wetlands.	No	Discretionary	NA	City Engineer
Site Work Permit	Authorizes horizontal construction <u>of public improvements</u>	No	Yes	NA	City Engineer
Subdivision / Plat					
Plat or Annexation Map Corrections	Correcting minor errors and omissions on a plat or annexation map	No	Discretionary	NA	Director

Approval Type	Required For	Notice and Comment <u>Neighborhood</u> <u>meeting</u>	Agency Referrals	Recommendation	Decision
Simple Plat, Lot Merger, or Boundary Line Adjustment	Platting a single lot that is contiguous with the boundaries of a single parcel that is described by metes and bounds; removing lot lines from a plat in order to merge abutting lots into a single lot; or moving a lot line that is shown on a subdivision plat	No	Discretionary	NA	Director
<u>Development Lot Agreement</u>	<u>Agreement not to sell adjoining lots to allowed building over common property line</u>	<u>No</u>	<u>Discretionary</u>	<u>NA</u>	<u>Director</u>
Sketch <u>Subdivision</u> Plat	Preliminary approval of plat design, a prerequisite to approval of a subdivision plat.	No <u>Yes</u>	Discretionary	NA	Director
<u>Final Subdivision Plat</u>	<u>Creation of one or more new lots</u>	<u>No</u>	<u>Discretionary</u>	<u>NA</u>	<u>Director</u>
Vacation of Right-of-Way	Vacation of a right-of-way that was dedicated to the City by plat, deed, or other recorded instrument	Yes	Discretionary	Director	CC
Termination of Required Private <u>Access</u> Easement*	Termination of a private easement that was required by a development approval and subsequently created by plat, deed, or other recorded instrument	Yes <u>Notice to parties having interest in easement</u>	Yes	NA	Director

Approval Type	Required For	Notice and Comment <u>Neighborhood Meeting</u>	Agency Referrals	Recommendation	Decision
Vacation of Required -Obsolete Subdivision	Vacation of an obsolete subdivision as defined in Section TBD	Yes	Yes	Director	CC
Exceptions to Subdivision Requirements*	Approval of a subdivision plat that does not strictly comply with the applicable requirements of this Code	Yes	Yes	NA	City Engineer <u>Director</u>
Planned Unit Developments <u>(prior to adoption of UDC)</u>					
General Development Plan	Approval of zoning for a Planned Unit Development and general layout of a PUD project	Yes	Yes	PC	CC
Preliminary Development Plan*	Approval of land use and general patterns of development in a PUD project	Yes	Yes	Director	PC
Final Development Plan	Approval of specific development within a PUD project	No	Yes	NA	Director
New PUD Process <u>(upon adoption of UDC)</u>					
Concept Plan	Approval of a plan showing streets and zoning on adjacent properties and development areas, vehicular access and other features within the PUD	Yes	Yes	NA	Director

Approval Type	Required For	Notice and Comment <u>Neighborhood</u> <u>Meeting</u>	Agency Referrals	Recommendation	Decision
Zoning Document	Approval of land use zoning and general design of PUD, including a land plan, building and bulk standards and land use schedule	Yes	Yes	PC	CC
Vested Rights					
Creation of Vested Rights	Vesting the right to implement a site specific development plan for a period of 3 years or more	See Sec. 2.01.411	Discretionary	Director	CC
Extension of Vested Rights	Extending a vested rights period	See Sec. 2.01.411	Discretionary	Director	CC
Variances and Appeals					
Variance*	Obtaining relief from the strict application of Code requirements, except Chapter TBD	Yes	Discretionary	Director	ZBA
Administrative Appeal from Director's Decision	Appealing a decision of the Director	No	No	NA	PC
Administrative Appeal from Planning Commission Decision	Appealing a decision of the Planning Commission	No	No	NA	CC

CURRENT NOTICE RADIUS DISTANCES

Neighborhood Meetings

Table 18.05-1 MAILED NOTICE DISTANCE REQUIREMENTS FOR NEIGHBORHOOD MEETINGS			
Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Oil and Gas Permit -per Chapter 18.77	2,200 ft. (measured from boundary of property on which surface use will occur under permit)	2,200 ft. (measured from boundary of property on which surface use will occur under permit)	2,200 ft. (measured from boundary of property on which surface use will occur under permit)
Annexation, Zoning	1,200 ft.	1,200 ft.	1,200 ft.
Comprehensive Plan Amendment	See Section 6.0 of the Loveland Comprehensive Master Plan		
Conceptual Master Plan-new or major amendment (MAC and E districts)	600 ft. or 1,200 ft. if there is an accompanying annexation application	900 ft. or 1,200 ft. if there is an accompanying annexation application	1,200 ft.
Major Home Occupation	All members of the neighborhood <i>as defined in Section 18.48.020</i>		
PUD General Development Plan	1,200 ft.	1,200 ft.	1,200 ft.
PUD Preliminary Development Plan	600 ft.	900 ft.	1,200 ft.
Rezoning	600 ft.	900 ft.	1,200 ft.
Special Review	600 ft.	900 ft.	1,200 ft.
Variance	200 ft.	200 ft.	200 ft.

Public Hearings

Table 18.05-2 MAILED NOTICE DISTANCE REQUIREMENTS FOR PUBLIC HEARINGS			
Application Type	Application Size		
	Under 5 acres	5 – 50 acres	Greater than 50 acres
Oil and Gas Permit -per Chapter 18.77	2,200 ft. (measured from boundary of property on which surface use will occur under permit)	2,200 ft. (measured from boundary of property on which surface use will occur under permit)	2,200 ft. (measured from boundary of property on which surface use will occur under permit)
Annexation, Zoning	1,200 ft.	1,200 ft.	1,200 ft.
Be District Developments*	300 ft.	300 ft.	300 ft.
Comprehensive Plan Amendment	See Section 6.0 of the Loveland Comprehensive Master Plan		
Conceptual Master Plan-new or major amendments (MAC and E districts)	600 ft. or 1,200 ft. if there is an accompanying annexation application	900 ft. or 1,200 ft. if there is an accompanying annexation application	1,200 ft.
Height Exception	300 ft.	300 ft.	300 ft.
PUD General Development Plan	1,200 ft.	1,200 ft.	1,200 ft.
PUD Preliminary Development Plan	600 ft.	900 ft.	1,200 ft.
Rezoning	600 ft.	900 ft.	1,200 ft.
Special Review for Type 3 permit	600 ft.	900 ft.	1,200 ft.
Variance	200 ft.	200 ft.	200 ft.

Jeremy Jersvig, Planning Commission Chair

Linda Bersch, Interim Planning Commission Secretary.