



LOVELAND PLANNING COMMISSION MEETING AGENDA

**Monday, May 13, 2019
500 E. 3rd Street – Council Chambers
Loveland, CO 80537
6:30 PM**

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LOVELAND PLANNING COMMISSIONERS: Patrick McFall (Chair), Michael Bears, Jeff Fleischer, Rob Molloy, Tim Hitchcock, David Hammond, Milo Hovland, Susan Peterson, and Deborah Tygesen.

CALL TO ORDER

I. PLEDGE OF ALLEGIANCE

II. 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, May 27, 2019 – No Meeting due to Holiday

2. Monday, June 10, 2019

i. Camp Bow Wow – SDP Conditional Use – Public Hearing

ii. Mehaffey Enclave Annexation/Zoning - Public Hearing

c. City Attorney's Office Updates

d. Committee Reports

e. **Commission Comments**

III. APPROVAL OF MINUTES

Review and approval of the March 25, 2019 meeting minutes

IV. REGULAR AGENDA

1. Memo – UDC Corrections – Kerri Burchett, Principal Planner

This is an informational item that requires no action by the Planning Commission. As provided for by the Unified Development Code (UDC), the Director of Development Services has the authority to make minor, non-substantive corrections to the UDC. Upon making the corrections, the UDC stipulates that the Planning Commission and City Council are be informed of the adjustments. The Memorandum provided by Planning staff itemizes the corrections as required. Staff will summarize the corrections and respond to questions. Staff will provide this information to the City Council at an upcoming meeting.

2. Amendments to Municipal Code. Public Hearing -- Alison Hade, Community Partnership

This amendment to Title 18 of the Municipal Code requires a public hearing and a recommendation by the Planning Commission to the City Council. The amendment relates to affordable housing incentives. The same amendments were reviewed and recommended for City Council approval by the Planning Commission in October of 2018; but, the amendments were not incorporated into the Unified Development Code when it was adopted in December of 2018. As stated, the amendments require that fire impact fees, while they can be waived for affordable housing projects, must be backfilled or reimbursed. The amendments also broaden the allowance for Community Housing Development Funds, specifying the funds can be used to support the Community Partnership office as determined by the City Council. The amendments are supported by the Community Partnership office.

PRIOR TO HEARING ITEM 3. THE PLANNING COMMISSION MUST ADJOURN AND OPEN THE PUBLIC HEARING ON ITEM 3 AS THE ZONING BOARD OF ADJUSTMENT

3. 4117 Roaring Fork Drive Variance Request. Public Hearing: Zoning Board of Adjustment Hearing -- Troy Bliss, Senior Planner

This is a variance request to adjust a shoreline setback on Horseshoe Lake to allow the construction of 1,250 square foot lakeside accessory dwelling unit on a residential property located at 4177 Roaring Fork Drive. The applicant is Adam Carriker, the homeowner and resident at the aforementioned address. Given the unusual and complex nature of this variance application, this item was forwarded from the Zoning Board of Adjustment Hearing Officer to the full Board of Adjustment.

The subject property, zoned PUD for residential use, is located on the west side of the Horseshoe Lake peninsula. This 2-acre lot is among several estate lots located along the west side of Roaring Fork Drive. The lot is developed with a single family home. This lot, along with other lots on the west side of the peninsula, is encumbered with a significant shoreline setback

requirement that restricts construction within 115 feet of the shoreline. The setback was established prior to development of the Horseshoe Lake First Subdivision to protect wildlife habitat along the shoreline. The applicant is seeking relief from the setback to allow construction of a lakeside accessory dwelling unit within 68 feet of the shoreline. Staff is recommending denial of the variance.

3. ADJOURNMENT

SUPPLEMENTARY INFORMATION

Public Hearing Procedures

The purpose of a public hearing is for the Planning Commission (PC as used below) to obtain full information as to the matter under consideration. This includes giving all interested parties the opportunity to speak (provide testimony) at the hearing. The public hearing is a formal process. Below is the typical hearing sequence to be followed by the Planning Commission. *Annotations have been provided for clarity.*

- 1. Agenda item is recognized by the Chair**
- 2. Public hearing is opened***
- 3. Staff presentation**
(May include clarifying questions to staff from Commissioners)
- 4. Applicant presentation**
(May include clarifying questions to applicant from Commissioners)
- 5. Public comment**
(All public comment should be made from the podium upon the PC Chair acknowledging the citizen speaking. Citizens should provide their name and mailing address in writing at the podium, and introduce themselves. The PC may ask clarifying questions of the citizens. At a public hearing, the PC does not respond to questions from citizens; questions directed to the applicant or staff should be requested through the Chair.)
- 6. Applicant response**
(The Chair typically requests that applicants respond to comments and questions raised during public comment)
- 7. PC questions to staff, the applicant and possibly to citizens who presented**
(Commissioners may use this step in the process to gain a more detailed understanding of relevant information)
- 8. Close public hearing**
(Unless specifically permitted by the Chair, further testimony is not allowed after the public hearing is closed)
- 9. Motion**
(Motions are made by a PC member with possible conditions)
- 10. Motion is seconded**
(A 2nd is required before the motion can be considered; a motion that fails to obtain a second dies)
- 11. PC discussion**
(The PC discusses the application and whether it satisfies the required findings)
- 12. PC Chair requests that the applicant agree to any conditions prior to a vote**
(If an applicant does not accept the proposed conditions, the PC may deny the application)
- 13. Vote**
(The decisions of the PC must address relevant findings of fact. These findings are specified in adopted plans and codes, and serve to guide zoning and annexation decisions. Relevant findings are itemized in the Staff Report and referred to in the recommended motion.)

* Note that the Planning Commission may place time limits on presenters. All presenters should communicate clearly and concisely, refraining from duplicating detailed information that has been provided by others.

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
March 25, 2019

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on March 11, 2019 at 6:30 p.m. Members present: Vice-Chairman Bears; and Commissioners Fleischer, Hammond, Hitchcock, Hovland, Molloy, Peterson and Tygesen. Members absent: Chairman McFall. City Staff present: Robert Paulsen, Current Planning Manager; Laurie Stirman, Assistant City Attorney; Lisa Rye, 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. Paulsen** stated that there are no agenda items scheduled for the Monday, April 8th Planning Commission Meeting, and requested that the meeting be canceled.

Commissioner Hitchcock made a motion to cancel the Monday, April 8th Planning Commission meeting. Upon a second by Commissioner Hovland, the motion was unanimously adopted.

CITY ATTORNEY'S OFFICE UPDATES

Laurie Stirman, Assistant City Attorney, shared that a new attorney has been hired. Noah Cecil, who comes from the Denver City Attorney's office, will be working primarily with the Public Works Department on broadband and other areas.

COMMITTEE REPORTS

There were no committee reports.

ECONOMIC DEVELOPMENT PRESENTATION

Kelly Jones, Director of Economic Development, presented the Commission with an overview of economic development in this region. The main goal of the department is to promote economic resilience, which is accomplished through industry, talent, engagement through primary firms, and through data. The department is involved with the 24 active projects in the pipeline, along with

ongoing work with the Brands and the Foundry, airport development, LiveLoveland, and other projects.

Ms. Jones stated that out of the 2,700 businesses in the community, over 2,000 of them have under 10 employees. The most wealth is contributed by businesses with 11-100 employees. She shared that much of her focus is on these businesses, along with retention and creation of primary jobs in the community.

Ms. Jones shared the following city statistics:

- Population is 77,231
- Square Miles: 35.53 (23,739 acres)
- Growth Rate: 2% (10 Year Average)
- Median Home Sale Price: \$398.664
- Median Family Income: \$75,398 (2017)

State payroll numbers show consistent job growth within the community each year since 2014. Lodging tax in 2018 is 6.6% higher than it was in 2017, with the majority of revenue coming from the summer months.

Some larger city projects and programs include the Airport Remote Tower along with new hangars and new design standards, I-25 interchanges at Highway 34 and 402, the 402 Corridor plan, the West Eisenhower Incentive Program, and broadband. Some of the downtown projects are the Pullium Community Building rehabilitation, HIP Streets, and the Foundry. Walmart has also chosen Loveland to be one of the first locations for their new concept of “Walmart Reimagined”.

Ms. Jones shared that Loveland, along with economic development professionals from 35 other communities and government, are taking part in a regional development strategy that focuses on economic opportunities and growth industries. The goal of this network is to strengthen the region for workforce and the primary jobs, so everyone benefits.

Finally, **Ms. Jones** shared that tourism is a huge driver of our economy. Some attractions specific to Loveland are the Sweetheart Festival, Winter Wonderlight, the Old Fashioned Corn Roast Festival, and Tour de Pants.

Commissioner Hitchcock asked what the plans are for the former Hewlett Packard building. **Ms. Jones** stated that Cumberland & Western owns the building, and they have been primarily marketing nationally instead of locally. She has shown the building many times to prospective occupants, but the relatively low ceiling height combined the cost of tenant finishes are the main reasons that prevent businesses from moving in.

Mr. Paulsen asked how much of the building space is occupied. **Ms. Jones** replied that only about 80,000 of the total 800,000 square feet is occupied (10%).

As there were no further questions, **Ms. Jones** concluded her presentation and thanked the Commission for their interest.

APPROVAL OF THE MINUTES

Commissioner Hovland made a motion to approve the March 11, 2019 minutes; upon a second from Commissioner Molloy, the minutes were approved unanimously.

CONSENT AGENDA

1. All Stripes Mineral Hearing – Troy Bliss

This is a public hearing concerning mineral rights that is associated with an application for an amended plat being processed by the City. The amended plat proposes to merge two lots together and is being processed concurrently with a site development plan for a special trade contractor's shop with outdoor storage on 1.9 acres in the I-Developing Industrial zoning district.

An amended plat application is not considered by the Planning Commission. Rather, such application is generally processed administratively. However, the property being platted includes severed mineral estate owners, meaning that the mineral rights are owned separately from the surface rights. Title 24, Article 65.5 of the Colorado Revised State Statutes identifies these applications as a development application whereby a public hearing is required to be held with respect to the mineral estate owners. The requirement for a public hearing at the platting level reflects changes to state statutes which went into effect in August, 2007.

COMMISSIONER COMMENTS:

Acting Chairman Bears noted that there was now one item on the consent agenda. He inquired if anyone in the audience, any staff member, or any Commissioner wished to have the item removed from the consent agendas. No response was received.

*Commissioner Molloy moved to approve the consent agenda consisting of the All Stripes Mineral Hearing. Following a second by **Commissioner Hitchcock**, the motion was unanimously approved.*

REGULAR AGENDA

1. 37th Street Vacation – Public Hearing – Noreen Smyth

Project Description: This is a public hearing regarding an application to vacate the 37th Street right-of-way between Rocky Mountain Avenue and Boyd Lake Avenue. 37th Street is an existing east-west street that is being realigned based on development plans within the Millennium Planned Unit Development and Industrial District. A new roadway, which extends from Kendall Parkway, will be constructed that functions as a replacement to 37th Street. A portion of the new roadway is already constructed and is in use by the public.

Ms. Noreen Smyth, Senior Planner, provided an overview of the subject area. Most of the area south of E 37th Street consists of Millennium Planned Unit Development zoning, and the area north is mainly Industrial zoning either within the Millennial PUD or within the I – Industrial zone properties.

Ms. Smyth described the process of vacating the right-of-way, which begins with a recommendation by the Planning Commission, followed by a City Council review of the proposal at a public hearing. If the City Council approves the vacation, it will be through the adoption of an ordinance.

Mr. Jim Niemczyk, Director of Land Development for McWhinney Real Estate Services, added that the roadway realignment project has been in the works for almost 15 years and is part of the master plan. Kendall Parkway is intended to be the longest arterial street in Centerra, which will eventually go under Interstate 25 and also tie back to US Highway 34.

Commissioner Molloy moved to make the findings listed in Section IX of this report dated March 25, 2019; and, based on those findings, recommends approval of the right-of-way vacation to City Council, as depicted in Attachment #1 to the staff report, in the form included as Attachments #2 & 3 to the staff report; Commissioner Hovland seconded the motion.

The motion was unanimously approved.

2. Wintergreen General Development Plan Amendment – Noreen Smyth

Project Description: This application is an amendment to the Wintergreen General Development Plan (GDP) to increase the density and number of residential units on Parcel E. The GDP capped the residential density on the parcel at 9.6 units per acre and a maximum of 111 units. The applicant is proposing to develop a multifamily apartment project at a density of 17.6 units per acre with a maximum of 168 units. In conjunction with the change to the maximum density/number of units, the applicant is: 1) including more detailed multifamily residential design standards, and 2) updating other text and diagrams in the GDP to specifically address Parcel E.

The increased density is in keeping with the City's Comprehensive Master Plan designation of a Regional Activity Center. Public outreach included a neighborhood meeting, which two neighbors attended. Questions were raised regarding traffic and site design, however no opposition to the specific amendment request was voiced.

Ms. Noreen Smyth, Senior Planner, described the area of Wintergreen Village, also known as the Wintergreen PUD, which is surrounded by Walmart shopping area, Ashley Estates apartment complex, and finally the single family portion of Wintergreen.

Ms. Smyth explained that the proposed Amended Wintergreen GDP increases residential density and maximum number of units, and applies specifically to Parcel E, which is the parcel proposed

for a new multifamily development. The proposed plan also requires the application of the Unified Development Code (UDC) parking standard, as well as the inclusion of specific multifamily building design standards.

The conceptual plan was presented to the Commission, which showed a series of seven 24-unit apartment buildings, a clubhouse, a drive-isle encircling the area, along with surface and garage parking on both sides. The proposed access to the site is by Eden Garden Drive and 65th Street.

Commissioner Hitchcock asked why there is a request for a greater increase in residential density per acre, but not as large of an increase in the number of units. He also asked if the intent is for Eden Garden Drive to be the main access point. **Ms. Smyth** explained that the GDP allows for a wide variety of residential uses, such as single family, townhouse, or multi-family. She also explained there would be access from Eden Garden Drive and from 65th Street.

Commissioner Hammond asked where the people that attended the neighborhood meeting came from. Ms. Smyth answered that individuals that attended the meeting came from the single-family homes to the south of the project site.

Commissioner Peterson questioned why multi-family units have been chosen over single-family homes. She also questioned whether the applicant owns the property or if he is looking to purchase the property. **Mr. Bill Timm, with Timm Development**, explained that they are a multi-family housing developer. With the property acreage and the required infrastructure, it would not have been feasible to do single-family units. He added that he owns the property.

Mr. Chris Grady, Kephart Architecture, gave an overview of the conceptual plan and architectural elevations. The buildings are three-story garden apartments and are surrounded by a great amount of open space. Parking will meet or exceed the UDC standards. He noted the primary entry to the property as West 65th Street and the secondary entry at Eden Garden Drive. The architecture used will emphasize variety and accentuate entries to the building.

Commissioner Hammond questioned what workforce housing is. **Mr. Bill Timm** answered that it is typically rented at a lower price point than median rental rates and that the finish level of the apartments, while functional and attractive, is not in the luxury category.

CITIZEN COMMENTS:

- **Debbie Kirkpatrick**, a resident in the single-family homes near the subject property, shared her concern over the increase in traffic that will be created by increasing density. Cars can enter the subdivision via West 64th or West 65th Street, but exiting the development is limited to 65th Street as there is no left turn at West 64th Street. She stated that traffic is already a concern when exiting her neighborhood, but in the long run, the increase in density and an increase in retail stores in the area will further add to the problem.

Dan Hall, Land One Engineering, responded to the citizen comment, stating that a traffic study was performed by a hired engineer from Keller Engineering. A scoping meeting was also held with the City Transportation Department. The two intersections considered were at Highway 287 and West 65th Street, as well as Highway 287 and West 64th Street. Traffic was monitored, and through the study it was determined that there is an increase in traffic, but no failures were discovered. It was identified that several accidents have occurred in the southbound acceleration lane at W. 64th Street. The City has addressed the issue by requiring some striping and signage modifications to prevent further accidents from occurring.

Randy Maizland, City of Loveland Transportation Development Division, stated that the spacing standards will not allow a traffic signal at 64th Street. The traffic study showed that at the intersections, all standards were met for level of service.

Commissioner Molloy moved to make the findings listed in Section IX of this report dated March 25, 2019; and, based on those findings, recommend approval of the General Development Plan Amendment to City Council, as depicted in Attachment #1 to the staff report. Commissioner Hitchcock seconded the motion.

COMMISSIONER DISCUSSION:

Commissioner Molloy shared that he believes this location is good for the proposed type of multi-family development, as retail stores would be within walking distance. He shared he wonders how school buses would be able to safely access the area. **Mr. Paulsen** added that if the Thompson School District has comments on residential projects, the Planning Department will incorporate them into their analysis.

Commissioner Hammond shared that workforce housing and non-single family housing projects need to give more consideration to the children that will be living there.

Commissioner Hitchcock shared that he believes this is a necessary project, which we need more of in Loveland.

Commissioner Hovland agreed that the widening of the north primary entry would make it more attractive for tenants to use for an exit, instead of the 64th Street exit. He supports the project.

The motion was approved unanimously.

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

Commissioner Bears adjourned the meeting at 7:52 p.m.

Approved by: _____
Patrick McFall, Planning Commission Chair

Lisa Rye, Planning Commission Secretary



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

MEMORANDUM

Date: May 13, 2019

To: Planning Commission
From: Kerri Burchett, Principal Planner
RE: Unified Development Code Amendment

I. Summary: This memorandum summarizes the first administrative amendment to the Unified Development Code (UDC). The amendment corrected grammatical errors and incorrect references, inserted a missing table from the previous Code, and revised the numbering format in the UDC to a more logical and mathematically correct sequence. Division 18.13.101 of the UDC grants the Director of Development Services the ability to approve such amendments at an administrative level (see **Attachment A**). The Code requires the Director to report the approval of any administrative amendments to the Planning Commission and City Council. This is an informational item only. No action by the Planning Commission or City Council is required.

II. Attachments

- A. Division 18.13.101 Additional Authorization (Director of Development Services)
- B. Amendment redlines

III. Amendment Description

The amendments approved generally fall into 3 categories: grammatical, cross-references, and formatting changes. The below tables itemize each change approved with the amendment. Please also refer to the redline adjustments shown in **Attachment B**.

A. Grammatical Corrections

Division	Description of Amendment
18.09.602 Environmentally- Sensitive Areas	Removed a second semicolon after Section B3
18.17.701.A Application	Corrected spelling of "ensure"
Table 18.04.402 Setback Encroachment	Corrected spelling of "up"
18.04.504.L General Building Design Standards	Corrected spelling of "complementary"
18.19.03 Definition of Restaurant, Fast-Food	Removed an "s" from the end of "includes"

B. Corrections to Cross-References

Division	Description of Amendment
18.04.810 Sign Regulations for Nonresidential Uses and Business Uses of the Home in Residential Zones	Change reference to correct the title of the Enhanced Corridor Overlay Zone
Table 18.02.307 Industrial, Processing, Recycling, Storage, and Disposal Land Use by Zone	Removed incorrect reference to footnote 4 for Resource Extraction (minerals) and Resource Extraction (oil and gas)
18.04.505.F.2 Building Design Standards in the I Zone	Revised incorrect reference from Section C.1. to Section F.1
18.17.701.C.2.a Application	Corrected reference to subsections C.1.a through C.1.f
18.04.504.N.3 General Building Design Standards	Revised incorrect reference from Section P.1 to Section N.1
18.10.201.B COGCC Standards Adopted	Corrected reference to COGC Rule 604
18.14.202 Decision-Making Tracks by Application Type	Corrected tract reference for oil and gas administrative process from 1 to 2 as a neighborhood meeting is required for the application in the UDC
18.10.303 Bufferyards	This section referenced an oil and gas bufferyard table that was intended to be inserted into the UDC from the previous Municipal Code. The reference was corrected and the table was inserted into this section.

C. Formatting Changes

Division	Description of Amendment
18.02.312 Uses That Are Not Listed	Removed item B.8 Vibration, as vibration that was also listed in B.4
18.08.306.D.4.a Parking Bufferyards	Removed this subsection as it was already included in the previous Section C for bufferyard requirements along residential property lines.
18.10.403.C.h	Added a line break after recycling collection center (attended) to move Recyclable materials processing to its own line
All Divisions in UDC	Reformatted the numbering system for UDC sections by adding a decimal to denote the section number. For example in UDC Division 18.10.04, Section 18.10.403 was modified to 18.10.04.03.

18.13.101 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. The Director 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. Developing and promulgating application forms and checklists as provided in Section [18.14.03.05, Formal Application](#).
 2. Coordinating and conducting concept review meetings.
 3. Coordinating and conducting various meetings with applicants and citizens relating to development review and planning activities.
 4. Receiving and logging applications for development approval.
 5. Keeping records of development applications, including materials and outcomes.
 6. Reviewing application materials and verifying that applications are complete.
 7. 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.
 8. Managing the processing of applications for development approval pursuant to this UDC.
 9. 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.
 10. Setting applications on the agendas of the Planning Commission or City Council, as appropriate.
 11. Setting applications on the agendas of the Zoning Board of Adjustment or other boards and commissions as appropriate.
 12. Providing public notice (or verifying public notice) as required by this Code.
 13. Promptly issuing written approvals, permits, resolutions, or orders that reflect the substance of approvals granted pursuant to this Code.
 14. 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.
 15. Tracking the term of approvals, and keeping records of approvals that have expired.
 16. Enforcing the provisions of this Code and approvals granted hereunder.
 17. 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.
 18. Developing or supervising the development of master plans, special area plans, or strategic plans, however titled, as directed by the City Council.

C. Additional Authorization.

1. The Director is authorized to:
 - a. Create illustrations, figures, and illustrative examples, and include them in this UDC as the Director determines appropriate to provide additional clarity as to the intent of the standards set out herein;
 - b. Add and maintain internal cross-references to this UDC as the Director determines appropriate to facilitate navigation of this UDC;
 - c. Add and maintain external hyperlinks to this UDC as the Director determines appropriate to facilitate access to materials referenced in this UDC; and
 - d. Correct typographical and punctuation errors within this UDC.
2. If the Director exercises the authority that is delegated by this subsection C., the Director shall report same to the Planning Commission and City Council at their next regular meetings.

18.02.307 Industrial, Processing, Recycling, Storage, and Disposal Land Use by Zone

The industrial, processing, recycling, storage, and disposal land uses that are allowed in each zone are set out in Table 18.02.03.07, Industrial, Processing, Recycling, and Disposal Land Use by Zone.

Table 18.02.307 Industrial, Processing, Recycling, Storage, and Disposal Land Use by Zone															
Land Use	Zones													Standards Reference ¹	
	Residential					Mixed-Use				Industrial		Parks and Resource			
	ER	R1/R1e	R2	R3e	R3	DT	B	MAC	E	I	PP	DR			
Key: "R" = Allowed Use; "L" = Limited Use; "A" = Adaptable Use; "C" = Conditional Use															
TABLE NOTES:															
¹ This column contains a cross-reference to the standards that apply to the use in zones in which the use is listed as Limited ("L"), Adaptable ("A"), or Conditional ("C").															
² This use is allowed in the neighborhood activity center of a complete neighborhood.															
³ Type of review may vary based on scale of new construction. See Sec. 18.02.04.02, Scale Thresholds in DT and Residential Zones.															
Composting Facility	-	-	-	-	-	-	-	-	-	C	-	-	-	§ 18.02.04.08	
Disposal	-	-	-	-	-	-	-	-	-	C	-	-	-	§ 18.02.04.08	
Heavy Industry	-	-	-	-	-	-	-	-	-	C	-	-	-	§ 18.02.04.08	
Heavy Logistics Center	-	-	-	-	-	-	-	-	-	C	C	-	-	§ 18.02.04.08	
Light Industry	-	-	-	-	-	-	L	L	L	R	-	-	-	§ 18.02.04.08	
Recycling Collection Center (Attended)	-	-	-	-	-	-	A	L	L	L	-	-	-	§ 18.02.04.08	
Resource Extraction (minerals) ⁴	C	C ³	C ³	C ³	C ³	-	C	C	C	C	C	C	C	§ 18.02.04.08	
Resource Extraction (oil and gas) ⁴	See Chapter 18.10, Oil, Gas, and Mineral Development														
Salvage Yard	-	-	-	-	-	-	-	-	-	C	-	-	-	§ 18.02.04.08	

Table 18.02.307
Industrial, Processing, Recycling, Storage, and Disposal Land Use by Zone

Land Use	Zones													Standards Reference ¹	
	Residential					Mixed-Use				Industrial		Parks and Resource			
	ER	R1/R1e	R2	R3e	R3	DT	B	MAC	E	I	PP	DR			
Key: "R" = Allowed Use; "L" = Limited Use; "A" = Adaptable Use; "C" = Conditional Use															
Self-Storage	-	-	-	-	-	-	L	L	L	L	-	-	§ 18.02.04.08		
Storage Yard	-	-	-	-	-	-	-	-	-	L	-	-	§ 18.02.04.08		
Waste Transfer Station	-	-	-	-	-	-	-	-	-	C	-	-	§ 18.02.04.08		
Workshop ²	-	-	-	-	-	L ³	L	L	L	R	L	-			

18.02.312 Uses That Are Not Listed

A. **Generally.** If a proposed use is not listed in the Land Use by Zone table, then the Director shall determine whether the proposed use is functionally comparable to a use that is listed in the table. A proposed use is functionally comparable to a use that is allowed if it is reasonably comparable to the use, and with regard to each of the decision criteria enumerated in Subsection B., the proposed use has no greater impacts than the use with which it is functionally comparable.

B. **Decision Criteria.** The following decision criteria shall be evaluated when the Director determines whether a proposed use is functionally comparable to an allowed use:

1. Parking demand;
2. Average daily and peak hour trip generation (cars and trucks);
3. Noise;
4. Vibration;
5. Lighting;
6. Dust;
7. Odors;
8. **Vibration;**
9. Potentially hazardous conditions, such as projectiles leaving the site;
10. Use and storage of hazardous materials;
11. Design of buildings and structures;
12. Character of operation; and

13. Hours of operation.

18.04.402 Setback Encroachments

C. **Allowed Encroachments.** Architectural elements and structures may encroach into required setback areas as provided in Table 18.04.04.02, Setback Reductions for Building Elements, Equipment, and Structures. Encroachments into drainage easements shall be subject to approval by the City's Stormwater Engineer.

Architectural Elements and Structures	Setback Areas In Which Encroachments Are Allowed				Amount of Encroachment Allowed (Measured From Setback Line Towards Property Line)
	Front	Interior Side	Street Side		
Air conditioning units	No	Yes	Yes	Yes	3 ft.
TABLE NOTES:					
Awnings and canopies without supports that extend to ground	Yes	Yes	Yes	Yes	3 ft.
Balconies	No	No	Yes	Yes	1.5 ft.
Chimneys and fireplace inserts	Yes	Yes	Yes	Yes	2 ft.
At grade decks, porches, or patios which are not covered	No	No	Yes	Yes	Any distance ²
One-story bay windows	Yes	No	Yes	Yes	3 ft.
Overhanging eaves and gutters	Yes	Yes	Yes	Yes	3 ft.
Parking shelters for multifamily uses, detached from the principal building and open on all sides ³	No ¹	No	No	Yes	25% of the required setback
Parking shelters for single family detached, duplexes, and townhomes detached from the principal building and open on all sides	No ¹	No	No	Yes	Any distance ²
Window wells	Yes	Yes	Yes	Yes	3 ft.
Cantilevered walls up to 50 percent of the elevation length	Yes	No	Yes	Yes	2 ft.

Architectural Elements and Structures	Setback Areas In Which Encroachments Are Allowed			Amount of Encroachment Allowed (Measured From Setback Line Towards Property Line)	
	Front	Interior Side	Street Side		
Stairways which are necessary for access to a permitted building or for access to property; fire escapes	No	No	Yes	Yes	6 ft. ⁴

18.04.504 General Building Design Standards

L. Multi-Building Developments. Developments with multiple buildings shall integrate architectural characteristics into each building, that, taken together in the aggregate, make the development appear to be a cohesive, planned area that is not monotonous in design. Such architectural characteristics may include use of the same, similar, or complementary architectural styles, materials, or colors.

N. Metal Cladding and Finishes.

1. Metal wall panels with exposed fasteners (e.g., wall panels commonly referred to as “R-Panel,” “U-Panel,” “Corrugated Panel,” “7.2 Panel,” and other comparable panel systems), and metal wall panels with hidden fasteners that have a corrugated appearance that resembles the typical exposed fastener panels described above, combined, shall not be used as cladding on any building wall.
2. Standing seam metal panels may be used for cladding on not more than 25 percent of any building wall (exclusive of windows, doors, and overhead doors), provided that they integrate into the architectural style and color of the building.
3. Insulated architectural metal wall panels with hidden fasteners are allowed without limitation, provided that they do not have a corrugated appearance that resembles the typical exposed fastener panels described in subsection **NP.1.**, above.
4. The Director may permit other metal cladding or finishes, such as bronze, brass, copper, or wrought iron, if a determination is made that such materials are equal or superior to the primary building materials.

18.04.505 Building Design Standards in the I Zone

F. Metal Cladding and Finishes.

18.05 Metal wall panels with exposed fasteners (e.g., wall panels commonly referred to as “R-Panel,” “U-Panel,” “Corrugated Panel,” “7.2 Panel,” or “Standing Seam Panel,” and other comparable panel systems), and metal wall panels with hidden fasteners that have a corrugated appearance that resembles the typical exposed fastener panels described above, combined, shall not cover more than:

18.05.504 25 percent of building elevations that face arterial streets or Interstate highways.

18.05.505 25 percent of the first third of building elevations that are perpendicular to arterial streets or Interstate highways.

18.06 Insulated architectural metal wall panels with hidden fasteners are allowed without limitation, provided that they do not have a corrugated appearance that resembles the typical exposed fastener panels described in subsection C.1., above.

18.04.810 Sign Regulations for Nonresidential Uses and Business Uses of the Home in Residential Zones

A. Generally.

1. All signs for nonresidential uses in residential zones shall be limited to 20 square feet in sign face area. All such signs shall be unlit or indirectly lit. All lighting shall be aimed and / or shielded to insure that no direct light is seen upon any nearby street or upon any nearby residential property.
2. For the purposes of subsection A.1., above, a business use of the home is not considered a “nonresidential use.”

B. **Business Uses of the Home.** Properties within the [North Cleveland Adaptive Re-Use](#) Overlay Zone, as defined in Section [18.02.02.02, Overlay Zones Established](#), shall be permitted one sign on North Cleveland Avenue subject to the standards of subsection A.1., above.

18.08.306 Parking Bufferyards

- A. **Generally.** Parking bufferyards shall be installed along the boundaries of surface parking lots of nonresidential, mixed-use, multifamily uses, or clustered housing developments if the surface parking lots include more than three parking spaces that are visible from the street or adjoining property. Plant materials and walls or fences that are used in parking bufferyards shall also be counted towards other bufferyards that may be required along the same boundary of the subject property by other standards of this UDC. The requirements of this Section do not apply at points of ingress or egress to the surface parking lot.
- B. **Exception.** In the DT Zone, buffering shall be provided as set out in Section [18.08.04.02, Street Trees and Plazas in DT Zone](#), and not this Section.
- C. **Standards for Parking Bufferyards Along Residential Property Lines.** Parking bufferyards along property boundaries that adjoin single-family detached, duplex, multiplex, or townhome uses shall be buffered as follows:
 1. Parking bufferyards shall be not less than three feet in width, not including any vehicular overhang areas, with areas of larger width where necessary to accommodate required trees.
 2. Parking bufferyards shall include a fence or wall that is at least five feet in height, and two large trees per 100 linear feet of bufferyard.
- D. **Standards for Parking Bufferyards Along All Other Property Lines.**
 1. Parking bufferyards shall be not less than five feet in width, not including any vehicular overhang areas.
 2. Along streets, parking bufferyards shall be installed between the parking lot and the sidewalk and are allowed to overlap (be included in) the width of the street bufferyard. Plant materials that are installed in tree lawns on the other side of a detached sidewalk are not counted towards parking bufferyards.
 3. Parking bufferyards shall include shrubs and any combination of berms, walls, fences, evergreens, planters, or other approved visual obstructions, provided the bufferyard includes a mix of coniferous plantings necessary to comply with subsection D.4., below, and the shrubs are installed along not less than 75 percent of the width of the parking bufferyard.
 4. Parking bufferyards shall provide a visual obstruction up to a height of:
 - a. ~~Five feet above the surface of the parking lot at installation if the bufferyard is planted along a single-family, duplex, multiplex, or townhome property line; or~~
 - b. Three feet above the surface of the parking lot within three years after installation in all other locations (see Figure [18.08.03.06](#), Illustrative Parking Bufferyard).

18.09.602 Environmentally-Sensitive Areas

- A. **Generally.** In 2008, Cedar Creek Associates, Inc. and the City of Loveland prepared an update to the 1993 / 1996 natural areas report “In the Nature of Things: Loveland’s Natural Areas”. The update, entitled “City of Loveland Natural Areas Sites,” dated July 2008 (the “Report”), gathered information on sites that were not evaluated in the original report or had been developed or preserved. Table 1 of the July 2008 report contains a numerical rating of the overall habitat quality of 153 sites. The Report, as amended from time to time, is hereby adopted by reference for the purposes of this Section.
- B. **Applicability.** The standards of this Section apply if the subject property includes or is within 100 feet of:
 - 1. Any of the environmentally-sensitive area as identified in the Report; or
 - 2. Any land within the ordinary high water mark of a river, stream, creek, lake, or reservoir; or
 - 3. Any of the following environmentally sensitive areas:
 - a. Mature stands of vegetation;
 - b. Jurisdictional (“USACE”) or non-jurisdictional wetlands;
 - c. Physical linkages to other natural areas or open space including wetlands, waterways, native vegetation, conserved open lands and natural areas, and other natural corridors within or connected to the project area;
 - d. Existing drainage patterns and areas within the floodway and flood fringe including areas within the designated floodway or 100-year floodplain of major drainages, as well as smaller tributary drainages without designated floodways or floodplains;
 - e. Irrigation canals and ditches and water courses; and
 - f. Fault and aquifer recharge and discharge areas.

18.10.201 COGCC Standards Adopted

- A. **Generally.** Applicants for oil and gas permits shall provide appropriate documentation to the City to demonstrate compliance with the COGCC regulations listed in this Section.
- B. **Setback Requirements.** Setbacks meet the standards of COGC Rule 6043, as amended.

18.10.303 Bufferyards

Commission Mitigation Regulations. All oil and gas operations shall comply with the mitigation measures required under COGCC Rule 604.c, as amended.

Bufferyards. The bufferyards set forth in Table 18.10.03.03, Bufferyards for Oil and Gas Operations, below, shall be established once the well is in production around the entire perimeter of the oil and gas production site, excluding vehicular access points, and maintained until the site has been restored in accordance with the final reclamation plan approved by the city and the commission. Bufferyards shall not be required during drilling and well completion operations. The use of xeriscape plant types shall be used unless a permanent irrigation system is provided by the operator. A temporary irrigation system shall be provided, maintained and operated for xeriscape plant types for a period of two years from planting.

REINTERPRET BUFFERYARD TABLE ON PAGE 18-244

Table 18.10.303 Bufferyards for Oil and Gas Operations			
Base Standard (plants per 100 linear feet)	Optional Width (feet)	Plant Multiplier	Plant Multiplier Option: add 6 foot opaque masonry wall
	150	1.00	
5 canopy trees	170	0.90	0.85
6 evergreen trees	190	0.80	
4 large shrubs	210	0.70	
	230	0.60	
	250	0.50	

18.10.403 Land Use Restrictions

- A. **Generally.** Notwithstanding the land uses that are allowed by the underlying zones established in this title, land that is located in the Critical Zone ("OGO-CZ"), Restricted Zone ("OGO-RZ"), or High Occupancy Building Zone ("OGO-HO"), development of such land shall be subject to and shall comply with the applicable restrictions set out in this Division.
- B. **Critical Zone.** In the OGO-CZ, land uses shall be limited to any of the following:
 1. Essential underground public utility facilities; and
 2. Undeveloped, **access-restricted open space**.
- C. **Restricted Zone.**
 1. **Land Use.** In the OGO-RZ, land uses shall be limited to any of the following:
 - a. Airport, heliport, or helistop;
 - b. Composting facility;

- c. Storage yard;
- d. Essential public utility uses, facilities, services and structures;
- e. Heavy industry;
- f. Wireless telecommunications facilities (all types);
- g. Nursery or greenhouse, wholesale;
- h. Recycling collection center (attended); ~~Recyclable materials processing~~;
- i. Recyclable materials processing
- j. Recyclable materials processing;
- k. Resource extraction (minerals);
- l. Resource extraction (oil and gas);
- m. Self-storage;
- n. Street;
- o. Heavy logistics center;
- p. Waste transfer station;
- q. Disposal;
- r. Passenger motor vehicle sales or rental;
- s. Heavy motor vehicle sales or rental;
- t. Motorcycle, scooter, or ATV sales or rental.

18.14.202 Decision-Making Tracks by Application Type

**Table 18.14.02.02.B.
Decision-Making Track by Application Type**

Application Type	Purpose of Application	Reference	Decision-Making Track	
1. Annexation, Zoning and Rezoning				
Annexation	Annexing property into the City	18.17.01, Annexation	Track 5	Yes
Zoning and Rezoning	To zone land being annexed or rezone land with the City.	Division 18.17.09, Zoning and Rezoning	Track 5	Yes
2. Overlays				

Table 18.14.02.02.B.
Decision-Making Track by Application Type

Application Type	Purpose of Application	Reference	Decision-Making Track	
Enhanced Corridor Overlay Zone Standards	Utilize special standards to promote redevelopment along Highway Corridors	Sec. 18.17.04.01, Enhanced Corridor Overlay Zone Application	Track 1	Discretionary
Enhanced Corridor Overlay Zone Designation	Request inclusion within the boundaries of the Enhanced Overlay Zone	Sec. 18.17.04.02, Request for Inclusion of Property	Track 3	Yes
3. Development Plans, Permits, and Approvals				
Certificate of Designation	To establish a disposal site regulated by C.R.S.	Sec. 18.02.04.08, Industrial, Processing, Recycling, Storage, and Disposal Standards, subsection B.	Track 5	Yes
Complete Neighborhood	To utilize standards for Complete Neighborhoods	Division 18.17.06, Complete Neighborhoods	Track 2	Yes
Conceptual Master Plan	A generalized land use and development plan for property proposed to be included within the MAC or E Zones	Division 18.17.07, Conceptual Master Plan	Track 5	Yes
Design Review	Optional for approval of building design	Division 18.17.12, Design Review	Track 1	No
Major Home Occupation	To establish a home-based business in a residential district	Sec. 18.02.06.01, Home Occupations, Generally	Track 1	Discretionary

Table 18.14.02.02.B.
Decision-Making Track by Application Type

Application Type	Purpose of Application	Reference	Decision-Making Track	
Oil and Gas Administrative	To obtain a permit for oil and gas development in compliance with enhanced standards	Division 18.10.03, Enhanced Standards for Oil and Gas Operations (Administrative Review)	Track 12	Yes

18.17.701 Application

- A. **Generally.** A Conceptual Master Plan (“CMP”) is a generalized land use and development plan for the property proposed to be included within the MAC or E Zones to ensure the coordinated development of the entire property.
- B. **When Required.** A CMP is required as part of an application to zone or rezone property to an MAC or E zone, if a sketch site development plan or site development plan is not submitted for the entire property included in the zoning or rezoning application.
- C. **Contents.**
 - 1. **MAC Zone.** A CMP for property within the MAC zone shall include:
 - a. The general type, intensity, and location of land uses and public facilities;
 - b. The maximum residential density for the CMP;
 - c. The open space ratio for the CMP;
 - d. The maximum nonresidential building square footage for the CMP;
 - e. The overall classification and design of the primary road and pedestrian network;
 - f. A development phasing plan, if applicable; and
 - g. A narrative statement, conceptual renderings, schematic designs, architectural guidelines, or other information as needed to demonstrate compliance with the standards in Division 18.06.10, Standards for Mixed-Use Activity Center Zone.
 - 2. **E Zone.** A CMP for property within the E zone shall include:
 - a. The items listed in subsections BC.1.a through BC.1.f, above, inclusive;
 - b. A depiction of the allocation of land uses in a manner that demonstrates compliance with Section 18.06.11.02, Balance of Land Uses; and

c. A narrative statement, conceptual renderings, schematic designs, architectural guidelines, or other information as needed to demonstrate compliance with the standards in Section [18.06.11.03 Campus-Like Character](#).

18.19.03 Restaurant, Fast Food means an establishment engaged in the sale of pre-prepared or rapidly prepared food or beverages to customers in a ready-to-consume state, for consumption either within the restaurant building, outside but on the premises, or off the premises, and which may include~~s~~ a drive-in or drive-through facility. The design or principal method of operation involves two or more of the following characteristics:

1. The elimination, in whole or in part, of table service, thus requiring customers to place orders at the counter where the orders are filled;
2. Service of food in edible containers or in paper, plastic, foil or other disposable containers; or
3. Insufficient facilities for on premises consumption of the total volume of food sold by the establishment.



MEMORANDUM

To: Loveland Planning Commission

Through: Rod Wensing, City Manager's Office

From: Alison Hade, Community Partnership Office

Date: May 13, 2019

Subject: Proposed amendments to Title 18 at Chapter 18.16 regarding fire impact fees and use of the Community Housing Development Fund.

I. MOTION

Motion to recommend that City Council approve amendments to the Unified Development Code, Part 4, Chapter 16.18, Division 18.16.103 (E) and 16.16.502 regarding fire impact fees and use of the Community Housing Development Fund as described in the staff memorandum dated May 13, 2019.

II. BACKGROUND

The redlined code changes in Section 3 were made to the Loveland Municipal Code in 2018 but not included with the adoption of the Unified Development Code (UDC). Consequently, the proposed amendments are being proposed to the recently adopted UDC (Title 18 of the Municipal Code).

FIRE IMPACT FEES

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. The Unified Development Code at Division 18.16.103(E) states that City Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees. Other fees include utilities and charges that must be reimbursed, or backfilled, by the general fund and cannot be waived outright by City Council. On May 15, 2018, City Council discussed back-filling fire impact fees in addition to utility fees and requested that the Community Partnership Office bring forward an action to update portions of Loveland Municipal Code at Sections 16.38 and 16.43 to require the backfilling of fire impact fees. This amendment was heard by the Planning Commission on October 8, 2018 and was adopted by City Council on second reading on December 4, 2018.

COMMUNITY HOUSING DEVELOPMENT FUND

The Community Partnership Office asked City Council to add a provision to the Loveland Municipal Code in 2018, allowing use of the Community Housing Development Fund (CHDF) for professional services. This amendment was adopted on City Council on second reading

on July 3, 2018. In 2018 and 2019, CHDF funding has been used to pay for our Homeless Strategic Plan and monitoring of Human Service Grant recipients.

Both items were presented to the Affordable Housing Commission on May 9, 2018 with unanimous approval to amend the code.

Below please find a redlined version of sections of Title 18 relating to both items.

III. TITLE 18 SECTIONS OF CODE TO BE AMENDED

TITLE 18 UNIFIED DEVELOPMENT CODE

(Ord. [6248](#) §1, 11/06/2018)

PART 4: NONCONFORMITIES, DEVELOPMENT REVIEW, AND ENFORCEMENT

CHAPTER 18.16 REQUIRED IMPROVEMENTS, DEDICATIONS, AND FEES

Contents:

- **Division 18.16.01 Purpose, Application, and Waiver**
- **Division 18.16.05 Affordable Housing**

Division 18.16.01 Purpose, Application, and Waiver

18.16.103 Waiver of Fees

A. **Generally.** City Council may, by resolution, grant an exemption from all or part of the requirements of this UDC related to the payment of fees imposed by the City upon new development, whether for capital or other purposes, upon a finding that such waiver is in the best interests of the public by encouraging activities that provide significant social, economic, or cultural benefits.

B. **Specific Requirements.**

1. ***Not-for-Profit Facilities.*** City Council may waive fees for not-for-profit facilities upon a finding, set forth in a development agreement, that:
 - a. The project for which the fees would otherwise be imposed will provide not-for-profit facilities open to City residents that might otherwise be provided by the City at taxpayer expense;
 - b. Such facilities relieve the pressures of growth on City-provided facilities; and
 - c. Such facilities do not promote additional growth or growth impacts.
2. ***Affordable Housing.*** City Council may waive fees for affordable housing developments (including rental housing) as set forth in subsection B.2.a. or subsection B.2.b., below. City Council may waive fees for

affordable housing developments including for-sale housing as set forth in subsection B.2.c. or subsection B.2.d., below.

- a. Rental Housing - Option 1. If granted for rental housing that is designated as an affordable housing development pursuant to [Division 18.16.05, Affordable Housing](#), the waiver may be up to 100 percent, provided that the development meets the following criteria:
 1. The development does not include market-rate for-rent housing;
 2. 100 percent of the dwelling units will be available for rent by persons earning 60 percent of the areawide median income or lower; and
 3. At least 50 percent of the units will be available for rent by persons earning 50 percent of the areawide median income or lower.
- b. Rental Housing - Option 2. If granted for rental housing that is designated as an affordable housing development pursuant to [Division 18.16.05, Affordable Housing](#), the exemption shall be as set out in Table 18.16.103, Affordable Housing Fee Waivers, provided that any such exemption shall not be applied to market housing:

**Table 18.16.103
Affordable Housing Fee Waivers**

Percentage of area median income to be served	
30%	100%
40%	90%
50%	80%
60%	70%

3.
 - c. For-Sale Housing - Option 1. If granted for for-sale housing made available for-sale to persons earning 60 percent of the areawide median family income or lower, the exemption up to 100 percent may be granted if the development meets the following criteria:
 1. The affordable housing units shall be available for-sale to only persons earning 60 percent of the areawide median income or lower; and
 2. Such waiver shall not apply to market-rate for-sale housing units.
 - d. For-Sale Housing - Option 2. If granted for for-sale housing made available for-sale to persons earning 61 percent to 100 percent of the areawide median family income, an exemption may be granted, depending upon the unique circumstances of the project and only following specific review and approval of the project by the Director and the City Council. A waiver of fees or charges, or other economic or infrastructure incentives, may be granted, in the sole discretion of the City Council, for projects that meet the characteristics and requirements as follows:
 1. The project furthers the goal of increasing the supply of affordable housing to the residents of the City;

2. The project is designated by Council as an affordable housing development;
3. The terms of the waiver of fees or charges, or other incentives, are detailed in a development agreement;
4. The City finds that a *pro forma* financial analysis for the development justifies the waiver; and
5. Preference is given for selling affordable housing units to families or individuals that currently live or work in Loveland.

C. **Increased and Decreased Waivers.** Notwithstanding the provisions of subsection B.2., above, the City Council may increase the percentage of fees waived upon making a finding at its discretion that additional fee waivers will serve a public purpose, which public purpose shall be specified in the resolution. The City Council may also decrease the percentage of fees waived based upon the unique circumstances of a proposed development, the availability of funds, or any other reason.

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

E. **Policy on Capital-Related Fees.** When a capital-related fee is waived or reduced, it is the general policy of the City Council to direct that the waived fee be paid by the general fund or another appropriate fund, except in the case of waivers pursuant to subsection B.1., B.2.a., and B.2.c., which are generally only reimbursed if the waived fee involves a utility fund or a Loveland Fire Rescue Authority impact fee. However, such general policy is not binding upon the City Council, is subject to appropriation, and shall not be construed to create a multi-year fiscal obligation.

Division 18.16.05 Affordable Housing

18.16.502 Community Housing Development Fund Established

There is created a special fund to be known as the “Community 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 the City Council. The fund and any interest earned in the fund shall be for the specific use of those affordable housing programs and services, or other professional services necessary to support the Community Partnership Department, as determined by the City Council.

Effective on: 11/20/2018

IV. ATTACHMENTS

- Attachment 1 – May 13, 2019 Planning Commission PowerPoint

UNIFIED DEVELOPMENT CODE UPDATES

Planning Commission

May 13, 2019

18.16.103(E)

- Adds language requiring back-filling Loveland Fire Rescue Authority fees.

18.16.502

- Allows the use of the Community Housing Development Fund (1.25% of sales tax revenue) to be used for professional services.

Questions

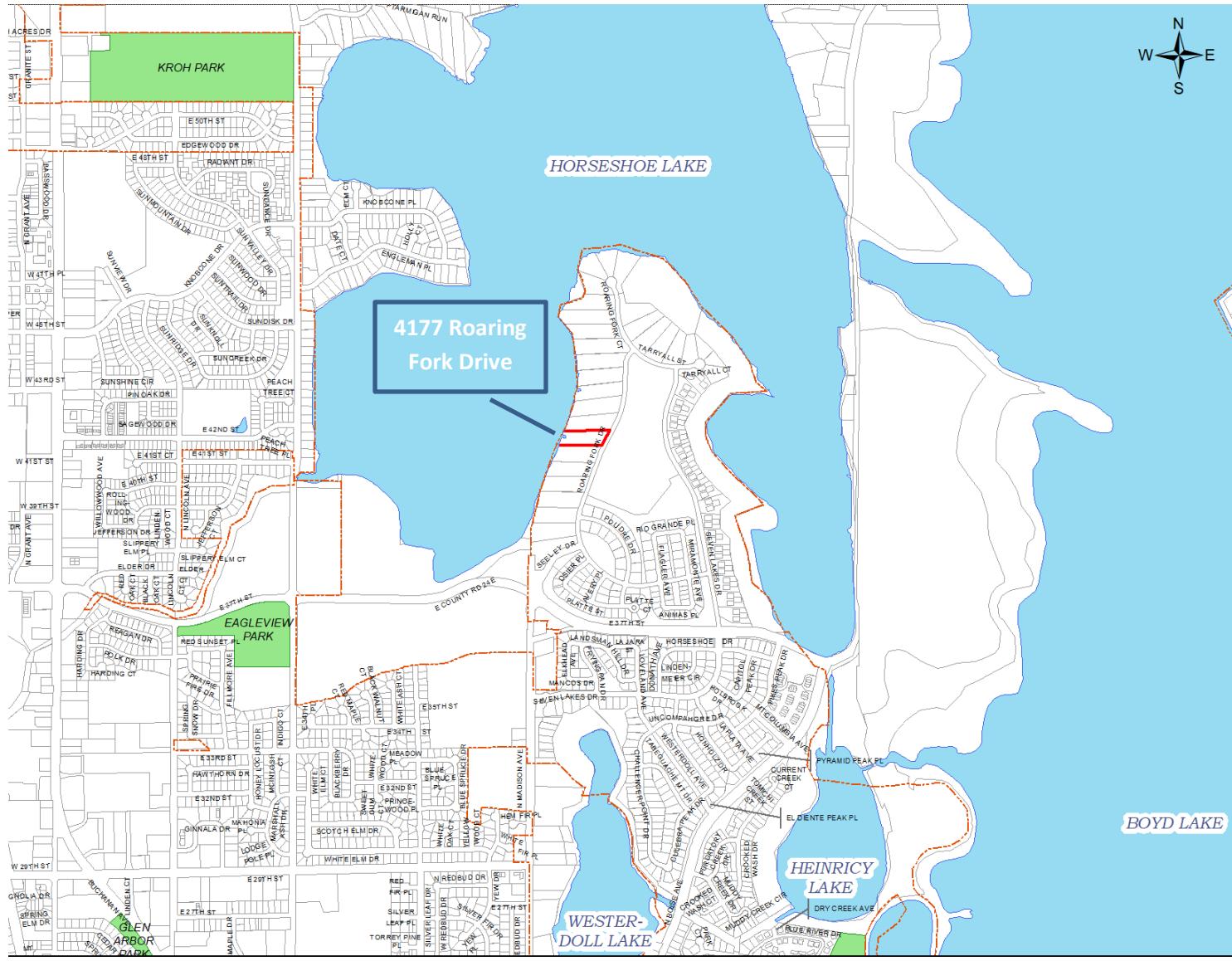


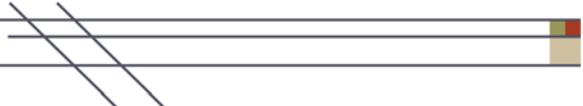
Zoning Board of Adjustment Staff Report

May 13, 2019

4177 Roaring Fork Drive

Agenda #: 2	PZ # 19-00060	Variance - Setback
Location	4177 Roaring Fork Drive – generally located north of E. 37 th Street, west side of Roaring Fork Drive on the Horseshoe Lake Peninsula.	





Development Review Team Recommended Motion(s)

Recommended Motion(s):

Option 1:

Move to make the findings listed in this Staff Report dated May 13, 2019, and, based on those findings deny the variance for constructing an accessory dwelling within the 115 foot restricted setback area and 5 feet from the north property line for Lot 7, Block 1 – Horseshoe Lake First Subdivision.

Or

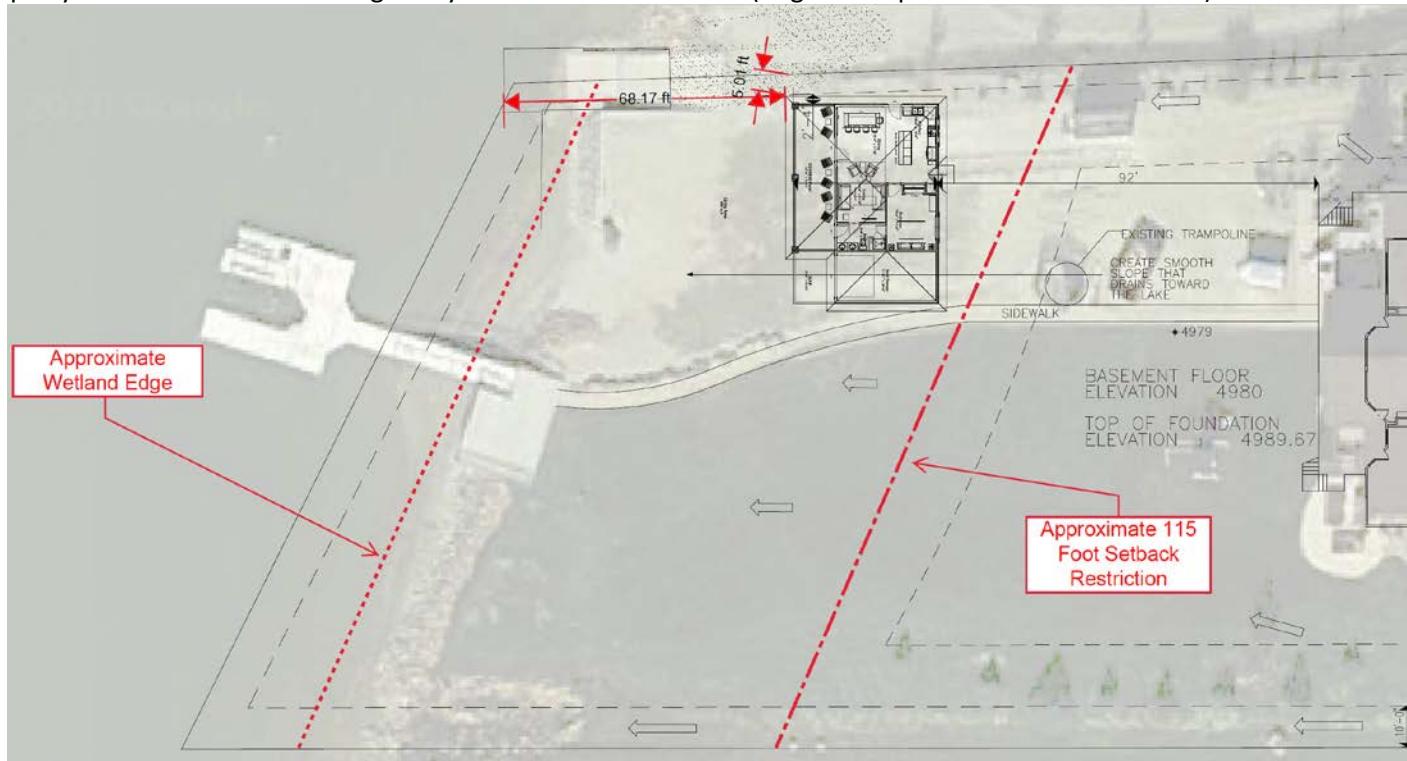
Option 2:

Move to make the findings listed in this Staff Report dated May 13, 2019, and based on those findings approve the variance for constructing an accessory dwelling within the 115 foot restricted setback area and 5 feet from the north property line for Lot 7, Block 1 – Horseshoe Lake First Subdivision, subject to the conditions listed under the Staff Recommendation.

Options	Consequence
Approve the Motion (Option 2)	Approval of the motion would allow the applicant to submit an application to the Building Division for review/approval of a building permit for construction of the accessory dwelling.
Deny the Motion (Option 1) or take no action	<p>Denying the motion would prevent the accessory dwelling unit from being constructed within the restricted setback. An alternative would be for the applicant to continue coordination with all the affected lot owners in pursuing an amendment to the Horseshoe Lake First Subdivision.</p> <p>Taking no action on the motion would cause further delay in the applicant's ability to construct the proposed accessory dwelling in the restricted setback. It would also cause confusion in determining whether a variance is a suitable path for reaching resolution on the proposed accessory dwelling unit.</p>
Adopt a Modified Action	As an alternative, staff has prepared findings and conditions that the Zoning Board of Adjustment could adopt as a modified action. These findings and conditions are outlined as Option 2 under the Criteria and Findings section of this Staff Report.
Refer back to Staff	If the item was referred back to staff, specific direction from the Zoning Board of Adjustment would need to be provided in reaching resolution on the requested variance.

Project Summary

The 4177 Roaring Fork Drive Variance is a request to allow the construction of a 1,250 square foot single-story accessory dwelling unit within a restricted setback along the rear of the property from the edge of Horseshoe Lake. The proposal is to construct the accessory dwelling 68 feet from the rear property line within a 115 foot setback and 5 feet off the north property line outside of an existing utility easement as illustrated (larger view provided in Attachment B).



The Horseshoe Lake First Subdivision was approved for development in 1999 consisting of a variety of single-family detached lots ranging from 4,600 square feet up to 100,000+ in area. Twenty (20) lots (including the subject property) were custom estate lots platted along the west peninsula of the lake with the rear property lines extending to the lake's edge. An Environmental Assessment concluded that there were some moderate to high environment/habitat ratings along the lake's edge. In order to minimize the impacts of development, a setback restriction along the rear of all properties from the edge of the wetland boundary to buildings/structures was established. (The edge of the wetland boundary varies along the lake, its location is generally at the rear property lines of the affected lots.) A majority of the affected lots have a 115 foot setback restriction. Five of the lots at the north end of the peninsula have either a 100 foot or 75 foot setback restriction.

With development, the environment/habitat conditions have changed along the western edge of the peninsula. Much of the shoreline has been stabilized with rip-rap to prevent erosion. Native vegetation has transformed into manicured landscapes and covered with paved surfaces, buildings, structures, play equipment, etc. - all typical with any private lot improvement. The subdivision includes a Home Owners Association (HOA) and Architectural Control Committee (ACC) which oversee considerations for most private lot improvements. Based on Staff research, the HOA was granted general discretion over the type of improvements allowed within subdivision. For example, there are no specific dimensional standards regarding accessory dwelling units in terms of square footage, height, and number. The City becomes involved in

applying the development standards when a building permit is needed. The discretion granted to the HOA has likely contributed to the number of lot improvements made that are in conflict with approved development plans, particularly improvements within the setback restriction.

The Applicant has been seeking the ability to construct this accessory dwelling for over a year now. Initial conversations with staff provided direction in pursuing an amendment to the Horseshoe Lake First Subdivision Planned Unit Development (PUD). The approach involved coordinating with all 20 lot owners that are affected by the setback restriction. This effort is still ongoing with the Applicant's participation. However, the process has not come to fruition. The Applicant is requesting the variance in order to move forward with their project but is still willing to participate in amending the PUD if/when the time comes.

Planning staff is unaware of any opposition to the variance request. The Applicant has provided a letter of approval from the HOA (see Attachment D) and an addendum to the original Environmental Assessment (see Attachment E) supporting construction within the setback restriction.

Attachments

- Attachment A – Application and Justification Statement
- Attachment B – Site Plan
- Attachment C – Accessory Dwelling Elevations
- Attachment D – HOA Letter of Approval and Greeley Loveland Irrigation Company Email Correspondence
- Attachment E – Addendum to Environmental Assessment
- Attachment F – Aerial Image with Horseshoe Lake First Subdivision PUD Overlay Highlighting Setback Restriction

Applicant Information	Development Review Team Contacts
Applicant: Adam Carriker	Planner: Troy Bliss Traffic Engineer: N/A LFRA: N/A
Property Owner: Adam & Angie Carriker	Stormwater: Kevin Gingery Power: N/A Water/Wastewater: N/A

Site Data	
Subdivision	Horseshoe Lake First Subdivision
Land Area	2.03 acres or 88,340 square feet
Existing Buildings	5,830 square foot single-family residence
Topography	Slopes east (approximately 4,985) to west (approximately 4,973) towards Horseshoe Lake.
Access	Roaring Fork Drive
Water Provider	City of Loveland
Wastewater Provider	City of Loveland
Electric Provider	City of Loveland
Gas Provider	Xcel Energy
Floodplain	No
Other	For flood protection, all dwellings shall be constructed with the top of foundation at an elevation of 4,980.

Subject Property and Adjacent Property Designations			
	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	Horseshoe Lake PUD	Low Density Residential	Horseshoe Lake Custom Estate Lot/Residence
Adjacent North	Horseshoe Lake PUD	Low Density Residential	Horseshoe Lake Custom Estate Lot/Residence
Adjacent South	Horseshoe Lake PUD	Low Density Residential	Horseshoe Lake Custom Estate Undeveloped Lot
Adjacent East	Horseshoe Lake PUD	Low Density Residential	HOA Conservation Land
Adjacent West	Unincorporated Larimer County	Low Density Residential	Horseshoe Lake



Relevant Case History			
PZ#	Date	Request	Action
N/A	12/15/99	PUD Final Development Plan	Approved

Relevant Zoning District Regulations		
Horseshoe Lake PUD	Required	Proposed
Lot Area	N/A	N/A
Lot Frontage	N/A	N/A
Maximum Building Heights	35 feet (45 feet for homes with walkout basements)	N/A
Maximum Lot Coverage	N/A	N/A
Minimum Building Setback:		
• Front	*70 feet	Behind principal building (over 70 feet)
• Rear	115 feet from wetland edge (approximately rear lot line)	68 feet from rear lot line
• Side	*25 feet	5 feet
• Street Side	N/A	N/A
Minimum Parking Requirements:	N/A	N/A
Buffer yards	N/A	N/A

*The Horseshoe Lake PUD does not specify setback requirements for accessory buildings/structures, except along the rear property line.

Neighborhood Outreach	
Notification	An affidavit was received from Adam Carriker certifying that written notice was mailed to all property owners within 150 feet of the property on April 26, 2019 and a notice was posted in a prominent location facing Roaring Fork Drive on April 25, 2019. All notices identified that the hearing for the variance would be held on Monday, May 13, 2019 at 6:30 p.m. in the Municipal Building (City Council Chambers) with the Zoning Board of Adjustment.
Neighborhood Response	At the time this communication was prepared, only one communication has been received by City staff. The Greeley Loveland Irrigation Company (GLIC) has responded to the proposed development. This communication is included in Attachment D. The Applicant has indicated that they have spoken to their immediate neighbor to the north with the understanding that there are no objections to the variance relating to the proposed accessory dwelling.

Option 1: Zoning Board of Adjustment Criteria and Findings for Denial	
Pursuant to Section 18.17.1607.B. of the City of Loveland Municipal Code, the Zoning Board of Adjustment shall consider and make findings regarding the following criteria for variance requests. All criteria must be met in order to approve the requested variance.	
Criteria	
<p>1. Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent set out in this Code;</p>	
<p>Finding: Staff finds that the criteria has been met.</p> <p>Analysis: The variance does not conflict with any adopted plans or policies of the City or the purposes of the Unified Development Code. The property is subject to requirements unique to this subdivision established as part of the PUD zoning. As lots have developed within this PUD, the proposed variance is in keeping with other such private lot improvements, particularly the 20 Custom Estate lots along the west side of the peninsula.</p>	

2. There are exceptional conditions creating an undue hardship, applicable only to the property involved, or the intended use thereof, which do not generally apply to the other land areas or uses within the same zone;

Finding: Staff finds that the criteria has not been met.

Analysis: Based on environment/habitat significance, it can be argued that the 115 foot setback restriction is no longer appropriate for this particular lot given the addendum to the Environmental Assessment (see Attachment E) the Applicant had prepared. However, the setback restriction does not prevent the ability to construct the proposed accessory dwelling. Between the existing single-family house and the 115 foot setback line is enough space to accommodate the proposed accessory dwelling.

3. The Applicant cannot derive a reasonable use of the property without approval of a variance;

Finding: Staff finds that the criteria has not been met.

Analysis: The subject property is approximately 2 acres in size. Less than ½ acre is encumbered by the 115 foot setback restriction. There is sufficient land area on the property that is not encumbered by easements or building restrictions in being able to construct the proposed accessory dwelling unit.

4. Granting the variance will not generally set a precedent for other applications (which would indicate that a text amendment to this UDC should be proposed and considered instead);

Finding: Staff finds that the criteria has been met.

Analysis: To a certain extent, precedent has already been set based on other lot improvements being made within the setback restriction along property lines on the west side of the peninsula. The information presented in the addendum to the Environmental Assessment (see Attachment E) would suggest that other affected lots have the same condition as the subject property and therefore could consider adjusting the setback restriction. In communications with the Biologist who prepared the report, their professional opinion is that a buffer along the rear property lines of 25 to 50 feet may be an appropriate adjustment to the setback restriction. Consequently, Staff believes that there is a strong justification for amending the Horseshoe Lake PUD setback restriction for Lots 1-20, Block 1 – Horseshoe Lake First Subdivision. This is the direction that Staff continues to believe should be pursued by all affected property owners – especially those with lot improvements that conflict with the Horseshoe Lake PUD.

5. Granting the variance will not be detrimental to any adjacent properties or the area;

Finding: Staff finds that the criteria has been met.

Analysis: Based upon evidence that the Applicant has communicated to Staff, the adjoining property owner to the north who is most impacted by this variance request does not object to the proposed accessory dwelling. The HOA has also provided the Applicant with a letter of approval. And, the GLIC is not concerned with overflow volume on private property in the event Horseshoe Lake floods.

6. Granting the variance will not be detrimental to public health, safety, or welfare; and

Finding: Staff finds that the criteria has been met.

Analysis: The public health, safety, or welfare would not be impacted by the requested variance. The Applicant however has been made aware of the suggested elevation for establishing top of foundation for the accessory dwelling. In order to protect their investment and the inhabitants of the space, the top of foundation should be set at an elevation of no less than 4,980. (This is also a recommended condition of approval should the Zoning Board of Adjustment approve the requested variance.)

7. Adequate relief cannot be reasonably obtained through a different procedure, such as the application of alternative compliance standards, if applicable.

Finding: Staff finds that the criteria has not been met.

Analysis: Staff believes that there is a strong justification for amending the Horseshoe Lake PUD setback restriction for Lots 1-20, Block 1 – Horseshoe Lake First Subdivision. This is the direction that Staff continues to believe should be pursued by all affected property owners – especially those with lot improvements that conflict with the Horseshoe Lake PUD. This effort however has not been timely for the Applicant but there still remains an interest in pursuing an amendment to the Horseshoe Lake PUD by a majority of the affected lot owners.

Option 2: Zoning Board of Adjustment Criteria and Findings for Approval

Pursuant to Section 18.17.1607.B. of the City of Loveland Municipal Code, the Zoning Board of Adjustment shall consider and make findings regarding the following criteria for variance requests. All criteria must be met in order to approve the requested variance.

Criteria

1. Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent set out in this Code;

Finding: The Zoning Board of Adjustment finds that the criteria has been met.

Analysis: The variance does not conflict with any adopted plans or policies of the City or the purposes of the Unified Development Code. The property is subject to requirements unique to this subdivision established as part of the PUD zoning. As lots have developed within this PUD, the proposed variance is in keeping with other such private lot improvements, particularly the 20 Custom Estate lots along the west side of the peninsula.

2. There are exceptional conditions creating an undue hardship, applicable only to the property involved, or the intended use thereof, which do not generally apply to the other land areas or uses within the same zone;

Finding: The Zoning Board of Adjustment finds that the criteria has been met.

Analysis: The addendum to the Environmental Assessment demonstrates that the setback restriction for environment/habitat protection is no longer relevant based on what has transpired in development of the subdivision. As a result, this encumbrance is creating an undue hardship in allowing owners the full use of their properties.

3. The Applicant cannot derive a reasonable use of the property without approval of a variance;

Finding: The Zoning Board of Adjustment finds that the criteria has been met.

Analysis: The addendum to the Environmental Assessment demonstrates that the setback restriction preventing certain use of the property based on conditions that no longer exist. Therefore without variance approval, use of the property within the setback restriction would not be possible with the exception for pursuing an amendment to the Horseshoe Lake PUD which is ongoing. This effort however has created delays on the Applicant whereas the only immediate form of relief is approval of this variance.

4. Granting the variance will not generally set a precedent for other applications (which would indicate that a text amendment to this UDC should be proposed and considered instead);

Finding: The Zoning Board of Adjustment finds that the criteria has been met.

Analysis: To a certain extent, precedent has already been set based on other lot improvements being made within the setback restriction along all rear property lines on the west side of the peninsula. The information presented in the addendum to the Environmental Assessment (see Attachment E) would suggest that other affected lots have the same condition as the subject property and therefore could consider adjusting the setback restriction. In communications with the Biologist who prepared the report, their professional opinion is that a buffer along the rear property lines of 25 to 50 feet may be an appropriate adjustment to the setback restriction. Consequently, the Zoning Board of Adjustment believes that there is a strong justification for amending the Horseshoe Lake PUD setback restriction for Lots 1-20, Block 1 – Horseshoe Lake First Subdivision. This is the direction that the Zoning Board of Adjustment believes should be pursued by all affected property owners – especially those with lot improvements that conflict with the Horseshoe Lake PUD.

5. Granting the variance will not be detrimental to any adjacent properties or the area;

Finding: The Zoning Board of Adjustment finds that the criteria has been met.

Analysis: Based upon evidence that the Applicant has communicated to Staff, the adjoining property owner to the north most impacted by this variance request does not object to the proposed accessory dwelling. The HOA has also provided the Applicant with a letter of approval. And, the GLIC is not concerned with overflow volume on private property in the event Horseshoe Lake floods.

6. Granting the variance will not be detrimental to public health, safety, or welfare; and

Finding: The Zoning Board of Adjustment finds that the criteria has been met.

Analysis: The public health, safety, or welfare would not be impacted by the requested variance. The Applicant however has been made aware of the suggested elevation for establishing top of foundation for the accessory dwelling. In order to protect their investment and the inhabitants of the space, the top of foundation should be set at an elevation of no less than 4,980.

7. Adequate relief cannot be reasonably obtained through a different procedure, such as the application of alternative compliance standards, if applicable.

Finding: The Zoning Board of Adjustment finds that the criteria has been met.

Analysis: An effort in amending the Horseshoe Lake PUD is ongoing with the respective affected lot owners, including the Applicant. Once consensus has been reached by all parties, application should be filed with the City in creating a uniform and equal approach for improvements to properties within the setback restriction.

Staff Recommendation

City staff is recommending denial of the variance application on the basis that certain findings regarding hardship, reasonable use of the property, and relief in an alternative form cannot be met. However, there is strong evidence presented by the Applicant supporting construction of the accessory dwelling unit in the location as presented. This includes the following:

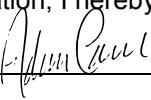
- Addendum to the Environmental Assessment (Attachment E);
- HOA Letter of Approval and GLIC Email (Attachment D);
- Non Objection from Owner to the lot directly north most impacted by the variance request, and;
- Parameters that the Applicant has recommended in setting expectations for the community (i.e. square footage, height, and number) for the proposed accessory dwelling.

Should the Zoning Board of Adjustment determine the findings can be met (as suggested in the Option 2 motion), the following conditions of approval are recommended by Staff:

Conditions

1. The accessory dwelling shall be subject to the following dimensional standards:
 - a. The minimum setback from the rear property line shall be 68 feet.
 - b. The minimum setback from the north side property line shall be 5 feet with no portion of the building encroaching or overhanging an existing 5-foot utility and drainage easement.
 - c. The maximum building square footage shall be limited to 1,250 square feet.
 - d. The maximum building height shall be limited to a single story not to exceed 20 feet measured from average finished grade. (This is an additional height allowance beyond what the Applicant is proposing of 17 feet 6 inches in order to compensate for fill in setting the top of foundation at the recommended elevation of 4,980.)
2. Only one (1) accessory dwelling shall be permitted for 4177 Roaring Fork Drive.
3. Prior to approval of a Building Permit, the Applicant shall provide a design, acceptable to the Loveland Stormwater Utility, for the Lowest Floor/Opening Elevation of the accessory dwelling to be placed a minimum of 12 inches above the State Engineer's Office 100-Year Flood elevation of Horseshoe Lake Dam.
4. During construction and after the accessory dwelling has been completed, the Applicant and/or Contractor shall follow the recommended mitigation measures outlined in Section 5.0 of the Environmentally Sensitive Areas Report – Addendum for 4177 Roaring Fork Drive dated June 1, 2018 prepared by Trihydro.

APPLICATION

Applicant Information		
Name:	Phone:	
Address:		
City, State:	Zip Code:	
Email Address:	Preferred Method of Contact	Phone Email
Variance Request		
Address of Property in which the Variance is Requested (if different than above information):		
Describe the requested variance.		
List all existing structures on the property.		
Applicant's Signature		
By signing this application, I hereby acknowledge that the information provided is correct and complete.		
Signature		
Printed Name		
Date		

Findings Report

For each finding below, please provide a detailed justification on how the variance request complies with the finding.

Finding	Justification
1. Granting the variance will not substantially conflict with any adopted plans or policies of the City, or the purposes or intent set out in the Unified Development Code.	
2. There are exceptional conditions creating an undue hardship, that are specific only to the property involved or the intended use, which do not generally apply to the other properties or uses within the same zone.	
3. The Applicant cannot derive a reasonable use of the property without approval of the request variance.	
4. Granting the variance will not set a precedent for other applications.	
5. Granting the variance will not be detrimental to any adjacent properties or the area.	
6. Granting the variance will not be detrimental to public health, safety, or welfare.	

1. Granting the variance will not conflict with any adopted plans or policies. We are not imposing or taking away the ability of our neighbors in any manner. Both adjacent neighbors, along with the HOA, have approved our building plan.

2. All of our neighbors and our HOA agree that the current setback line is very dated and is currently inhibiting specifically our ability to use our lot to its fullest! That being said we've been working on an amendment (which we still fully support) since last April. It's been a year and we've made very little progress at all during that time. Everyone is on board with this process, but we're looking to speed up this process so it hopefully doesn't take a couple more years to get everything done. We hired a biologist from TriHydro who conducted a complete study of our property and found that the setback line is lacking merit for our property. It is not impeding in or on any natural habitat. There is no concern that our proposed beach house would impede on the environment. As stated by the TriHydro Biologist, "The Project is anticipated to have a low level of impact on any Environmentally Sensitive Areas primarily due to the existing condition of the site location and low-likelihood of adverse effects on Horseshoe lake water quality and/or aquatic habitats and species."

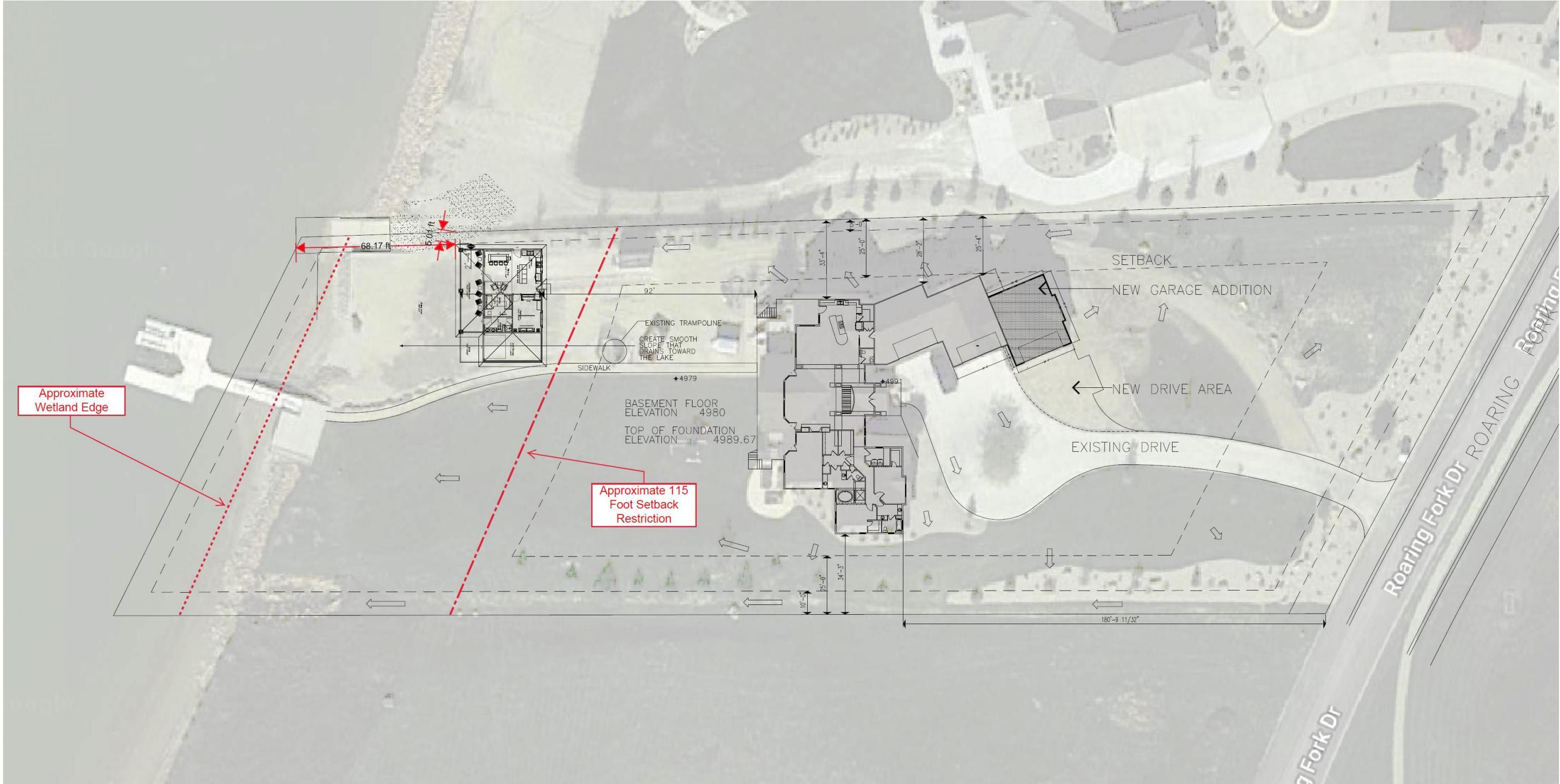
3. With a large setback, it makes accessing the lake difficult with our recreational toys. Other improvements have been made around the lake and we would like to follow suit. The building will only further the value of our property and would be greatly utilized.

4. As previously mentioned we've been working on an amendment with our neighbors and our HOA that everyone is in agreement with. We have come up with guidelines and standards about what should be acceptable when it comes to the setback and what can be built. We will be using these conditions for our own property and if applicable to help the HOA in the future. We believe the following conditions are appropriate:

- All Accessory Buildings shall be limited to a single story, not to exceed 17 feet 6 inches in height.
- All Accessory Buildings shall not exceed 1,250 square feet.
- Only one (1) Accessory Building shall be allowed per lot.
- All Accessory Buildings shall be designed to complement the principal dwelling in terms of providing similar exterior building materials, roof forms, and color. Metal clad facades shall be prohibited unless it can be demonstrated that an architectural metal is being proposed to complement existing features on the principal dwelling.

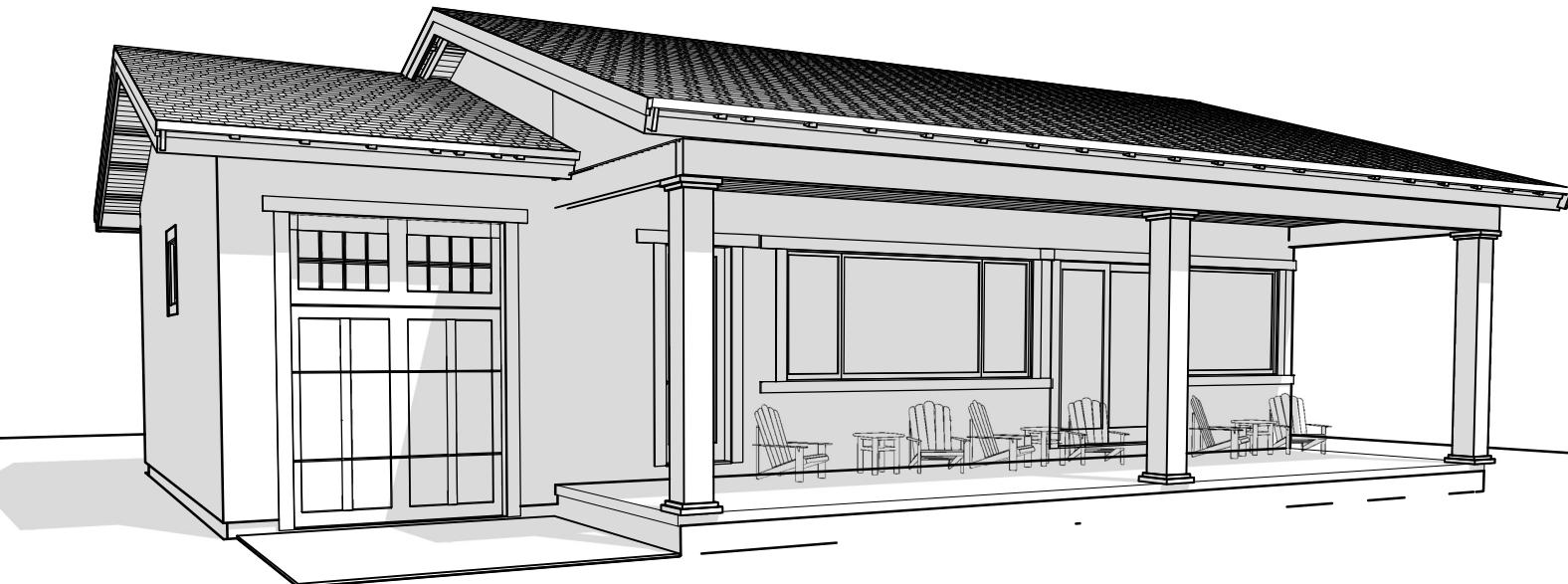
5. We have approval from the HOA, along with our two neighbors, indicating that this variance will not be detrimental to any adjacent properties.

6. As previously stated by the findings of the TriHydro Biologist, the Project is anticipated to have a low level of impact on any Environmentally Sensitive Areas primarily due to the existing condition of the site location and low-likelihood of adverse effects on Horseshoe lake water quality and/or aquatic habitats and species.

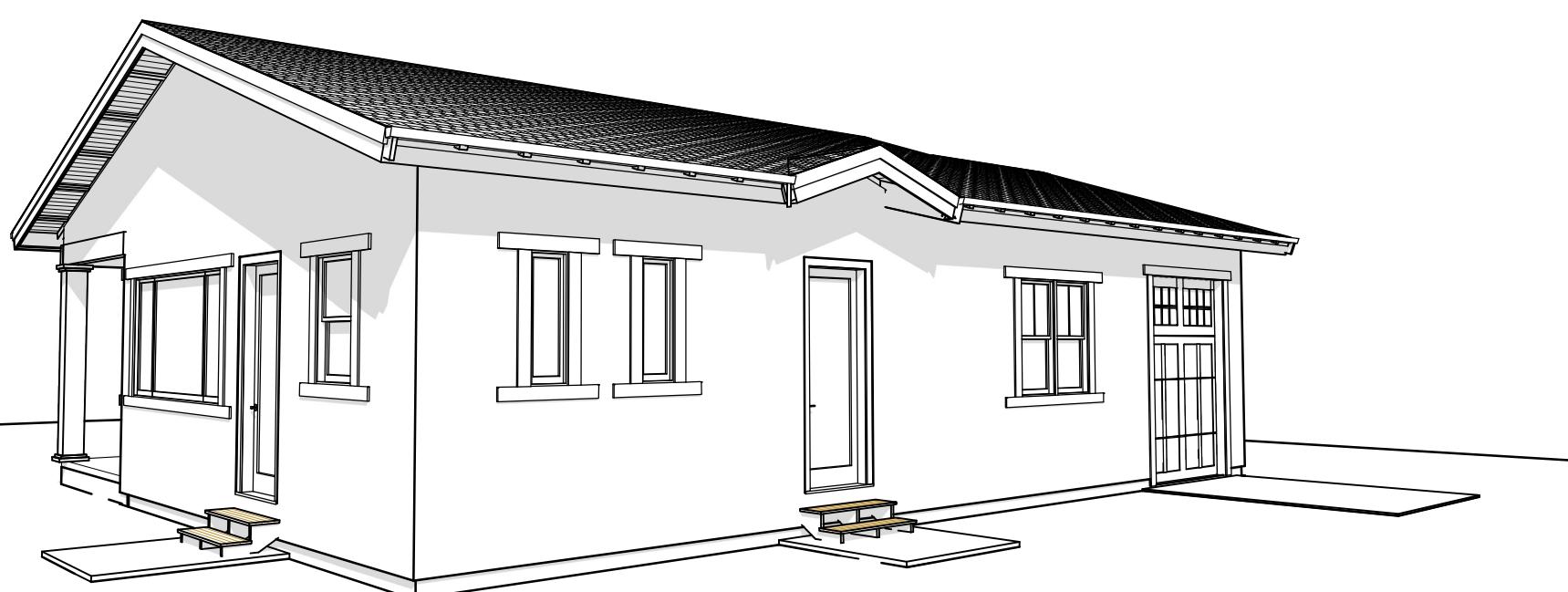


BEACH HOUSE

RANCH PLAN
X SF PLAN



FRONT VIEW



BACK VIEW

NOT FOR CONSTRUCTION

COVER SHEET
PROJECT
INFORMATION

SCH 2 ARCHITECTS
FORT COLLINS, COLORADO
970.817.5260
www.sch2architects.com

BEACH HOUSE

DATE:

2/23/2018

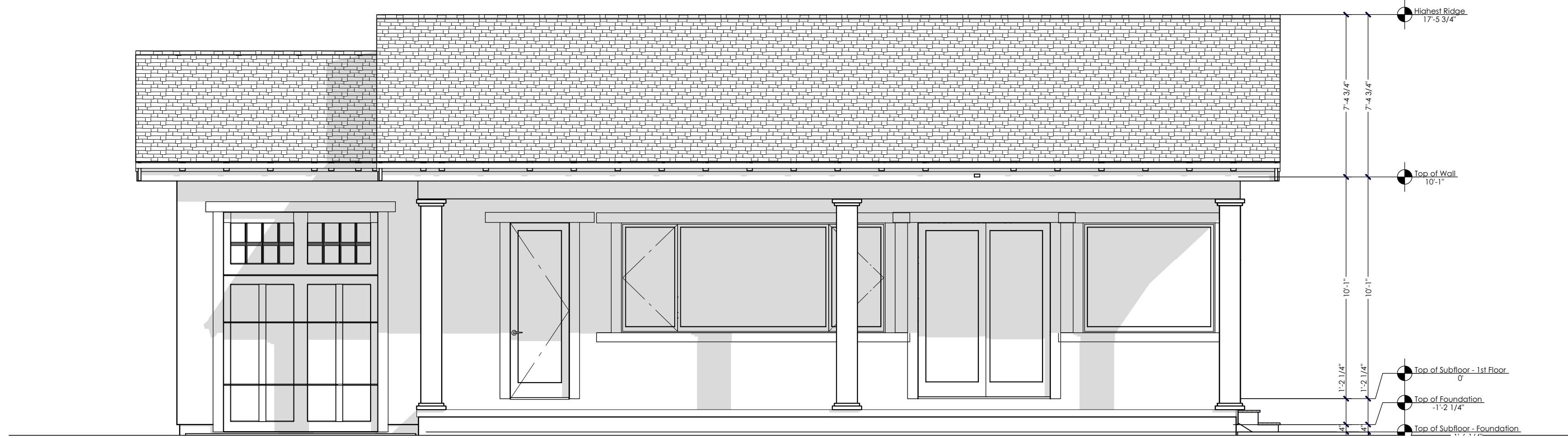
SCALE:

SHEET:

1

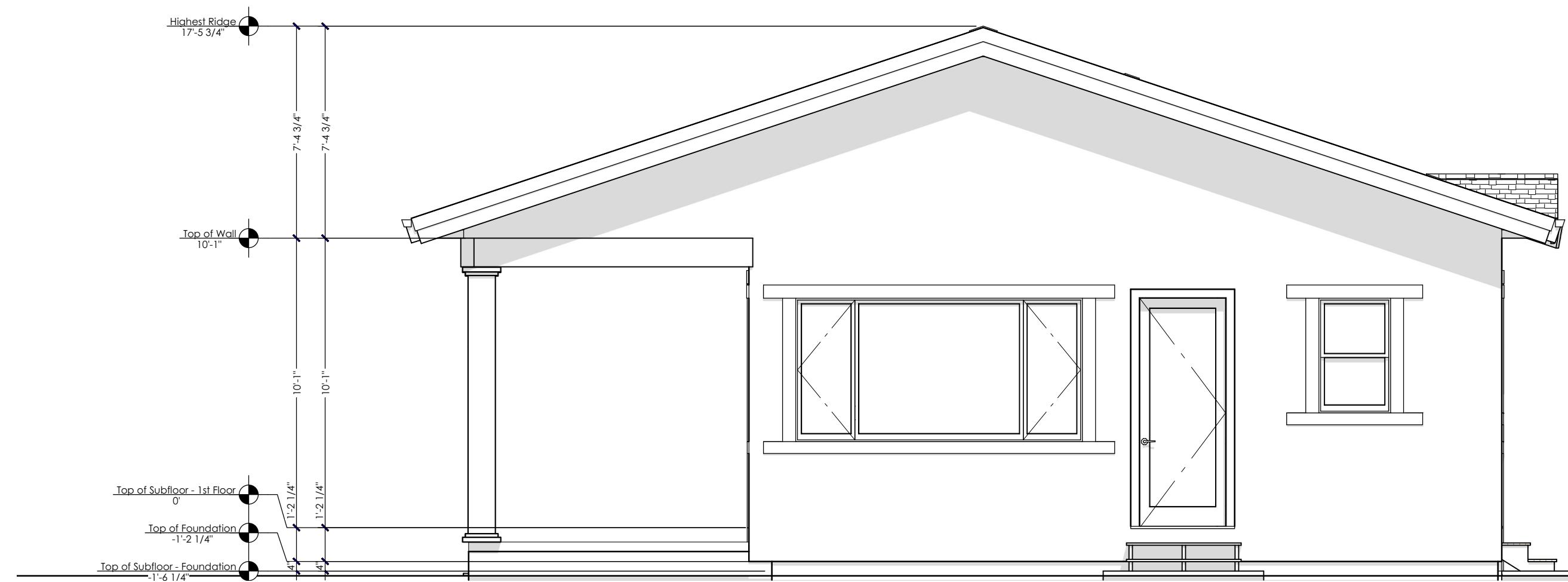
ATTACHMENT C

NOT FOR CONSTRUCTION



WEST

1 EXTERIOR ELEVATIONS - FRONT AND RIGHT
SCALE: 1/4"=1'-0"



SOUTH

2 EXTERIOR ELEVATIONS - FRONT AND RIGHT
SCALE: 1/4"=1'-0"

EXTERIOR ELEVATIONS
FRONT AND RIGHT

SCH 2 ARCHITECTS
FORT COLLINS, COLORADO 80526
www.sch2architects.com team@sch2architects.com

BEACH HOUSE

DATE:
2/23/2018
SCALE:
1/4"=1'-0"
SHEET:

2

ATTACHMENT C

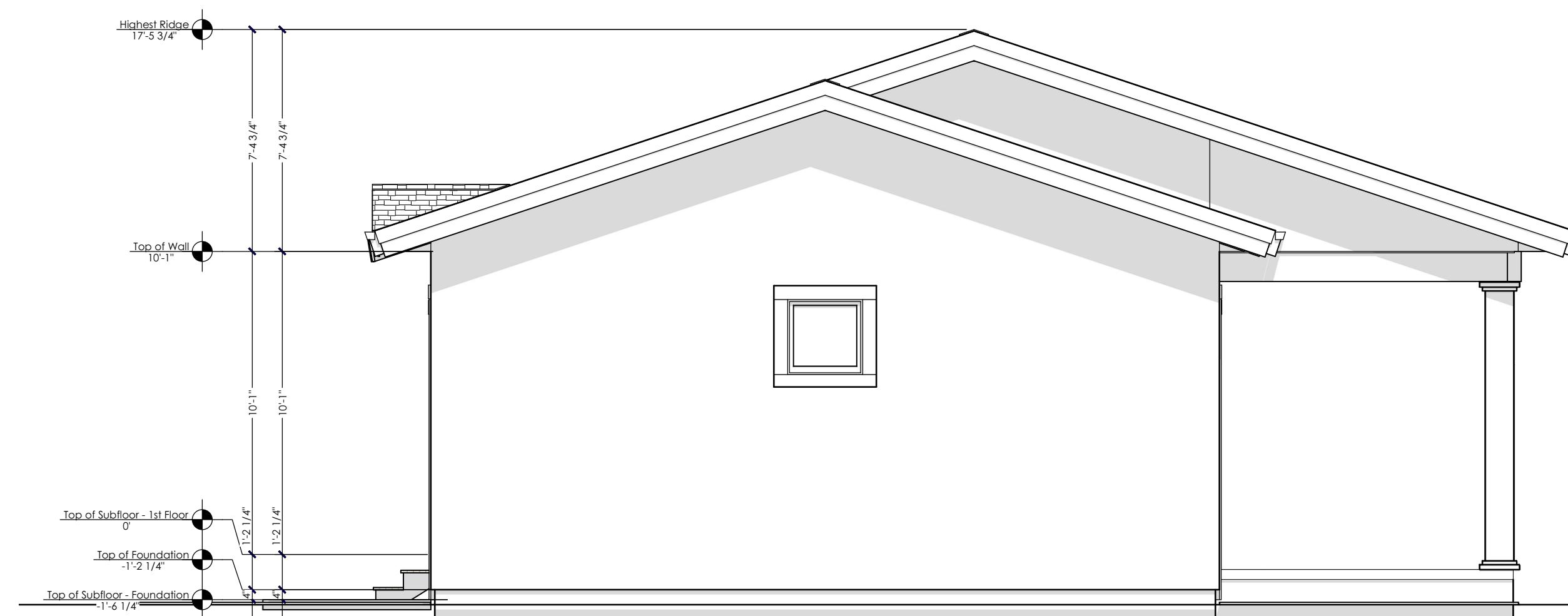
NOT FOR CONSTRUCTION



EAST

1 EXTERIOR ELEVATIONS - BACK + LEFT

SCALE: 1/4"=1'-0"



NORTH

2 EXTERIOR ELEVATIONS - BACK + LEFT

SCALE: 1/4"=1'-0"

EXTERIOR ELEVATIONS
BACK + LEFT

SCH 2 ARCHITECTS
FORT COLLINS, COLORADO
www.sch2architects.com team@sch2architects.com

BEACH HOUSE

DATE:
2/23/2018

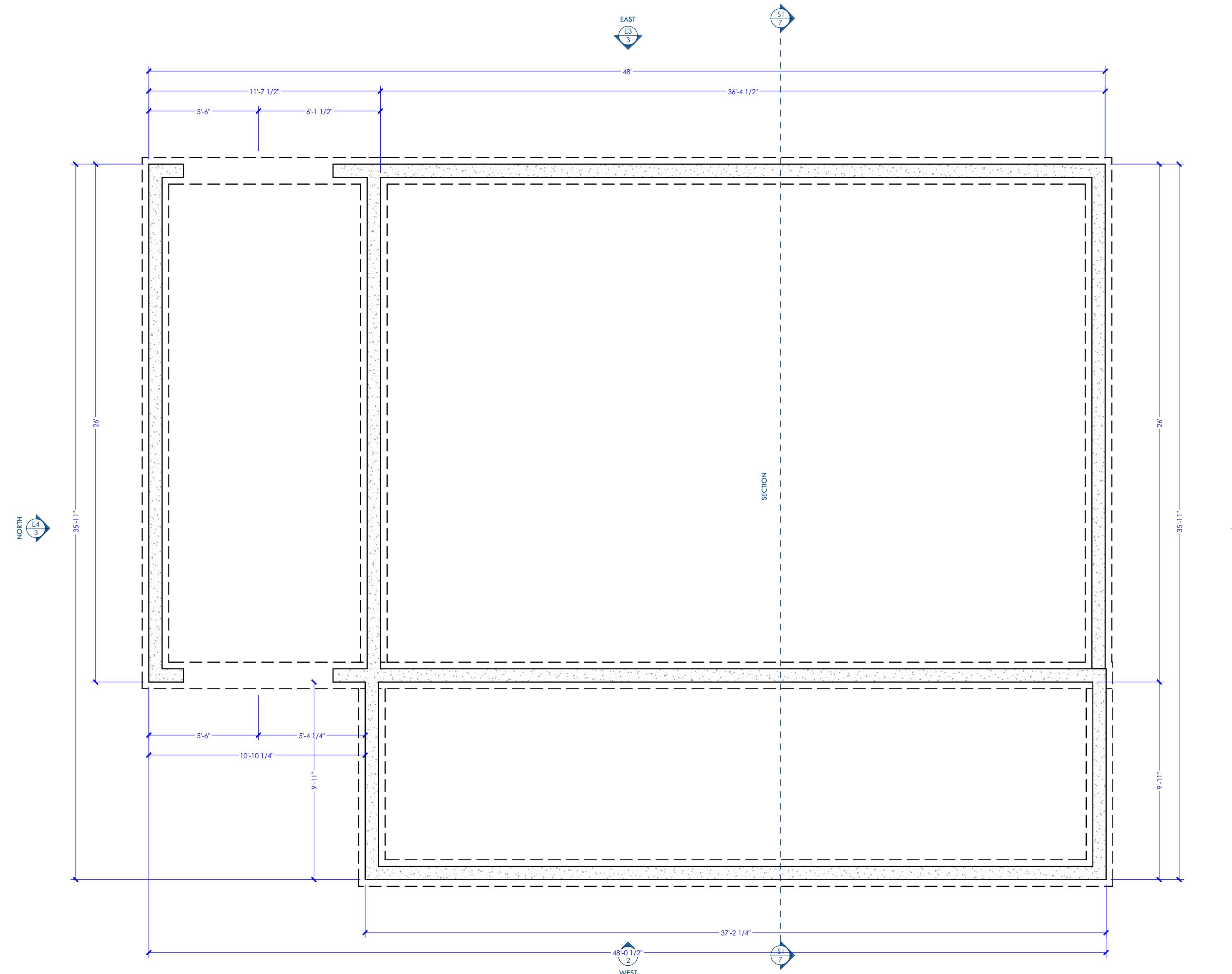
SCALE:

SHEET:

3

ATTACHMENT C

NOT FOR CONSTRUCTION



1 FOUNDATION PLAN -
SCALE: 1/4"=1'-0"

FOUNDATION PLAN



BEACH HOUSE

DATE: 2/23/2018
SCALE: 1/4"=1'-0"
SHEET:

4

ATTACHMENT C

The Peninsula at Horseshoe Lake
2922 67th Ave Suite 100
Greeley, CO 80634

NOTICE OF APPROVED REQUEST

April 11, 2018

Adam Carriker
4177 Roaring Fork Dr
Loveland CO 80538

Re: 4177 Roaring Fork Dr

Dear Adam Carriker:

Your Request for Architectural Change has been approved as of 04/11/18. Specifically, you have approval to proceed with the following:

The Peninsula at Horseshoe Lake ARC has reviewed your request for a Beach House your request has been approved.

We reserve the right to make a final inspection of the change to make sure it matches the Request you submitted for Approval. Please follow the plan you submitted or submit an additional Request form if you cannot follow the original plan.

You must follow all local building codes and setback requirements when making this change. A Building Permit may be needed. This can be applied for at the County offices.

Our approval here is only based on the aesthetics of your proposed change. This approval should not be taken as any certification as to the construction worthiness or structural integrity of the change you propose. Be aware that you are responsible for contacting the appropriate Utility Companies before digging.

We appreciate your cooperation in submitting this Request for Approval. An attractive Community helps all of us get the full value from our homes when we decide to sell.

Sincerely,
Axis Management Team LLC
Agent for The Peninsula at Horseshoe Lake
970-301-4490

ATTACHMENT D

Troy Bliss

From: Dan Kammerzell <dankzglic@gmail.com>
Sent: Thursday, April 25, 2019 8:43 AM
To: Troy Bliss
Subject: Re: 4177 Roaring Fork Drive, Loveland

No problem, since this is on the landowner's property and not on 7 Lakes Reservoir Companies ground, they can do as they wish. The only note is we are not responsible for any basement flooding if they decide to have a basement. Hope this helps. Thanks

On Thu, Apr 25, 2019 at 8:39 AM Troy Bliss <Troy.Bliss@cityofloveland.org> wrote:

Dan, thank you for your time this morning. Here is the site plan illustrating better than what I was communicating over the phone. Would appreciate any feedback or insights regarding this proposed accessory structure. Thank you.

Troy Bliss
Senior Planner

Current Planning

Development Services Dept.

410 E 5th Street Loveland CO 80537

O: 970.962.2523 | D: 970.962.2579

E: Troy.Bliss@cityofloveland.org



--
Dan Kammerzell

Greeley Loveland Irrigation Company



**ENVIRONMENTALLY SENSITIVE AREAS REPORT –
ADDENDUM
4177 ROARING FORK DRIVE
LOVELAND, COLORADO**

June 1, 2018

Project #: 58N-001-001

SUBMITTED BY: Trihydro Corporation

2400 Midpoint Drive, Fort Collins, CO 80525

ENGINEERING SOLUTIONS. ADVANCING BUSINESS.

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- B. Photo Log



1.0 INTRODUCTION

Trihydro Corporation (Trihydro) has prepared this Environmentally Sensitive Areas Report (ESAR) as an addendum to the *Environmental Assessment for the Peninsula at Horseshoe Lake Property* dated October 1997, for a proposed development of a beach house (Project) located on the property at 4177 Roaring Fork Dr., Loveland, Colorado. A Planned Unit Development (PUD) Preliminary Development Plan (PDP) application checklist must be completed to obtain the necessary permit(s) to construct a beach house within a designated 115-foot setback to Horseshoe Lake in Loveland, Colorado. ESARs are required as part of this application package, under City of Loveland Municipal. The purpose of the ESAR is to identify and assess potential impacts to environmentally sensitive areas as defined in the Loveland Municipal Code and describe any measures to mitigate any such impacts prepared by a qualified biologist. Mr. Schmude, a Trihydro biologist, is the preparer of this report. A copy of his resume is presented in Appendix A.

The proposed Project includes the construction of an approximately 1,000 square foot beach house at 4177 Roaring Fork Dr., Loveland, Colorado. The property currently has a 5,830 square foot home. The beach house is proposed to be built within a previously designated 115-foot setback from Horseshoe Lake, a 625 acre lake considered an Environmentally Sensitive Area by the City of Loveland (Figure 1). The following sections of this report will provide a description of the Study Area, results of a site inventory, an assessment of potential impacts of the proposed development, and recommendations including any necessary protection measures, mitigation, and enhancements.

2.0 STUDY AREA

The Project Study Area comprises the proposed Project site (beach house) and surrounding 500 feet, which includes a portion of Horseshoe Lake (Figure 2). The Study Area was chosen based on consultation with the City of Loveland planner to account for potential impacts to any surrounding areas. The lake shore and edge of this lake are considered a Natural Area by the City of Loveland, though the width of the Natural Area around the lake varies along the lake shore with a narrow strip of Natural Area present at the location of the proposed beach house. Currently, the proposed beach house location is a non-vegetated area graded with sand and gravel located approximately 60 feet from the Ordinary High Water Line of the Horseshoe Lake.

3.0 SITE INVENTORY

Trihydro performed an onsite inventory on May 30, 2018 to identify the presence of any Environmentally Sensitive Areas within the Study Area. In addition, aerial imagery and National Wetland Inventory (NWI) data was used to identify the presence of any potential wetlands or other Environmentally Sensitive Areas. One Environmentally Sensitive Area, Horseshoe Lake, was identified during the site inventory. Horseshoe Lake is a large water body considered a jurisdictional water of the U.S. by the U.S. Army Corps of Engineers (USACE) because it meets the definition of a Traditionally Navigable Water (TNW). In addition, the U.S. Fish and Wildlife Service (USFWS) National Wetland Inventory (NWI) data indicates the presence of palustrine emergent wetland present along the lake edge and within the proposed area of development. However, an assessment of this area, described below, indicates that the NWI data is incorrect and that no wetlands occur within the Study Area due to a clear lack of hydrophytic vegetation and other wetland indicators.

Within the Study Area, the lake shore consists of combination of rip-rap, concrete boat launches, small sand beach areas, and an area of “unshored” erodible bank located along the lake shore of the parcel immediately to the south of the Project. Vegetation along the shore, in areas mapped as palustrine emergent wetlands by NWI data, is dominated by plant species designated as Facultative Upland (FACU) and Upland (UPL) indicators by the USACE. Species along the inside edge of the rip-rap shore include western wheatgrass (*Pascopyrum smithii*), intermediate wheatgrass (*Thinopyrum intermedium*), cheatgrass (*Bromus tectorum*), smooth brome (*Bromus inermis*), crabgrass (*Digitaria* sp.), western salsify (*Tragopogon dubius*), field bindweed (*Convolvulus arvensis*), Canada thistle (*Cirsium arvense*), mustard (*Brassica* sp.), and Kentucky bluegrass (*Poa pratensis*). No hydrophytic vegetation, hydrology, or hydric soil indicators were observed during the onsite assessment. A culvert and small drainage ditch conveys water from the east of the property, through the culvert, and into Horseshoe Lake. This culvert is shown on Figure 2 and is the only drainage feature observed in the Study Area. Vegetation at the mouth of the culvert comprises all FACU and UPL species. No wetlands are present in the Study Area. No vegetation has existed within the proposed beach house site since the property was developed for residential housing in 2011. The ground surface slopes slightly from the proposed beach house location to the lake shore. Elsewhere on the property, a Kentucky bluegrass turf lawn is maintained with a sprinkler system and numerous ornamental shrubs and trees have been planted. Pine (*Pinus*) and spruce trees (*Picea*), approximately 10 years old, line the south boundary of the property.

As previously described, the edge of the lake along the property at 4177 Roaring Fork Drive is considered a Natural Area by the City of Loveland. According to the City of Loveland Natural Areas Site Report (2008), Horseshoe Lake receives an overall habitat rating of 7 of 10 with Medium enhancement potential. A waterbird rating of 8 is the highest and wetlands, mammals, and herptiles ratings of 4 are the lowest ratings for Horseshoe Lake. These rating are generally

consistent with the habitat conditions observed within the Study Area with exception of no wetland occurrence. Vegetation within terrestrial areas in the Study Area has been converted primarily to introduced grasses and ornamental shrubs and small trees that provide low-quality habitat value for most native wildlife species. Top soil and other pre-development habitat structure has been altered due to residential development in the area. No mature stands of vegetation were identified within the Study Area. Seasonal drawdowns in Horseshoe Lake subject the shoreline areas to large fluctuations in water levels. In addition, much of the lake shore has been exposed to erosion from lake water and strong winds which have resulted in steep-cut banks. Much of the shoreline has been “shored” with rip-rap to prevent further erosion. These conditions have limited the establishment of wetland habitats along the lake shore within the Study Area. Due to the conversion of native vegetation, lack of wetlands and mature stands of vegetation, the overall terrestrial habitat value within the Study Area should be considered low.

During the onsite assessment on May 30, 2018 a number of wildlife species were observed using the Study Area including killdeer (*Charadrius vociferous*) along the sand beach area between the beach house and lake shore, Canada geese (*Branta canadensis*), mallard ducks (*Anas platyrhynchos*), western meadowlarks (*Sturnella neglecta*), an American robin (*Turdus migratorius*), a house finch (*Haemorhous mexicanus*), a barn swallow (*Hirundo rustica*), and a flyover by a white pelican (*Pelecanus erythrorhynchos*). No wildlife species were observed in the sandy location where the beach house is proposed. No habitat for threatened or endangered species occurs in the study area.

Aquatic habitat is present within the Study Area within deep and shallow water areas of Horseshoe Lake. Horseshoe Lake provides habitat for a variety of waterbirds including geese, ducks, and other avian species which feed on aquatic vegetation, aquatic invertebrates, and fish. In addition, the lake is an important fishery supporting crappie (*Pomoxis* spp.), yellow perch (*Perca flavescens*) and bluegill (*Lepomis macrochirus*), among others. A number of fish were observed jumping out of the water within the Study Area on May 30, 2018.

4.0 ASSESSMENT OF POTENTIAL IMPACTS OF PROPOSED DEVELOPMENT

The proposed beach house will occupy an area of approximately 1,000 square feet. Currently, the proposed beach house site provides little value to wildlife except for potential loafing areas for various waterfowl or shorebirds as they come onshore. No direct impacts to wildlife or valuable habitats are expected to occur due to construction of the beach house. However, there is potential for impacts to Horseshoe Lake, and Environmentally Sensitive Area. Temporary impacts to water quality and aquatic habitat may occur as a result of sediment runoff or accidental chemical (i.e. fuels, paints, or other chemicals) spills during construction. Construction of the beach house will require the use of heavy equipment to excavate and construct a foundation for the structure. Staging of excavated soils could result in sediment runoff into the lake during precipitation events. Similarly, accidental spills of fuels, paints, or other fluids could enter the lake. Adverse effects to wildlife movements would be limited to a slightly increased risk of bird window-strikes resulting in injury or potential fatalities to migratory birds flying along the lake shore.

5.0 RECOMMENDATION: PROTECTION MEASURES, MITIGATION, AND ENHANCEMENT

Overall, the Project is anticipated to have a low level of impact on any Environmentally Sensitive Areas primarily due to the existing condition of the site location and low-likelihood of adverse effects on Horseshoe lake water quality and/or aquatic habitats and species. However, in order to minimize any potential adverse effects on Environmentally Sensitive Areas, the following protection measures are recommended:

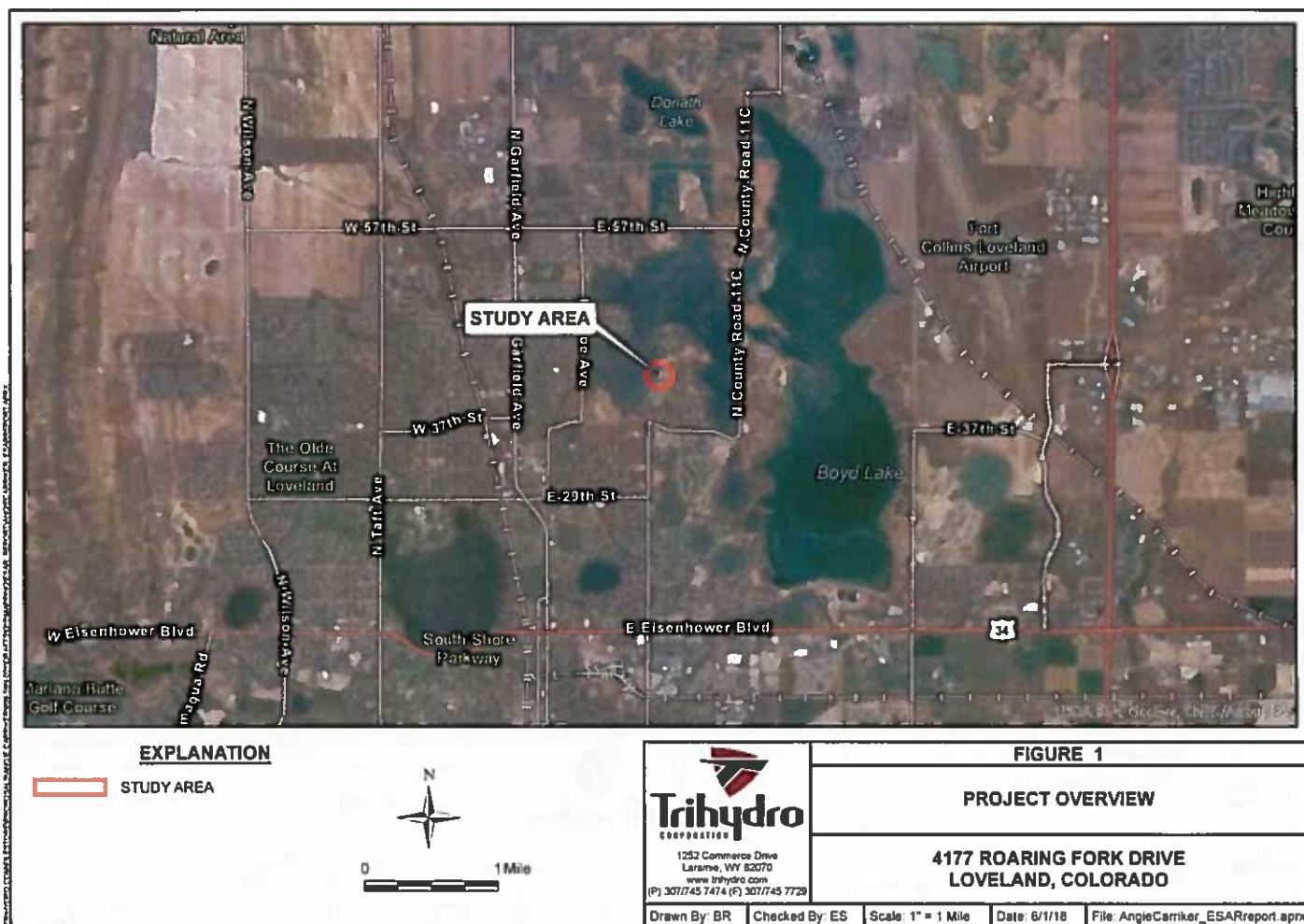
- During construction, temporary soil piles should be covered to reduce runoff
- During construction, fabric silt fencing or straw wattles should be placed between the construction zone and the lake shore to reduce runoff downslope and into the lake
- Construction equipment should be refueled at least 100 feet from the lake shore to minimize accidental spills into the lake
- To prevent birds from colliding with windows, one or more of the following is recommended:
 - Keep curtains or blinds closed, when possible
 - Install birds screens, netting, or similar deterrent
 - Apply window decals or stickers

In addition to the recommended protection measures listed above, the following enhancements are also recommended:

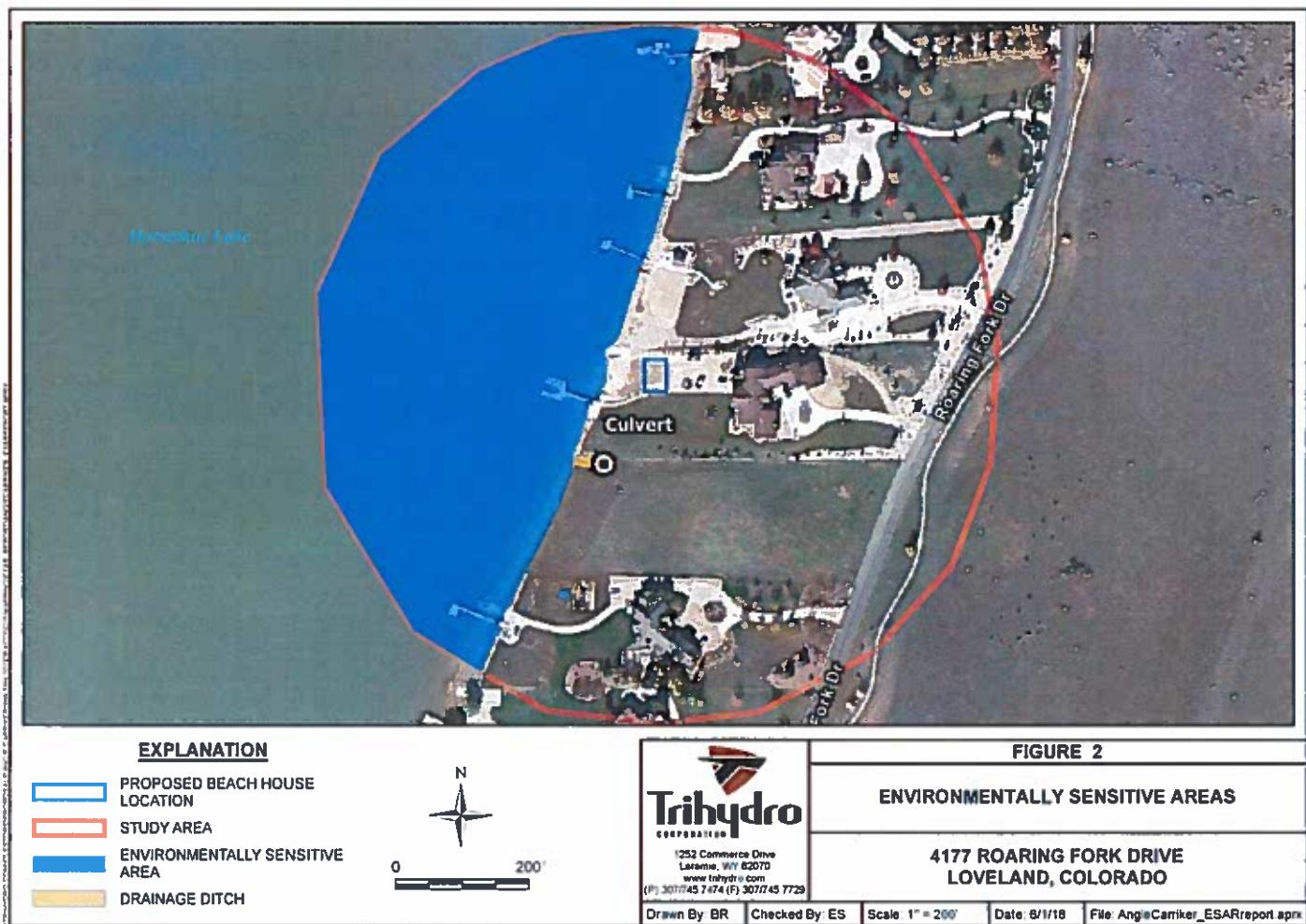
- Plant and maintain native vegetation along the lake shore (just inside of the rip-rip) in the southwestern corner of the property to provide cover for wildlife (birds, small mammals) and beneficial insects and pollinators such as bumblebees and butterflies.
- Maintain all trees (i.e. pines, spruce, and oaks) on the property, as feasible, to eventually establish mature trees that will increase habitat value for migratory birds and other wildlife species.

Based on the low-level of anticipated impacts to Environmentally Sensitive Areas and the application of the above recommended protection measures and enhancements; construction of the beach house within the 115-foot setback should not have any significant adverse effects on Environmentally Sensitive Area. No mitigations are recommended.

FIGURES



ATTACHMENT E



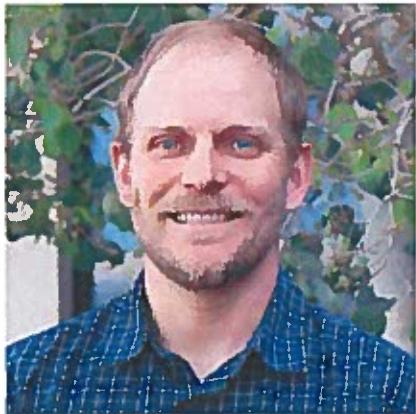
ATTACHMENT E

APPENDIX A

QUALIFIED BIOLOGIST'S RESUME



ATTACHMENT E



EXPERTISE

- Ecological support and impact assessment for diverse NEPA projects
- T&E species surveys, wetland delineation, aerial raptor surveys, bat acoustic monitoring

EDUCATION

Texas A&M University:
MS/2017/Wildlife Science

Oregon State University:
BS/2012/Fisheries and Wildlife Science

California State University:
BA/2009/American Studies

BIO

Mr. Schmude is a biologist within Trihydro's National Environmental Policy Act (NEPA) and Ecological Services Team with more than 10 years of experience in the environmental services field. He holds M.S. and B.S. degrees in wildlife and fisheries sciences. His expertise includes planning and conducting ecological surveys; wetland delineation and Clean Water Act (CWA) permitting; supporting various NEPA projects, impact assessment for biological resources, producing biological technical reports, ESA and Section 7 consultation, habitat assessments and mapping, and environmental compliance monitoring.

Mr. Schmude has provided biological expertise for numerous projects involving state and federal agencies, oil and gas pipeline projects, oil and gas leasing, electrical transmission lines, and mining projects. He has extensive experience working with diverse clients and agency biologists in ensuring projects and management activities are in compliance with state and federal laws and regulations. In addition, Mr. Schmude is experienced in conducting field studies and impact analysis for greater sage-grouse, raptors, migratory birds, small mammals, aquatic species, vegetation and noxious weeds, and many other special status species. Mr. Schmude also has expertise in conducting aerial based wildlife surveys, wetland delineation, rare plant surveys, and acoustic bat monitoring.

RECENT PROJECT EXPERIENCE

MULTIPLE FEDERAL AGENCY PROJECTS, WESTERN UNITED STATES

Wildlife Biologist/Staff Scientist (2013-2016)

Wildlife Biologist/Staff Scientist responsible for conducting impact assessment. Authored/contributed to wildlife, special status species, vegetation, noxious weeds, and water resource sections of NEPA documents including 4 Environmental Impact Statements (EISs), more than 15 Environmental Assessments (EAs), and multiple Biological Assessments (BAs), Biological Evaluations (Bes), and technical reports for U.S. Forest Service (USFS), Bureau of Land Management (BLM), and other agencies in support projects across the western U.S. Mr. Schmude led field surveys for the federally threatened desert tortoise and Utah prairie dog and authored survey reports. In addition, Mr. Schmude performed surveys for numerous other species including raptors, sage-grouse, and migratory birds.

SAGE-GROUSE HABITAT MANAGEMENT AND RESTORATION SUPPORT, WYOMING

Biologist (2017 and 2018)

Biologist for multiple sage-grouse habitat management and restoration projects within Douglas sage-grouse core area within WY. The project includes the design of sagebrush habitat restoration via sagebrush planting and invasive species



management; engagement of and outreach to multiple stakeholders; direct support of a restoration team composed of agencies, academia, NGOs, and other stakeholders; and design of a management plan to enhance sage-grouse habitat within a large, historic wildfire area.

HALLIBUTON HEAVY SPAR MINE, NEVADA

Wildlife Biologist (2015 and 2016)

Baseline biological surveys were completed for Halliburton's proposed Heavy Spar mine located in Northern Nevada. Mr. Schmude led proposal, survey design and planning, field surveys, and completion of baseline reports for the project. Surveys included golden eagle and raptor nest surveys within a 10-mile radius of the proposed project conducted via a combination of aerial and ground-based survey methods. In addition, Mr. Schmude led sage-grouse winter use surveys and lek counts, bat acoustic surveys, vegetation/habitat mapping, pygmy rabbit surveys, mollusk (California floater) surveys, amphibian surveys, migratory bird point-count surveys, and noxious weed surveys. Mr. Schmude led the biology team and subcontractors in designing and conducting these surveys over the course of approximately 6-months. Results were incorporated into final reports for project permitting and NEPA analysis.

ALKALI CREEK RESERVOIR PROJECT, WYOMING

Wildlife Biologist (2017)

Mr. Schmude led field surveys including wetland delineation and aquatic resource inventory for the proposed reservoir site and streams and associated wetland both up and downstream of the project area. Mr. Schmude also designed and led acoustic surveys for BLM sensitive bat species and Ute ladies'-tresses orchid. Results from each survey were incorporated into stand along reports submitted to the BLM and the USACE.

TRONOX ALKALI AND SAGE-GROUSE INITIATIVE PROJECTS, WYOMING

Wildlife Biologist (2016)

Mr. Schmude was the lead field biologist for a number of infrastructure development projects and sage-grouse initiative projects for Tronox Alkali near Green River, Wyoming in 2016 and 2017. Mr. Schmude conducted productivity surveys and nest monitoring for eagles and other raptors across an area of approximately 90,000 acres in Sweetwater County, Wyoming. Approximately 100 nests were surveyed and monitored, which included multiple visits to occupied nests throughout the breeding season to assess nest status, number of young, and other observations. In addition, Mr. Schmude performed protocol-level surveys that included prairie dog colony mapping, greater sage-grouse surveys, burrowing owl broadcast surveys, mountain plover surveys, and pygmy rabbit surveys.

APPENDIX B

PHOTO LOG



PHOTO LOG – ENVIRONMENTALLY SENSITIVE AREAS REPORT



Photo 1: Proposed Beach House Location



Photo 2: Shoreline Vegetation



Photo 3: Shoreline – Looking North



Photo 4: Shoreline – Looking South

PHOTO LOG – ENVIRONMENTALLY SENSITIVE AREAS REPORT



Photo 5: Culvert and Drainage Ditch

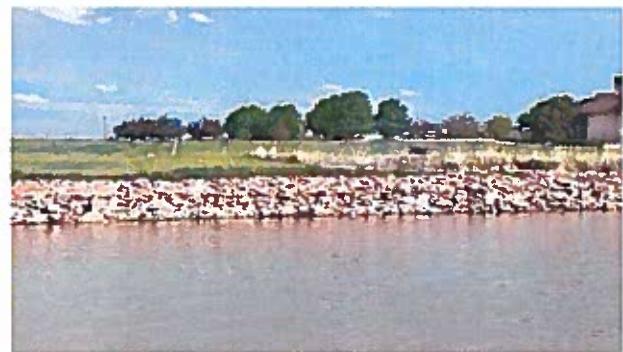


Photo 6: Rip-rap Shoreline of Horseshoe Lake



Photo 7: Shoreline Habitat for Killdeer



Photo 8: Spruce and Pine Tree Planting – South Property Line



ATTACHMENT F