

Planning Commission

Agenda

**August 10, 2023
City Hall, Council Chambers
749 Main Street
6:30 PM**

Members of the public are welcome to attend and give comments remotely.

- 1) **You can call in to +1 253 215 8782 or +1 346 248 7799 Webinar ID # 823 1948 7837 Passcode 773858**
- 2) **You can log in via your computer. Please visit the City's website here to link to the meeting: www.louisvilleco.gov/planningcommission**

The Commission will accommodate public comments during the meeting. Anyone may also email comments to the Commission prior to the meeting at: planning@louisvilleco.gov

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes
 - a. July 13, 2023
5. Public Comment on Items Not on the Agenda
6. New Business – Public Hearing Items
 - a. **Minor Subdivision – 301 Spruce Street.** Adoption of Resolution 15, Series 2023 recommending approval of a Minor Subdivision to divide the property at 301 Spruce Street into two lots.
 - i. Case Planner: Amelia Brackett Hogstad, Planner
 - ii. Applicant Representative: Peter Stewart, Stewart Architecture

Persons planning to attend the meeting who need sign language interpretation, translation services, assisted listening systems, Braille, taped material, or special transportation, should contact the City Clerk's Office at 303 335-4536 or MeredythM@LouisvilleCO.gov. A forty-eight-hour notice is requested.

Si requiere una copia en español de esta publicación o necesita un intérprete durante la reunión, por favor llame a la Ciudad al 303.335.4536 o 303.335.4574.

- b. **Concept Plan Review Process.** Adoption of Resolution 16, Series 2023 regarding the establishment of procedures and criteria for a Concept Plan review process.
 - i. Case Planner: Rob Zuccaro, Director of Community Development
 - ii. Applicant: City of Louisville

- c. **Municipal Code Amendment - Dark Sky Lighting -** Adoption of Resolution 14, Series 2023 recommending approval of an ordinance amending Title 17 of the Louisville Municipal Code to adopt a new outdoor lighting code that includes standards and guidelines for all outdoor lights in the City.
CONTINUED FROM JULY 13, 2023
 - i. Case Planner: Amelia Brackett Hogstad, Planner
 - ii. Applicant: City of Louisville

7. Planning Commission Comments

8. Staff Comments

9. Items Tentatively Scheduled For Future Meetings

- a. None at this time.

10. Adjourn

Planning Commission

Meeting Minutes

July 13, 2023

City Hall, Council Chambers

749 Main Street

6:30 PM

Call to Order – Chairperson **Brauneis** called the meeting to order at 6:39 PM.

Roll Call was taken and the following members were present:

Commission Members Present: Steve Brauneis, Chair
Keaton Howe, Secretary (virtual)
Allison Osterman
Cullen Choi
Debra Baskett

Commission Members Absent: Jeff Moline, Vice Chair
Tamar Krantz

Staff Members Present: Amelia Brackett Hogstad, Planner II
Rob Zuccaro, Community Development
Director (virtual)

Approval of Agenda

The agenda is approved by all members.

Approval of Minutes

Baskett moves and **Choi** seconds a motion to approve the June 8, 2023 regular meeting minutes. Motion passed unanimously by a voice vote.

Osterman moves **Baskett** seconds a motion to approve the June 22, 2023 special meeting minutes. Choi recused himself due to his absence from the meeting. Motion passed unanimously by a voice vote.

Public Comments on Items not on the Agenda

None is heard.

Public Hearing Items - New Business

Brauneis opened the public hearing.

- A. **Planned Unit Development Amendment – Delo Plaza** – Consideration of Resolution 13, Series 2023, recommending conditional approval of an amendment to the DELO Plaza PUD to allow an outdoor eating and serving area at Rocky Mountain Tap and Beer Garden.

Applicant: Rocky Mountain Tap and Garden

Case Planner: Rob Zuccaro, Community Development Director

All notice was met as required and there is no commissioner conflict of interest.

Staff Presentation:

Zuccaro offered a resolution recommending conditional approval for the application. It is Lot 1 within the Delo Plaza Commercial Center, which is bounded by Short St, South St and Highway 42/Courtesy Rd. Zuccaro mentioned that the Commissioners will be familiar with the proposed use based on a Temporary Use Permit (TUP) application last year for the beer garden.

This is the first development of one of the out lots of this parcel. The applicant is requesting permanent approval of a beer garden use. Zuccaro mentioned that the application is unusual from a liquor license standpoint, but not from a site development standpoint.

Rocky Mountain Tap and Garden is within a mixed use district and subject to those standards and zoning guidelines. This PUD amendment is required because it is its own development parcel and there was not an outdoor eating area previously approved. This is not a special use review, rather it is a site development plan review.

The proposal is for a 10,000 sf enclosure with a fence and gate. It includes shade features, gazebos, decorative lighting and planters, artificial turf and compact crushed granite, which will require a waiver request for surface material since it is not stamped concrete or pavers. The applicant has reclaimed the space from 11 parking spaces planned as part of the PUD, which were never installed. The applicant is asking to defer them, so if there ever was a proposed drive-through use that would be reevaluated.

Tap and Garden's liquor license currently only covers the indoor space, and alcoholic beverages are provided to-go. Currently patrons have to cross the private drive aisle at the crosswalk to use the beer garden space. The State's allowance for to-go liquor licenses is set to expire in June 2025. Zuccaro mentioned that the applicant could make

further amendments to the PUD in the future to put more permanent structures in place, if the to-go allowance is not extended.

Staff Recommendation:

Staff recommends approval of the PUD amendment, with several conditions, (which are clarifying notes as listed in the staff report). Staff approves of the requested waiver of surface material as well as the waiver of the 11 parking spaces.

Commissioner Questions of Staff:

Choi clarified that the emergency egress is on the southeast corner of the site plan.

Osterman asked about why the City/ Commission granted the TUP previously and what was the City looking to learn over the TUP period? **Zuccaro** replied that there was some confusion about zoning requirements, and planning staff worked with the applicant to allow them to operate and to give them the time to put in permanent improvements (which they have done in the interim). Also, they wanted to make sure there would be no complaints from the neighbors. Zuccaro said is not aware of any complaints from the surrounding properties.

Choi asked if there is any other precedent in the City with liquor license and to-go beverages and whether there is any conflict of interest. **Zuccaro** said no other business operates in this way, but that staff has spoken with the Clerk's office at length about the circumstances. The Clerk staff have shared that this is allowed by the state, but there are no other businesses operating in this fashion.

Howe asked for clarification on conditions 2 and 7, regarding safety issues with crossing over the driveway. **Zuccaro** said that staff were very concerned and wanted to make sure that the beer garden is fully enclosed. The PUD does not have any other signage for the crosswalk. **Zuccaro** said the Commission could ask for a permanent crossing sign (i.e., "Caution High Volume Crossing"). Regarding lighting, there are existing streetlights, the original PUD has a photometric plan and the lighting is adequate in staff's opinion. Zuccaro said they could ask for more lighting if desired.

Baskett asked if there is an existing striped crosswalk; **Zuccaro** said yes.

Howe asked about the public drive. If an incident occurred, would the liability be on the City? **Zuccaro** said it is a bit of a unique circumstance, and that he cannot speak to the City's legal liability, but that the liquor licensing authority approves of alcoholic beverage uses all the time, and that the City cannot control public behavior.

Brauneis asked if the drive lane is on private property; **Zuccaro** said yes.

Choi asked if there are any heaters on the plan; **Zuccaro** said he would defer to the applicant.

Choi asked about a note on the plan about a stage, and whether there might be sound impacts to neighbors. **Zuccaro** said staff considered it but did not note any conditions,

as it is a use by right. He said the Commission may want to consider precedents on time limitation of loud music.

Baskett asked if this would be governed by the City's noise ordinance. Zuccaro discussed the noise ordinance, specifying that it is for "unreasonable noise."

Brauneis asked for the applicant to comment on some of the questions that came up.

Applicant Presentation and Commissioner Questions of Applicant:

Garett Nicodemus, resident, provided an overview and suggested that their vision is to provide a family-friendly establishment.

Baskett asked about the number of patrons on a typical weekend; to which **Nicodemus** answered that in a normal summer weekend, they serve 200-300 customers during the course of a day. He also mentioned that peak occupancy is 150-200.

Choi asked if the intention is to operate the beer garden year-round; **Nicodemus** said yes, they want to accommodate it as best as they can, weather permitting.

Choi asked how they will keep the beer garden from becoming dilapidated. **Nicodemus** said that they are invested in keeping it maintained and looking nice with landscaping.

Public Comment:

Sherry Sommer, resident, requested that the Planning Commission approve the application. She appreciates the use of a TUP trial period and says that there is support for permanent use. She offered that the concept is professional but also fun and quirky, and much better use than a drive-through. She says that the business is community-focused and provides a great sense of place. She thinks it is great that they are not going to develop those parking spaces.

Commissioner Questions of Applicant:

Choi asked about bike parking. **Nicodemus** said that there is bike rack on north side, and that patrons can park bikes along the fence line or leave them by their tables. He said they can consider more bike racks.

Brauneis asked if the applicant had any issue with the conditions from staff;

Nicodemus said no.

Brauneis asked for comments or questions from Commissioners about the safety signage.

Choi asked if Tebo owns the drive aisle; **Nicodemus** said yes. **Choi** asked if this out lot is considered common area. **Nicodemus** clarified that the arrangement is part of their lease with Tebo.

Choi was interested in more demonstrative striping on the drive lane. **Choi** asked if the lease includes any responsibility to maintain striping. **Nicodemus** said Tebo is in support of any improvements outside to make things safer and better.

Closing Statement by Staff:

Zuccaro had no further comments; though he recommended deliberation about signage and suggested that the Commission can ask the applicant to bring back a signage plan, or add as part of conditions to work with staff on signage.

Brauneis closed the public hearing.

Discussion by Commissioners:

Commissioner sentiment is that they are comfortable for applicants to work with staff on signage.

Baskett said signage is inexpensive and important. **Choi** agreed, and emphasized that more flashy signage in addition to the striping on pavement would be helpful to draw attention.

Osterman is in favor of supporting the resolution.

Brauneis suggests that the current striping is significant and that staff might think this is enough. **Choi** and **Howe** want it to stand out since is atypical.

Howe thinks Tap and Garden is a great amenity and hopes it passes with conditions.

Choi is interested in reducing clutter on the southwest corner, to make sure there are no line of sight obstructions on that corner for safety. He would like to see a verification that there is no line of sight obstructions.

Brauneis worries that a condition on reducing clutter would get really complicated, and says that the applicant is already invested in this and it seems to be working.

Baskett also understands not wanting to complicate this, but thinks an additional condition for safety would make sense.

Brauneis says that conditions need to be specific, for example “address crossing concerns inclusive of horizontal vertical and line of sight issues.”

Choi suggests making that corner safer by changing design.

Howe would support a broader condition, but said it would be difficult to make objective and accurate.

Choi says it is a great amenity so close to Main Street, and he appreciates work from staff and applicant.

Howe moved and **Choi** seconded a motion to approve Resolution 13, Series 2023 with the eight conditions as provided. Motion passes unanimously by a roll call vote.

B. Louisville Municipal Code Amendment – Dark Sky – Consideration of Resolution 14, Series 2023, amending Title 17 of the LMC adopting dark sky outdoor lighting in the City of Louisville.

Applicant: City of Louisville

City of Louisville

Community Development 749 Main Street Louisville CO 80027
303.335.4592 (phone) www.LouisvilleCO.gov

Case Planner: Amelia Brackett Hogstad, Planner

Brauneis opened the public hearing.

Staff Presentation:

Brackett Hogstad gave a high-level introduction to dark sky lighting. She said generally dark sky lighting refers to regulating outdoor lighting fixtures, to ensure that they are shielded, targeted, and of warmer colors. She said that City Council had pursued dark sky lighting as part of their 2021 work plan and now it has come back to the Planning Commission for consideration.

Brackett Hogstad explained that some of benefits are: reduction of light pollution, greater access to the night sky, reduction in overall energy usage in some cases, and benefits to both human and animal wake-sleep patterns. She mentioned that regulating outdoor lighting can also have community impacts through enhancements to safety and security.

Brackett Hogstad then turned to the content of the proposed ordinance. She said it concerns public and private properties, including both commercial and residential. She said it is not applicable to streetlights. The ordinance would require fully-shielded fixtures with caps on lumens/brightness per luminaire, as well as prohibitions on lighting trespass on adjacent properties if they are of different zoning districts (i.e., commercial to residential). She introduced the concept of a uniformity table with minimums and maximums (foot candles) for non-residential properties. She indicated that staff is taking safety considerations into account and is providing carve outs for holiday lighting.

Brackett Hogstad presented three options for consideration:

- Option 1 has a tiered amortization timeline, with varying compliance deadlines (of 3, 5, and 10 years) for specific components of the regulations.
- Option 2's compliance mechanism is through building permitting. If substantial alterations and additions are made to residential and nonresidential properties, the property owners would be required to come into site wide compliance. Substantial alterations are defined as changes to 50% of the exterior wall area or materials (excluding roofing) of a building.
- Option 3 requires only new construction and replacement lighting to achieve compliance.

Brackett Hogstad mentioned the results of the public outreach on the initiative. She summarized that she received two statements of support of Option 1, one in support of some type of nonconforming compliance requirements, two comments in support of Option 1 and 2, one commenter was not in support of any dark sky regulations, and one voicing general support.

Staff Recommendation:

Staff is recommending Option 2, for substantial alterations. Staff says that this would allow for some properties to come into compliance over time, and that this would be easier to administer and enforce. The proposed ordinance would rolled out more slowly, is more straightforward, and is tied into building permit review process. The option strikes a balance between potential cost and scale of development. Brackett Hogstad says that all options will require new processes; though Option 2 would be easier to enforce. Residents will need education, and she anticipates scale will be large despite the level of the compliance trigger. Regarding Option 3, Brackett Hogstad said that this does not capture community feedback.

Commissioner Questions of Staff:

Baskett opens with appreciation for all of the work that staff has put into the ordinance. She asks about staff's estimate of program cost of \$100,000 is for the amortization option only. **Brackett Hogstad** says that the amortization option would likely require hiring a new FTE position.

Baskett is concerned that a marketing campaign in itself could cost \$20,000.

Baskett thinks that enforcement would have to be enforced 24-7, and wonders how it would be enforced.

Brauneis suggests the ordinance is enforced through design, not field enforcement. Brackett Hogstad said yes, but there still is the replacement issue. Yes, if Option 2, it is by permit only.

Osterman asks if only the three options are under review or if there will there be discussion of changes. **Brackett Hogstad** says it is up for discussion.

Howe asks about the exemption for lighting restrictions downtown, whether it applies to both commercial and residential. **Brackett Hogstad** said both, but the exemption is due to the use mix and the size/narrowness of the lots. Unfortunately lighting trespass may be impossible to enforce. Additionally, there are many businesses downtown which need lighting.

Brauneis asks if illuminated signs are sufficiently covered in sign code. **Brackett Hogstad** says yes, based on the 2018 sign code, downlit lighting is permitted.

Howe asks about estimated costs. What is estimated cost for the City to replace their lights? **Brackett Hogstad** says that her presented cost estimate is only for

administration; installation costs need to be revisited with the Facilities Department. However, the majority of City parking lot lights may already be in compliance, apart from brightness.

Howe requests a cost estimate for the next step, fixtures and labor. This might make a big difference for those voting.

Choi asks if there is anything in the current language of the ordinance that talks about maximum mounting height for outdoor lighting. **Brackett Hogstad** said there is a height limitation: 20 feet for parking lot poles and 20 feet for building mounted 20 light fixtures (exemption for second story decks).

Choi asks if all commercial plans are required to submit photometric plans. **Brackett Hogstad** says it depends on the permit type, only some require a site-wide lighting plan.

Choi asks if there are added requirements for automatic timer lights. **Brackett Hogstad** says no.

Baskett says that Old Town is defined as all the way to alley at La Farge, meaning there are significant residential properties in Old Town which would be exempt. She asks if staff has considered this. **Brackett Hogstad** explained that residences would not be required to meet trespass standards, but the rest of the regulations apply.

Brauneis asks to clarify that no open flames are permitted in the City (the ordinance language refers to this). **Brackett Hogstad** said this was standard adapted language that can be revisited. Brauneis asks about swimming pools and water features;

Brackett Hogstad says lighting within a pool would be exempt, and that for water features/fountains: the intent is to have no up-lighting, but lights within the water might be allowed.

Choi asks about lighting on address numbers. **Brackett Hogstad** says this is not yet captured, though the intent to allow necessary safety lighting (like wayfinding / driveways/ addressing).

Choi thinks the potential cost of Option 1 is a major con, and it is important to consider carefully. He asks if the cost is the main reason for staff recommending Option 2, or if there are other reasons. **Brackett Hogstad** said it is a value question, i.e. is this the project that City Council wishes to spend money on? Cost is not the only consideration – Option 1 is inviting and adding something for neighbors to have miscommunications and disputes about. In reality, most jurisdictions either do not do enforcement or have complaint-based enforcement.

Choi asks if there is any option for grant funding. **Brackett Hogstad** has looked into existing funding from the city, but unfortunately most of that is area-based or is available only for historic preservation. She mentions that Moab has a robust rebate program (\$100-200), which has encouraged faster adoption. Although, this was funded by a community organization, not the City of Moab. **Brackett Hogstad** said this would be one of the first things to explore if Option 1 is selected.

Osterman says it is hard to compare options with respect to cost, compliance, time to get to full compliance and asked for more details. **Brackett Hogstad** said costs for options 2 and 3 could be absorbed by what we already do. This would involve night enforcement regardless, but the scale is really the biggest difference. The important point is how can we help homeowners learn about dark sky lighting before buying new lighting (this is slower paced than amortization timeline).

Brackett Hogstad says they have done no modeling on how long to get to optimal compliance, and that it is possible that some lighting will not come into compliance unless there is an amortization timeline. The survey polled how often businesses upgrade lighting, and the answer was not very often it turns out (15, 20, 30 years). Option 2 would capture changes to mixed use, as there is going to be some redevelopment. Staff do not want to make the costs of a small project balloon.

Baskett is curious to see if Option 2 is what Council really wants, as the City might not get much bang for the buck with Option 2.

Choi asks about how triggers for Option 2 were set; was there a consideration for a scope-based permits and alterations (like projects just replacing light fixtures, but not required due to 50%? He asks about whether staff thinks that people would try to skirt regulations by piece-mealing improvements. **Brackett Hogstad** says it was about what “seemed workable”- the original regulations draft was use-based, within PUD, GDP, tenant use evaluation. From the business community’s perspective that did not make sense. **Brackett Hogstad** says staff would have to create a new review process, but is happy to think about other thresholds or permit types.

Baskett asks staff to consider a 25% threshold. **Brackett Hogstad** says staff considered many options and thought that 50% is a good balance between community feedback and rate of compliance due to redevelopment and façade changes. Doubling in size is admittedly rare, but demolishing half of building and rebuilding would also need to upgrade light.

Howe asks if this applies to Marshall Fire rebuilds. **Brackett Hogstad** says it would depend on where they are in the build cycle. If plans have already been approved, they wouldn’t need to comply (amortization option aside). If not yet, then would be a requirement.

Howe asks about irregular lot sizes and motion activated lighting installed for safety and security; i.e. what if the lumens restriction does not allow for full lot coverage? **Brackett Hogstad** says when you have lumens caps, there is a possibility that people will add more lights. However, more and brighter lighting does not necessarily mean more security.

Howe brings up pets and predators and asked if different regulations were considered for properties bordering open space and greenbelts.

Brauneis asks for a definition of peak wildlife migration seasons. **Brackett Hogstad** says there is a lot of research out there about live migration, accessible information that she can point Commissioners to.

Brauneis asks if staff had time to investigate what it would entail to become a designated a dark sky city. **Brackett Hogstad** says annual reporting and events are components, and she can look into this more.

Baskett moves to add public comment emails to the record, and **Osterman** seconds. All were in favor.

Public Comment:

Cathern Smith, resident, advocated for the darkest possible skies, for the health of animals, humans, and plants. She is concerned about climate change and tk. She is in favor of a combination of Options 1 and 2. She wonders if the City could look at phasing by Ward, or other discrete areas. Smith said she rarely uses her outdoor lights, and wonders if residents who do not use their outdoor lighting could be exempt. She suggests looking at various kinds of incentives, and discounts for low-income residents. She appreciates the work of the staff, as it is a big project. She was concerned about costs and the difficulty of comparing the three options. She is in favor of addressing light color, but suggests there are issues of availability. She asks if the City could revisit the issue when better products are available on the market in 5 years. She asks if the City could engage with the Colorado Public Utilities Commission and Xcel Energy.

Mary Ann Heaney, resident strongly supports Option 1, stating that otherwise the initiative is not worthwhile. She says that swapping lights is not really that expensive. She would be interested in statistics on projected development in the City. She thinks that landscaping lightening regulations need to be tightened up. She would like to see better regulations on light trespass, not just light hitting ground but also light that enters neighboring houses. She asks if there is any way to phase in restrictions on lighting at outdoor recreation facilities earlier. She thinks that the curfew is hugely important part of the ordinance. Heaney closed with a comment that education is simple; and could be taken care of through blurbs in the City's newsletter 6 months in a row, for instance.

Beth Armbruster, resident, is glad that the topic has come up for discussion. She says that outdoor lighting has gotten so bright and that driving at night is difficult for light-sensitive individuals due to bombardment. This can affect emotional health because it causes stress to see glaring lights. She says that when she is at home or walking around her neighborhood, she want to relax in comfort, but bright lights impact her. She also loves open space, so seeing lighting is discouraging. She questions how to best

address these challenges. She suggests publicizing information about dark sky lighting in a brochure, with information about where can you find these lights, would be good. She says that for residents who are unaware or don't care a soft rollout will be helpful. However, she thinks that Option 2 is only if you dream of a dark sky, as it would not be very impactful.

Sherry Sommer, resident, compared the use of light to use of water: it is easy to waste, but there are consequences. She is glad we are talking about this. She thinks the regulations need more work and is not in support of Option 3. She would like to see a new option that does more. She would like to see part of the amortization option left on the table, however, Option 2 is good because it is black and white (albeit small in scope). She is thinking of a hybrid option – where any renovation would trigger compliance. She suggests that staff look at most egregious lighting (e.g. parking lots); she supports a carrot not stick approach. She questions what the cost of timers would be. There is a lot of value in education for residents, in starting with the biggest light polluters, while being cautious not to target specific businesses.

Mike Deborski, resident, said that as a business owner, he is very busy and works hard. He is in favor of the dark sky ordinance in general principle. However, he thinks a balance must be struck between cost to small business, as it is expensive to run a business in Louisville, and the City should not put an undue burden of cost on business. He appreciated the outreach to chamber and small business council. He says the City needs to balance objectives with security and costs. Vandalism and break-ins are ongoing issues. The Police Department says lighting is important for security. Most small business owners are in favor of Option 3.

Bobby Brown, resident, thanks the Commissioners and staff for their commitment and expresses support for the initiative. He sees a few problems. First, he suggests that Option 2 (substantial alterations) is not a practical way to achieve compliance. He thinks that the ordinance should cover all building permits, as they are low cost in the scheme of a home renovation. Secondly, he worries that the code amendment as it stands prioritizes dealing with the effects of lighting on open space (City property) over private property. Thirdly, he acknowledges this will take time and he thinks that 10 years is appropriate. He states that most cities enforce on a complaint basis, but that is not all bad: "it is an act of love to file a nuisance complaint against one's neighbor."

Betty Soleck, resident, appreciates the Commissioners' work and time. She has not had a lot of time to dig into the details, but is mainly here to show support for developing regulations. She expressed that regulations need to apply to all public buildings (the

Rec Center is a big light polluter with excessive parking lot lighting). City buildings should be models/examples for the community, as such municipal building compliance should come first. She is concerned with the decline of small bird and insect populations, and wants outdoor lighting regulations to reduce light pollution that is disrupting animal lifecycles. She has questions about the security that lights provide, as it sounds like from Deborski's comments, there are break-ins regardless of lighting. Maybe light is not a deterrent; she would like to hear from the Police Chief on the matter.

Closing Statement by Staff:

Brackett Hogstad has no further comments, but is open to answering any further questions.

Brauneis closed the public hearing.

Discussion by Commissioners:

Osterman expresses concern about how to get to compliance. She thinks it is important, but wants to think about ways to achieve a higher level of compliance. She has concerns with Option 2, and is intrigued by the idea of having all building permits as the trigger. Overall, she thinks Option 1 is better if the desired result is to achieve compliance.

Choi thinks it would be too onerous on the community to tie it to all building permits, but questions where to draw line. He does not think 50% is right, but does not have a better solution yet. He thinks it would be different for residential and commercial. He also thinks by not addressing components of Option 1, the City would fall short of the intent of the initiative. One barrier he sees is that 3 years is probably too fast to see any depth of impact; maybe a longer timeframe (5 years) would help. This would also grant more time for coordinated messaging and programs. He sees a combination of Option 1 and 2 with some tweaks to be a better solution.

Howe says he would echo a lot of what Choi said. He would favor amortization, and thinks a phased approach by sector would make sense (i.e. City compliance first, then commercial, then residential, perhaps getting to the ultimate goal in 10 years). His biggest concerns are safety and cost. He also brings up that daylight savings time is set to go away, so there will be more need for light in the future.

Baskett says she would like to see Option 2 strengthened, as in, if we are going to make the effort we should do it right. She values prioritizing by impact. The City should model compliance with its own facilities and this could be done without an ordinance. She has concerns about downtown being excluded, stating that it should be minor to

figure out light trespass issues. No one has asked her to advocate for that, but it is a concern.

Brauneis mentions that the exterior lights of his home have been changed only once in 31 years. He notes that dark sky lighting has been in the works for 8 years for the City. Brauneis recommends a slow path to getting it right. Costs prevent him from supporting Option 1. There are other things that we could do to create a better impact with a cost impact of one million over the next ten years. He is more in favor of Option 2, as for tweaks, perhaps to reduce the target from 50 to 40%. He cites other reasons Brackett Hogstad mentioned in her presentation too. A cost study about coming into compliance would be expensive in itself and is not a great use of time and resources. A rough estimate is multiple tens of thousands of dollars for a medium sized parking lot – which is something no business owners have planned for. He is curious to hear others' thoughts though.

Choi thinks looking at different market sectors for rollout would help and still thinks Option 1 will actually have an impact on number of luminaires. Residential houses is the biggest impact, and most of those houses are not going to come into compliance given Option 2. A combination of options is probably most appropriate in his opinion. With respect to enforcement, it is a huge burden (he cites a city in Arizona's experience with watering enforcement.) There could be a website for reporting violations, though he thinks residents should have to agree to share their name.

Brauneis thinks there is more value and impact to focus on energy efficiency and other initiatives.

Howe wonders about light density in different areas of the City, i.e, if the downtown exemption should apply to other areas. **Howe** thinks the community is in support, but there is disagreement about how fast we need to move and how much cost we want to burden the City with.

The conversation continued between **Choi** and **Brauneis** without a clear conclusion.

Brackett Hogstad interjects, saying if a significant change to the ordinance options is desired, staff would need more time to study and work out details.

Brauneis asks if the Commission is ready to vote now or if they would like to continue the discussion.

Choi ask Brackett Hogstad about modelling and analysis and staff's ability to research options to tie ordinance to building permits in other ways than the 50% threshold.

Brackett Hogstad demonstrates willingness to work on this further.

Brauneis states that staff had originally conceptualized more complex regulations, and that this is an attempt to streamline.

Osterman says, hearing more deliberations, she does not think Option 1 is not a good option and thinks talking bout thresholds for option 2 is valuable..

Brauneis worries about unintended consequences if lighting costs too much, i.e. residents may not upgrade to energy efficient windows.

Howe prefers looking for low hanging fruit in the context of spending and regulation.

Baskett supports a continuance.

Choi moves and **Howe** seconds a motion to continue Resolution 14, Series 2023. The motion passes unanimously.

Commissioner Comments

None is heard.

Staff Comments

None is heard.

Items Tentatively Scheduled for the Meeting on August 10, 2023

- Continuance of the LMC amendment regarding dark sky regulations

Adjourn

Brauneis moves and **Choi** seconds a motion to adjourn. Motion passes unanimously by a voice vote. Meeting adjourns at 9:52 PM.

ITEM: PLAT-0462-2023 – Request to consider the Louisville Heights Replat B to subdivide the property at 301 Spruce into two lots.

PLANNER: Amelia Brackett Hogstad, Planner

APPLICANT/OWNER: Susannah Pels & Dennis Tenney

APPLICANT REP.: Peter Stewart, Stewart Architecture

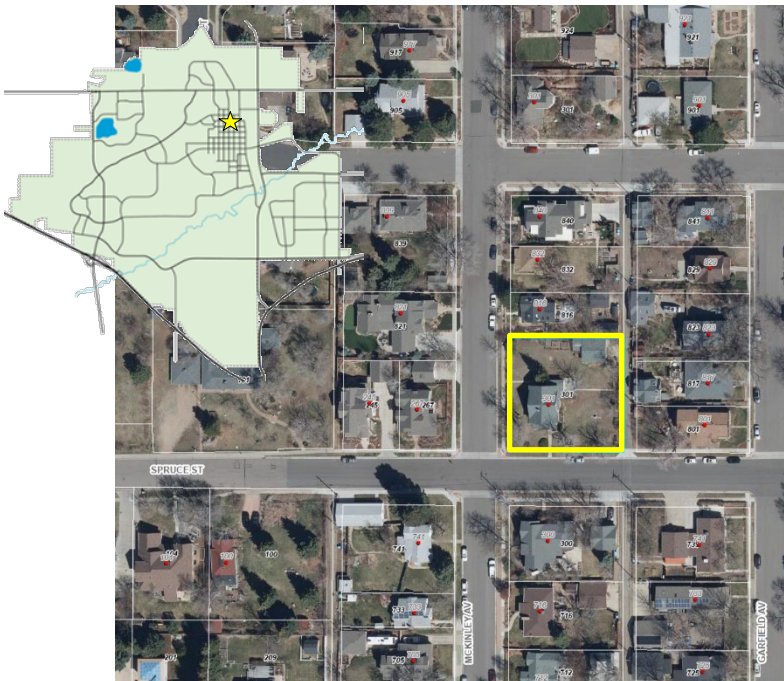
EXISTING ZONING: Residential Low Density (R-L)

LOCATION: 301 Spruce Street

TOTAL SITE AREA: +/- .36 acres, 15,673 sf

REQUEST: Approval of Resolution 15, Series 2023 recommending approval of a Minor Subdivision, Louisville Heights Replat B, subdividing the property at 301 Spruce into two lots.

VICINITY MAP:



SUMMARY:

The applicants, Susannah Pels and Dennis Tenney, request approval of a Minor Subdivision to create two lots on the property at 301 Spruce Street.

BACKGROUND:

The subject property is part of the Louisville Heights Addition, platted in 1904. It is zoned Residential Low Density (R-L) and is subject to the Old Town Overlay Zone District. The subject property is accessed from Spruce Street. The property also abuts an alley to the east and McKinley Avenue to the west. It is surrounded by residential lots with R-L zoning.

There are two existing structures on the property, a single-family dwelling on the southwestern portion of the lot and a detached structure on the northeast corner. The single-family dwelling was built in 1908 and is eligible for landmark status. The property at 301 Spruce Street consists of 5 platted lots, with each lot containing roughly 3,125 sf. Per Section 17.36.090.B, if lots that are held in continuous ownership do not meet the dimensional requirements in the applicable zone district, they are considered to be one lot. This is the case with 301 Spruce Street, therefore subdivision in conformance with the R-L zone district is required to split the one lot into two.

Concurrent to the application for subdivision, the property owner is pursuing a landmark designation for the primary structure and associated property. The Historic Preservation Commission (HPC) recommended the property for landmark on June 26, 2023 (see attached minutes and staff report). If the Planning Commission recommends approval of the subdivision to City Council, staff will concurrently bring the Landmark and Minor Subdivision applications to Council. If both applications were approved, the new western lot containing the single-family dwelling would be landmarked to preserve the historic structure. The new eastern lot containing the detached structure would not be landmarked.

PROPOSAL:

The proposed subdivision creates a new lot line dividing the existing property into a west lot (Lot 1) and an east lot (Lot 2), taking into account the location of the existing house.

The current lot size of the subject property allows up to two single-family dwelling units, as established in the R-L zone district (one unit for each 7,000 sf of lot area). This proposal would maintain the allowed density of the overall acreage. Although the property is large enough to accommodate two dwelling units by lot size alone, the R-L zoning only allows single-family dwellings. Therefore, the only way to develop the property to its maximum density is to subdivide the property.

The application also requires approval of the following four subdivision modifications:

1. Allow a lot size of 6,755 square feet for Lot 2 where 7,000 square feet is required by the R-L Zone District.
2. Allow a width of 54 feet on Lot 2 where 70 feet is required by the R-L Zone District.
3. Allow a minimum lot area per dwelling unit of 6,755 square feet for Lot 2 where 7,000 square feet is required by the R-L Zone District.

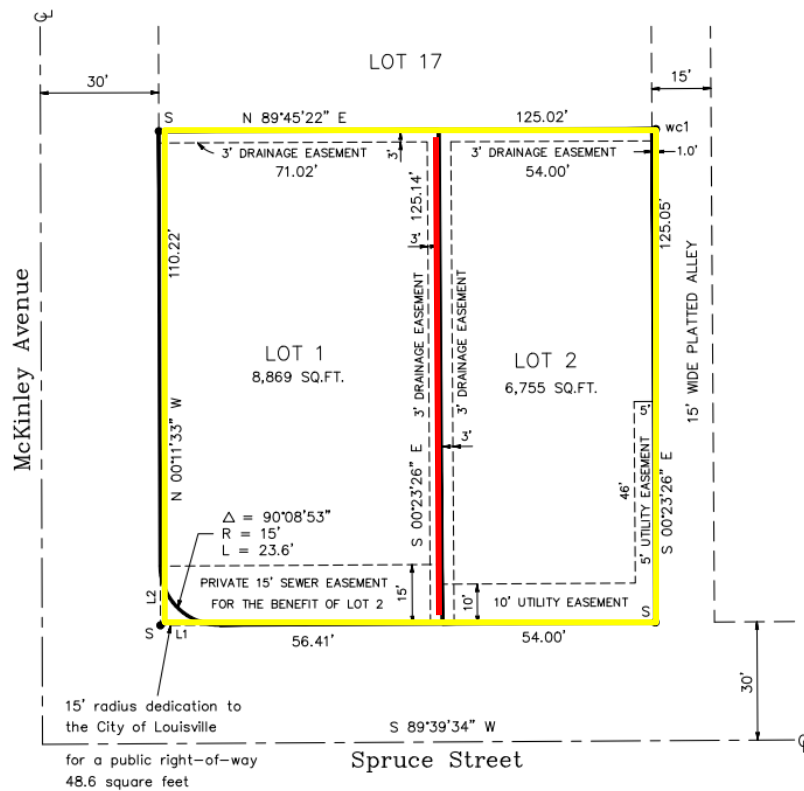


Figure 1: Proposed subdivision. Yellow line is subject property. Red line is proposed new lot line.

ANALYSIS:

The proposed re-plat falls under the Minor Subdivision procedure in Louisville Municipal Code (LMC) Sec. 16.12.110, which eliminates the need for review of a preliminary plat prior to review of the final plat. Thus, the Commission is reviewing the final plat for recommendation to the City Council.

Staff reviewed the plat against the final plat criteria and subdivision design standards in [LMC Sec. 16.12.090](#) and [LMC Chapter 16.16](#), and applicable city codes and standards for access, drainage and utilities.

Final Plat Criteria:

Section 16.12.075 of the LMC establishes the following rationale for consideration of final plats by Planning Commission and City Council:

1. *Whether the plat conforms to all of the requirements of this title;*
 - Outside of the modifications described above, staff finds that the application would conform to all other requirements of Title 16. The proposed modifications serve to preserve a historic structure, which supports the goals of the City’s Preservation Master Plan and Comprehensive Plan. In addition, the requested modifications do not affect the other requirements and goals of Title 16 (see below for modification criteria and discussion).

2. *Whether approval of the plat will be consistent with the city's comprehensive plan, applicable zoning requirements, and other applicable federal, state and city laws;*
 - Staff finds that the request is consistent with the Comprehensive Plan and the Preservation Master Plan in respect to maintaining historic buildings when possible.
 - Staff finds that the application is consistent with all applicable zoning requirements except where modifications have been requested as described in this report.

3. *Whether the proposed subdivision will promote the purposes set forth in section 16.04.020 of this Code and comply with the standards set forth in chapter 16.16 of this Code and this title.*
 - Staff finds that the application will promote the purposes in 16.04.020, including the assurance that public services are available, the safe and efficient circulation of traffic, pedestrians and bikeways, and provides appropriate regulation of the use of land in the city.
 - Staff finds that the application is consistent with the standards set forth in Chapter 16.16 in all respects except in the areas identified below as requiring modifications.
 - The applicant will be required to complete a Subdivision Agreement regarding easements, utilities, and/or rights-of-way prior to City Council (see attached draft subdivision agreement).

Modification Criteria:

Section 16.24.030 of the LMC establishes the following criteria for consideration of modifications to final plats; applications must also comply with Section 16.04.020 (discussed above) and Section 16.24.010. The modification requests apply to Lot 2; Lot 1 is in compliance with underlying zoning.

1. Section 16.04.010-Modifications: *The city council, upon advice of the planning commission, may authorize modifications where a subdivider proposes a plat that does not fully comply with the regulations in this title or title 17. No modification shall be granted if it would be detrimental to the public good or impair the basic intent and purposes of this title or title 17. Any modification granted shall be in keeping with the intent of the comprehensive development plan of the city. Any modification granted shall be in keeping with the intent of the comprehensive plan of the city.*
 - The R-L and OTO zoning establishes the neighborhood character through standards relating to lot size, width, mass and scale, and design. In addition, Title 16 establishes minimum lot widths and depths for subdivisions. This proposal includes modifications to lot size and width. However, those modifications would have a minimal effect on density; no effect on mass, scale, or design; and would facilitate the preservation of an existing structure that has been in the neighborhood for over 100 years and has historical significance to the city as a whole.

2. Section 16.24.030-Modification review criteria:

1. *That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of the property, or exceptional topographical conditions, or other physical conditions peculiar to the affected property;*
 - Staff finds that there are unique physical conditions in the form of the existing historic structure on the west part of the lot. The proposed subdivision creates a slightly larger western lot to preserve the existing structure, necessitating the request of a smaller lot size for the eastern lot. Likewise, the proposed lot widths accommodate the existing structure.
2. *That because of such physical circumstances or conditions, the property cannot be reasonably developed in conformity with the provisions of title 16 and title 17 resulting in a hardship;*
 - The property cannot be reasonably developed to maximize the allowed density of two structures given the location of the existing primary structure.
3. *That such hardship has not been created by the applicant;*
 - Staff finds that the applicant did not create the hardship, given that the requested modifications pertain to preserving a home that was built over 100 years ago.
4. *That the modification, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property;*
 - Staff finds that the requested modifications would not affect the character or use of the subject property, nor would they affect the ability of surrounding lots to develop and maintain their character. In addition, staff finds that the lot size modification supports the essential character of the neighborhood by preserving a historic home, and the lot width and size modification brings the lot sizes and shapes closer to their historic widths, and to the widths of neighboring properties.

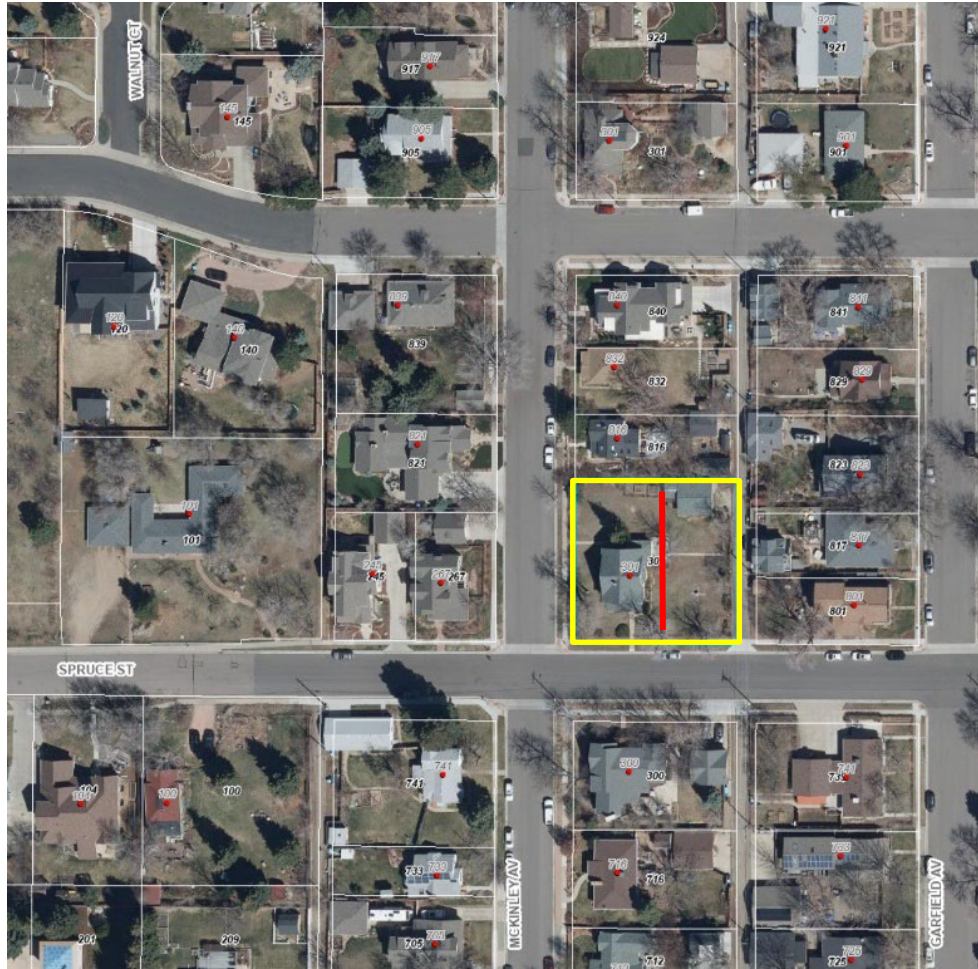


Table 1. Comparison of Lot Widths & Sizes in Block 5 of the Louisville Heights Addition and of Louisville Heights Replat A		
Address	Approximate Frontage Width	Approximate Size
<i>Existing 301 Spruce</i>	<i>125' (Spruce)</i>	<i>15,673 sf</i>
<i>Proposed Lot 1</i>	<i>71.41' (56.41' + 15')</i>	<i>8,869 sf</i>
<i>Proposed Lot 2</i>	<i>54'</i>	<i>6755 sf</i>
801 Garfield	50'	6,100 sf
817 Garfield	50'	6,100 sf
823 Garfield	73'	9,300 sf
829 Garfield	52'	6,300 sf
841 Garfield	55'	6,900 sf
816 McKinley (landmark)	50'	6,100 sf
832 McKinley	52'	6,300 sf
840 McKinley	55'	6,900 sf
245 Spruce	62.37' (Spruce)	6,231 sf
267 Spruce	62.37' (Spruce)	6,232 sf

Figure 2 & Table 1. Image of block containing subject property (yellow), showing the relatively large size of the existing property compared to the rest of the lots on the block. Table showing relatively widths and sizes of other existing lots on the block and on Louisville Heights Replat A (directly to the west across McKinley Avenue) compared to the existing and proposed lots for the property at 301 Spruce.

5. *That there are no reasonable alternatives that would remove the need for the requested modification or would reduce the amount of the modification.*
 - The alternative to meeting the lot size requirement and minimum lot size to allow a dwelling is to demolish or substantively change the existing primary dwelling, which could allow Lot 2 to meet the 7,000 sf minimum. Given the historic nature of the house, staff does not recommend the demolition of the existing structure. There is no alternative to meeting the lot width requirement.
6. *That no additional dwelling units shall result from approval of the modification beyond what the underlying zoning would otherwise allow.*
 - Staff finds that no additional dwelling units would result from the modification.

Staff finds that the modification criteria are met and therefore supports approval of the modification requests for the Minor Subdivision.

PUBLIC COMMENTS:

No public comments were received by staff at the time of publication of this report.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 15, Series 2023 recommending approval of the Louisville Heights Replat B with no conditions.

ATTACHMENTS:

1. Resolution No. 15, Series 2023
2. Louisville Heights Replat B
3. Draft Subdivision Agreement
4. Application Materials
5. HPC Minutes from June 26, 2023 Landmark Hearing
6. Staff Report from June 26, 2023 HPC Landmark Hearing

**RESOLUTION NO. 15
SERIES 2023**

**A RESOLUTION RECOMMENDING APPROVAL OF THE MINOR SUBDIVISION,
THE LOUISVILLE HEIGHTS REPLAT B**

WHEREAS, there has been submitted to the Louisville Planning Commission an application for a Minor Subdivision to replat the property at 301 Spruce Street to create two lots; and

WHEREAS, City staff has reviewed the information submitted and found that, with one condition, the application complies with the Louisville subdivision and other applicable sections of the Louisville Municipal Code; and

WHEREAS, the Planning Commission has considered the application at a duly noticed public hearing on August 10, 2023 where evidence and testimony were entered into the record, including the findings in the Louisville Planning Commission staff report dated August 10, 2023.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Louisville, Colorado does hereby recommend approval of the final plat request for the Louisville Heights Replat B.

PASSED AND ADOPTED this 10th day of August, 2023.

By: _____
Steve Brauneis, Chair
Planning Commission

Attest: _____
Jeffrey Moline, Secretary
Planning Commission

- Certificate of Dedication and Ownership -

KNOW ALL PERSONS BY THESE PRESENTS, THAT THE UNDERSIGNED BEING THE OWNERS OF LOTS 12, 13, 14, 15 AND 16, IN BLOCK 5, LOUISVILLE HEIGHTS, ACCORDING TO THE RECORDED PLAT THEREOF, AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY, RECORDED ON DECEMBER 28, 2022 AT RECEPTION NO. 3993277, LOCATED IN THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 1 SOUTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF LOUISVILLE, COUNTY OF BOULDER, STATE OF COLORADO;

CONTAINING 15,673 SQUARE FEET OR 0.36 ACRES, HAS LAID OUT AND PLATTED SAID LAND AS PER DRAWING HEREON CONTAINED UNDER THE NAME AND STYLE OF "LOUISVILLE HEIGHTS REPLAT B", A PART OF THE CITY OF LOUISVILLE, COUNTY OF BOULDER, STATE OF COLORADO, AND BY THESE PRESENTS DOES HEREBY DEDICATE TO THE CITY OF LOUISVILLE, COLORADO THOSE PORTIONS OF SAID REAL PROPERTY WHICH ARE DESIGNATED AS EXCLUSIVE UTILITY EASEMENTS AND ALSO DEDICATE TO THE CITY OF LOUISVILLE, COLORADO, AND ALL MUNICIPALLY OWNED AND/OR FRANCHISED UTILITIES AND SERVICES THOSE PORTIONS OF SAID REAL PROPERTY WHICH ARE DESIGNATED AS UTILITY EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT FOR ALL SERVICES, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TELEPHONE AND ELECTRIC LINES, WORKS, POLES AND UNDERGROUND CABLES, GAS PIPELINES, WATER PIPELINES, SANITARY SEWER LINES, STREET LIGHTS, COLVERTS, HYDRANTS, DRAINAGE DITCHES AND DRAINS AND ALL APPURTENANCES THERETO, IT BEING EXPRESSLY UNDERSTOOD AND AGREED BY THE UNDERSIGNED THAT ALL EXPENSES AND COSTS INVOLVED IN CONSTRUCTING AND INSTALLING WATER AND SANITARY SEWER SYSTEM WORKS AND LINES, GAS SERVICE LINES, ELECTRICAL SERVICES WORKS AND LINES, STORM SEWERS AND DRAINS, STREET LIGHTING, GRADING AND LANDSCAPING, CURBS, GUTTERS, STREET PAVEMENT, SIDEWALKS AND OTHER SUCH UTILITIES AND SERVICES SHALL BE GUARANTEED AND PAID FOR BY THE PROPERTY OWNERS OR ARRANGEMENTS MADE BY THE PROPERTY OWNERS THEREOF WHICH ARE APPROVED BY THE CITY OF LOUISVILLE, COLORADO, AND SUCH SUMS SHALL NOT BE PAID BY THE CITY OF LOUISVILLE, COLORADO, AND THAT ANY ITEM SO CONSTRUCTED OR INSTALLED WHEN ACCEPTED BY THE CITY OF LOUISVILLE, COLORADO, SHALL BECOME THE SOLE PROPERTY OF SAID CITY OF LOUISVILLE, COLORADO, EXCEPT ITEMS OWNED BY MUNICIPALLY FRANCHISED UTILITIES AND/OR LUMEN TECHNOLOGIES, INC. AND PRIVATE ROADWAY CURBS, GUTTER AND PAVEMENT, WHICH, WHEN CONSTRUCTED OR INSTALLED SHALL REMAIN THE PROPERTY OF THE OWNER AND SHALL NOT BECOME THE PROPERTY OF THE CITY OF LOUISVILLE, COLORADO.

- Ownership Signature Block -

WITNESS OUR HANDS AND SEALS THIS _____ DAY OF _____, 2023.

SUSANNAH H. PELS DENNIS C. TENNEY

- Acknowledgement -

STATE OF COLORADO }
 COUNTY OF BOULDER } SS
 THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2023
 SUSANNAH H. PELS AND DENNIS C. TENNEY
 WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: _____ DATE _____ NOTARY PUBLIC _____

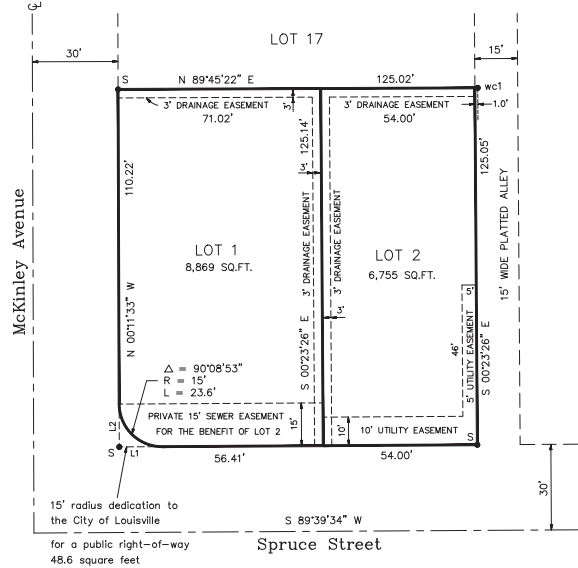
[Seal]

- Louisville Heights Replat B -

- Louisville Heights Replat B -

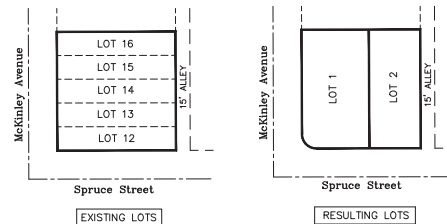
in Block 5 . LOUISVILLE HEIGHTS
 located in the southwest 1/4 of Section 8
 Township 1 South . Range 69 West of the 6th P.M.
 in the City of Louisville . Boulder County . Colorado

GROSS AREA = 15,673 SQUARE FEET = 0.36 ACRES . MORE OR LESS
 SHEET 1 OF 1



- Flagstaff Surveying Inc. -
 Table Mesa Shopping Center
 637 South Broadway . Suite C
 Boulder . Colorado . 80305
 303.499.9737
 17553b-2.dwg . 19 June 2023

- Survey Overview -



- Legend -

FOUND #5 REBAR WITH 1 1/2 INCH DIAMETER ALUMINUM CAP MARKED "SELLARS" / LS 27615" ● S
 FOUND #5 REBAR WITH 1 1/2 INCH DIAMETER ALUMINUM CAP SET AS 1.0 FOOT WITNESS CORNER MARKED "SELLARS" / TWC / LS 27615" ● 1wc

- Line Table -

L1 - SOUTH 89-39-34 WEST / 15.04 FEET
L2 - NORTH 00-11-33 WEST / 15.04 FEET

degrees-minutes-seconds / decimal feet

- Notes -

- LAND TITLE GUARANTEE CO. ORDER NUMBER K70803983 WAS ENTIRELY RELIED UPON FOR EASEMENTS OF RECORD.
- ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BE BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- BASIS OF BEARINGS : PER IMPROVEMENT SURVEY PLAT PREPARED ON THIS SITE. ASSUMED THE WEST LINE OF LOT 1 TO BEAR NORTH 00°11'33" WEST BETWEEN THE "SELLARS" SURVEY MONUMENTS AS SHOWN HEREON.
- ALL UNDERGROUND UTILITIES SHOULD BE FIELD LOCATED BY THE APPROPRIATE AGENCY PRIOR TO ANY CONSTRUCTION OR DIGGING ON OR ADJACENT TO THE SUBJECT PROPERTY.
- THE SUBJECT PARCEL CONTAINS A GROSS AREA OF 15,673 SQUARE FEET OR 0.36 ACRES, MORE OR LESS. STREET DEDICATION = 48.6 SQUARE FEET.
- RESOLUTION _____ SERIES _____
 - A MODIFICATION TO ALLOW A LOT SIZE OF 6,755 SQUARE FEET FOR LOT 2 WHERE 7,000 SQUARE FEET IS REQUIRED BY THE R-L ZONE DISTRICT.
 - A MODIFICATION TO ALLOW A WIDTH OF 54 FEET ON LOT 2 WHERE 70 FEET IS REQUIRED BY THE R-L ZONE DISTRICT.
 - A MODIFICATION TO ALLOW A MINIMUM LOT AREA PER DWELLING UNIT OF 6,755 SQUARE FEET FOR LOT 2 WHERE 7,000 SQUARE FEET IS REQUIRED BY THE R-L ZONE DISTRICT.
- THE SUBJECT PROPERTY IS LOCATED IN UNSHADED ZONE X, THE AREA DETERMINED TO BE OUTSIDE OF THE 500 YEAR FLOOD PLAIN ACCORDING TO THE FEMA FLOOD INSURANCE RATE MAP; MAP NUMBER 08013C 0582 K, DATED 15 AUGUST 2019. FLOOD INFORMATION IS SUBJECT TO CHANGE.
- SEE THE DEPOSITED IMPROVEMENT SURVEY PLAT "LS-21-0148" PREPARED BY THIS OFFICE FOR ADDITIONAL SURVEY INFORMATION IN THIS AREA.
- THE ZONING IS RESIDENTIAL LOW DENSITY (R-L).
- THE FIFTEEN (15) FOOT WIDE PRIVATE SEWER EASEMENT IS FOR THE BENEFIT/USE OF THE OWNER OF LOT 2 AND THE OWNER OF LOT 1. MUST ALLOW FOR THE OPERATION, MAINTENANCE, REPAIR AND/OR REPLACEMENT OF THE LOT 2 PRIVATE SANITARY SEWER SERVICE LINE.

- Planning Commission Certificate -

RECOMMENDED APPROVAL THIS _____ DAY OF _____, 2023
 BY THE PLANNING COMMISSION OF THE CITY OF LOUISVILLE, COLORADO.
 RESOLUTION NO. _____ SERIES _____

- City Council Certificate -

APPROVED THIS _____ DAY OF _____, 2023
 BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO.
 RESOLUTION NO. _____ SERIES _____

MAYOR _____ CITY CLERK _____

- Surveyor's Statement -

I, LEE STADELE, A DULY REGISTERED LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, HEREBY STATE FOR AND ON BEHALF OF FLAGSTAFF SURVEYING, INC. THAT THE SURVEY OF "LOUISVILLE HEIGHTS REPLAT B" WAS PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION, RESPONSIBILITY AND CHECKING, AND THAT THIS PLAT HAS BEEN PREPARED IN COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

LEE STADELE DATE _____
 COLORADO PLS 26300 JOB NO. 17553

**SUBDIVISION AGREEMENT
(Louisville Heights Replat B)**

THIS SUBDIVISION AGREEMENT (this “Agreement”) is entered into as of _____, 2023 (the “Effective Date”), by and between the **City of Louisville**, a Colorado home rule municipal corporation (“City”), and **Pels Susannah H and Dennis C Tenney** (“Subdivider”). City and Subdivider, collectively, are hereinafter referred to as the “**Parties**”.

RECITALS:

A. Subdivider is seeking City approval of that certain Final Subdivision Plat (“Final Plat”) for the Louisville Heights Replat B (“Subdivision”) for purposes of subdividing Lots 12 - 16, Block 5 into two (2) lots.

B. The Public Works Director has deemed it necessary, pursuant to Section 16.20.040 of the Louisville Municipal Code, that the Subdivider install water and sewer services to Lot 2, Louisville Heights Replat B Subdivision, replace curb, gutter, walk, street and alley pavement damaged by construction, replace heaved/settled walk abutting the property as directed by the City and relocate private fencing from the right of way, as further set forth in Exhibit A, attached hereto and incorporated herein by this reference (the “Work”).

C. The Parties desire to set forth their agreement as to the Subdivider’s furnishing of an improvement guarantee and the completion of the Work.

NOW, THEREFORE, for and in consideration of the foregoing and the mutual covenants of the Parties hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Improvement Guarantee. Subdivider shall submit to the City an improvement guarantee in the amount of \$24,457.05 to secure the Subdivider’s faithful performance of its obligations hereunder (“Improvement Guarantee”). The Improvement Guarantee may be in cash or a letter of credit in form and substance as shown on Exhibit B, attached hereto and incorporated herein by reference. The Improvement Guarantee, if a letter of credit, shall not expire during the winter season (November 1 - March 1). The Improvement Guarantee shall be furnished prior to recordation of the Final Plat.

2. Permit and Construction Drawings. The Subdivider, at its own expense, shall submit to the City (i) a complete application for a right-of-way excavation permit in accordance with Chapter 12.12 of the Louisville Municipal Code (“ROW Permit”), and (ii) complete construction drawings, relative to the Work.

3. Construction. Following issuance of the ROW Permit and City approval of the construction drawings, Subdivider shall perform the Work (a) within the timeframe set forth in the ROW Permit, and (b) in accordance with (i) the terms and conditions of the ROW Permit, (ii) the construction drawings approved in writing by the City, (iii) the Final Plat, and (iv) the City's

construction specifications applicable at the time of construction plan approval (collectively, “Plans and Specifications”). Subdivider agrees that during construction of the Work, Subdivider shall take any and all steps necessary to control trash, mud, and debris in City rights-of-way, and shall immediately remove such trash, mud, and debris from public rights of way after notification by the City. If Subdivider does not abate, or if an emergency exists, City may abate at Subdivider's expense.

4. City Remedies. The City will have the option, but no obligation, to draw on the Improvement Guarantee to complete the Work, or to correct any deficiencies and make any needed repairs to any portion of Work not completed or conforming to the Plans and Specifications, if: (i) the Work has not been finally completed and accepted by the City within the timeframe set forth in the ROW Permit, including any extensions, which must be made in writing by the City Manager; (ii) the Subdivider has made statements or taken action that would indicate to a reasonable person that the Subdivider has abandoned its undertaking of the Work's completion, and the Subdivider has failed to timely respond to City inquiries regarding the same; or (iii) The City has completed any Work to correct any deficiency and made any needed repairs to any portion of the Work during the Warranty Period. The City shall provide the Subdivider with ten (10) days' written notice before commencing the Work, within which period the Subdivider will have an opportunity to provide the City with a satisfactory schedule for completion of the Work. The City's remedy under this Section shall not limit the City from pursuing any other remedies under this Agreement, at law, or in equity.

5. Construction Completion. Upon completion, Subdivider shall request an inspection of the Work by the City Public Works Department, Engineering Division (the “Division”). The City will not accept the Work unless it conforms to the Plans and Specifications and achieves its intended purpose. Subdivider is responsible for all repairs, replacements, construction, or other work, and for requesting as many inspections by the Division as may be required to achieve acceptance of the Work.

6. Return of Improvement Guarantee; Warranty. Upon the City's written acceptance of the Work, the City shall release the Improvement Guarantee, excluding amounts withheld in accordance with this Agreement, if any, except that the City will retain \$3,000 to secure the Subdivider's warranty as established in the ROW Permit. The ROW Permit requires a two year warranty after work is completed and accepted by the City. After the two year warranty period and a request by the Subdivider to accept the warranted improvements after a satisfactory inspection, the funds remaining on file with the City as an Improvement Guarantee will be returned to the Subdivider, excluding sums drawn on by the City pursuant to Section 4 of the Agreement.

7. As-Builts. Subdivider shall provide the Division with a PDF certified by a civil engineer upon completion of the Work and other documents as required by the City. These documents shall show “as-built” locations of Work. Such documents shall be provided to the City prior to the City's acceptance of the Work.

8. Indemnification and Release of Liability. Subdivider agrees to indemnify and hold harmless the City, its officers, employees, agents, or servants, and to pay any and all judgments

rendered against the City, its officers, employees, agents or servants on account of any suit, action, or claim caused by, arising from, or on account of acts or omissions by Subdivider, its officers, employees, agents, consultants, contractors, and subcontractors, and to pay to the City, its officers, employees, agents and servants their reasonable expenses, including, but not limited to, reasonable attorney's fees and reasonable expert witness fees, incurred in defending any such suit, action or claim; provided, however, that Subdivider's obligation herein shall not apply to the extent said suit, action or claim results from any acts or omissions of officers, employees, agents or servants of the City. Said obligation of Subdivider, with respect to the construction of the Work shall be limited to suits, actions or claims based upon conduct prior to acceptance by the City of the Work. Subdivider acknowledges that the City's review and approval of plans for the Work is done in furtherance of the general public's health, safety and welfare and that no immunity is waived and no specific relationship with, or duty of care to, Subdivider or third parties is assumed by such review approval.

9. Governing Law. This Agreement and all matters arising hereunder or in connection herewith shall be governed by and construed and enforced in accordance with the laws of the State of Colorado. Any disputes regarding or arising out of this Agreement shall be brought in the courts of Boulder County, Colorado, and in no other court.

10. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

11. Assignment. Subdivider may not assign or delegate this Agreement or any portion thereof, or any monies due to or become due hereunder, without the City's prior written consent. As a condition of the City's consent to any assignment of this Agreement, the City may require this Agreement, a written instrument of assignment, or both, to be recorded in the property records of Boulder County. Any purported assignment or delegation in violation of this Section shall be voidable in the City's sole discretion.

12. Termination. This Agreement shall terminate upon the City's final written acceptance of the Public Improvements and upon the City's return of the Deposit, excluding sums lawfully drawn on by the City in accordance with the terms of this Agreement.

13. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to City and Subdivider, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. Any person other than City or Subdivider receiving services or benefits under this Agreement is deemed to be an incidental beneficiary only.

14. Effect of Headings. Headings appearing in this Agreement are inserted for convenience of reference only and shall in no way be construed to be interpretations of the provisions hereof.

15. Authority to Bind. Each of the persons signing below hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf such

person is signing, to each and every term of this Agreement. The Subdivider's signatory shall be independently bound by, and shall be obligated to perform, the terms of this Agreement should the signatory lack full and complete authority to bind the Subdivider.

16. Counterparts. This Agreement may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

17. Recording; Binding Effect. The City shall record this Agreement at Subdivider's expense in the office of the Clerk and Recorder, County of Boulder, State of Colorado. This Agreement shall run with the land included within the Subdivision and shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

18. Termination. This Agreement shall terminate upon acceptance by City of all Work required hereunder, provided that no litigation or claim is pending relating to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Subdivision Agreement as of the Effective Date.

City:

CITY OF LOUISVILLE, COLORADO,
a Colorado home rule municipal corporation

By: _____
Jeff Durbin, City Manager

ATTEST:

Meredyth Muth, City Clerk

SUBDIVIDER

Susannah H. Pels

By: _____
Title: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The above and foregoing signature of Susannah H. Pels as _____ was subscribed and sworn to before me this _____ day of _____, 2023.

Witness my hand and official seal.
My commission expires: _____

Notary Public

SUBDIVIDER

Dennis C. Tenney

By: _____

Title: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The above and foregoing signature of Dennis C. Tenney as _____ of was subscribed and sworn to before me this _____ day of _____, 2023.

Witness my hand and official seal.
My commission expires: _____

Notary Public

EXHIBIT A

Prepared For: City of Louisville
Prepared By: Cameron Hoglan, EIT
Company Name: Civil Resources, LLC
Company Address: 8308 Colorado Blvd, Suite 200, Firestone, CO 80530

Project: 301 Spruce
Planset Date: 6/8/2023

Opinion of Probable Costs for Public Improvements

Asphalt Paving					
Item #	Item	Qty	Unit	Unit Cost	Total
1	Remove and Replace Asphalt (6" HMA)	40	SY	\$70.00	\$2,800.00
				Total:	\$2,800.00

Concrete					
Item #	Item	Qty	Unit	Unit Cost	Total
1	6" Concrete Sidewalk - Removal and Replacement	7	SY	\$120.00	\$840.00
2	Curb and gutter replacement	12	LF	\$40.00	\$480.00
				Total:	\$480.00

Water Line					
Item #	Item	Qty	Unit	Unit Cost	Total
1	3/4" Type K Copper Service w/ Pit (32.51 LF)	1	EA	\$3,500.00	\$3,500.00
2	Flow Fill for Waterline in Spruce Street	6	CY	\$170.00	\$1,020.00
				Total:	\$4,520.00

Sanitary Sewer					
Item #	Item	Qty	Unit	Unit Cost	Total
1	4" SDR-35 PVC Sanitary Service (123.3 LF)	1	EA	\$7,500.00	\$7,500.00
2	Flow Fill for Sanitary Sewer in Mckinley Ave	33	CY	\$170.00	\$5,610.00
3	Camera Existing Service (71.3 LF)	71.3	LF	\$5.01	\$357.00
				Total:	\$13,467.00

Combined Total: \$21,267.00
Contingency 15% \$3,190.05
Total \$24,457.05

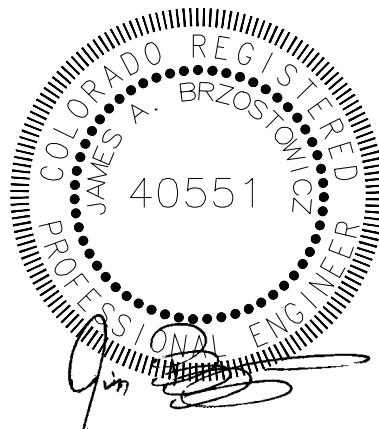


EXHIBIT B
IRREVOCABLE LETTER OF CREDIT
STANDARD FORM

[date of Letter of Credit - the date the credit is opened]

City of Louisville
749 Main Street
Louisville, CO 80027

Attn: Director of Planning:

We hereby issue our Irrevocable Letter of Credit Number in your favor for the account of _____, in an amount not to exceed _____ effective immediately and expiring at our counters on (except November-February) or any extended expiration date as indicated below.

Funds under this Letter of Credit are available for payment by sight, by presentation of your sight draft(s) substantially in the form of Exhibit "A" accompanied by your written certificate substantially in the form of Exhibit "B".

Partial and multiple drawings are permitted.

This Letter of Credit will automatically be extended for a period of sixty (60) days from the present or any future expiration date unless we notify you in writing by certified mail thirty (30) days prior to any expiration date that we elect not to renew this Letter of Credit for any additional period.

We hereby engage with you that all drawings in conformity with terms and conditions of the Letter of Credit will be duly honored upon presentation to our counters on or before any expiration date as indicated above.

All bank charges, including any advising bank charges, are to be charged to (account party's name).

If a demand for payment by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, the bank shall give the City written notice, and send copy of this notice by FAX to the City of Louisville (Attn: City Manager), within three business days of presentment of any nonconforming draft that the purported negotiation was not effective in accordance with the terms and conditions of the Letter of Credit, stating with particularity the reasons therefore. The bank will hold all documents at the bank for the City, or send them to the City, at the City's option. Any such nonconforming demand may be corrected and resubmitted within three (3) business days of receipt of the bank's mailed notice

of nonconformity. A resubmittal will be deemed to have been presented to the bank on the date of the original demand for payment.

We are a current member of (FDIC) (FSLIC).

This credit is subject to the Uniform Customs and Practice for Documentary Credits, 1993 revision, ICC publication number 500.

This Irrevocable Letter of Credit sets forth in full the terms of our undertaking and such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which the Irrevocable Letter of Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

Sincerely,

(Bank)

EXHIBIT A TO LETTER OF CREDIT
DRAFT FOR PAYMENT DRAWN UNDER

IRREVOCABLE LETTER OF CREDIT NO. _____

DATE: _____, 20__.

PAY TO: the account of the City of Louisville, Colorado, Account

No. _____, at _____,

Colorado, THE SUM OF _____ DOLLARS

(\$ _____).

CITY OF LOUISVILLE, COLORADO

By: _____
City Manager

EXHIBIT B TO LETTER OF CREDIT

To: _____

CERTIFICATE FOR PAYMENT

The undersigned, a duly appointed officer of the City of Louisville, Colorado (the "City"), hereby certifies to _____ (the "Bank"), with reference to the Bank's Irrevocable Letter of Credit No. _____ (the "Letter of Credit"), issued by the Bank in favor of the City, that:

- (1) The undersigned is the City Manager for the City.
- (2) The City is authorized to make a drawing under the Letter of Credit.
- (3) The amount which is due and payable from the Letter of Credit is \$ _____, and the amount of the sight draft accompanying this certificate does not exceed such amount.

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate as of the _____ day of _____, 20__.

CITY OF LOUISVILLE, COLORADO

By: _____
City Manager

April 13, 2023

Lisa Ritchie, Principal Planner
Planning & Building Safety
City of Louisville
749 Main Street
Louisville, CO 80027

**RE: 301 Spruce Street Minor Subdivision Plat
2nd Submittal Documents**

Ms. Ritchie,

After a pause in work and progress following the Marshall Fire, we are now ready to resume the requested applications. I have reviewed the referrals and staff review comments. The attached documents have been revised accordingly.

There were no significant changes or approach with either application. The following is a brief outline and summary of the 2nd submittal documents:

Planning Comments

1. Official replat is provided.
2. A separate Sketch Site Plan has been developed to provide additional/supplemental information. This plan also illustrates a concept plan for future development.
3. Setbacks to the existing house are indicated on the Sketch Site Plan
4. A density table is included on the Sketch Site Plan. Please note that subdividing the lot into two parcels will result in a reduction of allowed Lot Coverage and FAR (combined) than the single existing parcel if landmarked.

Public Works Comments

1. Official replat is provided.
2. An Improvement Survey Plat (ISP) is provided in lieu of an ALTA Survey. The ISP contains all requested and required information.
3. Proposed utilities, drainage and notes are included on the Site Sketch Plan.
4. A concept location for future garage is shown on the Site Sketch Plan.
5. The existing sewer service to the current residence was replaced in its entirety in recent within the last few years. Location is indicated on the Site Sketch Plan
6. Other comments are acknowledged.

Xcel Comments

The applicant has been in direct communication with Bill Schulz and Donna George of PSCo. via email. They have reviewed the current plan and find it acceptable.

Please contact me if you have any questions or require any additional information.

Sincerely,

A handwritten signature in blue ink that reads "Peter Stewart". The signature is written in a cursive style. To the right of the signature, there is a faint, light blue watermark that says "type text here".

Peter Stewart, Project Representative

cc: Susannah Pels & Dennis Tenney
Amelia Brackett Hogsta, Historic Preservation Planner

LOT DATA

ZONE DISTRICT: Residential Low-Density (RL)
 (Old Town Overlay)

WAIVER REQUEST FOR LOT 2:
 1. Lot Area of 6,755 SF where 7,000 is required
 2. Lot Frontage of 54-feet where 70-feet is required

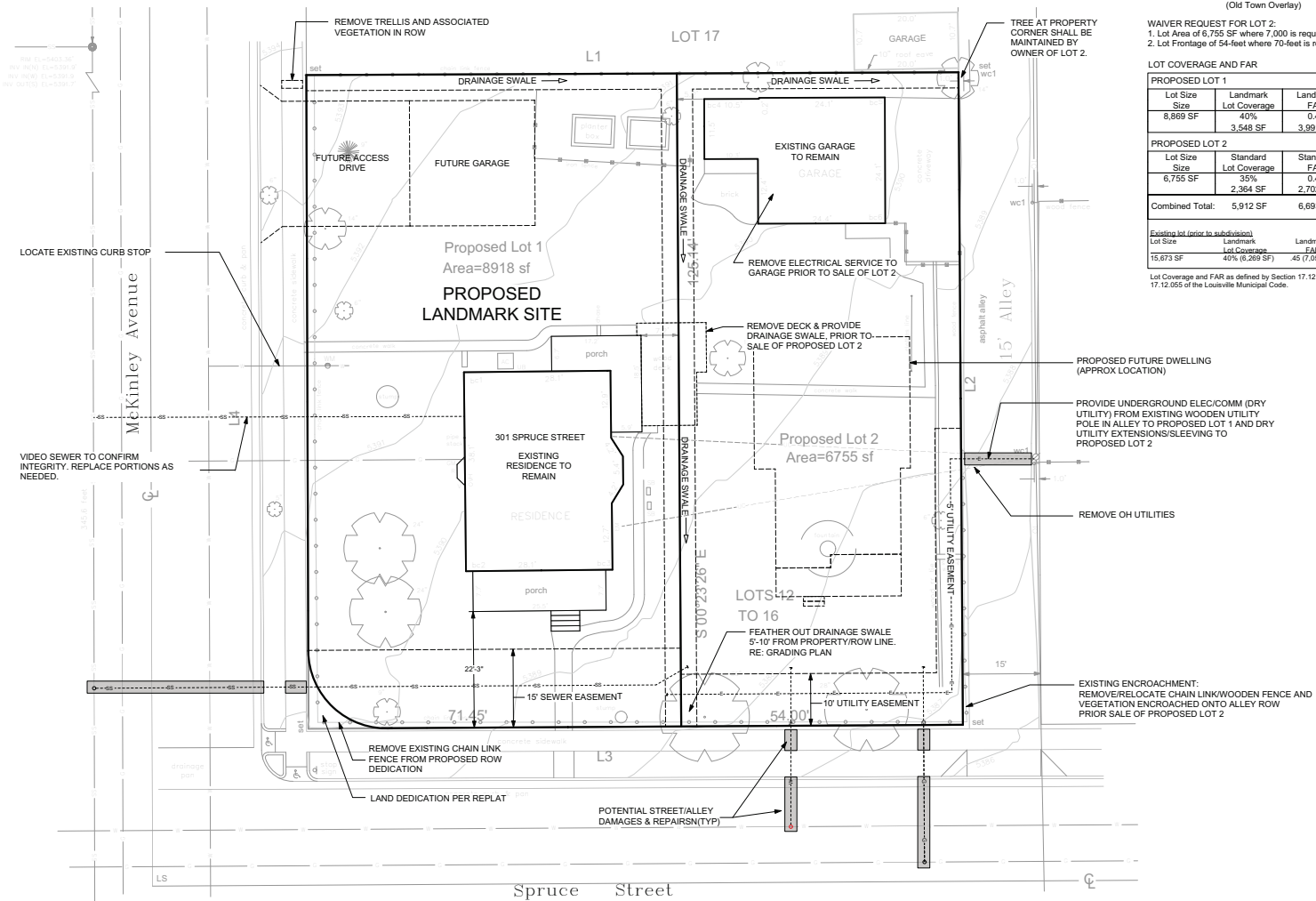
LOT COVERAGE AND FAR

PROPOSED LOT 1			
Lot Size	Landmark	Landmark	
		Lot Coverage	FAR
8,869 SF	40%	0.45	3,991 SF
PROPOSED LOT 2			
Lot Size	Standard	Standard	
		Lot Coverage	FAR
6,755 SF	35%	0.40	2,702 SF
Combined Total:		5,912 SF	6,693 SF

Existing lot (prior to subdivision)

Lot Size	Landmark	Landmark
		FAR
15,873 SF	40% (6,269 SF)	45 (7,253 SF)

Lot Coverage and FAR as defined by Section 17.12.050 and 17.12.055 of the Louisville Municipal Code.



SITE SKETCH PLAN
 1" = 10'-0"

This Sketch Plan Exhibit is provided for illustrative purposes only. Final development plan or building permit plans may vary and will be submitted prior to building construction as required by the City of Louisville.

**PROPOSED MINOR SUBDIVISION
 301 SPRUCE STREET LOUISVILLE**
 LOTS 12-16 IN BLOCK 5, LOUISVILLE HEIGHTS

Issue:

Date	Comments	By
04/13/23	Submittal-2	PS
06/19/23	Submittal-3	PS

Historic Preservation Commission Meeting Minutes

**Monday, June 26, 2023
City Hall, Spruce Conference Room
749 Main Street
6:30 PM**

1. Call to Order – 6:30 PM

2. Roll Call was taken and the following members were present:

Commission Members Present: Lynda Haley, Chair
Christine Burg, Vice Chair
Keith Keller
Gary Dunlap
Josh Anderson
Marty Beauchamp
Randy Dalia, virtual

Commission Members Absent: N/A

Staff Members Present: Amelia Brackett Hogstad, HPC Planner
Claire Kreycik, Secretary

3. Approval of Agenda - The agenda is approved by all members.

4. Approval of May 15, 2023 Meeting Minutes - The minutes from the May meeting are approved as written by all members present.

5. Public Comments on Items Not on the Agenda – None is heard.

6. Landmark and Probable Cause Public Hearing

301 Spruce Street

Brackett Hogstad introduced her presentation by showing the property location and discussing past historic conditions.

Staff Findings:

- The house was built in 1908, and is connected to the Thompson family and mining history of Louisville. Additionally, there are limited connections to Charles Wolfer.
- The property is on the National Register of Historic Places.

- The house is of a larger size and has vernacular references to historic architectural styles.
- This proposal meets all four landmark review criteria: 50 years or older, has social significance, has architectural significance, and has physical integrity.
- The property is going through a concurrent subdivision review, as the applicant is planning on building on the other half of the lot (contingent on keeping the historic building).

Staff Recommendation - Landmark:

Staff recommends approval of Resolution 5, Series 2023, recommending approval of 301 Spruce Street as a Historic Landmark, with a condition on the name of the landmark.

Staff Recommendation – Probable Cause:

Staff recommends that the HPC make a finding of Probable Cause, making the property at 301 Spruce Street eligible for a Historic Structure Assessment grant not to exceed \$4,000 to reimburse the costs of the HSA.

Commissioner Questions of Staff:

Dunlap asked for a recommendation on the naming of the landmark, and if this property has already been found for probable cause.

Brackett Hogstad recommended naming it the Thompson House or the Thompson-Wolfer House. She also mentioned that the HPC has already made a finding for Probable Cause, but the applicant is now different (though the property owner is same).

Applicant Presentation:

N/A

Discussion by Commissioners:

Related to the Probable Cause application, **Beauchamp** mentioned that this is one of his favorite properties in Old Town.

Dunlap said that the case is bolstered by the fact that the house is on the National Register of Historic Places.

Burg said that this is both a reasonable request and a strong application.

Haley commented on the strength of the application.

When asked about the Landmark application, **Brackett Hogstad** suggested that this provides more formal protections for the property. **Keller** wanted to defer to the applicant on naming the house and **Brackett Hogstad** said she will check with the applicant.

Keller moves and **Anderson** seconds a motion to approve probable cause for 301 Spruce Street. Motion passes unanimously by a roll call vote.

Dunlap moves **Anderson** second a motion to approve the landmark application, with a condition related to naming the property “Thompson House” or “Thompson-Wolfer House.” Motion passes unanimously by a roll call vote.

7. Probable Cause Public Hearing

917 Rex Street

Brackett Hogstad presented the property location, sharing photos of conditions over time, and the Probable Cause criteria. She indicated that the applicant is requesting a grant for up to \$4,000 to be used toward an assessment.

Staff Recommendation:

Staff recommends that the HPC make a finding of Probable Cause, making the property at 917 Rex Street eligible for a Historic Structure Assessment grant not to exceed \$4,000 to reimburse the costs of the HSA.

Commissioner Questions of Staff:

None is heard.

Applicant Presentation:

The applicant, **Talbot Wilt**, discussed how they have gotten excited about historic preservation, after going through the process previously with another property. He mentioned that the house is currently in disrepair, but he wants to take on the project to preserve the historic home. Andy Johnson (DAJ Design), provided a few more comments on the context of the application noting that the house is largely original and mostly unmodified, there is no asbestos, and it is an original Warembourg family house.

Public Comment:

None is heard.

Discussion by Commissioners:

Haley said the application clearly meets HPC criteria, age, strong social history, and architectural integrity.

Burg was glad to see this property come to HPC because the Rex Street area has a lot of potential, with several other historic homes still standing. She said it will help preserve the neighborhood character.

Dunlap brought up the French origins of the Warembourg name and there was an ensuing discussion about the history of the family.

Beauchamp moves and **Dunlap** seconds a motion to approve probable cause for 917 Rex Street. Motion passes unanimously by a roll call vote.

8. Probable Cause Public Hearing

816 McKinley

Brackett Hogstad presented on 816 McKinley showing the property location and discussing past historic conditions. She noted that the property was already landmarked (in 2010) and received a grant, but not a Historic Structure Assessment grant. She suggested that based on the language in Resolution No. 17, Series 2019, the applicants were eligible for an HSA assessment grant. In addition, philosophically, the HPC decided in 2019 that if a property was previously landmarked or received a grant, there is still a good benefit to the City that the assessment be done.

Staff Recommendation:

Staff recommends that the HPC make a finding of Probable Cause, making the property at 816 McKinley eligible for a Historic Structure Assessment grant not to exceed \$4,000 to reimburse the costs of the HSA.

Commissioner Questions of Staff:

Dunlap asked for clarification about whether an HSA was previously done.

Brackett Hogstad stated that an HSA had not been completed.

Applicant Presentation:

Andy Johnson, DAJ Design, made comments representing the applicants. He mentioned an interesting social history and suggested there seems to be some contradictory information that the HSA might help elucidate.

Johnson said that the property associated with 301 Spruce. In the 1930s, the lots were sold separately and the house was “moved.” Notably, stone rubble debris indicates that the home is likely older than 1930s. It may have been built after 301 Spruce, Johnson believes it did not move, nor does he believe that it was originally a carriage house (he is guessing it was a guest house).

Furthermore, he noted that the house is not “Greek revival” architecture, and it seems to be originally two stories, with two chimneys (one has since been removed) and the interior has been redone. The fact that the home was built with two chimneys bolsters the case that this was not a carriage home.

Johnson noted that 612 Grant was approved for Probable Cause, post-landmarking, for a very similar situation. Also, there are two chimneys – one removed, but this strengthens his case for it not being a carriage house.

Kevin and Jenny Eld, applicants, said they are new Louisville residents and were drawn to Old Town due to the rich history. Recently a neighbor gave them an album of photos associated with the house.

Commissioner Questions of Applicant:

Beauchamp asked where the house moving story came from; to which Johnson replied from oral history. There is no compelling evidence (i.e. photos of the move), but there is also no refutation.

Beauchamp was interested in a finding of probable cause to discover the real story of the house.

Public Comment:

None is heard.

Discussion by Commissioners:

Dunlap asked if the HSA was ever done.

Haley explained that previous process was landmarking without HSA.

Dunlap commented that we always learn some history from these assessments, and the grant will help to protect the home for another 100 years.

Haley said that this is a good example of a home that would greatly benefit from the HSA process, and that it is a win-win for the City and applicant.

Dalia agreed with the discussion – on the merits of the application and on the letter of the law – and stated his full support for the application.

Burg moves and **Keller** seconds a motion to approve probable cause for 816 McKinley. Motion passes unanimously by a roll call vote.

9. PaleoWest Presentation: “100 Architectural Inventories for the City of Louisville”, Chris Baker, PhD

Brackett Hogstad introduced the project mentioning that this report provides an in-depth architectural survey for 100 properties in Louisville. She mentioned that the report is available on the Historical Context webpage in three subparts due to the size of the file. (<https://www.louisvilleco.gov/local-government/government/departments/planning/historic-preservation/historic-context-reports>)

Baker described that this survey began in 2019, was put on hold during the pandemic, and was finalized this year. He split the report into two phases.

The first phase included approximately 37 residential properties, 9 agricultural properties, and 2 commercial properties downtown. Of Phase 1, 6 properties were individually eligible for National Historic Register designation, and 13 were eligible for local landmark status.

In Phase 2, PaleoWest investigated approximately 51 residential buildings across the City, and one historic ditch. Within this Phase, 6 buildings were individual eligible NRHP, 1 building was identified as particularly interesting, (but it had been demolished).

This property, 1133 Main, is a good microcosm of Louisville history, as it was a

home purchased by coal miners and held in the same family for 100 years. The house had wine casks, landscaping with grapevines and original gardens, and an incinerator in the alley.

In total, 40 of 51 met local landmarking criteria, 28 would contribute to a historic district, and 6 were not significant on these categories. There is potential for historic districts in several neighborhoods and Old Town.

Baker said with these results surveys could be done for historic districts, a storytelling/outreach initiative could be done. PaleoWest has consulted on an augmented reality project.

Commissioner Questions:

Dunlap asked what is the point of this summary survey on top of other efforts?

Baker replied that this is the end point of a four-year project, which built off the historic context reports from the previous PaleoWest consultant. This survey is the application of the historic context report to 100 properties. **Brackett Hogstad** gave more details about the summary report findings.

Dunlap asked if PaleoWest had recommendations. **Baker** says yes, they have identified properties for potential landmarking, and also recommend doing surveys for historic districts.

Brackett Hogstad asked about outreach recommendations.

Baker said that we should find ways to link the Museum with the properties. There are opportunities to link neighborhoods to history, to maintain and preserve the City's historic roots, and to conduct outreach to the community.

Dunlap asked about PaleoWest's experience with augmented reality (AR), to which **Baker** said they have done an AR project in Montgomery, Alabama.

Public Comment:

Andy Johnson, resident, asked if these properties referenced meet local or national landmark criteria. **Baker** said local and not national. He clarified that "Landmark eligible" in the report means local.

Johnson asked if PaleoWest is open to revisions. **Baker** said yes.

Johnson mentioned 1133 Main, saying he almost did an HSA on it. It is similar to the property on Main and South: same family, same stucco, built in the 1930s or 1940s. It used to be an L-shaped house.

Johnson mentioned that the PaleoWest report does not list 917 Rex as locally eligible, but it should be.

Discussion by Commissioners:

Haley deferred to staff about the method of updating the report.

Brackett Hogstad said that this is a good topic for future discussion, and that an addendum could be appropriate.

Dunlap noted an interest in making the document more of a living document, keeping a report current as more findings become available. He thought it would be interesting to have a database registry that is linked to the context reports, etc.

10. Work Plan & Subcommittee Updates

No updates this month.

11. Items from Staff

Brackett Hogstad described the past month's Alteration Certificates and demolition reviews at subcommittee.

Brackett Hogstad noted that staff was at 50% capacity in the Planning Division. She is focusing on the user experiences surveys, and taking a pause on social media and coloring book projects.

12. Updates from Commission Members

Dunlap mentioned that there is a historic plaques (Acme Mine) which has sun damage and is unreadable. He asked what the process is to fix this. **Haley** will look into it.

The meeting adjourned at 7:48.

ITEM: 301 Spruce Street Landmark and Probable Cause

OWNER & APPLICANT: Susannah Pels & Dennis Tenney
556 Grant Avenue
Louisville, Colorado 80027

PROJECT INFORMATION:

ADDRESS: 301 Spruce Street
LEGAL DESCRIPTION: Lots 12-16, Block 5, Louisville Heights
DATE OF CONSTRUCTION: 1908

REQUEST: A request to Landmark 301 Spruce Street and to find Probable Cause.

VICINITY MAP:



SUMMARY:

The applicant is requesting approval of a Landmark for the property at 301 Spruce Street. This property is also undergoing an application for a Minor Subdivision to divide the property east/west in such a way to preserve the home on the southwest portion of the current property. If the Minor Subdivision were to be approved, the property at 301 Spruce Street would comprise roughly half of the current lot, keeping the house, and the new lot on the east half of the property would not be landmarked.

This application includes a request to find Probable Cause. Usually, findings of Probable Cause are made before Landmark requests, and complete historic structure assessments are required prior to Landmarking. In this case, there was a finding of Probable Cause, but the applicant has changed. This request for Probable Cause would grant access to grant funds for an assessment in tandem with the Landmark. Given that the criteria for reviewing a request to find Probable

Cause is embedded in the criteria for reviewing Landmark requests, staff evaluated both requests using the Landmark criteria.

Staff recommends approval of the Landmark and Probable Cause requests.

HISTORICAL BACKGROUND:

Information 2021 Probable Cause Staff Report; Bridget Bacon, Louisville Historical Museum; and state form 5BL.856

The Louisville Heights Addition in which this house sits was first developed in 1904 by the Colorado Mortgage & Investment Co. Ltd. In 1905, the company conveyed many of the lots in the Louisville Heights subdivision to Louisville residents John Affolter and Dr. Charles Wolfer.

The house, originally built by John and Maddie Robinson, was at one time owned by Dr. C.F. Wolfer, one of the early civic and business leaders in Louisville. It is not known if Wolfer made his residence at this address, however.

Wolfer, in addition to being one of the town's early physicians, was also a prominent real estate developer, which included the purchase and subsequent sale of a lot on Main Street to the National Fuel Company where they chose to locate their company store. Wolfer was also active as a developer in the residential areas as well. His only public office was as town postmaster during the 1890s, although he was an important political figure in turn-of-century local politics.

In a community consisting primarily of one and one and one-half story modest frame houses, this house remains as one of Louisville's largest historic residences.

Some further general contextual information on Louisville development from the National Register of Historic Places Inventory Nomination Form:

Real estate speculators and developers, not company officials, decided when and where to develop new additions. While the developers did stay with the grid pattern, they did so not by corporate edict, but because the grid was the accepted standard of the period. The final major difference between Louisville and many other Colorado coal mining towns came from the independent nature of local commercial development. Individual entrepreneurs and local market demand dictated what goods and services were available and at what prices. Even though the national Fuel Company owned a story in town, it did not have a monopoly on the market.



301 Spruce, 1985 photos. Older photos are included in the Social History.



Current streetview.

ARCHITECTURAL INTEGRITY:

Some sources have noted the style of the property at 301 Spruce to be of a Folk Victorian vernacular. This house is also very similar to the design and style of 823 Garfield, which has been categorized as an Edwardian vernacular. This property also has stylistic elements that are indicative of the Colonial Revival style, particularly in its full-width front porch adorned with a pedimented portico. The dentils on the pediment along with the Ionic detailed porch columns are highly common in the Colonial Revival style. Its asymmetrical front façade and the decorative shingling in the gables, along with the off-set front picture window and the side oriel window are indicative of the Folk Victorian/Queen Anne style.

The 1985 state inventory form states the following as the architectural description: "Vernacular wood frame 2 ½ story house with multi-gabled roof. Most distinguishing characteristics include the Colonial Revival front porch extending over full width of first floor. Porch has scalloped trim in pediment, modillions in cornice, Ionic column supports and shingles railing. Triple window in front gable, front entrance and one window at first level. Significant historic interior features include stairway, front door, door & window frames, and an elaborately trimmed wood divider separating the hallway from the front parlor."

HISTORICAL SIGNIFICANCE ANALYSIS AND CRITERIA FOR LISTING AS LOCAL LANDMARK:

In order to receive a City Landmark designation, landmarks must be at least 50 years old and meet one or more of the criteria for architectural, social or geographic/environmental significance as described in Louisville Municipal Code (LMC) Section 15.36.050(A). Staff analysis of the criteria is as follows:

Sec. 15.36.050. - Criteria for Designation

Criteria	Meets Criteria?	Evaluation
<p>A. <i>Landmarks must be at least 50 years old and meet one or more of the criteria for architectural, social or geographic/environmental significance as described in this chapter.</i></p>	<p>Yes</p>	<p>301 Spruce Street was constructed c. 1908 making it approximately 115 years old.</p>
<p>1. a. <i>Architectural.</i></p> <ol style="list-style-type: none"> 1) <i>Exemplifies specific elements of an architectural style or period.</i> 2) <i>Example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally.</i> 3) <i>Demonstrates superior craftsmanship or high artistic value.</i> 4) <i>Represents an innovation in construction, materials or design.</i> 5) <i>Style particularly associated with the Louisville area.</i> 6) <i>Represents a built environment of a group of people in an era of history that is culturally significant to Louisville.</i> 7) <i>Pattern or grouping of elements representing at least one of the above criteria.</i> 8) <i>Significant historic remodel.</i> 	<p>Yes</p>	<p>301 Spruce is an excellent example of vernacular stylings at the turn of the 19th and beginning of the 20th century. Its character defining features have remained impressively intact.</p>
<p>1. b. <i>Social.</i></p> <ol style="list-style-type: none"> 1) <i>Site of historic event that had an effect upon society.</i> 2) <i>Exemplifies cultural, political, economic or social heritage of the community.</i> 3) <i>Association with a notable person or the work of a notable person.</i> 	<p>Yes</p>	<p>The house is listed on the National Register of Historic Places. In the State of Colorado, any building on the NRHP is automatically placed on the State Register of Historic Places. It also has direct ties to Charles Wolfer, a prominent figure in both civic and business circles in Louisville's history.</p>
<p>1. c. <i>Geographic/environmental.</i></p>	<p>Yes</p>	<p>The historic location of the house helps to create a sense of</p>

<p>1) Enhances sense of identity of the community.</p> <p>2) <i>An established and familiar natural setting or visual feature that is culturally significant to the history of Louisville.</i></p>		neighborhood identity.
<p>3. <i>All properties will be evaluated for physical integrity and shall meet one or more of the following criteria:</i></p> <p>a. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state, or nation.</p> <p><i>b. Retains original design features, materials and/or character.</i></p> <p>c. Remains in its original location, has the same historic context after having been moved, or was moved more than 50 years ago.</p> <p><i>d. Has been accurately reconstructed or restored based on historic documentation.</i></p>	Yes	The house is located in the Louisville Heights Addition which was first platted in 1904. It appears to retain all seven aspects of integrity: location, setting, design, materials, workmanship, feeling, and association.

ASSESSMENTS REQUIRED FOR LANDMARKING:

This property does not have a completed historic structure assessment. HPC made a finding of probable cause in November 2021 with a previous applicant, but that assessment was not completed.

Resolution No. 17, Series 2019, Section 7, established a requirement for an assessment prior to Landmarking:

Prior to any structure being declared a landmark ... the property will undergo a building assessment to develop a preservation plan to establish priorities for the maintenance of the property.

However, the Commission has the authority to waive that requirement based on a finding of good cause:

An exception to the requirement for the building assessment prior to landmarking may be granted by the Commission for good cause. (Sec. 7.a).

Staff finds that the evident physical integrity of the principal structure and the amount of documentation already available is sufficient to provide an adequate review of the Landmark request without an assessment. Furthermore, the applicant is currently pursuing an assessment and the previous probable cause approval allows this current applicant to access the funds for the assessment.

FISCAL IMPACT:

Approval of the Landmark includes a \$5,000 bonus and a finding of Probable Cause includes a grant of up to \$4,000, making the total fiscal impact of this request \$9,000.

STAFF RECOMMENDATION:

Staff recommends that the structure be landmarked by approving Resolution No. 5, Series 2023. Staff also recommends that the house be named for the Wolfer association.

Staff also recommends a finding of Probable Cause.

ATTACHMENTS:

1. Resolution No. 5, Series 2023 (Landmark)
2. Application
3. Social History Report
4. State Inventory Form

- ITEM:** LMCA-000471-2023 – Zoning Ordinance Amendment
Establishing a Concept Plan Review Process
- PLANNER:** Rob Zuccaro, AICP, Community Development Director
- REQUEST:** Approval of Resolution 16, Series 2023 recommending to the City Council approval of an ordinance amending Title 17 of the Louisville Municipal Code establishing a Concept Plan Review process

SUMMARY:

Attached for recommendation to the City Council is a draft ordinance to create a Concept Plan Review process as an optional pre-cursor to submitting certain zoning or comprehensive plan amendment applications.

BACKGROUND:

The 2023 City Council work plan includes consideration of a Concept Plan Review ordinance. A Concept Plan Review, sometimes referred to as a Sketch Plan, is a preliminary review process where an applicant can provide a concept plan and obtain non-binding feedback from City Council on more complex proposals prior to developing a full application. The process is intended to help an applicant identify early in the review process if there are any particular areas of interest or areas of concern from City Council or the community.

PROPOSAL:

The proposed ordinance outlines a process where an applicant can submit concept-level plans to the City Council for review prior to making a final land use application.

The primary aspects of the ordinance include the following:

- City Council would not be required to provide any specific feedback, comments would be non-binding, and consensus votes would not be expected.
- Public notice would be required and public comment taken.
- Applications eligible for review would include:
 - o General Development Plans (GDPs)
 - o Planned Unit Developments (PUDs) with multiple lots or requiring a height or density waivers
 - o Special Review Uses (SRUs)
 - o Comprehensive Plan amendments specific to a certain property
 - o Zoning map or text amendments specific to a certain property
- Submittal materials would include, as applicable:
 - o Narrative of proposal
 - o Vicinity map
 - o Concept site plan
 - o Architectural character sketches
- Staff would not review the plans for policy or code compliance but could provide guidance on plans, policies and ordinance relevant to the review.

- Council's review would focus on the following:
 - o Additional supporting documentation and studies that may be needed for the final application
 - o Policy considerations important to the review, focusing on adopted city plans and policies
 - o Characteristics of the site and surrounding area, potential off-site impacts, and opportunities for coordinated developing with surrounding properties
 - o Consideration of view corridors and natural features
 - o Potential of any waivers to meet criteria and applicable polices
 - o Opportunities and constraints specific to the transportation system
 - o Guidance related to appropriate range of land uses, densities, and housing types.

Upon submittal of a complete application, the planning staff would review the materials for completeness. Once staff deems the application complete, the review would be scheduled on the next available City Council regular meeting agenda. Staff expects that the process would take between one and two months to complete.

ANALYSIS:

The Concept Plan process would be an optional step in the land use review process. A final land use application typically takes between six and nine months to complete the full review process. Therefore, the Concept Plan Review provides an expedited venue for a potential applicant to get initial feedback from City Council prior to completing their final land use application.

The feedback would help inform staff, the applicant and Planning Commission on City Council member's policy interpretation and what plans, policies and ordinances City Council members may feel need additional study or consideration. The Concept Plan Review also provide a venue to begin discussion on important site planning elements, including unique considerations or characteristics on the site or in the vicinity and how to coordinate development with surrounding neighborhoods.

It is important that a concept plan review process clearly sets expectations that no final or binding decisions may be made. No resolutions or votes are made, with the formal record of the review being in the meeting minutes. The concept plan review should not be used to develop city policy, identify all relevant issues or considerations or bypass public input and transparency that are part of the final land use application and review processes.

Other local communities utilize optional or mandatory concept plan review processes as part of their development review process. The ordinances from Arvada, Boulder, Broomfield, Ft. Collins, and Superior are linked in the table below along with a summary of some of the main elements of those processes.

<i>Municipality</i>	<i>Eligible Case Types</i>	<i>Required or Optional</i>	<i>Planning Commission/City Council</i>	<i>Public Notice</i>
<u>Arvada</u>	Planned Unit Developments	Optional	Both	Not Required
<u>Broomfield</u>	Planned Unit Developments	Required	Both	Required
<u>Boulder</u>	Any application that requires Site Review. Site Review threshold differs by zone district, development intensity, land area and building areas	Required	Planning Board, may be called up by City Council	Required
<u>Ft. Collins</u>	Complex application that may require annexation or comprehensive plan amendment. Planned Unit Developments are not eligible. City Manager must determine a potential community wide impact	Optional	City Council	Required
<u>Superior</u>	Subdivision, Site Development Plans or Planned Development	Optional	Town Board	Required

PUBLIC COMMENTS:

No public comments have been submitted.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 16, Series 2023 recommending approval of an ordinance amending Title 17 of the Louisville Municipal Code regarding the establishment of a Concept Plan review process.

ATTACHMENTS:

1. Resolution 16, Series 2023
2. Draft Concept Plan Review Ordinance

**RESOLUTION NO. 16
SERIES 2023**

**A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING
TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE ESTABLISHING A CONCEPT
PLAN REVIEW PROCESS**

WHEREAS, the City of Louisville is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter; and

WHEREAS, City of Louisville municipal code Title 17, Zoning, establishes development review application processes for the development of land within the City; and

WHEREAS, the City of Louisville desires to create a new process for Concept Plan Reviews to provide an optional review process as a precursor to submitting and final development review application; and

WHEREAS, the Concept Plan Review is an expedited review process intended to provide applicants initial feedback from City Council to help inform the final application and identify potential area of interest and areas of concern related to the potential application.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Louisville, Colorado does hereby recommend approval of an ordinance amending Title 17 of the Louisville Municipal Code establishing a Concept Plan Review process

PASSED AND ADOPTED this 10th day of August, 2023.

By: _____
Steve Brauneis, Chair
Planning Commission

Attest: _____
Jeffrey Moline, Secretary
Planning Commission

**ORDINANCE NO. XXXX
SERIES 2023**

**AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE BY
CREATING A NEW SECTION 17.16.350 ESTABLISHING PROCEDURES AND
CRITERIA FOR A CONCEPT PLAN REVIEW**

WHEREAS, the City of Louisville (the “City”), is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City of Louisville Home Rule Charter (the “City Charter”); and

WHEREAS, the City desires to create a Concept Plan land use review process to allow the City Council the opportunity to provide nonbinding comments prior to submittal of a preliminary or final land use application; and

WHEREAS, such Concept Plan review process is limited to certain land use application types that may have complexities that would benefit from the early identification of potential opportunities, constraints, and policy considerations; and

WHEREAS, such Concept Plan review process will help identify whether a proposal may address certain adopted plans, policies and ordinances related to a potential application; and

WHEREAS, after a duly noticed public hearing held _____, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Report dated _____, the Louisville Planning Commission has recommended the City Council adopt the amendments to the LMC set forth in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Louisville Municipal Code Chapter 17.16 – General Regulations is hereby amended with the addition of a new Section 17.16.340 to read as follows:

Section 17.16.350. – Concept Plan Review

- A. Purpose. The purpose of the concept plan review is to provide an opportunity for an applicant to solicit comments from the City Council in the early stages of the development review process on relevant plans, policies and ordinances related to the proposal. Comments on a concept plan are not binding and are meant to inform any subsequent land use application. A concept plan review shall not

relieve an applicant of the burden to seek and obtain all necessary approvals under the Louisville municipal code.

- B. Projects eligible for concept plan review. A concept plan review is an optional review step prior to submitting an application for a preliminary or final land use application. The following application types shall be eligible for concept plan review.
1. General development plans pursuant to Chapter 17.72.
 2. Planned unit developments pursuant to Chapter 17.28 that cover multiple lots or that would require a waiver to a height or density standard.
 3. Special review use pursuant to Chapter 17.40.
 4. Comprehensive development plan amendments specific to a certain property, pursuant to Chapter 17.64 not initiated by the city or city staff.
 5. Zoning map, or text amendments specific to a certain property pursuant to Chapter 17.44 not initiated by the city or city staff.
- C. Application requirements. A concept plan application should provide sufficient and accurate information used to discuss applicable plans, policies and ordinances. An application shall be filed on a form provided by the city and shall include the following:
1. Written consent of the owners of all property included in the development.
 2. A written description of the proposal, including how the proposed development meets applicable plans, policies and ordinances, and addresses the following as applicable:
 - i. Description of any waivers sought to adopted development standards.
 - ii. How the development meets applicable public land dedication requirements.
 - iii. Proposed land uses, residential housing type mix, sizes, anticipated sales prices, percentage and type of affordable units.
 3. A vicinity map, drawn to scale, showing the site and surrounding area not less than a 300-foot radius around the site, including surrounding zoning, buildings, parking areas, streets, sidewalks, trails and other transportation connections, parks, public areas, and open spaces.
 4. A scaled and dimensioned schematic site plan that includes the following as applicable:
 - i. Property boundaries.
 - ii. Access points and circulation patterns for all modes of transportation, including connections to surrounding transportation infrastructure.
 - iii. Proposed land uses and approximate location of buildings, including anticipated number of units or building area.
 - iv. Location of major site elements such as natural features, watercourses, wetlands, trees, slopes, and floodplains.

- v. Site data such as building and landscape coverage, residential density, parking ratios, and building size.
 - 5. Architectural character sketches showing building elevations and materials, as relevant.
 - 6. Any additional information determined by the City Manager as necessary to assess the proposal against applicable plans, policies and ordinances.
- D. Review process. Following the acceptance of and determination by the city of a complete application for concept plan review, the City Manager shall schedule the review at a regular City Council meeting. Public notice shall be provided as set forth in Section 17.04.070. Staff may provide a staff report noting applicable plans, policies and ordinances to inform the City Council review.
- E. Guidelines for review and comment. The following will be used to guide the City Council's discussion regarding the concept plan review. Meeting minutes summarizing the discussion and comments will be provided to the applicant, but no vote shall be taken by the City Council regarding the application. The City Council is not required to provide any specific feedback regarding an application and a consensus or majority vote on discussion items shall not be required. All comments provided by the City Council are advisory in nature and shall not be binding on the City Council. Issues not identified below may be discussed if the City Council finds that such issues relate to a relevant plan, policy, or ordinance.
- 1. Applicable review criteria, procedures, supporting documentation and submission requirements relevant to the land use application.
 - 2. Policy considerations, including guidance on how a project would conform to plans and policies, including the comprehensive plan, transportation master plan, and any other adopted plan or policy relevant to the proposal.
 - 3. Characteristics of the site or neighborhood that would influence the plan development, such as potential offsite impacts, opportunities to enhance or coordinate development with surrounding properties, and opportunities to preserve view corridors and other natural features.
 - 4. Potential of any waivers to achieve applicable criteria or policy goals that would otherwise be unachievable by adherence to current standards.
 - 5. Opportunities and constraints related to the transportation system, including access, linkages, and transportation system capacity.
 - 6. The need for additional studies or analysis related to the proposal.
 - 7. Any other guidance related to appropriate or desired range of land uses, densities, and housing types.

Section 2. Louisville Municipal Code Section 17.04.070, Table 1, Public Notice Requirement is hereby amended by adding the following underlined text to the table:

Land Use Application	Mailing	Posting			Published Notice
		Public Facility (1)	City Website	Subject Property	
<u>Concept Plan review</u>	<u>All affected properties within 750' 15 days prior to hearing date</u>	<u>72 hours prior to hearing date</u>	<u>15 days prior to hearing date</u>	<u>All adjoining public ROW 15 days prior to hearing date</u>	<u>15 days prior to hear</u>

Section 3. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this __ day of _____, 2023.

Dennis Maloney, Mayor

ATTEST:

Meredyth Muth, City Clerk

APPROVED AS TO FORM:

Kelly PC, City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this ____ day of _____, 2023.

Dennis Maloney, Mayor

ATTEST:

Meredyth Muth, City Clerk

ITEM:	LMCA-0469-2023 – Dark Sky Outdoor Lighting Code Amendment
PLANNER:	Amelia Brackett Hogstad, Historic Preservation Planner
APPLICANT:	Staff Initiated
REQUEST:	Consideration of Resolution 14, Series 2023, Recommending Approval of an Ordinance Amending Title 17 of the Louisville Municipal Code Adopting Dark Sky Outdoor Lighting in the City of Louisville

SUMMARY:

At the July 13, 2023 hearing, the Planning Commission continued the hearing for Resolution 14, Series 2023 and instructed staff to review Option 2 (substantial alterations and additions) with the goal of bringing more aggressive compliance triggers for nonresidential and residential lighting.

Staff revised Option 2 (see attached) and made other changes to the draft, listed here in page order:

1. Added the word “wayfinding” to the Human-activity areas definition on page 3.
2. Revised the definitions of substantial addition, alteration, and demolition on page 4 to accommodate new triggers and thresholds.
 - a. Revisions include using net square footage instead of footprint to define addition, which allows the trigger to capture increases in overall size, such as second-story additions.
3. Revised the nonconforming status language on page 5 to create the following thresholds:
 - a. Any substantial alterations of 25% or more on nonresidential and residential buildings trigger building-wide compliance.
 - b. Any substantial additions, demolitions, or redevelopments of 25% or more on nonresidential properties trigger site-wide compliance, with the following exceptions:
 - i. Parking lot poles are not required to come into height compliance.
 - ii. Lighting in safety bollards are not required to come into compliance.
 - c. Any additions on residential buildings trigger site-wide compliance.

DISCUSSION:

The revisions to Option 2 increase the opportunities for existing lighting to come into compliance. Staff recommends maintaining some type of threshold for nonresidential given the cost of nonresidential lighting projects. However, staff recommends requiring triggers for any residential additions, given the relatively lower costs for lighting compliance on residential properties.

PUBLIC COMMENTS:

As of August 4, 2023, staff has received three comments since the July 13 Planning Commission hearing.

STAFF RECOMMENDATION:

Staff recommends the adoption of Resolution 14, Series 2023 – Option 2, recommending approval to City Council of a Dark Sky lighting ordinance with language requiring compliance for substantial alterations and additions.

ATTACHMENTS:

1. Resolution 14, Series 2023
2. Updated Draft Ordinance with Substantial Alterations & Additions (Option 2)
3. Public Comments between July 13 and August 4

**RESOLUTION NO. 14
SERIES 2023**

**A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING
TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE (LMC) ADOPTING DARK SKY
OUTDOOR LIGHTING IN THE CITY OF LOUISVILLE**

WHEREAS, the City of Louisville is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter; and

WHEREAS, the City Council desires to adopt and incorporate into the Louisville Municipal Code a new outdoor lighting code that includes standards and guidelines for all outdoor lights in the City; and

WHEREAS, the City has conducted public outreach to discuss and gather feedback and comments on the outdoor lighting code; and

WHEREAS, the Planning Commission has considered the proposal at a duly noticed public hearing on July 13, 2023, where evidence and testimony were entered into the record.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Louisville, Colorado does hereby recommend approval of an ordinance amending Title 17 of the Louisville Municipal Code adopting Dark Sky outdoor lighting in the City of Louisville, Option , .

PASSED AND ADOPTED this 13th day of July, 2023

By: _____
 , Chair
 Planning Commission

Attest: _____
 , Secretary
 Planning Commission

**DRAFT LIGHTING ORDINANCE – PLANNING COMMISSION – OPTION 2:
SUBSTANTIAL ALTERATIONS AND ADDITIONS**

**ORDINANCE NO. _____
SERIES 2023**

**AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE BY
THE ADDITION OF A NEW CHAPTER 17.26 TITLED OUTDOOR LIGHTING**

WHEREAS, the City of Louisville is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter; and

WHEREAS, pursuant to such home rule authority and state law, including but not limited to C.R.S. § 31-23-301 et seq., the City has adopted procedures and standards pertaining to the regulation of outdoor lighting within the: Design Handbook for Downtown Louisville; the Mixed Use Development Design Standards and Guidelines; the Commercial Development Design Standards and Guidelines; and the Industrial Development Design Standards and Guidelines; and

WHEREAS, the City Council desires to adopt and incorporate into the Louisville Municipal Code a new outdoor lighting code that includes standards and guidelines for all outdoor lights in the City; and

WHEREAS, in connection therewith, the City Council desires to make corresponding amendments to the Design Handbook for Downtown Louisville; the Mixed Use Development Design Standards and Guidelines; the Commercial Development Design Standards and Guidelines; and the Industrial Development Design Standards and Guidelines; and

WHEREAS, the City has conducted public outreach to discuss and gather feedback and comments on the outdoor lighting code; and

WHEREAS, after a duly noticed public hearing, where evidence and testimony were entered into the record, the Louisville Planning Commission has recommended that the City Council adopt the outdoor lighting code; and

WHEREAS, the City Council has reviewed the recommendation of the Louisville Planning Commission and desires to adopt the outdoor lighting code; and

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WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Title 17 of the Louisville Municipal Code is hereby amended by the addition of a new Chapter 17.26 to read as follows:

**Chapter 17.26
Outdoor Lighting**

- Sec. 17.26.010.- Purpose.
- Sec. 17.26.020.- Definitions.
- Sec. 17.26.030.- Applicability & Scope.
- Sec. 17.26.040.- General Regulations.
- Sec. 17.26.050.- Residential Uses.
- Sec. 17.26.060.- Nonresidential Uses.
- Sec. 17.26.065.- Nonresidential Uses in the Downtown.
- Sec. 17.26.070.- Light Trespass.
- Sec. 17.26.080.- Exceptions.

Sec. 17.26.010. Purpose.

The purpose of this ordinance is to provide regulations for outdoor lighting that will:

- A. Protect and enhance human and environmental health;
- B. Promote nighttime safety and visibility through purposeful and directed lighting;
- C. Increase the effectiveness of natural areas like Open Space in providing sanctuary for wildlife;
- D. Support citywide sustainability efforts by limiting the use of energy resources to the greatest extent possible;
- E. Minimize the adverse impacts of lighting, such as light trespass, glare, artificial night glow, and obtrusive light;
- F. Encourage quality lighting design and implementation;

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- G. Effectively manage lighting throughout the city; and
- H. Increase access to and enjoyment of the night sky.

Sec. 17.26.020. Definitions.

As used in this Chapter, the following terms shall have the following meanings:

Backlighting. Lighting directed behind the luminaire.

Correlated Color Temperature (CCT). A metric to evaluate the color appearance of a light source, as measured by the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

Downtown. The area encompassing the Westerly Portion of Downtown as defined in Section 17.08.591 of this Code.

Footcandle. The unit of measure expressing the quantity of light received on a surface. One footcandle is one lumen per square foot.

Fully-shielded. A luminaire constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the lowest light-emitting part. A luminaire that is full cutoff meets the fully-shielded requirement.

Glare. Intense and blinding light that reduces visibility. A light within the visual field that is sufficiently greater than the brightness to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance or visibility.

Human-activity areas. Areas such as driveways, parking lots, walkways, decks, porches, seating areas, entryways, and other outdoor spaces with such improvements that facilitate gathering, wayfinding, and/or transportation.

Installation. Art, monuments, or any other outdoor features, whether owned publicly or privately, that are meant for public enjoyment and are visible from a public right-of-way or public access easement.

Light trespass (or “trespass”). The encroachment of light, typically across property boundaries, measured in foot-candles at ground level.

Lighting. Electric, manufactured, or artificial lighting.

Lighting plan. A document(s) (site plan, schedule, et cetera) and accessory materials (specification sheet(s), et cetera) that contains sufficient evidence demonstrating compliance with all of the relevant provisions of this ordinance including, but not limited to, light source, height, fixture, footcandle, and lumens.

Lumen. The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption).

Luminaire. A complete lighting unit consisting of a light source and ballast(s) or driver(s) (when applicable), together with the parts designed to distribute the light, to position and

protect the light source(s), and to connect the light source(s) to the power supply.

Luminous elements. The lamp (light bulb), any diffusing elements, and surfaces intended to reflect or refract light emitted from the lamp individually or collectively comprise the luminous elements of a luminaire.

Nonresidential. Properties with commercial, industrial, mixed-use, and/or multi-family buildings of seven (7) dwellings or more.

Outdoor lighting. Lighting installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.

Outdoor recreation facilities. Outdoor areas with playing surfaces that are accessible to the public or are used for private commercial purposes.

Prohibited lighting. Those certain types of lighting described in Section 17.26.040(C).

Residential. Single-family homes, duplexes, town houses, row houses, and multi-family buildings of six (6) dwellings or fewer.

Redevelopment. Any new construction on a parcel or lot following a substantial demolition on such parcel or lot.

Substantial addition, nonresidential. Building additions or new or replacement structures comprising 25% or more of the existing building(s) total square footage, inclusive of all floors, on a parcel or lot. An addition concerning only one single unit within a building containing multiple units, which does not represent an increase of 25% or more to the building square footage, shall not constitute a substantial addition.

Substantial alteration. Changes to 25% or more of the exterior wall area or materials (excluding roofing) of an existing building, which changes do not result in a substantial demolition, substantial addition, or redevelopment.

Substantial demolition. The demolition, removal, or scrape of an existing building(s) comprising 25% or more of the total footprint of all existing buildings on a parcel or lot.

Top-down. Lighting element that does not result in uplighting.

Uplighting. Lighting element which directs light above a horizontal plane running through the lowest point of the luminous elements.

Sec. 17.26.030. Applicability & Scope.

- A. Except as otherwise provided herein, the provisions of this Chapter are applicable to all outdoor lighting within the City.
- B. ***New and replacement lighting.*** Except as otherwise provided herein, all outdoor lighting installed after the effective date of the ordinance codified herein shall fully comply with the requirements of this Chapter. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party.

- C. **Nonconforming status.** All existing outdoor lighting that was legally installed before the effective date of this Chapter, that does not conform to the standards specified herein, shall be considered nonconforming. Nonconforming outdoor lighting is allowed to remain and may be maintained in good repair until required to be replaced pursuant to the terms of this Chapter.
1. **Substantial alterations.** If a substantial alteration occurs on a nonresidential or residential building, all nonconforming outdoor lighting on the building shall be eliminated or replaced with outdoor lighting that conforms to the requirements of this Chapter.
 2. **Nonresidential substantial additions, demolitions, and redevelopment.** If a substantial addition, substantial demolition, or redevelopment occurs on a nonresidential property, then the owner shall eliminate or replace all nonconforming outdoor lighting on the property such that all outdoor lighting on the entire property conforms to the requirements of this Chapter; except that: (i) existing outdoor lighting on poles used to illuminate parking lots, drive aisles, and other automobile-related hardscape are exempt from the twenty (20) foot height restriction in Section 17.26.040(C)(7); and (ii) existing outdoor lighting on safety bollards used to exclude vehicles may continue to be maintained in good repair until such time as the property owner or occupant determines the bollards must be replaced, at which time the outdoor lighting on such replacement bollards shall fully comply with the requirements of this Chapter. Notwithstanding the foregoing, if the owner of a single unit within any building containing more than one unit, commences a substantial addition concerning only such single unit, then the owner must eliminate or replace only such nonconforming outdoor lighting that (a) is attached to the unit and accessory buildings serving the unit, or (b) otherwise serves that portion of the property owned, or reserved for exclusive use, by such owner.
 3. **Residential additions.** If an addition occurs on a residential building, then the owner shall eliminate or replace all nonconforming outdoor lighting on the property such that all outdoor lighting on the entire property conforms to the requirements of this Chapter. A residential addition constitutes any addition of square footage to an existing building(s) total square footage, inclusive of all floors, on a parcel or lot.
- D. **Waiver Criteria for Nonresidential Uses.** Any request for a waiver from the standards of this Chapter for nonresidential development shall follow the procedures and criteria set forth in Chapter 17.28 for approval of a final Planned United Development.
1. In addition to the criteria outlined in Chapter 17.28, the City Council may grant a waiver only if it finds that all of the following requirements, insofar as applicable, have been satisfied:
 - i. That there is a specific need for illumination that cannot be

achieved through compliance with this Chapter or through non-illuminated design elements.

- ii. That the waiver, if granted, is a minimum waiver that will afford relief and is the least modification of the provisions of this Chapter.
- iii. That the proposed lighting does not negatively impact adjoining properties and is appropriate with the character of the area.
- iv. That the waiver will not result in light emitted from outdoor lighting to exceed the limits established in Section 17.26.070.

2. Any request for a waiver shall include a lighting plan and supporting documentation to demonstrate compliance with the waiver criteria.

E. Variance Criteria for Residential Uses. Any request for a variance from the standards of this Chapter for residential development shall follow the procedures and criteria set forth in Chapter 17.48 for the granting of a variance by the Board of Adjustment.

1. In addition to the criteria outlined in Chapter 17.48, the Board of Adjustment may grant a variance only if it finds that all of the following requirements, insofar as applicable, have been satisfied:
 - i. That there is a specific need for illumination that cannot be achieved through compliance with this Chapter or through non-illuminated design elements.
 - ii. That the variance, if granted, is a minimum waiver that will afford relief and is the least modification of the provisions of this Chapter.
 - iii. That the proposed lighting does not negatively impact adjoining properties and is appropriate with the character of the area.
 - iv. That the variance will not result in light emitted from outdoor lighting to exceed the limits established in Section 17.26.070.
2. Any request for a variance shall include a lighting plan and supporting documentation to demonstrate compliance with the waiver criteria.

Sec. 17.26.040. General Regulations.

All outdoor lighting is subject to the general regulations below except where stated otherwise in this Chapter.

- A. **Fully shielded.** All outdoor lighting shall be fully shielded, as such term is defined in Section 17.26.020. Examples of fully shielded outdoor lighting fixtures may be found in Appendix C to Title 17 of this Code.
- B. **Color.** All outdoor lighting shall have a Correlated Color Temperature (CCT) of 3000 Kelvin or lower.

C. **Prohibitions.** The following lighting is prohibited:

1. Lighting that may be confused with warning, emergency, or traffic signals.
2. Mercury vapor lamps.
3. Aerial lasers, such as are intended to be directed upward or for extended distances.
4. Blinking or flashing lights except as specifically allowed in Section 17.26.080.
5. Searchlights, floodlights, or spotlights, except as required by county, state, or federal law; or as used for police, firefighting, emergency management, or medical personnel at their discretion as long as the emergency exists.
6. Uplighting.
7. Lighting at or above twenty (20) feet above grade, except lighting affixed to a building that is used to illuminate second-story and above human-activity areas, such as decks and rooftop patios.

D. **Additional Criteria for Nonresidential Planned Unit Developments (PUDs).**

The lighting plan in a nonresidential PUD shall meet each of the following criteria, insofar as applicable.

1. Multi-family residential developments with seven (7) or more dwellings and mixed-use developments containing residential uses shall minimize the impact of outdoor lighting on dwelling units within such developments, which may be accomplished through means such as height limitations, low CCT, shielding, and lighting directed away from dwellings. The planning commission or the city council, as applicable, may consider and impose conditions of approval to the extent such conditions are reasonably necessary to ensure compliance with the requirements of this subsection.
2. Developments containing outdoor public spaces of one-half (.5) acre or more, including but not limited to public parks, plazas, and designated open space, shall design lighting to minimize light trespass onto such outdoor public spaces, and shall incorporate other design elements to further limit the impact of outdoor lighting on such outdoor public spaces, such as the use of shielding, lower mounting heights, and lower CCT than required by this Chapter. The planning commission or the city council, as applicable, may consider and impose conditions of approval to the extent such conditions are reasonably necessary to ensure compliance with the requirements of this subsection.
3. Lighting for outdoor recreation facilities shall meet the following requirements:

- i. Luminaires shall be fully shielded or shielded to the greatest extent practical to eliminate uplighting and limit illumination of all other non-targeted areas.
- ii. Lighting is subject to trespass standards for Nonresidential uses in Section 17.26.070.
- iii. Lighting shall have a nominal CCT of no greater than 5700 Kelvin.
- iv. Lighting controls shall provide local or remote manual control with at least two (2) preset light levels.
- v. Lights shall be automatically extinguished by one (1) hour after the end of play or when not in use.

Sec. 17.26.050. Residential Uses.

In addition to the General Requirements of Section 17.26.040, residential outdoor lighting shall meet the following standards:

- A. **Lumens cap.** All outdoor lighting shall have a cap of 2,000 lumens per luminaire.
- B. **Lighting plans.** Building permits for new construction and substantial additions and alterations must include lighting plans that demonstrate compliance with applicable regulations of this Chapter.
- C. **Replacement Lighting.** Replacement lighting that does not require a building permit and that is not part of a substantial addition or alternation, such as new bulbs and fixtures, must be compliant with applicable regulations of this Chapter.

Sec. 17.26.060. Nonresidential Uses.

In addition to the General Requirements of Section 17.26.040, nonresidential outdoor lighting shall meet the following standards:

- A. **Lumens cap.**
 - 1. All outdoor lighting used to illuminate nonresidential parking lots, drive aisles, and other automobile-related hardscape shall have a cap of 20,000 lumens per luminaire, except that outdoor lighting for gas station canopies shall have a cap of 10,000 lumens per luminaire.
 - 2. All other outdoor lighting shall have a cap of 5,000 lumens per luminaire.
- B. **Downtown.** Outdoor lighting in the Downtown is subject to the regulations set forth in Section 17.26.065 and exempt from the regulations of this section.
- C. **Uniformity & Illumination for Human-Activity Areas**

1. Uniformity standards do not have to be met when the areas regulated by these standards are not in use and lights are turned off.
2. Outdoor lighting that illuminates human-activity areas shall meet the following requirements for light levels when fully illuminated:

Illuminated Surface	Min. Light Level (footcandles)	Max. Light Level (footcandles)
Auto Dealerships:		
Front Row & Featured Displays	---	15.0
Other Merchandise Areas	---	10.0
Parking Lots	0.2	4.5
Vehicular Entrances from Right-of-Way	1.0	4.5
Automobile Service-Station Pumping Areas (under canopy)	--	15.0
Drive-In/Drive-Through	--	5.0
Building Entrance and Exit	1.0	5.0
Pedestrian Walkways and Common Areas	--	3.0
Automatic Teller Machines (ATMs)	--	15.0 ¹
Stairways and Steps	1.0	5.0
The Zoning Administrator has the authority to assign a category if the correct category is not readily apparent.		

¹ Within a 10-foot radius from the ATM measured from the center face of the ATM and extends a total of 180 degrees.

3. Outdoor lighting used to illuminate the surface of any human-activity area should be located and positioned in a manner that ensures consistent brightness and minimizes light contrast as one travels through the illuminated area. The minimum-to-maximum light level ratio on the illuminated surface of any human-activity areas shall not exceed a brightness ratio of four-to-one (4:1) when fully illuminated.

Sec. 17.26.065. Nonresidential Uses in the Downtown.

- A. All outdoor lighting in Downtown is subject to the General Requirements in Section 17.26.040.
- B. All outdoor lighting in the Downtown shall have a cap of 2,000 lumens per luminaire, except that parking lot lights shall have a cap of 10,000 lumens per luminaire.
- C. Outdoor lighting in the Downtown is not subject to the standards set forth in Section 17.26.060.

Sec. 17.26.070. Light Trespass

Regulations in this section apply to outdoor lighting in all use zones. Light emitted from outdoor lighting on any property shall not cause the light level along any property line, as measured at grade, to exceed the following limits:

Emitting Use	Impacted Use	Max. Light Level
Residential	Open Space (OS) and Agricultural (A) zone districts, and public parks, plazas, or other outdoor public spaces of .5 acres or larger	0.1 footcandles measured at the property line.
Nonresidential (except Downtown)	Residential uses, Open Space (OS), and Agricultural (A) zone districts	
Downtown nonresidential	Residential	Not subject to trespass restrictions.
Residential	Residential	
Commercial	Commercial	

Sec. 17.26.080. Exceptions.

- A. The following outdoor lighting applications are exempt from all requirements of this Chapter:
 1. Decorative lighting provided by a flame source, except that gas-fired lighting appliances are prohibited.
 2. Underwater lighting used for the illumination of swimming pools and other water features.
 3. Lighting solely for the purpose of the internal or external lighting of signage in compliance with the City of Louisville Sign Code adopted pursuant to Section 17.24.010.
 4. Portable lighting temporarily used for maintenance or repair.
 5. Emergency lighting used for police, firefighting, emergency management, or medical personnel at their discretion as long as an

emergency exists.

6. Temporary lighting required for road construction or other public improvements.
 7. Lighting within public right-of-way for the principal purpose of illuminating streets or roads. No exemptions shall apply to any lighting within the public right-of-way when the principal purpose of the luminaire is to illuminate areas outside the public right-of-way.
 8. Lighting required by county, state, or federal law.
 9. Outdoor luminaires for holiday décor with a maximum of 180 lumens per luminaire. Blinking or flashing holiday decorations are prohibited on nonresidential properties.
 10. Lighting for temporary events such as carnivals, circuses, festivals, fairs, civic events, when approved through a Temporary Use Permit pursuant to Chapter 17.60 or a Special Event Permit pursuant to Chapter 14.16, which may be subject to conditions of approval, including but not limited to shielding requirements, uplighting restrictions, and curfews. Uplighting is prohibited during peak migratory wildlife seasons, the duration of which will be communicated to the event holder at the time of permit application.
- B. The following outdoor lighting applications are exempt from the shielding requirements of this ordinance, provided they are (1) used to illuminate a human-activity area as defined in Section 17.26.020, and (2) turned off each day by 11 PM for multi-family properties, mixed use properties containing residences, and properties meeting the definition of residential, or thirty (30) minutes after closing or the completion of activities for nonresidential properties (excluding multi-family properties and mixed use properties containing residences):
1. For multi-family properties, mixed use properties containing residences, and properties meeting the definition of residential uses, outdoor luminaires with a maximum output of up to eighty (80) lumens per luminaire, regardless of the number of bulbs.
 2. For nonresidential uses, except multi-family properties and mixed use properties containing residences, outdoor luminaires with a maximum output of up to 180 lumens per luminaire, regardless of the number of bulbs.
- C. Lighting of flagpoles and installations, as such term is defined in Section 17.26.020, is not subject to height restrictions in Section 17.26.040(C), provided that the lighting is a top-down, does not result in uplighting, and is fully shielded to illuminate only the flag(s) or installation(s).
- D. Motion-activation lighting if such lighting is not illuminated for more than five (5) minutes upon activation, and does not exceed 2,000 lumens per

luminaire, subject to the light trespass requirements in Section 17.26.080.

Section 2. Title 17 of the Louisville Municipal Code is amended by the addition of a new Appendix C, titled Outdoor Lighting Fixtures, to read as follows:

Examples of Code-Compliant and Non-Compliant Lighting Fixtures

Non-Compliant
Fixtures that produce glare and light trespass

Unshielded Floodlights or Poorly-shielded Floodlights

Unshielded Wallpacks & Unshielded or Poorly-shielded Wall Mount Fixtures

Drop-Lens & Sag-Lens Fixtures w/ exposed bulb / refractor lens

Unshielded Streetlight

Unshielded Bollards

Unshielded Barn Light

Louvered 'Marine' style Fixtures

Unshielded 'Period' Style Fixtures

Drop-Lens Canopy Fixtures

Unshielded PAR Floodlights

Code-Compliant
Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night

flat lens

Full Cutoff Fixtures

Fully Shielded Wallpack & Wall Mount Fixtures

Fully Shielded Fixtures

Full Cutoff Streetlight

Fully Shielded Barn Light

Fully Shielded Walkway Bollards

Fully Shielded Decorative Fixtures

Fully Shielded 'Period' Style Fixtures

Shielded / Properly-aimed PAR Floodlights

Flush Mounted or Side Shielded Under Canopy Fixtures

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Section 3. Section 8.1 of the City of Louisville Commercial Development Design Standards and Guidelines is hereby repealed and reenacted to read as follows:

8.1 Compliance with Outdoor Lighting Code.

Outdoor lighting shall comply with the Chapter 17.26 of the Louisville Municipal Code, as may be amended from time to time.

Section 4. Sections 8.2 through 8.7 of the City of Louisville Commercial Development Design Standards and Guidelines are hereby repealed in their entirety.

Section 5. Section 8.1 of the City of Louisville Industrial Development Design Standards and Guidelines is hereby repealed and reenacted to read as follows:

8.1 Compliance with Outdoor Lighting Code

Outdoor lighting shall comply with the Chapter 17.26 of the Louisville Municipal Code, as may be amended from time to time.

Section 5. Sections 8.2 through 8.5 of the City of Louisville Industrial Development Design Standards and Guidelines are hereby repealed in their entirety.

Section 6. Section 2.2.1 of the City of Louisville Industrial Development Design Standards and Guidelines are hereby amended by the addition of a new subsection L1, to read as follows:

L1. Compliance with Outdoor Lighting Code

Outdoor lighting shall comply with the Chapter 17.26 of the Louisville Municipal Code, as may be amended from time to time.

Section 7. All provisions of the Design Handbook for Downtown Louisville concerning outdoor lighting are hereby repealed to the extent such provisions purport to regulate lighting outside of public rights-of-way.

Section 8. Section 14 of the Mixed Use Development Design Standards and Guidelines, concerning Exterior Site Lighting, is hereby repealed and reenacted to read as follows:

14. Compliance with Outdoor Lighting Code

Outdoor lighting shall comply with the Chapter 17.26 of the Louisville Municipal Code, as may be amended from time to time.

Section 9. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 10. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 11. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED this XX day of _____, 2023

_____, Mayor

ATTEST:

Ordinance No. _____, Series 2023
Page 16 of 17

_____, City Clerk

APPROVED AS TO FORM:

City Attorney

Amelia Brackett Hogstad

From: Mike Kranzdorf <mike@amterre.com>
Sent: Thursday, July 27, 2023 12:02 PM
To: Amelia Brackett Hogstad
Cc: Rob Zuccaro; April Kroner; Austin Brown; Eric J Lund
Subject: Re: Dark Sky Lighting Ordinance at Planning Commission

Categories: case mgmt LR pres etc

Hi Amelia,

The Dark Sky Ordinance presentation and discussion at Planning Commission's July 13 meeting differed significantly from those in previous public meetings and led to surprising recommendations. In the planning commission meeting, access to the night sky was presented as a primary benefit and the commission used this to request faster compliance than any staff recommendations. Previous meetings acknowledged that this is a tertiary and long term benefit that is unachievable without a broader adoption and implementation by neighboring communities.

Security was mentioned as a secondary benefit and Officer Moore did not make a presentation nor was asked for comments. Complaints around the Marshall Fire rebuild and retail vandalism and crime were important topics at prior meetings. Planning commission did not take this topic into sufficient consideration. Similarly, their disregard for the unique needs of downtown reflects a lack of communication and understanding of conditions there.

Costs to the city for strict compliance were discussed, but there was no serious consideration of costs to businesses, where the impact will be greatest. The inefficiency and waste created by early disposal of working fixtures was also not of concern.

The commission's focus on speed of implementation suggests a separation of triggering conditions for single family residential and commercial uses. The 50% threshold may be too large for residential and could be modified without affecting commercial properties. Businesses appear to be overwhelmingly in favor of keeping the definition at 50%.

Option 2 of the ordinance as written is an excellent compromise of societal and business concerns. I hope staff is able to continue to strike this balance with any modifications brought to planning commission's next meeting.

Thank you,

Mike Kranzdorf
Amterre Property Group LLC
720-304-3200

Amelia Brackett Hogstad

From: Amelia Brackett Hogstad
Sent: Wednesday, August 2, 2023 3:57 PM
To: Amelia Brackett Hogstad
Subject: Revised Outdoor Lighting Ordinance

From: Julia Cantarovici <julia@8z.com>
Sent: Monday, July 31, 2023 11:44 AM
To: Citizen Inquiries <info@louisvilleco.gov>
Subject: Re: Revised Outdoor Lighting Ordinance

You don't often get email from julia@8z.com. [Learn why this is important](#)

I wanted to ask why this ordinance is being considered? With all of the significantly increased theft from porches, garages and cars in the last several years, why would we want to limit lighting in our community? It seems like a bad idea to me. I feel it will encourage more theft.

Just my 2 cents worth. 😊

Julia Cantarovici
8z Real Estate
Partner/Broker
Julia.8z.com
720-203-7789

From my iPhone. Please excuse any typos.

On Jul 31, 2023, at 10:29 AM, City of Louisville <info@louisvilleco.gov> wrote:

ECONOMIC
VITALITY

We're here to help your
business thrive.

Revised Outdoor Lighting Ordinance

From: Joshua Cooperman <jhcooperman@gmail.com>
Sent: Thursday, August 3, 2023 5:02 PM
To: Planning Commission
Subject: Comments on revised dark night sky lighting ordinance

Dear Louisville Planning Commissioners,

I understand that next Thursday evening you will consider a revised dark night sky lighting ordinance. As I learned from an email sent by the City's economic vitality staff, this revised ordinance incorporates compliance option 2, which triggers compliance with the ordinance's regulations upon substantial alterations and additions. In my previous letter I supported this option as well as option 1, namely, some form of amortization.

I wish to bring one further consideration to your attention regarding the various compliance options; I believe that this consideration has not received due attention. City staff estimated the cost to the City of option 1 but did not provide cost estimates for options 2 and 3. No matter which compliance option is ultimately selected, the ordinance requires that all new and replacement lighting comply with its regulations; see section 17.26.030 B. In principle, the City must enforce that replacement lighting complies with the ordinance's regulations. I believe that the City does not require a permit for most replacement lighting, so I do not know how the City plans to enforce compliance. I am wondering how the cost of enforcing compliant replacement lighting overlaps with the cost of implementing amortization. I believe that there may well be significant overlap. If so, then the cost estimate for option 1 is significantly overstated as the City would incur a significant portion of this expense in the absence of option 1.

I will also continue to advocate for the amendments recommended in my previous letter, especially a reduction in the maximum correlated color temperature from 3000 K to 2700 K.

I look forward to Thursday's meeting.

Best,
Josh

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