



AGENDA
CITY OF GLENWOOD SPRINGS
Planning and Zoning Commission
Regular Meeting
AUGUST 25, 2020
Council Chambers, First Floor
101 W. 8TH STREET
6:00 PM

1 Zoom Meeting Instructions

A. You are invited to a Zoom webinar.

When: Aug 25, 2020 06:00 PM Mountain Time (US and Canada)

Topic: 2020/08/25 Planning and Zoning Commission Meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84068521459>

Or iPhone one-tap :

US: +16699006833,,84068521459# or +12532158782,,84068521459#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 840 6852 1459

International numbers available: <https://us02web.zoom.us/j/84068521459>

2 Roll Call

3 Receipt of the Minutes

4 Comments from citizens appearing for items not on the agenda

5 New Items

A. Planning File 43-20 Consideration of variances from the required side and rear yard setbacks for the construction of an accessory structure which includes a 350 square foot detached garage and 196 square foot storage space at 820 Bennett Ave (PIN #2185-094-15-013).

B. Planning File 28-20 - Consideration of a Location & Extent application to construct a civic facility / recycling center at 106 13th Street (formerly 1300 Pitkin Ave)-PIN #2185-161-00-033 .

6 Planning Workshop

A. Discussion: Amending regulations related to Medical Marijuana Business, Retail Marijuana Business, and Marijuana Cultivation.

B. Discussion: Adding design variance criteria to Title 070, Article 070.060.070 Flexibility and Relief Procedures.

7 Commissioner Comments

8 Director Comments

9 Adjournment



MINUTES
City of Glenwood Springs
Planning and Zoning Commission
Regular Meeting
July 28, 2020
Zoom
6:00PM

1. Roll Call

Present at roll call were Commissioners:

Marco Dehm, George Shaver, Carolyn
Cipperly, Kathryn Groscup, Sumner
Schachter, Amber Wissing, Ingrid Wussow,
Dean Kinkel

Absent at roll call were Commissioners:

Ben West

Also present were:

Jennn Ooton Asst. City Manager,
Gretchen Ricehill Asst.
Economic/Community Development
Director, Trent Hyatt Senior Planner,

2. Receipt of Minutes- Receipt of June 23, 2020 minutes.

Commissioner Schachter requested on page 3, the 2nd paragraph to add that the proposed strategic plan did not seem consistent with opening the Blake Gate. Commissioner Schachter made a motion to receive the June 23, 2020 minutes. Commissioner Shaver seconded the motion.

Motion passed 5-0.

Commissioners Wissing and Wussow abstained as they were not in attendance at the June 23rd meeting.

It was also noted that Commissioner Kinkel was in attendance for the Planning Workshops and not for any of the planning items on the agenda.

3. Public Comments

Comments from citizens appearing for items not on the agenda. No citizens appeared for items not on the agenda.

4. New Items –

- a. *Planning Item #13-20*: Consideration of a Special Use Permit for the construction of a 654 square foot wireless communications base station facility related to an underground fiber optic network.

Applicant: Zayo Group

Owner: Glenwood Springs Lodging, LLC

Location: TBD, Vicinity of 124 West 6th Street (PIN: 2185-092-00-043)

Zone: CO Commercial

Trent Hyatt provided a summary of the Special Use Permit application. Hyatt explained the application was to construct a 653 square foot, 12 foot-tall base station for an underground fiber optics network, which requires a Special Use Permit. Hyatt described the site location and applicable design and code standards relevant to the application. Hyatt explained that staff would recommend approval of the application consistent with the findings and conditions listed in the staff report.

Commissioner Shaver asked staff where the landscaping and screen would be located on site. Hyatt explained that there would be landscaping and screening on the east portion of the site. Hyatt also described that it would be ideal for additional landscaping and screening on the north side as well as facing the interstate. Shaver also asked what the noise impact from the a generator associated with the project would have on the nearby hotel. Shaver also asked if there were fiber optic cables in the area, which was confirmed by Hyatt.

Commissioner Schachter asked for confirmation of the owner of the property. Schachter also asked if the project was limited to fiber optics and not 5G. Hyatt confirmed the owner of the property was Glenwood Springs Lodging, LLC and confirmed that the project was limited to fiber optics.

Commissioner Cipperly asked about if there would be an easement for the facility through the neighboring hotel parking lot. Cipperly also asked about the trees used for landscaping screening. Hyatt explained that since irrigation would not be available, that landscaping would have to be flexible. Hyatt also explained that access and an easement would likely be necessary in case of future property divisions in the area.

Commissioner Grosscup asked about the role of this facility in the larger regional fiber optic network. Hyatt explained that the applicant would be able to further explain. Grosscup also asked if there were other zones where this would be allowed. Hyatt explained that it is a special use in all properties zoned CO Commercial.

Rex Atkinson, 8730 Powderhorn Way, Indianapolis, Indiana, representing 5 9 Design provided more information on the applicant. Atkinson explained that fiber optic networks need these facilities very 50-60 miles strengthen the fiber optic signal throughout the network. Atkinson explained that the applicant would be willing to make some adjustments with the screening and landscaping. Atkinson described the access goes through the La Quinta hotel parking lot and the proposed location of the facility leaves more open space on the site.

Commissioner Dehm opened the public portion of the hearing.

No members of the public presented to speak on the item.

Commissioner Dehm closed the public portion of the hearing.

Commissioner Schachter made a motion to recommend approval of the Special Use Permit with findings and conditions found on page 6 of the staff report. Schachter stated that a condition should be added for additional fence screening on the south side of the property. Commissioner Shaver seconded the motion.

Commissioner Dehm called for the question.

Motion passed unanimously.

5. Planning Workshop

a. Discussion: Amending regulations related to Medical Marijuana Business, Retail Marijuana Business, and Marijuana Cultivation

Assistant Director Gretchen Ricehill explained that during a recent City Council meeting, a request was made to consider placing a limit on the number of marijuana-related businesses in the community. Ricehill explained that this workshop was to be a discussion on this item with the intent to continue this discussion at the August meeting. Trent Hyatt provided an overview of the existing active marijuana related businesses. Hyatt explained that there are currently nine approved marijuana businesses, with seven active stores. With the map, Hyatt explained the current system and showed the Commission a several maps with adjusted buffers from schools. Hyatt also reminded the Commission that the buffers do change as the locations of existing stores and existing schools does change.

Commissioner Dehm asked is staff had analyzed how many more commercial locations were available with current regulations. Hyatt described several locations which would allow for a marijuana related business.

Commissioner Schachter asked if City Council had specifically requested to limit the number of marijuana businesses. Schachter stated that if it was not City Council's intent to explicitly limit the number of stores, then Planning & Zoning would need more directive to discuss the issue. Ricehill explained that City Council wanted to further consider the issue and the directive was for Planning & Zoning to discuss any potential limitations. Schachter also asked if the City would face any legal limitations with changes in buffers or capping the number of stores. Hyatt explained that municipalities are allowed to regulate marijuana regulated businesses.

Commissioner Grosscup asked if there was any significance to the overlapping buffers on the map. Grosscup also asked about how the buffer from schools was developed and how it compares to other communities around the state. Grosscup requested that staff further investigate how the school buffers for Glenwood Springs compares to other communities. Grosscup also expressed support for extended buffers and a possible cap.

Commissioner Wussow stated that it would be helpful to see how Glenwood Springs compares to other communities in regulation of marijuana related businesses. Wussow asked how Special Use Permits transfer with change in ownerships. Hyatt explained that the Special Use Permit stays with the property

upon change of ownership. Wussow also stated that it might be a good idea to set more restrictions on change of ownership and how previously approved applications would fit into new regulations.

Commissioner Shaver stated that it would make sense to require a new application when there is a change of ownership as the locations of schools and stores could change. Shaver asked about the intent the rules based on proximity to schools. Shaver stated that the rivers create significant natural boundaries that create more distance than buffers. Hyatt explained that these rules typically come from a desire to distance youth and young adults from these facilities.

Commissioner Cipperly asked if the City regulates the quantity of any other type of business in terms of a total number. Hyatt explained that no other business is regulated in terms of a total number. Cipperly also asked how changing regulations would affect any current applications. Staff confirmed that if an application was approved prior to any rule changes, that the application would be bound to whatever codes were in place at the time of application approval. Cipperly also asked if schools would be limited to relocate based on locations of marijuana stores. Hyatt explained that school location was not limited by the buffers.

Commissioner Schachter expressed the need for more directive from City Council on the exact method of regulation. Jenn Ooton explained that staff could put together more information on the issue and plan for a future joint session between the Commission and City Council.

Commissioner Dehm stated that they should direct staff to research what other communities are doing and that there may be alternatives to regulation in addition to buffers and caps.

Commissioner Wussow stated that this decision required more time and information prior to a decision. Commissioner Shaver stated that one benefit of the cap would be that it would set a clear parameter for prospective businesses. Shaver also stated that the City should plan for how these regulations could function in areas of new development, particularly the south of town.

Commissioner Grosscup expressed that it is important to see what other communities are doing, especially with caps and buffers. Commissioner Schachter suggested that the results of this workshop be provided to City Council and further discussion and workshops would be best.

Commissioner Dehm suggested that staff continue to conduct more research and continue the discussion at the next month's meeting. Commissioner Wissing asked to confirm that procedure for further discussion of regulation and if the public would be invited for input in the process. Commissioner Ricehill confirmed that there would be public input if this became a proposed code amendment. Commissioner Kinkel also expressed support for more information and further discussion. Commissioner Cipperly also requested for staff to confirm if there was a cap on number of liquor stores. City Clerk Catherine Fletcher confirmed that there was no number limit for liquor stores and provided a summary of the application process and transfer process for a liquor license.

Commissioner Schachter also asked staff to see if any communities had decreased their level of regulation.

b. Discussion: Adding design variance criteria to Title 070 Article 070.060.070 Flexibility and Relief Procedures

Gretchen Ricehill explained that this discussion item was to focus on alternatives and changes to the current design variance criteria. Ricehill referenced the staff report for two general options which include an alternative equivalent compliance standard as well as changes in variance criteria. Ricehill also mentioned that there has been previous similar feedback with the sign variance criteria as well.

Commissioner Dehm requested for further explanation of the proposed changes. Ricehill explained the current Alternative Equivalent Compliance (AEC) standards, which is currently part of the residential and non- residential design standards. Ricehill provided an example of a garage construction where the Alternative Equivalent Compliance standards were used where a design element added to the garage fulfilled the requirements. Ricehill also explained the differences between Alternative Equivalent Compliance standards and variance criteria. Dehm asked if the ACE request would automatically come before Planning & Zoning. Ricehill explained that ACE request would only come to P & Z when the process required it, as some ACE requests would be handled at an administrative level.

Commissioner Schachter asked and if the new three proposed variance criteria would replace the existing criteria. Ricehill explained that the three proposed criteria would apply to the 070.040.070 and the design elements of the code. The existing criteria would remain for items such as zoning and land use. Jenn Ooton confirmed that the intent of the suggestion was to consider expanding the use of the Alternative Equivalent Compliance standards as well as adding new variance criteria for design elements.

Commissioner Wussow asked how the AEC standards would be applied and questioned if allowing applicants to utilize ACE standards would be user friendly. Wussow also stated that any changes to the variance criteria should be as clear as possible to ensure future applicants can easily understand their options. Commissioner Dehm asked how the number of variance criteria was developed and how the seven were designated. Ricehill explained that number was provided by Clarion during their drafting of the new code in 2018. Further discussion ensued on the differences between a variance and the administrative adjustment process.

Commissioner Grosscup asked why both measures would be needed. Ricehill explained that only expanded the use of the AEC standards would not be as flexible for potential projects. Commissioner Dehm asked for clarification regarding state statutes and municipal variances. City Attorney Anna Itenberg was not aware of any state statutes that would limit the City's ability to alter their variance process. Ricehill also stated that the City's current variance criteria were similar in many other communities. Commissioner Dehm also expressed disappointment in the flexibility in the current variance criteria and the ability to grant variances. Commissioner Schachter expressed support for the use of the stricter seven criteria for land use and zoning while creating more flexibility for items such as design, parking, and landscaping.

Commissioner Dehm asked if staff could create a flowchart or a visual describing the potential process for these changes. Commissioner Schachter suggested staff could also provide an existing application for a further example.

Ricehill stated that staff would gather more information to provide to the Commission in anticipation of further discussion on the issue.

6. Director Comments

Director Jenn Ooton mentioned an appeal for a special decision regarding an application for a marijuana retail store in Glenwood Meadows. Gretchen Ricehill explained that the application did not proceed based on the annexation and development agreement for the Glenwood Meadows. Ricehill explained that the original annexation and development agreement did not include marijuana related businesses and that the applicant would be appealing that decision. Dehm asked if the special meeting was required or not. Ooton clarified that the meeting was scheduled because the appeal merited its own meeting. Commissioner Wissing asked if Commission members should engage in conversations about West Glenwood. Jenn Ooton stated that it would be best to engage in conversation on this item during the public hearing for the corresponding application.

Commissioner Cipperly asked for clarification on the ability of Commission members to comment on approved projects that have gone to City Council. Continued discussion between Commission and staff clarified the limits and requirements of Commission members ability to discuss items. City Attorney Anna Itenberg advised general caution and provided additional guidance to Commission members concerning commenting on application items, interacting with the public, recusal, and general procedure and conduct.

7. Commissioner Comments

Commissioner Schachter mentioned desire for a future workshop on affordable housing.

Commissioner Dehm also stated that combining workshops with lighter agendas was a good idea.

8. Adjournment

Meeting was adjourned at 8:57 PM.



Planning and Zoning Commission Report

Date: August 25, 2020
To: Planning and Zoning Commission
From: Emery Ellingson, Planner I
Subject: #43-20– 820 Bennett Garage Variance

REQUEST	Consideration of variances from required side and rear yard setbacks for the construction of an accessory structure which includes a 350 single car garage and 196 sf storage space
APPLICANT	Kurt Carruth
OWNER	Kurt & Julie Carruth
LOCATION	820 Bennett Avenue (PIN 2185-094-15-013)
ZONE	RM2 Residential Multifamily Limited
SURROUNDING LAND USES	North: Residential South: Church (zoned RM2) East: Residential and alley West: Residential and Bennett Avenue
LOT SIZE	Parcel (2185-094-15-013) 5,000 square feet

ACTION ITEM

Per Section 070.060.070 of the *Glenwood Springs Municipal Code* (Code), the Planning and Zoning Commission (Commission) is the reviewing body for Variance Requests. The proposed request is relief from the rear yard and side yard setbacks in order to construct a 350 square foot garage with a 196 square foot storage room. The proposed project would also include demolishing an existing 123 square foot shed on the property.

Action 1 – Variance Request – to allow for construction of a 350 square foot garage with 196 square foot storage room set back 1.0’ from the rear lot line and 2.0’ from the side yard lot line.

Staff recommendation: *Staff recommends **denial** of the Variance Request with the findings and conditions on page 7.*

BACKGROUND

Project Summary

The application was submitted by homeowner Kurt Carruth. The proposal is to remove the existing 123 square foot storage shed and replace it with a 350 square foot single car garage with an adjoining 196 square foot storage space. The variance request is for relief from the side and rear yard setbacks. The requested location of the new accessory building would be setback 1.0' from the rear property line and 2.0' from the side lot line. The required setbacks for the RM2 Zoning District are 10.0 feet from the rear lot line and 5.0' from the side lot line.

A variance request must meet all the variance criteria as described in code. Attached for review is the applicant's narrative, site and floor plan of proposed improvements, support letters from neighbors, and photos of the site.



Aerial photo of property

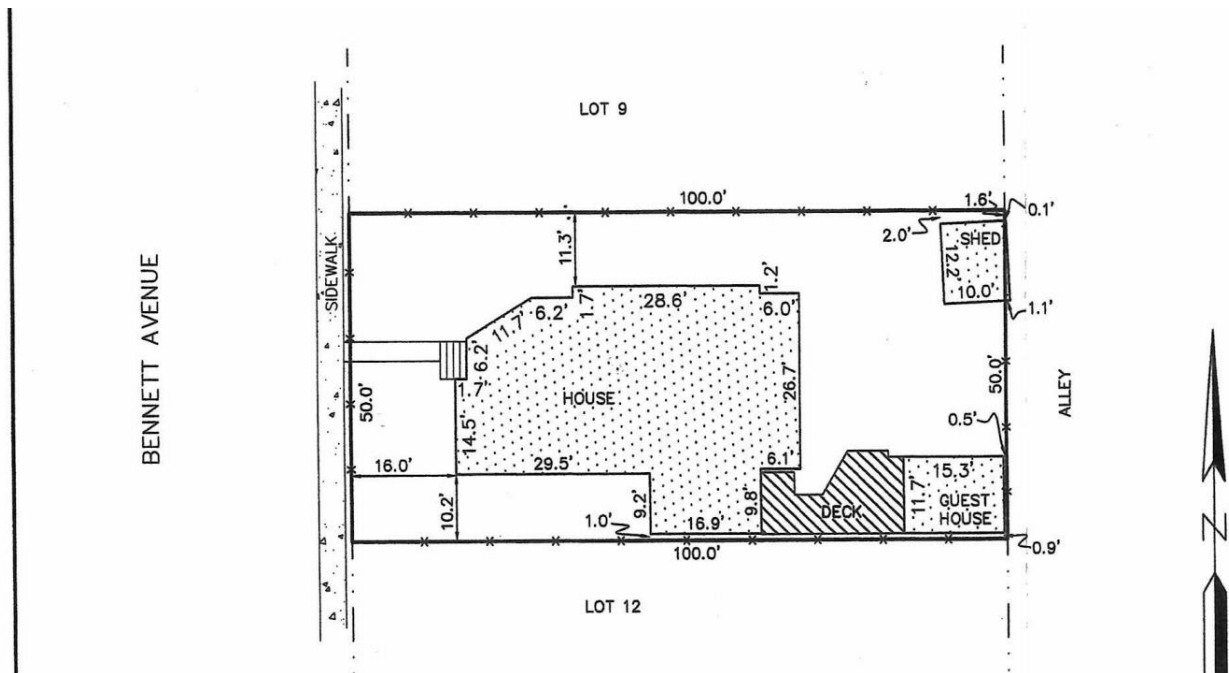
Location and Background

The home is located on Lot 10 and Lot 11 of Block 34 of the Original Glenwood Townsite. Image below shows the current layout of structures on the property. The property currently does not have any area dedicated for off-street parking.

The primary structure was built in 1898. In 2002 the applicant and current owner received a variance to construct a 165 square foot guest house located on the southeast corner of the property. This variance request was approved by the Glenwood Springs Board of Adjustments and Appeals on May 13th, 2002. Please see the attached notice which listed the conditions of this variance approval.

In 2006, the applicant and current owner, was approved for a 4 foot 8 inch variance into the side yard setback on the south lot line to construct a dining area addition on that side of the house. This addition was part of a larger remodel which including adding a second floor to the existing structure.

In 2019, the applicant and current owner, renewed an Accessory Tourist Rental Permit for the guest house which is valid through December 31, 2020.



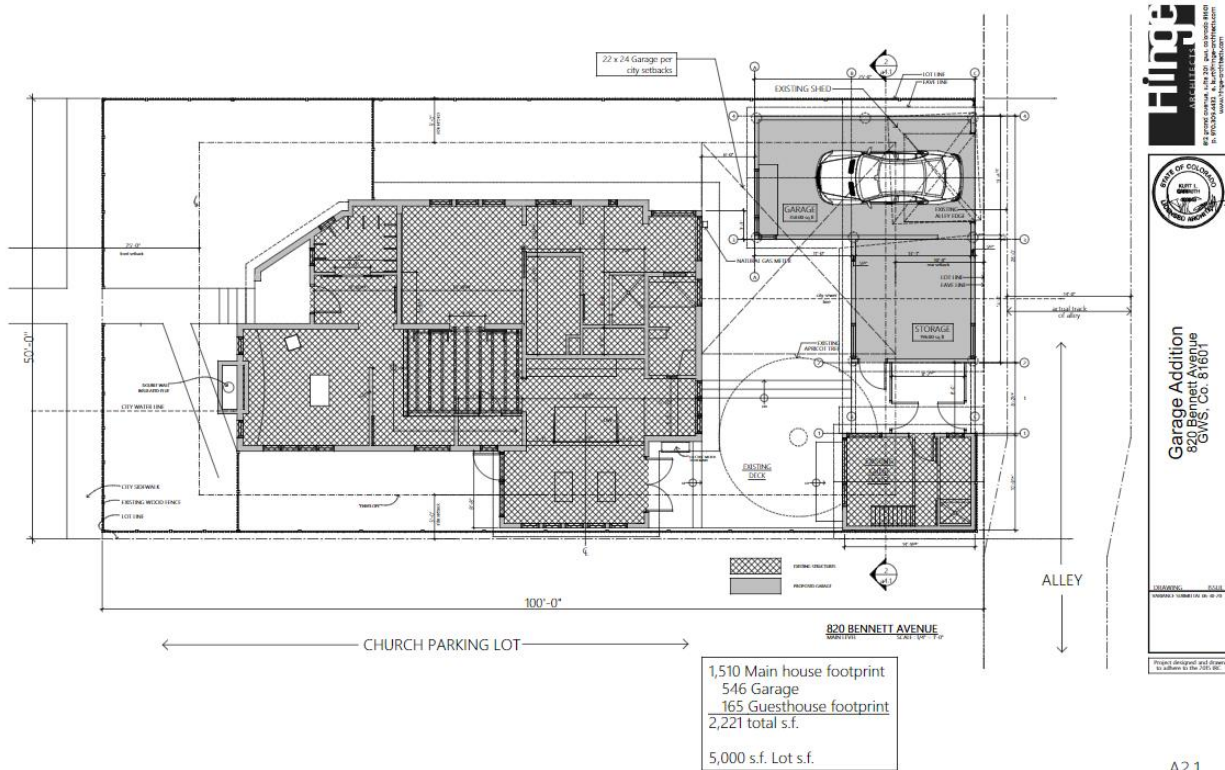
Project Analysis

The applicant requests a variance to construct a single car garage with storage space with the intent to create an off-street parking space for the property. The image below shows the proposed location of the garage and storage space. The applicant states that a typical sized garage would be close to the rear of the house and would decrease open space on the property, create roof drainage issues, and cut the lot into two pieces. Without further evidence related to drainage, it is difficult for staff to determine whether the proposed configuration would mediate drainage issues related to construction of a garage on the property.

The proposed garage and storage space would result in a total of 711 square feet for accessory structures. This is within the limit of 1,000 square feet for accessory structures as described in *Section 070.030.040 Accessory Uses and Structures*.

The proposed garage and storage space would result in a total lot coverage of 2,221 square feet which is 44% of the lot. This is within the limit of 50% of the total lot area as described in *Section 070.040.080(d)(1) Lot Coverage*.

Accessory structures are allowed to cover up to 40% of the required rear yard. The required rear yard is calculated by multiplying the width of the lot by the required rear yard setback. This results in a required rear yard of 500 square feet. The proposed garage, storage room, and existing guesthouse would occupy 348.93 square feet of this required rear yard, which is approximately 70% coverage, which is above the limit described in *Section 070.030.040(c)(5)(b)*



VARIANCE CRITERIA

Below is staff's analysis of the proposed project and its compliance with the seven variance criteria.

- 1. The subject property has an exceptional shape, topography, building configuration or other exceptional site condition that is not a general condition throughout the zone district**

The subject property does not have an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district. The lot is similar size to most in the district and does not have an exceptional topography. The primary structure is set back slightly farther compared to many neighboring buildings.

- 2. The strict application of the Code standards for which a variance is sought would produce undue hardship**

Applicant describes that a typical sized garage, sized 24.0' deep and 22.0' wide, if placed on the property and observing the 10.0' rear setback would result in a garage location that would be too close to the principal structure. The applicant cites the loss of open space and potential drainage issues as reason to request a variance for the 1.0' rear and 2.0' side setbacks. Staff does not find that strict application of Code standards would produce undue hardship as the request for relief from code is not due to physical site constraints but rather applicant's preference for use of existing and available space.

- 3. The applicant did not create the hardship by his/her own actions**

The property configuration was originally established with the original construction of the primary dwelling in 1898. Current zoning setbacks were not in place when the structure was originally built. The applicant purchased the property in 1999 and constructed a guesthouse in the rear yard of the property in 2002. The current property configuration is a result of the applicant and current owner's actions and preferred use of the property.

- 4. The variance requested does not harm the public and does not impair the intent or purposes of this Code, goals, and policies, including the specific regulation for which the variance is sought**

The variance requested does not harm the public nor does it impair the intent or purposes of this Code, including the specific regulation for which the variance is sought. Per comments from Water and Wastewater Department, the construction of a building within the rear yard setback in proximity to the alley could create problems in case of sewer main repair. One intent of a setback regulation is to provide room for utility installation and maintenance.

The variance request would provide a positive benefit to the public with the creation of an off-street parking space. The addition of an off-street parking space to this property would help to relieve the high demand for on-street parking in the neighborhood.

5. The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden

The variance request does not demonstrate exceptional hardship not related to purposes of convenience or financial burden. The location of the garage within the required rear and side yard setbacks is a result of existing property configuration and location preference for a by the applicant and does not demonstrate exceptional hardship

6. The variance request will not violate building or fire code requirements

The requested variance will require a building permit application and review/approval of both the building and fire departments. Construction therefore is expected to comply with both the building and fire code requirements.

7. The variance is the minimum variance that will afford relief of the subject standards of the Code.

The variance is not the minimum variance that will afford relief of the subject standards of the Code. As indicated in the site plans, there is a 6.0' gap between the proposed garage and the existing house. Standard fire separation per Building code is 5.0' and an accessory building may be located at an even closer distance if following necessary Building Code requirements. The owner could locate the proposed detached garage closer to the house, build a smaller garage, or consider an attached garage. These options could result in a smaller encroachment into the required rear yard setback.

REVIEWING AGENCY COMMENTS

An overview of any comments received from referral agencies is provided below. Said comments are also attached.

Engineering Department – Comments received mentioned that the proposed project would require a grading plan, drainage letter and plan completed by an engineer, and a Geotechnical Report/Letter to address the potential for hydrocompactive and corrosive soils for this property. Engineering comments also asked for more information on the foundation type and if the 1.0' setback provided adequate room to construct the footing within the property boundary.

Water & Wastewater Department – Comments received indicated that the setback of 1.0' off the alley could create potential problems for any major excavation in the alley for sewer main repairs. The proximity of the proposed garage's foundations could create problems with stabilization of a trench. The proposed garage's foundation would also be difficult to protect if a trench were excavated during a sewer main repair in the alley.

ACTION ALTERNATIVES AND STAFF RECOMMENDATION:

The Planning and Zoning Commission may approve, approve with conditions, or deny the variance. The Commission may also continue the hearing with a request for specific information necessary to determine compliance with the Municipal Code and city goals and policies.

Action 1 – Variance Request – to allow for construction of a 350 square foot garage with 196 square foot storage room set back 1.0’ from the rear lot line and 2.0’ from the side yard lot line.

Staff Recommendation/Suggested Motion

Staff recommends **denial** of the Variance Request with the following **findings**:

Suggested Findings:

1. The subject property does not have an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district.
2. The strict application of the Code standards for which a variance is sought would not produce undue hardship.
3. The applicant has had a part in the creation of the hardship by their own actions.
4. The variance requested does harm the public and does not impair the intent or purposes of this Code, goals, and policies, including the specific regulation for which the variance is sought. Specifically, the variance requested impairs the intent of the specific regulation for which the variance is sought, which is a required setback to provide space for utility installation and maintenance.
5. The variance requested does not demonstrate exceptional hardship not related to purposes of convenience or financial burden.
6. The variance request will not violate building or fire code requirements.
7. The variance is not the minimum variance that will afford relief of the subject standards of the code.

Variance Criteria

06-30-20

Property Owners:

Julie and Kurt Carruth
820 Bennett Avenue
GWS, Co 81601
*purchased house in 1998.

Property Location:

820 Bennett Avenue
GWS, Co. 81601

Lot specifics:

Parcel Number: 218509415013
Lot 10 & 11, Block 34 Original townsite GWS
Setbacks: Rear yard 10'-0" / Side yard 5'-0"

Variance type:

Explain what municipal code requirement you are requesting a variance from and what it is that you are proposing that does not meet this requirement. 5'-0" Side and 10'-0" rear yard setbacks. We are proposing a one car garage / storage room that runs perpendicular to the alley with a 1'-0" rear / 2'-0" side lot line setback.

Variance criteria:

- 1. Explain how your property has an exceptional shape, topography, building configuration or other exceptional site condition that is not a general condition throughout the zone district.** The shape is the same as all 50 x 100 lots. The slope is gentle across the site – no slope issues. The site condition is that the existing house is 'existing'. I cannot put a garage in the front yard, nor either side yard. The rear lot line is only area where I have the s.f. to potentially add it, the availability of access off of the alley, and it is the most logical location that makes sense.
- 2. Explain how the strict application of the code standards for the variance you are seeking produces undue hardship.** In my experience, Garages are typically 24'-0" deep x 22'-0" ish wide. Requiring a 10'-0" rear yard setback would create a hardship as it would make a typical sized (depth) garage 'touch' the rear of the house, it would create roof drainage issues between existing house and new garage, and effectively cut the lot into two pieces.
- 3. Explain how you did not create the hardship by your own actions.** The lot does not have access on either side, nor in the front yard. We did not move the house to where it currently is. The location / orientation of the proposed garage is the only feasible location on the lot.
- 4. Explain how the requested variance does not harm the public and does not impair the intent or purposes of this code, goals, and policies, including the specific regulation in question.** The Garage would not harm

the public in any way, as the public cannot see the Garage from Bennett Ave. Parking in the downtown core is at a premium – it is always the most important concern in any downtown project. The garage does not create any parking issues, but actually solves one parking space issue. It does not create any access issues. I have approval letters from both adjacent neighbors and a neighbor directly across Bennett, who all deal with the lack of parking on our street. All agree that creating even one more parking spot is worth it.

5. **Explain how the variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden.** I do not understand how anyone can demonstrate exceptional hardship. After looking at the site closely, and investigating other options – the proposed location is the only logical placement for successful creation of an off street parking space, maximum conservation of outdoor space, and ease of use / construction.
6. **Explain how the variance request will not violate building or fire code requirements.** The Garage addition would be constructed following all accepted codes, and the fire dept has excellent fire fighting access from the side (church) parking lot and rear alley. The alley adjacent to the Garage is wider than most alleys in town. Fire access would not be affected in any way.
7. **Explain how the variance is the minimum variance that will afford relief of the subject standards of the code.** The garage location is the most logical location to make the garage code compliant as to size, ease of access to the garage, allows us to retain a bit of open space, and impacts the public the least.



RE: 820 Bennett Ave.

Inboxx



Chris Hale Sun, Dec 1, 2:46 PM (18 hours ago)

to me

Kurt:

As a neighbor, I would be in favor of the garage. Parking is inadequate in our neighborhood and any car parked in a garage would remove a car from the street and free up a parking space.

Sincerely,
Mountain Cross
Engineering, Inc.
Chris Hale, P.E.
826 1/2 Grand Avenue
Glenwood Springs, CO 81601
Ph: 970.945.5544
Fx: 970.945.5558

From: Kurt Carruth [mailto:kurt.carruth@gmail.com]

Sent: Sunday, December 01, 2019 2:29 PM

To: Chris Hale <chris@mountaincross-eng.com>

Subject: Fwd: 820 Bennett Ave.

Chris:

Attached are the drawings for the proposed Garage. Have a look and get back to me with any questions.

Thanks-
Kurt Carruth, architect

hingeARCHITECTS, Ltd.
812 grand avenue, ste. 201
gws, co. 81601
c:970-309-4432
www.hinge-architects.com

In response to the Carruth garage:

I have reviewed the drawings and have no issue with the proposed garage. The design is attractive and utilitarian. Parking is a major issue on the street and it would alleviate that issue slightly. The fact that no additional water flow would propagate onto our adjacent property is important and considerate to our property. Homes in downtown often don't have off street covered parking, which is a definite premium that encourages families to live within the downtown area. Glenwood Springs needs to stay competitive with neighboring developments to keep families within the downtown area in order to maintain the long standing and vibrant feel of the neighborhood. I fully support this proposal and any other development in the neighborhood that encourages community and increases livability.

Ian Barrett
818 Bennett Ave.
Glenwood Springs, CO



teresa olave

to Kurt ▾

3:02 PM (24 minutes ago)



Hi Kurt, I received your message, and thanks for the information and everything is fine. God blessings!,

Enviado desde mi iPad

El nov 6, 2019, a las 2:14 PM, Kurt Carruth <kurt@hinge-architects.com> escribió:

Pastor Olave:

Thanks for your time and help with this.

I am happy to meet you at the site if you have any questions or concerns.

If possible, if it looks ok with you - I could use a letter that says something to the effect that you have seen the drawings, understand the project, and do not have any concerns for it going forward.

Thanks-

Kurt Carruth, architect

hingeARCHITECTS, Ltd.

812 grand avenue, ste. 201

gws, co. 81601

c:970-309-4432

www.hinge-architects.com

PROJECT NARRATIVE

**GWS Planning Dept.
City Hall
101 W 8th Street
GWS, Co. 81601**

06-30-20

Re: 820 Bennett Avenue, Rear / side yard setback Variance request

Planning Dept.:

We have been thinking about this for a few years, and have decided to go ahead and look into the possibility with the town. We have owned the property since 1998, and have raised three kids there.

Property Owners:

Julie and Kurt Carruth
820 Bennett Avenue
GWS, Co 81601
*purchased house in 1998.

Property Location:

820 Bennett Avenue
GWS, Co. 81601

Lot specifics:

Parcel Number: 218509415013
Lot 10 & 11, Block 34 Original townsite GWS
Setbacks: Rear yard 10'-0" / Side yard 5'-0"

Some details of our block:

Our block, Bennett Ave, between 8th and 9th streets, is pretty normal residence wise - we have typical single family residences, as well as larger multi family rentals - both directly across the street from our property and at the end of the block. There is also a busy church next door to us – their parking lot is directly next to our Southern lot / fence line. When the multi family tenants are home and the church is in session, we often find ourselves having to park more than a block away. It is typically not a big deal – the tenants / parishioners have always been respectful and careful – but can be frustrating at times.

Description of requested variance:

We are requesting relief from the 10'-0" rear setback, and the 5'-0" NE corner side yard setback in order to:

1. Replace existing 123 s.f. shed that is nearing end of usefulness.
2. Construct a 350 s.f. single car garage with 196 s.f. storage room.
3. We would propose a 1'-0" rear / side yard setback to account for roof overhangs.

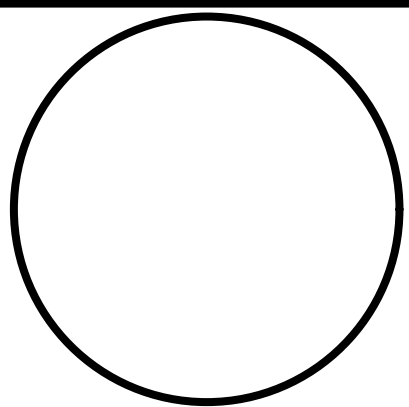
We would like to construct a single car Garage, with a storage room to replace the existing shed - and remove one car from the Bennett Ave. total vehicle number. I have analyzed every feasible location on our small site, and believe the proposed location to be the only real location that would work. We have a wood deck that we use often, and would like to retain a small yard space for gardening / entertaining. We request to be able to use a 1'-0" setback from the rear lot line, and be able to use a 2'-0" side yard setback for the NE corner Garage's depth of 14'-0". The proposed Garage depth is 25'-0", and would run perpendicular to the alley, and would be accessed from the alley. The Garage face of wall would be a foot back from the rear lot line (existing fence line), and all 1'-0" roof eaves / drainage would be contained within lot line.

Please get back to me with any questions or if clarifications are needed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kurt Carruth', with a stylized flourish at the end.

Kurt Carruth
820 Bennett Ave.
GWS, Co. 81601
C: 970-309-4432

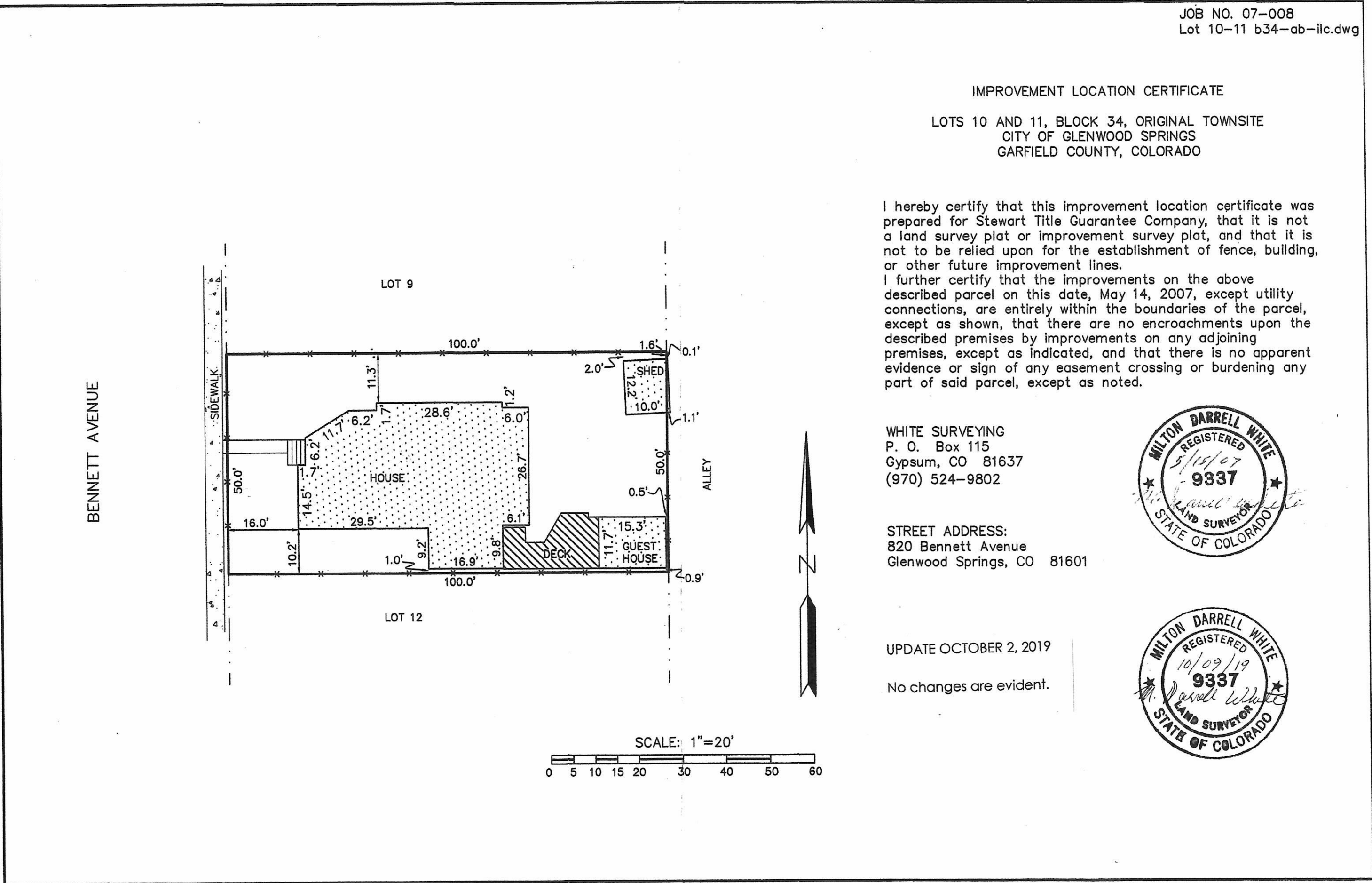


Carruth Garage
820 Bennett Avenue
GWS, Co. 81601

DRAWING ISSUE
PROGRESS PLANS 10-25-19

Project designed and drawn
to adhere to the 2015 IRC.

Survey
SCALE: 1" = 20'-0"





LAND USE APPLICATION

City of Glenwood Springs
Economic and Community Development Dept.
101 West 8th Street
Glenwood Springs, CO 81601
970-384-6411

Ordinance Amendments		Development Permits	
☐	Rezoning	☐	Site/Architectural Plan Review
☐	Rezoning to Planned Unit Development (PUD)	☐	Administrative
☐	Annexation	☐	Minor
☐	Condominiumization	☐	Major
☐	Annexation	☐	Master Plan
☐	Street Vacation	☐	Construction Plans
		☐	Location & Extent
Subdivisions		☐	Right of Way Encroachment License
☐	Minor Subdivision	☐	Floodplain Development Permit
☐	Preliminary Plat	☐	Special Use Permit
☐	Final Plat		Flexibility and Relief Procedures
☐	Vacation of Right-of-Way	☒	Variance
		☐	Administrative Adjustment
Other Land Use Applications		☐	Appeal
☐	Outdoor Seating		

Applicant/Property Owner Information:			
Applicant KURT CARWITZ		Owner Same	
Relationship to Owner SAME		Owner Same	
Applicant Address 820 Bennett Ave		Owner Address 820 Bennett Ave	
Phone 970-309-4432	Email Address kurtcarwitz@gmail.com	Phone	Email Address

Property Information:	
Address 820 Bennett Ave	Parcel Number 218509415013
Subdivision GWS - DOWNTOWN	Lot and Block Number 10 & 11, Block 34 orig Town Site
Zone District	Existing Land Use SFR

General Project Description:	
1 car garage with storage room	garage 350.00 s.f. Storage 196.00 s.f.

Signatures:		
The owner or applicant must be present at the hearing. All public hearings must be properly noticed according to G.S.M.C. Section 070.010.030. Signatures of all owners of the property must appear before the application is accepted. Partnerships or corporations may have the authorized general partner or corporate officer sign the	Kurt Carwitz	06.30.20
	Applicant	Date
	Kurt Carwitz	06.30.20
	Owner	Date

application. (Attach additional incorporation documents if necessary.) I declare under the penalty of perjury that the above information is true and correct to the best of my knowledge.

Julie Canith
Owner

06.30.20
Date

765

549694 07/30/1999 03:45P B1142 P765 M ALSDORF
1 of 1 R 5.00 D 19.50 GARFIELD COUNTY CO

at _____ o'clock _____ M. RECORDER.
By _____ DEPUTY.

WARRANTY DEED

THIS DEED, Made on this day of July 30, 1999,
between JAMES D. HOUCK AND CHRISTINE B. HOUCK

of the _____ County of GARFIELD and State of Colorado, of the Grantor(s), and
KURT L. CARRUTH AND JULIE S. CARRUTH, as JOINT TENANTS

whose legal address is : 2206 MIDLAND AVENUE, GLENWOOD SPRINGS, CO 81601
of the _____ County of GARFIELD and State of Colorado, of the Grantee(s):

WITNESS, That the Grantor(s), for and in consideration of the sum of (\$195,000.00)
*** One Hundred Ninety Five Thousand and 00/100 *** **DOLLARS**

the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the Grantee(s), his heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the _____ County of GARFIELD and State of Colorado, described as follows:

LOTS 10 AND 11
BLOCK 34
CITY OF GLENWOOD SPRINGS

COUNTY OF GARFIELD
STATE OF COLORADO

also known as street number 820 BENNETT AVE., GLENWOOD SPRINGS, CO 81601

TOGETHER with all and singular and hereditaments and appurtenances thereto belonging, or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right title interest, claim and demand whatsoever of the Grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described with appurtenances, unto the Grantee(s), his heirs and assigns forever. The Grantor(s), for himself, his heirs and personal representatives, does covenant, grant, bargain, and agree to and with the Grantee(s), his heirs and assigns, that at the time of the enrolling and delivery of these presents, he is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, EXCEPT GENERAL TAXES AND ASSESSMENTS FOR THE YEAR 1999 AND SUBSEQUENT YEARS, AND SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS, COVENANTS AND RIGHTS OF WAY OF RECORD, IF ANY

The Grantor(s) shall and will WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of the Grantee(s), his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof. The singular number shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF the Grantor(s) has executed this deed on the date set forth above.

JAMES D. HOUCK

CHRISTINE B. HOUCK

STATE OF Colorado)
) ss.
County of GARFIELD)

The foregoing instrument was acknowledged before me on this day of July 30, 1999,
by JAMES D. HOUCK AND CHRISTINE B. HOUCK

My commission expires _____
Witness my hand and official seal _____

MARGARET R. JOY
NOTARY PUBLIC

Notary Public

Name and Address of Person Creating New Instrument or Change of Description STATE OF COLORADO

Escrow# GW231787
Title# GW231787

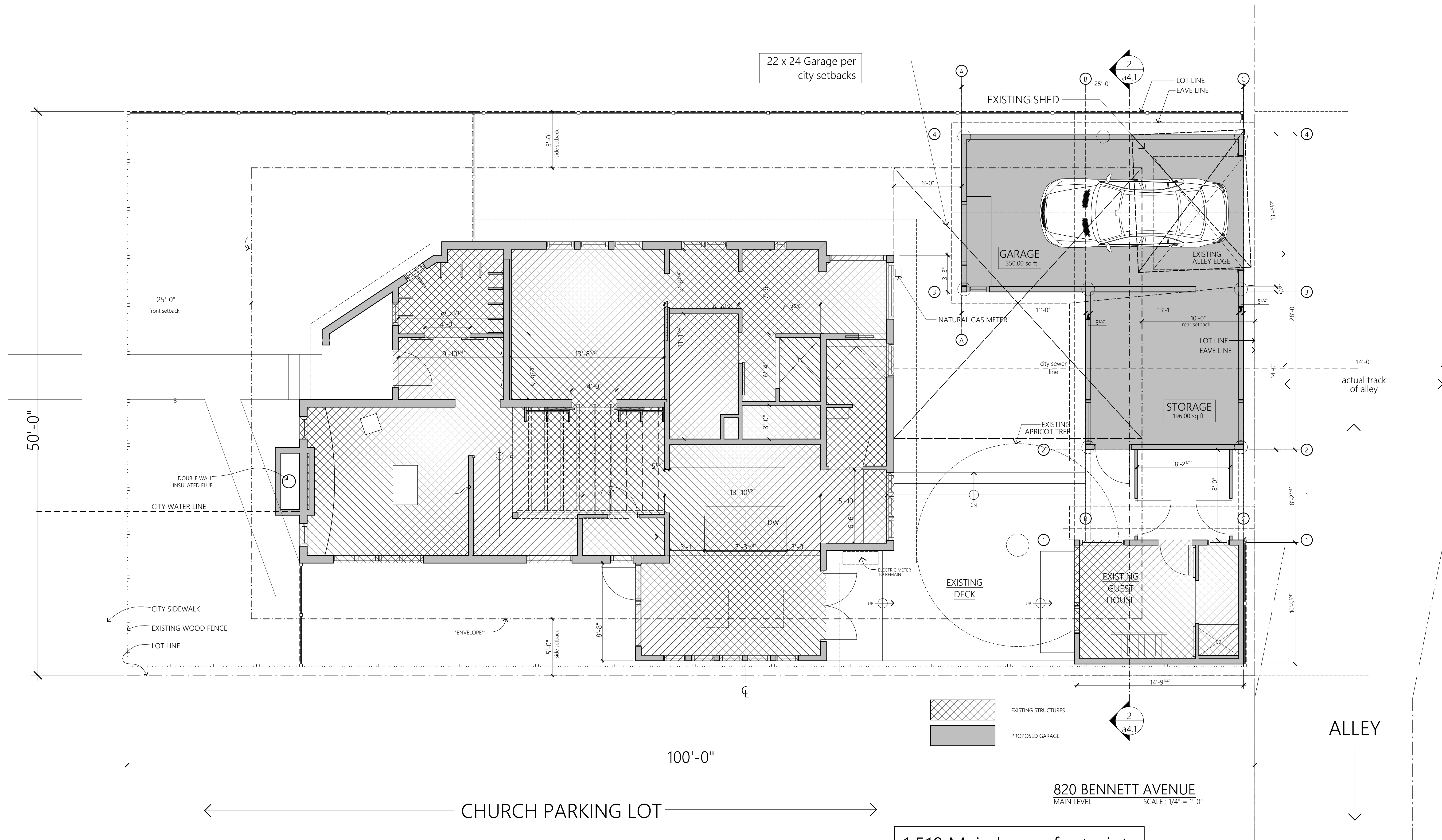
My Commission Expires _____ Return to: KURT L. CARRUTH AND JULIE S. CARRUTH

Form No. 932 Rev 4-94. WARRANTY DEED (For Photographic Record)

820 Bennett Ave
2206 MIDLAND AVENUE, GLENWOOD SPRINGS,
CO 81601

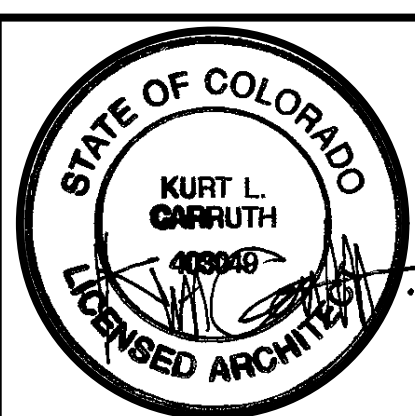
LAND TITLE

132
5-
19.50



1,510 Main house footprint
 546 Garage
 165 Guesthouse footprint
2,221 total s.f.

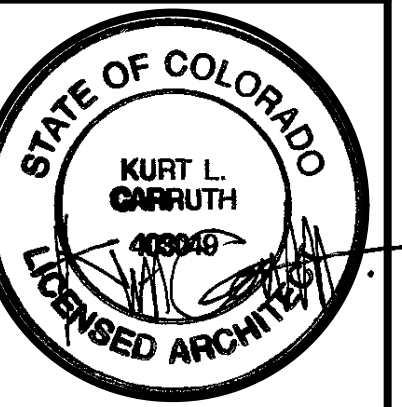
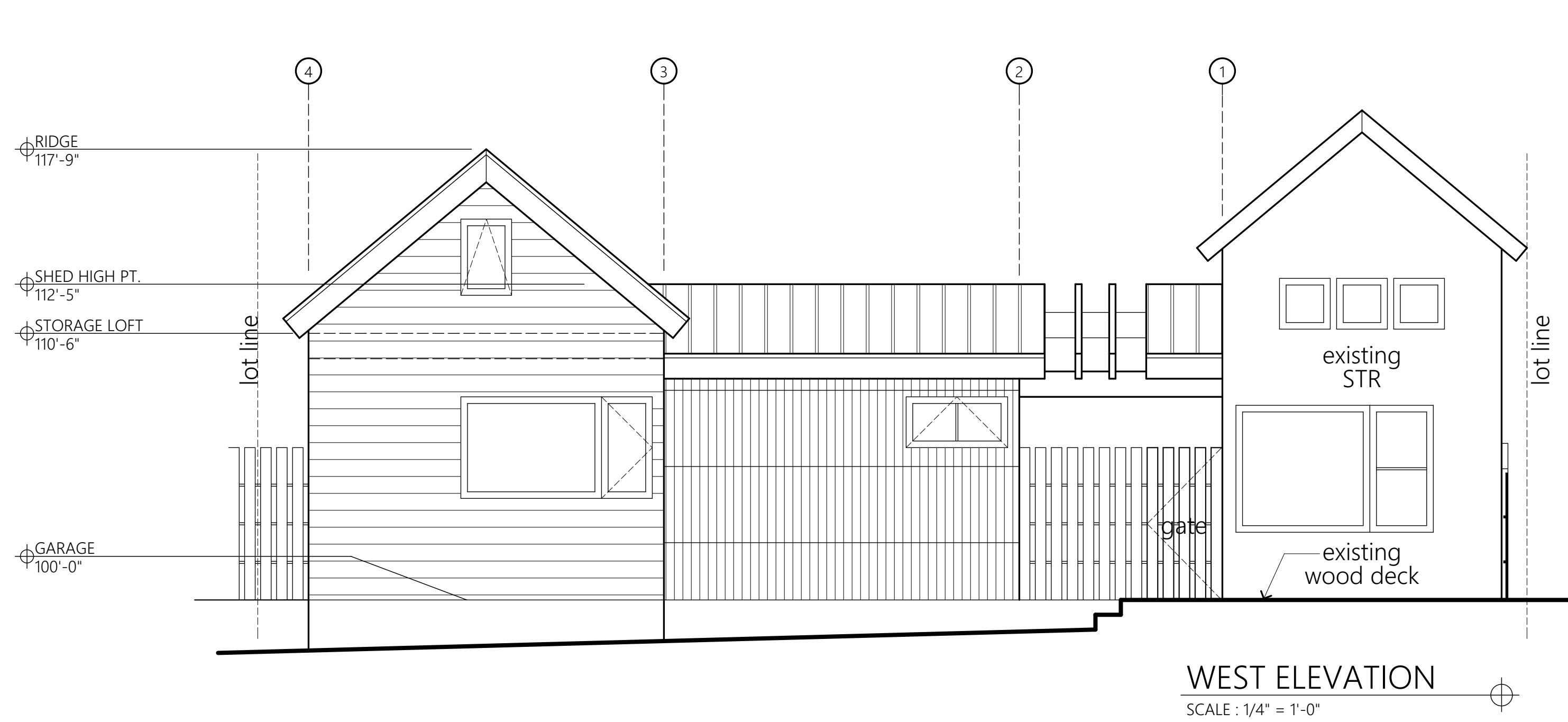
 5,000 s.f. Lot s.f.



Garage Addition
 820 Bennett Avenue
 GWS, Co. 81601

DRAWING ISSUE
 VARIANCE SUBMITTAL 06-30-20

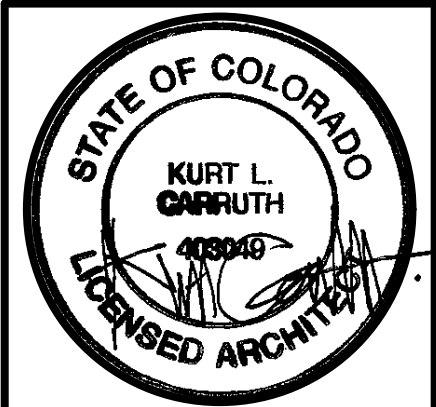
Project designed and drawn to adhere to the 2015 IRC.



Garage Addition
820 Bennett Avenue
GWS, Co. 81601

DRAWING ISSUE
VARIANCE SUBMITTAL 06-30-20

Project designed and drawn
to adhere to the 2015 IRC.



Garage Addition

820 Bennett Avenue

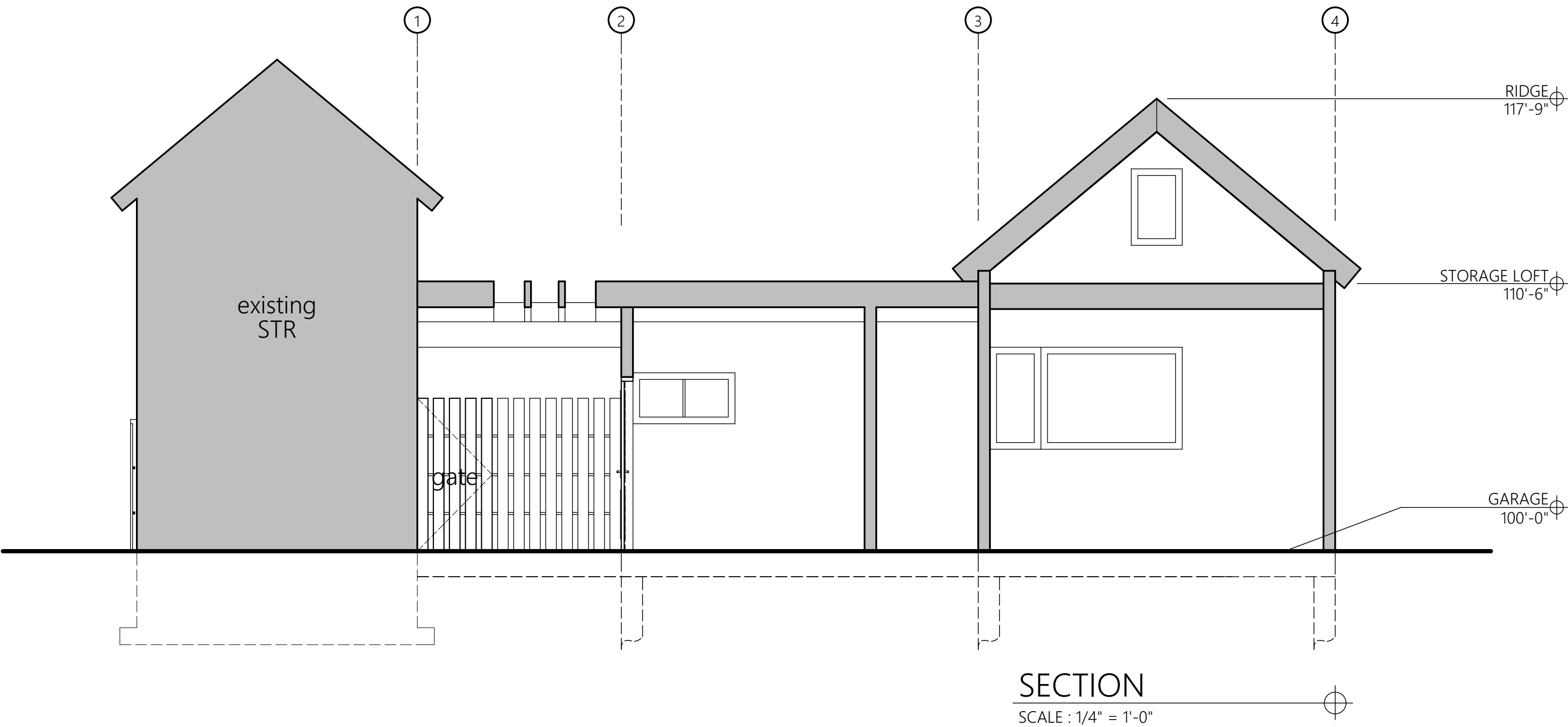
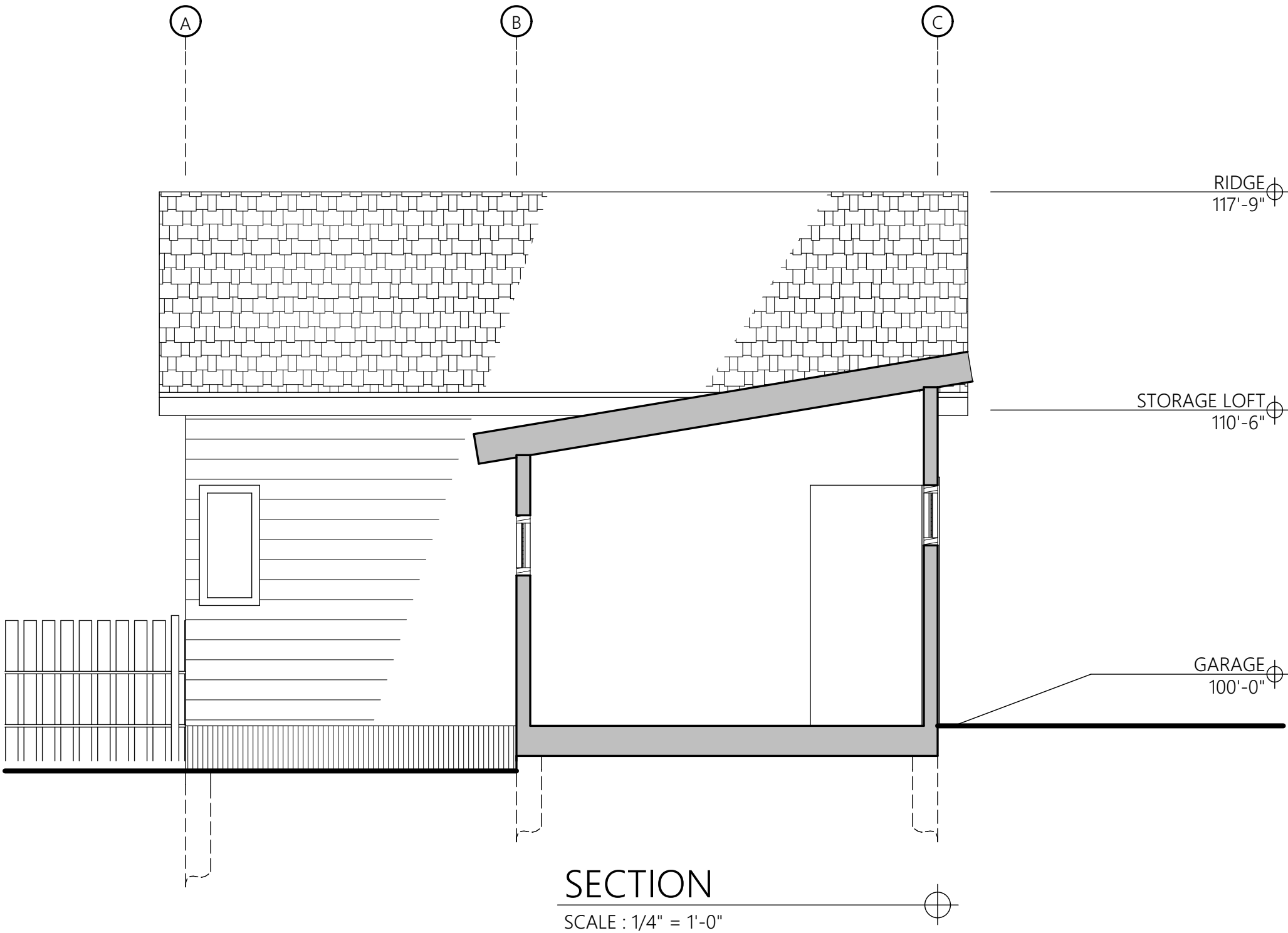
GWS, Co. 81601

DRAWING

ISSUE

VARIANCE SUBMITTAL 06-30-20

Project designed and drawn to adhere to the 2015 IRC.





765

549694 07/30/1999 03:45P B1142 P765 M ALSDORF
1 of 1 R 5.00 D 19.50 GARFIELD COUNTY CO

at _____ o'clock _____ M. _____
By _____ RECORDER.
DEPUTY.

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KURT L. CARRUTH AND JULIE S. CARRUTH, as JOINT TENANTS

whose legal address is : 2206 MIDLAND AVENUE, GLENWOOD SPRINGS, CO 81601
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*** One Hundred Ninety Five Thousand and 00/100 *** **DOLLARS**

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LOTS 10 AND 11
BLOCK 34
CITY OF GLENWOOD SPRINGS

COUNTY OF GARFIELD
STATE OF COLORADO

also known as street number 820 BENNETT AVE., GLENWOOD SPRINGS, CO 81601

TOGETHER with all and singular and hereditaments and appurtenances thereto belonging, or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right title interest, claim and demand whatsoever of the Grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described with appurtenances, unto the Grantee(s), his heirs and assigns forever. The Grantor(s), for himself, his heirs and personal representatives, does covenant, grant, bargain, and agree to and with the Grantee(s), his heirs and assigns, that at the time of the ensembling and delivery of these presents, he is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, EXCEPT GENERAL TAXES AND ASSESSMENTS FOR THE YEAR 1999 AND SUBSEQUENT YEARS, AND SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS, COVENANTS AND RIGHTS OF WAY OF RECORD, IF ANY

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IN WITNESS WHEREOF the Grantor(s) has executed this deed on the date set forth above.

JAMES D. HOUCK

CHRISTINE B. HOUCK

STATE OF Colorado)
County of GARFIELD) ss.

The foregoing instrument was acknowledged before me on this day of July 30, 1999,
by JAMES D. HOUCK AND CHRISTINE B. HOUCK

My commission expires _____
Witness my hand and official seal _____

MARGARET R. JOY
NOTARY PUBLIC

Notary Public

Name and Address of Person Creating New Instrument: STATE OF COLORADO Description: 38-35-106.5, C.R.S.

Escrow# GW231787
Title# GW231787

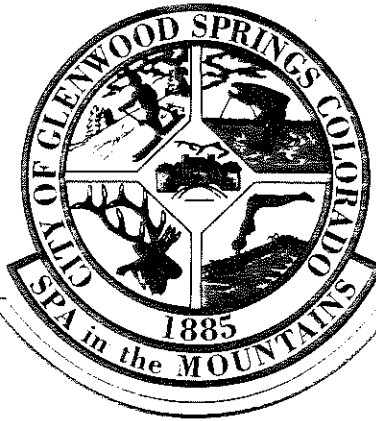
My Commission Expires: _____ Return to: KURT L. CARRUTH AND JULIE S. CARRUTH

Form No. 932 Rev 4-94. WARRANTY DEED (For Photographic Record)

820 Bennett Ave
2206 MIDLAND AVENUE, GLENWOOD SPRINGS,
CO 81601

LAND TITLE

132
5-
19.50



June 27, 2002

Kurt Carruth
820 Bennett
GWS, CO 81602

Kurt;

The Glenwood Springs Board of Adjustments and Appeals heard your variance request on May 13th. The Board approved your request pending these conditions.

1. The addition will not negatively impact the adjacent property with any off site drainage. Prior to any construction, the applicant will have the City locate the existing sewer line. Applicant shall enter into an indemnification agreement with the City to be recorded in the Garfield County Clerk and Recorder's office providing that all costs and risks associated with the utilities buried in the alley shall be borne by the applicant and his successors-in-interest. This shall include both the liability arising from the structures placement relative to any necessary repair and maintenance of the buried utilities and also any additional costs associated with that repair and maintenance as a result of the structures placement.
2. The roof overhangs will not encroach onto the adjacent property; therefore, the foundation will be located 6" from the southern property line.
3. During construction of the addition, all construction staging/parking will occur on the property or off site at another location and will not impact the neighborhood.
4. Prior to the issuance of the building permit, the applicant will have a licensed surveyor locate the rear yard property corners. The applicant will adhere to by the Building Department's requirement for foundation location certificate.
5. The approval of this file is for a guest addition and a personal office. If the applicant desires to have a professional office at this location, then the applicant will need to file an application with the City and conform to the Code's requirements.
6. All representations made by the applicant both verbally and through material representations shall be considered conditions of approval of this application.

Respectfully;

Patti Haefeli, AICP
City Planner

**Engineering
Department**

**Ryan Johnson
Asst. City
Engineer**

Date: 08/17/2019

To: Community Development

Re: 820 Bennet Variance Application Engineering Review

Please see the following engineering comments below.

General Comments:

1. Provide a grading plan
 - a. Include existing contours for the property and the alley adjacent to the improvements.
 - b. Detail how garage floor correlates to sloping grades of alley.
 - i. Given the proximity of the garage door to the alley is more distance needed from the door to the edge of alley to make this work?
2. Provide drainage letter and drainage plan completed by a Professional Engineer with supporting calculations to verify that the proposed flow from the property does not exceed the existing condition. Detail and size necessary mitigation measures. Refer to Engineering Standards Chapter 4
3. Geotechnical Report/Letter should address the moderate potential for hydrocompactive soils and corrosive soils for this property as shown in the *Geologic Hazards of the Glenwood Springs Metropolitan Area – Garfield County, CO dated 1978*.
4. What foundation type is anticipated and does the 1' setback provide enough room to construct the footing within the property boundary?
5. Verify there is enough room in the alley to complete the turning movement into the garage.

Prior to Grading/Building permit issuance:

1. Final Drainage Report/Letter must be submitted and accepted.
2. Final Construction Document Plans should be submitted and approved.

Prior to Certificate of Occupancy:

1. Stamped certification letter for the drainage improvements made to the property.
2. As-Built Survey with Improvement Survey Plat. AutoCAD with PDF's can be submitted initially. Once approved, a Final Mylar copy shall be provided.

W/WW Comments

With the setback proposed at 1' off of the alley doing a major excavation in the alley to do a sewer main repair could cause all sorts of potential problems.

- Stabilization of a trench
- Protection of the proposed structure adjacent to a trench.

Mike Hoffman

Field Operations Superintendent
Water & Wastewater Dept.
City of Glenwood Springs
2315 Wulfshon Rd
Glenwood Springs, CO. 81601
(W) 970-384-6343
(C) 970-989-3902





Planning & Zoning Commission Staff Report

Date: August 25, 2020

To: Planning & Zoning Commission

From: Gretchen Ricehill, Asst. Director Community Development Dept.

Subject: #28-20- Location & Extent Review – Recycling Center-City of Glenwood Springs

REQUEST	Consideration of a Location & Extent Review application for construction of a recycling center on a 15,246 square foot property. The civic facility will include 18 recycling containers, new 6-foot screening fence, gates, asphalt looped driveway, site lighting, security cameras, associated utilities and drainage system, and a 100 square foot attendant hut.
APPLICANT	City of Glenwood Springs, Public Works Department
OWNER	City of Glenwood Springs
ZONE	CO- Commercial
LOCATION:	106 13 th Street (formerly 1300 Pitkin Ave)-PIN# 2185-161-00-033
SURROUNDING LAND USES	North: residential; vacant South: multifamily/condominiums East: residential West: residential; vacant; RFTA trail
LOT SIZE	15,246 sf

ACTION ITEM SUMMARY

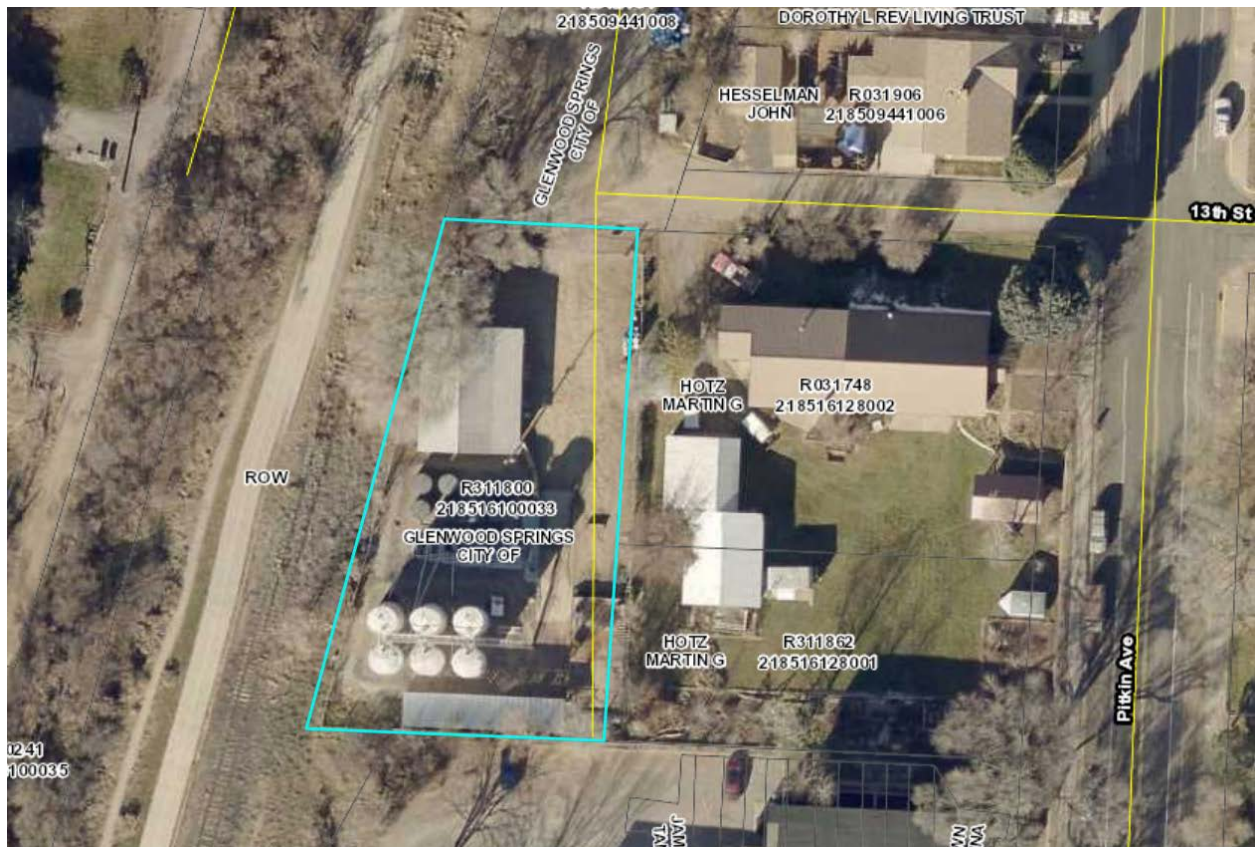
Action 1: Consideration of a Location & Extent Review application for construction of a recycling center on a 15,246 square foot property in the CO-commercial zoning district.

Staff Recommendation: Staff recommends that the Planning and Zoning Commission **approve** the Location & Extent Review application **with findings and conditions on page 6 of this report.**

PROJECT SUMMARY

In 2017, as a result of a voter-approved land swap with the school district, the recycling center at 1015 School Street was closed and moved to the South Canyon landfill.

In January 2020, the City of Glenwood Springs purchased from Western Petroleum, a 0.35-acre parcel located on 13th Street, adjacent to the Rio Grande trail. Below is an undated aerial image showing a building and several above ground fuel storage tanks on the property, which have since been removed.



Source: Garfield County Assessor's office

The City of Glenwood Springs proposes reestablishing an in-town recycling center on this site. Property improvements will include 18 recycling containers; a small 100 square foot hut for city staff/recycle center attendant; 6 foot tall perimeter screening fence; asphalt looped driveway; two security lights; security cameras; new entry gate; and associated utility and drainage system improvements.

The Center's expected operating hours will be 9AM to 4PM Tuesday through Saturday. The frequency of truck traffic to the Center to empty the recycle bins will depend upon the amount of customer use.

Attached for your review is the applicant's project narrative which provides a detailed description of the proposed improvements; a site plan; and two illustrations. Also attached is one correspondence received from the public.

REVIEW PROCESS & APPROVAL CRITERIA:

The Planning and Zoning Commission considers Location and Extent Review applications for all public and quasi-public special districts based on whether the application is consistent with applicable Comprehensive Plan goals and policies, consistency with the general purpose and intent of the Municipal Code and how well the application minimizes adverse impacts to health, safety and welfare of inhabitants of surrounding areas and the city. Below in bold font are the criteria and staff analysis of the proposed improvements.

i. Consistency with the Comprehensive Plan and other City plans and policies.

The applicant's narrative provided a detailed discussion of how this project conformed to goals of the Comprehensive Plan. Included were the goals:

Direct Development to Locations and Forms that are Cost-effective to Serve

- The infrastructure and capacities of the site meet the needs of the City well, and the changes that would need to be constructed fit within the site acreage and do not affect the utility capacities within the site.

Address Transportation Needs and Provide Multiple Convenient Travel Choices by locating development in ways to reduce traffic congestion, assure safe and efficient movement of people and goods, and provide equal access to community facilities.

- This proposed recycling center site is centrally located downtown, and in proximity to its former location at 1015 School Street. Reestablishing the recycling center within city limits not only makes it more convenient for Glenwood residents (eliminating a 14-mile roundtrip to South Canyon, it likely will reduce traffic to the landfill.

Plan for increased landfill capacity.

- The applicant notes that the downtown recycling site will help the city continue to extend the life of the South Canyon Landfill by offering a convenient location for people to take their recycling. Following the move of the recycling center to the landfill, recycling initially dropped by 50%.

Policies to enhance natural resources: The City should minimize waste transmitted to the environment. Water, air, noise, and light pollution should be reduced to maintain the local quality of life. Solid waste should be minimized. Greenhouse gas emissions should be reduced. Energy should be conserved.

And -

Continue leadership in protecting the natural setting

- To protect the natural environment, the Comprehensive Plan calls for reducing landfill waste through increased recycling.

Staff adds that the proposed improvements also conform to the Comprehensive Plan's future land use map shown at right. The property is classified as commercial (red) which accommodates a wide range of goods and services for both regional and local markets.

ii. Consistency with the general purpose and intent of this Code.

Zoning

The proposed improvements comply with the Title 070.020 zoning district standards for setback, building height; and with 070.030 for land uses allowed in the CO-commercial zone (civic building/facility).



The outdoor storage component of this use would generally require a special use review however, the City is submitting this application as a Location and Extent review. As noted above, the purpose of a Location and Extent Review is to allow review of public and quasi-public entities in relation to the

applicable policies and goals of the Comprehensive Plan, the purpose & intent of the Code, and minimization of adverse impacts.

Sensitive Area Protection

The property is relatively flat and classified as being within a slight geologic hazard zone for debris flow, hydrocompactive soils and rockfall therefore no sensitive area mitigation is required.

Off-street Parking

According to the Code, 1 parking space is required per 300 square feet of floor area, which is the total habitable horizontal area of all floors in a building excluding bathrooms, closets, storage or utility areas, etc. The only habitable structure on the property is the 100 square foot attendant booth or hut. Therefore, just 1 parking space is required. The City notes in its narrative that it anticipates providing a parking stall on a vacant property that it owns to the north of this recycling center.

Common Open Space, Landscaping & Screening

Common Open Space & Landscaping:

Ten percent of the lot area, or 1,524 square feet, is required to be common open space. Areas counted as common open space include formal plantings and gardens; squares, forecourts, plazas, courtyards; and required buffer and landscape areas. Similarly, the Code requires that ten percent of the lot area consist of landscaping. The project proposes landscaping along the southwest and southeast corners of the lot as well as landscaping along the short 13th Street frontage. The landscaped area consists of about 1,660 square feet and includes tree and shrub plantings.

The Code requires 1 tree per 50 feet of street frontage. In this case, although the site plan shows that the property's north boundary is about 70 feet in length, there is no actual street frontage. The 13th Street right-of-way terminates about 25 feet east of this property.

The Code also requires 4 trees, 16 shrubs and 31 perennials. Five shrubs are shown along the north property line, adjacent to the employee / attendant hut; and 4 trees are shown in the southwest and southeast corners of the lot. No perennials are noted on the site plan. The city will not be installing an irrigation system but instead will be hand watering through establishment and periodically as needed. Therefore, staff agrees that perennials should not be planted.

Screening:

Loading and outdoor storage areas are required to be screened from public rights-of-way and from adjacent residential uses and zoning districts using fencing, walls, berms and/or landscaping that is at least 6 feet in height. In compliance with the Code, the city will be constructing a 6-foot tall solid screening fence at the property perimeter.

Exterior Lighting

Plans call for two security lights to be installed along the property's west boundary. The property is in Lighting District 1 but borders properties in Lighting District 2. The Code requires full cut off light fixtures and a maximum 3 footcandle light level. Detailed lighting information was not included in the application materials therefore compliance with 070.040.100- *Exterior Lighting* has been made condition of approval.

Non-residential Design Standards

The only permanent, habitable building on the property is a 10' x 10' structure. The illustration shows a wood sided building with a shed metal roof, although staff understands that the Public Works Director may change the shed to a gable roof.

The non-residential design standards which require certain design treatments apply when elevations exceed 30 feet in length, or when roof lengths exceed 50 feet. So, this 100 square foot hut is not required to include specific design elements. However, the building is required to comply with material and color provisions. Because colors were not noted on the plans, submission of material samples and colors for Director review/approval was included as a condition of approval.

In summary, although not in strict compliance with all aspects of the Development Code as noted above, the project is found to be consistent with the Code's general purpose and intent provisions: namely, it protects the public health, safety, and welfare of the city and implements the policies, goals and strategies adopted by the City including those set forth in the Comprehensive Plan.

iii. Minimizes adverse impacts to the health, safety, and welfare of the inhabitants of the surrounding areas and the city.

The proposed project does not negatively impact surrounding properties or the health, safety and welfare of the city's inhabitants. The property will be fully screened; exterior security lighting will be required to meet the lighting code so that light does not adversely impact adjacent property owners; and hours of operation will be restricted to day-time hours, currently proposed as 9AM to 4PM Tuesday through Saturday.

REVIEWING AGENCY & PUBLIC COMMENTS

Reviewing Agency Comments:

Although no formal, written comments were received, this project has been developed with regular input from all applicable City Departments.

Public Comments:

One written comment was received regarding the proposed project. This is included in the Commission's packet of information. Additionally, as reported in the narrative description, the City held two neighborhood meetings, one on site and one via Zoom. Questions about the project focused on traffic and street configuration; project timeline; end destination of recycled materials; use of the city-owned vacant lot to the north; site lighting; and noise.

REQUIRED ACTIONS

Action 1: Consideration of a Location & Extent Review application for construction of a recycling center on a 15,246 square foot property in the CO-commercial zoning district.

Action Alternatives

The Planning and Zoning Commission may approve, approve with conditions, deny or continue this application to a future hearing with a request for additional specific information which it finds necessary to determine compliance with the Municipal Code and city goals and policies.

Staff Recommendation: Staff recommends that the Planning and Zoning Commission approve the Location & Extent Review application with suggested findings and conditions on page 6 of this report.

Suggested Findings:

1. The proposal is consistent with the Comprehensive Plan and other City plans and policies;
2. The proposal is consistent with the general purpose and intent of this Code; and
3. The proposal minimizes adverse impacts to the health, safety, and welfare of the inhabitants of the surrounding areas and the city.

Suggested Conditions:

1. The applicant/owner shall comply with all verbal representations made in the public hearings, as outlined in all application materials, and/or as revised per conditions herein and approved by the Community Development Director.
2. Prior to construction, applicant/owner shall submit building and/or grading permit, as required.
3. The applicant/owner shall provide exterior building color samples for Community Development Director review and approval at the time of building permit submission. The proposed colors shall be earth-tone.
4. Lighting shall comply with fixture style and maximum footcandles requirements for security lighting per 070.040.100 of the Municipal Code. Prior to installation, the applicant/owner shall provide lighting manufacturer and light level information for Community Development Director review and approval.
5. Any future physical changes to or improvements on the property are subject to the review and approval of the Community Development Director for compliance with applicable requirements of the Glenwood Springs Municipal Code.

Location and Extent Review Application Narrative

The City of Glenwood Springs is proposing a civic building use on the 15,246 square foot property located at 106 13th Street (formerly 1300 Pitkin Ave), to reestablish a convenient recycling center in downtown later this fall. With the help of a grant from Recycling Resources Economic Opportunity through the Colorado Department of Public Health and Environment, the site will include new fencing, gates, asphalt fixes for street access, a staff hut, associated utilities, site lighting and cameras, concrete pads, an asphalt access loop, and a small drainage system.

The operating hours for the in-town recycling center would be 9 a.m. to 4 p.m. Tuesday through Saturday. Truck traffic to and from the site for the recyclable materials would be based on the use of the facility.

The City's in-town recycling center was previously located at 1015 School Street and was moved to the South Canyon Landfill in February of 2017. The City of Glenwood Springs sought and received voter approval in 2015 to trade the recycle center property on School Street near the Glenwood Springs Elementary School for area in the Confluence Area, allowing room for the school to expand and the city the opportunity to redevelop the Confluence Area for new residential housing.

With the re-establishment of the in-town recycling center, the City of Glenwood Springs hopes to increase the City's recycling rate by 25% to return to pre-2015 levels.

The site planning includes a one-way asphalt drive, a fenced in area with gates surrounding 18 recycling containers for clothes, glass, cardboard, magazines, newspaper and office paper, plastics, compost and other recycling, a 6' tall wooden privacy fence, two security lights, a 10x10 office for a recycling office, and landscaping along 13th Street and along the west fence line. The recycling containers will sit on concrete pads.

106 13th Street, formerly used as a bulk oil and gas storage site by Western Petroleum, is located in the CO-Commercial zone district, where civic building uses are a permitted use. Civic Building is defined as "Any noncommercial public building housing uses for the purpose of promoting the general health, safety, and welfare of the citizens of Glenwood Springs. Some civic buildings are also considered government offices." The outdoor storage component of this use would generally require a special use review, however, the City is submitting this application as a Location and Extent review.

Such civic building use requires one parking stall for every 300 square feet of building. Though the current site design does not show a parking stall for the recycling attendant, city staff anticipates providing a parking stall on the vacant lot to the north.

Section 070.040.050(f)(a)b. requires that "loading and outdoor storage areas shall be screened from view of public rights-of-way and from adjacent residential land uses or districts using any one or a combination of fences, walls, berms, or landscaping that is at least six feet in height and provides a permanent, opaque, year-round screen." The project will include a wooden privacy fence around the perimeter of the property, which will have two gates that would be open during operating hours.

The City held two neighborhood meetings for the project, one on site and one via Zoom. Questions about the project focused on traffic on 13th (whether the street could be made one way), how many trucks would access the site, what the timeline for the project would be, where the recycle materials go

to, what would happen with the empty lot area to the north of the specific recycle center property, whether the lights could be LED, and what the potential noise would be.

How this site planning meets the Comprehensive Plan for the City

The Comprehensive plan defines what the City is looking for in development of sites within the City, and list below are notable points on how 106 13th Street meets the direction the plan wants development to unfold.

- The comprehensive plan calls out to “Direct Development to Locations and Forms that are Cost-effective to Serve” which is what this site does for the City. The infrastructure and capacities of the site meet the needs of the City well, and the changes that would need to be constructed fit within the site acreage and do not affect the utility capacities within the site.
- The Comprehensive Plan calls out to “Address Transportation Needs and Provide Multiple Convenient Travel Choices” by locating development in ways to reduce traffic congestion, assure safe and efficient movement of people and goods, and provide equal access to community facilities. This site is centrally located downtown and restores a recycling center within city limits and would likely reduce recycling traffic to the landfill. The trip to the South Canyon Landfill is 14 miles roundtrip.
- The Comprehensive plan calls out the need for increased landfill capacity and efforts to extend the landfill’s life. This recycling site will help the city continue to extend the life of the South Canyon Landfill by offering a convenient location for people to take their recycling. Following the move of the recycling center to the landfill, recycling initially dropped by 50%. Due to the grant requirements, the recycling center will be free (with the exception of electronic recycling) for at least five years.
- The Comprehensive Plan includes the following policy to enhance natural resources: “The City should minimize waste transmitted to the environment. Water, air, noise, and light pollution should be reduced to maintain the local quality of life. Solid waste should be minimized. Greenhouse gas emissions should be reduced. Energy should be conserved.” To that end, the Comprehensive Plan further calls out increasing recycling as a strategy to promote natural resources by reducing contributions to the landfill.

Exhibits:

Exhibit A: Existing Site Survey of Property

Exhibit B: Proposed Site Planning

Exhibit C: Artist Rendering







From: janet2busy@gmail.com <janet2busy@gmail.com>

Sent: Friday, July 24, 2020 6:18 PM

To: Steve Davis <steve.davis@cogs.us>; Jonathan Godes <jonathan.godes@cogs.us>; Tony Hershey <tony.hershey@cogs.us>; Shelley Kaup <shelley.kaup@cogs.us>; Paula Stepp <paula.stepp@cogs.us>; Rick Voorhees <rick.voorhees@cogs.us>; Charlie Willman <charlie.willman@cogs.us>; Debra Figueroa <debra.figueroa@cogs.us>; Matthew Langhorst <matthew.langhorst@cogs.us>; King Lloyd <king.lloyd@cogs.us>

Subject: Input on Recycling and Garbage Collection (for July 29 Meeting)

Congratulations on securing \$150K RREO grant to expand Glenwood's recycling program. Well done! I can't attend the public meeting 7/29 but have some suggestions.

1. Look at alternatives to the 13th/Pitkin location to reduce neighborhood noise/traffic/vectors and allow growth in the future. For example, W. Glenwood Mall is underutilized and could make a great green and e-cycling location and move traffic (including takeaway trucks) to an area better suited to handle it. I know it is not City property, but worth looking into.
2. Add composting of leaf and grass clippings. You could use the compost/mulch for city landscaping and sell it to local businesses and residents.
3. Take a fresh look at improving the efficiency of garbage collection (and maybe include more curb-side recycling). Having three different companies running through one neighborhood is wasteful on many levels (not to mention it entices bears 3 days a week vs. 1).

Always happy to see more recycling and to find opportunities to reduce waste. Thanks for inviting comments.

Janet Peargin and Trudy Milcan
622 River Bend Way and 609 W 9th Place in GWS

SDF: \$ 25.00

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made on January 30th, 2020 between

Pioneer C-Stores Western Holdings, L.P., a Texas limited partnership ("Grantor"),
whose legal address is 4643 S. Ulster Street, Suite 350 Denver, CO 80237

and

City of Glenwood Springs, a Colorado home rule municipality ("Grantee"),
whose legal address is 101 W. 8th Street, Glenwood Springs, CO 81601

WITNESS, that the Grantor, for and in consideration of Two Hundred Fifty Thousand Dollars and No/100's (\$250,000.00), the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed and by these presents does grant, bargain, sell, convey and confirm unto the Grantee and the successors and assigns of the Grantee forever, all of the real property, together with the fixtures and improvements located thereon, if any, situate, lying and being in the County of GARFIELD and State of COLORADO, described as follows:

(See Exhibit A)

Also Known As: 1300 Pitkin Ave, Glenwood Springs, CO 81601

TOGETHER WITH, all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or in equity, of, in and to the above bargained premises, with the hereditaments and appurtenances, except for taxes for the current year, a lien not yet due and payable, subject to statutory exceptions as defined in CRS 38-30-113, revised.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the Grantee, its successors and assigns forever. The Grantor, for itself and its successors and assigns, does covenant and agree that it shall and will WARRANT and FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of the Grantee and the successors and assigns of the Grantee, against all and every person or persons lawfully claiming the whole, or any part thereof, by, through or under the Grantor.

EXECUTED AND DELIVERED on the date set forth above.

Pioneer C-Stores Western Holdings, L.P.,
a Texas limited partnership

By: Alta Brands, LLC,
a Texas limited liability company,
its general partner

By: Sam Youngblood
Name: Sam Youngblood
Its: manager

STATE OF Texas

COUNTY OF Bexar } ss.

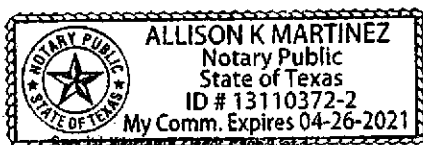
The foregoing instrument was acknowledged before me this 30th day of January, 2020 by

Sam Youngblood manager of
Pioneer C-Stores Western Holdings, L.P., a Texas limited partnership

Witness my hand and official seal.

My commission expires: 4/26/2021

Allison Martinez
Notary Public



File # F0657506

EXHIBIT "A"

Parcel 1:

All that part of the NW¼ of the NE¼ of Section 16, in Township 6 South, Range 89 West of the 6th P.M., described as beginning at a point on the N line of said Section 16, which is South 88°36' East 362.58 feet from the ¼ corner of said Section 16, thence South 1°24' West 180 feet, thence North 88°36' West 105.4 feet to railroad right of way, thence Northeasterly along said Easterly line of right of way 184.49 feet to said North line of said Section 16, thence South 88°36' East 64.95 feet to the Place of Beginning.

TOGETHER WITH a perpetual right of way and easement to go in, upon and across the following described property and to transport vehicles across the same and to otherwise at any and all times use and enjoy the same as a means of ingress to and from the hereinbefore described parcel of property, said easement being described as follows, as conveyed to The City of Glenwood Springs in deed recorded in Book 205 at Page 415;

A parcel of land lying in Lots 3 and 4, Section 9, Township 6 South, Range 89 West, 6th P.M. adjoining the City of Glenwood Springs, and more particularly described as follows, to-wit:

Beginning at the Southwest corner of said City of Glenwood Springs, as originally platted, and running thence Easterly along the South line of said City 12 feet to a point 75 feet distant from the Easterly side of the Denver and Rio Grande Western Railroad Company's right of way measured at right angles to the center of tract thereof; thence Southerly and parallel with said right of way on a curve to the right with a radius of thirteen hundred and seventy-three and six tenths (1373.6) feet to the section line on the South side of Section 9, aforesaid; thence West along said Section line 77 feet, more or less, to the Easterly line of said Denver and Rio Grande Western Railroad right of way; thence along the Easterly side of said right of way to a point coincident with the North line of 12th Street of the City of Glenwood Springs, extended West; thence East to the Place of Beginning.

Parcel 2:

A parcel of land situate in Lot 4, Section 9, Township 6 South, Range 89 West of the 6th Principal Meridian, being more particularly described as follows:

Beginning at a point on the Westerly line of Block 7 of the South Addition to the City of Glenwood Springs, the plat of said South Addition was filed September 8, 1937 as Reception No. 129309 in the office of the Garfield County, Colorado, Clerk and Recorder, said point of beginning bears South 05°12'20" West, 1931.47 feet from the monument for the intersection of the centerlines of 8th Street and Pitkin Avenue in the City of Glenwood Springs, Colorado, thence 361.28 feet along the arc of a curve to the right, said curve has a central angle of 15°04'11", a radius of 1373.60 feet and the chord of said curve bears South 08°57'57" West, 360.24 feet to a point on the southerly line of said Section 9; thence North 88°36'00" West 77.85 feet along said southerly line to a point on the easterly right of way line of the Denver and Rio Grande Western Railroad's Aspen Branch Line; thence along said easterly right of way line, 361.97 feet along the arc of a curve to the left, said curve has a central angle of 15°58'14", a radius of 1,298.60 feet, and the chord of said curve bears North 09°24'37" East, 360.80 feet; thence South 88°28'00" East 75.00 feet, more or less, to the Point of Beginning.



LAND USE APPLICATION

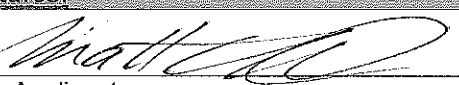
City of Glenwood Springs
Economic and Community Development Dept.
101 West 8th Street
Glenwood Springs, CO 81601
970-384-6411

Ordinance Amendments		Development Permits	
Rezoning	☐	Site/Architectural Plan Review	☐
Rezoning to Planned Unit Development (PUD)	☐	Administrative	☐
Annexation	☐	Minor	☐
Condominiumization	☐	Major	☐
Annexation	☐	Master Plan	☐
Street Vacation	☐	Construction Plans	☐
	☐	Location & Extent	☒
Subdivisions		Right of Way Encroachment License	☐
Minor Subdivision	☐	Floodplain Development Permit	☐
Preliminary Plat	☐		☐
Final Plat	☐	Flexibility and Relief Procedures	☐
Vacation of Right-of-Way	☐	Variance	☐
		Administrative Adjustment	☐
		Appeal	☐

Applicant/Property Owner Information:			
Applicant		Owner	
City of Glenwood Springs - Public Works Dept		City of Glenwood Springs	
Relationship to Owner		Owner	
same			
Applicant Address		Owner Address	
101 W 8th St	Glenwood Springs, CO 81601	101 W 8th Street	Glenwood Springs, CO 81601
Phone 970-3846438	Email Address matthew.langhorst@cogs.us	Phone	Email Address

Property Information:	
Address	Parcel Number
106 13th Street (formerly 1300 Pitkin Ave)	2185-161-00-033
Subdivision	Lot and Block Number
see deed	see deed
Zone District CO-commercial	Existing Land Use vacant

General Project Description:
construction of a recycling center that includes 18 containers; 100 sf building for attendant; security lighting; perimeter screening fence; gate; related drainage and utility improvements

Signatures:		
The owner or applicant must be present at the hearing. All public hearings must be properly noticed according to G.S.M.C. Section 070.010.030. Signatures of all owners of the property must appear before the application is accepted. Partnerships or corporations may have the authorized general partner or corporate officer sign the application. (Attach additional incorporation documents if necessary.) I declare under the penalty of perjury that the above information is true and correct to the best of my knowledge.		8-17-20
	Applicant	Date
	Owner	Date
	Owner	Date



Planning Commission Report

Date August 25, 2020
To: Planning and Zoning Commission
From: Gretchen Ricehill, Asst. Director
Subject: **Workshop:** Discussion of amending retail & medical marijuana business and marijuana cultivation regulations.

REQUEST	Workshop: Discussion of amending retail and medical marijuana business and marijuana cultivation regulations—continuing discussion from July 28, 2020
APPLICANT	City of Glenwood Springs
LOCATION	City wide
ZONE	All commercial and industrial zoning districts

REQUIRED ACTION

None: This is a workshop to discuss and receive Planning Commission direction regarding design variance criteria.

SUMMARY

This is a continued discussion from the July 28, 2020 meeting.

Based on a recommendation or request from City Council, the Commission discussed ideas for amending the city's existing retail and medical marijuana regulations. Ideas included:

- Requiring that special use permits for marijuana establishments expire with transfer of ownership. Commissioners questioned what triggered an ownership change since the marijuana establishments are owned by limited liability companies. In other words, would a change in LLC members trigger a re-review.
- Requiring a re-review of special use permits if schools move into the buffer zone.
- Establishing a cap on the number of establishments.

To continue the discussion, the Commission requested the following information:

A comparison of Glenwood Springs' regulations and those of other Colorado communities:

The attached chart compares distancing or buffering requirements of 16 jurisdictions across the state. Here are highlights -

- 2 of the communities, New Castle and Avon do not allow marijuana uses;
- 3 have a buffer from parks or playgrounds;
- 4 have a buffer from residential uses or abutting residential zoning districts;
- 7 limited the number of establishments;
- 8 have a buffer from drug/alcohol treatment/mental health facilities, hospitals or halfway houses;
- 9 require a 1000-foot buffer from schools; and
- 9 require a buffer from childcare uses.

The approximate number of new establishments that could be approved in Glenwood Springs with the existing buffering requirements:

With the existing buffers, staff estimates that approximately 10 additional establishments could be approved in Glenwood Springs, bringing the total to 19. Note: this estimate includes marijuana uses in Glenwood Meadows. Attached are maps showing possible locations. Also attached for reference is a copy of the city's current map showing the buffers between existing, approved marijuana uses and schools.

The taxes generated from the existing facilities and the increase realized when new establishments come on-line.

Financial reports/summaries are available through 2018. Following are sales tax collections for marijuana uses since 2013.

	2013	2014	2015	2016	2017	2018
Sales Tax Revenue	\$1.4	\$4.8	\$6.3	\$6.7	\$6.7	\$6.2
# Marijuana establishments approved	**	**	2	2*	2	1*

* establishments were approved but have never been constructed.

** prior to 2015, marijuana uses were not required to obtain a special use permit. The total number of establishments approved in 2013 and 2014 is unknown.

Have other communities rolled back their marijuana regulations since original approval.

This is very difficult to determine without a detailed search of past and current ordinances from each jurisdiction.

COMPARISON - MARIJUANA REGULATIONS					
Jurisdiction	Population (2019 est)	Marijuana Uses Allowed	Distance / Separation / Buffering Requirements		Other Restrictions
Frazier	1219	Retail Medical	1000	educational institutions, public or private	Not allowed in any building containing a residential dwelling or lodging use
			500	any existing medical marijuana business	
			200	licensed child care facility	
Crested Butte	1487		500	educational institutions or schools, public and private	not allowed adjacent to a residential dwelling separated by a vertical wall
			500	licensed child care	
			175	public park or playground	
New Castle	4518	NO MARIJUANA USES ALLOWED			
Gunnison	5054	Retail Medica Manufacturing Testing Cultivation	1000	schools	not allowed adjacent to residential zoning district
			1000	day care	
			1000	mental health facility	
Carbondale	6427	Retail Medical Manufacturing	500	school or day care	no more than 5 retail or medical no more than 5 product manufacturing no more than 5 testing no more than 3 cultivation
			500	alcohol or drug treatment	
			400	retail and/or medical marijuana	
Eagle	6454	Retail Medical Manufacturing Cultivation			1 of each type of facility allowed / 5000 people restricted to one location/area - east of Nogal Gulch

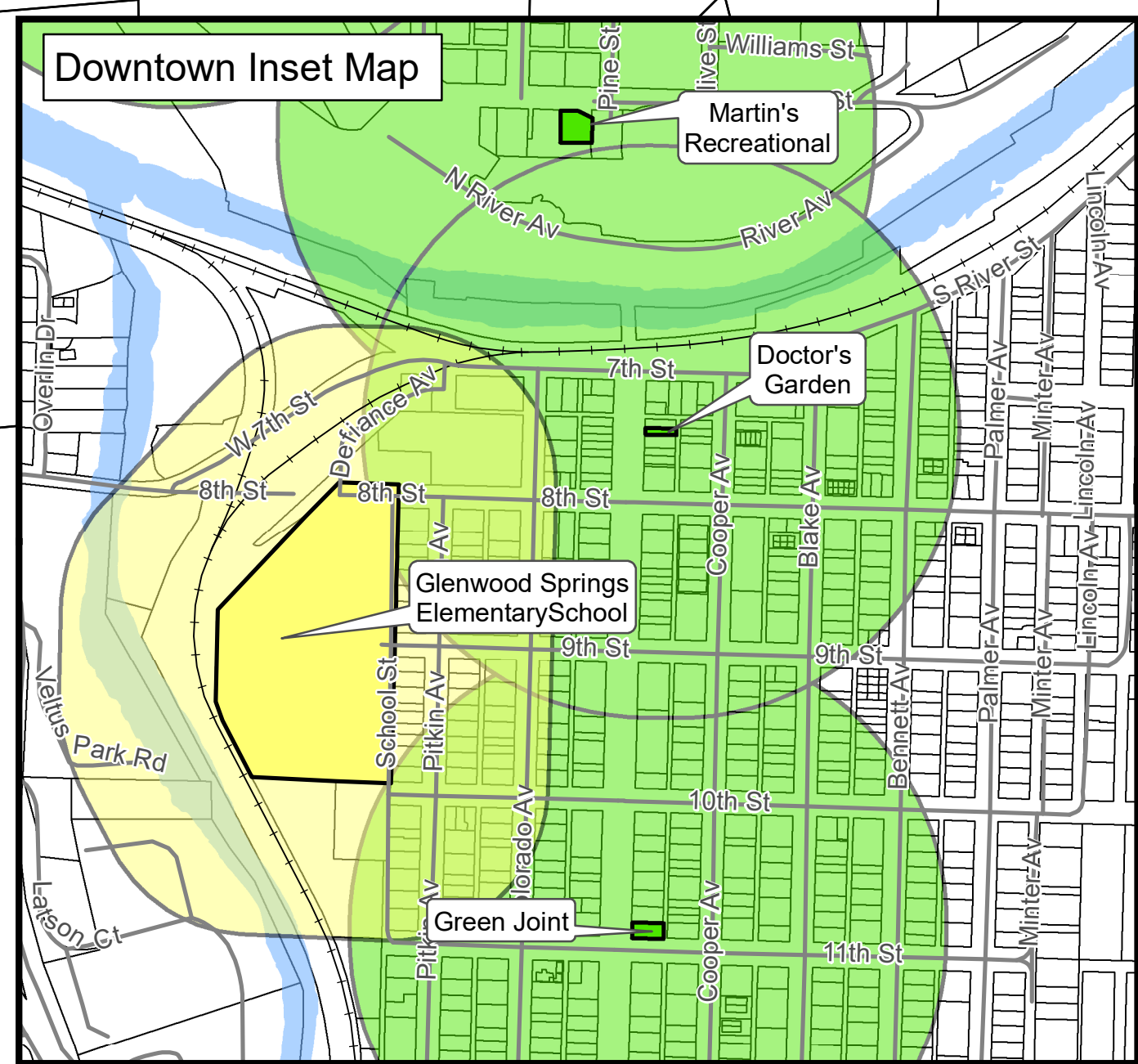
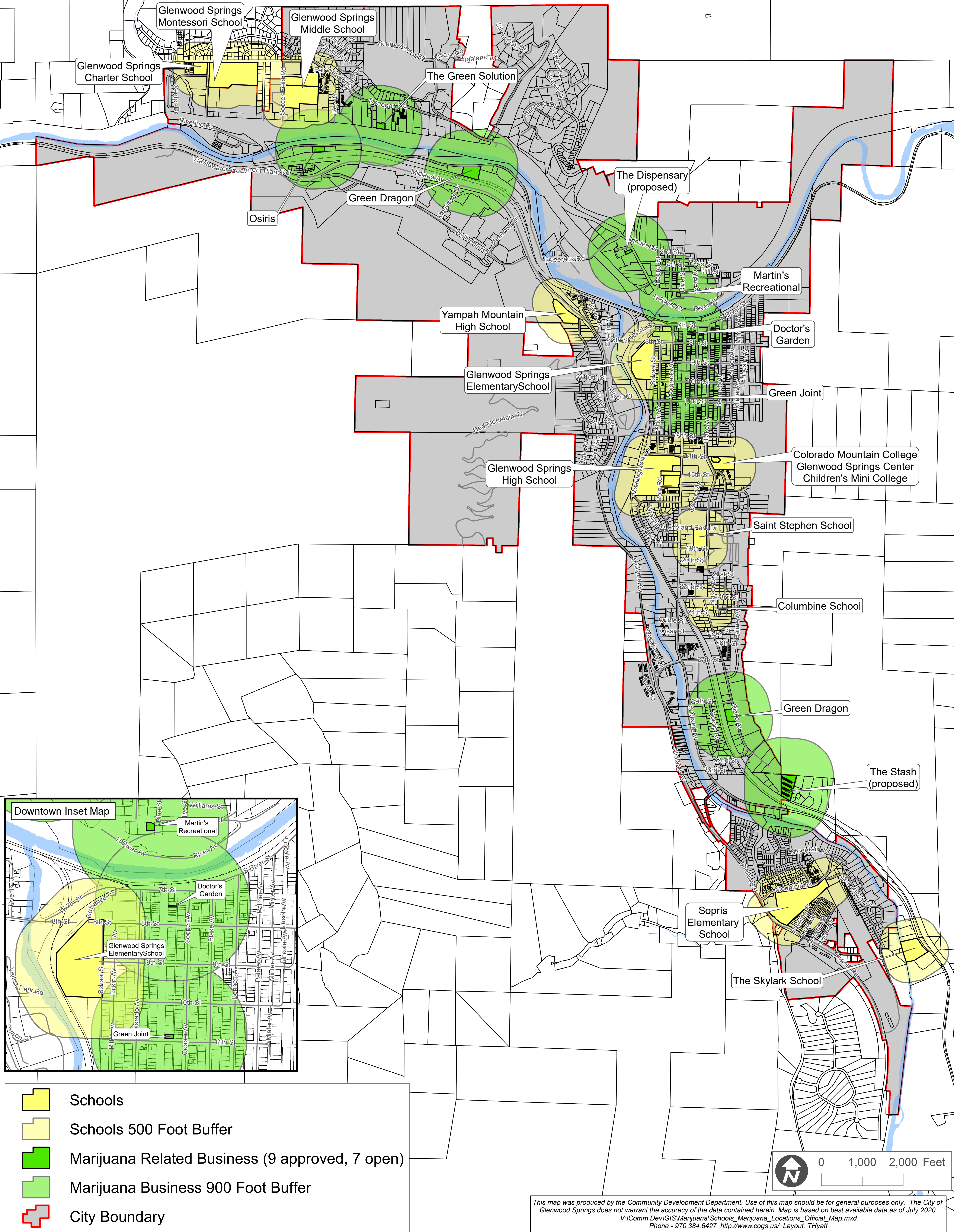
COMPARISON - MARIJUANA REGULATIONS					
Jurisdiction	Population (2019 est)	Marijuana Uses Allowed	Distance / Separation / Buffering Requirements		Other Restrictions
Avon	6511	NO MARIJUANA USES ALLOWED			
Glenwood Springs	9437	Retail Medical Manufacturing Cultivation	500 900	k-12 grade schools retail and/or medical marijuana facility	
Rifle	9706	Retail	1000	k-12th grade schools	3 licensed stores allowed, total
		Medical	1000	alcohol or drug treatment facilities	7 licensed cultivation facilities allowed, total locations restricted to south of I-70, light industrial zones, industrial PUDs if listed as an allowed use
		Cultivation	1000	child care facilities	
			0 allowed in central business district		
Steamboat Springs	11,810	Retail Medical Manufacturing Testing Cultivation	1,000 1,000	schools, colleges, seminaries, child care (cultivation uses allow for a 500 foot buffer to child care facilities) parks	
Gunnison County	14,474	Manufacturing Testing Cultivation			Retail & medical stores prohibited Allowed in only 3 designated zoning districts

COMPARISON - MARIJUANA REGULATIONS					
Jurisdiction	Population (2019 est)	Marijuana Uses Allowed	Distance / Separation / Buffering Requirements		Other Restrictions
Summit County	31,011	Retail Medical Manufacturing Testing Cultivation	50 1,000 1,000 500 500	residentially used property, or residential zone district, or residential use in a PUD licensed child care facility any school, public or private including colleges halfway house or correctional facility any marijuana business	
Longmont	97,261	Retail Medical	250 1,000	residential zoning districts K - 12th grade schools	No more than 4 licenses allowed in the city 1 license/application allowed per person or company Testing, manufacturing and cultivation are not allowed
Pueblo	102,550	Retail Medical Testing Cultivation	1,000 500 300	Schools hospital or substance abuse treatment centers residential use or residential zone district	
Thornton	137,000	Retail Medical Testing	1,000 500 500 1,500	schools, public and private licensed child care facilities alcohol or drug treatment facility any other retail marijuana store	Cultivation is not allowed Only 1 retail marijuana store allowed in each of the city's 4 quadrants

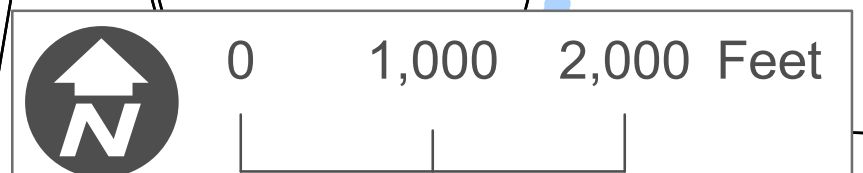
COMPARISON - MARIJUANA REGULATIONS					
Jurisdiction	Population (2019 est)	Marijuana Uses Allowed	Distance / Separation / Buffering Requirements		Other Restrictions
Aurora	322,522	Retail	1,000	preK - 12th grade, excluding day care	Allow up to 4 retail marijuana licenses in each Council ward, or 24 in total Cultivation, manufacturing/testing not restricted as to total number
		Medical	500	hospitals, substance abuse treatment centers	
		Cultivation	300	residential uses (applies to Cultivation-only)	
		Manufacturing & testing	300	parks and open space (applies to Cultivation-only) residential uses in adjacent jurisdictions (applies to Cultivation-only)	
			300		
Boulder County	326,196	Retail	500	any other marijuana establishment in the same zoning district	
		Medical	1000	alcohol or drug treatment facility	
		Manufacturing	1000	licensed child care	
		Testing	1000	educational facilities below college level	
		Cultivation			



School and Marijuana Business Locations and Required Buffers Per Ordinance No. 17-15 Effective September 5, 2015



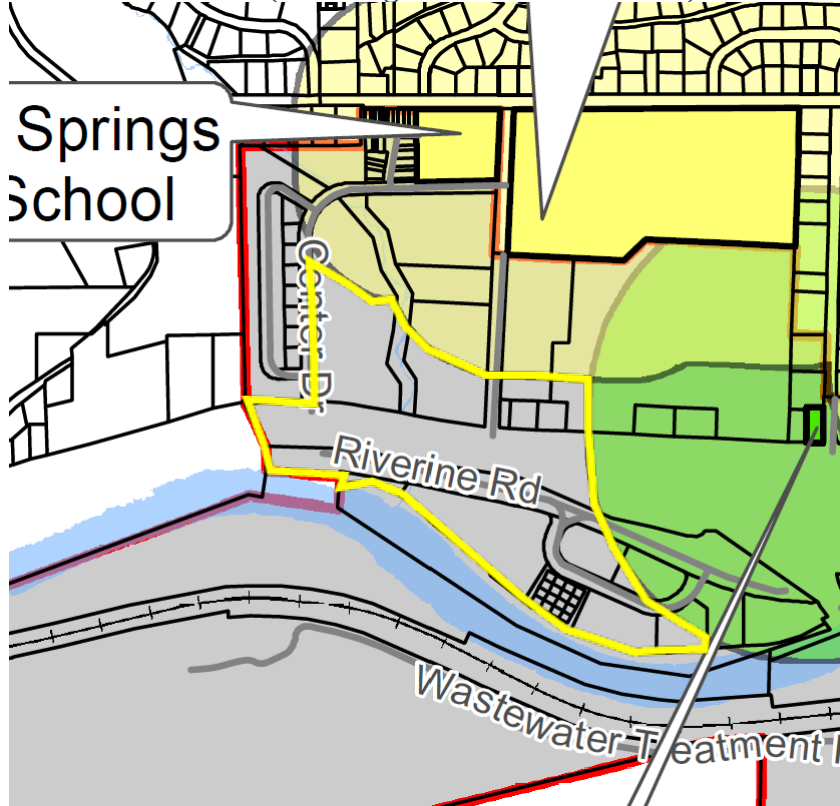
- Schools
- Schools 500 Foot Buffer
- Marijuana Related Business (9 approved, 7 open)
- Marijuana Business 900 Foot Buffer
- City Boundary



This map was produced by the Community Development Department. Use of this map should be for general purposes only. The City of Glenwood Springs does not warrant the accuracy of the data contained herein. Map is based on best available data as of July 2020.
V:\Comm Dev\GIS\Marijuana\Schools_Marijuana_Locations_Official_Map.mxd
Phone - 970.384.6427 <http://www.cogs.us/> Layout: THyatt

Potential Additional Areas for Marijuana Related Businesses

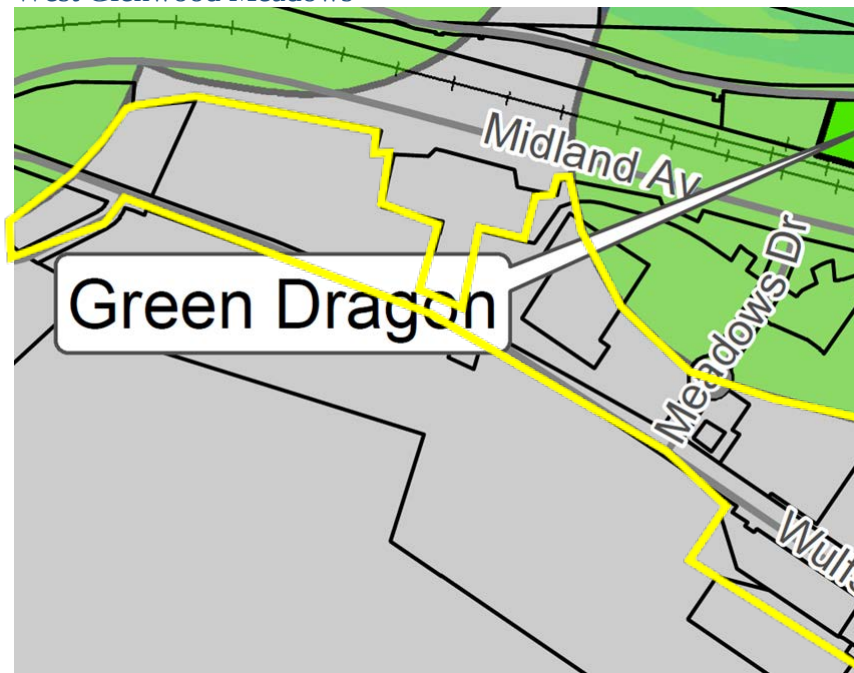
1. Far west Glenwood (including mall if PUD amended)



2. Highway 6 and 24 and Donegan Road



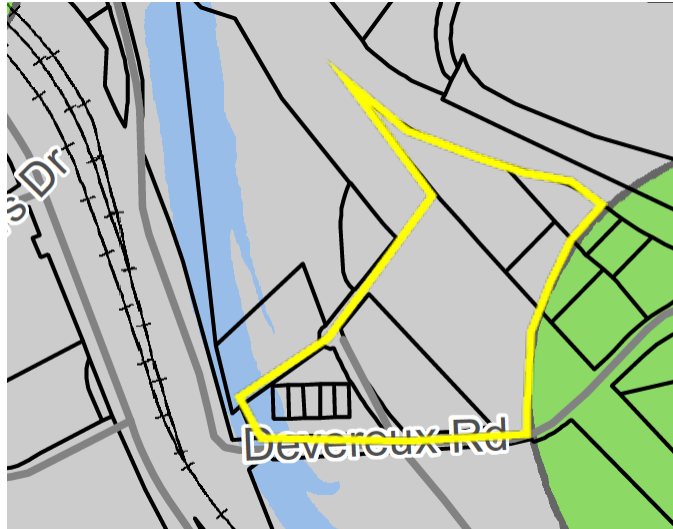
3. West Glenwood Meadows



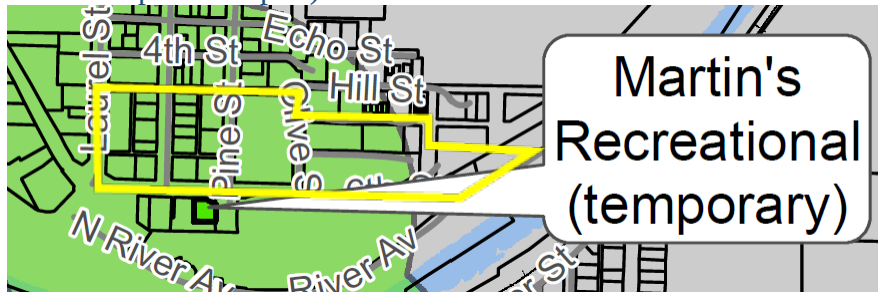
4. East Glenwood Meadows (subject to anticipated application submittal)



5. Far West 6th Street and Devereux Road



6. North Glenwood (significant potential especially once Martin's current operations cease and permit expire)



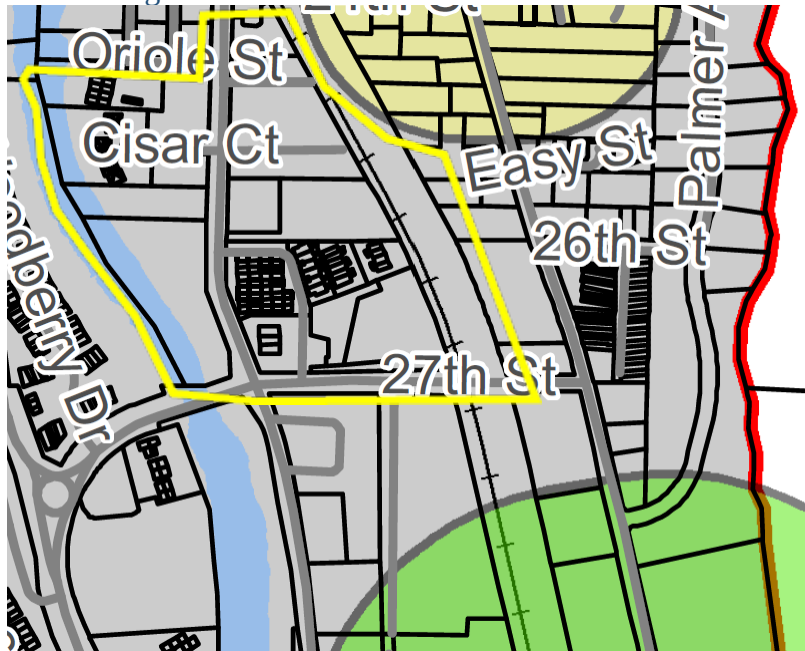
7. Commercial zoned area of Riverside Drive



8. Areas along Grand Avenue between 20th and 23rd Streets



9. Areas along South Grand and South Glen Avenues



10. South Grand to 33rd Street





Planning Commission Report

Date August 25, 2020
To: Planning and Zoning Commission
From: Gretchen Ricehill, Asst. Director
Subject: **Workshop:** Discussion of adding design variance criteria to Title 070, Section 070.060.070, Flexibility and Relief Procedures.

REQUEST	Workshop: Discussion of adding design variance criteria to Section 070.060.070, Flexibility and Relief Procedures – continuing discussion from July 28, 2020
APPLICANT	City of Glenwood Springs
LOCATION	City wide
ZONE	All

REQUIRED ACTION

None: This is a workshop to discuss and receive Planning Commission direction regarding design variance criteria.

SUMMARY

This is a continued discussion from the July 28, 2020 meeting.

During the July meeting, the Commission considered amending the existing variance regulations for deviations from the city's design requirements. In the July report, staff suggested both expanding the existing Alternative Equivalent Compliance process to cover more than the residential and non-residential design standards, as it does currently, and adopting lesser variance criteria for deviations from 070.040-*Development Standards*. Refer to the attached July 28th staff report for information presented to the Commission at that meeting.

After considering the criteria for Variances and Alternative Compliance, the Commission decided to continue the discussion and requested the following additional information:

- Address why bulk and area (zoning) variance criteria are more stringent than design variance criteria
- Provide information about the Administrative Adjustment criteria in the current Code
- Add zoning information to the chart of variances granted since adoption of the new code

Zoning Variance Criteria

Zoning standards, often referred to as “bulk and area requirements”, include requirements for building height, minimum lot size, setback, and use. These standards are in place to provide property owners with a level of assurance that adjacent properties or other properties within the same zoning district will be developed in accordance with the established zone district standards. Variances from these bulk and area requirements are usually held to rigorous standards.

In administering the Code, if there are a number of variances for the same bulk and area requirements in the same zoning district, it is reasonable to assume that there is a problem with the standard and a code amendment is likely warranted to address the issue. For example, in the recent past, we frequently saw setback variance requests to allow accessory dwelling units in existing detached garages that did not meet rear setback requirements. We recently amended the Code to allow a 5-foot rear setback for accessory dwelling units, rather than requiring that the ADU meet the zone district's rear setback requirement.

Attached for the Commission's general information is Zoning Ordinance Variances, an article published by the American Planning Association in 2012. Note that in addition to discussing zoning variance, the article addresses use variances. Glenwood Springs does not allow variances from a land use.

Also attached for reference is a summary of variance criteria from other Colorado communities.

Administrative Adjustment Criteria

The new Code includes the ability of the Community Development Director to consider certain minor modifications or deviations from the dimensional (bulk and area) or numeric standards (refer to Table 060.3 below). These Adjustments are intended to provide a degree of flexibility when necessary, without requiring a formal zoning amendment or variance. This Adjustment process cannot be used in cases where a variance has already been granted.

In reviewing Adjustment requests, the Director considers whether and to what extent the Adjustment –

1. Will not result in incompatible development
2. Will not result in adverse impacts unless adequately mitigated; and
3. Is of a technical nature and is required to:
 - a. Compensate for an unusual site condition;
 - b. Eliminate a minor inadvertent failure to comply with a Code standard; or
 - c. Protect a sensitive resource, natural feature, or community asset.

Table 060.3: Allowable Administrative Adjustments

Code Standard	Allowable Administrative Adjustment (maximum percentage)
Site Standards	
Lot area, minimum	15
Lot coverage, maximum	15
Block length, maximum	15
Lot Dimensional Standards	
Front setback, minimum	15
Side setback, minimum	15
Rear setback, minimum	15
Encroachment into setback pursuant to Table 020.20, <i>Authorized Exceptions to Setback Standards</i> , maximum	15
Building Standards	
Building height, maximum (excludes wireless communication facilities)	15
Accessory building height, maximum (excludes wireless communication facilities)	15
Separation between buildings, minimum	15
Projection into height requirement pursuant to Table 020.21, <i>Authorized Exceptions to Maximum Height Standards</i> , maximum	15
Development Standards	
Number of required parking spaces, maximum or minimum	15
Lighting height, maximum	15
Sign height, maximum	15
Fence or wall height, maximum	15 (one foot maximum)
Minimum landscaping requirements	15

Variances Considered – August 2018 to Present

As stated in the July staff report, since adopting the new Code the Commission has considered 14 land use applications involving a variety of variance requests including setback, building height, lot size, landscaping, common open space, street trees & planting strip, sidewalks, signs, residential design standards, and the Glenwood Meadows design & development standards. The chart below summarizes variances requested by type (zoning/design/sign); the number of approvals (note some of the 14 land use applications included multiple variance requests); and staff has added zoning information per the Commission's request.

Variance Type	# Requests	# Approved	Zoning Districts
Zoning			
Setback	5	5	RM1-residential medium density (2 applications); I2-river industrial (1 application); M1-mixed use corridor (1

			application)
Building Height	1	1	RT-residential transitional
Lot Size	1	0	RM2-residential multifamily limited
Design/Development Standard			
Sidewalk	1	1	I2-river industrial
Landscaping	5	5	M1-mixed use corridor (4 applications); RE-resort (1 application)
Common Open Space	1	1	M1-mixed use corridor
Variety of housing type	1	1	RT-residential transitional
Building Frontage (Glenwood Meadows)	1	1	M2-mixed use central core
Signs			
Glenwood Meadows Sign Plan	4	3	M2-mixed use central core; M1-mixed use corridor (3)

RECOMMENDATION - ADDITIONAL CONSIDERATION

The July staff report recommended amending both the Alternative Equivalent Compliance provision and adopting lesser variance criteria to address deviations from the development (design) standards. Rather than adopting entirely new variance criteria, Commissioners suggested that design variances could be required to meet 5 or 6 of the 7 existing criteria. For reference the existing 7 criteria are provided below:

1. The subject property has an exceptional shape, topography, building configuration or other exceptional site condition that is not a general condition throughout the zone district;
2. The strict application of the Code standards for which a variance is sought would produce undue hardship;
3. The applicant did not create the hardship by his/her own actions;
4. The variance requested does not harm the public and does not impair the intent or purposes of this Code, goals, and policies, including the specific regulation for which the variance is sought;
5. The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden;
6. The variance request will not violate building or fire code requirements; and
7. The variance is the minimum variance that will afford relief of the subject standards of the Code.

Staff believes that this is a viable option and recommends further Commission discussion on the matter.



Planning Commission Report

Date: July 28, 2020
To: Planning and Zoning Commission
From: Gretchen Ricehill, Asst. Director
Subject: **Workshop:** Discussion of adding design variance criteria to Title 070, Section 070.060.070, Flexibility and Relief Procedures.

REQUEST	Workshop: Discussion of adding design variance criteria to Section 070.060.070, Flexibility and Relief Procedures
APPLICANT	City of Glenwood Springs
LOCATION	City wide
ZONE	All

REQUIRED ACTION

None: This is a workshop to discuss and receive Planning Commission direction regarding design variance criteria.

SUMMARY

Since August 2018 and the adoption of the new Land Use Code, staff and the Planning Commission have been processing and deciding on a wide range of applications, including variance requests. The Commission has commented on many occasions that it wanted a separate set of criteria to address deviations from design regulations. As the Commission is aware, when the new code was adopted, it included a set of strict variance criteria by which all variances are judged. Under the previous code there was flexibility in that design variances were held to lesser standard than deviations from zoning requirements (setback, building height, lot coverage, for example). Specifically, the new code holds that all variances meet all seven of the following criteria:

1. The subject property has an exceptional shape, topography, building configuration or other exceptional site condition that is not a general condition throughout the zone district;
2. The strict application of the Code standards for which a variance is sought would produce undue hardship;
3. The applicant did not create the hardship by his/her own actions;
4. The variance requested does not harm the public and does not impair the intent or purposes of this Code, goals, and policies, including the specific regulation for which the variance is sought;
5. The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden;
6. The variance request will not violate building or fire code requirements; and
7. The variance is the minimum variance that will afford relief of the subject standards of the Code.

Alternative Equivalent Compliance

It should be noted that the new development code already has a mechanism for addressing deviations from the residential and nonresidential design standards, referred to as Alternative Equivalent Compliance. Its purpose is to allow the decision-making body (staff, Commission and/or Council) to consider a unique or creative design that does not strictly adhere to the code requirement but that results in a design that is equal to or better than the standard. Decisions are based on how well the alternative design meets the following criteria:

1. Achieves the intent of the subject standard to the same or better degree than the subject standard;
2. Advances the goals and policies of this Code to the same or better degree than the subject standard;
3. Results in benefits to the community that are equivalent to or exceed benefits associated with the subject standard; and
4. Imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this Code.

Since adoption of the new code, the Alternative Equivalent Compliance review has been used in two applications: one was an administratively reviewed site/architectural plan for a new single family home; and the other was a Major Site/Architectural plan review for ANB Bank. In the latter case, the Commission and Council approved a design deviation related to the amount of required glazing and the degree to which the front door and building edge met the sidewalk edge (e.g.: zero setback).

Variance

As indicated above, Alternative Equivalent Compliance offers applicants the opportunity to suggest a design that is equivalent to or exceeds the code requirement. It offers applicants a tradeoff. It does not offer the ability to eliminate the design requirement entirely. So, a variance mechanism remains necessary. The Commission has requested the mechanism include a degree of flexibility, and the standards not be as rigorous as those under the existing code.

To review, since Code adoption, the Commission has considered 14 land use applications involving a variety of variance requests including setback, building height, lot size, landscaping, common open space, street trees & planting strip, sidewalks, signs, residential design standards, and the Glenwood Meadows design & development standards. Below is a chart showing the variances by type (zoning/design/sign) and the number of approvals (note some of the 14 land use applications included multiple variance requests). Each of the variances were considered and decided upon using the seven variance criteria listed above.

Variance Type	# Requests	# Approved
Zoning		
Setback	5	5
Building Height	1	1
Lot Size	1	0
Design/Development Standard		
Sidewalk	1	1
Landscaping	5	5
Common Open Space	1	1
Variety of housing type	1	*
Building Frontage (Glenwood Meadows)	1	1
Signs		
Glenwood Meadows Sign Plan	4	3

*under consideration at the writing of this report

Recommendation

Recognizing the difficulty in meeting all seven of the existing stringent variance criteria, the Commission requested a separate set of criteria for deviations from the design/development standards. Staff recommends both of the following amendments-

1. Expanding Alternative Equivalent Compliance using the following four determining criteria to cover more than just the residential and nonresidential design standards as it does currently.
 - a. Achieves the intent of the subject standard to the same or better degree than the subject standard;
 - b. Advances the goals and policies of this Code to the same or better degree than the subject standard;
 - c. Results in benefits to the community that are equivalent to or exceed benefits associated with the subject standard; and
 - d. Imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this Code.
2. Adopting the following new variance criteria that would apply only to certain deviations from Article 070.040, *Development Standards*:
 - a. The variance is in general conformance with the Comprehensive Plan and with the stated purpose and intent of the Code;
 - b. The variance will not result in significant adverse impacts to surrounding properties, neighborhoods, or the public health, safety or welfare; and
 - c. The variance presents an alternative site or development design that represents an improvement over what could have been accomplished through strict application of the standard.

To be clear, Staff recommends that the expanded Alternative Equivalent and new criteria DO NOT cover the entirety of Article 070.040, *Development Standards*, but rather just the following sections which are highlighted in red font.

070.040.010 Purpose: this is simply a one paragraph purpose statement.

- 070.040.020 Sensitive Area Protection: this section covers development in sensitive areas including steep hillsides, areas subject to flood and geologic hazards. Staff believes that deviations from the requirements in this section should be held to the higher variance standards.
- 070.040.030 Site Development and Improvement Standards: this section includes requirements for paying system improvement fees, providing dedications, and acceptance of public improvements.
- 070.040.040 Common Open Space: these requirements address percentage of open space; areas that qualify as open space; design standards; maintenance responsibilities. Because this section also includes a fee-in-lieu of providing the required amount of open space, staff does not recommend that any new variance criteria be applied to this section.
- 070.040.050 **Landscaping, Screening, and Fencing**: these standards address the on-site landscaping; streetscape (planting strip) requirements; screening; and fence & retaining wall design.
- 070.040.060 **Off-Street Parking and Loading**: this section addresses requirements for the number of parking/loading & bike parking spaces; provisions for paying fees-in-lieu; allowances for parking alternatives; and parking/loading design, including landscaping. Staff recommends that new design criteria apply only to **paragraph (h)(6), Parking Area Landscaping**
- 070.040.070 Access and Circulation: these requirements address street, alley, and vehicular circulation; public street connectivity; pedestrian & bicycle circulation. In most cases, requirements are based on Engineering Standards. The City Engineer and/or Community Development Director have the authority to waive or modify the requirement based on site-specific conditions.
- 070.040.080 **Residential Site and Building Design**: This section covers design and development requirements for all residential projects. These standards address lot coverage, parking location, building orientation, housing variety, architectural variety, transitions to adjacent development, building materials and colors, garage location and design.
- 070.040.090 **Non-Residential and Mixed-Use Site and Building Design**: This section covers design and development requirements for all nonresidential and mixed-use projects. The standards address building articulation, transparency (windows/doors), location of entrances, materials and building colors.
- 070.040.100 Exterior Lighting: The city is divided into three lighting districts based on zoning district classifications. The lighting standards address maximum lighting levels; fixture shielding; fixture mounting height; security lighting requirements; and lighting design. Under the former code, deviations from these requirements were processed as zoning variances. Staff recommends that deviations from the lighting code be required to meet the more stringent seven criteria.
- 070.040.110 Signs: this section addresses sign and sign lighting requirements. Staff intends to develop separate variance criteria that specifically address deviations from the sign code.

Links to the above highlighted sections are provided below. For general reference, a link to the entire [Development Code is provided here](#).

[070.040.050](#) Landscaping, Screening, and Fencing

[070.040.060\(h\)\(6\)](#) Parking Area Landscaping (note: you will need to scroll down to paragraph (h)(6))

[070.040.080](#) Residential Site and Building Design

[070.040.090](#) Non-Residential and Mixed-Use Site and Building Design

QUICKNOTES

Zoning Ordinance Variances

OVERVIEW

A variance is a form of administrative relief from zoning regulations. It allows for the construction of or change to a structure or land that is prohibited by a zoning ordinance. A variance is granted to render justice where the strict application of a zoning ordinance results in a hardship for a property owner. A hardship arises when highly unusual circumstances prevent a property owner from securing a reasonable return from or making a reasonable use of their property. Oddly shaped or sloping lots, for example, may make it difficult for a property owner to meet setback or height requirements. A granted variance stays with the land and passes to the next purchaser.

Zoning boards of appeal are delegated the authority to grant variances by state or municipal legislative bodies. The zoning boards are constrained by limitations on this power. For example, the board has no authority to determine the validity of the zoning law and must follow proper statutory procedures for granting variances. While the zoning boards are delegated a certain amount of discretion, they are usually directed by law to grant the minimum variance necessary and adequate to readdress the complained-of “hardship.” The board must consider any impact on the community and devise a solution to accommodate the applicant and the community.

TYPES OF VARIANCES

There are two types of variances: use and area. A use variance is requested when a zoning ordinance prohibits a particular use (e.g., a commercial building in a residential area). An area variance is requested if the zoning ordinance regulates a particular use (e.g., height restrictions). Eighteen states do not distinguish between use and area variances and instead set forth four basic common general criteria for granting variances: (1) the variance is not contrary to public interest; (2) there are special conditions pertaining to the parcel; (3) literal enforcement of the variance would result in unnecessary hardship; and (4) the spirit of the ordinance is observed and justice done.

Use Variances

Use variances should be difficult to obtain. In fact, 12 states prohibit zoning boards from approving use variances altogether. The rationale is that a legislative determination has been made that the proposed use is incompatible in the zoning district and therefore it can threaten adjacent land or the character of a neighborhood. This is why there is heightened scrutiny when reviewing request for relief from a legislative determination as to appropriate uses, and applicants typically have to prove that their hardship is unique and not likely to be experienced by nearby property owners. If a critical mass of property owners in the same locale start requesting use variances, the more appropriate remedy may be consideration of a rezoning.

The granting of a use variance usually requires that the applicant show unnecessary hardship. Establishing such hardship typically requires proving that the land in question cannot realize a reasonable return, that the hardship relates to circumstances unique to the parcel of land, and that granting of the variance would not adversely affect the neighborhood. Each element of the unnecessary hardship test in a particular jurisdiction must be satisfied for a variance to be granted. Some jurisdictions use the terms “undue hardship” or “unusual hardship” to refer to their specific test. There seems to be no substantive difference in the requirements. While there is some variation on how to establish the elements depending on the jurisdiction, the basic formulation of the test is similar.

A variance is granted to
render justice where the
strict application of a
zoning ordinance results
in a hardship for a
property owner.



American Planning Association

Making Great Communities Happen

Area Variances

It is typically easier to obtain an area variance than a use variance. The test applied is usually “practical difficulties,” used in three ways: (1) synonymously with “unnecessary hardship”; (2) to denote a version of the “unnecessary hardship” standard where the standard of proof for the elements is relaxed—this standard probably represents the most common usage of the term, “practical difficulties”; and (3) to describe a balancing test where various factors are weighed against one another. Many factors are considered and under this type of standard, typically no factor outweighs the others in determining whether the variance should be granted. Rather, the benefit to the applicant is weighed against the potential negative effects granting the variances would have for each factor.

Among the factors considered in most typical variations of the balancing standard are: (1) whether the property in question has any beneficial use without the variance; (2) whether the variance is substantial; (3) whether the essential character of the neighborhood would be substantially altered or whether adjoining property would suffer detriment if the variance were granted; (4) whether the difficulty was self-created; (5) whether there are alternative means to obviate the owner’s predicament; and (6) whether the spirit of the ordinance can be observed and substantial justice done by granting a variance.

CONDITIONS ON VARIANCES

Where recognized, zoning boards of appeal may attach conditions to a variance. Conditions must be used to reduce any adverse impacts of the land use, such as protecting nearby property. Boards cannot impose conditions that are not rationally related to minimizing the adverse impacts of granting a variance. Boards must clearly state any conditions in its decision to grant a variance. Zoning boards may also impose time conditions. For example, a board can grant a limited variance that will lapse if not acted upon within a specified time. They may not, however, limit a variance to the period of the applicant’s ownership since variances run with the land.

ALTERNATIVES TO VARIANCES

In some instances, a rezoning may be more appropriate than a use variance. If the use is deemed appropriate in the zoning district, then the community should evaluate whether the use should be permitted by right or as a conditional use in that district. Permitting a use with conditions (also known as special uses or special exception uses) allows the local planning commission, zoning board, or city council to impose additional standards to ensure compatibility and can minimize the need for use variances.

Numerous requests for area variances in a specific zoning district may indicate that there is a poor fit between the dimensional standards for a particular zoning district and the existing building stock. This mismatch means that the district has a high number of nonconforming structures. In some cases the municipality may be actively trying to promote a transition to a different development pattern. In other cases, this mismatch reflects an outdated goal to recreate suburban development patterns in traditional urban neighborhoods. In the latter case the easiest way to avoid excessive area variance requests is to amend the district standards to match the historic fabric of the neighborhood.

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VARIANCE CRITERIA – COLORADO COMMUNITIES

Longmont

An application for a Variance can only be approved by a decision-making body such as the Board of Adjustment or the Planning and Zoning Commission. Generally, home renovation projects, signs, and any other project that is not tied to another development application (such as Site Plan Review, Conditional Use, etc.) are reviewed by the Board of Adjustment. All other projects that require some other form of discretionary application (such as new commercial development), or any application requesting a height variance, are reviewed by the Planning and Zoning Commission.

The Board of Adjustment must find that it meets the following criteria:

1. The subject property has exceptional topographic conditions, such as being exceptionally narrow, shallow, or of an irregular shape which precludes meeting code for a proposed development.
2. The strict application of the zoning regulation would result in a peculiar, exceptional, and undue hardship upon the owner of the property.
3. The requested variance would not create a substantial detriment to the public good, would not substantially impair the intent and purpose of the zoning ordinance or Comprehensive Plan for the City, nor result in significant adverse impacts to the natural environment.
4. There are exceptional circumstances that apply to this specific piece of property, which do not generally apply to other properties in the same zoning area or neighborhood.

Planning and Zoning Commission variance review:

Projects that request relief from maximum height requirements, or projects that require other development review applications, such as Site Plan Review, Conditional Use, etc., and are requesting a Variance, must have their application reviewed by the Planning and Zoning Commission.

In order to approve a Variance request, the Planning and Zoning Commission must find that the application meets the following criteria:

1. The requested variance is generally consistent with the Longmont Area Comprehensive Plan and with the stated purposes of the Development Code.
2. The proposed variance presents an alternative site or development design that: 1.) meets the purpose and intent of the standard being modified, and ii.) represents an improvement in quality over what could have been accomplished through strict application of the standard, and iii.) does not result in, or substantially mitigates, any detriment to surrounding properties or neighborhoods, the natural environment or to the City's ability to provide services and maintain public facilities.
3. The requested variance will not result in significant adverse impacts to surrounding properties or neighborhoods, or the natural environment.
4. The proposed variance does not create a safety hazard.
5. The decision-making body shall not grant a variance reducing the size of lots contained in an existing or proposed subdivision if it will result in the subdivision exceeding the density limit of the applicable zoning district.
6. The requested variance shall be the least deviation from the regulations that will afford relief.

Greenwood Village

The variance request(s) must meet ALL of the criteria listed in Section A, and at least ONE of the criteria listed in Section B.

In order for a variance to be granted, the request must meet ALL of the following four criteria:	AND	At least ONE of the following three criteria:
Section A (1) The variance will not constitute a grant of special privilege inconsistent with the limitations upon similar properties or buildings in the vicinity and in the same zone district; AND (2) The variance will be in harmony with and not alter or weaken the spirit and purpose or essential character of the zoning for the zone district in which the property is located; AND (3) The variance will not substantially or permanently injure the appropriate use of adjacent property in the same zone district; AND (4) The variance will not be detrimental to the public health, safety or welfare.		Section B (1) The existence of special conditions or circumstances, such as size, shape, location, topography or surroundings of the land, structure or building involved, which deprive the applicant of privileges enjoyed by owners of other properties in the vicinity or in the same zone district; OR (2) The variance is necessary and appropriate to make possible the reasonable use of the land or the structures on the property; OR (3) The variance will ameliorate a difficulty which did not result from the acts or omissions of the applicant.

Montrose

SECTION 4-4-28 – VARIANCE CRITERIA

- (A) The Review Board may grant a variance from the requirements set out in this Chapter, if it determines, following the review procedure of Section 4- 4-31, that the criteria of this Section will be met. Provided, however, no variance shall be granted from provisions restricting "uses by right" and "conditional uses" within any zoning district.
- (B) Variances shall be granted only if all the following criteria are met:
- (1) The variance will not adversely affect the public health, safety and welfare.
 - (2) Unusual physical circumstances shall exist, such as unusual lot size or shape, topography, or other physical conditions peculiar to the affected property, and violations of code shown by clear and convincing evidence that they were made in good faith, which make it unfeasible to develop or use the property in conformity with the provisions of this Chapter in question.
 - (3) The unusual circumstances have not been created as a result of the action or inaction of the applicants, other parties in interest with the applicant, or their or his predecessors in interest.
 - (4) The variance requested is the minimum variance that will afford relief and allow for reasonable use of the property.
 - (5) The variance will not result in development incompatible with other property or buildings in the area, and will not affect or impair the value or use or development of other property.

Vail

12-17-1: PURPOSE:

- A. Reasons For Seeking Variance: In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this title as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.
- B. Development Standards Excepted: Variances may be granted only with respect to the development standards prescribed for each zone district, including lot area and site dimensions, setbacks, distances between buildings, height, density control, building bulk control, site coverage, usable open space, landscaping and site development, and parking and loading requirements; or with respect to the provisions of [chapter 11](#) of this title, governing physical development on a site.
- C. Use Regulations Not Affected: The power to grant variances does not extend to the use regulations prescribed for each zone district because the flexibility necessary to avoid results inconsistent with the objectives of this title is provided by [chapter 16](#), "Conditional Use Permits", and by section [12-3-7](#), "Amendment", of this title. (Ord. 29(2005) § 39: Ord. 8(1973) § 19.100)

12-17-6: CRITERIA AND FINDINGS:

- A. Factors Enumerated: Before acting on a variance application, the planning and environmental commission shall consider the following factors with respect to the requested variance:
1. The relationship of the requested variance to other existing or potential uses and structures in the vicinity.
 2. The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of this title without grant of special privilege.
 3. The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities, and public safety.
 4. Such other factors and criteria as the commission deems applicable to the proposed variance.
- B. Necessary Findings: The planning and environmental commission shall make the following findings before granting a variance:
1. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone district.
 2. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
 3. That the variance is warranted for one or more of the following reasons:
 - a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this title.
 - b. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone district.
 - c. The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone district. (Ord. 29(2005) § 39: Ord. 8(1973) § 19.600)

Carbondale

a. Approval Criteria - Generally

- i. A variance may be granted if the Board of Adjustment finds all the following exist:
 - a. The subject property has an exceptional shape, topography, building configuration or other exceptional site condition which is not a general condition of that particular zone district; or there are exceptional circumstances unique to the owners of the property (e.g., a physically or mentally impaired occupant);
 - b. An exceptional, practical hardship to the applicant could be shown to occur if the provisions of this Code were literally enforced;
 - c. The variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of this Code that are in question;
 - d. The applicant did not create the hardship by his/her own actions. By "own actions" means an act or omission of the applicant which creates a nonconforming situation;
 - e. The variance requested does not harm the public or injure the value of adjacent properties; and
 - f. The granting of the variance will be consistent with the spirit and purpose of the Code.
- ii. No variance shall be approved to allow a use in any zone district in which it is not listed as a permitted, conditional, or special use.

b. Approval Criteria - Special Variances in Original Townsite and Weaver's Addition

In the original Townsite and Weaver's Addition, the placement of residential structures and/or the division of lots prior to zoning and subdivision regulations may have made nonconforming situations or may prevent an owner expanding an existing building or affecting new construction without violating setback requirements. The Board of Adjustment may grant a variance for these situations. An applicant must meet the following criteria:

- i. The structure to be built or altered is a residential dwelling unit or an accessory structure to the residential unit;
- ii. The lot must be located in the Old Town site or Weaver's Addition;
- iii. The applicant may not have caused the situation or hardship by his/her own actions. An exception may be granted if the owner/applicant built or placed the structure, or split the lot prior to subdivision or zoning regulations being instituted in the Town;
- iv. The new construction, alteration or addition could not be reasonably placed in another location;
- v. The new construction, alteration or addition is designed in a reasonable fashion and results in the variance requested being the minimum amount required in order to achieve the purpose of the variance request;
- vi. The variance requested does not harm the public or injure the value of adjacent properties;
- vii. The granting of a variance will be consistent with the spirit and purpose of the Code.

Rifle

- (4) The Board of Adjustment may grant a variance based on the following:
 - a. Either of the following criteria exists:
 1. Minor additions or structural or cosmetic changes to existing structures, the result of which will be in harmony with the land use and existing structures in the neighborhood; or
 2. A practical difficulty has been demonstrated, based on:
 - a) Size, shape or dimensions of a site;
 - b) Location of existing structures;
 - c) Topographic or physical conditions on the site or in the immediate vicinity; or
 - d) Other physical limitations such as street locations or traffic conditions in the immediate vicinity.
 - b. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Comprehensive Plan or this Chapter.
 - c. The granting of the variance will not be detrimental to the public health, safety or welfare.
 - d. The proposed variance will not adversely affect adjacent properties or the surrounding neighborhoods.
 - e. Compatibility with adjacent land development and land uses is assured.
- (5) In granting a variance, the Board of Adjustment may impose conditions deemed necessary to protect affected property owners and to protect the intent of this Chapter. (Prior code 17.05.550; Ord. 4 §1, 2005)

Grand Junction

21.02.200 Variance.

- (a) **Purpose.** The purpose of this section is to provide a process for consideration of variances from certain standards of the code.
- (b) **Applicability.**
 - (1) A variance may be requested for a departure from bulk standards, performance or use-specific standards of Chapter [21.04](#) GJMC, all overlay district regulations of Chapter [21.07](#) GJMC, excluding corridor overlay districts, and the sign regulations of Chapter [21.06](#) GJMC.
 - (2) Variances shall not be requested for:
 - (i) The establishment or expansion of a use in a district in which such use is not permitted by this code;
 - (ii) Residential development which would result in an increase in density greater than that permitted in the applicable zoning district; and
 - (iii) Changes or modifications to any definition contained in this code.
- (c) **Approval Criteria.** A variance may be granted only if the applicant establishes that all of the following criteria have been met:
 - (1) There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zoning district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;
 - (2) The variance shall not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;
 - (3) The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would cause unnecessary and undue hardship on the applicant;
 - (4) The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;
 - (5) The variance is the minimum necessary to make possible the reasonable use of land or structures;
 - (6) The granting of a variance shall not conflict with the purposes and intents expressed or implied in this code; and
 - (7) The granting of a variance shall not conflict with the goals, policies and guiding principles of the City's Comprehensive Plan.
- (d) **Decision-Making.**
 - (1) A variance from bulk standards, performance or use-specific standards of Chapter [21.04](#) GJMC, all overlay district regulations of Chapter [21.07](#) GJMC, excluding corridor overlay districts, and the sign regulations of Chapter [21.06](#) GJMC shall be heard and decided by the Zoning Board of Appeals.
 - (2) Variances to all other standards, unless otherwise specified, shall be heard and decided by the Planning Commission.