



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

**BOULDER COUNTY
BOARD OF COMMISSIONERS
PUBLIC HEARING**

April 4, 2023 at 1:00 p.m.

**Boulder County Courthouse, 3rd Floor,
1325 Pearl Street, Boulder
Virtual and in-person**

28 March 2023

Docket EP-22-0007: Scharff Exemption Plat

Request: Request for an Exemption Plat to adjust the building envelope for Lot 19 in the Niwot Meadow Farm subdivision.
Location: 8595 Niwot Meadow Farm Road, Lot 19 Niwot Meadow Farm, located the eastern end of Niwot Meadow Farm Road, approximately 0.4 mile east of the intersection of N 83rd Street and Niwot Meadow Farm Road.
Zoning: Rural Residential (RR)
Owners/Applicants: Alan & Julie Scharff

PACKET CONTENTS

Item	Pages
Determination Letter	1 – 10
Application Materials (Attachment A)	A1 – A13
Referral Responses (Attachment B)	B1 – B8
Subdivision Approval Documents (Attachment C)	C1 – C161

SUMMARY

The applicants are the owners of the subject parcel, located at 8595 Niwot Meadow Farm Road, and are seeking to adjust the platted building envelope on the parcel.

Per Article 9-300.A of the Boulder County Land Use Code (the Code), Subdivided Land may be modified, including modifications to established building envelopes, through the Exemption Plat process. The subject parcel is lot 19 in the platted subdivision Niwot Meadow Farm subdivision, platted in 1995.

With the recommended conditions, staff finds the request can meet the criteria in Article 9-400 of the Code and recommends the Board of County Commissioners approve docket **EP-22-0007 Scharff Exemption Plat**, subject to the conditions set forth in this recommendation.

DISCUSSION

The subject parcel is located at the eastern end of Niwot Meadow Farm Road; it is located within the Niwot Meadow Farm subdivision (see Figure 1 below). The subdivision is a Planned Unit Development (PUD), which was platted in 1995 (SD-95-0010). The subdivision is located east of Colorado Highway 119 (CO 119), and is one of a number of small residential subdivisions in the Niwot area.

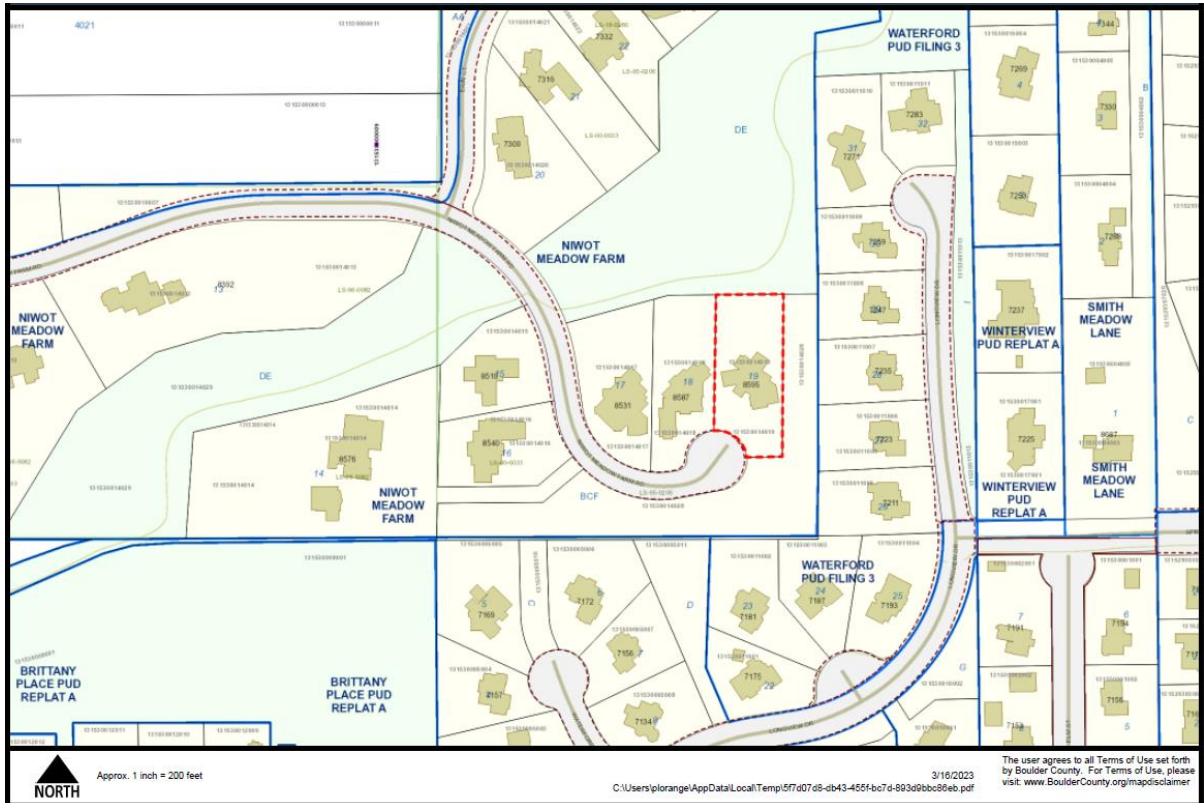


Figure 1: Location of subject property (indicated in red)

As part of that platting, building envelopes were established for each lot within the subdivision. These building envelopes are intended to limit and direct the location of development on the lots. In the Niwot Meadow Farm subdivision, the building envelopes generally kept development toward the front of the parcels, and are generally of a similar size to those on adjacent parcels (see Figure 2 below).

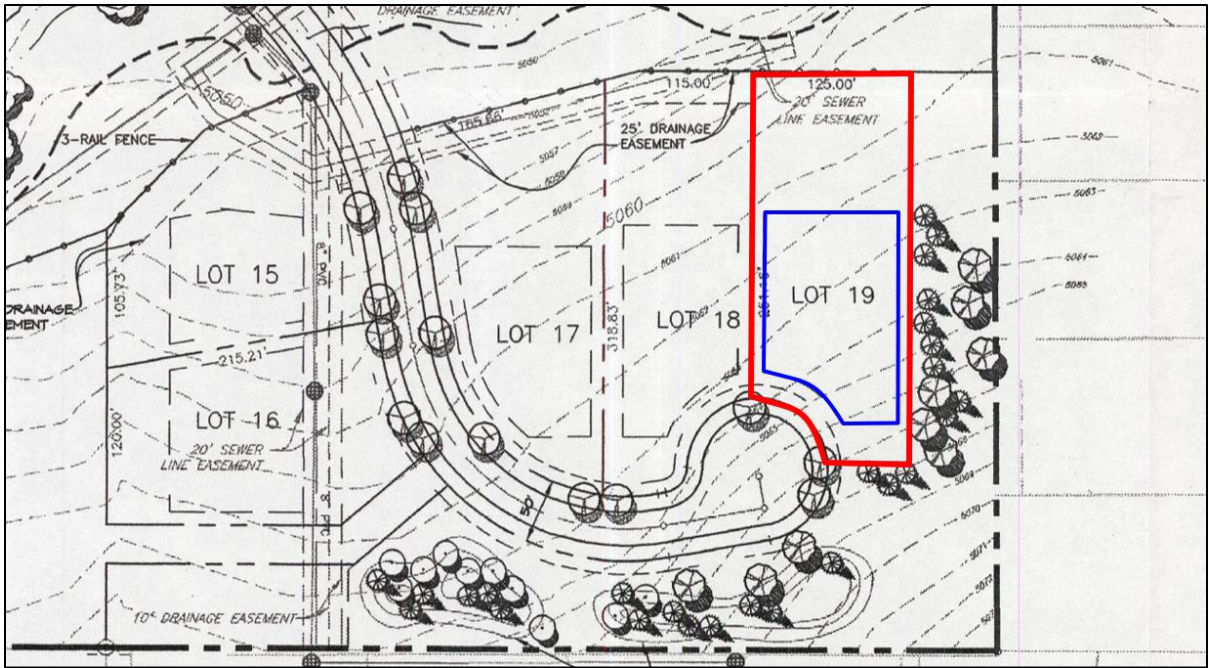


Figure 2: Existing building envelopes; the subject parcel is Lot 19, indicated in red. The existing building envelope for Lot 19 is indicated in blue.

The applicants have requested that the building envelope be amended to allow the applicants to expand their existing deck at the rear of the existing residence. A portion of the proposed expansion is located outside of the existing building envelope; the existing building envelope ends approximately 110 feet from the rear lot line. The proposed deck expansion would extend approximately 7.9 feet beyond the existing building envelope (see Figures 3 and 4 below). As such, in order to construct the deck as proposed, the building envelope would have to be adjusted accordingly.

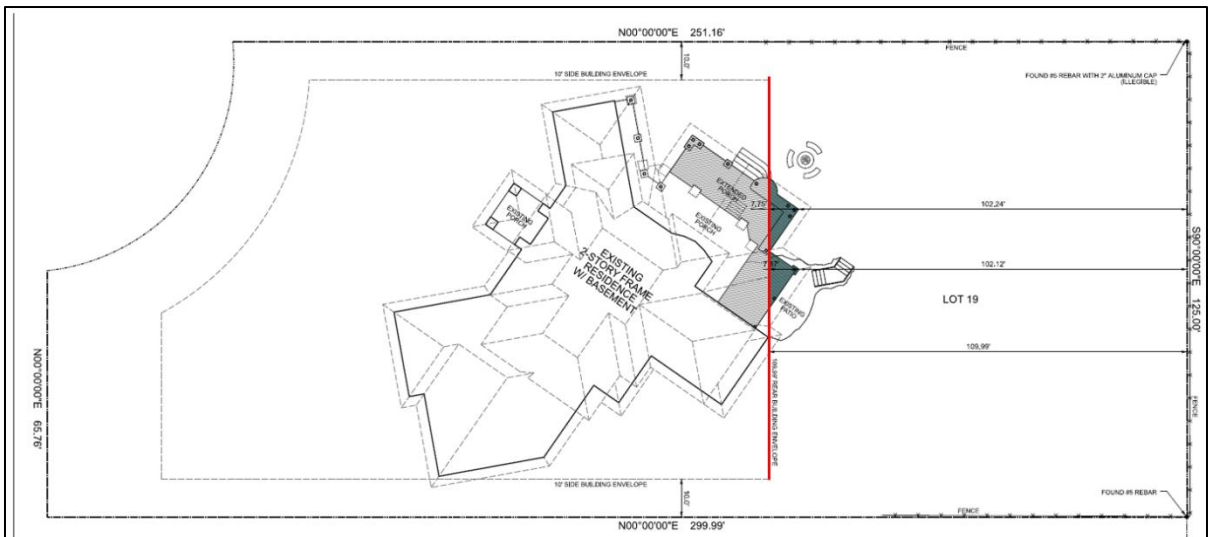


Figure 3: Proposed deck expansion, with the existing rear building envelope line indicated in red; the sections of the proposed deck located outside of the existing building envelope are indicated in green. Note: North is to the right.

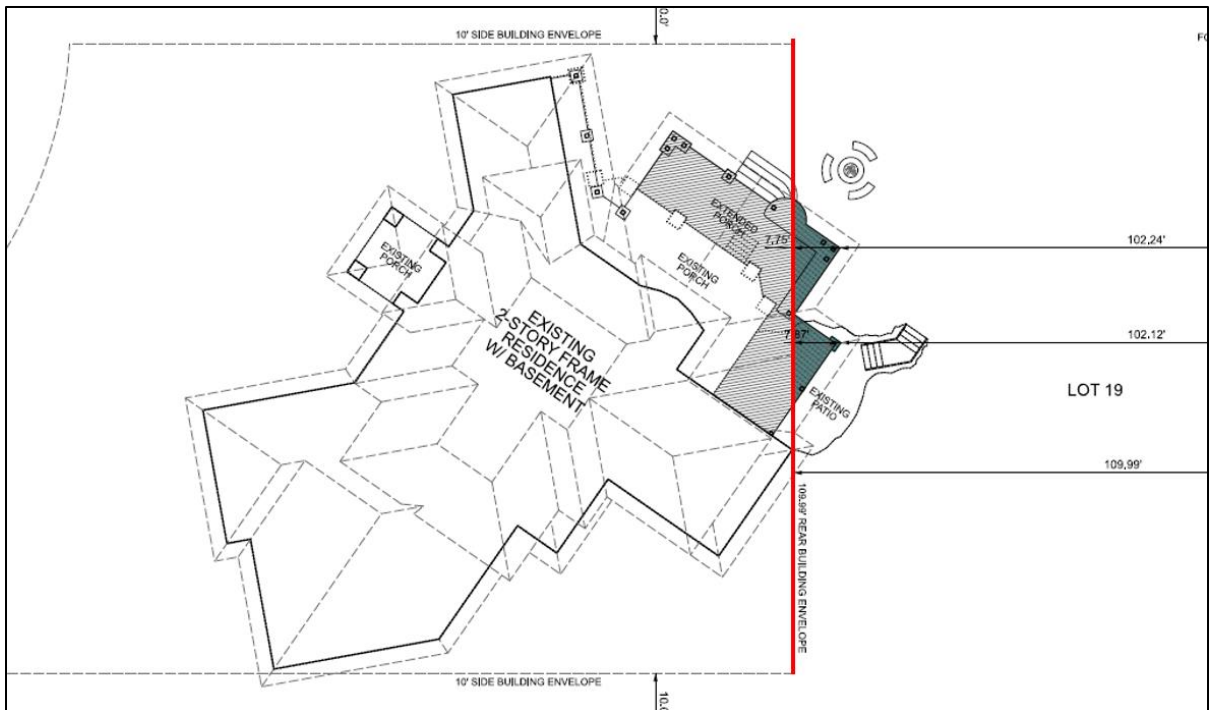


Figure 4: Proposed deck expansion, zoomed in. Note: North is to the right.

Staff finds that, with the recommended conditions outlined below, the impacts of expanding the allowed building envelope to accommodate the proposed deck can be sufficiently mitigated.

REFERRALS

The application was referred to the standard agencies and adjacent property owners within the defined neighborhood. Copies of all responses received by the Community Planning & Permitting Department are attached (Attachment B). A summary of each response follows.

Boulder County Building Safety and Inspections Team – This team reviewed the application materials and provided standard comments regarding the need for building permits and the use of ignition-resistant materials.

Boulder County Parks & Open Space – Natural Resource Planner – The Natural Resource Planner reviewed the application materials and stated that they could not support the project as proposed. They noted that expanding the allowed building envelope could set a precedent for expanding other building envelopes. They also noted that the expansion, and the subsequent development into it, would push the house closer to the public trail to the north.

Agencies responding with no conflicts – Boulder County Development Review – Access & Engineering Team; Boulder County Conservation Easement Team; Boulder County Public Health; Mountain View Fire Protection District; Left Hand Water; Xcel Energy; and Niwot Meadow Farms Homeowners’ Association.

Agencies providing no response – Boulder County Long Range Planning; Boulder County Assessor; and Boulder County Surveyor.

Adjacent Property Owners – Notifications were sent to 171 property owners within 1,500 feet of the subject properties. Staff have not received any public comments on this application.

CRITERIA REVIEW

Article 9-400 of the Boulder County Land Use Code sets forth the standards for Exemption Plats. Staff has reviewed this proposal per these criteria and has found the following:

- 1) ***For Subdivision Exemptions only, if the exemption would result in an increase in the number of currently existing lots, any identified land use impacts associated with the increase are sufficiently mitigated.***

The subject parcel is not part of a subdivision exemption request. Therefore, this criterion is not applicable.

- 2) ***For Exemption Plats only, if the originally approved Subdivided Lots were 1.1 acres or less, the size of each of the proposed lots shall not change by more than fifteen percent, unless served by public water and/or sewer.***

The subject parcel is approximately 0.8 acres. However, there is no proposed change to overall size of the parcel, only to the allowed building envelope.

Therefore, staff finds this criterion is met.

- 3) ***The proposed lots shall have legal access.***

The subject parcel has demonstrated legal access via Niwot Meadow Farm Road, a paved Boulder County owned and maintained right-of-way (ROW) with a Functional Classification of Local. No change to the existing access is proposed or approved as part of this review.

Therefore, staff finds this criterion is met.

- 4) ***The proposed lots and potential development on them shall be capable of being served by an adequate physical access, including for emergency and non-emergency purposes, which meets the requirements of the County Engineer, and, if applicable, the local fire protection district.***

There is existing physical access to the subject, via the public right-of-way. The proposed building envelope expansion, and the proposed deck expansion, will not impact the physical access to the subject parcel, and no referral agencies have responded with any conflicts or concerns related to this criterion.

Therefore, staff finds this criterion is met.

- 5) ***The proposed lots and potential development on them shall be capable of being served by an adequate water supply.***

The subject parcel is served by an existing domestic water supply, and no new lots are proposed as part of this application. There is no change to water usage as part of this application.

Therefore, staff finds this criterion is met.

- 6) ***The proposed lots and potential development on them shall be capable of being served by an adequate onsite wastewater system or sewage treatment system as required by Boulder County Public Health.***

The subject parcel is served by an existing sewer system. The proposed building envelope expansion, and the proposed deck expansion, will not have any impacts on existing system, and no referral agencies have responded with any conflicts or concerns related to this criterion.

Therefore, staff finds this criterion is met.

7) *Adequate public facilities and services shall exist to serve the proposed lots and potential development on them.*

The subject parcel is served by adequate public facilities and services, including but not limited to electric, natural gas, fire, and police. No service providers have indicated any conflicts with this proposal.

Therefore, staff finds this criterion is met.

8) *If any of the proposed lots are in the Floodplain Overlay District:*
a. The potential impacts of creating the proposed lots or portions of proposed lots within the Floodplain Overlay District shall be sufficiently mitigated; and
b. The development upon the proposed lots shall be possible outside the Floodplain Overlay District; or
c. The potential development upon the proposed lots shall be capable of obtaining a floodplain development permit under Article 4-400 of this Code, as determined by the County Engineer.

The subject parcel is not located in the Floodplain Overlay District. Therefore, this criterion is not applicable.

9) *The proposed lots and development on them shall be in harmony with the character of the neighborhood and compatible with the surrounding area and shall be appropriately landscaped and screened to minimize the obtrusiveness of structures and maximize visual blending with the surrounding topography.*

The subject parcel is located within a residential subdivision. The subdivision was platted in 1995, and included the establishment of building envelopes for each parcel to be developed. Development within the established building envelope is presumed to be in keeping with the character of the neighborhood and is limited to that envelope to help ensure that that character is maintained. The proposed expansion of the building envelope would result in an increase in the developable area on the subject parcel. As such, that development has the potential to have negative impacts on the adjacent properties. To ensure that the impacts of any development in the proposed expanded building envelope are sufficiently mitigated, staff would recommend several conditions of approval.

First, staff would recommend as a condition of approval that the building envelope expansion be limited to area necessary for the construction of the deck as proposed in the submitted application. Limiting the building envelope expansion to this area will allow the applicants to carry out their project as proposed, but will prevent additional development in other areas outside of the existing building envelope. Simply moving the rear building envelopment line further north to accommodate the deck would allow development in entire expanded area (see Figure 5 below). By limiting the building envelope expansion to the area necessary for the deck, the area which can be developed is strictly constrained and the potential for impacts is greatly reduced.

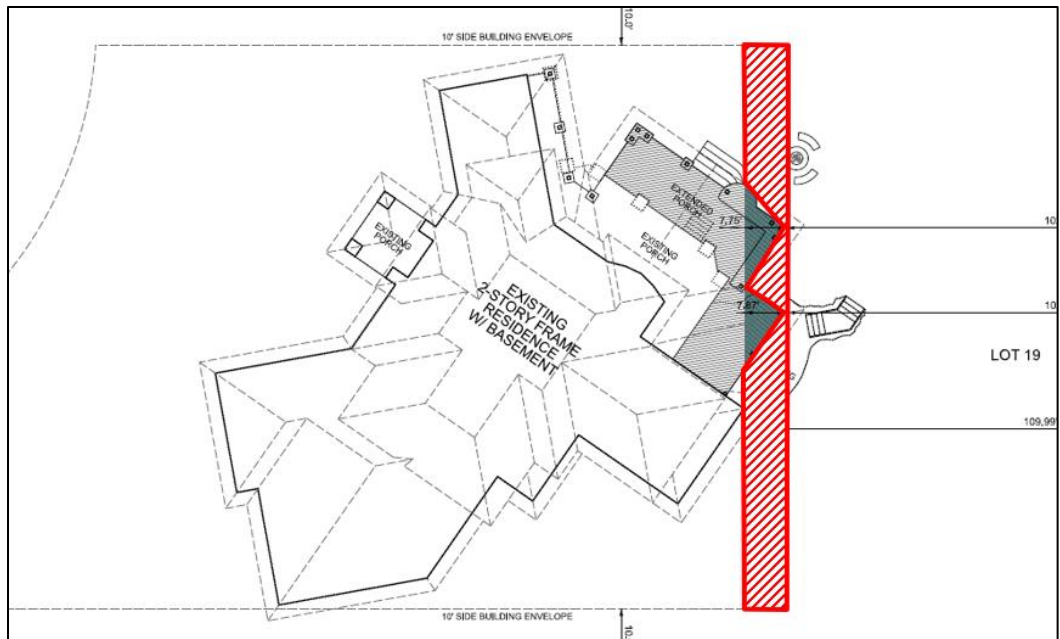


Figure 5: Area that would also be developable by moving the rear building envelope line north, indicated in red. Note: North is to the right.

Second, to ensure that that overall bulk and massing of the proposed development in the expanded building envelope has minimal visual impacts to the surrounding properties, staff would recommend that as a condition of approval, the sections of the deck in the expanded building envelope not have a roof structure over them, and any extension of the existing roof may only occur within the building envelope as originally established through SD-95-0010.

Third, to help ensure that the expanded deck does not result in undue light pollution which might impact the public trail to the north and the adjacent properties, staff would recommend as a condition of approval that, prior to issuance of building permits, one copy of a proposed lighting plan must be submitted to the Community Planning & Permitting Department for review and approval. Down lighting is required, and all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture. The lighting plan must indicate the location of all exterior fixtures on the site and structure, and must include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures. The lighting plan shall be included as part of the building plan set required at the time of permit application. Additionally, at the final inspection, the full installation of the approved lighting plan must be inspected and approved by the Community Planning & Permitting Department.

Finally, to help screen the proposed deck from the public trail and the adjacent properties, staff would recommend as a condition of approval, the existing trees and vegetation on the eastern, northern, and western lot lines should be preserved and maintained to provide a visual barrier.

Therefore, as conditioned staff finds this criterion can met.

- 10) ***The proposed lots and potential development on them shall not be subject to, or contribute to, significant risk from natural hazards such as unstable soils, steep or unstable slopes, floods, and wildfire.***

The Boulder County Comprehensive Plan shows that the subject parcel is partially located within a High Swelling Soil Potential area (see Figure 6 below).

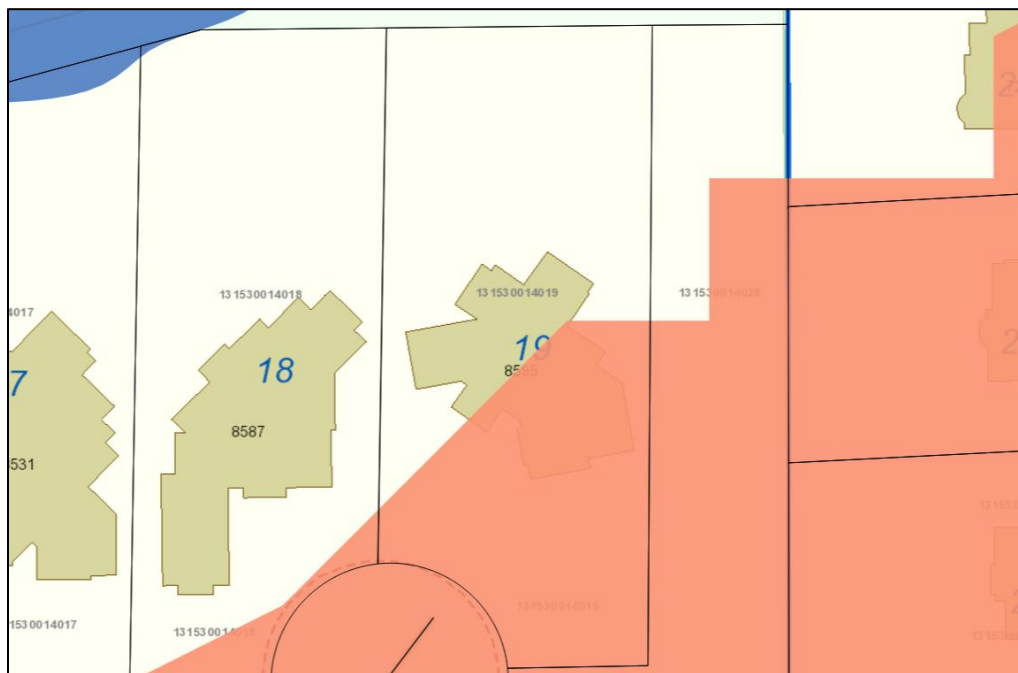


Figure 6: Subject parcel, with identified geological hazard designation (High Swelling Soil Potential area) indicated in orange.

However, the residence has already been constructed and the proposed deck expansion and the associated building envelope expansion are located outside of this area; staff does not have any concerns related to this criterion. Additionally, no agencies have responded with any concerns or conflicts related to any natural hazards.

Therefore, staff finds this criterion is met.

- 11) ***The proposed lots and potential development on them shall not have a significant adverse impact on environmental resources identified in the Comprehensive Plan or through the review of the application, such as Wetlands and Riparian Areas; plant communities and vegetative cover; Critical Wildlife Habitat and Migration corridors; Natural Areas and Natural Landmarks; Environmental Conservation Areas; agricultural, forestry, or open lands; and views, vistas, and scenic corridors.***

There are no environmental resources as identified in the Boulder County Comprehensive Plan located on or near the subject parcel.

Therefore, staff finds this criterion is met.

- 12) ***The proposed lots and potential development on them shall not have a significant adverse impact on historic, cultural, or archaeological resources identified in the Comprehensive Plan or through the review of the application***

There are no identified historic, cultural, or archaeological resources identified on or near the subject parcel.

Therefore, staff finds this criterion is met.

- 13) ***The proposed lots and potential development on them shall not cause unnecessary or excessive site disturbance or erosion or alter historic drainage patterns.***

Staff finds the site disturbance that will be required for the construction of the deck is minimal and is appropriate. As such, staff have not identified any concerns related to site disturbance or altering of historic drainage patterns. Additionally, no referral agencies have responded with any concerns or conflicts related to this criterion.

Therefore, staff finds this criterion is met.

- 14) ***The proposed lots and potential development on them shall be in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development, and this Code.***

Staff have not identified any conflicts with the Comprehensive Plan or any applicable intergovernmental agreement.

Article 6-1100.B of the Code sets forth the requirements for modifications to approved PUDs. Specifically, this article reads: “The modification shall be consistent with the efficient development and preservation of the entire PUD; shall not affect, in a substantially adverse manner, either the enjoyment of land abutting or across a street from the PUD, or the public interest; and, is not granted solely to confer a special benefit upon any person.”

Staff finds that the building envelope expansion does not have any impact on the development of the PUD, as the subdivision is already fully developed; similarly, with the recommended condition of approval in Criterion 9 above, that the building envelope expansion be limited to the area necessary for the construction of the deck as proposed in the submitted application, the proposed building envelope expansion is not anticipated to have any significant negative impact to the preservation of the entire PUD. Additionally, with the collective recommended conditions of approval in Criterion 9, staff finds that the impacts of the building envelope expansion and the deck expansion will be sufficiently mitigated such that there will be no substantial adverse impact the enjoyment of the land abutting the subject property or the public interest at large. Article 6-1100.B also states that the modification cannot be granted solely to confer a special benefit to any person. While the applicants are the only ones who will directly benefit from the proposed building envelope expansion, any other property owner in the PUD has the same right to request a building envelope expansion for their property, and each such application would be reviewed and considered on its own merits; as such, staff does not find granting the building envelope expansion to a “special benefit.”

Per Article 3-206.D of the Code, the applicants must comply with all applicable post-approval requirements related to submission, review, approval, and recordation of Final Plat maps.

Therefore, as conditioned in Criterion 9, staff finds this criterion can be met.

- 15) ***Where the division creates Parcels for use as community facilities such as public parking areas, public or private educational facilities, public parks, and open space purchase by a public entity, and utility land acquisitions including for utility substations without any dwelling units, an exemption may be approved for the***

placement of a community facility where the size, location and available services are reasonable, appropriate, and customary for the proposed use.

This application request is not for a community facility. Therefore, staff finds this criterion is not applicable.

DETERMINATION

Community Planning & Permitting staff finds the application meets the criteria for an Exemption Plat, as discussed above. Therefore, staff recommends the Board of County Commissioners grants an ***Exemption Plat approval*** for **Docket EP-22-0007: Scharff Exemption Plat**, subject to the following conditions:

1. The applicants shall comply with all applicable post-approval requirements for a final plat/replat as listed in Article 3-206.D of the Boulder County Land Use Code within one year after the date of approval by the Board of County Commissioners, unless an extension(s) of time is granted as allowed in Article 9-300 of the Boulder County Land Use Code.
2. The building envelope expansion shall be limited to area necessary for the construction of the deck as proposed in the submitted application materials.
3. To ensure that that overall bulk and massing of the proposed development in the expanded building envelope has minimal visual impacts to the surrounding properties, the sections of the deck in the expanded building envelope cannot have any roof structure over them, and any extension of the existing roof may only occur within the building envelope as originally established through SD-95-0010.
4. ***Prior to issuance of building permits***, one (1) copy of a proposed lighting plan must be submitted to the Community Planning & Permitting Department for review and approval. Down lighting is required, and all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture. The lighting plan must indicate the location of all exterior fixtures on the site and structure, and must include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures. The lighting plan must be included as part of the building plan set required at the time of permit application. Additionally, at the final inspection, the full installation of the approved lighting plan must be inspected and approved by the Community Planning & Permitting Department.
5. To help screen the proposed deck from the public trail and the adjacent properties, the existing trees and vegetation on the eastern, northern, and western lot lines must be preserved and maintained to provide a visual barrier.
6. The applicants shall be subject to the terms, requirements, and commitments of record and in the file for docket **EP-22-0007: Scharff Exemption Plat**.



Boulder County Land Use Department

Courthouse Annex Building
2045 13th Street • PO Box 471 • Boulder, Colorado 80302
Phone: 303-441-3930 • Fax: 303-441-4856
Email: planner@bouldercounty.org
Web: www.bouldercounty.org/lu
Office Hours: Mon., Wed., Thurs., Fri. 8 a.m. to 4:30 p.m.
Tuesday 10 a.m. to 4:30 p.m.

Shaded Areas for Staff Only
Intake Stamp

Application Form

Project Number		Project Name	
<input type="checkbox"/> Limited Impact Special Use <input type="checkbox"/> Limited Impact Special Use Waiver <input type="checkbox"/> Modification of Special Use <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Site Plan Review Waiver <input type="checkbox"/> Subdivision Exemption <input checked="" type="checkbox"/> Exemption Plat <input type="checkbox"/> 1041 State Interest Review <input type="checkbox"/> Other:		Application Deadline: First Wednesday of the Month <input type="checkbox"/> Variance <input type="checkbox"/> Appeal	
		Application Deadline: Second Wednesday of the Month <input type="checkbox"/> Sketch Plan <input type="checkbox"/> Preliminary Plan <input type="checkbox"/> Final Plat <input type="checkbox"/> Resubdivision (Replat) <input type="checkbox"/> Special Use/SSDP	
		<input type="checkbox"/> Rezoning <input type="checkbox"/> Road/Easement Vacation <input type="checkbox"/> Location and Extent <input type="checkbox"/> Road Name Change	
Location(s)/Street Address(es) 8595 Niwot Meadow Farm Rd			
Niwot, CO 80503			
Subdivision Name Niwot Meadow Farms			
Lot(s) #19	Block(s)	Section(s)	Township(s)
Area in Acres .8	Existing Zoning	Existing Use of Property	Number of Proposed Lots
Proposed Water Supply		Proposed Sewage Disposal Method	

Applicants:

Applicant/Property Owner Alan Scharff		Email Address alanscharff@comcast.net	
Mailing Address 8595 Niwot Meadow Farm Rd			
City Niwot	State CO	Zip Code 80503	Phone 303-652-9595
Applicant/Property Owner/Agent/Consultant Julie Scharff		Email Address	
Mailing Address same as Alan			
City	State	Zip Code	Phone
Agent/Consultant		Email Address	
Mailing Address			
City	State	Zip Code	Phone

Certification (Please refer to the Regulations and Application Submittal Package for complete application requirements.)

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval.

I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All landowners are required to sign application. If additional space is needed, attach additional sheet signed and dated.

Signature of Property Owner <i>Alan J. Scharff</i>	Printed Name Alan J. Scharff	Date 4/27/22
Signature of Property Owner <i>Julie Scharff</i>	Printed Name Julie Scharff	Date 4-24-22

The Land Use Director may waive the landowner signature requirement for good cause, under the applicable provisions of the Land Use Code.



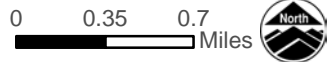
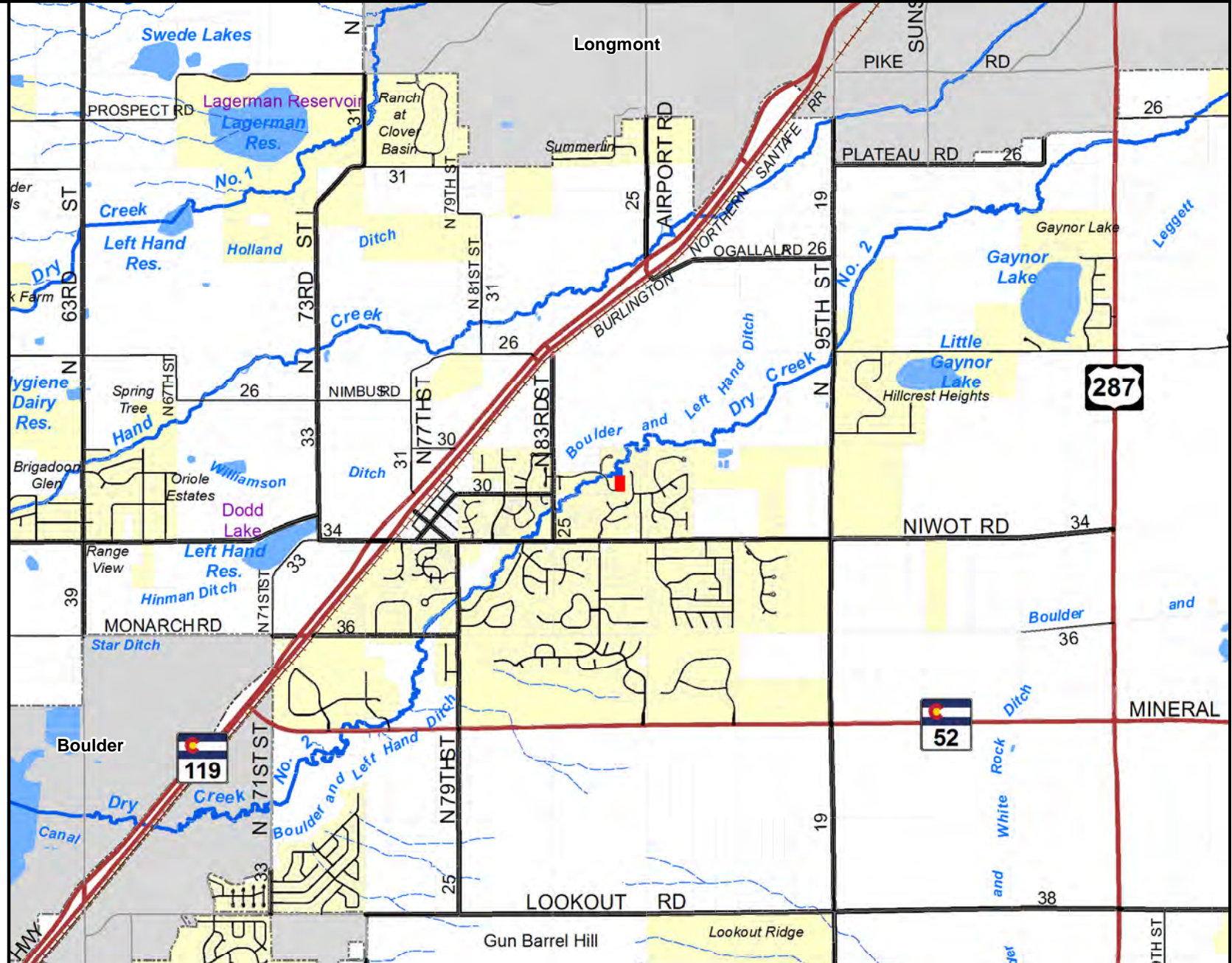
Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

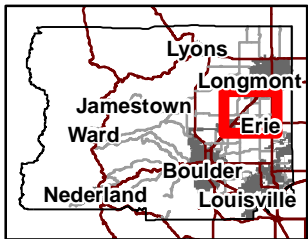
Vicinity

8595 NIWOT MEADOW FARM RD

- Subject Parcel
- Municipalities
- Subdivisions**
- Subdivisions



Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Aerial

8595 NIWOT MEADOW FARM RD

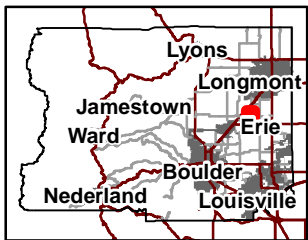
 Subject Parcel



0 0.05 0.1 Miles



Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



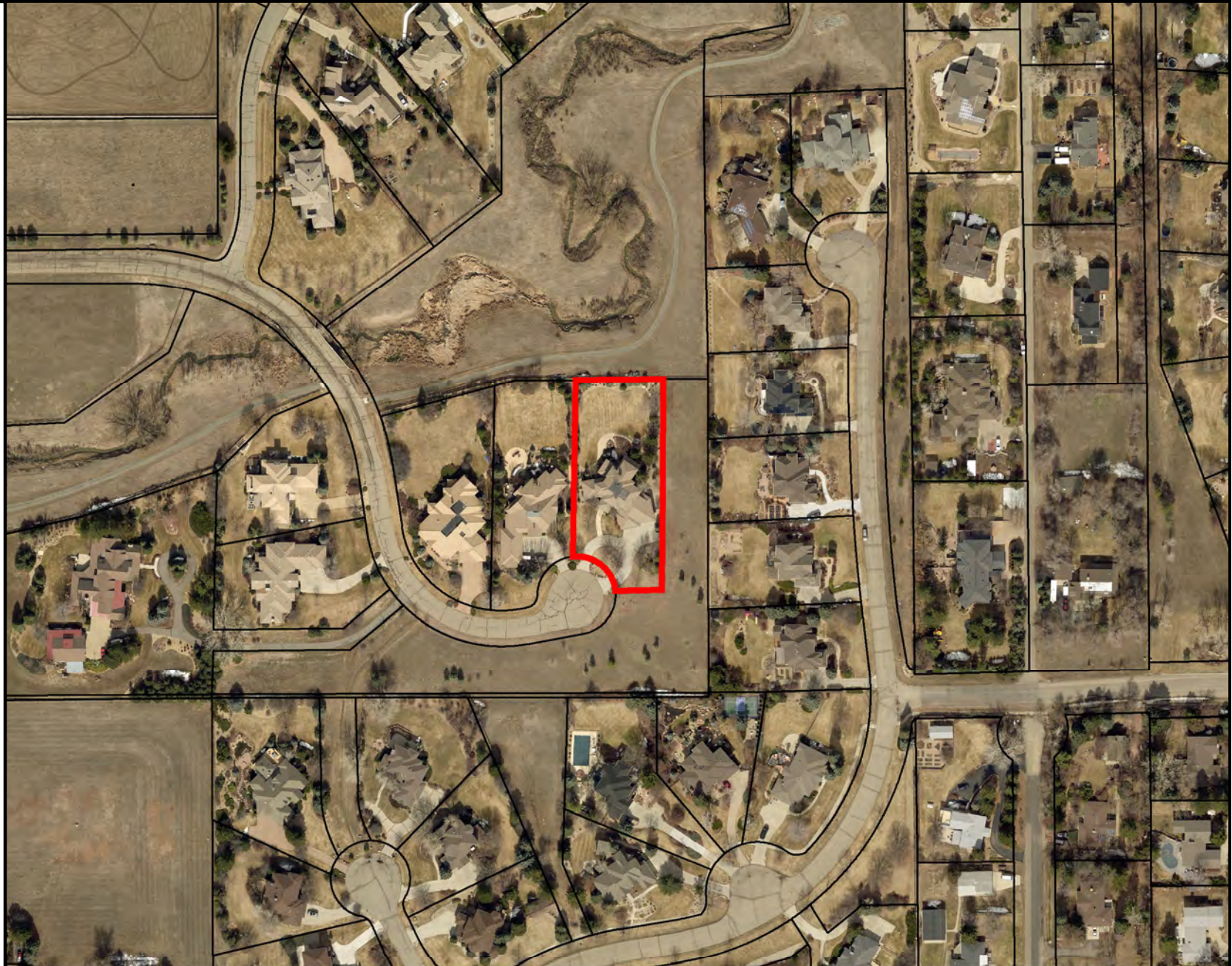
Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Aerial

8595 NIWOT MEADOW FARM RD

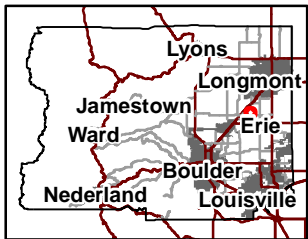
 Subject Parcel



0 0.015 0.03 Miles



Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

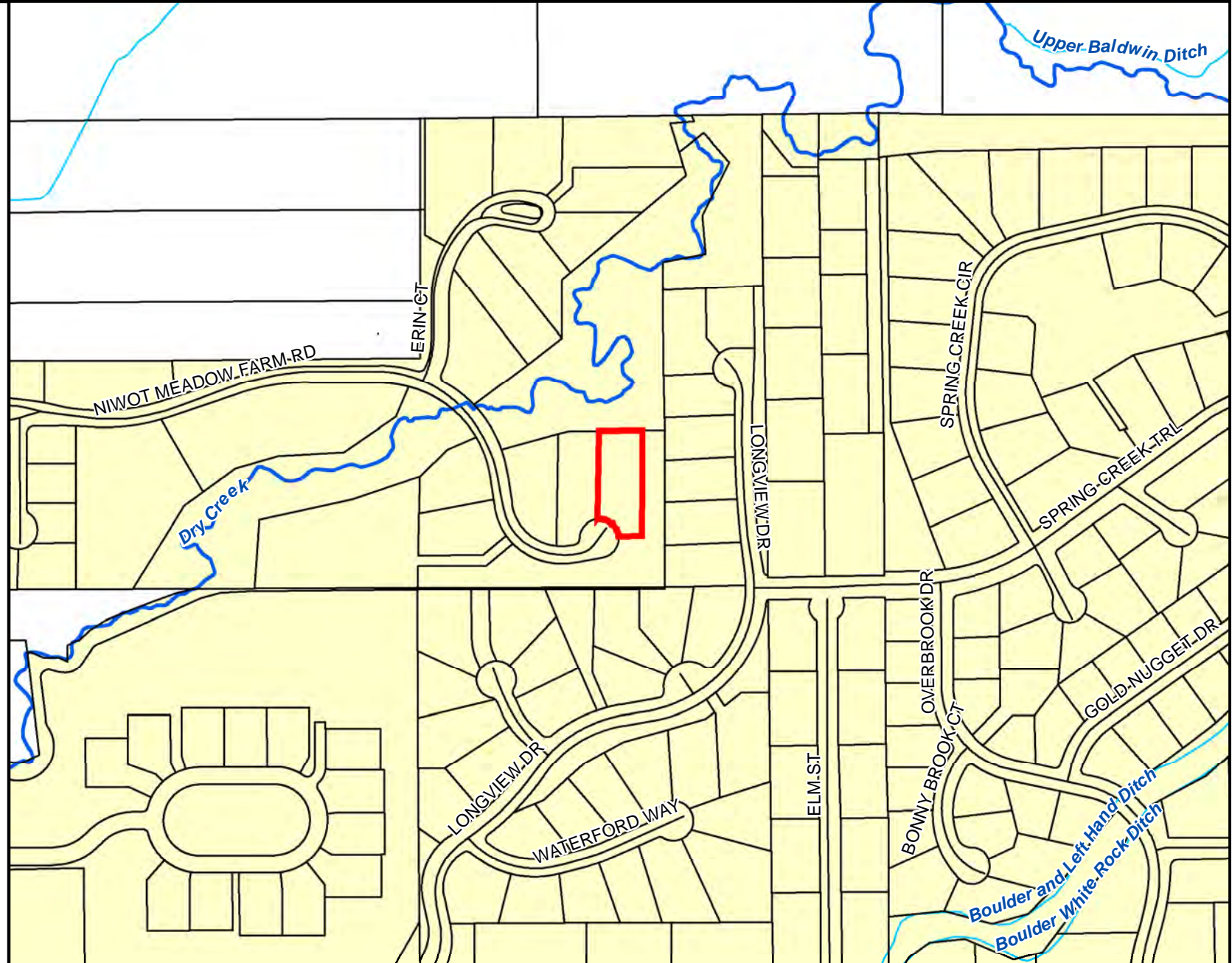
Location

8595 NIWOT MEADOW FARM RD

Subject Parcel

Subdivisions

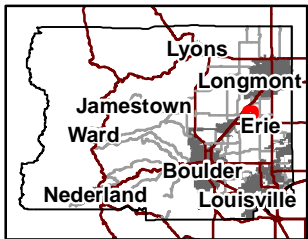
Subdivisions



0 0.035 0.07 Miles



Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

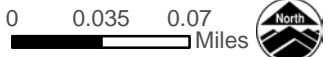
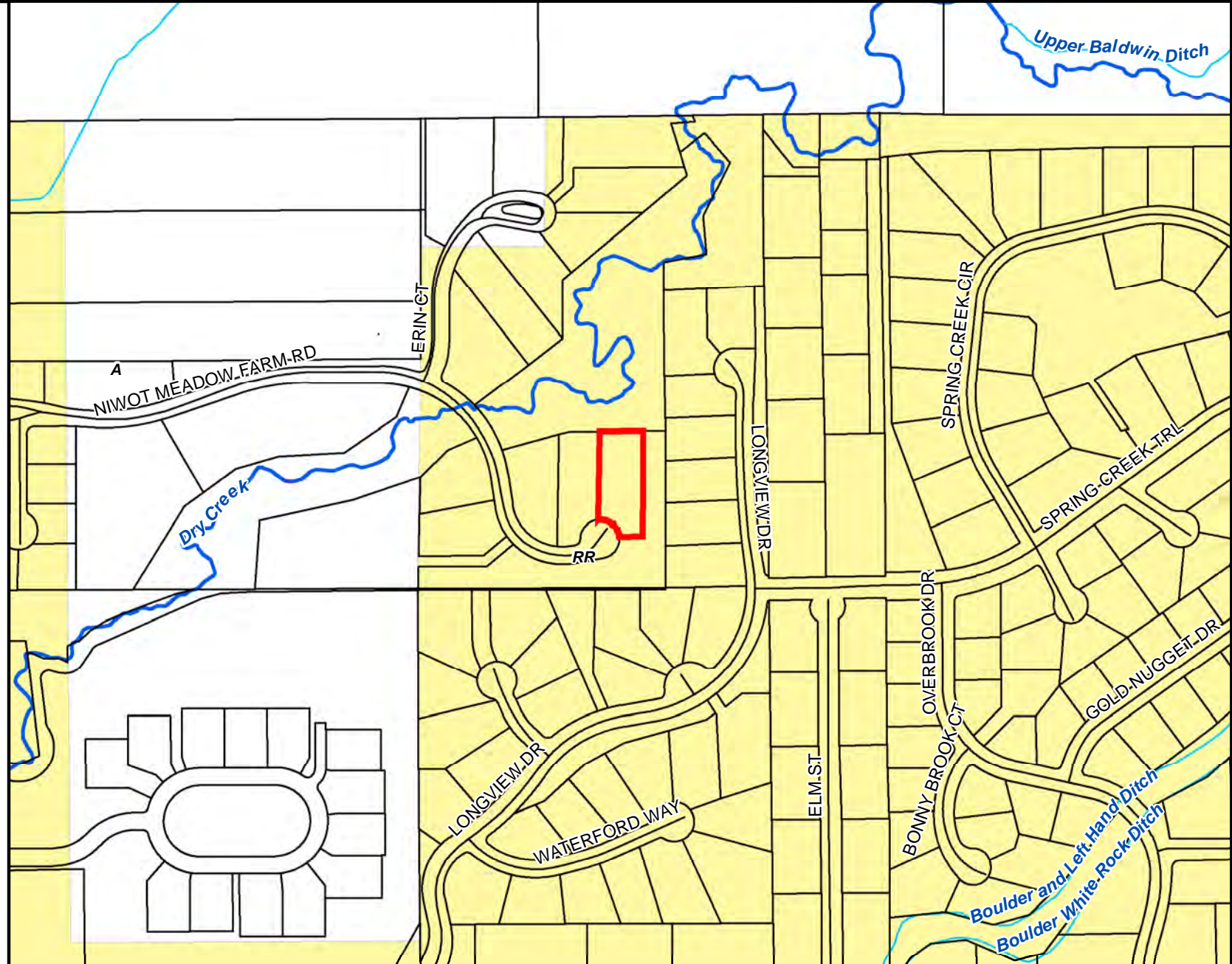
Zoning

8595 NIWOT MEADOW FARM RD

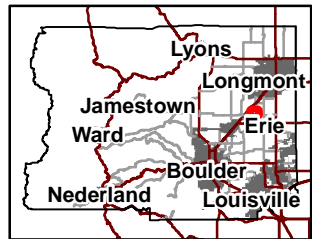
Subject Parcel

Zoning Districts

- Agricultural
- Rural Residential



Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

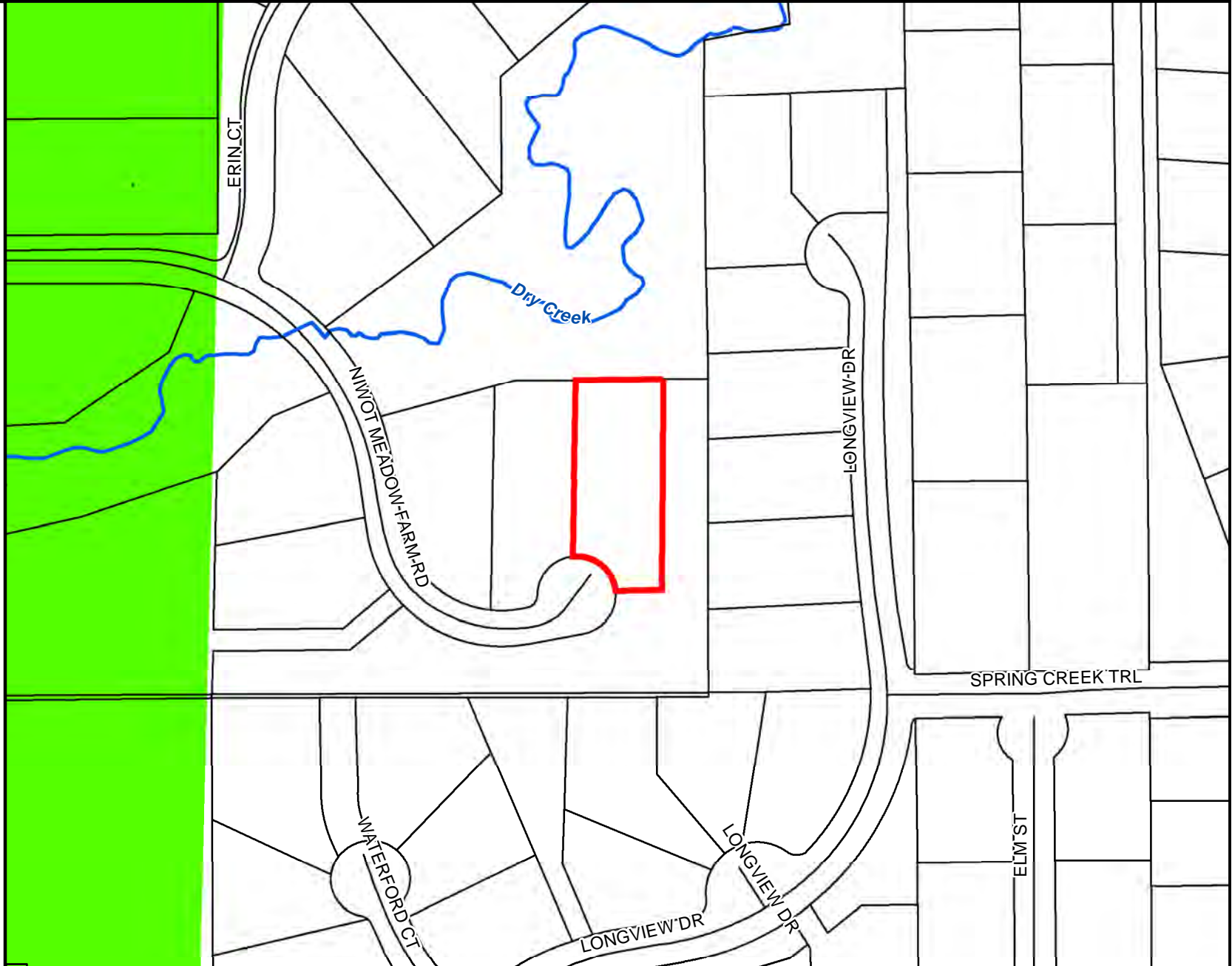
Comprehensive Plan

8595 NIWOT MEADOW FARM RD

Subject Parcel

Significant Agricultural Land

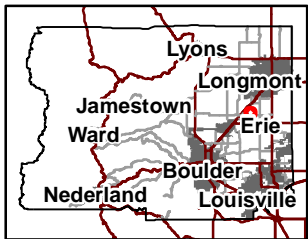
Ag of National Importance



0 0.015 0.03 Miles



Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer






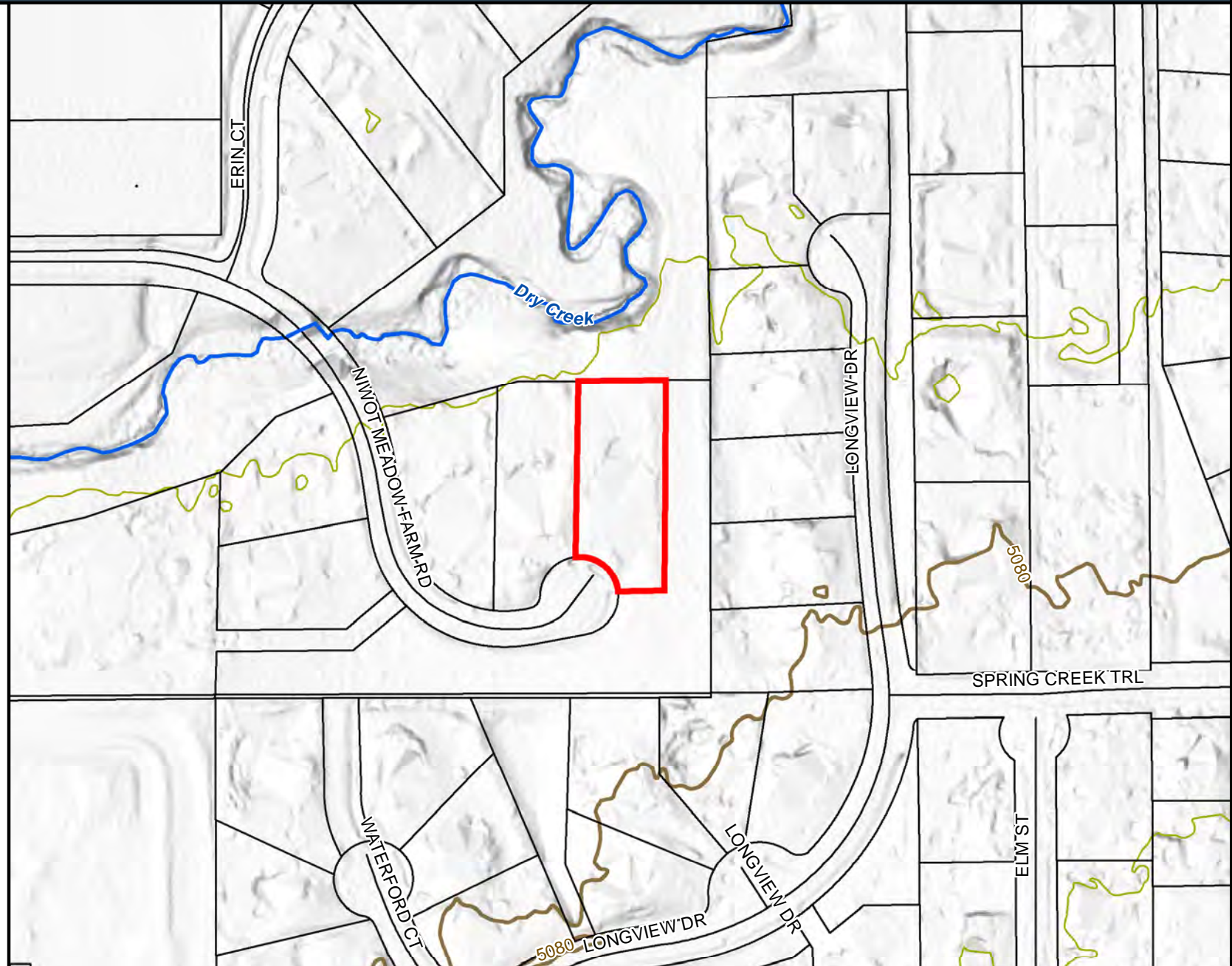
Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Elevation Contours

8595 NIWOT MEADOW FARM RD

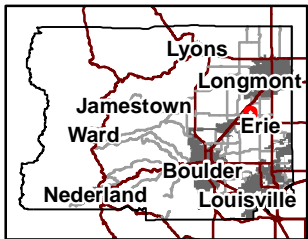
-  Subject Parcel
-  Contours 40'
-  Contours 20'



0 0.015 0.03 Miles



Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer






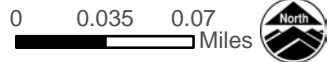
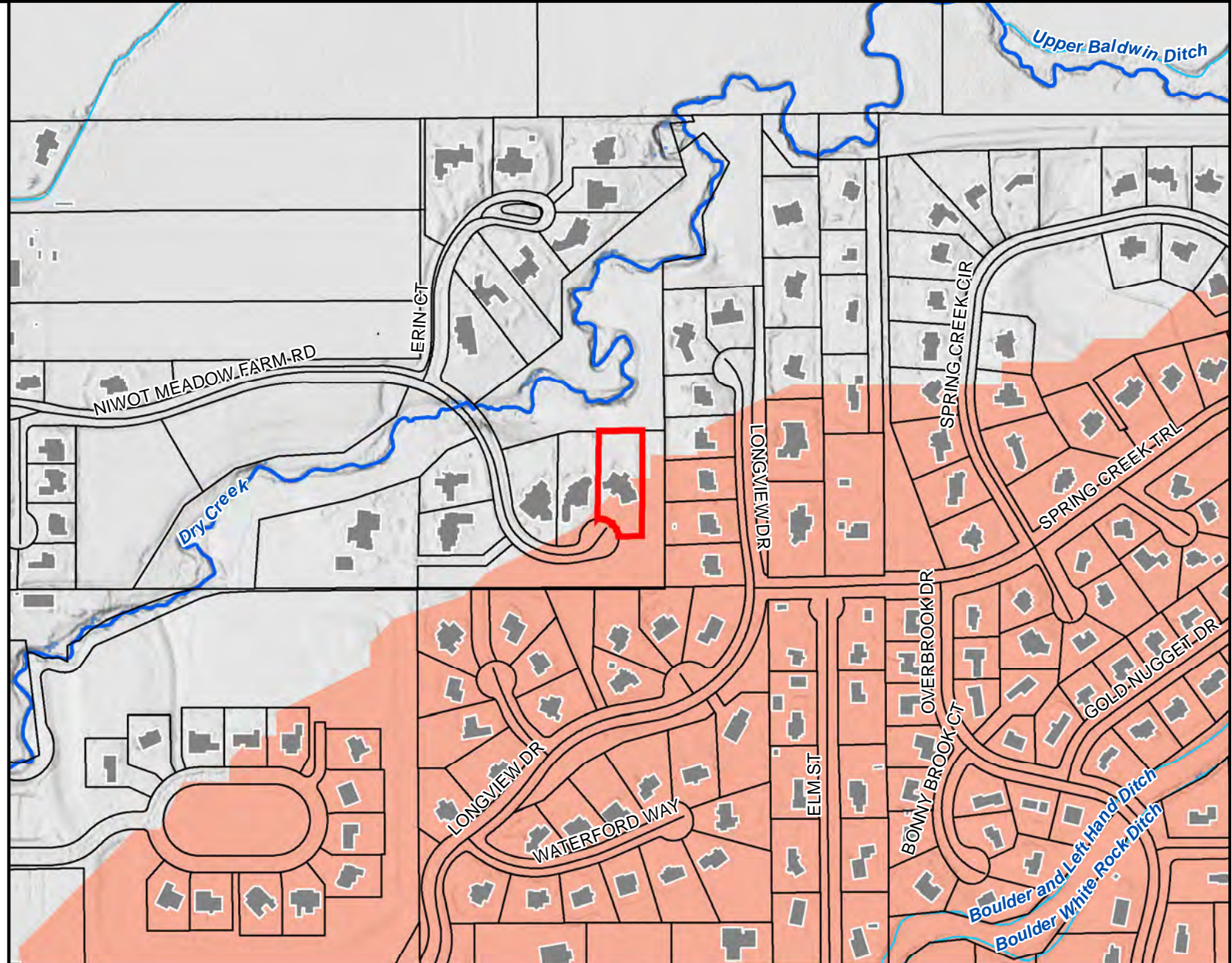
Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

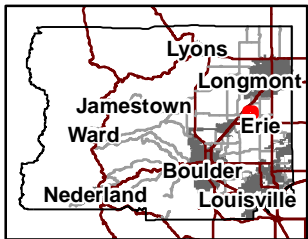
Geologic Hazards

8595 NIWOT MEADOW FARM RD

-  Subject Parcel
-  Landslide high susceptibility area
-  High Swelling Soil Potential



Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer



Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

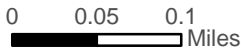
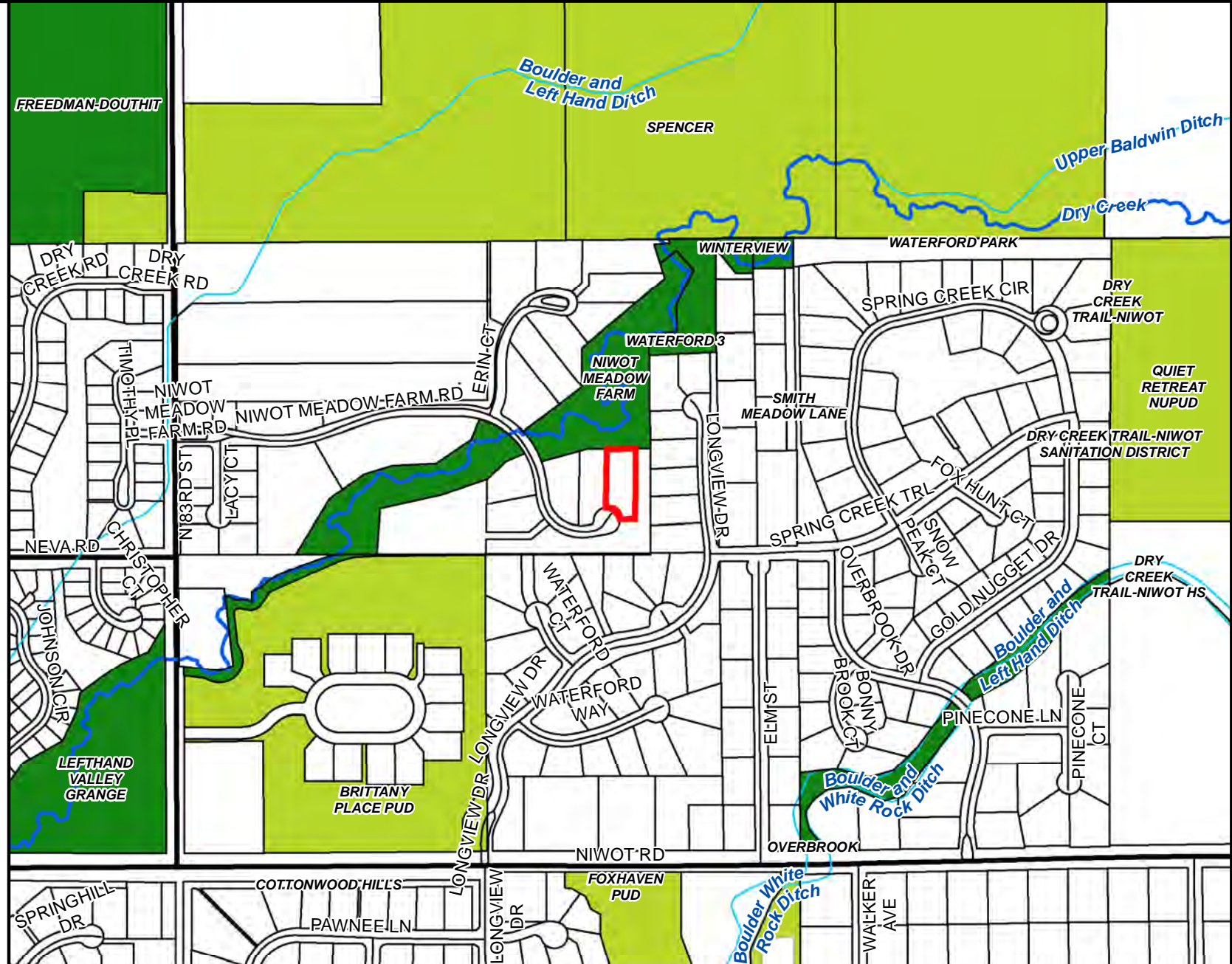
Public Lands & CEs

8595 NIWOT MEADOW FARM RD

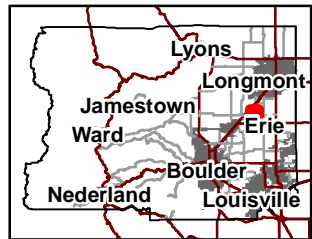
Subject Parcel

Boulder County Open Space

- County Open Space
- County Conservation Easement

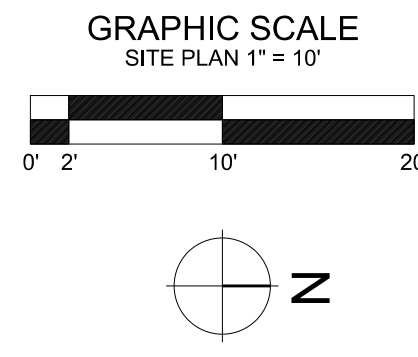


Area of Detail Date: 10/14/2021



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: www.bouldercounty.org/mapdisclaimer

We feel the deck is too tight (small) and want to have a little more breathing room. The site plan Shows the existing deck, the proposed expanded deck and the part that is in dark green is the proposed amount of deck that expands over the current building envelope. If I'm reading the plan correctly, we looking to expand about 7.75 feet past the envelope. We like to entertain in the summertime and currently the deck can accommodate about 6 to 8 people but anything more than that is too crowded.

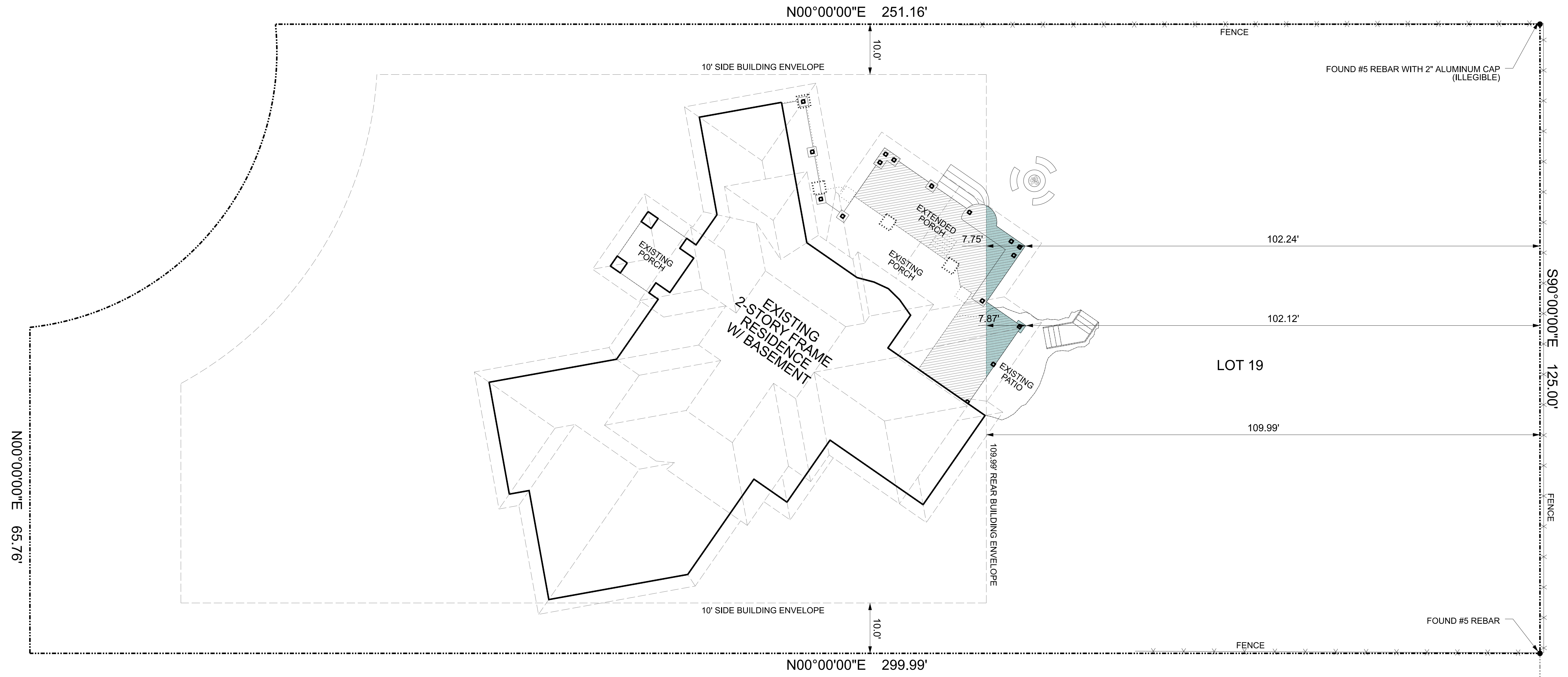


BUILDING COVERAGE	
EXISTING HOUSE FOOTPRINT (INCL. GARAGE)	4,225 SQ. FT.
EXISTING FRONT PORCH	166 SQ. FT.
EXISTING REAR PORCH	584 SQ. FT.
EXTENSION TO REAR PORCH	625 SQ. FT.
TOTAL BUILDING COVERAGE	5,600 SQ. FT.
LOT AREA = 34,784 SQ. FT.	

SITE PLAN NOTES

BOUNDARY & LOCATION INFORMATION USED TO PRODUCE THIS DRAWING WAS TAKEN FROM THE FOLLOWING:

- NIWOT MEADOW FARM PLAT, P-46 F-4 #2, DATED DECEMBER 18, 1988 BY DANIEL J. WILKINS, REG. # 25646
- ORIGINAL SITE PLAN, DATED MARCH 5, 2005 BY WHITTEN DESIGN GROUP
- EXHIBIT "A", DATED OCTOBER 11, 2021 BY EDGAR THOMAS BRISTOW, REG. # 19588, FLATIRONS, INC. 3825 IRIS AVENUE, BOULDER, CO 80301 (303)443-7001



MODIFICATIONS TO THE RESIDENCE OF
ALAN & JULIE SCHARFF
8595 NIWOT MEADOW FARM ROAD
NIWOT, COLORADO 80503

REVISIONS

DATE	REV	ISSUE DESCRIPTION

Brad
Dassler-Bethel
Architect

Creative architecture
focused on the way
you live

303.905.6390
brad@bradDB.com
bradDB.com

This drawing, as instrument of service, is and shall remain the property of the architect and shall not be reproduced, published or used in any way without the permission of the architect.

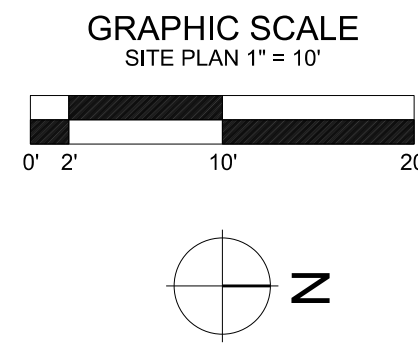
The contractor shall verify all dimensions and existing conditions at the site before proceeding with each phase of his work.

DRAWN BY: BDB	CHECKED BY: BDB
ISSUE DATE: 5.2.22	JOB #: 2721

SITE PLAN

A2.1

SITE PLAN
SCALE: 1" = 10'

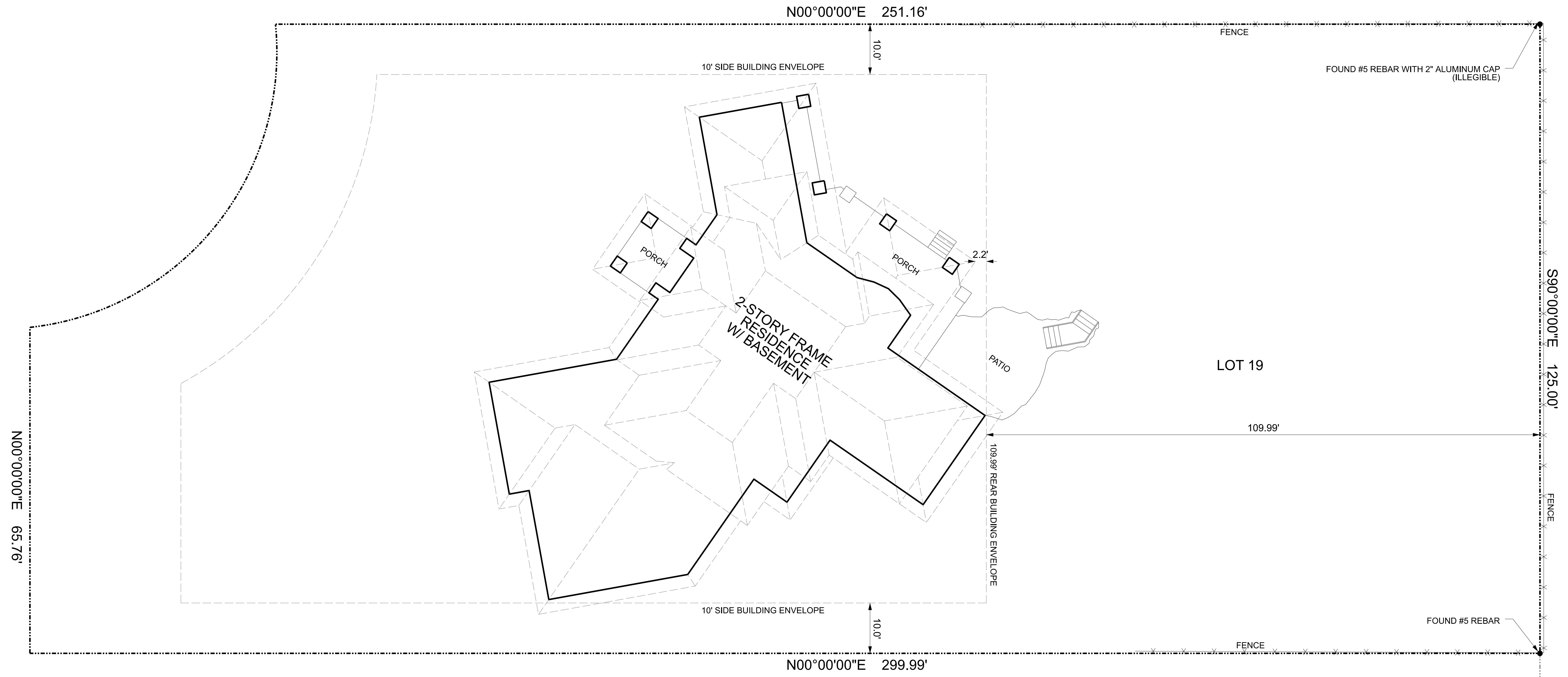


BUILDING COVERAGE	
EXISTING HOUSE FOOTPRINT (INCL. GARAGE)	4,225 SQ. FT.
EXISTING FRONT PORCH	166 SQ. FT.
EXISTING REAR PORCH	584 SQ. FT.
TOTAL BUILDING COVERAGE	4,975 SQ. FT.
LOT AREA = 34,784 SQ. FT.	

SITE PLAN NOTES

BOUNDARY & LOCATION INFORMATION USED TO PRODUCE THIS DRAWING WAS TAKEN FROM THE FOLLOWING:

- NIWOT MEADOW FARM PLAT, P-46 F-4 #2, DATED DECEMBER 18, 1988 BY DANIEL J. WILKINS, REG. # 25646
- ORIGINAL SITE PLAN, DATED MARCH 5, 2005 BY WHITTEN DESIGN GROUP
- EXHIBIT "A", DATED OCTOBER 11, 2021 BY EDGAR THOMAS BRISTOW, REG. # 19588, FLATRONS, INC. 3825 IRIS AVENUE, BOULDER, CO 80301 (303)443-7001



MODIFICATIONS TO THE RESIDENCE OF
ALAN & JULIE SCHARFF
8595 NIWOT MEADOW FARM ROAD
NIWOT, COLORADO 80503

REVISIONS

DATE	REV	ISSUE DESCRIPTION

Brad Dassler-Bethel
Architect

Creative architecture
focused on the way
you live

303.905.6390
brad@bradDB.com
bradDB.com

This drawing, as instrument of service, is and shall remain the property of the architect and shall not be reproduced, published or used in any way without the permission of the architect.

The contractor shall verify all dimensions and existing conditions at the site before proceeding with each phase of his work.

DRAWN BY: BDB	CHECKED BY: BDB
ISSUE DATE: 10 . 12 . 21	JOB #: 2721

AS-BUILT
SITE PLAN

AB.1

AS-BUILT SITE PLAN
SCALE: 1" = 10'



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

Building Safety & Inspection Services Team

MEMO

TO: Pete L'Orange, Planner II
FROM: Michelle Huebner, Plans Examiner Supervisor
DATE: February 1, 2023

RE: Referral Response, Docket EP-22-0007: SCHARFF Exemption Plat: Request for an Exemption Plat to adjust the building envelope for Lot 19 in the Niwot Meadow Farm subdivision.

Location: 8595 Niwot Meadow Farm Road

Thank you for the referral. We have the following comments for the applicants:

1. **Building Permits.** A building permit, plan review, and inspection approvals are required for the deck addition.

Please refer to the county's adopted 2015 editions of the International Codes and code amendments, which can be found via the internet under the link:

2015 Building Code Adoption & Amendments, at the following URL:
[Amendments to Boulder County Building Code effective June 6, 2022](#)

2. **Design Wind and Snow Loads.** The design wind and ground snow loads for the property are 150 mph (Vult) and 55 psf, respectively.
3. **Ignition-Resistant Construction and Defensible Space.** Please refer to Section R327 of the Boulder County Building Code for wildfire hazard mitigation requirements, including ignition-resistant construction and defensible space.
4. **Plan Review.** The items listed above are a general summary of some of the county's building code requirements. A much more detailed plan review will be performed at the time of building permit application, when full details are available for review, to assure that all applicable minimum building codes requirements are to be met. Our Residential Plan Check List and other Building Safety publications can be found at: <https://assets.bouldercounty.org/wp-content/uploads/2017/03/b24-residential-plan-check-list.pdf>

Claire Levy County Commissioner Marta Loachamin County Commissioner Ashley Stolzmann County Commissioner

If the applicants should have questions or need additional information, we'd be happy to work with them toward solutions that meet minimum building code requirements. Please call (720) 564-2640 or contact us via e-mail at building@bouldercounty.org



Parks & Open Space

5201 St. Vrain Road • Longmont, CO 80503
303-678-6200 • POSinfo@bouldercounty.org
www.BoulderCountyOpenSpace.org

TO: Pete L'Orange, Community Planning & Permitting Department
FROM: Ron West, Natural Resource Planner
DATE: February 23, 2023
SUBJECT: Docket EP-22-0007, Scharff, 8595 Niwot Meadow Farm Road

Staff has reviewed the submitted materials, and cannot support the proposal. Approval could set a precedent for expansion of building envelopes across the county. Building envelopes are established for a variety of reasons, but at the least, neighboring property owners assume that they will not change. In this case, affected neighbors would include both those within the Niwot Meadow Farm subdivision and in the adjacent Waterford subdivision.

How would a "limit" to expansion be justified or established? If 8 feet is "minor," then when does it become "major" – 18 feet? 28 feet? Or expansion north to the setback?

Adjacent public land on the north side of the parcel includes a public trail. The trail is only 35 feet from the subject parcel. At what point would expansion of the building envelope negatively impact the trail?



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302

Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 •

Tel: 303-441-3930 • www.BoulderCounty.gov

February 16, 2023

TO: Pete L'Orange, Planner II; Community Planning & Permitting, Development Review Team - Zoning

FROM: Jena Van Gerwen, Planner I; Community Planning & Permitting, Development Review Team – Access & Engineering

SUBJECT: Docket # EP-22-0007: SCHARFF Exemption Plat
8595 Niwot Meadow Farm Road

The Development Review Team – Access & Engineering staff has reviewed the above referenced docket and has the following comments:

1. The subject property is accessed via Niwot Meadow Farm Road, a paved Boulder County owned and maintained right-of-way (ROW) with a Functional Classification of Local. Legal access has been demonstrated via adjacency to this public ROW.
2. As presented, the development proposal meets the requirements of the [Boulder County Multimodal Transportation Standards \(the “Standards”\)](#).

This concludes our comments at this time.



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930

Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

MEMO TO: Agencies and adjacent property owners
 FROM: Pete L'Orange, Planner II
 DATE: February 1, 2023
 RE: **Docket EP-22-0007**

Docket EP-22-0007: SCHARFF Exemption Plat

Request: Request for an Exemption Plat to adjust the building envelope for Lot 19 in the Niwot Meadow Farm subdivision.

Location: 8595 Niwot Meadow Farm Road, Lot 19 Niwot Meadow Farm, located the eastern end of Niwot Meadow Farm Road, approximately 0.4 mile east of the intersection of N 83rd Street and Niwot Meadow Farm Road, in Section 30, Township 2N, Range 69W.

Zoning: Rural Residential (RR) Zoning District

Applicants/Property Owners: Alan and Julie Scharff

Exemption Plats typically involve boundary line adjustments; however, they do not allow increases or decreases in approved densities. This process includes a public hearing before the Boulder County Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Community Planning & Permitting staff, Planning Commission, and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter to the Community Planning & Permitting Department via mail (PO Box 471, Boulder, CO 80306) or email to planner@bouldercounty.org. All comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to call the Community Planning & Permitting Department at 303-441-3930 or email planner@bouldercounty.org to request more information. If you have any questions regarding this application, please contact me at 303-441-1418 or email plorange@bouldercounty.org to request more information.

Please return responses to the above address by **February 16, 2023**.
 (Please note that due to circumstances surrounding COVID-19, application timelines and deadlines may need to be modified as explained in the CPP Notice of Emergency Actions issued March 23, 2020 (see <https://boco.org/covid-19-cpp-notice-20200323>).

We have reviewed the proposal and have no conflicts.

Letter is enclosed.

Signed LuAnn Penfold PRINTED Name LuAnn Penfold

Agency or Address Mountain View Fire District

Please note that all Community Planning & Permitting Department property owner's mailing lists and parcel maps are generated from the records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel that you should not be considered a "property owner," or if the mailing address used is incorrect, please contact the County Assessor's Office at (303) 441-3530.



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930
 Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

MEMO TO: Agencies and adjacent property owners
 FROM: Pete L'Orange, Planner II
 DATE: February 1, 2023
 RE: **Docket EP-22-0007**

Docket EP-22-0007: SCHARFF Exemption Plat

Request: Request for an Exemption Plat to adjust the building envelope for Lot 19 in the Niwot Meadow Farm subdivision.

Location: 8595 Niwot Meadow Farm Road, Lot 19 Niwot Meadow Farm, located the eastern end of Niwot Meadow Farm Road, approximately 0.4 mile east of the intersection of N 83rd Street and Niwot Meadow Farm Road, in Section 30, Township 2N, Range 69W.

Zoning: Rural Residential (RR) Zoning District

Applicants/Property Owners: Alan and Julie Scharff

Exemption Plats typically involve boundary line adjustments; however, they do not allow increases or decreases in approved densities. This process includes a public hearing before the Boulder County Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Community Planning & Permitting staff, Planning Commission, and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter to the Community Planning & Permitting Department via mail (PO Box 471, Boulder, CO 80306) or email to planner@bouldercounty.org. All comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to call the Community Planning & Permitting Department at 303-441-3930 or email planner@bouldercounty.org to request more information. If you have any questions regarding this application, please contact me at 303-441-1418 or email plorange@bouldercounty.org to request more information.

Please return responses to the above address by **February 16, 2023**.

(Please note that due to circumstances surrounding COVID-19, application timelines and deadlines may need to be modified as explained in the CPP Notice of Emergency Actions issued March 23, 2020 (see <https://boco.org/covid-19-cpp-notice-20200323>).

We have reviewed the proposal and have no conflicts.

Letter is enclosed.

Signed Martin Harbers PRINTED Name Martin Harbers
 Agency or Address Left Hand Water District

Please note that all Community Planning & Permitting Department property owner's mailing lists and parcel maps are generated from the records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel that you should not be considered a "property owner," or if the mailing address used is incorrect, please contact the County Assessor's Office at (303) 441-3530.



Right of Way & Permits

1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: **303.571.3306**
Facsimile: 303. 571. 3284
donna.l.george@xcelenergy.com

February 13, 2023

Boulder County Community Planning and Permitting
PO Box 471
Boulder, CO 80306

Attn: Pete L'Orange

Re: Scharff Exemption Plat, Case # EP-22-0007

Public Service Company of Colorado's Right of Way & Permits Referral Desk has reviewed the documentation for **Scharff Exemption Plat** and has **no apparent conflict** with the building envelope adjustment.

Donna George
Right of Way and Permits
Public Service Company of Colorado dba Xcel Energy
Office: 303-571-3306 – Email: donna.l.george@xcelenergy.com



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930

Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

MEMO TO: Agencies and adjacent property owners
FROM: Pete L'Orange, Planner II
DATE: February 1, 2023
RE: **Docket EP-22-0007**

Docket EP-22-0007: SCHARFF Exemption Plat

Request: Request for an Exemption Plat to adjust the building envelope for Lot 19 in the Niwot Meadow Farm subdivision.
Location: 8595 Niwot Meadow Farm Road, Lot 19 Niwot Meadow Farm, located the eastern end of Niwot Meadow Farm Road, approximately 0.4 mile east of the intersection of N 83rd Street and Niwot Meadow Farm Road, in Section 30, Township 2N, Range 69W.
Zoning: Rural Residential (RR) Zoning District
Applicants/Property Owners: Alan and Julie Scharff

Exemption Plats typically involve boundary line adjustments; however, they do not allow increases or decreases in approved densities. This process includes a public hearing before the Boulder County Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Community Planning & Permitting staff, Planning Commission, and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter to the Community Planning & Permitting Department via mail (PO Box 471, Boulder, CO 80306) or email to planner@bouldercounty.org. All comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to call the Community Planning & Permitting Department at 303-441-3930 or email planner@bouldercounty.org to request more information. If you have any questions regarding this application, please contact me at 303-441-1418 or email plorange@bouldercounty.org to request more information.

Please return responses to the above address by **February 16, 2023**.
(Please note that due to circumstances surrounding COVID-19, application timelines and deadlines may need to be modified as explained in the CPP Notice of Emergency Actions issued March 23, 2020 (see <https://boco.org/covid-19-cpp-notice-20200323>).

We have reviewed the proposal and have no conflicts.

Letter is enclosed.

Signed  PRINTED Name Thomas P. Fran

Agency or Address 8595 Niwot Meadow Farm Rd

Please note that all Community Planning & Permitting Department property owner's mailing lists and parcel maps are generated from the records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel that you should not be considered a "property owner," or if the mailing address used is incorrect, please contact the County Assessor's Office at (303) 441-3530.

Recorder's Note: 12-31-98
Portion of document
is a photocopy.



1888347
Page: 1 of 148
12/31/1998 12:38P

DEVELOPMENT/SUBDIVISION AGREEMENT
GOVERNING DEVELOPER'S OBLIGATIONS IN

Recorder's Note: 12-31-98
Portion of recorded document
may not reproduce legibly.

NIWOT MEADOW FARM
(Subdivision Name)

(Boulder County Land Use Docket # SD-95-10)

THIS AGREEMENT is made on this 29th day of December, 1998, by and between the Board of County Commissioners of Boulder County, Colorado ("the County"), and NIWOT MEADOW FARM, LLC ("the Developer").

WHEREAS, the developer has submitted to the County for approval, execution, and recordation a final plat of the NIWOT MEADOW FARM SUBDIVISION, approved by the County in Land Use Docket #SD-95-10 ("Subdivision" or "Development"), and recorded on Film Number n/a and Reception Number 1888346, with the Boulder County Clerk and Recorder; and

WHEREAS, the County has fully considered said plat, the proposed development and improvement of the land therein, and the requirements to be imposed upon the subject property by reason of the proposed development of the land included in the plat; and

WHEREAS, the County has approved the final plat for the Development as set forth in County Resolution No. 98-161, adopted September, 1998, which is attached to and incorporated into this Agreement as Exhibit A; and

WHEREAS, the County has determined that this Agreement is consistent with the Boulder County Comprehensive Plan, the applicable County regulations, and the County's approval of the Development as set forth in Exhibit A; and

KOB

1888347
Page: 2 of 148
12/31/1998 12:38P

WHEREAS, the County has approved, signed, and accepted for recordation the above-referenced plat for the Development, subject to the Developer's agreement to the matters herein described; and

WHEREAS, the County and the Developer acknowledge and agree that the matters hereinafter set forth are reasonable requirements for the County to impose as part of its approval, signature, and acceptance for recordation of the plat, and that such matters are necessary to protect and promote the public health, safety, and welfare.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and the County's approval, execution, and acceptance of the Subdivision plat for recordation, the Developer and the County agree as follows:

1. **Timing of Improvements**

The Developer shall construct or install all improvements required for the Subdivision, as set forth on the attached Exhibit B. (" the Required Improvements"). The Developer shall construct the Required Improvements as shown on the Subdivision final plat and supporting documents, and specifically in accordance with the plans and specifications identified on Exhibit B, which have been approved by the County and which are part of the official County Subdivision file and are incorporated into this Agreement by this reference. The Developer shall construct the Required Improvements and have them inspected and accepted by the County Engineer no later than one year after the date on which the Letter of Credit for the Improvements, required under the "Guarantee of Improvements" paragraph, below, is issued, subject to modification or extension as set forth herein.



2. **Water Supply and Fire Protection**

Water shall be provided by the Left Hand Water District. Developer shall construct facilities for the water delivery and distribution to and within the Subdivision as set forth in Exhibit B. Water taps have been approved by the water supplier and the Developer has purchased or acquired adequate water taps. A copy of the signed contract for providing water service is attached to and incorporated into this Agreement as Exhibit C. The Developer shall also install 8 fire hydrants in accordance with the plat and/or approved engineering drawings or plans and specifications. All construction shall conform to permits and plans required and approved by the County Engineer and/or the County Health Department.

3. **Sewage**

Sewer service shall be provided by Niwot Sanitation District. Sewer mains and lines shall be constructed as set forth on Exhibit B in accordance with the approved plans on file with the County Engineer as referenced in Paragraph 1, above. The sewer main shall be subject to inspection by the County Engineer during construction. A copy of the signed contract for providing sewer service is attached to and incorporated into this Agreement as Exhibit D.

4. **Trenches**

The Developer shall compact trenches for sewer and water lines in accordance with the County's specifications or the specifications of the applicable water or sewer service provider. The Developer will test trench compaction while work is in progress. A sufficient number of tests shall be made to insure adequate compaction. The test results shall be certified by an approved soils laboratory and submitted to the County for review. The County may indicate specific test locations, as necessary. In the event that adequate compaction testing is not



provided, the County may order such testing, and the Developer shall reimburse the County for testing expenses incurred. There shall be no final release of the performance guarantee will be made until successful compaction tests are received.

5. **Roads**

The Developer will construct all roads within the Subdivision, including required improvements to North 83d Street as set forth on the Subdivision Final Plat and Exhibit B. The construction shall be in accordance with the plans on file and approved by the County Engineer as referenced in Paragraph 1, above. The Developer shall obtain a construction permit prior to start of construction for any road improvements.

6. **Erosion Control**

In order to continue to protect the soil resource, the Developer shall take the following erosion control measures as set forth in the plans and specifications referenced in Exhibit B.

7. **Temporary Detention**

Developer shall construct five temporary detention ponds and related facilities as shown on the approved plans for the purpose of controlling drainage and siltation (water quality) during the construction phase of the project. As construction proceeds, the Homeowner's Association shall take appropriate steps to remove, revegetate or otherwise eliminate or revise the temporary detention ponds and related facilities as reviewed and approved by the County Transportation Department.

8. **Open Space Fence**

Developer shall install a fence along the Boulder County open space boundaries as set forth on the approved landscaping/site plan (Exhibit F). The fence shall be a three rail fence,



with 2x8 wood rails. The fence shall be maintained by the Niwot Meadows Homeowner's Association. The County shall have the right to require that repairs or maintenance be performed to maintain the condition and appearance of the fence.

9. Cost Estimate

The Developer shall provide a detailed estimate of the costs of completing the Required Improvements as specified in Paragraph 1, above. The required cost estimate, which has been prepared by an individual qualified to provide estimates for a given improvement, and is broken down into item, unit cost, quantities, and total cost, is attached to and incorporated into this Agreement as Exhibit E.

10. As-Built Plans

The Developer shall provide to the County, and/or to the applicable service provider, as-built plans prepared and stamped by a licensed Professional Engineer for all roads, and utility lines and facilities constructed in connection with the Subdivision.

11. Guarantee of Improvements

With the recordation of the Final Plat, the Developer shall provide an irrevocable Letter of Credit from a licensed federal or state financial institution, in an amount which is 115% (or such greater percentage as the County Engineer may in its reasonable discretion determine to be necessary) of the estimated costs of constructing the Required Improvements specified above and as shown in the approved Cost Estimate (Exhibit E). The purpose of the additional 15% above the total estimated cost of the Required Improvements (or such other greater percentage as the County Engineer may in its reasonable discretion determine to be necessary), is to provide



warranty collateral to be available to the County in the event that any Required Improvement fails to perform as expected for a period of two years after the date of acceptance by the County.

The Letter of Credit shall provide for payment, upon demand, to the County, based upon the County's written statement that the Developer has failed to construct the Improvements as required in the Agreement. The Letter of Credit shall be for a term of three years, to include the one year allowed to construct the improvements under Paragraph 1, above, and two years to assure the Improvements' proper performance under the warranty collateral, unless the County Engineer approves or requires a different term based on the particular circumstances of the Subdivision's expected development.

Upon the completion of all or any part of the Required Improvements, and the acceptance and approval thereof by the County and/or the applicable responsible entity, the Developer may request a reduction in the amount of the Letter of Credit reflecting the estimated costs of the work approved and accepted. The Letter of Credit shall be approved for reduction, or released, only in accordance with the following provisions. The Developer shall submit to the County Engineer a letter requesting a reduction in the amount of, or a release of, the letter of credit (LOC), which shall include a submission of as-built plans, test results and engineer inspection reports. The LOC will not be approved for reduction or released if the County Engineer determines that deviations are present which have not received prior approval by the County Engineer and are not consistent with good engineering design and construction. For all utilities, a statement of substantial compliance must be accompanied, if appropriate, by a letter of acceptance of maintenance and responsibility from the appropriate utility company, special district, or municipality. A letter must be submitted from the appropriate fire district stating the



results of fire flow tests and indicating the fire hydrants are in place and operational in accordance with the approved plans. Release of warranty collateral will require the Developer to submit a letter of request for inspection to the County Engineer, and an inspection and approval by the County Engineer. The County Engineer shall promptly review any request for reduction or release of the Letter of Credit. If such request is approved, the Developer shall submit an acceptable amended Letter of Credit reflecting the approved reduced amount, to be kept in effect for the period of time approved by the County Engineer.

12. **Building Permits**

Building permits will be issued after acceptance of the Letter of Credit by the County and release of any Subdivision final plat restrictions, based in the following criteria:

- a. No building permits will be issued for any lot unless the street has been cut to subgrade, water and sewer mains and services have been installed adjacent to those lots, necessary storm detention and drainage facilities have been installed, and any proposed drainage improvements located on an individual lot have been completed.
- b. After completion of the above items, building permits may be issued on any lot provided the Developer submits proper guarantees that the improvements will be constructed and a reasonable schedule for completion of the improvements. The County may restrict issuance of building permits or certificates of occupancy if construction is not in compliance with the submitted schedule.
- c. The County Engineer may waive the timely completion of the improvements provided reasonable progress is being made and sufficient financial guarantees have been provided.



d. All other applicable requirements of the Boulder County Land Use Code and Building Code must be met before building permits can be issued.

13. Construction Permits

The Developer shall obtain from the Boulder County Transportation Department a construction permit for each development phase for all Required Improvements, specified in Paragraph 1 above, as documented by approved engineering plans. The Developer shall construct only those improvements authorized within the construction permit. The construction permit may be revoked by the Transportation Department should improvements be constructed that are not authorized within the scope of the permit.

14. Other Conditions of Subdivision Approval/Impact Fees

The Developer shall comply with all other terms, conditions, and commitments of record of the County's approval of the Subdivision, as set forth in Exhibit A hereto. The styles of homes, colors and landscaping are established in the attached Design Guidelines (Exhibit G) and per the covenants (Exhibit H). In addition, the Developer shall participate in the applicable road impact fee fund if and when the County adopts a county-wide road impact fee system prior to the issuance of building permits pursuant to this Agreement.

15. Relationship to Homeowner's Association's Documents and Rules

The County is not responsible for enforcing, nor has the County necessarily reviewed and approved, the Subdivision's covenants; homeowners' association documents, provisions or rules; or any other such documents governing the internal governance and control of the Subdivision. The terms and conditions of the County's approval of the Subdivision, as set forth herein and on the Subdivision Final Plat, as well as the applicable provisions the Boulder County Land Use



Code and Building Code, all shall govern and control over any conflicting provisions in the Subdivision covenants or other internal Subdivision governance documents and rules.

16. Vested Right

In consideration of the above conditions and covenants, the County agrees to grant a vested property right for the Subdivision to proceed pursuant to the terms of this Agreement. The approval shall have a term of three years. The vesting period shall be subject to the provisions for modification and termination contained herein. During the vesting period approved herein, subsequent regulations enacted by the County shall be applicable to the Development if necessary to protect the health and safety of the inhabitants of Boulder County, or if general in nature and applicable to all properties subject to County land use regulation.

The Developer may request an extension of the vested right approved herein, in accordance with the Boulder County Land Use Code and applicable state law. The vested property right granted herein shall be terminated if the County determines that Developer is not in good faith compliance with the terms of this Agreement.

17. Amendment/Waiver

This Agreement may be canceled or amended with the mutual consent of the parties or to bring the Development into conformance with federal or state law. The County shall have the right to waive its rights to enforce this Agreement, without obtaining the consent of any other entity or person, provided that any waiver shall be made in writing to be effective. However, any cancellation, amendment, or waiver which represents a material modification of the County's approval of the Development, as set forth in Exhibit A, shall require a public hearing and approval according to applicable County land use regulations.



18. **Enforcement**

The County may conduct a periodic review of the development of the Subdivision as necessary to assure compliance with this Agreement. This right includes the right to enter upon the Subdivision property at any time, without prior notice, to inspect for compliance with the terms of this Agreement.

The County or any purchaser of any lot or area of land subject to the restrictions or requirements of the Subdivision Final Plat or this Agreement shall have the authority to bring an action in the Boulder District Court to compel the enforcement of this Agreement and the restrictions and requirements herein provided for, and to seek other relief as may be authorized by law. Such authority includes but is not limited to the right to compel rescission of any sale, conveyance, or transfer of title of any lot or area of land contrary to the provision of such restrictions as set forth on the plat or in this Agreement pursuant to the provisions of C.R.S. § 30-28-137, as amended.

19. **Transfer of Property/Annexation**

This Agreement is intended to provide for the orderly construction of dwelling units and other improvements on the property containing the Development. Those owners of the Subdivision property or any portion thereof who obtain title subsequent to the date of recordation of this Agreement, or persons holding under Developer or subsequent owners, shall be entitled to construct dwelling units hereon by complying with the terms hereof, and shall also be bound by all applicable terms and obligations of this Agreement. If the Subdivision property becomes included within the boundaries of any city or town, the County's right to enforce this Agreement shall automatically pass to the governing body of the city or town.



20. Subordination

Prior to recordation of the Final Plat for the Subdivision, the Developer shall have obtained the written and notarized agreement of any existing senior mortgagee or lienholder in the property included in the Subdivision, to subordinate their interest in the property to the County's rights to retain in effect and enforce this Agreement.

21. Notation and Recordation

The Developer shall note on the Final Plat for the Development, as a plat note, the existence of this Agreement by reference to Reception Number and Film Number as recorded by the County Clerk and Recorder. The Developer shall file this Agreement for recording with the County Clerk and Recorder, along with any required Conservation Easement, Letter of Credit, deeds, or other documents required as part of the County's approval of the Development.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals this 29th day of December, 1998.

OWNER - DEVELOPER



 NIWOT MEADOW FARM, LLC


1888347
 Page: 12 of 148
 12/31/1998 12:38P
 Boulder County Clerk, CO AG R 741.00 D 0.00

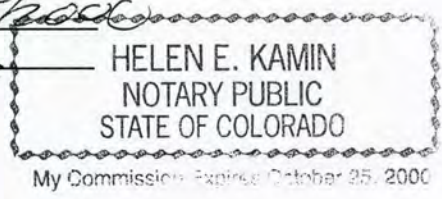
STATE OF COLORADO)
) ss.
 COUNTY OF BOULDER)

The foregoing instrument was acknowledged
 before me this 29th day of
December, 1998, by
Michael Markel as the
manager of Niwot Meadow Farm, LLC

Witness my hand and official seal.

My commission expires 10/25/2000

Helen E. Kamin
 NOTARY PUBLIC



BOULDER COUNTY
Ronald K Stewart
 CHAIR, BOULDER COUNTY
 BOARD OF COUNTY COMMISSIONERS

ATTEST:
Michael Ryder
 CLERK OF THE BOARD





Return to Land Use



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347

Page: 13 of 148

12/31/1998 12:38P

EXHIBIT A

RESOLUTION 98-161

A RESOLUTION CONDITIONALLY APPROVING BOULDER COUNTY LAND USE DOCKET #SD-95-10 ("NIWOT MEADOW FARM (FORMERLY LACEY PROPERTY) PUD FINAL PLAT"): A FINAL PLAT FOR A PROPOSED PLANNED UNIT DEVELOPMENT (PUD)/TRANSFERABLE DEVELOPMENT RIGHTS (TDR) SUBDIVISION CONSISTING OF 27 LOTS ON 42.09 ACRES OF PROPERTY LOCATED IN THE NIWOT COMMUNITY SERVICE AREA, NORTH OF BRITTANY PLACE AND WATERFORD PUD, AND EAST OF N. 83RD STREET, IN SECTION 30, T2N, R69W.

WHEREAS, Michael Markel for Markel Homes ("Applicant") has requested approval of a final plat for a proposed PUD subdivision consisting of 27 lots on a 42.09+- acre parcel of property which is located as described in the caption to this Resolution, above ("the Subject Property"), in the Agricultural and Rural Residential (with Floodplain Overlay) Zoning Districts, with two lots to be platted through the County's transferable development rights ("TDR") program, under Articles 5 and 6 of the Boulder County Land Use Code ("the Land Use Code"); and

WHEREAS, the Applicant received sketch plan approval for the proposed development through Resolution 97-115 in July, 1997; and

WHEREAS, the Applicant received preliminary plan approval for the proposed development through Resolution 98-100 in May, 1998; and

WHEREAS, with this application the Applicant is proposing to plat Lots 26 and 27 (the TDR lots) as lots, and the final plat thus will plat all 27 proposed lots; and

WHEREAS, the above-described final plat request was processed and reviewed as part of Boulder County Land Use Docket #SD-95-10 ("the Docket"), all as further described in the Boulder County Land Use Planning Staff's Memorandum and written recommendation to the Boulder County Board of County Commissioners ("the Board") dated September 10, 1998, with its attachments ("the Staff Recommendation"); and

WHEREAS, on July 15, 1998, the Planning Commission held a duly noticed public hearing on the proposed final plat, and recommended conditional approval of the Docket to the Board; and

WHEREAS, on September 10, 1998, the Board held a duly-noticed public hearing on the Docket, and considered the Staff Recommendation and the recommendation of the Planning Commission, and also considered the documents and testimony of the Applicant; and

WHEREAS, based on the Public Hearing, the Board finds that the Docket (proposed final plat) meets the applicable criteria in Articles 5 and 6 of the Land Use Code for a final plat for a PUD subdivision on the Subject Property, and can be approved, based upon the Staff Recommendation and for the reasons set forth on and



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 14 of 148
12/31/1998 12:38P

supported by the record of the Public Hearing in this matter, subject to the conditions stated below.

NOW, THEREFORE, BE IT RESOLVED that the Docket (proposed final plat) is hereby approved, on the basis and terms set forth in this Resolution, above, subject to the following conditions:

1. The Applicant shall provide evidence of a legal right to use Outlot C of the Waterford PUD as an emergency access prior to recording the final plat.
2. The Applicant shall provide final engineering information, to be reviewed and approved by the County Transportation Department, prior to recording the final plat.
3. The Applicant shall provide evidence that all requirements of Left Hand Water District and the Niwot Sanitation District have been met prior to recording the final plat.
4. The dwellings on Lots 1-11 shall be limited to a maximum of 2,500 square feet above grade. The dwelling on Lot 3 may be up to 3,200 square feet above grade if this greater size is approved through the County's site plan review process. The County shall also review mitigation measures such as landscaping and fencing along the eastern boundaries of the Subject Property to adequately buffer the development from adjacent properties, prior to recording the final plat.
5. Development within the Niwot Meadow Farm PUD shall be subject to the appropriate County growth management plan and/or open space-impact fee and school-impact fee plans, if and when adopted. The County accepts the Applicant's commitment to pay school impact fees per a separate agreement with the St. Vrain Valley School District, or as part of the Development Agreement with the County, as appropriate.
6. The Applicant shall participate in any proposed speed mitigation measures at or near the N. 83rd Street entrance to the development.
7. The Applicant shall meet all requirements of the County Parks and Open Space Department for the public trail; shall provide an environmental audit of the open space dedication prior to recording the final plat; and shall provide that water quality ponds not be within the dedicated area. Further, the Applicant shall construct a post and dowel fence or wire fencing on the north and south lines of the Dry Creek outlot.

Boulder County Clerk, CO AG

1888347
Page: 15 of 148
12/31/1998 12:38P
R 741.00 D 0.00

8. The Applicant shall make its best efforts to accomplish prairie dog removal in a humane fashion, without lethal means. The Applicant shall hire a wildlife biologist if grading occurs on the Subject Property prior to removal of the prairie dogs on the Property. Removal by lethal means shall be allowed only as a last resort, and only after the Applicant demonstrates to the satisfaction of the County Parks and Open Space Department that significant good-faith efforts have been made to remove prairie dogs on the Subject Property through non-lethal means.
9. Detailed geotechnical investigations shall be performed prior to determining the final road section and design bearing loads, and agreements shall be obtained from lot owners not to install any landscaping (other than grass) in the County right-of-way prior to the issuance of building permits on any lot.
10. The entrance signage/landscaping shall be reviewed and approved by County staff prior to recording the final plat.
11. The two units transferred to the Subject Property (sending sites) must come from the designated sending sites, per Docket #DC-95-05.
12. The Applicant shall submit and receive approval of a Construction Permit from the County Transportation Department.
13. The Applicant shall be subject to the dedication requirements for schools, parks and roads, per Section 7-1300 of the County Land Use Code.
14. The approved landscape plan shall include maximum use of xeriscaping techniques.
15. The Applicant shall be subject to all Boulder County Health Department permits for disturbance of surface areas for the purpose of land development.
16. The County Land Use, County Transportation, County Parks & Open Space, and County Attorney staffs shall review and approve the final plat documents, as necessary, prior to recording the final plat.

A motion to approve the Docket (proposed final plat), subject to the conditions stated above, was made by Commissioner Danish, seconded by Commissioner Mendez, and passed by a 3-0 vote.

1888347
 Page: 16 of 148
 12/31/1998 12 38P
 R 741.00 D 0.00

Boulder County Clerk, CO AG

ADOPTED this 22 day of September, 1998, nunc pro tunc the 10th day of September, 1998.



BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:

Ronald K. Stewart
Ronald K. Stewart, Chair

Jana L. Mendez
Jana L. Mendez, Vice Chair

Paul D. Danish
Paul D. Danish, Commissioner

ATTEST:

Anna M. Ashcraft
Clerk to the Board



EXHIBIT B

**NIWOT MEADOW FARM SUBDIVISION
CONSTRUCTION COST SUMMARY**

CONCRETE	\$ 13,041.00
PAVING	\$ 158,358.00
UTILITIES	\$ 263,822.90
BRIDGE	<u>\$ 188,340.00</u>
SUBTOTAL	\$ 623,561.90
15% CONTINGENCY	<u>\$ 93,534.29</u>
GRAND TOTAL	\$ 717,096.19

Return to Land Use



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 24 of 148
12/31/1998 12:38P

EXHIBIT A-4

Easement Agreement

THIS AGREEMENT, made and entered into this 10th day of August, 1998,
by and between MICHAEL MARKEL and/or assigns and Northsun Corporation

WITNESSETH:

1. Northsun Corporation, grantor, as record owner of the following described real property, in consideration of the payment of Ten Thousand Dollars (\$10,000.00), the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain and convey unto Michael Markel and his successors, and assigns, a non-exclusive easement and right of way over and across the following described real property.

Outlot C,
Waterford Filing No. 1,
Boulder County, Colorado

Said easement shall be for the purpose of emergency ingress and egress to and from the property described on Exhibit A, attached hereto and by reference made a part hereof for drainage, and for the installation, construction, repair and maintenance of utilities, including, but not limited to, water, sewer, natural gas, electricity, telephone and cable tv, and the construction, repair and maintenance of an emergency roadway and ballards and drainage structures. The owners of the property described on Exhibit A, their invitees and guests and the public shall have the right and liberty, at all times hereafter, to pass and repass along said easement, with or without vehicles, for the purpose of emergency access to and from said property to the nearest public road.

2. Said easement shall be appurtenant to and shall run with the property described in Exhibit A hereto.

3. Michael Markel and/or his successors and assigns, shall have the right to convey or assign this easement, or dedicate this easement to Boulder County and/or the public in conjunction with the development and platting of Niwot Meadow Farm, Boulder County, Colorado.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this 10th day of August, 1998.



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347

Page: 25 of 148

12/31/1998 12:38P

Grantor:

Michael Markel

By: Dan a. Hendrik

By: Michael Markel

STATE OF COLORADO)
) SS:
COUNTY OF BOULDER)

Subscribed and sworn to before me this 10th day of AUGUST, 1998, by Michael Markel.

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

Leonilla Sue Carson
Notary Public

STATE OF COLORADO)
) SS:
COUNTY OF BOULDER)

Subscribed and sworn to before me this 10th day of August, 1998, by Dan A. Hendrick as Vice President of Northsun Corporation.

My commission expires: 3/7/99
Witness my hand and official seal.

Linda L. Hammond
Notary Public



1888347

Page: 26 of 148

12/31/1998 12:38P

R 741.00 D 0.00

Boulder County Clerk, CO RG

EXHIBIT A

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE NI/2 OF THE SEI/4 OF SECTION 30, T2N, R69W OF THE 6TH P.M. DESCRIBED AS FOLLOWS:

COMMENCING AT THE SI/4 CORNER OF SAID SECTION 30 FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 30 BEARS S89°59'02"E, 2641.04 FEET; THENCE N00°04'17"W, 1322.48 FEET ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 30 TO THE SOUTHWEST CORNER OF THE NI/2 OF THE SEI/4 OF SAID SECTION 30 AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING N00°04'17"W, 661.24 FEET ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 30 TO THE NORTHWEST CORNER OF THE SI/2 OF THE NWI/4 OF THE SEI/4 OF SAID SECTION 30;

THENCE N89°59'32"E, 1314.92 FEET ALONG THE NORTH LINE OF THE SI/2 OF THE NWI/4 OF THE SEI/4 OF SAID SECTION 30 TO THE NORTHEAST CORNER THEREOF;

THENCE N00°13'59"W, 661.43 FEET ALONG THE WEST LINE OF THE NEI/4 OF THE SEI/4 OF SAID SECTION 30 TO THE NORTHWEST CORNER THEREOF;

THENCE N89°59'03"E, 752.48 FEET ALONG THE NORTH LINE OF THE NEI/4 OF THE SEI/4 OF SAID SECTION 30 TO THE APPROXIMATE CENTERLINE OF NIWOT DRY CREEK;

THE FOLLOWING COURSES AND DISTANCES ARE ALONG THE APPROXIMATE CENTERLINE OF SAID NIWOT DRY CREEK:

THENCE S27°13'E, 24.0 FEET;

THENCE S85°30'W, 68.5 FEET;

THENCE S19°33"E, 83.8 FEET;

THENCE N52°20'E, 86.5 FEET;

THENCE S42°10'E, 111.5 FEET;

THENCE S26°25'W, 166.0 FEET;

THENCE S06°25'E, 106.0 FEET;

THENCE S78°05'W, 110.0 FEET TO THE EAST LINE OF THAT TRACT OF LAND AS DESCRIBED IN DEED RECORDED ON FILM 768 AS RECEPTION NO. 015079 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE, LEAVING THE APPROXIMATE CENTERLINE OF SAID NIWOT DRY CREEK S00°23'40"E, 910.89 FEET ALONG THE EAST LINE OF THAT TRACT OF LAND AS DESCRIBED ON SAID FILM 768 AS RECEPTION NO. 015079 TO THE SOUTH LINE OF THE NI/2 OF THE SEI/4 OF SAID SECTION 30;

THENCE N90°00'00"W, 2014.58 FEET ALONG THE SOUTH LINE OF THE NI/2 OF THE SEI/4 OF SAID SECTION 30 TO THE TRUE POINT OF BEGINNING.

AREA = 42.087 ACRES, MORE OR LESS.



EXHIBIT C

SUBDIVISION/MULTIPLE TAP SERVICE AGREEMENT

1. **PARTIES.** The parties to this Agreement are the **LEFT HAND WATER DISTRICT**, a title 32 special district, ("District") and Michael Markel ("Applicant").
2. **RECITALS AND PURPOSE.** The Applicant is the owner of certain property to be developed, as described herein. The District is a special district organized under Colorado law which provides treated water service to its customers for which monthly service charges are made. The Applicant desires to purchase water taps for the development project. The purpose of this Agreement is to set forth the terms and conditions concerning the District's supplying such domestic water service to the proposed project. Accordingly, the parties agree to the following provisions in consideration of the mutual covenants set forth herein.
3. **LEGAL DESCRIPTION OF PROJECT.** For purposes of this Agreement, the term "project" shall mean the property described on Exhibit A which is attached and incorporated herein, and which is known as Niwot Meadows Subdivision. The Applicant agrees to furnish a reproducible copy of the preliminary plat to the District and said plat is expressly incorporated in this Agreement. Any change or alteration in the area, size, shape, density, usages, requirements, tap equivalents needed, or timing of development of the subdivision which may affect the number of tap equivalents required for the project or the method or manner of the provision of water to or within the project shall first require the written approval of the District.
4. **SALE AND PURCHASE OF TAPS.** District acknowledges receipt of the sum of \$ 136,110.00 representing payment of only the plant investment fee component of the total fee charged by the District for 26 single family residential water tap connections ("taps"), with a deferral of the other components of the tap fees, specifically including the raw water component. Upon payment of the remaining components and pursuant to the provisions of paragraph 5 herein, each tap may be activated and placed in service.
5. **RAW WATER TRANSFER.**
 - 5.1 As a condition of activation of the purchased taps, Applicant shall transfer **1.32 units** of Colorado-Big Thompson Project water, administered by the Northern Colorado Water Conservancy District, for each tap purchased. The cash value of any excess units transferred to meet this requirement shall be applied or credited to the balance of the remaining tap fees due and owing. The raw water to be transferred shall consist of 35 C-BT units as may be adjusted pursuant to District regulations. In the event that raw water is not transferred to the District upon execution of this Agreement, Applicant must obtain said units and effectuate the transfer of the raw water prior to activation of the taps. In the event that Applicant can not obtain the required raw water on the open market, the Applicant may, at the discretion of the District's Board and for good cause shown, make a cash payment in lieu of the transfer of raw water, in such an amount as the District may determine to be necessary to obtain raw water including administrative costs, transfer fees and other related costs, or in accordance with its then existing policies, rules and regulations.



1888347
Page: 28 of 148
12/31/1998 12:38P

5.2 Applicant shall give District 90 days advance notice of its intention to physically connect such taps to the District's lines and facilities to provide the District with sufficient time to effectuate the raw water transfers, if needed. Applicant shall, before any such connection is made, transfer the raw water and pay the balance of any amounts due and owing for such tap fees, including without limitation, the fee in lieu of raw water component (if water is not transferred to District) and all other components of the tap fee, in accordance with the District's then applicable fee schedule.

5.3 The failure of Applicant to complete the raw water transfer, or to pay the cash amount in lieu thereof as set forth in paragraphs 5.1 and 5.2, or to pay the remaining components of the tap fees for the total number of taps specified in paragraph 4, on or before the fifth anniversary of the initial payment to the District of the plant investment fee component of the tap fee, shall constitute a default. Upon such default any sums paid hereunder by Applicant shall be retained by District as liquidated damages for such default. It is understood and agreed by Applicant that the purpose of this requirement for completion of the purchase of all taps within a five year period is based upon the financial requirements of the District to fund its capital construction needs. The District, by this Agreement, has committed a definite portion of the total capacity of its system to the Applicant and, therefore, must look to the Applicant for performance of its obligations in order that the District may meet its capital construction and operating expenses. If there is a default by Applicant, District may recommit such taps to other applicants without further notice to Applicant.

6. **DESIGN SPECIFICATIONS.** It is agreed, as a condition precedent to service, that all water lines and appurtenant facilities required to provide water service within the boundaries of Applicant's project as described on Exhibit A and all necessary transmission lines, connecting lines and appurtenant facilities necessary to connect with the lines of the District as presently engineered and installed, shall be installed at Applicant's sole cost and expense and shall be in accordance with design and specifications as fixed by the District. Applicant agrees that the actual installation and construction shall be subject to the general, as opposed to specific, supervision of, and inspection by, the District and all related costs of the District's engineering study, review, approval and inspection (including the District's cost and expenses of obtaining necessary easements if public rights-of-way are not available or if available, not feasible to utilize) shall be at the cost of Applicant. Fire Hydrants: Applicant agrees to pay a Fire Hydrant Fund Fee, at the current rate of \$ 800.00 per fire hydrant as shown on the approved Plans. A total of 8 hydrants will be installed for a total Fund Fee of \$ 6,400.00. Applicant further agrees to give the District, through the District's Engineer, adequate notice, prior to commencement of construction, of the date when such construction shall begin.

7. **EASEMENTS.** Applicant shall furnish, at Applicant's expense, all easements, rights-of-way, and consents both within the project (if public utility easements are not dedicated by the plat) and without the project, if required. Such easements, rights-of-way and consents shall be provided prior to

1888347
Page: 29 of 148
12/31/1998 12:38P

commencement of construction. Those easements lying outside of the project and which may be required for the construction of any portion of the water lines and appurtenant facilities which may be needed to service the project (excluding public rights of way), and as determined by the District in its sole discretion, shall be obtained by District but at Applicant's expense. All such costs and expenses of easement acquisition shall be paid by Applicant to District as a condition precedent to service to the project.

8. WATER SERVICE.

8.1 The Applicant acknowledges that District is responsible only for making domestic water available to the project's individual taps at such pressure as may be available at the point of delivery as a result of the District's normal operation of its water system. The District may temporarily disconnect the flow of water in the main or at the individual points of delivery in order to repair, maintain, test, improve, or replace the main or other portions of the District's water distribution, storage and or supply system.

8.2 Applicant covenants and agrees that it will not make any warranties or representations to any home builder, contractor, developer, landscaping contractor, home owner, lessee, tenant, property owner, or any other person or entity, regarding the District's water system's capabilities, pressure, or flows.

9. **SALE OF LINES.** Upon completion, approval and acceptance of the work by the District through the issuance of the District's certificate of acceptance, this Agreement shall operate as a sale, conveyance, transfer and assignment by the Applicant of all Applicant's interest and ownership in said lines to the District, free and clear of all liens and encumbrances, and shall warrant that the work has been done in accordance with the laws of the State of Colorado, and all other governmental subdivisions, agencies and units and in accordance with the design standards and requirements of the District. Applicant shall guarantee the lines as installed against faulty workmanship and materials to the District for a period of two years from conveyance and shall, during said period, pay all cost and expense of repair or replacement of said lines and, at the request of the District, furnish a bond guaranteeing said repair and replacement. Upon completion, approval, acceptance, conveyance and transfer of lines and facilities to the District, the District shall assume all responsibility thereafter, and all cost and expense for operation and maintenance except as to the above two-year guarantee. Completion of construction, inspection, approval and acceptance by the District, transfer of lines and facilities to the District, payment of all construction costs and expenses required to be done and paid by the Applicant are conditions precedent to the obligation of the District to furnish and provide water service to the project.

10. **OVERSIZE LINES.** In the event Applicant shall be required to pay for installation of transmission and connecting lines outside the boundaries of Applicant's subdivision, and District requires that such lines and facilities be oversized to permit the use of those lines by the District to serve additional lands and property in addition to the property of the Applicant, District agrees to establish the cost of such



1888347
Page: 30 of 148
12/31/1998 12:38P

oversizing and to reduce this cost to a "cost per tap" based upon the engineered capacity of the lines and the system which such oversizing can serve. District and Applicant shall enter into a Line Participation Agreement which shall provide, as a minimum, that the District will impose a surcharge upon future users of the oversized line, said surcharge to be calculated on a per tap basis utilizing District's engineering estimate as to the line's total capacity. During a period of seven years from and after the date of the Line Participation Agreement, but not thereafter, the District will collect and pay to Applicant the collected line surcharges to reimburse Applicant for its additional costs in paying for the oversizing of the line.

11. DISTRICT REGULATIONS. All service provided under this Agreement shall be subject to the monthly service charges and all bylaws, rules and regulations of the District which may be in force from time to time.

12. GOVERNMENTAL REGULATIONS. All provisions of this Agreement to the contrary notwithstanding, the obligation of the District to furnish water service under this Agreement, is limited by, and subject to all orders, requirements and limitations which may be imposed by federal, state, county or any governmental or regulatory body or agency having jurisdiction and control over the District and/or the operation of its domestic water system and treatment facilities.

13. DOCUMENTS TO BE FURNISHED. Upon execution of this Agreement, or at such time or times as may be requested by District, Applicant agrees to furnish District the following:

13.1 A topographical survey of the property described in this Agreement; and

13.2 Final Subdivision plat approved by appropriate regulatory boards, commissions, or agencies, together with requirements and conditions fixed by such entities for development and evidence of the Applicant's compliance or plan for compliance; and

13.3 In the event the initial area to be served under this Agreement is not the entire project to be developed by Applicant and the remainder is being planned as a phased development, Applicant shall furnish sketch plans, preliminary plats and/or plans as developed by the Applicant with reference to the future total development of the entire property. It is understood and agreed that a request for information as to future plans and developments of the Applicant (and the consideration of such plans by the District in connection with its obligation to service Applicant's above-described land under this Agreement) shall in not be construed as an agreement or obligation of District to serve such other lands, additional lands, or areas proposed by the Applicant for such future development beyond that provided in existing written commitments. All information required to be furnished to District by Applicant shall be provided at Applicant's expense.

1888347
Page: 31 of 148
12/31/1998 12:38P

R 741.00 D 0.00

13.4 Recorded plats and drawings of the development, including a mylar map and autocad diskette files certified by Applicant's engineer depicting all lines, valves, fittings and appurtenances as constructed, installed, and transferred pursuant to Paragraph 7 above.

14. **DELAYS.** Any delays in, or failure of, performance by any party of his or its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God and nature, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, restrictions or limitations contained in any initiative approved by the voters, shortages of labor materials, or other causes, similar or dissimilar, which are beyond the control of such party, including any governmental orders, directives, requirements or limitations described above.

15. **PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of the Agreement.

16. **ADDITIONAL DOCUMENTS OR ACTION.** The parties agree to execute any additional documents and to take any additional action necessary to carry out this Agreement.

17. **INTEGRATION AND AMENDMENT; PRIOR AGREEMENTS.** This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. The Applicant shall reimburse the District for any expenses incurred by the District in connection with any amendment of this Agreement requested by the Applicant. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

18. **ALTERNATIVE DISPUTE RESOLUTION.** In the event of any dispute or claim arising under or related to this Agreement, the parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within 30 days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim through negotiations, then the parties agree to attempt in good faith to settle such dispute or claim by mediation conducted under the auspices of the Judicial Arbiter Group (JAG) of Denver, Colorado or, if JAG is no longer in existence, or if the parties agree otherwise, then under the auspices of a recognized established mediation service within the State of Colorado. Such mediation shall be conducted within 60 days following either party's written request therefor. If such dispute or claim is not settled through mediation, then either party may initiate a civil action in the District Court for Boulder County.

19. **ASSIGNMENT.** If Applicant is not in default hereunder, Applicant may assign this Agreement without the prior consent of the District, provided said assignment is in writing and further provided that the assignment is made in conjunction with a transfer of all or substantially all of the property described



herein. No assignment shall, however, be effective upon the District unless and until the District receives written notice or copy of the assignment.

20. **BINDING EFFECT.** This Agreement shall inure to the benefit of, and be binding upon, the parties, and their respective legal representative, successors, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of the Agreement except as otherwise specifically authorized herein.

21. **The undersigned Applicant hereby tenders to Left Hand Water District \$ 142,510.00 representing required tap fees, raw water not included and hydrant fees.**

DATED: December 10, 1998.

LEFT HAND WATER DISTRICT

By: *Brian Burnett*

President
Box 210
Niwot, Colorado 80544

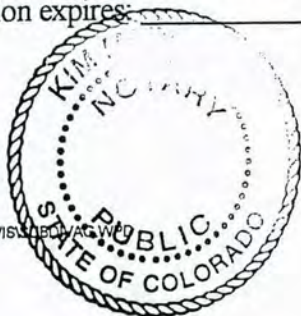
ATTEST: *Earl Juhl*
Secretary

STATE OF COLORADO)
) ss
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 10th day of December, 1998, by Brian Burnett as President and Earl Juhl as Secretary of the Left Hand Water District.

Witness my hand and official seal.
My Commission Expires 4-20-2002
My commission expires: _____

Kim Marie Lane
Notary Public





1888347
Page: 33 of 148
12/31/1998 12:38P
R 741.00 D 0.00

[Handwritten signature]

Applicant

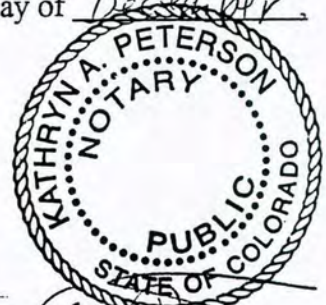
By: Michael Markel

STATE OF COLORADO)
) ss
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 14th day of December, 1998, by Michael Markel, Newt Meadows

Witness my hand and official seal.

My commission expires: My Commission Expires 7-15-2001



[Handwritten signature]

Notary Public



1888347
Page: 34 of 148
12/31/1998 12:38P
R 741.00 D 0.00

"EXHIBIT A"

Parcel A:

All that portion of the East 1/2 of the Southeast 1/4 of Section 30, Township 2 North, Range 69 West of the 6th P.M., which lies Northerly of the centerline of Niwot Dry Creek as the same presently exists,

County of Boulder,
State of Colorado.

Parcel B:

Part of the NE 1/4 of the SE 1/4 of Section 30, Township 2 North, Range 69 West of the 6th P.M., described as follows:

Commencing at the E 1/4 corner of said Section 30, thence S 00°23'40" E, 1323.25 feet along the East line of the NE 1/4 of the SE 1/4 of said Section 30 to the Southeast corner thereof;
thence Westerly, 619.00 feet along the South line of the NE 1/4 of the E 1/4 of said Section 30 to the True Point of Beginning;
thence continuing Westerly, 687.00 feet, along the South line of the NE 1/4 of the SE 1/4 of said Section 30 to the Southwest corner thereof;
thence Northerly, 510.00 feet, more or less to the Southwest corner of that tract of land conveyed to Thomas E. Lacey and Gail M. Lacey in Deed recorded on Film 729 as Reception No. 974571;
thence Northeasterly, along the South line of that tract of land conveyed to Thomas E. Lacey and Gail M. Lacey in Deed recorded on Film 729 as Reception No. 974571, to a point on a line that bears N 00°23'40" W, from the True Point of Beginning;
thence S 00°23'40" E, 905 feet, more or less, parallel with the East line of the NE 1/4 of the SE 1/4 of said Section 30 to the True Point of Beginning;

Less an undivided one-half interest in all oil, gas and other minerals as reserved by Deed recorded in Book 1130 at Page 213.

Reserving unto the parties of the first part a non-exclusive easement 20.00 feet in width to be used by the parties of the first part, the parties of the second part, their heirs and assigns, for the purposes of the construction, operation, inspection, repair, maintenance and replacement of a sanitary sewer line or lines extending from the South line of the NE 1/4 of the SE 1/4 of said Section 30, Northerly to the centerline of an existing sewer, said 20.00 foot easement being 10.00 feet on each side of the following described centerline:

Commencing at the Southwest corner of the NE 1/4 of the SE 1/4 of said Section 30, thence Easterly, 165.00 feet along the South line of the NE 1/4 of the SE 1/4 of said Section 30 to the True Point of Beginning;
thence Northerly, 428 feet parallel with the West line of the NE 1/4 of the SE 1/4 of said Section 30;
thence N 45°00'00" W, 78.00 feet, more or less, to the centerline of an existing sanitary sewer line and the Point of Terminus.

County of Boulder,
State of Colorado.



"EXHIBIT A" (cont'd.)

Parcel C:

Commencing at the Southwest corner of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30, Township 2 North, Range 69 West of the 6th P.M. as monumented by a 1/2 inch iron pin; thence North 0°00' East, 430 feet along the West line of the said South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30; to the True Point of Beginning; thence North 89°55' East, 1,315.23 feet, parallel to the South line of the said South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30 to a point on the East line of the said South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30; thence North 0°9'40" West, 233.20 feet to the Northeast corner of the South 1/2 of the Northwest 1/4 of the Southeast 1/4, Section 30; thence South 89°59'30" West, 1,314.57 feet, parallel to the South line of the said South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30 to the Northwest corner of the South 1/2 Northwest 1/4 Southeast 1/4, Section 30; thence South 0°00' West, 234.97 feet to the True Point of Beginning,

Parcel D:

Commencing at the SW corner of the S 1/2 of the NW 1/4 of the SE 1/4 of Sec. 30, T2N, R69W of the 6th P.M., as monumented by a 1/2" iron pin, thence N 0°00' E 430 feet along the W line of the said S 1/2 of the NW 1/4 of the SE 1/4 of Sec. 30; thence N 89°55' E 435 feet parallel to the South line of the said South 1/2 of the NW 1/4 of the SE 1/4 of Sec. 30 to the true point of beginning; thence S 0°00' W 200 feet parallel to the W line of the said S 1/2 of the NW 1/4 of the SE 1/4 of Sec. 30; thence N 89°55' E 880.79 feet parallel to the S line of the said S 1/2 of the NW 1/4 of the SE 1/4 of Sec. 30 to a point on the E line of the said S 1/2 of the NW 1/4 of the SE 1/4 of the Section 30; thence N 0°09'40" W 200 feet along the E line of the said S 1/2 of the NW 1/4 of the SE 1/4 of Sec. 30; thence S 89°55' W 880.23 feet parallel to the S line of the said S 1/2 of the NW 1/4 of the SE 1/4 of Sec. 30 to the true point of beginning,

County of Boulder,
 State of Colorado.

Parcel E:

Commencing at the Southwest corner of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30, Township 2 North, Range 69 West of the 6th P.M., as monumented by a one-half inch iron pin; thence North 89°55' East, 1,316.44 feet, parallel to the South line of the said South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30; thence North 0°09'40" West, 230 feet, parallel to the West line of said South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30; thence South 89°55' West, 1,315.79 feet, parallel to the South line of the said South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30, to a point on the West line of the said South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 30; thence South 0°00' West, 230 feet to the true point of beginning.

Parcel F:

Commencing at the South quarter corner of Section 30, Township 2 North, Range 69 West of the 6th P.M., thence North 1550.00 feet along the West line of the Southeast 1/4 of said Section 30 to the True Point of Beginning; thence East 435.00 feet at right angles to said West line of the Southeast 1/4; thence North 200.00 feet parallel to the said West line of the Southeast 1/4; thence West 435.00 feet to right angles to the said West line of the Southeast 1/4, to a point on the West line of the Southeast 1/4 of said Section 30; thence South 200.00 feet along the West line of the Southeast 1/4 of said Section 30 to the True Point of Beginning.

return to Land Use

DEC 10 1998

Niwot SANITATION DISTRICT

NIWOT MEADOWS FARM
RESIDENTIAL
SUBDIVISION SERVICE AGREEMENT

1. **PARTIES.** The parties to this Agreement are the NIWOT SANITATION DISTRICT (District) and Niwot Meadow Farms, LLC Micheal Markel (Applicant), and Gail Lacey (Owner).
2. **RECITALS AND PURPOSE.** The Applicant is the owner of certain property described on Exhibit A to this Agreement. The District is a special district organized under Colorado law which provides service to its customers for which monthly service charges are made. The Applicant desires that the District provide sewer service and sewer taps within the boundaries of the property described on the attached Exhibit A. The District agrees to supply such service. The purpose of this Agreement is to set forth the terms and conditions concerning the District's supplying such service to Applicant's property.
3. **LEGAL DESCRIPTION.** The Applicant is the owner of that certain parcel of real property located in Boulder County, Colorado, which is more fully described on the attached Exhibit A. The Applicant agrees to furnish two reproducible copies (24"x36") of the subdivision plat, as well as an 8 1/2"x11" copy of the plat, to the District. Said plat is expressly incorporated in this Agreement. Any change or alteration in the area, size, shape, density, usages, requirements, taps or timing of development of the subdivision shall first require the written approval of the District.
4. **SEWER TAPS.** Applicant hereby makes application for twenty-seven (one presently purchased and in service) single-family residential service connections (taps) to the District's sanitary sewer system for service on the real property described on Exhibit A. District agrees to furnish sanitation sewer service for twenty-seven single-family residential service connections (taps) within the boundaries of the property described on Exhibit A, not to exceed the number of taps for which application has been made, upon the terms and conditions set forth in this



Agreement. Applicant shall pay all applicable surcharges, if applicable.

5. PURCHASE OF TAPS. It is agreed that Applicant may purchase and District shall sell to the Applicant the total number of taps to the District's system for which application has been made at a price which shall be the current tap fee as established by the District's Board of Directors on the date such tap, or taps, are purchased. Applicant agrees, upon execution of this Agreement, to pay to the District the sum of \$21,000.00, representing 11% of the total taps to be purchased. In no instance shall applicant purchase less than one tap or any fraction of a tap. The total number of taps for which Application is made under this Agreement computed on the basis of the District's tap fee of \$4000.00 as of the date of this Agreement and the District's surcharge of \$3000.00 as of the date of this Agreement. This deposit shall be applied to the last taps purchased under this Agreement in the following manner: Applicants shall forfeit the deposit and taps if Applicant defaults on Agreement.

6. INCREASES IN TAP FEES. No notice, in event of increase in tap fee charges, will be provided.

7. TERM OF AGREEMENT. Applicant agrees that all taps for which application has been made will be purchased within the period set forth in paragraph 8 below.

8. MINIMUM ANNUAL PURCHASE. Applicant will purchase taps according to the following schedule:
 Upon signature, three taps will be purchased.
 The remaining taps shall be purchased no later than as follows:

December 1999	5 taps
December 2000	5 taps
December 2001	5 taps
December 2002	5 taps
December 2003	3 taps

TOTAL 27 TAPS

Applicant further agrees that Applicant's deposit of \$21,000.00 shall be applied against the last taps purchased (as provided in contract), provided that all previous tap purchase commitments have been met or the Applicant has obtained the written



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347

Page: 38 of 148

12/31/1998 12:38P

authorization of the Board to modify the purchase schedule.
Failure to adhere to the tap purchase schedule or obtain Board
approval to modify said schedule shall result in forfeiture of
deposit.

Pursuant to Section 3.6 of the District's Rules and Regulations, monthly service charges become due and payable when a tap is connected to the District's sewer system or one year from the date on which the tap is purchased, whichever occurs first.

9. PROCEDURE TO PURCHASE TAPS. In order to provide for accurate record keeping concerning the number of taps purchased by Applicant under the terms of this Agreement, only the Applicant shall be permitted to purchase taps hereunder. The District reserves the right to establish procedures governing the purchase of taps.

10. DEFAULT. If the minimum number of taps are not purchased in each year, if the total number of taps are not purchased within said five-year period, or if said taps are not placed in service within the time specified, the obligation of the District to provide the balance of such taps for such year shall terminate upon such default and any sums paid hereunder by Applicant shall be retained by District as liquidated damages for such default. It is understood and agreed by Applicant that the purpose of this requirement for advance against purchase of taps, the requirement for minimum purchases in each year, the requirement for purchase of all taps within a five-year period, and the requirement that taps be placed in service within one year after purchase is based upon the financial requirements of the District to pay its necessary operating expenses. The District, by this Agreement, has committed a definite portion of the total capacity of its system to the Applicant and, therefore, must look to the Applicant for performance of Applicant's financial obligations in order that District may meet its financial obligations. If there is default by Applicant, District must be in a position to immediately recommit taps to other applicants.

11. DESIGN SPECIFICATIONS. As a condition precedent to service, Applicant agrees that all sewer lines and appurtenant facilities required to provide sanitary sewer service within the boundaries of Applicant's property as described on Exhibit A and all



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 39 of 148
12/31/1998 12:38P

necessary outfall lines and appurtenant facilities necessary to connect with the lines of the District as presently engineered and installed, shall be in accordance with design and specifications as fixed by the District from time to time. The parties understand and agree that the Applicant and Applicant's successors in title shall be solely and exclusively responsible for service lines, that is, those lines which are attached to the District's lines and which run to individual residences, or other users. Applicant agrees that the actual installation and construction shall be subject to the supervision and inspection by the District and all costs of engineering study, review, approval and inspection shall be at the cost of and paid by Applicant. Applicant further agrees to give the District, through the District's Engineer, adequate notice, prior to commencement of construction, of the date when such construction shall begin. Completion of construction, inspection approval by the District, payment of all construction costs, and delivery to the District of a complete and accurate set of "as built" drawings showing the exact location of all lines, including service lines, shall be conditions precedent to the District's providing service.

Applicant shall also provide District with a floppy disk containing all plat information, including as-builts at completion of installation. The disk shall be able to be used on an Auto Cad. and shall be acceptable to the District.

12. EASEMENTS. Applicant shall furnish, at Applicant's expense, all easements, rights-of-way, consents, permits, licenses and other agreements, completion and payment bonds, liability insurance for installation and construction of sewer lines and appurtenant facilities prior to commencement of construction, and in a format which is acceptable to the District.

13. SALE OF LINES. Upon completion, approval and acceptance of the work by the District, this Agreement shall operate as a sale, conveyance, transfer and assignment by the Applicant of all Applicant's interest and ownership in said lines and property to the District, free and clear of all liens and encumbrances, and shall warrant that the work has been done in accordance with the laws and regulations of the State of Colorado, and all other governmental subdivisions, agencies and units and in accordance with the design standards and requirements of the District. Applicant shall guarantee the lines as installed against faulty workmanship and materials to the District for a period of two



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 40 of 148
12/31/1998 12:38P

years and shall, during said period, pay all cost and expense of repair or replacement of said lines and, at the request of the District, furnish a bond guaranteeing said repair and replacement. Upon completion, approval, acceptance, conveyance and transfer of lines and facilities to the District, the District shall assume all responsibility thereafter, and all cost and expense for operation maintenance except as to the above two-year guarantee. Completion of construction, inspection, approval and acceptance by the District, transfer of lines and facilities to the District, payment of a all construction costs and expenses required to be done and paid by the Applicant are conditions precedent to the obligation of the District to furnish and provide sewer service.

14. OVERSIZE LINES. In the event Applicant shall be required to pay for installation of outfall and connecting lines outside the boundaries of Applicant's subdivision, and District requires that such lines and facilities be oversized to permit the use of these lines by the District to serve additional lands and property in addition to the property of the Applicant, District agrees to establish the cost of such oversizing on a per tap basis. The amount of line identified as oversized will be determined by the engineered capacity of the lines and the system which such oversizing can serve. District further agrees to impose a surcharge that will be assessed to all other purchasers identified as deriving a benefit from such oversizing. This tap surcharge shall be in effect during a period of five years from and after the date of this Agreement but not thereafter to pay to Applicant herein for its cost the amounts so collected and received by District (minus administrative costs not to exceed 10%) from such other applicants but, in no event, more than the total cost of such oversizing advanced and paid by the Applicant herein. District shall make a good faith effort to levy and collect surcharge, but shall not be responsible for any failure to do so.

15. DISTRICT REGULATIONS. All service provided under this Agreement shall be subject to the monthly service charges and all rules and regulations of the District which may be in force from time to time.

16. GOVERNMENTAL REGULATIONS. No withstanding all provisions of this Agreement to the contrary notwithstanding, the obligation of the District to furnish sewer service under this Agreement is limited by and subject to all orders, requirements and



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 41 of 148
12/31/1998 12:38P

limitations which may be imposed by federal, state, county or any other governmental or regulatory body or agency having jurisdiction and control over the District and the operation of its sanitary system.

17. DOCUMENTS TO BE FURNISHED. Upon execution of this Agreement, or at such time or times as may be requested by District, Applicant agrees to furnish District the following:

17.1 A topographical survey of the property described in this Agreement.

17.2 County zoning maps, rules and regulations showing subject property with reference thereto.

17.3 Subdivision plat approved by appropriate regulatory agencies, together with requirements and conditions fixed by such agencies for development and evidence of the Applicant's compliance or plan for compliance.

17.4 In the event the initial area to be served under this Agreement shall not be the entire property owned by Applicant as hereinabove described, Applicant shall furnish preliminary plats and plans as developed by the Applicant with reference to the future total development of the entire property so that prior issuance of taps and initial installation of lines and facilities by the District may study and consider the total development under this Agreement as it may relate to future demands upon the District for service within the entire development and the effect this may have, presently and in the future, on the District's entire system and its obligations in regard thereto. It is understood and agreed that a request for information as to future plans and developments of the Applicant, and the consideration of such plans by the District in connection with its obligation to service Applicant's above-described land under this Agreement, shall in no way be construed as an agreement or obligation of District to serve such other lands or areas proposed by the Applicant for such future development. All information required to be furnished to District by Applicant shall be provided at Applicant's expense.

1888347
Page: 42 of 148
12/31/1998 12:38P
R 741.00 D 0.00

17.5 A typewritten list containing each lot and block within the subdivision and the property address of each lot and block.

18. DELAYS. Any delays in, or failure of, performance by any party of his or its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.

19. TIME OF ESSENCE. Time is of the essence, and if any payment or any other condition, obligation or duty is not timely made, tendered or performed by either party, then this Agreement, at the option of the party who is not in default, may be terminated by the non-defaulting party, in which case, the nondefaulting party may recover such damages as may be proper. If the nondefaulting party elects to treat this Agreement as being in full force and effect, the non-defaulting party shall have the right to an action for specific performance or damages or both.

20. PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of the Agreement.

21. ADDITIONAL DOCUMENTS OR ACTION. The parties agree to execute any additional documents and to take any additional action necessary to carry out this Agreement.

22. OFFSITE SEWER IMPROVEMENTS. The existing sanitary sewer is to be rehabilitated from Niwot Sanitation District manhole number 64 to manhole G1. The Applicant shall have the option of sewer rehabilitation by method of slip lining with polyethylene pipe or cured

23. INTEGRATION AND AMENDMENT. This Agreement represents the entire agreement between them and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the partes. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.



1888347

Page: 43 of 148

12/31/1998 12:38P

R 741.00 D 0.00

24. ARBITRATION. Pursuant to Rule 109 of the Colorado Rules of Civil Procedure, all controversies, claims, or disputes arising out of or relating to this Agreement, or any alleged breach thereof, shall be determined by arbitration, in Longmont, Colorado, in accordance with the rules then obtaining of the American Arbitration Association. The arbitration award shall be binding upon the parties. The prevailing party may file such award with the Clerk of the District Court of Boulder County who shall enter judgment thereon, and if such award requires the payment of money, execution shall issue on such judgment. The expenses of witnesses for either side shall be paid by the party producing such witnesses. The cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally among all parties ordering copies thereof unless they shall agree otherwise, and shall be paid for such parties directly to the reporting agency. All other expenses of the arbitration, including the expenses of the arbitrator, and the expenses of any witness or the cost of any proofs produced at the direct request of the arbitrator, shall be shared equally by the parties, unless they agree otherwise, or unless the arbitrator in his award assesses such expenses or any part thereof against any specified party or parties.

25. ATTORNEYS' FEES. If any party breaches this Agreement, the breaching party shall pay all of the nonbreaching party's reasonable attorneys' fees and costs in enforcing this Agreement whether or not legal proceedings are instituted.

26. GOVERNING LAW. This Agreement shall be governed by the laws of Colorado.

27. NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the party to whom such notice is intended to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other party or parties. Such notice shall be deemed to have been given when deposited in the U.S. Mail.

28. ASSIGNMENT. This Agreement shall not be assigned except with the prior written consent of the parties.

29. EXHIBITS. All exhibits referred to in this Agreement are,



1888347
Page: 44 of 148
12/31/1998 12:38P

Boulder County Clerk, CO AG R 741.00 D 0.00

By: Susie Carson
Niwot Meadows Farm, LLC
Michael Markel, Managing
Partner
Susie Carson, Secretary
5723 Arapahoe Road, Suite 2A
Boulder, CO 80303
Phone (303) 449/8689
FAX (303) 444/2798

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 30th
day of November, by Michael Markel and by Susie Carson as
Secretary, of Niwot Meadows Farm, LLC.

My commission expires: 9/18/2000.

Karen Behr
Notary Public



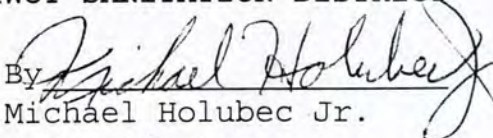
by reference, incorporated herein for all purposes.

30. **WAIVER OF BREACH.** The waiver by any party to this Agreement of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

31. **BINDING EFFECT.** This Agreement shall inure to the benefit of, and be binding upon, the parties, and their respective legal representative, successors, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of the Agreement except as otherwise specifically authorized herein.

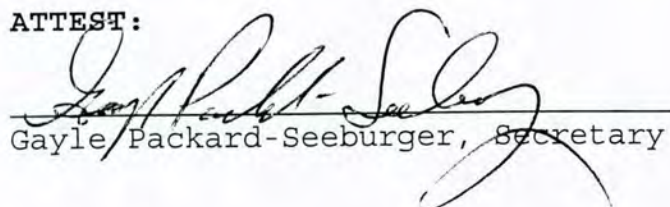
32. **DATED.** November 30, 1998.

NIWOT SANITATION DISTRICT

By 
Michael Holubec Jr.

President
7395 N. 95th St.
Niwot, CO 80503
(303) 652-2525

ATTEST:


Gayle Packard-Seeburger, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 14th day of July, by Michael Holubec Jr., as President, and Gayle Packard-Seeburger, as Secretary, of Niwot Sanitation District.

Witness my hand and official seal.

My commission expires: Laure Behm 9/18/2000
Notary Public



1888347
Page: 46 of 148
12/31/1998 12:38P

Boulder County Clerk, CO AG

R 741.00 D 0.00

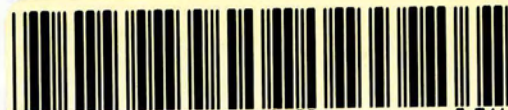
By: Gail M Lacey
Gail Lacey
7253 N. 83rd St.
Niwot, CO 80503
Phone (303) 774/1484

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 30th
day of November, by Gail Lacey as Owner.

My commission expires: 9/18/2000.

Laura Behm
Notary Public



1888347
Page: 47 of 148
12/31/1998 12:38P

Boulder County Clerk, CO AG

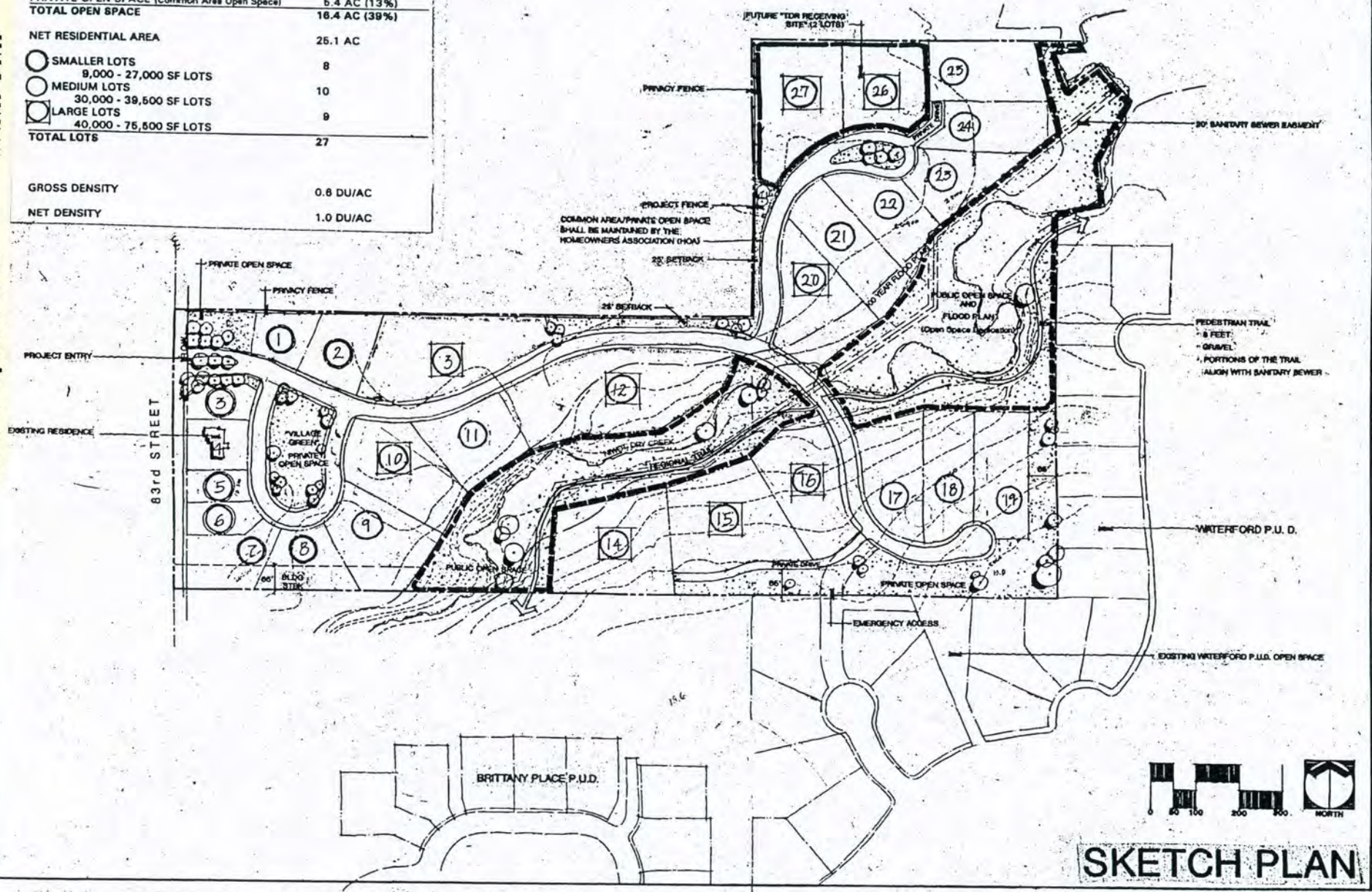
R 741.00 D 0.00

EXHIBIT A

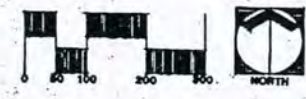
1888347
 Page 48 of 148
 12/31/1998 12:39P
 R 741.00 D 0.00

SITE TABULATION

TOTAL ACRES	41.5 AC
PUBLIC OPEN SPACE	11.0 AC (26%)
PRIVATE OPEN SPACE (Common Area Open Space)	6.4 AC (13%)
TOTAL OPEN SPACE	18.4 AC (39%)
NET RESIDENTIAL AREA	26.1 AC
○ SMALLER LOTS 9,000 - 27,000 SF LOTS	8
○ MEDIUM LOTS 30,000 - 39,500 SF LOTS	10
□ LARGE LOTS 40,000 - 75,500 SF LOTS	9
TOTAL LOTS	27
GROSS DENSITY	0.8 DU/AC
NET DENSITY	1.0 DU/AC



NIMOT MEADOWS
 BOULDER COUNTY, COLORADO
 LACY PROPERTY P.U.D. MARKET HOMES



SKETCH PLAN

JOB # 86004.10
 SCALE 1"=100'-0"
 DATE 12-12-96
 REV: 01-27-97
 02-04-97
 03-21-97
 5-29-97
 08-18-97



1888347
Page: 49 of 148
12/31/1998 12:38P

Boulder County Clerk, CO AG R 741.00 D 0.00

EXHIBIT B

FILM 768

Boulder County Clerk, CO AG

R 741.00 D O O E

This Deed, made this 14th day of April, 1972
between EUGENE D. THOMPSON and CRYSTAL F. THOMPSON

COUNTY OF BOULDER
STATE OF COLORADO
FILED IN OFFICE ON
APR 18 11 40 AM '72
RECORDED BY
HENRY C. PUTNAM

of the County of Boulder and State of Colorado, of the first part, and

THOMAS E. LACEY and GAIL M. LACEY

of the County of Boulder and State of Colorado, of the second part:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of

Twenty-Thousand and No/100ths _____ DOLLARS
and other good and valuable considerations to the said party of the first part in hand paid by the said parties of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said parties of second part, their heirs and assigns forever, not in tenancy in common but in joint tenancy, all the following described lot or parcel of land, situate, lying and being in the County of Boulder and State of Colorado, to-wit:

Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 30, Township 2 North, Range 69 West of the 6th P.M., described as follows:

Commencing at the E $\frac{1}{2}$ Corner of said Section 30, thence S 00°23'40" E, 1323.25 feet along the East line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 30 to the Southeast Corner thereof;
thence Westerly, 619.00 feet along the South line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 30 to the TRUE POINT OF BEGINNING;
thence continuing Westerly, 687.00 feet, along the South line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 30 to the Southwest Corner thereof;
thence Northerly, 510.00 feet, more or less to the Southwest Corner of that tract of land conveyed to Thomas E. Lacey and Gail M. Lacey in Deed recorded on Film 729 as Reception No. 974571;
thence Northwesterly, along the South line of that tract of land conveyed to Thomas E. Lacey and Gail M. Lacey in Deed recorded on Film 729 as Reception No. 974571, to a point on a line that bears N 00°23'40" W, from the TRUE POINT OF BEGINNING;
thence S 00°23'40" E, 905 feet, more or less, parallel with the East line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 30 to the TRUE POINT OF BEGINNING;
Less an undivided one-half interest in all oil, gas and other minerals as reserved by Deed recorded in Book 1130 at Page 213.
RESERVING unto the parties of the first part a non-exclusive easement 20.00 feet in width to be used by the parties of the first part, the parties of the second part, their heirs and assigns, for the purposes of the construction, operation, inspection, repair, maintenance and replacement of a sanitary sewer line or lines extending from the South line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 30, Northerly to the centerline of an existing sewer, said 20.00 foot easement being 10.00 feet on each side of the following described centerline:
Commencing at the Southwest Corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 30, thence Easterly, 165.00 feet along the South line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 30 to the TRUE POINT OF BEGINNING;
thence Northerly, 428 feet parallel with the west line of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 30;
thence N 45°00'00" W, 78.00 feet, more or less, to the centerline of an existing sanitary sewer line and the Point of Termination;

COUNTY OF BOULDER, STATE OF COLORADO.

County of Boulder
I, _____, Notary Public,
do hereby certify that the foregoing was acknowledged before me this _____ day of _____, 1972,
by _____ THOMPSON and CRYSTAL F. THOMPSON.
Witness my hand and official seal.
Notary Public

Not 921A. WARRANTY DEED - To Joint Tenants. UNIT 1, MEN CAN TITLE COMPANY
If by natural person or persons here insert name or names, if by person acting in representative or official capacity or as agent or attorney in fact then it shall be sufficient to state the name of the person or persons in whose name the instrument is to be recorded, and the name of the person or persons in whose name the instrument is to be recorded, and the name of the person or persons in whose name the instrument is to be recorded, and the name of the person or persons in whose name the instrument is to be recorded.

return to Land Use



1888347
Page: 51 of 148
12/31/1998 12:38P
Boulder County Clerk, CO AG R 741.00 D 0.00

EXHIBIT E

**NIWOT MEADOW FARM SUBDIVISION
CONSTRUCTION COST SUMMARY**

CONCRETE	\$ 13,041.00
PAVING	\$ 158,358.00
UTILITIES	\$ 263,822.90
BRIDGE	<u>\$ 188,340.00</u>
SUBTOTAL	\$ 623,561.90
15% CONTINGENCY	<u>\$ 93,534.29</u>
GRAND TOTAL	\$ 717,096.19

Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 52 of 148
12/31/1998 12:38P

Original w/ Trans. Dept.

CSB-Steward, LLCEXHIBIT E-1
CSB-Steward, limited liability company
An Affiliate of Colorado State Bank of Denver
835 Noble Ct.
Golden, Co. 80401

To: Board of County Commissioners of the County of Boulder
P.O. Box 471
Boulder, Co. 80306

Letter of Credit# : 12004-1
Date of Issuance : December 30, 1998
Expiration Date : December 30, 1999

We hereby issue in your favor this Irrevocable Letter of Credit, which is available against presentation of your drafts drawn on us at sight, up to an aggregate amount of \$ 717,096.19, (see attached for breakdown) for the account of NIWOT MEADOW FARM, L.L.C. to guarantee the construction of the required improvements for the NIWOT MEADOW FARM Subdivision.

Your drafts must specify the amount to be drawn, which may be any amount up to and including the aggregate amount specified above, and must be accompanied by your signed statement that the Applicant/Customer has failed to complete the required improvements in accordance with the Agreement between you and the Applicant/Customer for the NIWOT MEADOW FARM Subdivision. All drafts drawn under this credit are to be endorsed hereon and shall bear the clause "Drawn under Irrevocable Letter of Credit # 12004-1, CSB-STEWARD, LLC".

Your drafts under and in accordance with this Irrevocable Letter of Credit will be duly honored if presented during business hours at our office located at 835 NOBLE CT, GOLDEN, CO. 80401, 303-216-1604 (voice), 303-216-1605 (fax) at any time prior to 5:00 p.m. local time on the expiration date specified above.

This Letter of Credit #12004-1 is contingent upon acceptance and recordation of the Niwot Meadow Farm plat and execution of CSB-Steward, LLC's loan documents by Niwot Meadow Farm, L.L.C., Markel Homes, Inc., and Michael Markel and shall be null and void on January 4, 1999 at 12:00 noon if said plat is not accepted and said documents have not been executed.

CSB-STEWARD, LLC, a Colorado Limited Liability Company

By: Five Star Financial Services, LLC, a Colorado Limited Liability Company
Regional Member

BY: 
Donna S. Lionberger, Manager

835 Noble Ct., Golden, Colorado 80401 · Voice (303) 216-1604 · Fax (303) 216-1605



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 54 of 148
12/31/1998 12:38P

EXHIBIT G



NIWOT
MEADOW
♦
F A R M



1888347
Page: 55 of 148
12/31/1998 12:38P
Boulder County Clerk, CO AG R 741.00 D 0.00

Niwot Meadow Farm Design Guidelines

TABLE OF CONTENTS

I.	DESIGN GUIDELINES, THEME AND PHILSOPHY	2
II.	REVIEW RULES AND PROCEDURES	11
III.	CONSTRUCTION REGULATIONS	18



Niwot Meadow Farm Design Guidelines

I. Design Theme and Philosophy

Due to the site sensitive location and close ties to the neighboring agricultural and open space land, Niwot Meadow Farm L.L.C. wants to create a very special residential community. This special community will reflect its close relationship to the natural environment by maintaining a comprehensive development theme and design philosophy. The architectural and landscaping themes will be to design homes with a Colorado heritage that will create an understated, elegant community consisting of simple forms, lower profile rooflines and the use of compatible materials.

The master plan for Niwot Meadow Farm has been designed so that the community will compliment its natural surroundings. This will promote the theme of openness, country feel, and buffers between adjacent parcels of property. The landscape concept, street profiles, fencing, and community architectural features are all designed to enhance the rural theme and create a sense of place for Niwot Meadow Farm.

Inherent in these concepts is the understanding that all the homes will be designed within the parameters of these guidelines in order to maintain design compatibility throughout the project and achieve the highest architectural and landscaping quality for the Niwot Meadow Farm Community. The photos rendering, and design concepts included with this submittal demonstrate our commitment to maintain a special sense of place for Niwot Meadow Farm.

The intent of these Guidelines is to accomplish a community development that achieves harmony among dwellings and between each dwelling and its surrounding landscape, yet allows individual identity to a dwelling. The Guidelines apply primarily to:

- a. Conforming the plans and specifications to the purpose and general plan and intent of the community design, building forms, massing, scale, style and architectural detail.
- b. Assuring compatibility and harmony of exterior color materials and design so the exteriors of buildings are subdued in a manner to avoid negative contrast within the neighborhood.
- c. Relating proposed improvements to the natural features of the land, and to neighboring structures and other improvements.



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 57 of 148
12/31/1998 12:38P

Niwot Meadow Farm Design Guidelines

- d. Niwot Meadow Farm L.L.C. recognizes that Lots 1, 2 and 5 through 11 have special considerations that are stated in sections throughout this document. Lot 4 is the existing Homestead.
- e. Estate lots shall include lots 3 and 12 through 27.

Design Guidelines

A. Site Considerations

The Committee will review each plan for a building in relation to the specific characteristics of the subject lot and its surroundings. The basic objective is to achieve compatibility of the building and other improvements with subject lot and the immediate surroundings. The site consideration review is, in summary, specific to the site itself. Location of the main buildings should consider:

1. Natural and proposed final grade contours.
2. Street grades as installed.
3. Presence of vegetation trees and shrubs.
4. Existing and final views.
5. Privacy of subject and surrounding lots, including building improvements on adjoining lots.
6. Access driveways and off-street parking.
7. Setback requirements
8. Elimination of house siting that results in buildings that appear excessive in height when viewed from adjoining lots, drives, roads or other lots will be important criteria.
9. Site grading and drainage which minimize required natural grade alterations; drainage accommodation from adjoining lots or onto adjoining lots in such a manner that does not cause soil erosion or impede drainage flows or result in excessive drainage onto adjacent lots.
10. Site grading which does not require extensions of cut or fill slopes onto adjoining lots, roads, drives, or open space.



Niwot Meadow Farm Design Guidelines

B. Main Building

1. Setback Requirements

Setback requirements shall be approved Niwot Meadow Farm setbacks and building envelopes with final review by Architectural Review Board.

2. Building Size

The minimum house square footage shall be 3,500-sq. ft., excluding garages, decks, covered porches and basements. Restricted lots 1, 2 and 5 through 11 size shall be 2,500 square feet. Lot 3 size shall be 3,200 square feet? Lot 4 is the existing Homestead and square footage shall be reviewed by building plan (3500 sq. ft. max).

3. Building Height

To preserve the open, gently sloping character of the hillsides, lower horizontal forms will be emphasized. "Big box" elevations will not be allowed. All two-story elevations shall be limited and designed with elements that will break up the vertical walls. The "one story" or "one and a half" story designs will be strongly encouraged.

Key features include simple roof systems, dormers and attached porches. The result will be a group of residences with the essential characteristics of a rural village.

4. Roofs

The following are specific roof criteria:

All major roofs shall be either gable or hip with a pitch of a minimum of 5/12 and a maximum of 12/12. Porch roofs and secondary roofs could be of a lesser pitch. Numerous roof plans that create an extremely "busy" roof design will not be allowed.

All roofs shall be required to appear as if the center of the structure is the tallest point and the roofs shall appear to "cascade down" to 8' or 9' plate heights.

In order to achieve an interesting character, expansive roof areas shall be "broken" by varied elevations, heights, and/or other



Niwot Meadow Farm Design Guidelines

elements such as dormers, porches, clerestory, or ridge line breaks, etc.

Roof vents and flashing shall be painted to match the permanent roof color or the trim color, whichever lessens the visual impact.

Consideration will be given to use of roof forms that incorporate solar collection panels; such considerations will evaluate the total architectural and roof form designs.

Roof surfaces shall be flat, concrete tiles or approved equal. Asphalt shake or metal roofs are not allowed unless the Architectural Committee has given its' written approval for the roof other than flat concrete material.

Roof tiles should compliment the natural materials used on the exterior walls.

Roof colors are subject to the Architectural Review Committees written approval.

Roof overhangs shall be in proportion with the scale of the structure. Residences without overhangs are discouraged.

5. *Siding and Exterior Walls*

The exterior wall proportions shall be appropriate to the scale of the residence. Houses with extensive areas of unbroken two-story (or greater) walls will not be acceptable. Covered porches are required. By breaking up extensive areas of two-story or greater walls, the residences will better conform to the site and individual lots. The height and length of the exterior walls will control the proportions of the residence and whether the structure is properly related to the natural topography of the lot and the adjacent open space.

All wall materials shall consist of stone, stucco, and solid wood siding. Stone shall cover the lower portions of walls but may extend to the roof eave if it is continuous from the grade. Manufactured siding (masonite, pressboard, laminated wood), logs and any form of brick are not allowed.

The exterior elevation shall have a minimum of 20% stone. All stone, whether "cultured" or natural stone must be approved by the Architectural Committee. All mortar joints shall be recessed. The



Niwot Meadow Farm Design Guidelines

intention of this guideline is to assure a continuity of material to tie the houses together. If a lot owner or Architect can demonstrate that this goal can be accomplished with less stone, the percentage maybe modified with written approval from the Architectural Committee.

6. *Exterior Colors*

All exterior textures, colors and materials for all homes at Niwot Meadow Farm must be assembled by a design professional or person or persons specialized in exterior elevation design. Siding materials may be left natural, but a preserving finish such as CWF or linseed oil etc., must be used on the natural siding. Fascia, trim, columns, entry doors, and beams may have accent colors.

or natural, earth tone colors. mm

All projections including, but not limited to, chimney flues, vents, gutters, down spouts, utility boxes, porches, railings, and exterior stairways, shall match the permanent color of the surfaces from which they project or shall be of approved trim color.

7. *Miscellaneous*

- a. Foundations – No more than 12 inches of exposed concrete may be visible on any elevations.
- b. Garage – There shall be a minimum of three-garage spaces for each dwelling unit. Minimum dimensions for each space are 10 feet by 20 feet. Except for Lots 1 through 10 where a double car garage will be required. Visual impact of garage doors shall be minimized by such measures as, but not limited to, siting of the building, protective overhangs or projections, special door facing materials, landscaping, or door design which blends with or enhances the overall architectural statement.
- c. Windows – Window frames, if metal, shall be anodized aluminum or painted a color consistent with the design character of the building. Window design shall be consistent with architectural design statement in size, proportions, detail and placement on the elevation.

No mirrored or bronze glass will be allowed.



Niwot Meadow Farm Design Guidelines

No solid vinyl or metal windows will be allowed. Wood windows clad in vinyl or metal is acceptable, (except on Lots 1 through 11)

- d. Elevation Treatments –Architectural design shall incorporate a consistent level of architectural interest in all elevations.

C. *Other Improvements*

1. *Driveway and Private Lanes*

All driveways and private lanes shall be concrete. Asphalt or colored stamped concrete may be used upon approval of the Architectural Committee. Driveways and private lanes shall be constructed to specifications, which consider vehicle load such as trash trucks and moving vans; appropriate measures must be taken to contain edges and control erosion and washouts. The committee must approve all driveway designs. All curb cuts, driveway entrances and driveway culverts on Estate lots shall be designed directly from the Niwot Meadow Farm Landscape Guidelines.

2. *House Address Numbers*

Address numbers shall be used at the mail box fixtures on the dwelling unit. The address number at the dwelling unit shall not exceed in overall size a total of one half square foot for each number in address number, i.e. a three number address – 254 – shall not be greater than 1.5 square feet. The address number on the mailbox shall comply with the mail box specifications for Niwot Meadow Farm. All address numbers and mailboxes have to be the approved design for Niwot Meadow Farm.

3. *Antennas*

All TV, radio or special communication antennas or aerials shall be concealed and must be approved in writing by the Architectural Committee.

4. *Exterior Mechanical Equipment*

All exterior mechanical equipment or tanks shall be either incorporated into the overall form of the dwelling or be permanently enclosed by a material, other than plant material, approved by the Architectural Committee.



Niwot Meadow Farm Design Guidelines

5. *Accessory Structures*

Accessory structures shall be architecturally compatible with the dwelling. Dog runs or enclosures for other pets shall be installed in accordance with guidelines. If deviation from these guidelines is intended for such construction, prior approval by the Architectural Committee is required.

6. *Exterior Lighting*

Because of the project's rural setting, the exterior lighting incorporated in each residence must avoid impact on adjacent lots and the surrounding areas. The intention is for the development to blend in with the existing character of the agricultural uses by not creating a brightly lit complex contrasting with the adjacent open space and agricultural land.

All exterior lighting shall be sharp cut-off design so the light source is not visible from adjacent property owners. Direct source lighting is not allowed (i.e., the actual light bulb is visible). Where direct source lighting is desired by the homeowner's only low voltage fixtures are acceptable.

Exterior lighting which is subdued, and whose light source is not visible from adjoining dwelling shall be allowed without Architectural Committee approval for purposes such as illuminating entrance decks, driveways, and parking areas. Fascia mounted floodlights are not allowed due to glare into adjoining properties.

7. *Parking Areas*

Off drive parking bays and circular driveways shall be approved by the Architectural Committee.

8. *Basketball Backboards*

All Basketball backboards must have written approval by the Architectural Committee.

9. *Landscaping*



Niwot Meadow Farm Design Guidelines

All landscape plans shall be prepared by landscape design professional with their title block included on the drawing.

Landscape plans shall be approved by the Architectural Committee prior to commencement of landscape improvement construction. Each owner is responsible for landscaping and landscape maintenance of the lot. This responsibility includes the area between the lot property line and street paving; at the front, side or rear of a lot; since these areas may be used for surface water runoff, landscape improvements should not restrict water flow and should prevent erosion in these areas.

In lots, which adjoin open space or greenbelts, landscape plans should provide for a transition between the natural landscape that exists in the open space or greenbelt area and the improved landscape areas constructed by the owner. Existing trees shall be retained.

Landscaping is the preferred method for screening undesirable areas and providing privacy for decks and yards.

Irrigation systems shall be included in all landscape designs to promote efficient water use and assure the ongoing maintenance of plant material.

Consideration should be given to use of plant materials that do not require excessive moisture and to maintaining separation between plants and sod and building foundations to avoid excessive moisture conditions near foundations.

The landscape at the common areas represents the character of the landscape design for Niwot Meadow Farm lots. The landscape design shall help blend the architecture into the design using plant material appropriate for the setting and environmental conditions.

Homeowners shall maintain all plant material as long as they own the property. Any plant material appearing dead, diseased or damaged must be replaced within one growing season.

Each home shall include installation of the street trees approved on the Niwot Meadow Farm Guidelines. The front yard minimum requirements, not including street trees, is as follows:



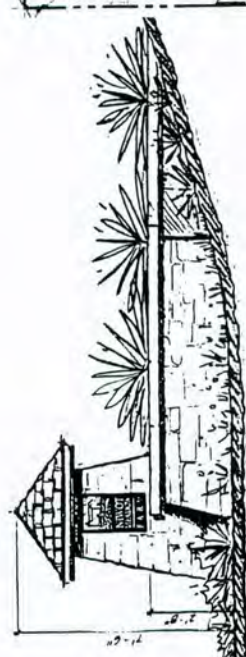
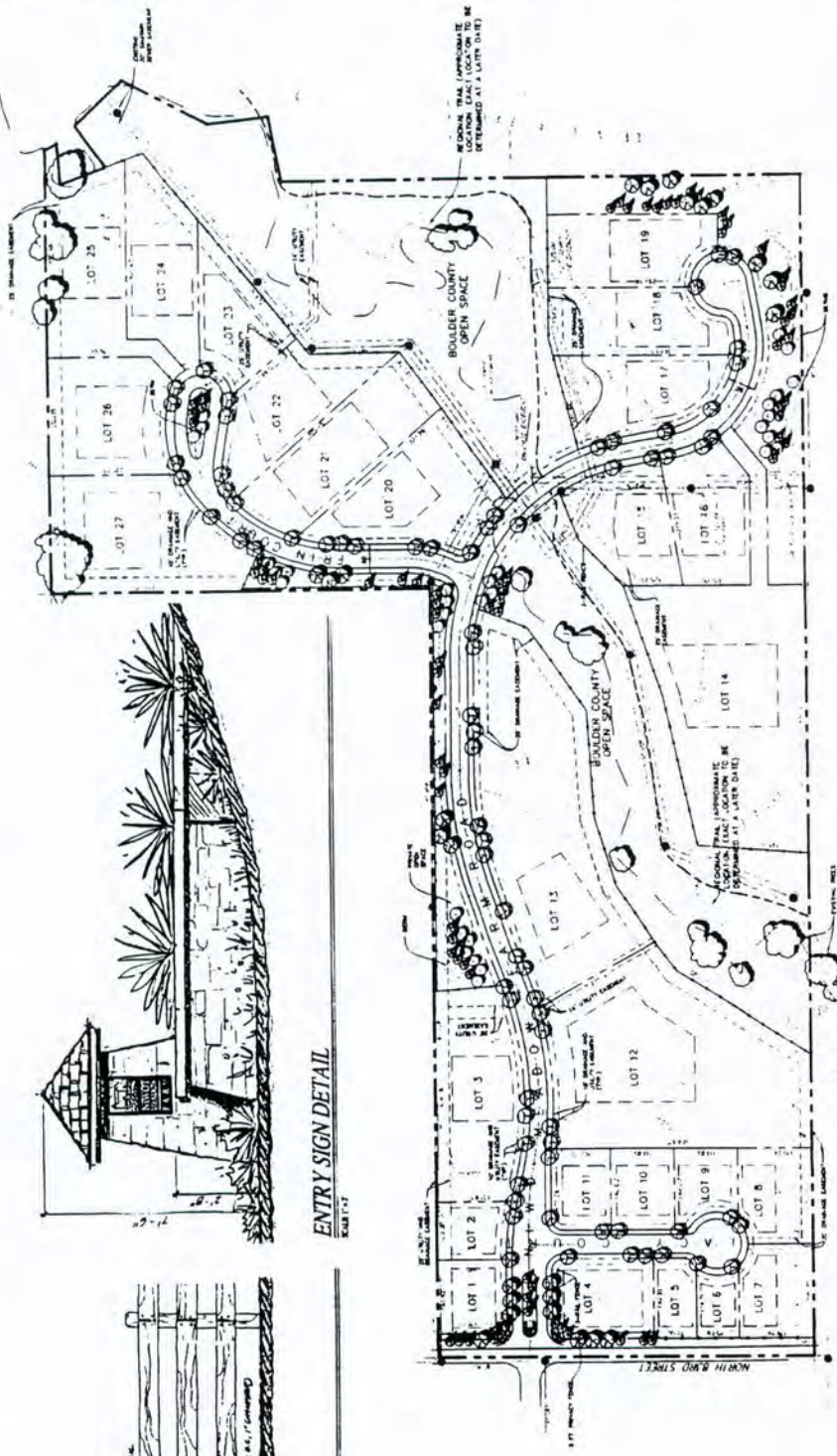
EXHIBIT F

GENERAL NOTE

XERISCAPE TECHNIQUES WILL BE USED THROUGHOUT THE PROJECT BY INCORPORATING DROUGHT TOLERANT TURF GRASSES, TREES AND SHRUBS, THAT REQUIRE MINIMAL SUPPLEMENTAL IRRIGATION.

LEGEND

- 100 DECIDUOUS TREES (min. 2 1/2" caliper):
 - (Provided by Developer)
 - Auntanna Purple Ash
 - Green Ash
 - Big Tooth Maple
 - Kentucky Coffee Tree
 - Ohio Buckeye
 - Western Hackberry
 - Western Catalpa
 - (Provided by Home Owners)
 - Shubert Chokeberry
 - Washington Hawthorn
 - Amur Maple
 - Cockspur Hawthorn
 - Sagbourn Sumac
 - Rocky Mountain Maple
- 32 ORNAMENTAL TREES (min. 1 1/2" caliper):
 - (Provided by Developer)
 - Shubert Chokeberry
 - Washington Hawthorn
 - Amur Maple
 - Cockspur Hawthorn
 - Sagbourn Sumac
 - Rocky Mountain Maple
 - (Provided by Developer)
 - Colorado Blue Spruce
 - Pseudotsuga Pine
 - Austrian Pine
- 78 EVERGREEN TREES (min. 6 ft. tall):
 - (Provided by Developer)
 - Colorado Blue Spruce
 - Pseudotsuga Pine
 - Austrian Pine



ENTRY SIGN DETAIL



FENCE DETAIL

PRELIMINARY LANDSCAPE PLAN

Niwot Meadow Farm

Boulder, Colorado



DOWNLING THORPE JAMES

ARCHITECTURE LANDSCAPE ARCHITECTURE

12/24/98 REVISED 12/23/98

Niwot Meadow Farm Design Guidelines**Estate Lots**

56^{m m} 2 1/2 deciduous trees
 46^{m m} 6'-8' evergreens
 30 5 gallon shrubs

Lots 1, 2 & 5-11

36^{m m} 2 1/2 deciduous trees
 26^{m m} 6'-8' evergreens
 20 5 gallon shrubs

Back yard minimum is as follows:

56^{m m} 2 1/2 deciduous trees
 46^{m m} 6'-8' evergreens
 30 5 gallon shrubs

36^{m m} 2 1/2 deciduous trees
 26^{m m} 6'-8' evergreens
 20 5 gallon shrubs

All street trees must be installed per approved plans.

10. Decks

Deck design, materials and color shall be integral to the overall house design. Decks shall be adjacent to the residence and continuous with at least two exterior walls. Freestanding decks will not be allowed unless they are integrated into the site. Large upper level-decks are discouraged.

11. Fences

The Architectural Committee has adopted fence and location standards for Niwot Meadow Farm. Fence and mailbox standards will include the following:

- a. All lots facing Niwot Meadow Farm Road must use the approved fence design.
- b. Fencing map specifies appropriate fence locations and setbacks for project perimeter boundaries, sideyards, privacy and dog runs.
- c. Approved fence designs. Additional fence designs may be approved by the Architectural Review Committee upon review.
- d. All mailbox designs are from the approved design.

Niwot Meadow Farm Design Guidelines

12. Future Improvements

Future improvements or modifications that alter or affect the exterior appearance of a dwelling or yard must be submitted to and approved by the Architectural Committee. Approval includes, but is not limited to:

Room, porch, or garage addition to main house.

Repainting play house, dog house, or other separate building or structure exceeding 5'0" in height or visible to an adjacent lot, road, or open space.

Decks, or patio extensions and deck/patio covers.

Free standing flagpoles.

Volleyball courts, hot tubs, swimming pools.

II. Review Rules and Procedures

A. Purpose

The review and approval procedures are not intended to impose unreasonable or excessively costly control nor to duplicate the functions normally provided by public agencies, such as the Boulder County Planning and Building Department, but rather to coordinate the design and construction of buildings by many different owners, architects, engineers and contractors so as to achieve a pattern of continuous quality and identity, as contemplated and required by Niwot Meadow Farm Covenants, Conditions, and Regulations. The role of the Architectural Committee is directed toward review and approval of exterior design, appearance, architectural vocabulary and esthetics. The Committee assumes no responsibility with regard to structural, mechanical, electrical or other details.

B. Organization

1. Architectural Committee

The Architectural Committee is the Architectural Committee referred to in the Niwot Meadow Farm Covenants, Conditions and Restrictions.



Niwot Meadow Farm Design Guidelines

2. *Committee Staff*

The committee has appointed an Architectural Coordinator to act as a liaison between applicants and the Committee. The responsibility of the Coordinator is to assist applicants in assuring conformance with approved guidelines and procedures.

3. *Address*

Architectural Committee
Niwot Meadow Farm Homeowners Association
C/O Markel Homes, Inc.
5723 Arapahoe Ave. #2A
Boulder, CO. 80303
(303) 449-8689

4. *Date and Time of Meetings*

The Committee may hold meetings as deemed necessary by the Architectural Committee Chairperson or architectural Coordinator.

(Date, time and place of meetings subject to change.) All parties will be notified by a member of the committee.

C. *Review and Plan Submittal Procedure*

1. *General*

The Review and Plan Submittal Procedures have been written to accommodate the most complex conditions that may exist in the variety of development activities that may occur in Niwot Meadow Farm.

2. *Architects*

All preliminary drawings and working drawings must be prepared by an architect licensed in the State of Colorado. The Committee reserves the right to waive this requirement based on the background and experience of the applicant or his agents and if the submittal is complete and adequate.

3. *Pre-Design Review*

Niwot Meadow Farm Design Guidelines

It is mandatory that each owner and his/her architect meet at a mutually convenient time with the Architectural Coordinator or member of the committee in a "pre-design review." The purpose of such a conference is to establish an early understanding with respect to design concept and architecture philosophy and to avoid unnecessary and costly changes in preliminary and/or working drawings.

4. *Preliminary Drawings Submittal*

The submittal of preliminary drawings is mandatory. It is the Committee's opinion that such a submittal will save the applicant time and expense plus unnecessary revisions of the working drawings. The drawings must be submitted with a check for \$500.00 to review the drawings and cover the expenses for the process. The monies are non-refundable and final. Lots 1 through 11 will be \$200 to review the drawings.

a. *Timing for Submittal*

In order for submittal to be reviewed by the Committee at a regularly scheduled meeting, a complete set of preliminary drawings as described herein must be received 14 days in advance of such meeting. The owner of his/her designated representatives is encouraged to be present at the meeting.

b. *Number of Sets of Drawings and Contents.*

A total of two (2) sets of preliminary drawings is required to be submitted to the Committee, each set to consist of the following items:

1. *Site and Grade Plan*

Location and finished floor elevations of main buildings on the lot, at a scale of not less than 1" = 20', and including:

- a. Legal description; north arrow; name, address and telephone number of owner.
- b. Property Lines

Niwot Meadow Farm Design Guidelines

- c. Building Envelopes dimensions with envelopes established in relation to property lines.
- d. Front, rear, and side yard dimensions to buildings from property line.
- e. Drives, parking areas (if any) and walkways.
- f. Square footage of the building footprint for each building.
- g. Topography of site at two-foot (2') intervals showing existing contours and drainage courses, and proposed changes to contours and draining courses and cut/fill areas.
- h. Location and elevation of access road and off-street parking lot design, if any, including ingress and egress points.
- i. Location and elevation and square footage of other improvements such as tennis and basketball courts, swimming pools and patios.
- j. Reference to adjoining properties, streets, utility and other easements, drainage courses; and reference to buildings on adjoining properties and their uses.
- k. Fencing, mailboxes, columns, entry columns, culvert crossings.

2. *Building Plan*

Indicate for all buildings the following at a scale of $1/8'' = 1'$ or $1/4'' = 1'$.

1. Roof Plan

Pitch, valleys, hips, materials and overhangs.

2. Floor Plan

Main structures and all accessory structures, including balconies, decks and square footage of each floor within the main building and square footage of each accessory out-building.

3. Exterior

All exterior elevations with materials, dimensions, final and original grade lines; and finished floor elevations clearly indicated.

4. Sections

Niwot Meadow Farm Design Guidelines

To include finish grade, finish floor and maximum roof height.

5. Committee Action

Following review of preliminary drawings, the committee will:

- a. Conditionally approve the drawings with requirements and suggestions for changes to be included in the working drawing submittal.
- b. Disapprove the drawings as submitted.

One set of drawings and the committee's comments will be returned to the applicant within 21 days of the Committee meeting.

3. *Working Drawings Submittal*

All working drawings must be approved by the Committee prior to submittal to the Boulder County Building Department for a building permit prior to any construction.

A. *Timing for Submittal*

In order for plans to be reviewed by the Committee at a scheduled meeting, they must be received 14 days in advance of such meeting. The owner of his/her designated representative should be present at the meeting.

B. *Number of Drawings and Content*

A total of three (3) sets of working drawings and specifications must be submitted to the Committee, each set consisting of the following items:

- a. All of the completed and revised drawings required under preliminary drawing submittal.
- b. Sufficient exterior construction detail to allow the Committee to review finish design characteristics.
- c. Exterior colors, materials and finished shall be presented in the form of a white, rigid 1/8" board approximately 24" x 24" displaying each material in sufficient size to evaluate its final use and appearance. Proper paint or stain finishes shall be

Niwot Meadow Farm Design Guidelines

applied to the trim and siding materials in the same manner as will be done on the building. Finishes shall identify product brand and color identification. Such sample board must indicate the name of the applicant and legal description of the property.

C. *Committee Action*

Following review the Committee will:

- a. Approve the working drawing in which case the applicant may proceed with development.
- b. Conditionally approve the working drawings in which case the applicant must revise the plans to comply with the stated conditions and file the drawings with the Architectural Coordinator and receive written approval prior to beginning development.
- c. Disapprove the working drawings in which case the applicant will be required to resubmit new plans and fees as requested by the Committee.

Two sets of drawings with the Committee's comments and action will be returned to the applicant within 15 working days of the meeting. One set of the approved drawings must be kept on the construction site at all times.

D. *Construction Procedures.*

a. *Changes During Construction.*

Changes during construction affecting the finished grade of the site, exterior appearance of any structure or landscaping require approval of the Committee prior to execution of the change. Such changes may necessitate submittal and approval of revised drawings; this requirement will depend on the complexity of the change and is at the discretion of the Committee.

b. *Right of Entry*

When construction work requires the use of an adjoining property for any purpose, such as transporting labor or materials for the work, the applicant shall obtain written permission from the adjoining property owner (including the Master Association or any Sub Association of the adjoining property if so owned) for "Right of Entry" during the course of construction.



Niwot Meadow Farm Design Guidelines

c. Workmanship

All workmanship affecting the exterior appearance of a structure must be executed in a manner that is consistent with acceptable industry standards.

d. Inspection

Upon completion of the work as indicated on the drawings and specification approved by the Committee, the owner shall notify the Committee in writing for final inspection. The Committee will inspect the property and notify the owner within 10 days following the next regularly scheduled meeting of the Committee indicating its acceptance or noting deficiencies requiring corrective action.

e. Additions or Alterations

1. Any additions or alterations after completion affecting the finished grade of the site, exterior appearance of any structure, or landscaping may require approval of the Committee.
2. The Architectural Coordinator should be contacted to determine if the addition or alteration as submitted is consistent with approved guidelines for the site. If so, he/she may approve the plans without Committee review. The Architectural Coordinator will advise the applicant if Committee approval is required and what information is needed for Committee review.

E. General Provisions

a. Conditions Not Defined

Any matter, condition or material not defined herein shall remain a matter of discretion on the part of the Committee.

b. Variances

The committee reserves the right to vary at any time from procedure or standards as established herein. The Committee further reserves the right to amend, supplement or repeal these Guidelines and Review Procedure at any time.

Niwot Meadow Farm Design Guidelines

c. Zoning Ordinance and Declarations

Addition standards and requirements are set forth in the applicable subdivision plat and the Master Declaration. Each owner must read and become familiar with all such documents so as to avoid violating the standards and requirements set forth therein. Copies of all such documents are available at the offices of Niwot Meadow Farm.

F. Enforcement

Failure to conform to these guidelines or obtain necessary approval from the Committee will constitute a violation of the Niwot Meadow Farm Covenants, Conditions and Restrictions, and shall require modification or removal at the expense of the owner.

G. Effective Date

These guidelines, as may be amended or supplemented from time to time, are adopted and effective as the date shown.

III. Construction Regulations

The Architectural Committee has established certain construction and safety regulations for the benefit of all Niwot Meadow Farm owners, residents, and builders in order to ensure safe, neat and orderly activities during the construction period.

It is of the utmost importance that anyone conducting construction activities in Niwot Meadow Farm exerts extreme care in preventing conditions that are unsafe or that could constitute fire, wind or other hazards.

A. Construction Trailers, Portable Field Offices, Etc.

Any owner or contractor who desires to bring a construction trailer, field office or the like to Niwot Meadow Farm, shall first obtain written approval from the Architectural Committee who will work closely with the owner or contractor to determine the best possible location. Such temporary structures shall be located only in an approved location and shall be removed upon completion of construction. The portable office shall only conduct business for the home under construction in Niwot Meadow Farm and not for a "general" field office for other projects or houses.



Niwot Meadow Farm Design Guidelines

B. Storage of Materials and Equipment

Owners and contractors are permitted to store construction materials and equipment on the construction site during the construction period. It shall be neatly stacked, properly covered and secured. Storage of materials or construction equipment outside the approved construction site (owner's or builder's lot) will be done only with the approval of the Architectural Committee.

Any storage of materials or equipment shall be the responsibility of the owner or contractor.

Owners and contractors will not disturb, damage or trespass on other lots or the open space. Should any such damage occur it would be restored and repaired at the offender's expense.

C. Debris and Trash Removal

Owners and contractors shall clean up all trash and debris on the construction site at the end of each day. A trash container shall be located on each building

site at all times for containment of lightweight materials, packaging, or other trash materials, which may blow off the site. Trash and debris shall be removed from each construction site located off the project.

Lightweight materials, packaging and other items, shall be contained in the trash container to prevent wind from blowing such materials off the construction site. Owners and contractors are prohibited from dumping, burying, or burning trash anywhere on Niwot Meadow Farm.

All excess concrete shall be removed and washed out of concrete chutes and equipment shall be done at on designated location.

During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore, affecting other lots and the open space. Any trash picked up by the Developers shall be billed and promptly paid by the responsible builder/contractor/owner.

Dirt, mud, oil, or debris resulting from activity on each construction site shall be promptly removed and cleaned up from public or private roads, open spaces and driveways or other portions of Niwot Meadow Farm



Niwot Meadow Farm Design Guidelines

every Friday afternoon or contractor/builder/owner will be billed and charged for this clean up.

D. Sanitary Facilities

Each owner and contractor shall be responsible for providing adequate sanitary facilities for his construction workers. Portable toilets or similar temporary toilet facilities shall be located only on the construction site.

E. Parking Areas

Construction crews will not park on, or otherwise use other lots or the open space. Private, construction vehicles and machinery will be parked only on the construction site not on the public streets.

F. Conservation of Landscaping Materials

Owners and contractors are apprised of the fact that the lots and open spaces may contain valuable native plants and other natural landscaping materials that should be salvaged before and during construction, such as topsoil, shrubs and trees.

G. Excavation Materials

Excess excavation materials will be hauled off the project or placed in areas designed by the Committee, if any. No excess excavation material shall be stockpiled even temporarily on other lots or open space without approval of owner. If any blasting is to occur, the Architectural Committee shall be informed far enough in advance to allow it to make such investigations as it deems appropriate to confirm that all appropriate measures, including protective actions, have been taken prior to the blasting.

H. Restoration or Repair of Other Property Damaged

Damaged and scarring to other property, including, but not limited to other lots, open space, roads, driveways and/or other improvements will not be permitted. If any such damage occurs, it will be repaired and/or restored promptly at the expense of the person or entity causing the same.

Upon completion of construction, each owner and contractor shall clean the construction site and repair all property which was damaged, including but not limited to restoring grades, planting grass and trees as approved by the Architectural Committee, and repair of streets, driveways, pathways, drains, culverts, ditches, signs, lighting and fencing.



Niwot Meadow Farm Design Guidelines

I. Miscellaneous and General Practices

1. The following practices are prohibited at Niwot Meadow Farm:
 - a. Changing any fluids on any vehicle or equipment.
 - b. Allowing concrete suppliers and contractors to clean their equipment other than at the designated location.
 - c. Removing any rocks, plant material, topsoil, or similar items from any property of others within Niwot Meadow Farm.
 - d. Carrying any type of firearms on the property.
 - e. Use of spring or surface water for construction.
 - f. Careless disposition of cigarettes and other flammable material
 - g. Builders, contractors and subcontractors shall not bring pets, particularly dogs, onto the property.
 - h. All excess "wheel" mud or dirt must be removed from the public roads within 2 hours or the Homeowner will be charged for the clean up of the street.
 - i. Work hours shall be 7:00a.m. to 7:00 p.m. on weekdays and 8:00a.m. to 7:00p.m. on weekends or Boulder County Regulations.

In the event of any violation of this regulation the Niwot Meadow Farm Homeowners shall have the right to contact the Boulder County authorities to impound the pets, or the refuse to permit such contractor or subcontractor to continue work at Niwot Meadow Farm, or to take such other action permitted by law or the Niwot Meadow Farm Covenants, Conditions, and Restrictions.

All lot owners in Niwot Meadow Farm will be responsible for the conduct and behavior of their representatives, builders, contractors, and subcontractors.



Niwot Meadow Farm Design Guidelines

All applicable Occupations Safety and Health Act (OSHA) regulations and guidelines and applicable Boulder County codes and regulations will be strictly observed at all times.

J. Pre-Construction Conference

Prior to commencing construction, the builder/contractor will meet with the Architectural Coordinator or a member of the Architectural Committee or its representatives to review procedures and coordinate his activities in Niwot Meadow Farm. A copy of these guidelines shall be provided to the builder by the Homeowner before commencement of construction.

K. Builder/Developer Meetings

All Builders, Salespersons and Developers shall meet on a regular basis to discuss issues such as construction clean up, sharing of common expenses, and other related subjects.

I, understand, acknowledge the receipt of the above Design Guidelines, Plan Approval Process and the Construction Regulations.

Owner

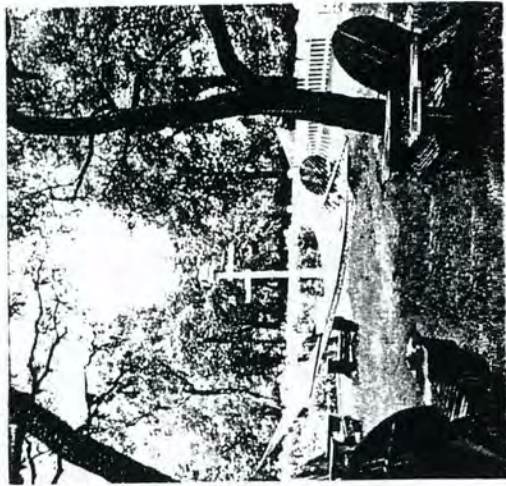
Builder/Contractor

Developer/Developer's Agent

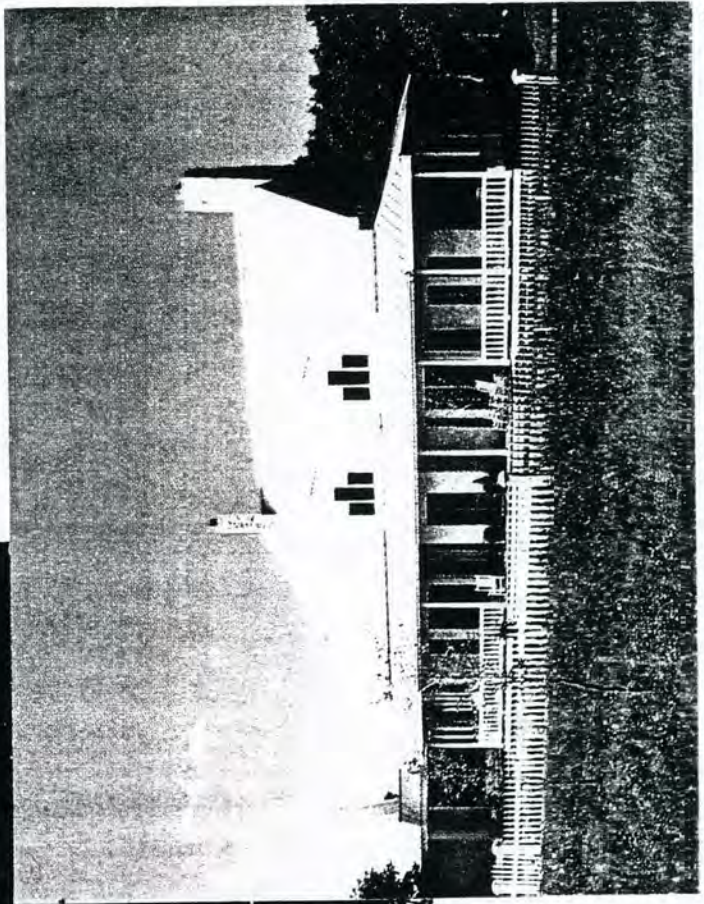
Return to Land Use

Boulder County Clerk, CO AG

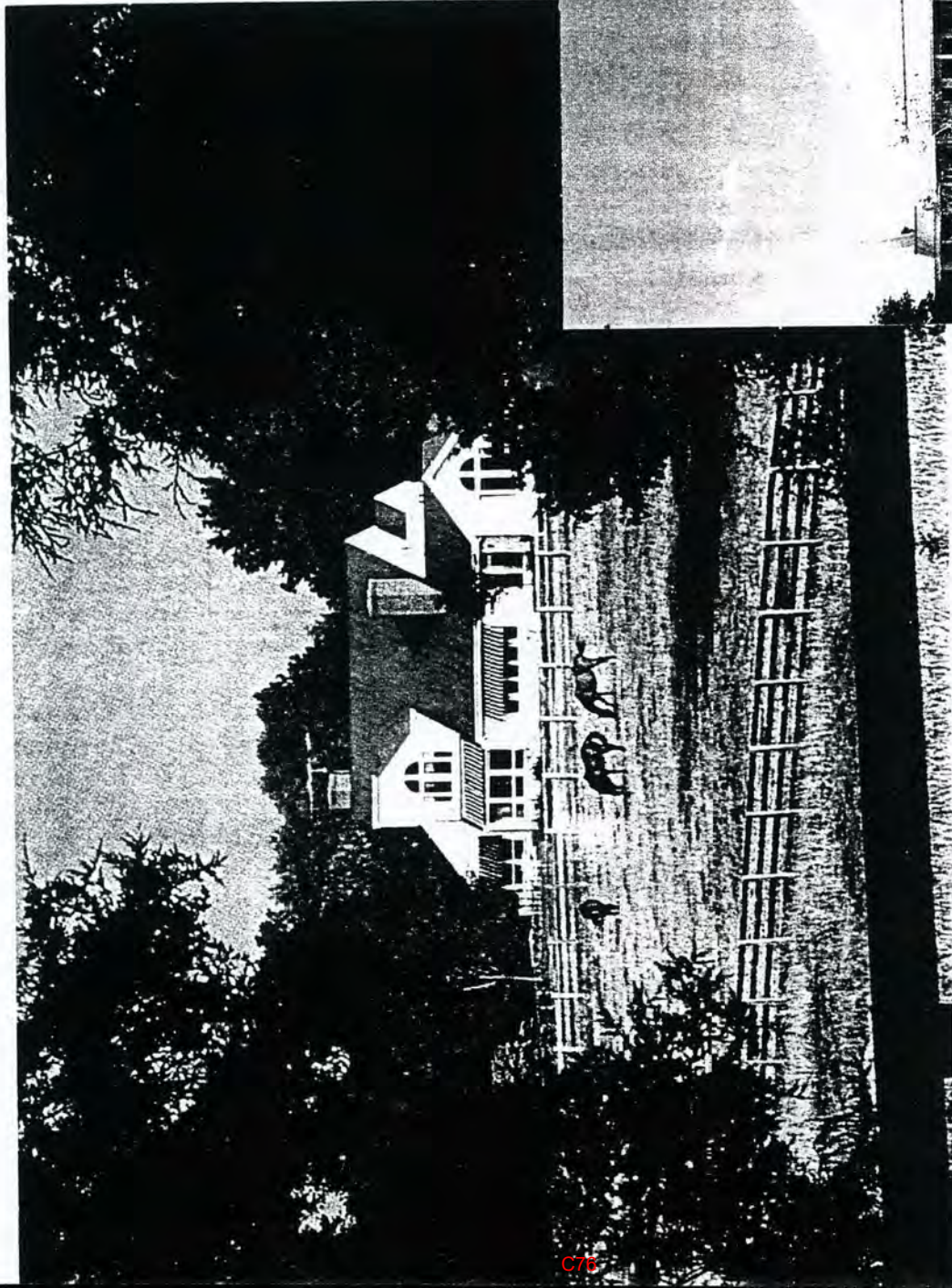
1888347
Page: 77 of 148
12/31/1998 12:38P
R 741.00 J 0.00



B



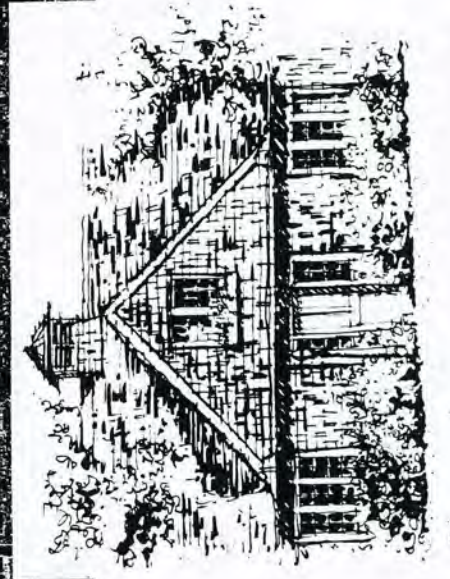
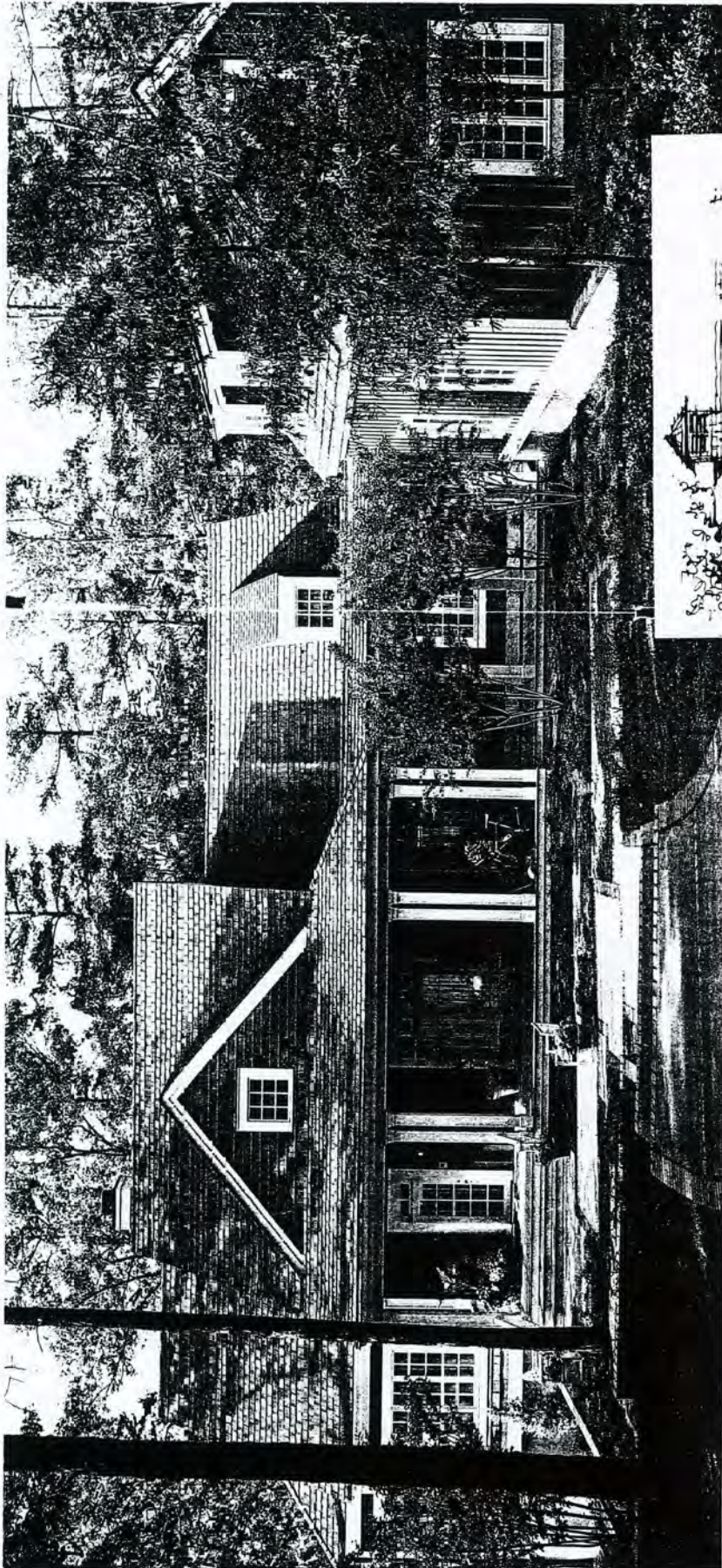
C



The Pastoral Community should be enhanced through the selection of fences, landscape materials, etc., which maintain view corridors and a sense of openness. Community features and street furniture such as fences, lighting, and mailboxes should be approved by the Lacey Property's Design Review Committee.

Residential Character

EXAMPLE



Group and articulate individual buildings to define exterior spaces.

Soften overall building mass by incorporating single story plate lines along perimeter walls.

Incorporate upper floors in dormers and gabled popouts.

Residential Character

EXAMPLE

E

D

67



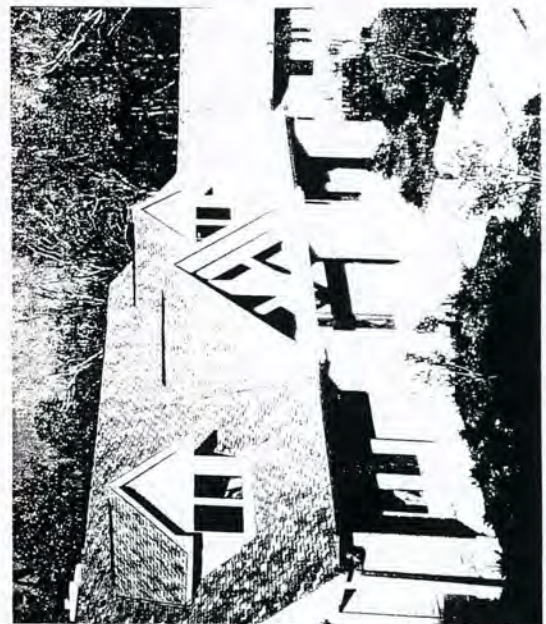
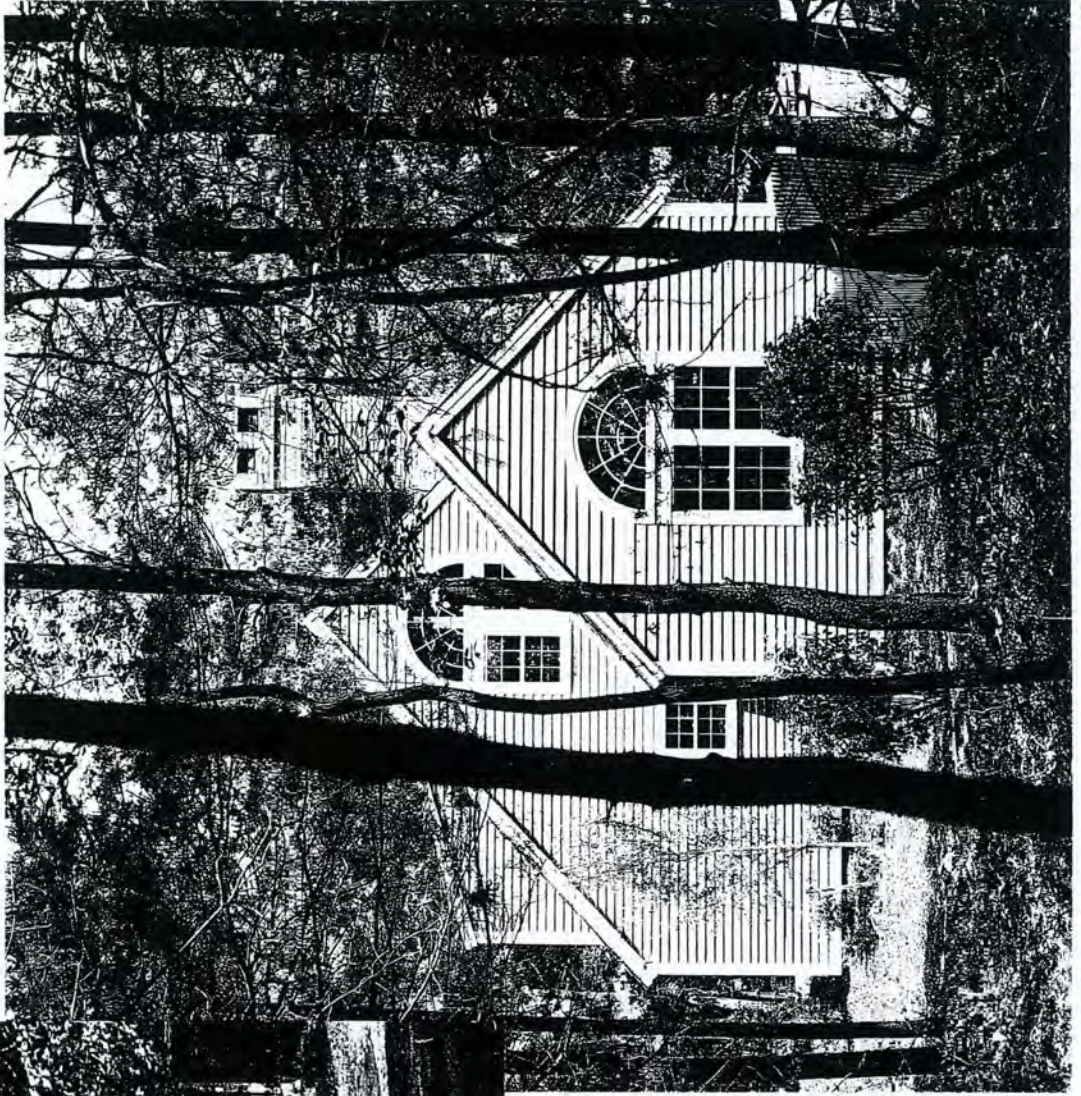
1388347

Page: 79 of 148
12/31/1998 12:38P

Boulder County Clerk, CO AG

R 741.00 D 0.00

Special attention should be given to gable end treatments, lower plate heights, skirt roofs, and dormers which soften a larger main body roof.



Residential Character

EXAMPLE

G

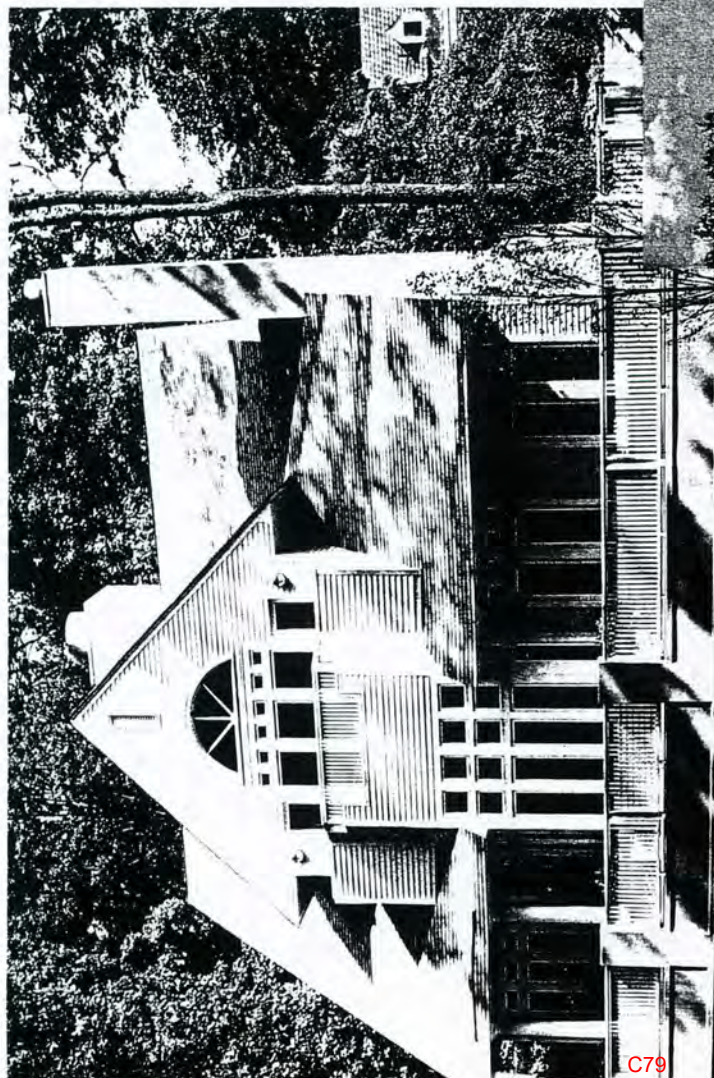
H



Boulder County Clerk, CO AG

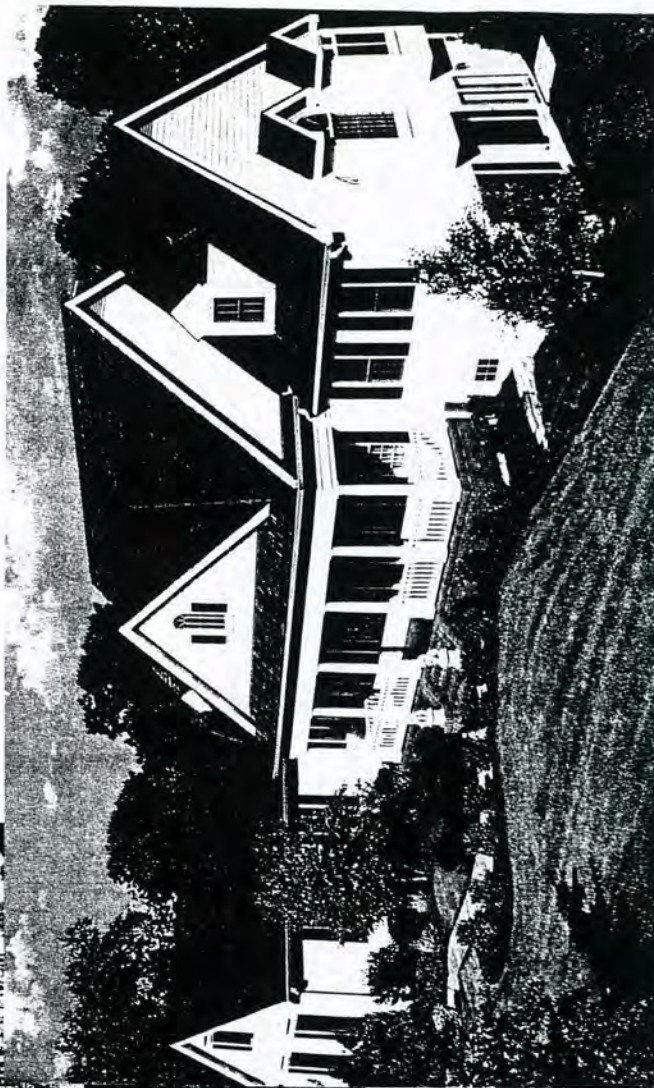
R 741.00 D 0.00

1888347
Page: 80 of 148
12/31/1996 12:38P



utilize similar detailing or front, rear, and side elevations to create an Overall Consistency in finish.

C79



J

EXAMPLE

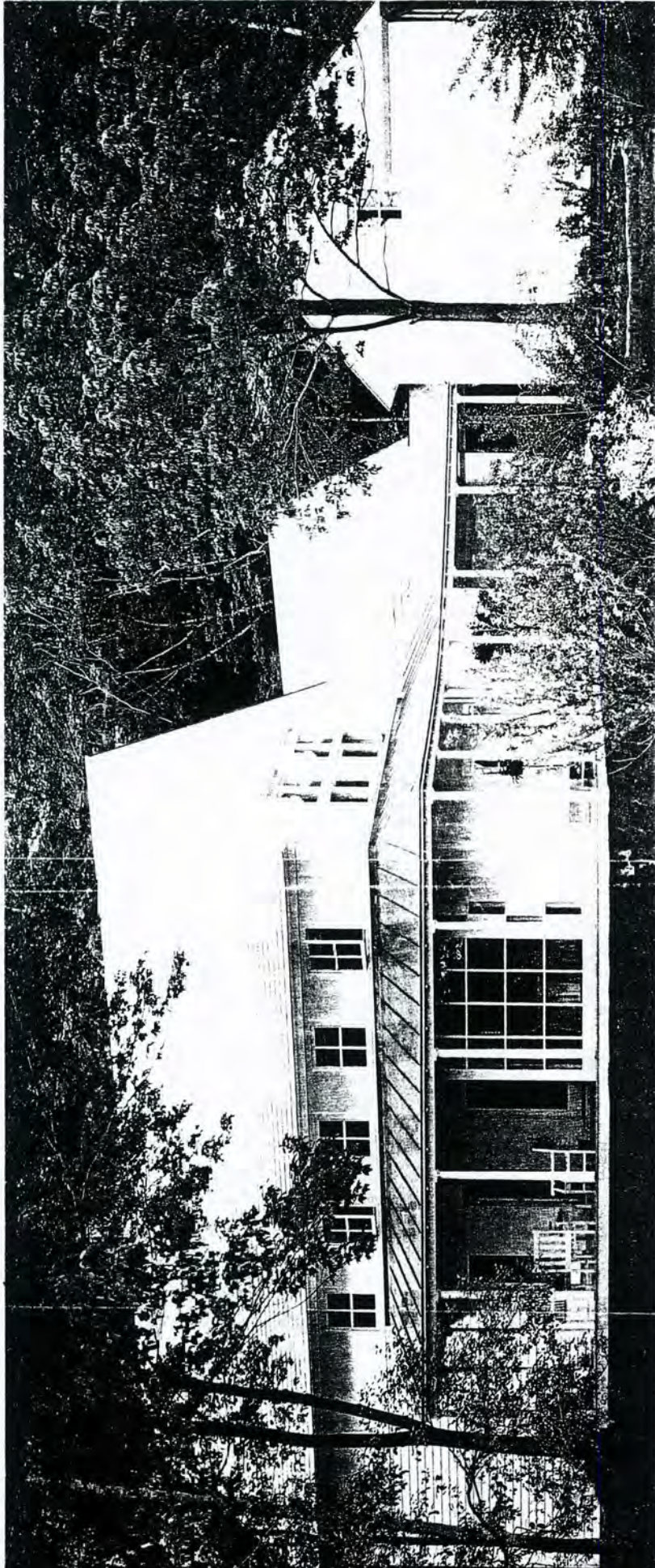
Building Form, Massing and Scale

I

Boulder County Clerk, CO AG



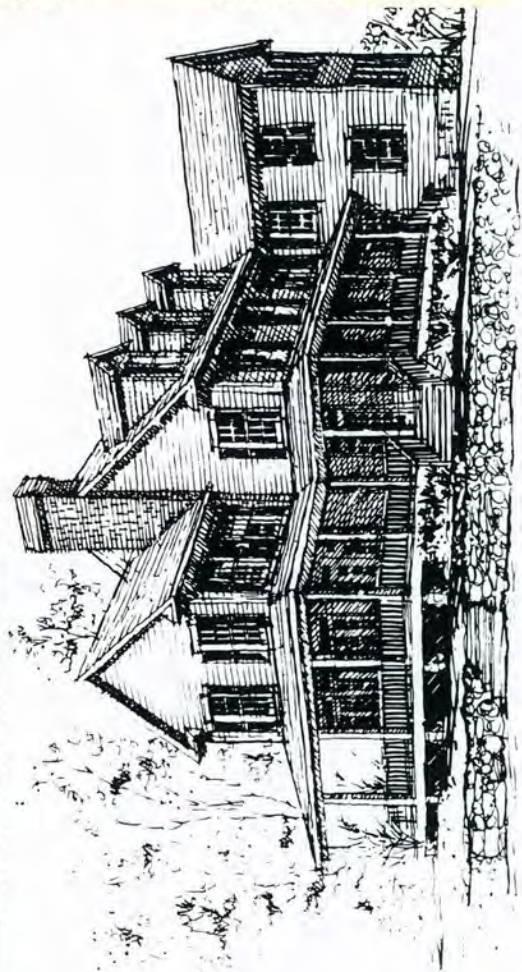
1888347
Page: 81 of 148
12/31/1998 12:38P
R 741.00 D 0.00



Incorporate Exterior Colors consisting of
"light, natural tones".

Building Form, Massing and Scale

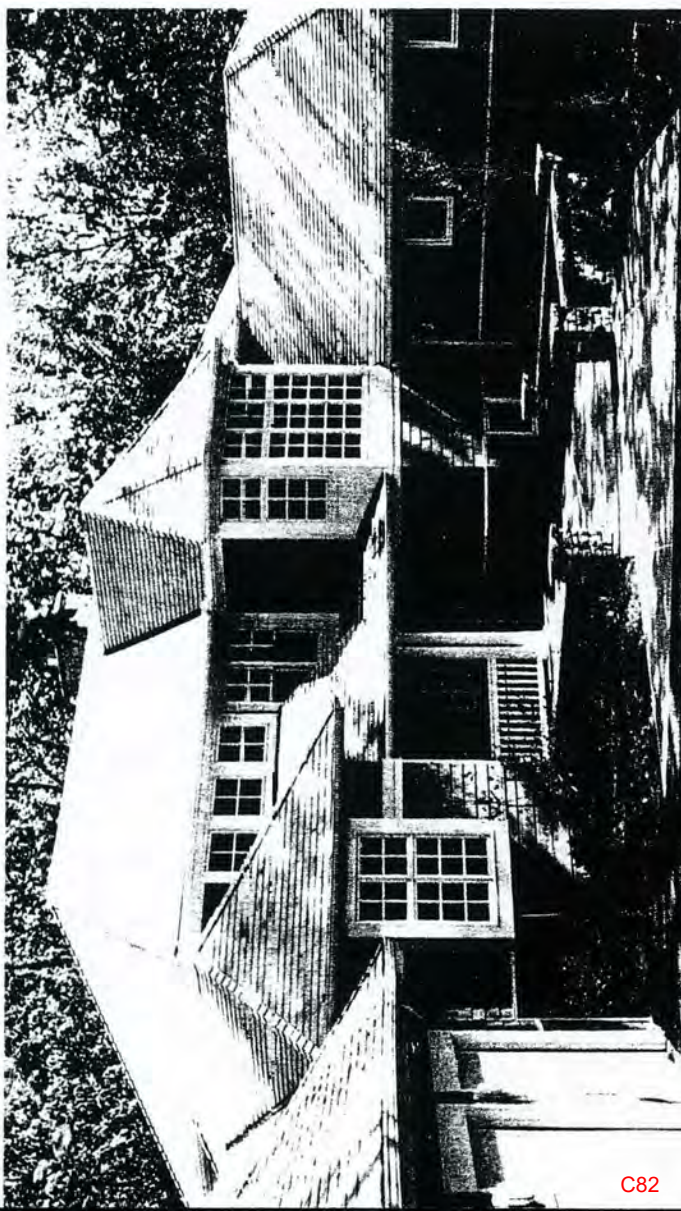
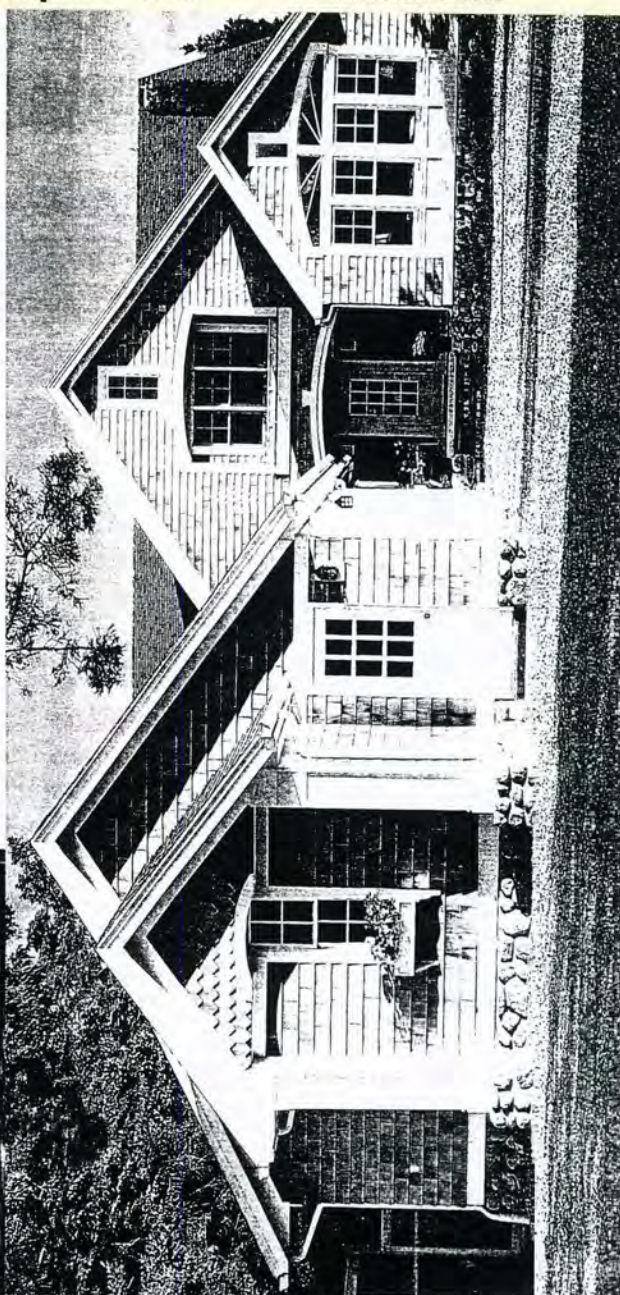
EXAMPLE



Design skirt roofs and other small roof elements to soften two-story building mass.

Building Forms, Massing and Scale

EXAMPLE



Incorporate a variety of one, and one and one half-story house designs within the community. "Nest" upper level floors into main body roofs to avoid massive two-story forms.

Building Forms, Massing and Scale

EXAMPLE



R

incorporate contemporary elements/materials such as circular vents, arch top windows, trellises, lay siding, metal roofs, etc, to create simple, "crisp" lines.



Building Forms, Massing and Scale

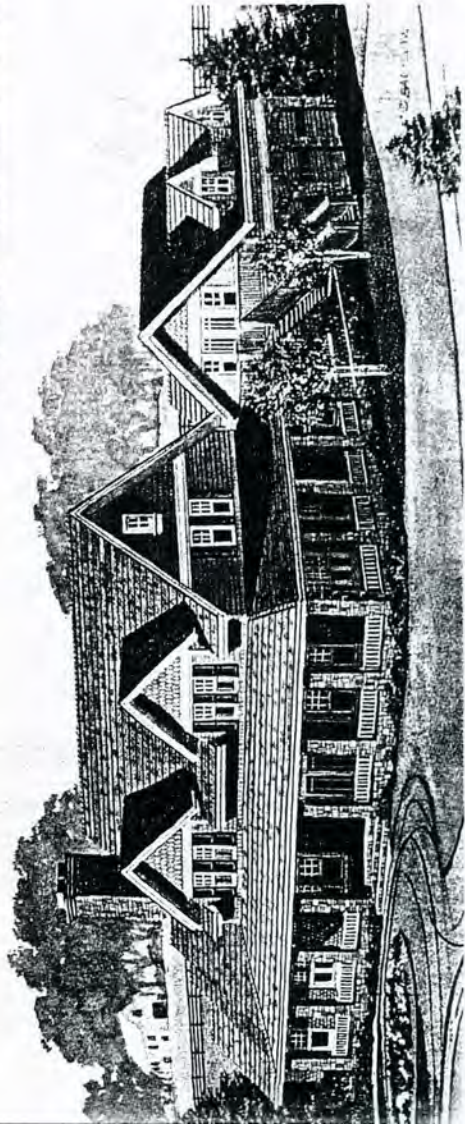
EXAMPLE



Boulder County Clerk, CO AG



utilize natural, earth-tone materials in combination with wood trim accents (shutters, porch columns, and railings, etc.) to enhance architectural textures.



Building Forms, Massing and Scale

EXAMPLE



Emphasize human scale proportions by designing entries with lower plate heights, and incorporating special treatments through gabled roof details, stone accents, special porch details, etc.).



V



W

EXAMPLE

Building Forms, Massing and Scale

Boulder County Clerk, CO RG



R 741.00 D 0.00

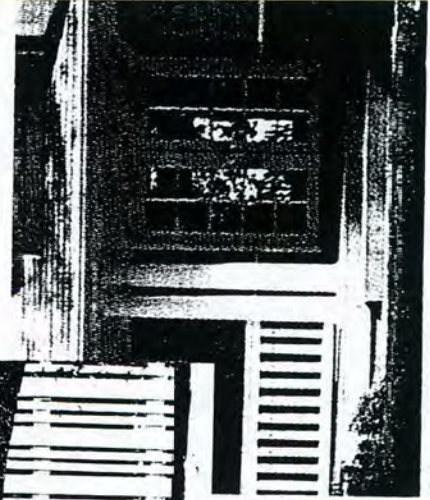
1888347
Page: 86 of 148
12/31/1998 12:38P



HH

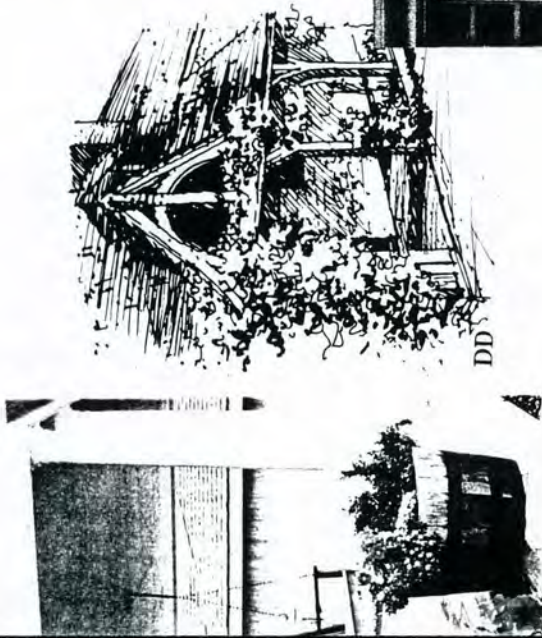


II

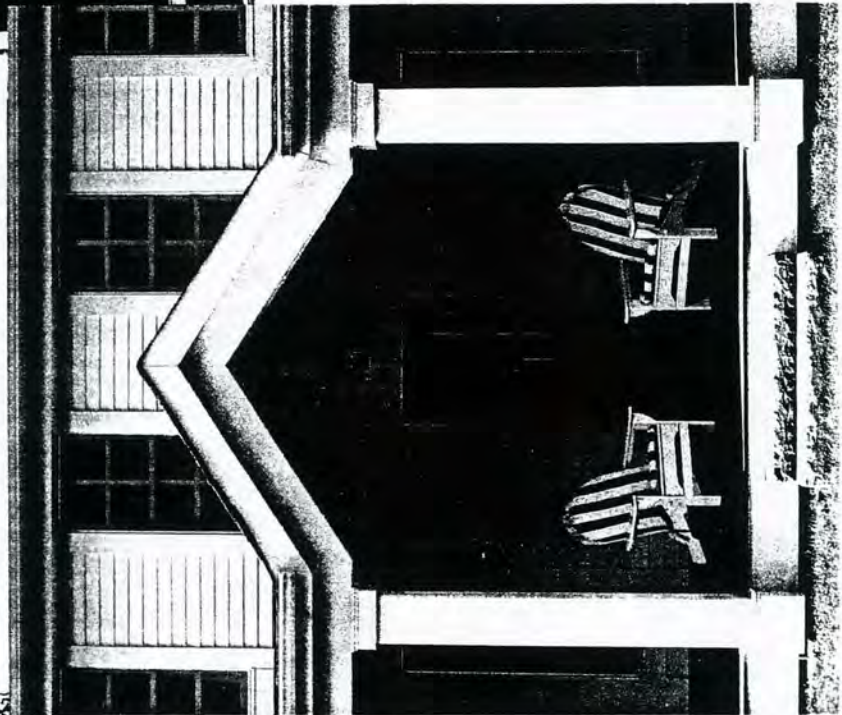


JJ

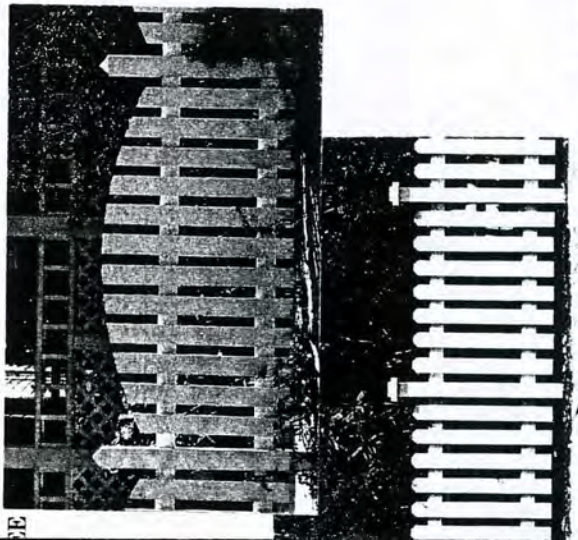
Design House and Yard Detailing (fences, etc.) which is representative of the Contemporary Rural Farmhouse theme. Incorporate strong and simple trim details which can be adapted to Porch Columns and Railings. Built-up or grooved columns are encouraged. Special attention should be given to railings, as an expression of architectural style.



DD



GG



EE

Community and Porch Imagery

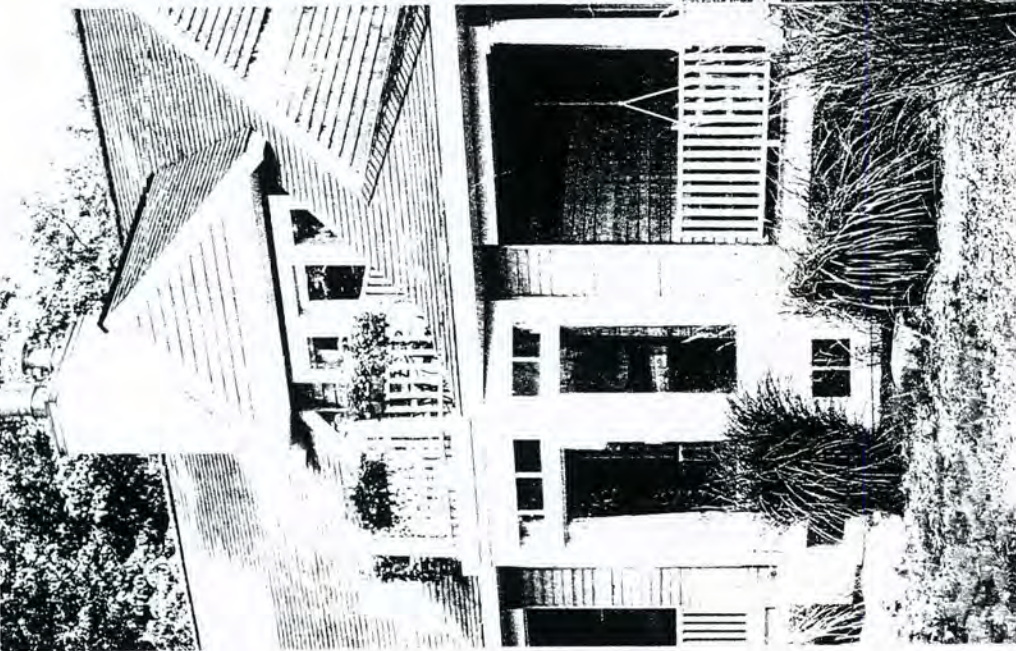
EXAMPLE



03P

Windows should be designed to emphasize the room in which they are located. Incorporate special windows as accent features of prominent rooms.

NN



LL

Dormers should be integrated elements of the main roof body, according to its simple form. Dormer styles should reflect the character and trim details present in the architecture and primary roof forms of each home.

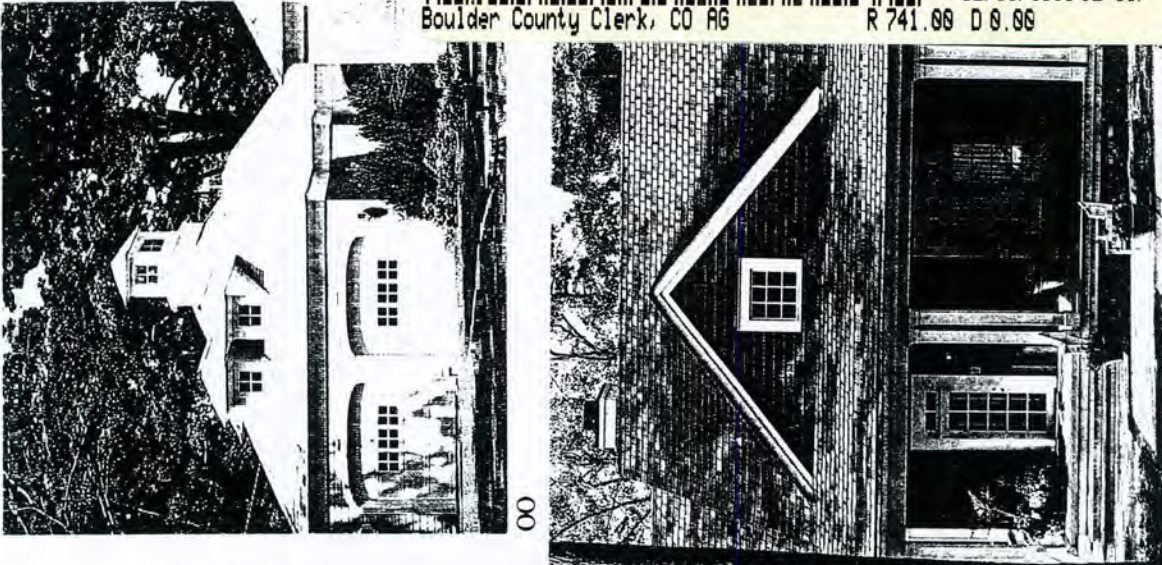
MM



EXAMPLE

Dormers and Windows

PP



OO

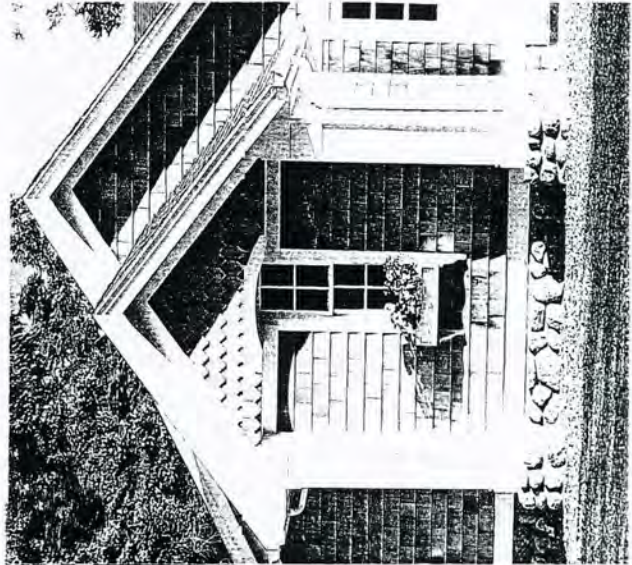
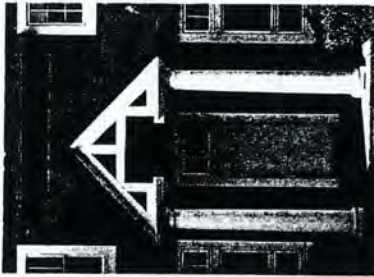


UU



create relief by emphasizing Gable End Treatments, Trim Details and Special Features. Design fascias, eaves/soffits, and frieze boards with more depth and interest by incorporating deeper, built-up fascias, exposed wood truss detailing in gables, larger frieze boards, etc. Provide opportunities for special trim, and features to accent base materials through the use of window shutters, wood brackets, planter/window boxes, etc.

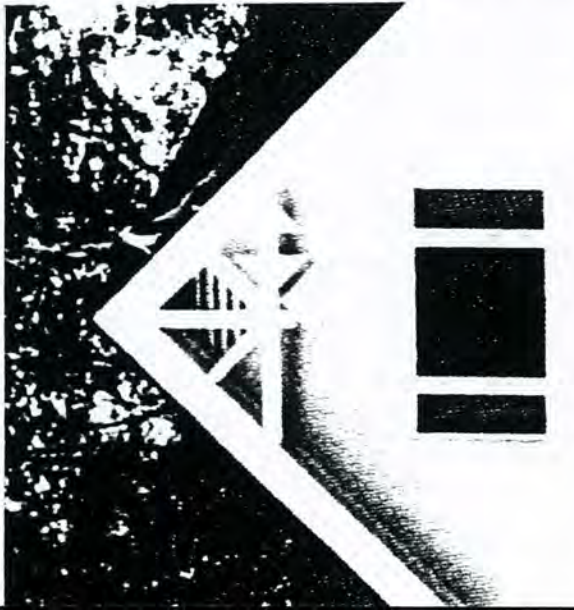
SS



TT

EXAMPLE

Gable End Treatments, Trim Details and Special Features



RR

536



1888347
Page: 90 of 148
12/31/1998 12:38P
Boulder County Clerk, CO AG R 741.00 D 0.00

EXHIBIT H

THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
NIWOT MEADOW FARM

THIS DOCUMENT WAS DRAFTED BY,
AND AFTER RECORDING, RETURN TO:
William A. Love, Esq.
Wells, Love & Scoby LLC
225 Canyon Blvd.
Boulder, CO 80302
(303) 449-4400

Copyright © 1998
By William A. Love
All Rights Reserved
12/29/98

TABLE OF CONTENTS

PREAMBLE		1
ARTICLE ONE: DEFINITIONS		2
1.1	Act	2
1.2	Agencies	2
1.3	Allocated Interests	2
1.4	Articles	2
1.5	Assessments	2
1.6	Assessment Lien	2
1.7	Association	2
1.8	Board of Directors or Board	3
1.9	Bylaws	3
1.10	Common Areas	3
1.11	Common Expense Assessment Liability	3
1.12	Common Expense Assessments	3
1.13	Common Expenses	3
1.14	Costs of Enforcement	3
1.15	County	3
1.16	Declarant	3
1.17	Declaration	3
1.18	Design Review Committee	4
1.19	Design Review Guidelines	4
1.20	Development Rights and Special Declarant Rights	4
1.21	Dwelling Unit	4
1.22	Eligible Mortgagee	4
1.23	First Mortgagee	4
1.24	First Security Interest	4
1.25	Guest	4
1.26	Improvements	4
1.27	Lot	5
1.28	Lots Subject to this Declaration	5
1.29	Managing Agent	5
1.30	Member	5
1.31	Notice and Hearing	5
1.32	Owner	5
1.33	Participating Builder	5
1.34	Period of Declarant Control	5
1.35	Person	6
1.36	Planned Community	6
1.37	Plat	6
1.38	Project Documents	6
1.39	Rules	6
1.40	Security Interest	6



1888347

Page: 92 of 148
12/31/1998 12:38P

Boulder County Clerk, CO AG

R 741.00 D 0.00

1.41	Special Assessments	6
1.42	Turnover Date	6
1.43	VA and/or FHA Approval	6
ARTICLE TWO: SCOPE OF THE DECLARATION		7
2.1	Property Subject to this Declaration	7
2.2	Conveyances Subject to this Declaration	7
2.3	Owner's Rights Subject to this Declaration	7
2.4	Number of Lots	7
2.5	Identification of Lots	7
2.6	Lot Boundaries	7
ARTICLE THREE: THE COMMON AREAS		8
3.1	Common Area Dedication	8
3.2	Title to the Common Areas	8
3.3	Duty to Accept the Common Areas Transferred by Declarant	9
3.4	Duty to Manage and Care for the Common Areas	8
3.5	Owner's Rights in the Common Areas	8
3.6	Delegation of Use	9
ARTICLE FOUR: THE ASSOCIATION		10
4.1	Name	10
4.2	Purposes and Powers	10
4.3	Board of Directors	10
4.4	Articles and Bylaws	10
4.5	Membership	10
4.6	Voting Rights	10
4.7	Declarant Control of the Association	10
4.8	Election by Owners	11
4.9	Delivery of Documents by Declarant	11
4.10	Budget	12
4.11	Association Agreements	13
4.12	Indemnification	13
4.13	Certain Rights and Obligations of the Association	13
4.14	Certain Rights and Obligations of the Declarant	13
ARTICLE FIVE: ASSESSMENTS		14
5.1	Obligation	14
5.2	Purpose of the Common Expense Assessment	14
5.3	Date of Commencement of the Assessment	14



5.4	Levy of Assessments	15
5.5	Due Date	16
5.6	Remedies for Nonpayment of Assessments	16
5.7	The Assessment Lien	17
5.8	Assignments of Assessments	18
5.9	Surplus Funds	18
5.0	Working Capital Fund	18
5.11	Certificate of Status of Assessments	19
5.12	No Offsets	19
ARTICLE SIX: ARCHITECTURAL APPROVAL/DESIGN REVIEW		20
6.1	Approval of Improvements Required	20
6.2	Membership of the Committee	20
6.3	Address of the Committee	20
6.4	Submission of Plans/Design Review Fee	20
6.5	Delegation/Waiver	21
6.6	Criteria for Approval	21
6.7	Decision of the Committee	22
6.8	Appeal to the Board of Directors	22
6.9	Failure of Committee to Act on Plans	22
6.10	Prosecution of Work After Approval	22
6.11	Notice of Completion	23
6.12	Inspection of Work	23
6.13	Notice of Noncompliance	23
6.14	Failure of Committee to Act After Completion	23
6.15	Appeal to the Board of Directors of Finding of Noncompliance	24
6.16	Correction of Noncompliance	23
6.17	Meetings of the Committee	24
6.18	No Implied Waiver or Estoppel	24
6.19	Estoppel Certificates	24
6.20	Architectural Standards/Design Guidelines	24
6.21	No Liability for Committee Action	24
ARTICLE SEVEN: LAND USE AND OTHER RESTRICTIONS		25
7.1	Limitations and Restrictions	25
7.2	Land Use	25
7.3	Building Locations, Height Restrictions and Lot Coverage	25
7.4	Temporary Structures	25
7.5	Restrictions on Garbage and Trash	25
7.6	Nuisances	26
7.7	No Annoying Lights, Sounds or Odors	26
7.8	No Hazardous Activities	26
7.9	No Unsightliness	26



1888347
Page: 94 of 148
12/31/1998 12:38P
Boulder County Clerk, CO AG R 741.00 D 0.00

7.10 Utilities 26

7.11 Restrictions on Signs and Advertising Devices 27

7.12 Compliance with Insurance Requirements 27

7.13 Compliance with Laws 27

7.14 Restoration in the Event of Damage or Destruction 27

7.15 Household Pets 28

7.16 Vehicular Parking, Storage and Maintenance 30

7.17 Owner Caused Damages 30

7.18 Antennas 31

7.19 Lease of a Dwelling Unit 31

7.20 Fences and Other Exterior Improvements 31

7.21 Rules 31

7.22 Waiver of Summary Abatement 31

7.23 Exemptions for the Declarant 31

ARTICLE EIGHT: EASEMENTS 32

8.1 Utility Easements 32

8.2 Easements for the Board of Directors 32

8.3 Emergency Easements 32

8.4 Recording Data Regarding Easements 32

8.5 Easements Deemed Appurtenant 32

ARTICLE NINE: INSURANCE/CONDEMNATION 33

9.1 Authority to Purchase/General Requirements 33

9.2 Hazard Insurance 34

9.3 Liability Insurance 35

9.4 Fidelity Insurance 36

9.5 Additional Insurance 36

9.6 Payment of Insurance Premiums 37

9.7 Separate Insurance 37

9.8 Condemnation 37

ARTICLE TEN: RESTORATION UPON DAMAGE OR DESTRUCTION 38

10.1 Duty to Restore 38

10.2 Use of Insurance Proceeds 38



1888347
Page: 95 of 148
12/31/1998 12:38P
R 741.00 D 0.00

Boulder County Clerk, CO AG

ARTICLE ELEVEN: MAINTENANCE, REPAIR AND RECONSTRUCTION 39

11.1 Maintenance of the Common Areas 39
11.2 Maintenance of the Lots and Dwelling Units 39
11.3 Maintenance of Drainage Pattern 39
11.4 Association Responsibility 39
11.5 Board of Directors 40

ARTICLE TWELVE: DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS 41

12.1 Reservation 41
12.2 Rights Transferable 41
12.3 Limitations 41
12.4 Interference with Declarant Rights 41
12.5 Use by Declarant 42
12.6 Models, Sales Offices and Management Offices 42
12.7 Declarant's Easements 42
12.8 Signs and Marketing 42

ARTICLE THIRTEEN: FIRST MORTGAGEE PROVISIONS 43

13.1 Notices of Action 43
13.2 Amendment to Documents/Special Approvals 43
13.3 Special FHLMC Provisions 45
13.4 Implied Approval 45
13.5 Books and Records 45

ARTICLE FOURTEEN: DURATION, AMENDMENT AND TERMINATION OF THE DECLARATION 46

14.1 Duration 46
14.2 Amendments by Owners 46
14.3 FHA/VA Approval 46
14.4 Consent of Eligible Mortgagees 47
14.5 Amendments by Declarant 47
14.6 Consent of Declarant Requires 47



1888347
Page: 96 of 148
12/31/1998 12:38P
Boulder County Clerk, CO AG R 741.00 D 0.00

ARTICLE FIFTEEN: GENERAL PROVISIONS **48**

15.1 Right of Action 48

15.2 Successors and Assigns 48

15.3 Severability 48

15.4 No Waiver 48

15.5 Registration by Owner of Mailing Address 48

15.6 Conflict 48

15.7 Mergers 48

15.8 Arbitration/Attorney's Fees 48

15.9 Captions 49

15.10 Numbers and Genders 49

EXHIBITS

- A LEGAL DESCRIPTION OF THE REAL PROPERTY SUBMITTED TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF NIWOT MEADOW FARM
- B LEGAL DESCRIPTION OF THE COMMON AREAS SUBMITTED TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF NIWOT MEADOW FARM
- C THE RECORDING DATA FOR RECORDED EASEMENTS AND LICENSES WHICH THE PLANNED COMMUNITY IS OR MAY BECOME SUBJECT TO

**THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
NIWOT MEADOW FARM**

PREAMBLE

THIS DECLARATION is made on the date hereinafter set forth, by MICHAEL MARKEL ("Declarant").

WHEREAS, Declarant is the owner of certain real property located in Boulder County, Colorado, as more particularly described on Exhibits A and B attached hereto and incorporated herein (the "Property"); and

WHEREAS, the Declarant intends to create a residential community on the said real property together with other improvements thereon; and

WHEREAS, Declarant will convey the said real property, subject to the protective covenants, conditions and restrictions, as hereinafter set forth.

NOW THEREFORE, Declarant hereby submits the real property described on Exhibits A and B, together with all rights, and appurtenances thereto and improvements thereon to the provisions of the Colorado Common Interest Ownership Act, as it may be amended from time to time. In the event the said Act is repealed, the Act as it exists on the date this Declaration is recorded shall remain applicable.

Declarant hereby declares that all of the said real property described on said Exhibits A and B shall be held and conveyed subject to the following covenants, conditions and restrictions, all of which are declared and agreed to be for the protection of the value of the said real property, and for the benefit of any persons having any right, title or interest in the said real property. Said covenants, conditions and restrictions shall be deemed to run with the land and shall be a burden and a benefit to any persons acquiring such interest, their grantees, heirs, legal representatives, successors and assigns.

Copyright © 1998
By William A. Love
All Rights Reserved



ARTICLE ONE: DEFINITIONS

As used in this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

1.1 ACT means the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101, et seq., as it may be amended from time to time.

1.2 AGENCIES means and collectively refers to the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD/FHA), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

1.3 ALLOCATED INTERESTS means the Votes in the Association and the Common Expense Assessment Liability which are allocated to each of the Lots in the Planned Community. The formulas used to establish the Allocated Interests are as follows:

(a) Votes. The Owners of each Lot in the Planned Community shall be entitled to one vote for each Lot owned.

(b) Common Expense Assessment Liability. The Common Expense Assessment is levied upon all Lots on the basis of a fraction, the numerator of which is one and the denominator of which is the total number of Lots within the Planned Community.

1.4 ARTICLES means the Articles of Incorporation of the Association.

1.5 ASSESSMENTS mean the (a) Common Expense Assessments, (b) Special Assessments, (c) Individual Assessments, and (d) Fines levied pursuant to this Declaration.

1.6 ASSESSMENT LIEN means the statutory lien on a Lot for any Assessment levied against that Lot together with all Costs of Enforcement as herein defined. All Costs of Enforcement are enforceable as Assessments.

If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due.

1.7 ASSOCIATION means THE NIWOT MEADOW FARM HOMEOWNERS ASSOCIATION, a Colorado Corporation, not for profit, its successors and assigns, the Articles of Incorporation and Bylaws, which, along with this Declaration, shall govern the administration of the Planned Community, the Members of which shall be all of the Owners of the Lots within the Planned Community.



1.8 BOARD OF DIRECTORS or BOARD means the Board of Directors of the Association duly elected pursuant to the Bylaws of the Association or appointed by the Declarant as therein provided. The Board of Directors is the governing body of the Association and shall act on behalf of the Association.

The term Board of Directors as used herein is synonymous with the term Executive Board as the latter term is used in the Act.

1.9 BYLAWS means the Bylaws which are adopted by the Board of Directors for the regulation and management of the Association.

1.10 COMMON AREAS means any real property (including all improvements thereon) owned by the Association, all of which is held for the common use and enjoyment of the Owners, the descriptions of which are more fully described in Exhibit B attached hereto.

The term Common Areas as used herein is synonymous with the term Common Elements as the latter term is used in the Act.

1.11 COMMON EXPENSE ASSESSMENTS means the funds required to be paid by each Owner in payment of such Owner's Common Expense Liability as more fully defined in Paragraph 5.2 hereof.

1.12 COMMON EXPENSE ASSESSMENT LIABILITY means the funds required to be paid by each Owner in payment of such Owner's Common Expense Liability as more fully defined in Paragraph 5.2 hereof.

1.13 COMMON EXPENSES means expenditures made by or liabilities incurred by or on behalf of the Association, together with allocations to reserves.

1.14 COSTS OF ENFORCEMENT means all fees, late charges, interest, expenses, including receiver's fees, and reasonable attorneys' fees and costs incurred by the Association (a) in connection with the collection of the Assessments and Fines, or (b) in connection with the enforcement of the terms, conditions and obligations of the Project Documents.

1.15 COUNTY means Boulder County, Colorado.

1.16 DECLARANT means MICHAEL MARKEL, or his successors as defined by § 38-33.3-103(12) of the Act.

1.17 DECLARATION means this Declaration and the Plat and any supplements and amendments thereto recorded in the Office of the County Clerk and Recorder.



1.18 DESIGN REVIEW COMMITTEE (the "Committee") means the Committee formed pursuant to ARTICLE SIX hereof to review and approve or disapprove plans for Improvements as defined herein as more fully provided for by this Declaration.

1.19 DESIGN REVIEW GUIDELINES means the DESIGN REVIEW GUIDELINES FOR NIWOT MEADOW FARM, as amended and supplemented. These guidelines may be adopted by the Design Review Committee to implement and interpret the Design Review/Architectural Approval provisions of ARTICLE SIX of this Declaration.

1.20 DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS means the rights as defined by §§ 38-33.3-103(14) and (29) of the Act reserved by the Declarant under ARTICLE NINE hereof.

1.21 DWELLING UNIT means the residence constructed on each Lot within the Planned Community and any replacement thereof. Dwelling Unit shall include the Lot upon which such Dwelling Unit is constructed.

1.22 ELIGIBLE MORTGAGEE means a holder, insurer or guarantor of a First Security Interest who has delivered a written request to the Association containing its name, address, the legal description and the address of the Lot encumbered by its First Security Interest, requesting that the Association notify them on any proposed action requiring the consent of the specified percentage of Eligible Mortgagees.

1.23 FIRST MORTGAGEE means any Person which owns, holds, insures or is a guarantor of a Security Interest as herein defined, which is a First Security Interest encumbering a Lot within the Planned Community. A First Mortgagee shall also include the holder of executory land sales contracts wherein the Administrator of Veterans Affairs (Veterans Administration) is the Seller, whether such contract is recorded or not.

1.24 FIRST SECURITY INTEREST means a Security Interest (as hereinafter defined) that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments).

1.25 GUEST means (a) any person who resides with an Owner within the Planned Community; (b) a guest or invitee of an Owner; (c) an occupant or tenant of a Dwelling Unit within the Planned Community, and any members of his or her household, invitee or cohabitant of any such person; or (d) a contract purchaser.

1.26 IMPROVEMENTS means:

- (a) all exterior improvements, structures and any appurtenances thereto or components thereof of every type or kind;
- (b) the demolition or destruction, by voluntary action, of any building, structure or other Improvements;



(c) the grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern;

(d) all landscaping features, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, private drives, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, signs, cooling, heating and water softening equipment; and

(e) any change, alteration, modification, expansion, or addition to any previously approved Improvement, including any change of exterior appearance, finish material, color or texture.

1.27 LOT means each platted lot shown upon the Plat of the Planned Community which is subject to this Declaration, together with all appurtenances and improvements now or hereafter located thereon.

"Lot" shall include any Dwelling Unit constructed thereon as the term "Dwelling Unit" is herein defined.

The term Lot as used herein is synonymous with the term Unit as the latter term is used in the Act.

1.28 LOTS SUBJECT TO THIS DECLARATION means twenty-seven Lots, which shall be the maximum number of Lots that may be subject to this Declaration.

1.29 MANAGING AGENT means any one or more persons employed by the Association who is engaged to perform any of the duties, powers or functions of the Association.

1.30 MEMBER means each Owner, as defined in Paragraph 1.32 hereof.

1.31 NOTICE AND HEARING means a written notice and an opportunity for a hearing before the Board of Directors in the manner provided in the Bylaws.

1.32 OWNER means the record Owner of the fee simple title to any Lot which is subject to this Declaration.

1.33 PARTICIPATING BUILDER means and refers to a Person or Persons who acquires a portion of the Planned Community for purposes of improving such Lots in accordance with any development plans for resale to third party purchasers, and who is designated by the Declarant as such by an instrument duly recorded in the Office of the County Clerk and Recorder.

1.34 PERIOD OF DECLARANT CONTROL means that period of time as defined in Paragraph 4.7 hereof.



1.35 PERSON means a natural person, a corporation, a partnership, an association, a trustee, a limited liability company, a joint venture, or any other entity recognized as being capable of owning real property under Colorado law.

1.36 PLANNED COMMUNITY means such real property and the improvements located thereon as more fully described on Exhibits A and B attached hereto.

1.37 PLAT means the final plat of the NIWOT MEADOW FARM SUBDIVISION recorded in the records of the County Clerk and Recorder.

1.38 PROJECT DOCUMENTS means this Declaration and the Plat, the Articles of Incorporation and Bylaws of the Association, the Design Review Guidelines, and the Rules and Regulations, if any, as they may be amended from time to time.

1.39 RULES means the Rules and Regulations adopted by the Board of Directors for the regulation and management of the Planned Community as amended from time to time.

1.40 SECURITY INTEREST means an interest in real estate or personal property created by contract which secures payment of an obligation. The term includes a lien created by a deed of trust, contract for deed, land sales contract and UCC-1.

1.41 SPECIAL ASSESSMENT means those Assessments defined in Paragraph 5.4(d) hereof.

1.42 TURNOVER DATE means the date the Period of Declarant Control terminates as more fully set forth in Paragraph 4.7 hereof.

1.43 VA AND/OR FHA APPROVAL means that the Planned Community has been or is to be approved by the Veterans Administration and/or the Federal Housing Administration so that such agencies will insure or guarantee loans made upon the Lots within the Planned Community.



ARTICLE TWO: SCOPE OF THE DECLARATION

2.1 Property Subject to this Declaration. Declarant, as the Owner of fee simple title to the Planned Community, by recording this Declaration does hereby subject the Planned Community to the provisions of this Declaration.

2.2 Conveyances Subject to this Declaration. All covenants, conditions and restrictions which are granted or created by this Declaration shall be deemed to be covenants appurtenant to and running with the land, and shall at all times inure to the benefit of and be binding on any person having any interest in the Planned Community, their respective heirs, successors, personal representatives or assigns.

Any instrument recorded subsequent to this Declaration and purporting to establish and effect any interest in the Planned Community shall be subject to the provisions of this Declaration despite any failure to make reference thereto.

2.3 Owner's Rights Subject to this Declaration. Each Owner shall own his or her Lot in fee simple and shall have full and complete dominion thereof, subject to the provisions of this Declaration.

2.4 Number of Lots. The number of Lots within the Planned Community is twenty-seven.

2.5 Identification of Lots. The identification number of each Lot is shown on the Plat of the Planned Community.

2.6 Lot Boundaries. The boundaries of each Lot are located as shown on the Plat of the Planned Community.



1888347
Page: 104 of 148
12/31/1998 12:38P

ARTICLE THREE: THE COMMON AREAS

3.1 Common Area Dedication. The Declarant, in recording the Plat of the Planned Community in the records of the County Clerk and Recorder, has designated certain areas of the Planned Community as Common Areas, more fully described on Exhibit B attached hereto.

The Common Areas are not dedicated for use by the general public, but are dedicated to the common use and enjoyment of only the Owners of Lots located within the Planned Community and such Owner's Guests, as more fully provided for in this Declaration.

Said Plat is hereby incorporated herein and made a part of this Declaration.

3.2 Title to the Common Areas. The Declarant hereby covenants that it will convey to the Association fee simple title to the Common Areas free and clear of all liens and encumbrances prior to the conveyance of the first Lot within the Planned Community to an Owner other than Declarant.

3.3 Duty to Accept the Common Areas Transferred by Declarant. The Association shall accept title to said Common Areas and agrees to own and maintain any property, including all improvements located thereon, and personal property relating thereto, transferred to the Association by Declarant as Common Areas. Any property or interest in property transferred to the Association by Declarant shall be transferred to the Association free and clear of all liens and encumbrances (other than the lien of real estate taxes not then due and payable) and Declarant shall furnish and pay for a title insurance policy reflecting same.

3.4 Duty to Manage and Care for the Common Areas. The Association shall manage, operate, care for, insure, maintain, repair and reconstruct all of the Common Areas and the improvements located thereon and keep the same in a safe, attractive and desirable condition for the use and enjoyment of all of the Owners. *The Homeowner's Association shall take appropriate steps to remove, revegetate or otherwise eliminate or reverse the temporary detention ponds and related facilities as reviewed and approved by the County*

3.5 Owner's Rights in the Common Areas. Every Owner and such Owner's Guests shall have the right and easement of use and enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title of the Lot to such Owner, subject to the Development Rights and Special Declarant Rights of the Declarant reserved herein and the following rights of the Board of Directors:

(a) To borrow money to improve the Common Areas and to mortgage said Common Areas as security for any such loan; provided, however, that the Association may not subject any portion of the Common Areas to a security interest unless such is approved by Owners to which at least eighty percent of the votes in the Association are allocated, including eighty percent of the votes allocated to Lots not owned by the Declarant as more fully set forth in §38-33.3-312 of the Act.

(b) To convey or dedicate all or any part of the Common Areas for such purposes and subject to such conditions as may be agreed to by the Owners to which at least eighty percent



of the votes in the Association are allocated, including eighty percent of the votes allocated to Lots not owned by the Declarant as more fully set forth in §38-33.3-312 of the Act.

The granting of permits, licenses and easements shall not be deemed a conveyance or encumbrance within the meaning of this Paragraph as more fully set forth in §38-33.3-312 of the Act.

(c) To promulgate and adopt Rules and Regulations with which each Owner and their Guests shall strictly comply.

(d) To suspend the voting rights of a Owner for any period during which any Assessment remains unpaid and, for a period not to exceed sixty days, for any infraction of the Declaration, Bylaws or Rules and Regulations.

(e) To take such steps as are reasonably necessary to protect the Common Areas against foreclosure.

(f) To enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of Common Areas by Owners and Guests for any purpose the Board may deem to be useful, beneficial or otherwise appropriate.

(g) To close or limit the use of the Common Areas temporarily while maintaining, repairing and making replacements in the Common Areas, or permanently if approved by Owners to which at least eighty percent of the votes in the Association are allocated.

(h) To make such use of the Common Areas as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration.

(i) The rights granted to the Board of Directors in Paragraph 4.13 hereof.

3.6 Delegation of Use. Any Owner may delegate his or her right of enjoyment to the Common Areas and facilities to their Guests.



ARTICLE FOUR: THE ASSOCIATION

4.1 Name. The name of the Association is THE NIWOT MEADOW FARM HOMEOWNERS ASSOCIATION, and it is a Planned Community.

4.2 Purposes and Powers. The Association, through its Board of Directors, shall perform functions and manage the Planned Community as provided in this Declaration so as to further the interests of the residents of the Planned Community and Members of the Association.

4.3 Board of Directors. The affairs of the Association shall be managed by a Board of Directors which may by resolution delegate authority to a Managing Agent for the Association as more fully provided for in the Bylaws, provided no such delegation shall relieve the Board of final responsibility.

4.4 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and Bylaws of the Association. In the event either the Articles or Bylaws conflict with the Declaration, the Declaration shall control. In the event the Articles conflict with the Bylaws, the Articles shall control.

4.5 Membership. Members of the Association shall be every record owner of a Lot subject to this Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Where more than one person holds interest in any Lot, all such persons shall be Members.

4.6 Voting Rights. The Association shall have one class of voting membership. Owners shall be entitled to one vote for each Lot owned.

The vote for such Lot, the ownership of which is held by more than one Owner, may be exercised by any one of them unless an objection or protest by any other holder of an interest of the Lot is made prior to the completion of the vote, in which case the vote for such Lot shall be exercised as the persons holding such interest shall determine between themselves. Should the joint owners of a Lot be unable, within a reasonable time, to agree upon how they will vote any issue, they shall be passed over and their right to vote on such issue shall be lost.

4.7 Declarant Control of the Association. Subject to provisions of Paragraph 4.8 hereof, there is a "Period of Declarant Control" during which Period the Declarant may appoint and remove any officer of the Association or any member of the Board of Directors. The Period of Declarant Control is a length of time expiring seven years after the filing of the Articles of Incorporation of the Association; provided, however, the Period of Declarant Control as stated previously, the Period of Declarant Control in any event terminates no later than either (a) sixty days after conveyance of seventy-five percent of the Lots That May Be Created to Owners other than the Declarant; or (b) two years after the last conveyance of a Lot by the Declarant in the ordinary course of business to Owners other than Declarant.



A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant Control. In that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

4.8 Election by Owners.

Not later than sixty days after conveyance of twenty-five percent of the Lots That May Be Created to Owners other than Declarant, at least one member and not less than twenty-five percent of the members of the Board of Directors must be elected by Owners other than the Declarant.

Not later than sixty days after conveyance of fifty percent of the Lots That May Be Created to Owners other than Declarant, not less than thirty-three and one-third percent of the members of the Board of Directors must be elected by Owners other than the Declarant.

Not later than the termination of the Period of Declarant Control as set forth in Paragraph 4.7 hereof, the Owners shall elect a Board of Directors consisting of three members, at least a majority of whom must be Owners other than the Declarant. The Board of Directors shall elect the officers of the Association. The Owners' Board of Directors shall take office upon termination of the Period of Declarant Control upon election.

4.9 Delivery of Documents by Declarant. Within sixty days after the Owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver without charge to the Board of Directors all property of the Owners and of the Association relating to the Planned Community held by or controlled by the Declarant, including, without limitation, the following items:

(a) The original or a certified copy of the recorded Declaration, as amended, the Association's Article of Incorporation, together with a Certificate of Good Standing, Bylaws, minute books, other books and records, and any Rules and Regulations which may have been promulgated;

(b) An accounting for Association funds and financial statements from the date the Association received funds and ending on the date the Period of Declarant Control ends in accordance with §38-33.3-303(9)(b) of the Act;

(c) The Association funds or control thereof;

(d) All of the tangible personal property that has been represented by the Declarant to be the property of the Association and has been used exclusively in the operation and enjoyment of the Common Areas; a copy of any plans and specifications used in the construction of any improvements in the Common Areas; and an inventory of these properties;



(e) All insurance policies then in force in which the Owners, the Association, or its directors and officers are named as insured persons;

(f) Any other permits issued by governmental bodies applicable to the Planned Community and which are currently in force or which were issued within one year prior to the date on which Owners other than the Declarant took control of the Association;

(g) Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective;

(h) A roster of Owners and Eligible Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

(i) Employment contracts in which the Association is a contracting party; and

(j) Any service contract in which the Association is a contracting party or in which the Association of the Owners have any obligation to pay a fee to the persons performing the services.

4.10 Budget.

(a) In accordance with § 38-33.3-303 of the Act, the Board of Directors shall cause to be prepared, at least sixty days prior to the commencement of each calendar year, a Budget for such calendar year. Within thirty days after the adoption of any Budget by the Board, the Board shall mail, by ordinary first-class mail, or otherwise deliver, a summary of the Budget to each Owner and shall set a date for a meeting of the Owners to consider ratification of the Budget not less than fourteen days nor more than sixty days after delivery of the summary.

Unless at that meeting Owners to which at least sixty-seven percent of the votes in the Association are allocated reject the Budget, the Budget shall be deemed ratified whether or not a quorum is present. In the event the Budget is rejected, the Budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget adopted by the Board of Directors.

(b) If the Board of Directors deems it necessary or advisable to amend a Budget that has been ratified by the Owners pursuant to Paragraph 4.10(a) above, the Board may adopt a proposed amendment to the Budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall not be less than fourteen days, nor more than sixty days, after the delivery of the summary of the proposed amendment.

Unless at that meeting Owners to which at least sixty-seven percent of the votes in the Association are allocated reject the amended Budget, the amended Budget shall be deemed ratified whether or not a quorum is present.



4.11 Association Agreements. Any agreement for professional management of the Planned Community or any contract providing for services of the Declarant, may not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty days' written notice.

The Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) entered into during the Period of Declarant Control unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after such conversion upon not more than thirty days' notice to the other party thereto.

4.12 Indemnification. Each Officer, Director and committee member of the Association shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon him or her in any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of his or her being or having been an Officer, Director or committee member of the Association, or any settlements thereof, whether or not he or she is an Officer, Director or committee member of the Association at the time such expenses are incurred, to the full extent permitted by Colorado law.

4.13 Certain Rights and Obligations of the Association.

(a) Contracts, Easements and Other Agreements: The Board of Directors shall have the right to enter into, grant, perform, enforce, cancel and vacate: contracts, easements, licenses, leases, agreements, and/or rights-of-way, for the use by Owners, their Guests, and other persons, concerning the Common Areas.

Any of such contracts, licenses, leases, agreements, easements and/or rights-of-way, shall be upon such terms and conditions as may be agreed to from time to time by the Board of Directors, without the necessity of the consent thereto, or joinder therein, by the Owners or First Mortgagees.

(b) Other Association Functions: The Association may undertake any activity, function or service for the benefit of or to further the interests of all, some or any Members on a self-supporting, Special Assessment or Common Expense Assessment basis.

(c) Implied Rights: The Board of Directors shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

4.14 Certain Rights and Obligations of the Declarant and Participating Builder. So long as there are unsold Lots within the Planned Community owned by the Declarant, and Participating Builder the Declarant and Participating Builder shall enjoy the same rights and assumes the same duties as they relate to each individual unsold Lot.



ARTICLE FIVE: ASSESSMENTS

5.1 Obligation. Each Owner, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association (a) Common Expense Assessments, (b) Special Assessments, (c) Fines, (d) Individual Assessments, and (e) Costs of Enforcement, which shall be a continuing lien upon the Lot against which each such Assessment is levied.

The obligation for such payments by each Owner to the Association is an independent personal covenant with all amounts due, from time to time, payable in full when due without notice or demand and without setoff or deduction. All Owners of each Lot shall be jointly and personally liable to the Association for the payment of all Assessments and Costs of Enforcement.

The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

No Owner may waive or otherwise escape liability for the Common Expense Assessment provided for herein by the non-use of the Common Elements or the abandonment of his or her Lot.

The omission or failure of the Board of Directors to levy the Common Expense Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

5.2 Purpose of the Common Expense Assessment. The Common Expense Assessment levied by the Association shall be used exclusively for the purpose of (a) promoting the health, safety and welfare of the residents of the Planned Community and the Members of the Association, (b) providing for the improvement, repair, maintenance and reconstruction of the Common Areas, (c) providing hazard insurance insuring any insurable improvements upon the Common Areas, and liability insurance covering incidents occurring on the Common Areas, and (d) satisfying any other purpose reasonable, necessary or incidental to such purposes.

Such assessments shall include the establishment and maintenance of a Reserve Fund for the improvement, repair, maintenance and reconstruction of the Common Areas which the Association has an on going duty to replace, repair and/or maintain on a periodic basis, provided, however, that such assessments levied during the Period of Declarant Control may not be used for the purposes of constructing capital improvements.

5.3 Date of Commencement of the Assessments. The Common Expense Assessment shall commence as to each Lot no later than sixty days after the first Dwelling Unit is conveyed to an Owner other than Declarant or Participating Builder.

Until the commencement of the collection of the Common Expense Assessment, the Declarant and Participating Builder shall pay all of the expenses incurred and paid for by the Association on a pro rata basis based on the number of Lots owned within the Planned Community.



5.4 Levy of Assessments.

(a) Common Expense Assessments. Common Expense Assessments shall be levied on all Lots based upon a budget of the Association's cash requirements. The Common Expense Assessment Liability shall be prorated among the Lots in accordance with that Lot's Common Expense Assessment as set forth in Paragraph 1.3 hereof.

(b) Individual Assessments. The Board of Directors shall have the right to individually levy any Owner or Owners amounts as provided for by this Declaration, to include but not be limited to, charges levied under Paragraphs 6.16, 7.5, 7.14, 7.15, 7.16, 7.17, 9.2, 9.6, 10.2, 11.1, 11.2 and 11.4 hereof. No Individual Assessment shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing as provided for in the Bylaws of the Association. Individual Assessments shall be collected as part of the Cost of Enforcement. Individual Assessments may be levied at any time as required and are exempt from any voting requirements by the membership required for other assessments called for under the Declaration.

(c) Fines. The Board of Directors of the Association shall have the right to levy a Fine against an Owner or Owners for each violation of this Declaration, the Bylaws, the Articles and the Rules and Regulations of the Association. No such Fine shall be levied until the Owner or Owners to be charged have been given a Notice and Hearing as provided for in the Bylaws of the Association.

Fines may be levied in a reasonable amount as determined from time to time by the Board of Directors in its discretion and uniformly applied. Fines shall be collected as part of the Costs of Enforcement.

(d) Special Assessments. In addition to the other Assessments authorized herein, the Board of Directors, subject to the limitations set forth below, may levy a Special Assessment for the purpose of defraying, in whole or in part, any unexpected expense to include but not be limited to, the cost of any construction, reconstruction, improvement, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property relating thereto, or for the funding of any operating deficit incurred by the Association provided that any such assessment shall have the approval of Owners to whom at least sixty-seven percent of the votes in the Association are allocated, who are voting in person or by proxy at a meeting duly called for this purpose.

Any such Special Assessment shall be levied against each Lot in accordance with that Lot's Common Expense Assessment Liability determined in accordance with Paragraph 1.3 hereof. Notwithstanding the foregoing, Special Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

Written notice of any meeting called for the purpose of making a Special Assessment shall be sent to all Owners not less than fourteen days nor more than sixty days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies to whom at least sixty percent of the votes in the Association are allocated shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required



quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting.

If the Planned Community has been or is to be approved by the Federal Housing Administration and/or Veterans Administration, then until the termination of the Period of Declarant Control in accordance with Paragraph 4.7 hereof, all Special Assessments for capital improvements in addition to the approval of the Owners as required above will require the written consent of the Veterans Administration and/or the Federal Housing Administration.

5.5 Due Date. Fines and Individual Assessments shall be due and payable as established by the Board of Directors.

All other Assessments shall be levied on an annual basis and shall be due and payable in installments, in advance, in such frequency as the Board of Directors determines in its discretion from time to time, provided that the initial assessments shall be adjusted to reflect the time remaining in the first Association's fiscal year. Any Owner purchasing a Lot between annual due dates shall pay a prorated share.

Written notice of all Assessments shall be sent to each Owner subject thereto specifying the type of Assessment, the amount and the date such Assessment is due.

Mortgagees are not required to collect assessments.

5.6 Remedies for Nonpayment of Assessments. If any Assessment (to include Costs of Enforcement) is not fully paid within fifteen days after the same becomes due and payable, then:

- (a) interest shall accrue at the default rate set by the Board of Directors on the amount of the Assessment in default accruing from the due date until date of payment, and the Board may assess a Late Fee in the Board's discretion
- (b) the Board may accelerate and declare immediately due and payable all unpaid installments of the Assessment otherwise due during the fiscal year during which such default occurred;
- (c) the Board may bring an action at law in any court of competent jurisdiction against any Owner personally obligated to pay the same and obtain a judgment for the amounts due.
- (d) the Board may proceed to foreclose its lien against the Lot pursuant to the power of sale granted to the Association by this Declaration in the manner and form provided by Colorado law for foreclosure of real estate mortgages.

An action at law or in equity by the Association against an Owner to recover a judgment for unpaid Assessments may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments.



Failure to pay assessments does not constitute a default under an insured mortgage.

5.7 The Assessment Lien. The Association is hereby granted an Assessment Lien against each Lot for any Assessment levied by the Board of Directors and for Costs of Enforcement levied against such Lot Owners when the Lot Owner fails to pay as required by the Declaration. All Costs of Enforcement incurred pursuant to this Declaration are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment thereof becomes due.

The Association's lien on a Lot for Assessments shall be superior to all other liens and encumbrances except the following:

- (a) liens and encumbrances recorded prior to the recording of this Declaration; and
- (b) liens for real estate taxes and any other governmental assessments or charges against the Lot; and
- (c) the lien of any loan evidenced by a first mortgage or deed of trust and any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether such contract is recorded or not, except to the extent the Act grants priority for Assessments to the Association.

The Act does not affect the priority of mechanics' or materialmen's liens.

Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments under this Article is required. However, the Board of Directors may prepare, and record in the county in which the Lot is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a lien is filed, the cost thereof shall be considered a Cost of Enforcement.

Any First Mortgagee who acquires title to a Lot by virtue of foreclosing a first mortgage or by virtue of a deed in lieu of foreclosure will take the Lot free of any claims for unpaid Assessments and Costs of Enforcement against that Lot which have accrued prior to the time such First Mortgagee acquires title to the Lot, except to the extent the Act grants lien priority for Assessments of the Association.

Sale or transfer of any Lot shall not affect the lien for said Assessments except that sale or transfer of any Lot pursuant to foreclosure by any First Mortgagee, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the Assessment Lien only to the extent provided by Colorado law. No such sale, deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot Owner from continuing liability for any Assessment thereafter becoming due, nor from the lien thereof.



In any action by an Association to collect Assessments and Costs of Enforcement or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due from the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Common Expense Assessments and Costs of Enforcement. The rights of the Association shall be expressly subordinate to the rights of any First Mortgagee of a Lot under any assignment of rents given in connection with a first deed of trust.

The Assessment Lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Lot; provided, however, the lien shall be subject and subordinate to the rights of any First Mortgagee of a Lot under any assignment of rents given in connection with a first deed of trust. Without prejudice to any other right or remedy, the Association may exercise its lien rights to rents and profits by delivering a Notice of Exercise to the occupant or any payor of rents and profits, and thereafter shall be entitled to collect all such rents and profits to the extent of any delinquency.

The Association's lien on a Lot for Assessments and Costs of Enforcement shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said Assessment Lien.

5.8 Assignment of Assessments. The Board of Directors shall have the unrestricted right to assign its right to receive Common Expense Assessments and other future income, either as security for obligations of the Association or otherwise, on the condition that any such assignment is approved in writing by Owners to which at least eighty percent of the votes in the Association are allocated, including eighty percent of the votes allocated to Dwelling Units not owned by the Declarant.

5.9 Surplus Funds. Any surplus funds of the Association remaining at the close of the Association's fiscal year after payment of the Common Expenses and any prepayment of or making provisions for reserves shall be retained by the Association as unallocated reserves and need not be credited to the Owners in proportion to their Common Expense Liability to reduce their future Assessment liability.

5.10 Working Capital Fund. At the closing of the initial sale of a Lot to an Owner other than the Declarant or Participating Builder, a one time non-refundable contribution shall be made by such Owner to the Working Capital Fund of the Association in an amount equal to two months' Common Expense Assessment. Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant or Participating Builder of each Lot and shall, until used by the Association, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association to cover the costs of the initial period of the Association's operation, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services.



Such contribution to the Working Capital Fund shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the later sale or transfer of his or her Lot, an Owner shall NOT BE ENTITLED to a credit from his or her transferee or the Association for the aforesaid contribution to the Working Capital Fund.

The Declarant or Participating Builder is prohibited from using the Working Capital Fund to defray any of its expenses, reserve contributions or construction costs, or to make up any budget deficits during the Declarant Control Period as set forth in Paragraph 4.7 hereof.

5.11 Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's First Mortgagee upon written request delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's Registered Agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot.

The statement shall be furnished within fourteen business days after receipt of the request and is binding upon the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or First Mortgagee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Lot for unpaid Assessments which were due as of the date of the request.

5.12 No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration. The Declarant is exempt from the requirements of this Paragraph 5.12.



ARTICLE SIX: ARCHITECTURAL APPROVAL/DESIGN REVIEW

Each Improvement as defined below must be constructed in accordance with the "Design Guidelines," if available, and approved in accordance with this ARTICLE SIX.

6.1 Approval of Improvements Required. The approval by the Design Review Committee (the "Committee") shall be required prior to the commencement of the construction of Improvements as defined in Paragraph 1.26 hereof on any portion of the Planned Community, except original first built Improvements constructed by Declarant. This approval of the Committee is in addition to the review and approval by the County.

A purchase of any Lot within the Planned Community does not grant any implied guarantee of approval of the improvement to be located thereon by the Committee.

The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Committee if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Committee established hereunder.

6.2 Membership of the Committee. The Committee shall consist of up to three members, the number and the members of which shall be determined by the Declarant in its sole discretion. The Declarant shall have the continuing right to appoint and reappoint the members of the Committee, which right shall terminate at the option of the Declarant by its written notice to the Secretary of the Association, but in any event shall terminate without further act or deed upon the completion of construction of the last Dwelling Unit within the Planned Community. Thereafter, the Committee shall consist of three members, and the Board of Directors shall have the right to appoint the members of the Committee. Members of the Committee shall be Members of the Association.

Members of the Committee appointed by Declarant may be removed at any time by Declarant and shall serve until resignation or removal by Declarant. Members of the Committee appointed by the Board of Directors may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board.

6.3 Address of the Committee. The address of the Committee shall be that of the principal office of the Association.

6.4 Submission of Plans/Design Review Fee. Prior to commencement of work to accomplish any proposed Improvement, the Person proposing to make such Improvement ("Applicant") shall submit to the Committee, at its offices, or at such other place as the Committee may designate, such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors as the Committee shall reasonably request, showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement.



The Committee may, in its guidelines or rules, provide for the payment of a reasonable fee to accompany each request for approval of any proposed Improvement. The Committee may provide that the amount of such fee shall be uniform for similar types of any proposed Improvements or that the fee shall be determined in any other reasonable manner, such as the estimated cost of the proposed Improvement. Said fee may be used to compensate any consultant as the Committee deems necessary to assist the Committee in the performance of its duties. Members of the Committee may be reimbursed for services rendered and for directly related out-of-pocket expenses.

The Committee may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement. Until receipt by the Committee of all required materials in connection with the proposed Improvement, the Committee may postpone review of any materials submitted for approval by a particular Applicant.

No Improvement of any kind shall be erected, altered, placed, or maintained within the Planned Community unless and until the final plans, elevations, and specifications therefor have received written approval by the Committee as herein provided.

6.5 Delegation/Waiver. The Committee may at its discretion delegate to the Board of Directors any of its powers granted to it by this Article by written notice to the Board of Directors indicating what powers and authority are granted to the Board. Such delegation shall be effective from the date such notice is recorded.

The approval or consent of the Committee, any representative thereof, or the Board of Directors, to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee, any representative thereof, or the Board of Directors, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

6.6 Criteria for Approval. The Committee shall have the right to disapprove any proposed Improvement which is (a) not in accordance with the Design Guidelines, or (b) is not suitable or desirable in the Committee's opinion for aesthetic or other reasons.

In passing upon the Improvement the Committee shall have the right to take into consideration the suitability of the proposed Improvement and of the materials of which it is to be built, the color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the Improvement as planned on the outlook from the adjacent or neighboring property, and if it is in accordance with all of the provisions of this Declaration.



The Committee may disapprove the proposed Improvement if the plans and specifications submitted are incomplete, or in the event the Committee deems the materials submitted be contrary to the spirit or intent of the Declaration. The Committee may condition its approval of any proposed Improvement upon the making of such changes thereon as the Committee may deem appropriate.

6.7 Decision of the Committee. The decision of the Committee shall be made within thirty days after receipt by the Committee of all materials required by the Committee unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision is not to approve a proposed Improvement, the reasons therefor shall be stated. The decision of the Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Committee.

A majority vote of the Committee shall constitute the action of the Committee.

The Committee shall report in writing to the Board of Directors all final actions of the Committee if requested by the Board of Directors.

The Committee shall not be required to keep the materials submitted beyond one year from date of approval.

6.8 Appeal to the Board of Directors. If the Committee disapproves or imposes conditions on the approval of a proposed Improvement, the Applicant may appeal to the Board of Directors by giving written notice of such appeal to the Board of Directors and the Committee within ten days after notice of such disapproval or conditional approval is given to the Applicant.

The Board of Directors shall hear the appeal with reasonable promptness after reasonable notice of such hearing to the Applicant and the Committee and shall decide, with reasonable promptness, whether or not the proposed Improvement or the conditions imposed by the Committee shall be approved, disapproved or modified.

If the Committee approves a proposed Improvement, any Owner impacted by the Committee's decision may appeal the approval to the Board of Directors by giving written notice of such appeal to the Board of Directors, the Committee and the Applicant within ten days after such approval.

The Board of Directors shall hear the appeal with reasonable promptness after reasonable notice of such hearing to the Applicant, the appealing Owner and the Committee. The Committee shall decide with reasonable promptness, whether or not the proposed Improvement's approval shall be upheld. The decision of the Board of Directors shall be final and binding on the parties concerned.

6.9 Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement shall be deemed approved, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Committee within thirty days after the date of receipt by the Committee of all necessary materials as determined by the Committee.



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347
Page: 119 of 148
12/31/1998 12:38P

6.10 Prosecution of Work After Approval. After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed Improvement, any materials submitted to the Committee in connection with the proposed Improvement and any conditions imposed by the Committee. Failure to complete any proposed Improvement within eight months from the date of the commencement of construction shall constitute a violation of this Article.

6.11 Notice of Completion. Upon completion of the Improvement, the Applicant shall give written Notice of Completion to the Committee. Until the date of receipt of a Notice of Completion, the Committee shall not be deemed to have notice of completion of any Improvement.

6.12 Inspection of Work. The Committee or its duly authorized representative shall have the right to inspect any Improvement prior to or after completion; provided that the right of inspection shall terminate thirty days after the Committee receives a Notice of Completion from the Applicant.

6.13 Notice of Noncompliance. If, as a result of inspections or otherwise, the Committee finds that any Improvement has been done without obtaining the approval of the Committee, or was not done in substantial compliance with the description and materials furnished to, and any conditions imposed by, the Committee, or was not completed within eight months from the date of the commencement of construction, the Committee shall notify the Applicant in writing of the noncompliance; which notice shall be given, in any event within thirty days after the Committee has inspected the Improvement, but in no event no later than thirty days after the Committee's receipt of such Applicant's Notice of Completion. The Notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

6.14 Failure of Committee to Act After Completion. If, for any reason other than the Applicant's act or neglect, the Committee fails to notify the Applicant of any noncompliance within thirty days after receipt by the Committee of written Notice of Completion from the Applicant, the Improvement shall be deemed to be in compliance if the Improvement was, in fact, completed as of the date of Notice of Completion.

6.15 Appeal to the Board of Directors of Finding of Noncompliance. If the Committee gives any Notice of Noncompliance, the Applicant may appeal to the Board of Directors by giving written notice of such appeal to the Board and the Committee within ten days after receipt by the Applicant of the Notice of Noncompliance.

If, after a Notice of Noncompliance, the Applicant fails to commence diligently to remedy such noncompliance, the Committee shall request a finding of noncompliance by the Board of Directors by giving written notice of such request to the Board of Directors and the Applicant within thirty days after delivery to the Applicant of a Notice of Noncompliance. In either event, the Board of Directors after Notice and Hearing shall decide, with reasonable promptness, whether or not there has been such noncompliance and, if so, the nature thereof.



6.16 Correction of Noncompliance. If the Board of Directors determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than thirty days from the date of receipt by the Applicant of the ruling of the Board of Directors. If the Applicant does not comply with the Board's ruling within such period, the Board may, at its option, record a "Notice of Noncompliance" against the Lot on which the noncompliance exists, or may remove the noncomplying Improvement or may otherwise remedy the noncompliance.

The Board may levy an Individual Assessment in accordance with Paragraph 5.4(b) hereof against the Owner of such Lot for such costs and expenses incurred. The right of the Board of Directors to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Board of Directors may have at law, in equity, or under this Declaration.

6.17 Meetings of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder.

6.18 No Implied Waiver or Estoppel. No action or failure to act by the Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Committee or the Board of Directors. Specifically, the approval by the Committee of any Improvement shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement or similar proposals, plans, specifications or other materials submitted with respect to any other Improvement.

6.19 Estoppel Certificates. The Board of Directors shall, upon the reasonable request of any interested party and after confirming any necessary facts with the Committee, furnish a certificate with respect to the approval or disapproval of any Improvement or with respect to whether any Improvement was made in compliance herewith. Any person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

6.20 Architectural Standards/Design Guidelines. The Committee may promulgate rules and regulations to interpret and implement the provisions of this Article. These rules and regulations shall be known as the "Design Review Guidelines" and shall contain, among other things, guidelines which will clarify the types of designs and materials that will be considered in design approval. The Applicant shall be responsible to apply for all permits and approvals required by the County.

6.21 No Liability for Committee Action. There shall be no liability imposed on the Design Review Committee, any member of said Committee, any authorized representative of said Committee, the Association, any member of the Board of Directors or Declarant for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Committee, if such party acted in good faith and without malice.

In reviewing any matter, the Committee shall not be responsible for passing on safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations, nor shall its approval of an Improvement be deemed approval of such matters.



ARTICLE SEVEN: LAND USE AND OTHER RESTRICTIONS

7.1 Limitations and Restrictions. All Lots and Common Areas shall be held, used and enjoyed subject to the following limitations and restrictions, and subject to the exemptions for Declarant as set forth in this Declaration.

The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Committee if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

7.2 Land Use. Each Owner shall be entitled to the exclusive ownership and possession of his or her Lot and Dwelling Unit. Subject to the Development and Special Declarant Rights reserved by the Declarant in ARTICLE TWELVE hereof, and the exemptions for the Declarant in accordance with Paragraph 7.22 hereof, no Lot within the Planned Community shall be used for any purpose other than single-family residential purposes as generally defined or for a home occupation so long as such occupation (a) is allowed by the local Zoning Codes, (b) employs no outside employees, (c) has no signage or parking requirements.

No Improvement as herein defined, shall be erected on any part of the Planned Community which is not compatible with the character, quality and amenities associated with the neighborhood and approved in writing by the Committee in accordance with ARTICLE SIX hereof.

7.3 Building Locations, Height Restrictions and Lot Coverage. The Committee shall approve the location, height and square footage of any Improvement placed on any Lot. No Improvement shall exceed the height as set forth in the County's Building Code.

Such approval must be obtained before commencement of any construction or alteration in accordance with ARTICLE SIX hereof.

7.4 Temporary Structures. No temporary house trailer, tent, garage or outbuilding shall be placed or erected upon part of the Planned Community except with the prior written approval of the Committee obtained in each instance.

No Dwelling Unit located upon the Planned Community shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans nor shall any Dwelling Unit when completed be in any manner occupied until there is compliance with all requirements, conditions, covenants, and restrictions herein set forth.

7.5 Restrictions on Garbage and Trash. Each Owner shall keep all of his or her trash, garbage, or other refuse in a container in his or her garage. Each Owner shall provide for the regular removal of such Owner's trash and garbage and agrees to use the trash company as designated by the Board of Directors, if one is so designated. Each Owner shall keep his or her Lot at all times in a neat and clean condition. No trash, litter, garbage, grass, shrub or tree trimmings, scrap refuse or debris of any kind shall be permitted to remain exposed upon any Lot so it is visible from any neighboring



Lot, Common Areas or from the street except that any container containing such material may be placed outside at proper times for garbage or trash pickup.

The Board of Directors shall have the right and duty, through its agents and employees, after Notice and Hearing, to enter upon any Lot and remove such unsightly objects and materials. The cost of such removal shall be chargeable to such Owner by Individual Assessment in accordance with Paragraph 5.4(b).

7.6 Nuisances. No noxious or offensive activity shall be carried on upon the Planned Community or any part thereof, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood or which is or may cause an unreasonable embarrassment, disturbance or annoyance to others, or detract from its value as an attractive residential community. Habitually barking, howling or yelping dogs shall be deemed a nuisance.

7.7 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of the Planned Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Planned Community which would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Planned Community except with the prior written approval of the Committee.

7.8 No Hazardous Activities. No activity shall be conducted on any portion of the Planned Community which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any portion of the Planned Community and no open fires shall be lighted or permitted on any portion of the Planned Community except in a contained barbecue unit while attended and in use for cooking purposes or within a fireplace designed to prevent the dispersal of burning embers.

7.9 No Unsightliness. All equipment shall be enclosed within an approved structure, including all tractors, snow removal equipment and garden or maintenance equipment, except when actually in use.

No clotheslines, wood piles or storage areas shall be so located on any Lot as to be visible from neighboring Lots, Common Areas or from the street.

No types of exterior refrigerating, cooling or heating apparatus shall be permitted unless approved by the Committee.

7.10 Utilities. All electric, television, radio and telephone line installations and connections from the Owner's property line to the Dwelling Unit shall be placed underground and have the prior approval of the Committee. All types of exterior refrigerating, cooling or heating apparatus must be approved by the Committee. All solar collector installations must be approved by the Committee prior to installation.



7.11 Restrictions on Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Planned Community except such signs as may be approved in writing by the Committee which may include signs indicating protection by Security Systems and Neighborhood Watch Programs. One sign advertising a Lot for sale or for lease may be placed on such Lot or Dwelling Unit; provided however, that standards relating to dimensions, color, style and location of such sign shall be determined from time to time by the Committee and shall comply with the local sign codes and with all other applicable statutes, ordinances and regulations.

Notwithstanding the foregoing, reasonable signs, advertising or billboards used by the Declarant in connection with development of or construction on the Lot, shall be permissible.

7.12 Compliance with Insurance Requirements. Except as may be approved in writing by the Board of Directors, nothing shall be done or kept on the Planned Community which may result in an increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

7.13 Compliance with Laws. No unlawful use shall be permitted or made of any Lot or any portion thereof. All laws, ordinances and regulations of all governmental bodies having jurisdiction over the Lots, or any portion thereof, shall be observed.

7.14 Restoration in the Event of Damage or Destruction. If due to casualty or for any other reason a Dwelling Unit located on a Lot shall be destroyed or so damaged that the Dwelling Unit is no longer habitable, then the Owner of such Lot shall, within a reasonable time not to exceed one hundred and twenty days after the event resulting in such damage or destruction, either commence and diligently pursue repair or reconstruction of the Dwelling Unit or demolish the same.

Demolition of a Dwelling Unit shall include removal of any foundation slab, basement walls and floors, regrading the Lot to a level condition and the installation of such landscaping as may be required by the Committee pursuant to a plan submitted to the Committee by the Lot Owner of said Lot.

If an Owner does not either commence repair, reconstruction or demolition activities within a reasonable time as provided hereinabove and diligently pursue the same in conformance with plans approved by the Design Review Committee, then the Association may, in its reasonable discretion, after providing the Notice and Hearing, enter upon the Lot for the purpose of demolishing the Dwelling Unit and landscape the Lot in conformance with approved plans. The cost related to such demolition and landscaping shall be levied against the Owner as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

7.15 Household Pets.



a. Household Pets Allowed. Dogs, cats or other customary household pets may be harbored within the Planned Community if they are not raised, bred or maintained for any commercial purpose, and are not kept in such number or in such manner as to create a nuisance or inconvenience to any residents of the Planned Community.

All Lots must be maintained in a clean and odor free condition. No household pets shall be permitted if they cause a nuisance or odors or if noises from the household pets affect the use and enjoyment of neighboring Lots.

The Board of Directors shall have the right and authority to determine in its sole discretion that such household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Paragraph 7.15. The Directors shall take such action or actions as it deems reasonably necessary to correct the violation to include after Notice and Hearing, directing permanent removal of the pet or pets from the Planned Community.

Household pets shall not be allowed to run at large within the Planned Community, but shall at all times be under the control of such pet's Owner and such pets shall not be allowed to litter the Common Areas. Dogs shall be on leashes while in the Common Areas.

Reimbursement for damages caused by such pets and costs incurred by the Association, to include attorneys' fees and costs, in the removal of a pet or pets from the Planned Community or incurred by the Association in cleanup after such pets may be levied against such pet's Owner as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

The Design Review Committee's approval is required, pursuant to ARTICLE SIX, for the erection and maintenance of buildings and fences for household pets or other animals.

b. Horses. Horses will be allowed upon Lots 12, 13 and 14 of the Planned Community in accordance with the following guidelines and restrictions:

- (1) Number of Horses. No more than two (2) horses will be allowed for each Lot.
- (2) Barn. A barn, constructed in accordance with the provisions of ARTICLE SIX, may be provided on each Lot only for use by horse(s) and shall not include more than one stall for each allowable horse.
- (3) Paddock or Corral. An outdoor paddock or corral may be included on the Lot.



- (i) Size. The paddock or corral shall not exceed five hundred (500) square feet total.
 - (ii) Location. The paddock or corral must be adjacent to the barn. The paddock or corral must be located on the rear of the Lot, between the rear Lot line and the nearest line or point of the Dwelling Unit, and shall be set back a minimum of twenty-five (25) feet from a road or any other Lot.
 - (iii) Use. Paddocks or corrals shall be used by horse(s) only for exercising, roaming and walking.
 - (iv) Paddock/Corral Fences. Paddock/corral fences shall be three-rail fences of solid wood, coated with polymer coating, or other permanent white surface which does not require painting and is essentially maintenance free. The paddock/corral fences shall not exceed six (6) feet in height.
- (4) Runoff and Erosion Control. The runoff and erosion from each barn and paddock or corral shall be controlled so the runoff of water, including waste water, manure and any other materials from the barn and paddock or corral areas, does not flow onto adjacent Lots. The Owner shall be responsible for installing and maintaining all runoff control measures.
 - (5) Manure Storage and Removal. No manure shall be stored in a location or manner such that it is visible. Each Owner which has horse(s) on a Lot shall be required to remove the manure, refuse from the barn and paddock, and horse waste material at least two (2) times per month. An Owner shall be required to remove such materials more frequently if the accumulation is creating a nuisance including, but not limited to, gathering of flies, odors drifting onto neighboring Lots or unsightly conditions.
 - (6) Grazing. An Owner of any horse(s) kept within a Lot must feed said horse(s) with food procured away from the Lot. In addition, the Owner must take all steps necessary to protect and maintain grass, trees, shrubs and vegetation on the Lot, and shall not allow de-vegetation to occur. If it comes to the attention of the Board of Directors that any Owner is grazing horse(s) on the Lot, and has failed to protect and maintain the vegetation, the Board of Directors may immediately issue an order to cease and desist and take all other actions necessary to enforce this provision.

c. Farm Animals Allowed. Farm animals, to include, but not limited to, pigs, goats, cows and cattle, fowl and poultry, rabbits, livestock, llamas, snakes and exotic animals, excepting therefrom horses, may be harbored on said Lots 12, 13 and 14, after receiving written permission from the Board of Directors to keep such animals, which permission shall not be unreasonably



denied. Such farm animals may be harbored on said Lots subject to certain guidelines and restrictions as set forth by the Board of Directors in each particular case.

7.16 Vehicular Parking, Storage and Maintenance. No house trailer, camping trailer, horse trailer, camper, camper shells, boat trailer, hauling trailer, boat or boat accessories, truck larger than one ton, recreational vehicle or equipment, mobile home, or commercial vehicle may be parked or stored anywhere within the Planned Community so they are visible from neighboring Dwelling Units, Common Areas or from the street except in emergencies or as a temporary expedience. This applies to vehicles referred to above even if they are licensed by the State of Colorado or any other jurisdiction as "passenger vehicles".

Parking is not allowed on landscaped or lawn areas.

No abandoned, unlicensed, wrecked or inoperable vehicles of any kind shall be stored or parked within the Planned Community except in garages or except in emergencies. Any "abandoned or inoperable vehicle" shall be defined as any of the vehicles listed above or any other kind of passenger vehicle which has not been driven under its own propulsion for a period of one week or longer, or which does not have installed within it an operable propulsion system; provided however, that any vehicle belonging to any Owner which is otherwise permitted will not be deemed to be abandoned while the Owner is ill or out of town.

The Board of Directors shall have the right to remove and store a vehicle in violation of this Paragraph after Notice and Hearing, the expenses of which shall be levied against the Owner of the vehicle as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

Each Dwelling Unit within the Planned Community shall include an enclosed garage of a size sufficient to accommodate a minimum of two full sized automobiles.

Preventative vehicle maintenance only is allowed within the Planned Community.

7.17 Owner Caused Damages. If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any person or property within the Common Areas and any other real property which the Association has an obligation to repair, maintain and/or reconstruct, such Owner shall be liable and responsible for the payment of same.

The amount of such loss or damage, together with costs of collection and reasonable attorney's fees, if necessary, may be collected by the Board of Directors from such Owner as an Individual Assessment against such Owner in accordance with Paragraph 5.4(b) hereof.

Determination with respect to whether or not a particular activity or occurrence shall constitute a violation of this Paragraph 7.17 shall be made by the Board of Directors and shall be final.

7.18 Antennas. No exterior radio antenna, television antenna or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot; except inside a residence or with the written approval of the Committee.



7.19 Lease of a Dwelling Unit. With the exception of a First Mortgagee who has acquired title to a Lot by virtue of foreclosing a first mortgage or by virtue of a deed in lieu of foreclosure, an Owner shall have the right to lease his or her Dwelling Unit upon such terms and conditions as the Owner may deem advisable, subject to the following:

(a) any such lease or rental agreement must be in compliance with applicable local, state and federal laws;

(b) no Owner may lease or rent (i) less than his or her entire Dwelling Unit; (ii) for transient or hotel purposes; or (iii) for a term of less than thirty days;

(c) any lease or rental agreement shall be in writing and shall provide that the lease or rental agreement is subject to the terms of this Declaration, the Articles of Incorporation and Bylaws of the Association, and the Rules and Regulations of the Association;

(d) such lease or rental agreement shall state that the failure of the lessee or renter to comply with the terms of the Declaration or Bylaws of the Association, Articles of Incorporation or the Rules and Regulations of the Association shall constitute a default and such default shall be enforceable by either the Board of Directors or the lessor, or by both of them to include, but not be limited to, eviction of the lessee from the Apartment.

(e) the Board of Directors shall be furnished with a copy of the lease or rental agreement upon its request.

7.20 Fences and Other Exterior Improvements. Fences shall not be allowed to be constructed between Lots. No mailboxes, porch and area lighting, property identification or other exterior improvements shall be constructed, installed, erected or maintained on any Lot unless approved by the Committee and except as were installed or permitted to be installed by the Declarant in its construction of Dwelling Units on the Lots.

7.21 Rules. Every Owner and his or her Guests shall adhere strictly to the Rules as promulgated by the Board of Directors, as amended from time to time.

7.22 Waiver of Summary Abatement. The Declarant and the Association waives the right to use summary abatement or similar means to enforce the restrictions herein contained. Judicial proceedings must be instituted before any items of construction can be altered or demolished.

7.23 Exemptions for the Declarant and Participating Builder. So long as the Declarant and Participating Builder own a Lot within the Planned Community, the Declarant and Participating Builder shall be exempt from the provisions of this ARTICLE SEVEN to the extent that it impedes Declarant's or Participating Builder's development, construction, marketing, sales, or leasing activities.



ARTICLE EIGHT: EASEMENTS

8.1 Utility Easements. Easements for utilities over and across the Common Areas shall be those shown upon the Plat of the Planned Community, and such other easements as may be established pursuant to the provisions of this Declaration.

8.2 Easements for the Board of Directors. Each Lot shall be subject to an easement in favor of the Board of Directors (including its agents, employees and contractors) to perform its obligations pursuant to this Declaration.

8.3 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Planned Community, to enter upon any part of the Planned Community in the performance of their duties.

8.4 Recording Data Regarding Easements. Pursuant to Section 38-33.3-205(m) of the Act, the recording data for recorded easements and licenses appurtenant thereto, or included in the Planned Community or to which any portion of the Planned Community is or may become subject to are identified on the attached Exhibit C.

8.5 Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be deemed appurtenant to the Lots owned by such Owner. All conveyances and instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appear.



ARTICLE NINE: INSURANCE

9.1 Authority to Purchase/General Requirements. All insurance policies relating to the Association and Common Areas within the Planned Community shall be purchased by the Board of Directors. The Board of Directors shall promptly furnish to each Owner and/or such Owner's First Mortgagee requesting same, written notice of the procurement of, subsequent changes in, or termination of, insurance coverages obtained on behalf of the Association.

The Board of Directors shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the Association, Owner or First Mortgagee, or (b) by the terms of carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's Board of Directors, policyholders or members; or (c) the policy includes any limited clauses (other than insurance conditions) which could prevent Owners or First Mortgagees from collecting insurance proceeds.

Each such policy shall provide that:

- a) The insurer to the extent possible waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, the Managing Agent or the Owners, and their respective agents, employees, Guests and, in the case of the Owners, the members of their households.
- b) Such policy shall not be cancelled, invalidated or suspended due to the conduct of any Owner or his or her Guests or of any Member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board or the Managing Agent cure the defect and neither shall have so cured such defect within forty-five days after such demand;
- c) Such policy, including any fidelity insurance of the Association referred to in Paragraph 9.4 hereof may not be cancelled, or substantially modified by any party (including cancellation for nonpayment of premium) without at least thirty days' prior written notice to the Board of Directors, the Managing Agent and to each First Mortgagee listed as a scheduled holder of a first mortgage in the policy;
- d) Such policy must provide that no assessment may be made against a First Mortgagee, its successors or assigns and that any assessment made against others shall not become a lien on a Lot superior to the lien of a First Mortgagee;



- e) The Declarant and Participating Builder, so long as Declarant or Participating Builder shall own any Lot, shall be protected by all such policies as an Owner, if such coverage is available;

All policies of insurance shall be written by reputable companies duly authorized and licensed to do business in the State of Colorado with an A.M. Best's rating of "A" or better if reasonably available, or, if not reasonably available, the most nearly equivalent rating.

All insurance policies shall contain the standard mortgagee clause or equivalent endorsement (without contribution) in which it appropriately names the First Mortgagee in the policy, its successors and assigns, beneficiary.

9.2 Hazard Insurance. The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of hazard insurance with sprinkler leakage (if applicable) and debris removal, insuring any of the insurable improvements located on the Common Areas including fixtures, machinery, equipment and supplies maintained for the service of the Common Areas as well as common personal property and supplies belonging to the Association; including fixtures and building service equipment to the extent that they are part of the Common Areas.

Such insurance shall at all times represent one hundred percent of the current replacement cost based on the most recent appraisal of all insurable improvements in the Common Areas. The current replacement cost shall not include values for land, foundation, excavation and other items normally excluded therefrom and shall be without deduction for depreciation and with no provision for co-insurance. If available, the Master Policy shall be endorsed with a "Guaranteed Replacement Cost Endorsement".

The Board of Directors shall review at least annually all of its insurance policies in order to insure that the coverages contained in the policies are sufficient. The Board of Directors shall consistent with good business practices, and at reasonable intervals obtain a written appraisal for insurance purposes, showing that the insurance represents one hundred percent of the current replacement cost as defined above for all insurable improvements located on the Common Areas, together with any personal property owned by the Association.

Such policies shall also provide:

- a) The following endorsements or their equivalent: No Control Endorsement, Contingent Liability from Operation of Building Laws or Codes Endorsement, Cost of Demolition Endorsement, Increased Cost of Construction Endorsement) Agreed Amount Endorsement, and Inflation Guard Endorsement, if available.
- b) That any "no other insurance" clause expressly exclude individual Owners' policies from its operation so that the property insurance policy purchased by the Board of Directors shall be deemed primary coverage and any individual Owners' policies shall be deemed excess

1888347
Page: 131 of 148
12/31/1998 12:38P
R 741.00 D 0.00

coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Owners or their First Mortgagees, unless otherwise required by law.

A certificate, together with proof of payment of premiums, shall be delivered by the insurer to any Owner and First Mortgagee requesting the same, at least thirty days prior to expiration of then current policy.

The insurance shall be carried naming the Association as the owner and beneficiary thereof for the use and benefit of the Association. Any loss covered by the policies carried under this Article shall be adjusted exclusively by the Board of Directors and provide that all claims are to be settled on a replacement cost basis.

The Association shall hold any insurance proceeds received in trust for the Owners and their First Mortgagees as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged Common Areas. Owners and First Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Common Areas have been repaired or restored.

The deductible, if any, on such insurance policy shall be as the Directors determine to be consistent with good business practice and which shall be consistent with the requirements of the First Mortgagees, not to exceed, however, Ten Thousand Dollars or one percent of the face amount of the policy whichever is less. Any loss falling within the deductible portion of a policy shall be paid by the Association. Funds to cover the deductible amounts shall be included in the Association's Reserve Funds and be so designated.

The Board shall have the authority to levy, after Notice and Hearing, against Owners causing such loss for the reimbursement of all deductibles paid by the Association as an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

9.3 Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including eviction, libel, slander, false arrest and invasion of privacy) and property damage insurance covering all of the Common Areas, public ways within the Planned Community and any other areas that are under the Association's responsibility insuring each officer, director, the Managing Agent and the Association.

Such coverage under this policy shall include, without limitation, the legal liability of the insureds for property damage, bodily injuries and deaths of persons that result from the operation, maintenance or use of the Common Areas and the legal liability arising out of lawsuits relating to employment contracts in which the Association is a party.



Such insurance shall be issued on a comprehensive liability basis. Additional coverages may be required to include protection against such other risks as are customarily covered with respect to the Planned Community similar in construction, location and use, including, but not limited to, Host Liquor Liability coverage with respect to events sponsored by the Association, Workmen's Compensation and Employer's Liability Insurance, Comprehensive Automobile Liability Insurance, Severability of Interest Endorsement.

IN THE EVENT THE ASSOCIATION HOSTS A FUNCTION AND CHARGES FOR FOOD OR DRINK AND LIQUOR IS SERVED, THERE WILL BE NO HOST LIQUOR LIABILITY COVERAGE FOR THE ASSOCIATION. IF MONEY IS CHARGED, A LIQUOR LIABILITY POLICY WOULD BE NEEDED TO GIVE COVERAGE TO THE ASSOCIATION.

The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than one million dollars covering all claims for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained.

Absolute liability is not imposed on Owners for damage to Common Areas or Lots within the Planned Community.

9.4 Fidelity Insurance. The Association shall obtain and maintain, to the extent reasonably available, fidelity insurance coverage for any Owner or Association employee who either handles or is responsible for funds held or administered by the Association. The insurance shall name the Association as insured, and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

The fidelity insurance policy should cover the maximum funds (including Reserve Funds) that will be in the custody of the Association or its management agent at any time while the policy is in force; provided, however, in any event the aggregate amount of such insurance shall not be less than a sum equal to three months' aggregate assessments on all Lots, plus Reserve Funds.

The policy must include a provision that calls for ten days' written notice to the Association before the policy can be cancelled or substantially modified for any reason. The same notice must also be given to each servicer that services a Fannie Mae-owned or securitized mortgage in the Planned Community.

A management agent that handles funds for the Association should be covered by its own fidelity insurance policy which must provide the same coverage required of the Association.

9.5 Additional Insurance.

a) If the area where the Planned Community is located has been identified by the Secretary of Housing and Urban Development (HUD) or the Director of the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area, flood insurance for the Planned Community shall be maintained providing coverage equivalent to that provided under the National Flood Insurance



Program in an amount of one hundred percent of the Planned Community's current replacement cost on the maximum available.

If the Planned Community at the time of the recording of this Declaration is identified as a Special Flood Hazard Area but becomes reclassified at a later date as such, the Board of Directors shall obtain flood insurance for the Planned Community in accordance with the above. Conversely flood insurance may be discontinued under certain conditions.

b) Adequate Directors and Officers liability insurance, if reasonably available, and if deemed consistent with good business practices, for errors and omissions on all Directors and Officers to be written in an amount which the Board of Directors deems adequate;

c) Worker's Compensation and Employer's Liability Insurance and all other similar insurance with respect to employees of the Association in the amount and in the forms now or hereafter acquired by law;

d) Such other insurance of a similar or dissimilar nature, as the Board of Directors shall deem appropriate with respect to the Planned Community.

9.6 Payment of Insurance Premiums. The cost of the insurance obtained by the Association in accordance with this Article, except for premiums on fidelity insurance maintained by a Managing Agent for its officers, employees and agents shall be paid from Association funds and shall be collected from the Owners as part of the Common Expense Assessment as provided for in Paragraph 5.4(a) hereof.

In the event there are not sufficient funds generated from the Common Expense Assessment to cover the cost of the insurance provided for above, then the deficiency shall be chargeable to each Owner by an Individual Assessment in accordance with Paragraph 5.4(b) hereof and such assessment shall be exempt from any special voting requirements of the Membership. Such assessment shall be prorated among Owners in accordance with the Owners' Common Expense Liability set forth in Paragraph 1.3 hereof.

9.7 Separate Insurance. No Owner shall be entitled to exercise his or her right to acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by an Owner. All such policies shall contain waivers of subrogation. No Owner shall obtain separate insurance policies except as provided in this Paragraph.

9.8 Condemnation. If a part of the Common Areas are acquired by condemnation, that portion of any award attributable to the Common Areas taken must be paid to the Association.



ARTICLE TEN: RESTORATION UPON DAMAGE OR DESTRUCTION

10. Duty to Restore. In the event of damage or destruction to any portion of the Common Areas which is covered by insurance carried by the Association, the insurance proceeds shall be applied by the Board of Directors to such reconstruction and repair.

The Common Areas must be repaired and restored in accordance with either (a) the original plans and specifications, or (b) other plans and specifications which have been approved by the Board of Directors.

10.2 Use of Insurance Proceeds. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damage, the Board of Directors shall levy an Individual Assessment in the aggregate amount of such insufficiency pursuant to Paragraph 5.4(b) hereof, and shall proceed to make such repairs or reconstruction. The amount of each Owner's Individual Assessment shall be such Owner's Common Expense Liability shall be determined in accordance with Paragraph 1.3 hereof.

If all of the damage to the Common Areas covered by the Association's insurance is not repaired or reconstructed, the insurance proceeds attributable to the damage shall be used to restore the damaged portion of the Common Areas to a condition compatible with the remainder of the Planned Community and the remainder of the proceeds shall be distributed to the Association.



ARTICLE ELEVEN: MAINTENANCE

11.1 Maintenance of the Common Areas. The Association shall provide for the repair, maintenance and/or reconstruction of the Common Areas. Without limiting the generality of the foregoing and by way of illustration, the Association shall keep the Common Areas in safe, attractive, clean, functional and good repair and may make necessary or desirable alterations or improvements thereon.

In the event such repair, maintenance and/or replacement is resulting from the willful neglect or destruction by an Owner or such Owner's Guest, the Board of Directors shall have the right to charge the costs of such repair and/or replacement, to such Owner by an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

Determination with respect to whether or not a particular activity by occurrence shall constitute a violation of this Paragraph 11.1 shall be made by the Board of Directors and shall be final.

11.2 Maintenance of the Lots and Dwelling Units. Each Owner shall be responsible for the maintenance, repair and reconstruction of the exterior of such Owner's Dwelling Unit and the maintenance and repair of his or her Lot.

In the event any Owner shall fail to maintain his or her Lot in a manner satisfactory to the Board of Directors, the Board of Directors shall have the right and duty, after Notice and Hearing, to enter upon said Lot and repair, maintain, and/or reconstruct the Lot. The cost of such maintenance, repair and/or reconstruction shall be chargeable to such Owner by an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

11.3 Maintenance of Drainage Pattern. There shall be no interference with the established drainage pattern initially established by the Declarant over any portion of the Planned Community, except as approved in writing by the Committee. Approval shall not be granted unless provision is made for adequate alternate drainage. The "established drainage pattern" shall mean the drainage pattern which exists at the time the overall grading of any property is completed by the Declarant and shall include any established drainage pattern shown on the plans approved by the Committee. The established drainage pattern may include the drainage pattern from the Common Areas over any Lots within the Planned Community and from any Lot within the Planned Community over the Common Areas, or from any Lot over another Lot.

11.4 Association Responsibility. The maintenance obligation on the part of the Association shall apply to such maintenance required by ordinary wear and tear and shall not apply to maintenance, repair and/or reconstruction resulting from willful neglect or destruction.

In the event such repair, maintenance and/or reconstruction is resulting from the willful neglect or destruction by an Owner or such Owner's Guests, the Board of Directors shall have the right, after Notice and Hearing, to charge the costs of such repair, maintenance and/or replacement, to such Owner by an Individual Assessment in accordance with Paragraph 5.4(b) hereof.

1888347
Page: 136 of 148
12/31/1998 12:38P

Boulder County Clerk, CO AG

R 741.00 D 0.00

Determination of whether such repair, maintenance and/or reconstruction is the obligation of the Association and the determination of when, the magnitude and the manner of the above described maintenance, repair and/or reconstruction shall rest solely with the Board of Directors, which will also have the sole responsibility for determining the kind and type of materials used in such repair and maintenance.

11.5 Board of Directors. Access to all of the Lots within the Planned Community to perform the said repair, maintenance and/or reconstruction by the Board of Directors, its agents and employees shall be made pursuant to the maintenance easement granted in accordance with Paragraph 8.2 hereof.



ARTICLE TWELVE: DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

12.1 Reservation. The Declarant reserves the following Development Rights and Special Declarant Rights ("Declarant Rights") which may be exercised, where applicable, anywhere within the Planned Community:

- (a) To complete the improvements indicated on the Plat;
- (b) To exercise any Declarant Rights reserved herein;
- (c) To maintain business/sales offices, parking spaces, management offices, storage areas, nursery, construction yard, signs, advertising and model Dwelling Units;
- (d) To maintain signs and advertising in the Common Areas to advertise the Planned Community;
- (e) To use, and to permit others to use, easements through the Common Areas as may be reasonably necessary for construction within the Planned Community and for the purpose of discharging the Declarant's obligations under the Act and this Declaration;
- (f) To appoint or remove any officer of the Association or a member of the Board of Directors during of Period of Declarant Control subject to the provisions of Paragraph 4.7 of this Declaration;
- (g) To amend the Declaration and/or the Plat in connection with the exercise of any Declarant Rights; and
- (h) To exercise any other Declarant Right created by any other provisions of this Declaration.

12.2 Rights Transferable. Declarant Rights created or reserved under this Article for the benefit of Declarant may be transferred to any Person by an instrument describing the Rights transferred and recorded in the records of the County Clerk and Recorder. Such instrument shall be executed by the transferor Declarant and the transferee.

12.3 Limitations. The Declarant Rights shall terminate at the option of the Declarant by its written notice to the Secretary of the Association, but in any event such Rights shall terminate without further act or deed seven years after the date of the recording of this Declaration.

12.4 Interference with the Declarant Rights. Neither the Association, the Board of Directors nor any Owner may take any action or adopt any rule that will interfere with or diminish Declarant Rights without the prior written consent of the Declarant.

12.5 Use by Declarant. The exercise of the Declarant Rights by Declarant shall not unreasonably interfere with the access, enjoyment or use of any Lot by any Owner nor the access, enjoyment or



use of the Common Areas; nor shall any activity be conducted which might be unsafe, unhealthy, or hazardous to any person.

12.6 Models, Sales Offices and Management Offices. Subject to the limitations set forth in Paragraph 12.3 hereof, the Declarant or Participating Builder its duly authorized agents, representatives and employees may maintain any Dwelling Unit owned by the Declarant or Participating Builder as a model Dwelling Unit, sales, leasing or management office, to include, but not be limited to, a sales trailer.

12.7 Declarant's Easements. The Declarant reserves the right to perform warranty work, and repairs and construction work on Lots and Common Areas, to store materials in secure areas, and to control and have the right of access to work and repair until completion. All work shall be performed by the Declarant without the consent or approval of the Board of Directors.

The Declarant has an easement through the Common Areas as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising of the Declarant Rights, whether arising under the Act or reserved in this Article.

12.8 Participating Builder's Easements. The Participating Builder reserves the right to perform warranty work, and repairs and construction work on Lots to store materials in secure areas, and to control and have the right of access to work and repair until completion.

12.9 Signs and Marketing. The Declarant reserves the right for Declarant and Participating Builder to post signs and advertising in the Common Areas in order to promote sales of Lots so long as the Participating Builder's signs have the prior written approval of the Declarant. Declarant also reserves the right for Declarant and Participating Builder to conduct general sales activities in a manner which will not unreasonably disturb the rights of Owners.

12.10 Declarant's Personal Property. The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Common Areas that has not been represented as property of the Association. The Declarant reserves the right to remove from the Planned Community (promptly after the sale of the last Lot) any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.



ARTICLE THIRTEEN: FIRST MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers, or guarantors of holders of first mortgages recorded against Lots within the Planned Community who qualify as an Eligible Mortgagee as defined by Paragraph 1.22 hereof. To the extent applicable, necessary, or proper, the provisions of this ARTICLE THIRTEEN apply to both this Declaration and to the Articles and Bylaws of the Association.

13.1 Notices of Action. An Eligible Mortgagee shall be entitled to timely written notice of:

- (a) any material condemnation loss or any casualty loss which affects a material portion of the Planned Community or any Lot in which there is a first mortgage held, insured, or guaranteed by such Eligible Mortgagee;
- (b) any default in the performance by an individual Borrower of any obligation of the Declaration not cured within sixty days;
- (c) any lapse, cancellation, or material modification of any mandatory insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.; and
- (e) any material judgment rendered against the Association.

13.2 Amendment to Documents/Special Approvals.

(a) The consent of Owners to which at least sixty-seven percent of the votes in the Association are allocated and the consent of fifty-one percent of the Eligible Mortgagees shall be required to add to or amend any material provisions of this Declaration or the Articles or Bylaws of the Association. A change to any of the following would be considered material.

- (i) voting rights;
- (ii) increase the Common Expense Assessment annually by more than 25% over the previously levied Common Expense Assessment, assessment liens, or the priority of the assessment liens;
- (iii) reduction in the reserves for maintenance, repair and replacement of the Common Areas;
- (iv) responsibility for maintenance and repairs;
- (v) right to use the Common Areas;



- (vi) convertibility of Lots into Common Areas or vice versa;
- (vii) expansion or contraction of the Planned Community, or the addition, annexation or withdrawal of property to or from the Planned Community;
- (viii) hazard or fidelity insurance requirements;
- (ix) imposition of any restrictions on the leasing of Lots;
- (x) imposition of any restrictions on a Lot Owner's right to sell or transfer his or her Lot;
- (xi) restoration or repair of the Planned Community (after damage or partial condemnation) in a manner other than that specified in the Project Documents;
- (xii) any provision that expressly benefits mortgage holders, insurers or guarantors.

(b) The Association may not take any of the following actions without the consent of Owners to which at least sixty-seven percent of the votes in the Association are allocated and the approval of at least fifty-one percent of the Eligible Mortgagees.

- (i) Reconstruct or repair the Planned Community after damage due to an insurable hazard or a partial condemnation in a manner other than specified in the Project Documents.
- (ii) Merge or consolidate the Planned Community with any other Planned Community or subject it to a Master Association. Such action shall also require the written approval from the Federal Housing Administration and/or the Veterans Administration if the Planned Community has been or is to be approved by such agencies.

(c) Any action to terminate the legal status of the Planned Community after substantial destruction or condemnation occurs must be agreed to by Owners to which at least sixty-seven percent of the votes in the Association are allocated, and by fifty-one percent of the Eligible Mortgagees.

(d) Any action to terminate the legal status of the Planned Community for reasons other than substantial destruction or condemnation occurs must be agreed to by Owners to which at least sixty-seven percent of the votes in the Association are allocated, and by sixty-seven percent of the Eligible Mortgagees.



13.3 Special FHLMC Provisions. Except as provided by statute in the case of a condemnation or a substantial loss to the Lots and/or Common Areas, unless at least two-thirds of the Eligible Mortgagees or Owners (other than the Declarant) have given their prior written approval, the Association may not:

- (a) by act or omission seek to abandon or terminate the Planned Community;
- (b) change the pro rata interest or obligations of any Lot in order to levy assessments, allocate distribution of hazard insurance proceeds or condemnation awards;
- (c) seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas by act or omission.

The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas is not a transfer within the meaning of this Paragraph 13.3(c).

- (d) use hazard insurance proceeds for losses to any planned community property for other than the repair, replacement or reconstruction of the planned community property).

13.4 Implied Approval. Implied approval by an Eligible Mortgagee shall be assumed when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment within thirty days after said Eligible Mortgagee receives proper notice of the proposal, provided this notice was delivered by certified or registered mail with return receipt requested.

13.5 Books and Records. Owners and their mortgagees shall have the right to examine the books and records of the Association at the office of the Association in accordance with the procedure set forth in the Association's Bylaws.



ARTICLE FOURTEEN: DURATION, AMENDMENT AND TERMINATION OF THE DECLARATION

14.1 Duration. The covenants, restrictions and obligations of this Declaration shall run with and bind the land in perpetuity until this Declaration is terminated in accordance with Paragraphs 13.2(c) and 13.2(d).

14.2 Amendments by Owners. Except as permitted in Paragraph 15.5 hereof, and except in cases of amendments which may be executed by the Declarant pursuant to Paragraph 14.5 hereof, and except as restricted by Paragraphs 13.2, 13.3 and 14.6 hereof, this Declaration may be amended by a written agreement by Owners to which at least sixty-seven percent of the votes in the Association are allocated; provided, however, an amendment may not: (a) decrease or increase Special Declarant Rights; (b) increase the number of Lots; (c) change the use to which a Lot is restricted; or (d) change the Allocated interests of a Lot, except by the unanimous consent of the Owners.

Any such amendment shall be effective upon the recording of the amendment together with a notarized Certificate of the Secretary of the Association certifying that the requisite number of Owners and Eligible Mortgagees, if required, have given their written consent to the amendment. The Secretary shall further certify that originals of such written consents by Owners and Eligible Mortgagees, as applicable, along with the recorded amendment, are in the records of the Association and available for inspection.

Each amendment to the Declaration must be recorded in the Office of the County Clerk and Recorder.

All signatures shall be irrevocable even upon death or conveyance of the Lot, except that if an amendment is not recorded within three years of the date of signature, then the executing Owner or their successor or assigns may revoke their signature by a written and notarized document delivered to the Secretary of the Association. Signatures need not be notarized.

Amendments can be executed in counterparts, provided that such recorded document shall also contain a certification of the Secretary of the Association that all counterparts, as executed, are part of the whole.

No action shall be commenced or maintained to challenge the validity of any aspect of any amendment of the Association's Declaration, Articles of Incorporation or Bylaws unless it is commenced within one year from the date of the recording of the said amendment, unless fraud or willful negligence is asserted and proven.

14.3 FHA/VA Approval. If the Planned Community has been or is to be approved by the Federal Housing Administration and/or the Veterans Administration, then until the termination of the Period of Declarant Control hereof, the following actions will require the prior approval of the Federal Housing Administration and/or the Veterans Administration: annexation of additional properties, amendment of this Declaration and the assessment of a Special Assessment.



14.4 Consent of Eligible Mortgagees. Amendments may be subject to the consent requirements of Eligible Mortgagees as more fully set forth in ARTICLE THIRTEEN hereof.

14.5 Amendments by Declarant. Declarant reserves the right to amend, without the consent of Owners or Eligible Mortgagees, this Declaration, the Association's Articles of Incorporation or Bylaws, any time within the limitations set forth in Paragraph 12.3 hereof, as follows:

(a) To make nonmaterial changes, such as the correction of a technical, clerical, grammatical or typographical error or clarification of a statement.

(b) To comply with any requirements of any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure or guarantee First Mortgages.

(c) To comply with any requirements of the Act.

14.6 Consent of Declarant Required. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment of any provision of this Declaration shall not be effective unless Declarant has given its written consent to such amendment.

The foregoing requirement for consent of Declarant to any amendment shall terminate at the option of the Declarant by its written notice to the Secretary of the Association, but in any event, shall terminate without further act or deed in accordance with the limitations set forth in Paragraph 12.3 hereof.



ARTICLE FIFTEEN: GENERAL PROVISIONS

15.1 Right of Action. The Association and any aggrieved Owner shall have an appropriate right of action against an Owner for such Owner's failure to comply with this Declaration, the Articles of Incorporation and Bylaws of the Association, the Rules and Regulations of the Association or with decisions of the Board of Directors which are made pursuant thereto. Owners shall have a similar right of action against the Association.

15.2 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Owner and their heirs, personal representatives, successors and assigns.

15.3 Severability. Any portion of this Declaration invalidated in any manner whatsoever shall not be deemed to affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

15.4 No Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

15.5 Registration by Owner of Mailing Address. Each Owner shall register his or her mailing address with the Association, and except for monthly statements and other routine notices, which shall be personally delivered or sent by regular mail, all other notices or demands intended to be served upon an Owner shall be delivered personally or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to Michael Markel, 5723 Arapahoe Ave., #2A, Boulder, CO 80301, Registered Agent for the Association until the Registered Agent is changed by a notice duly filed with the Office of the Secretary of State of Colorado (Change of Registered Agent).

15.6 Conflict. The Project Documents are intended to comply with the requirements of the Act and the Colorado Nonprofit Corporation Act. If there is any conflict between the Project Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Project Documents, this Declaration shall control.

15.7 Mergers. The Planned Community may be merged or consolidated with another planned community of the same form of ownership by complying with § 38-33.3-221 of the Act.

enforcement of this Declaration shall be resolved by binding arbitration in accordance with the Colorado Arbitration proceeding consistent with the Rules of the American Arbitration Association. The parties to such dispute shall agree upon a single arbitrator who shall be an experienced professional property manager of a homeowners association. In the event the parties are unable to agree upon an arbitrator within 30 days after written notice, the presiding judge of the County's District Court shall appoint an arbitrator qualified as set forth above upon application of a party. The arbitrator shall be required to follow substantive law in reaching a decision under this Paragraph.

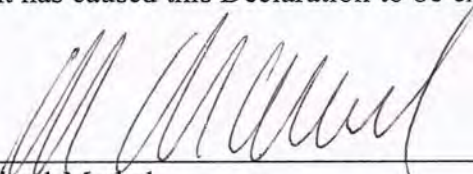
Judgment upon the determination of the arbitrator shall be entered and enforced by the County's District Court.

The arbitrator shall have authority, in the sound exercise of discretion, to award the prevailing party such party's costs and expenses, including reasonable attorney's fees.

15.9 Captions. The captions and headings in this Declaration are for Convenience only, and shall not be considered in construing any provision of this Declaration.

15.10 Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 21st day of December, 1998.



 Michael Markel

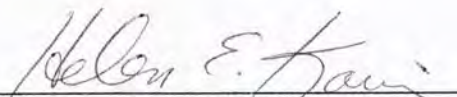
STATE OF COLORADO)
) SS.
 COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 21st day of December, 1998 by Michael Markel.

My commission expires: 10/25/2000.

WITNESS my hand and official seal.

HELEN E. KAMIN
 NOTARY PUBLIC
 STATE OF COLORADO
 My Commission Expires October 25, 2000



 Notary Public



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347

Page: 146 of 148

12/31/1998 12:38P

**EXHIBIT A
TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
NIWOT MEADOW FARM**

**LEGAL DESCRIPTION OF THE REAL PROPERTY
SUBMITTED TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
NIWOT MEADOW FARM**

Lots 1 through 27, Niwot Meadow Farm, a subdivision of the County of Boulder,
State of Colorado.



Boulder County Clerk, CO AG

R 741.00 D 0.00

1888347

Page: 147 of 148

12/31/1998 12:38P

**EXHIBIT B
TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
NIWOT MEADOW FARM**

**LEGAL DESCRIPTION OF THE COMMON AREAS
SUBMITTED TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
NIWOT MEADOW FARM**

Outlots A, B, C, F, Niwot Meadow Farm, a subdivision of the County of Boulder,
State of Colorado.

Outlots D and E are public open space owned and maintained by the County of Boulder,
State of Colorado.



Boulder County Clerk, CO AG R 741.00 D 0.00

1888347
Page: 148 of 148
12/31/1998 12:38P

**EXHIBIT C
TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
NIWOT MEADOW FARM**

**THE RECORDING DATA FOR RECORDED EASEMENTS AND
LICENSES WHICH THE PLANNED COMMUNITY
IS OR MAY BECOME SUBJECT TO:**

1. All easements as contained in ARTICLE EIGHT hereof.
2. Easement for sewer pipeline and incidental purposes as granted by instrument recorded on Film 721 as Reception No. 966370.
3. An easement for sewer pipeline and incidental purposes granted by instrument recorded on Film 728 as Reception No. 973156.
4. An easement for sewer lines and incidental purposes granted by instrument recorded on Film 768 as Reception No. 015079.
5. An easement for sewer pipeline and incidental purposes granted by instrument recorded on Film 1633 as Reception No. 1051968.
6. An easement for drainage and storm sewer granted by instrument recorded on Film 1774 as Reception No. 1237570.

All recordings are in the records of the Boulder County, Colorado Clerk and Recorder.

Return to Land Use

ARCHITECTURE
PLANNING
LANDSCAPE ARCHITECTURE
ENGINEERING

RECEIVED

DEC 11 1998

LAND USE DEPT.



DOWNING
THORPE
JAMES

TRANSMITTAL

TO City of Boulder, Planning Dept.
2045 13th St.
Boulder, CO 80302

Attention Greg Oxinfeld
Phone 303-441-3930
Fax _____

Date 12/11/98
Project Niwot Meadow Farm
Project Number 95094.10

Copies	Dated	Description
<u>1</u>	<u>12/10/98</u>	<u>Preliminary Landscape Plan, 24 x 36</u>
<u>1</u>	<u>12/10/98</u>	<u>Preliminary Landscape Plan, 8 1/2 x 11</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

THESE ARE TRANSMITTED

RECEIVED

For approval For your information As requested Accepted Checked as noted

For corrections For resubmittal _____ By _____

BY Mail Fax Messenger Overnight _____

Remarks

Signed

Copies to

Rebecca J. Eigenfeld

1881 Ninth Street, Suite 103
Boulder, Colorado 80302
303-443-7533
Fax 303-443-7534

LEGEND

EXISTING CONTOUR 55
 PROPOSED CONTOUR 56
 BASIN BOUNDARY
 DRAINAGE DIRECTION
 DRAINAGE BASIN DESIGNATION (A)
 AREA IN ACRES (0.95)
 5 YR RUNOFF (2.73)
 100 YEAR RUNOFF (8.39)
 PROPOSED SPOT ELEVATION (56.70)
 PROPOSED STORM SEWER (W/TYPE 2 INLET)
 EXISTING STORM SEWER
 PROPOSED SWALE
 OVERFLOW WIERS
 EFFECTIVE FIRM 100 YEAR FLOODPLAIN
 SWALE - TEMPORARY
 SWALE - PERMANENT



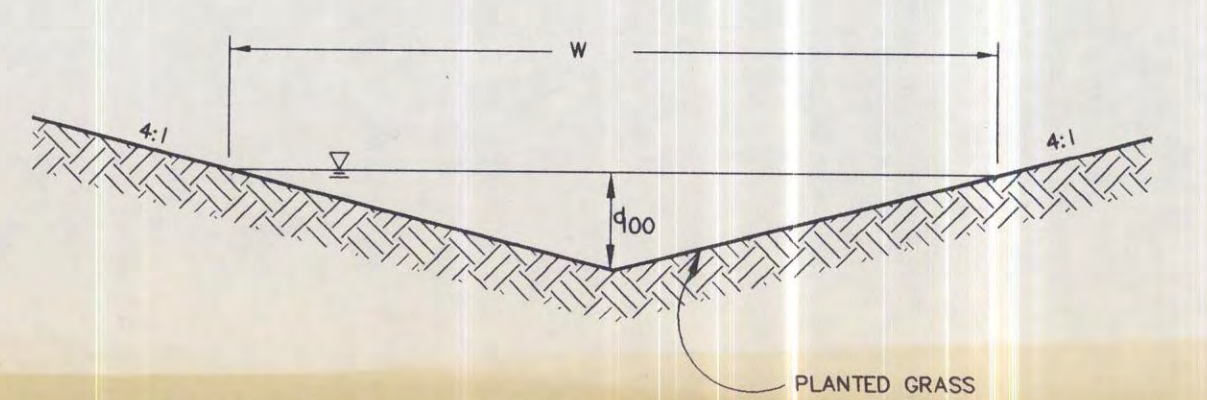
SCALE : 1" = 100'

NOTE:
 SWALE 2B REQUIRES RIP RAP PROTECTION FOR THE ENTIRE LENGTH AND WIDTH OF THE SWALE. USE TYPE "A" RIP RAP, 12 INCHES DEEP. THE FIRST 3 FEET SHOULD BE 18 INCHES DEEP. NO GRANULAR BEDDING IS REQUIRED. RIP RAP MUST BE BURIED UNDER 6" OF NATIVE TOP SOIL AND REVEGETATED TO PROTECT FROM VANDALISM.

WATER QUALITY PONDS (SEE SHEET 13 FOR DETAIL)

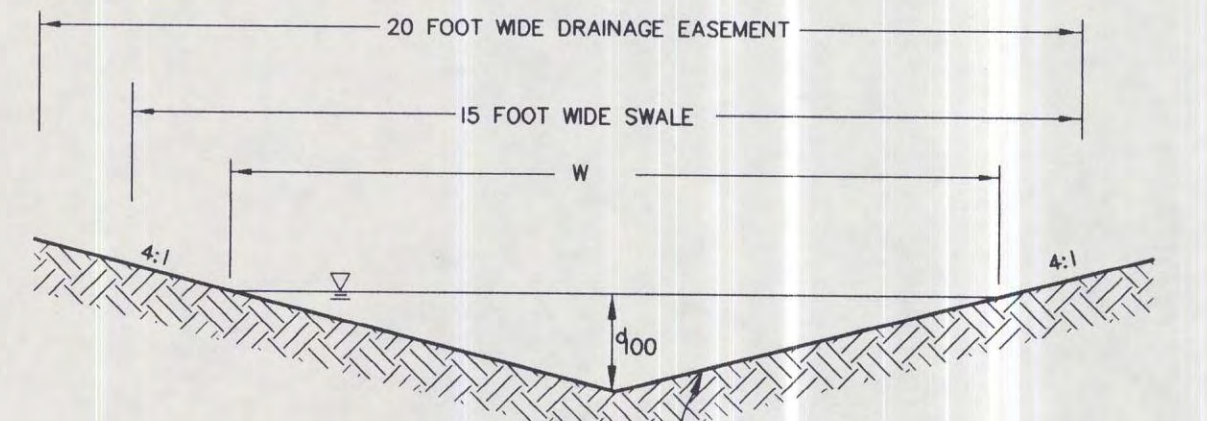
POND	CAPTURE VOLUME (FT ³)	REQUIRED STORAGE VOLUME (FT ³)	DEPTH (FT)	1' DEPTH SURFACE AREA (FT ²)	CALCULATED STORAGE VOLUME (FT ³)	APPROXIMATE RECTANGLE OF 1' DEEP CONTOUR
A	2387	2864	2	1450	2900	30x50
B	6450	7740	2	3900	7800	50x80
C	653	783	2	400	800	20x20
D	5560	6672	2	3350	6700	50x70
E	1448	1737	2	900	1800	30x30
F	1074	1288	2	650	1300	25x30

NOTE: STORAGE VOLUME = 120% OF CAPTURE VOLUME (WOCV)
 THIS ALLOWS ROOM FOR SEDIMENT TO ACCUMULATE.



SWALE SECTION TYPE "A" AND TYPE "B", TYPICAL
 NO SCALE

TYPE "A"		TYPE "B"	
MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
S _{min} = 0.5%	S _{max} = 3.0%	S _{min} = 0.5%	S _{max} = 3.0%
Q ₁₀₀ = 25.7 cfs	Q ₁₀₀ = 25.7 cfs	Q ₁₀₀ = 162 cfs	Q ₁₀₀ = 367 cfs
V = 2.53 ft	V = 4.95 ft	V = 4.5 ft	V = 11.02 ft
d ₁₀₀ = 1.59'	d ₁₀₀ = 1.14'	d ₁₀₀ = 3.0'	d ₁₀₀ = 3.0'
W = 12.7'	W = 9.1'	W = 24.0'	W = 24.0'

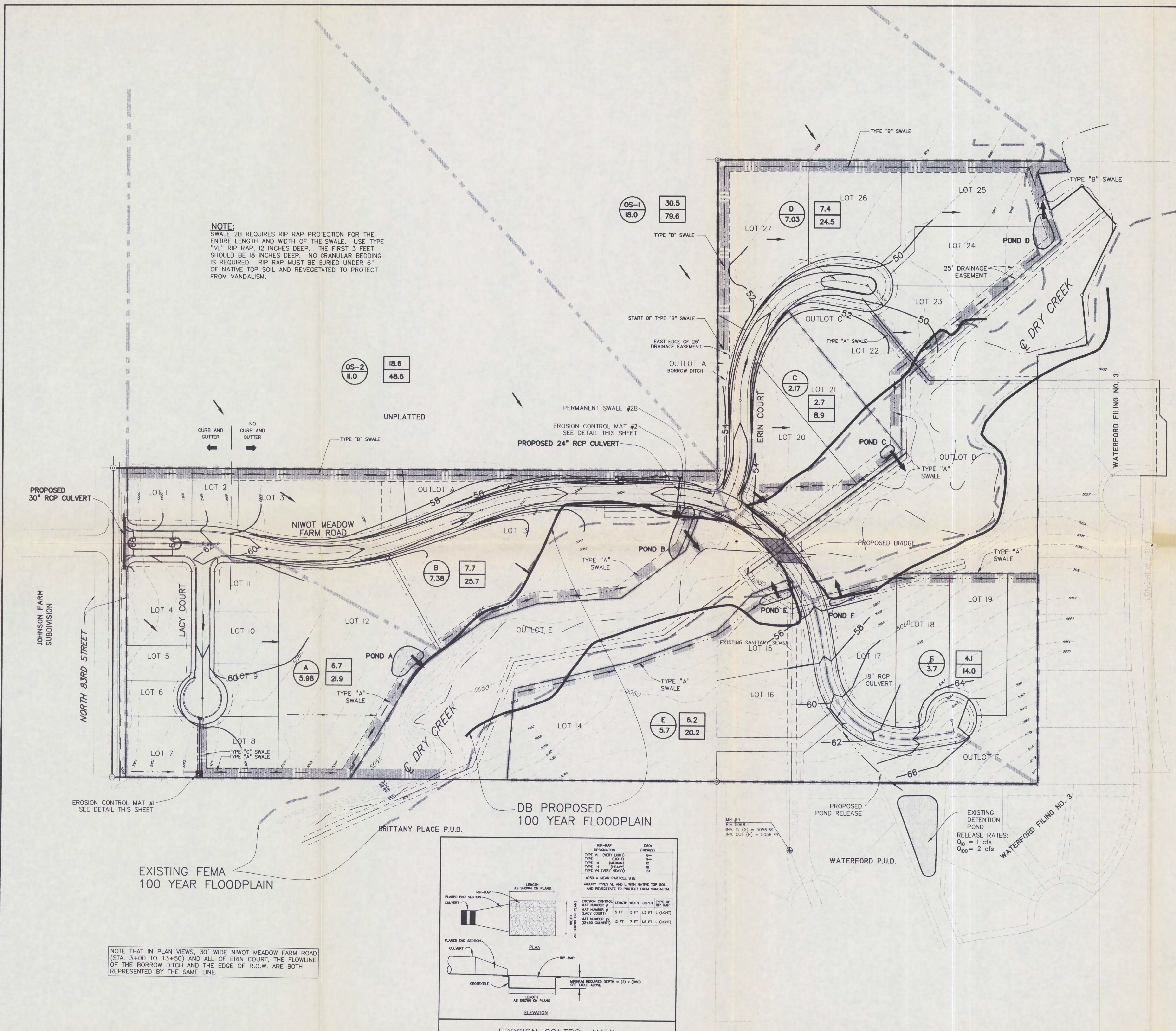


SWALE SECTION TYPE "C", TYPICAL
 NO SCALE

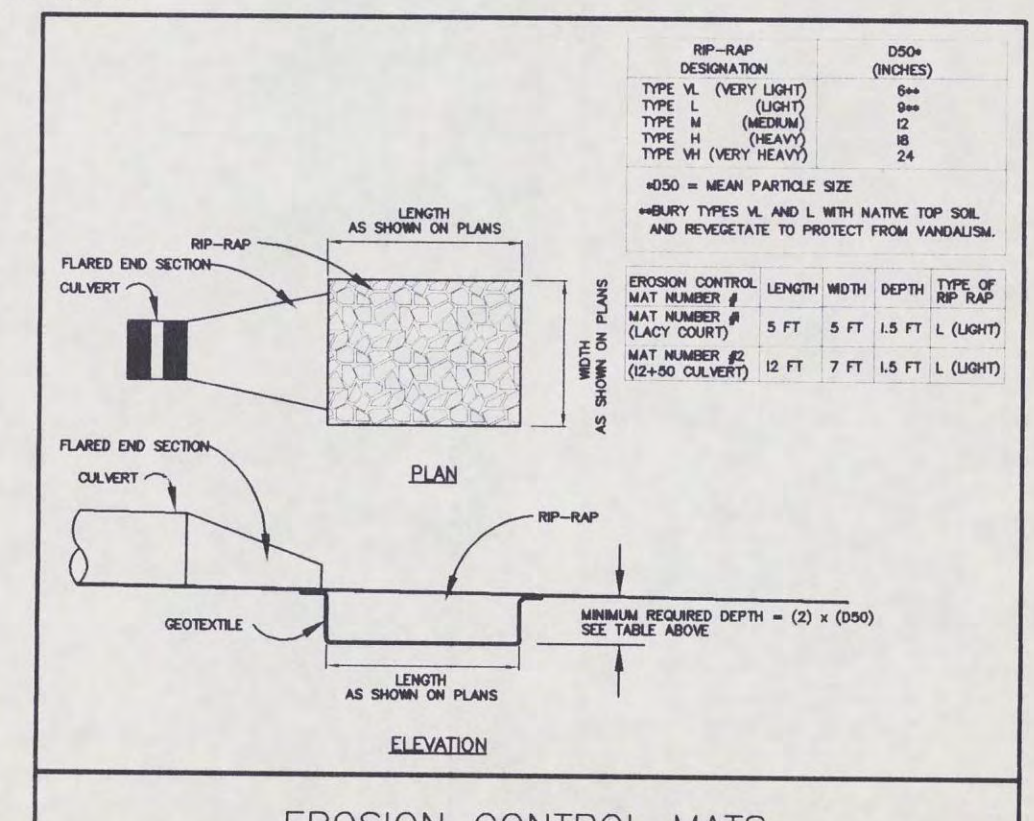
TYPE "C"	
MINIMUM	MAXIMUM
S _{min} = 0.5%	S _{max} = 3.0%
Q ₁₀₀ = 8.65 cfs	Q ₁₀₀ = 21.19 cfs
V = 2.16 ft	V = 5.30 ft
d ₁₀₀ = 1.0'	d ₁₀₀ = 1.0'
W = 8.0'	W = 8.0'



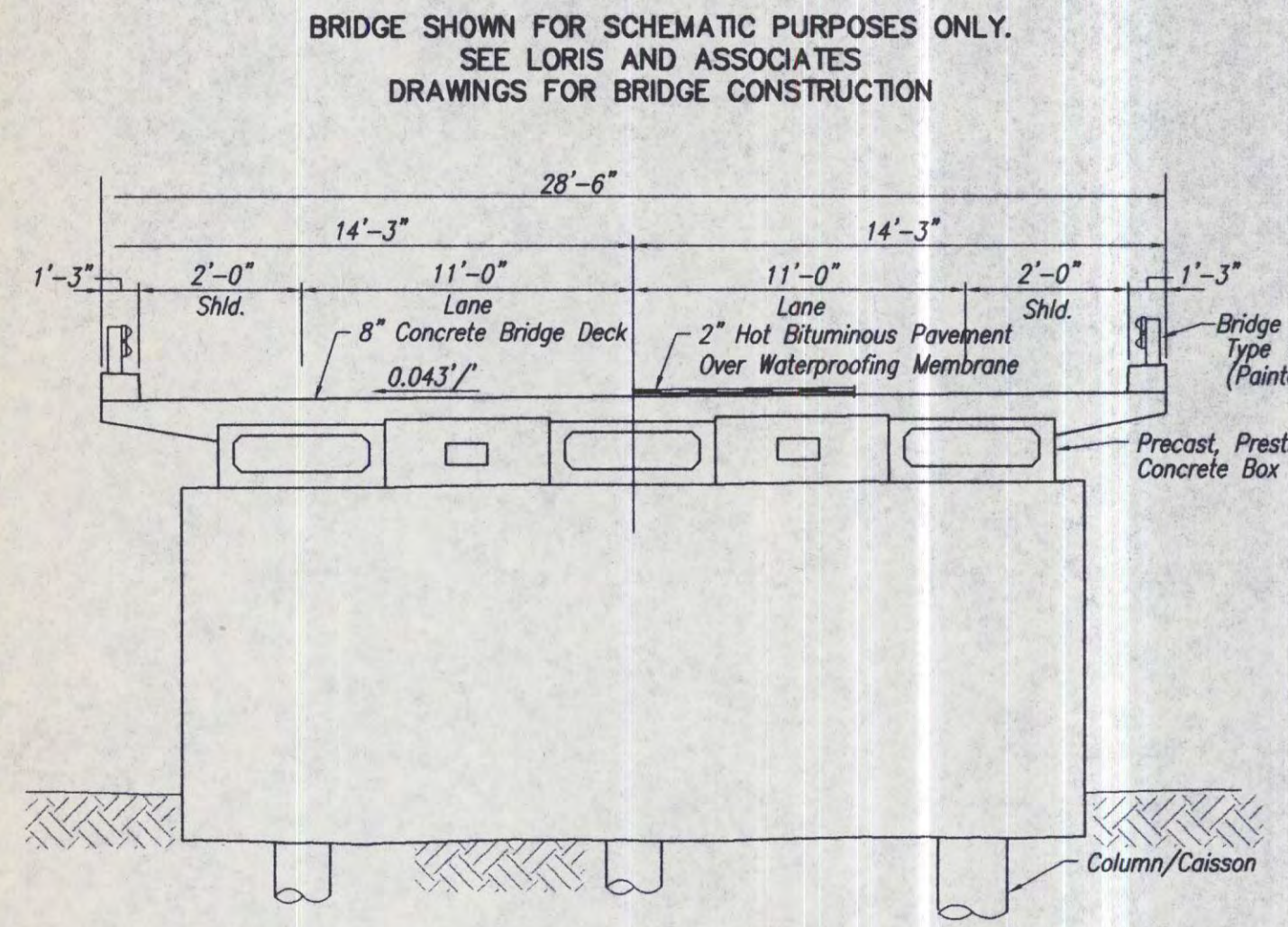
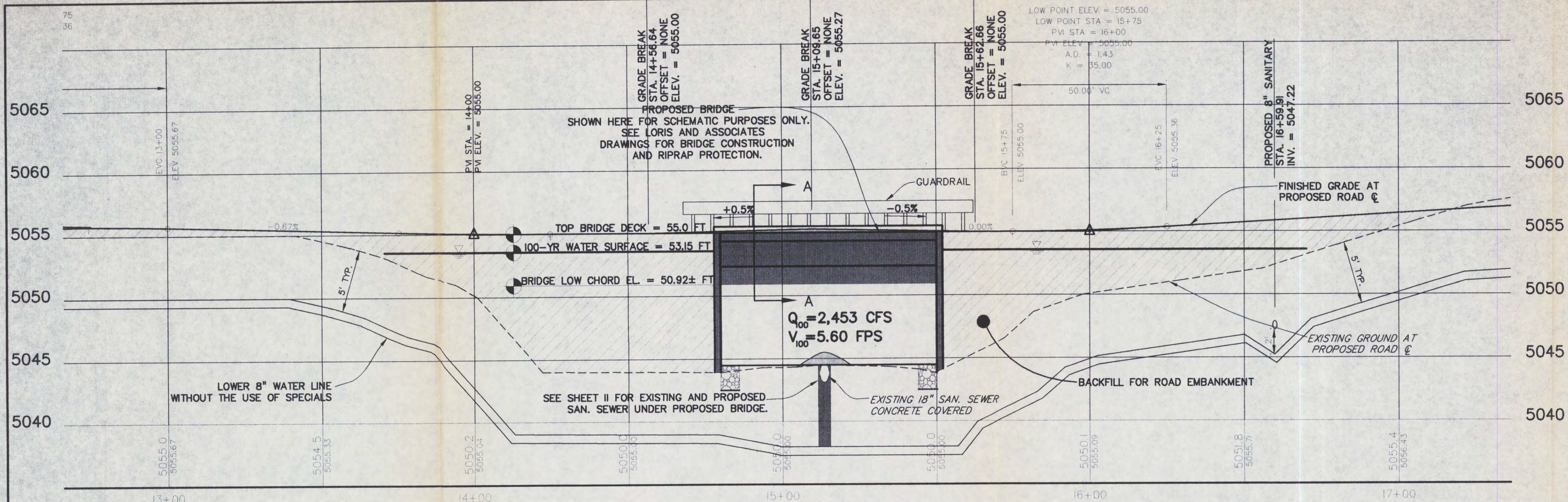
NOT VALID WITHOUT ORIGINAL SIGNATURE AND DATE



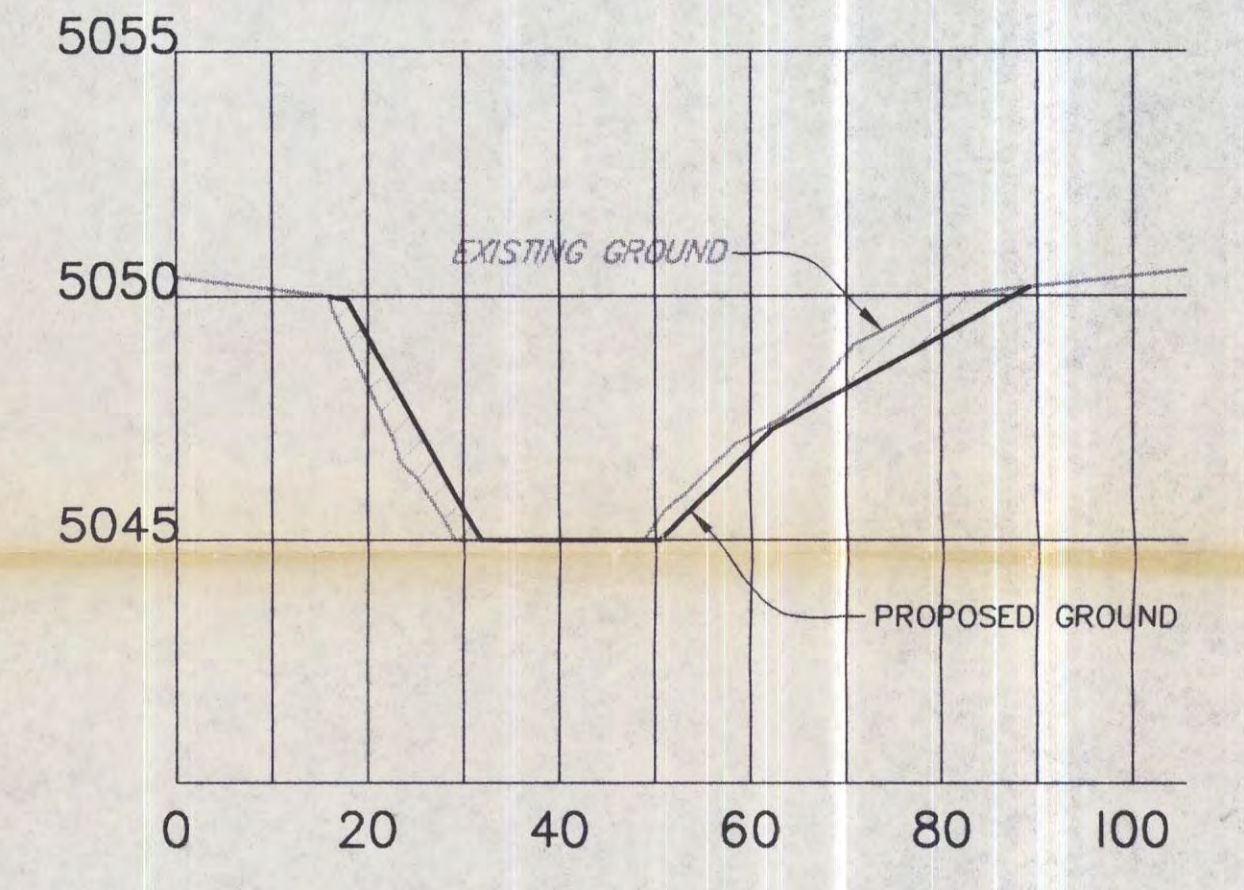
NOTE THAT IN PLAN VIEWS, 30' WIDE NIWOT MEADOW FARM ROAD (STA. 3+00 TO 13+50) AND ALL OF ERIN COURT, THE FLOWLINE OF THE BORROW DITCH AND THE EDGE OF R.O.W. ARE BOTH REPRESENTED BY THE SAME LINE.



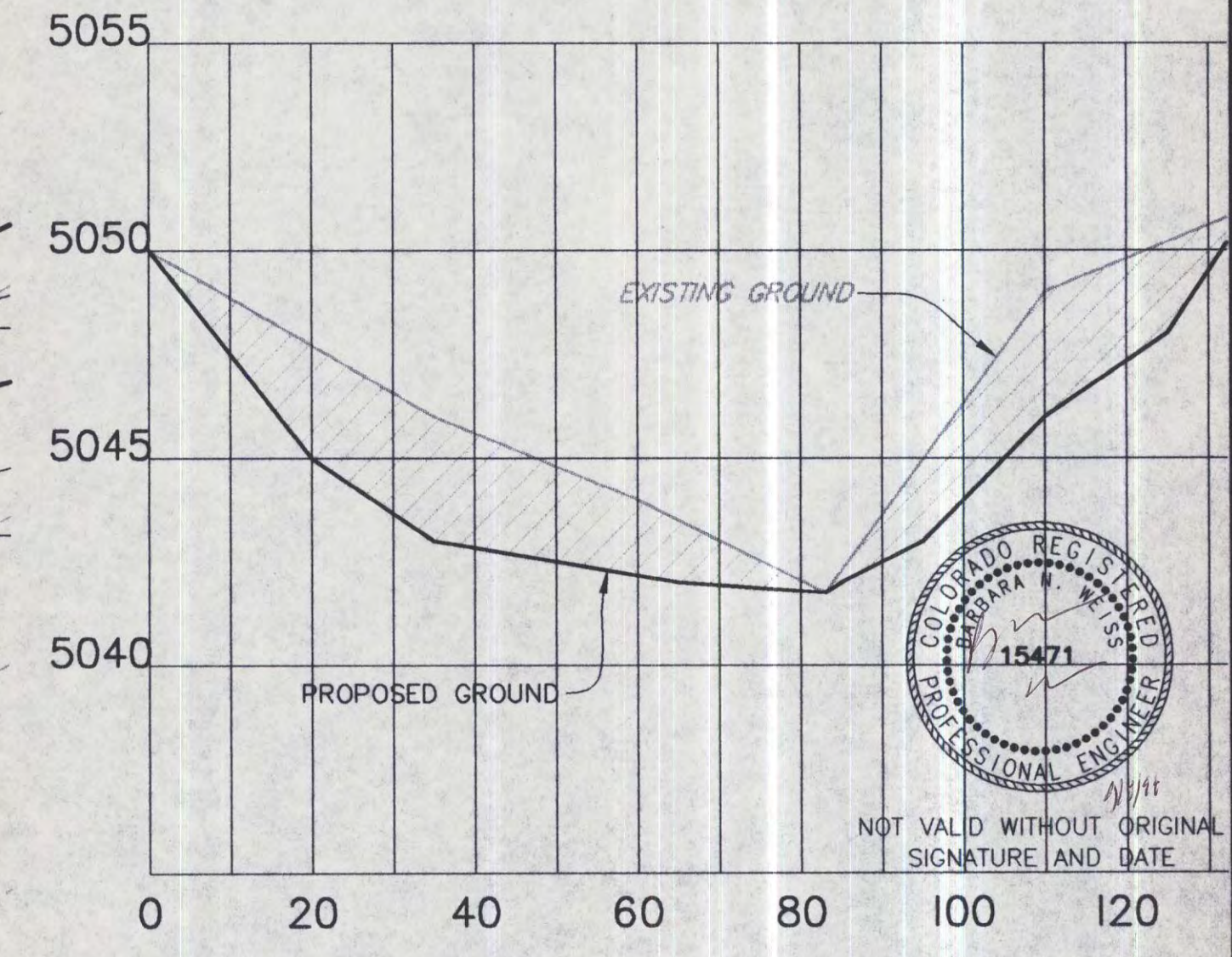
6:\E4683\4683E02 Tue Sep 08 12:45:20 1998 Drexel Barrell & Co., s.r.l



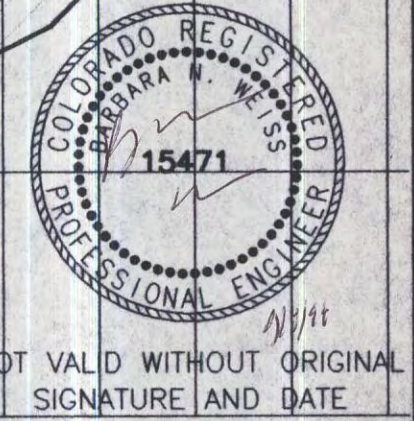
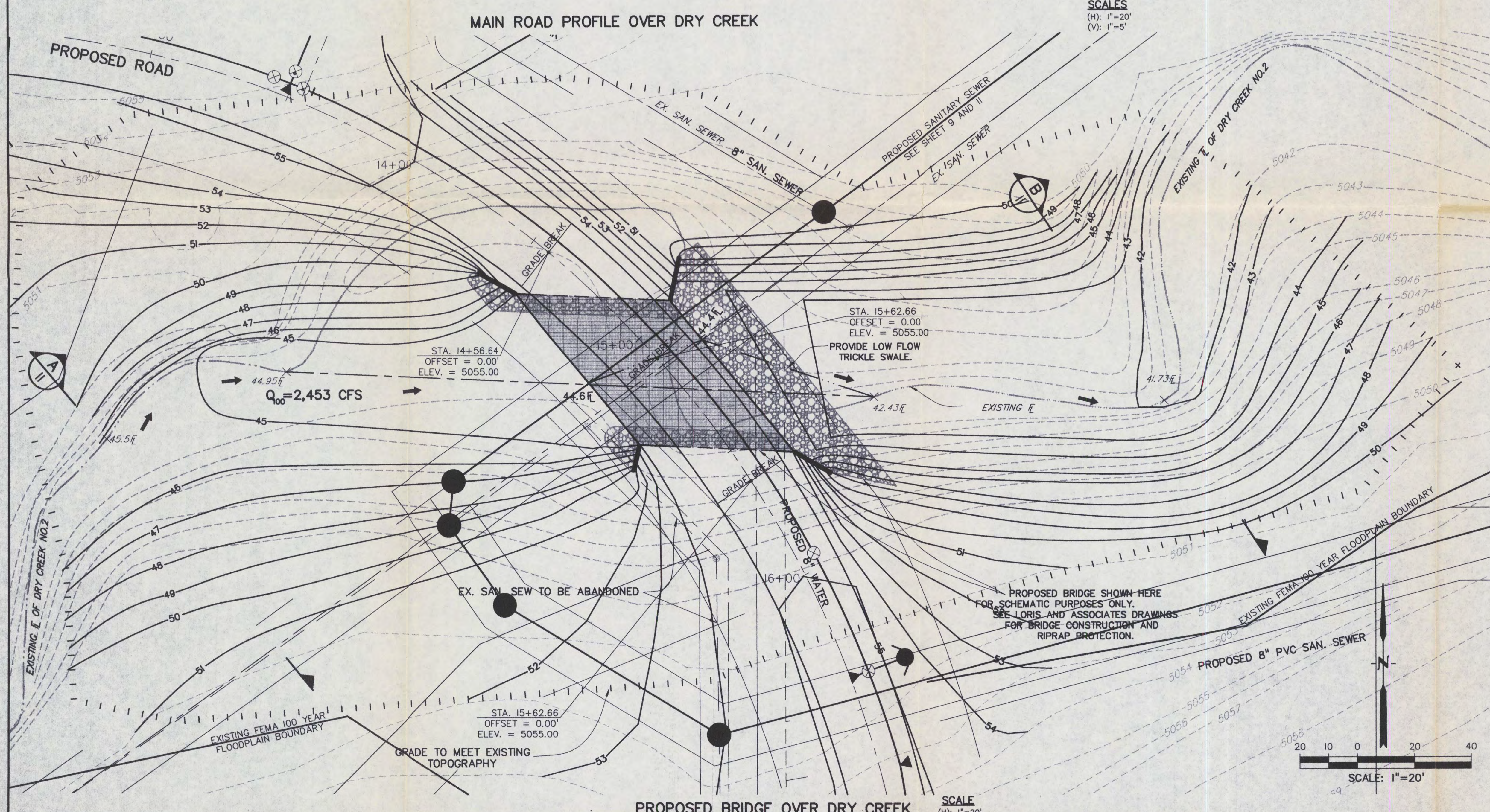
SECTION A-A SCALE N.T.S.



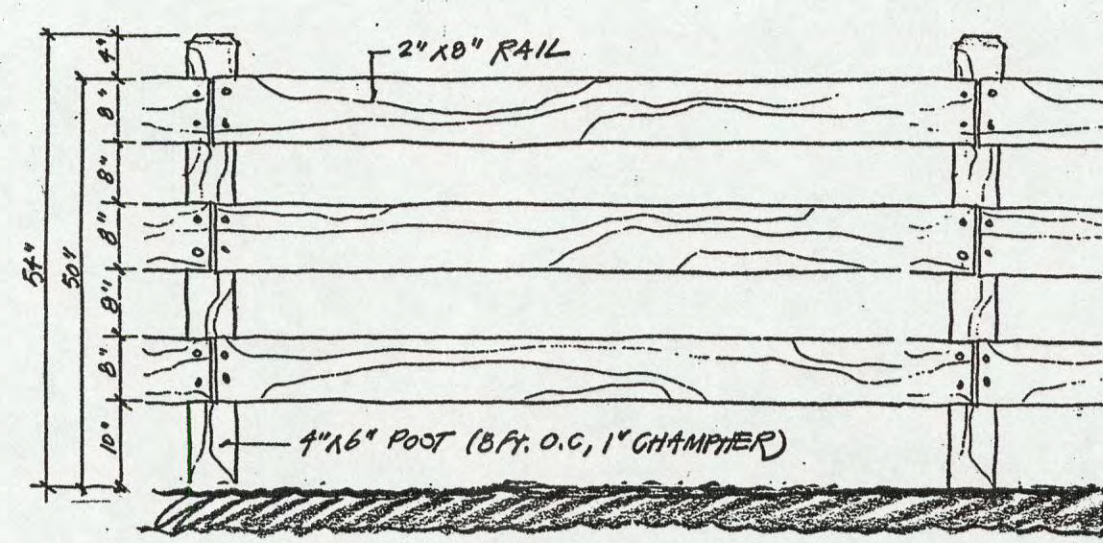
CROSS SECTION 'A' NO SCALE



CROSS SECTION 'B' NO SCALE

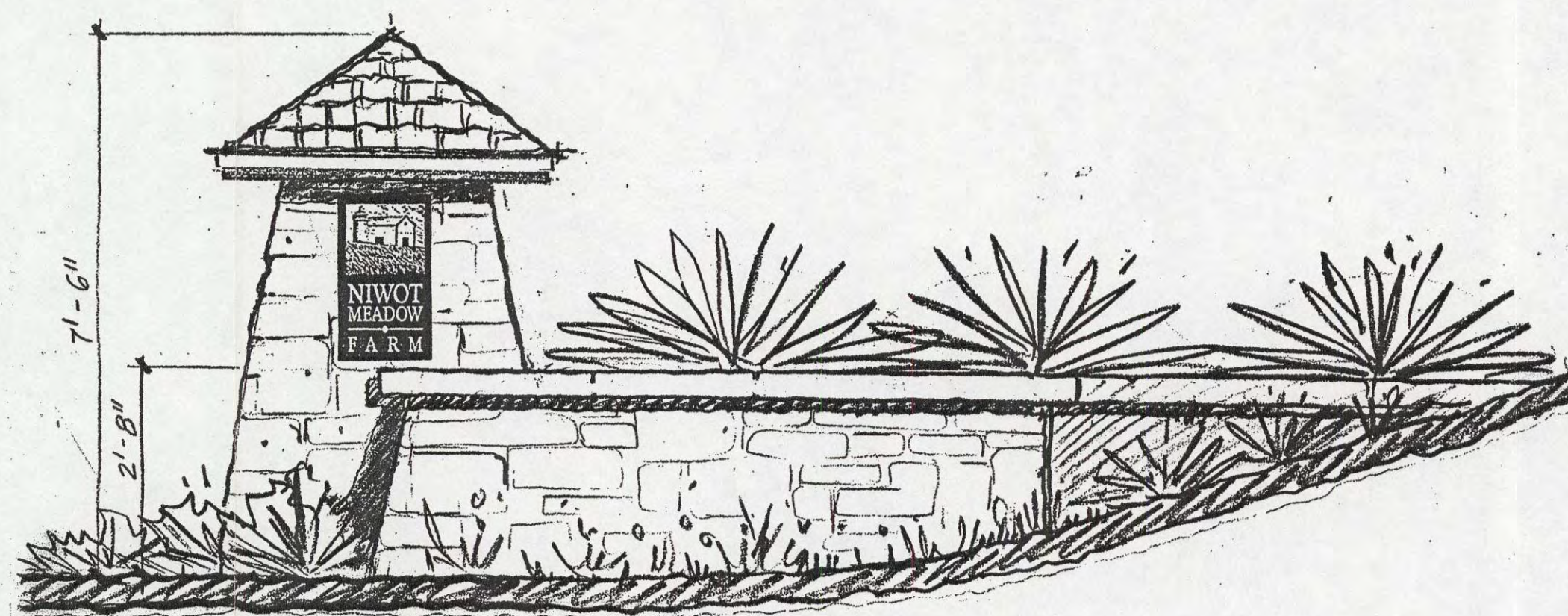


PREPARED BY: Drexel Barrell & Co. 4840 PEARL EAST CIRCLE, SUITE 114 BOULDER, COLORADO 80301 (303)442-4338 6365 CORPORATE DRIVE COLORADO SPRINGS, COLORADO 80919 (719)260-0887	PREPARED FOR: MARKEL HOMES 5723 ARAPAHOE ROAD, SUITE 2A BOULDER, CO 80303 (303) 449-8689	PROJECT INFO: NIWOT MEADOW FARM NIWOT, COLORADO	DESIGNED BY: DRAWN BY: CHECKED BY:	REVISION INFO:	DRAWING INFO: BRIDGE GRADING PLAN AND DETAIL	DATE: 4 SEPT 1998	JOB NO.: E-4683	SHEET: 10
SCALE: HAS SHOWN SCALE: HAS SHOWN 5D 018 15								



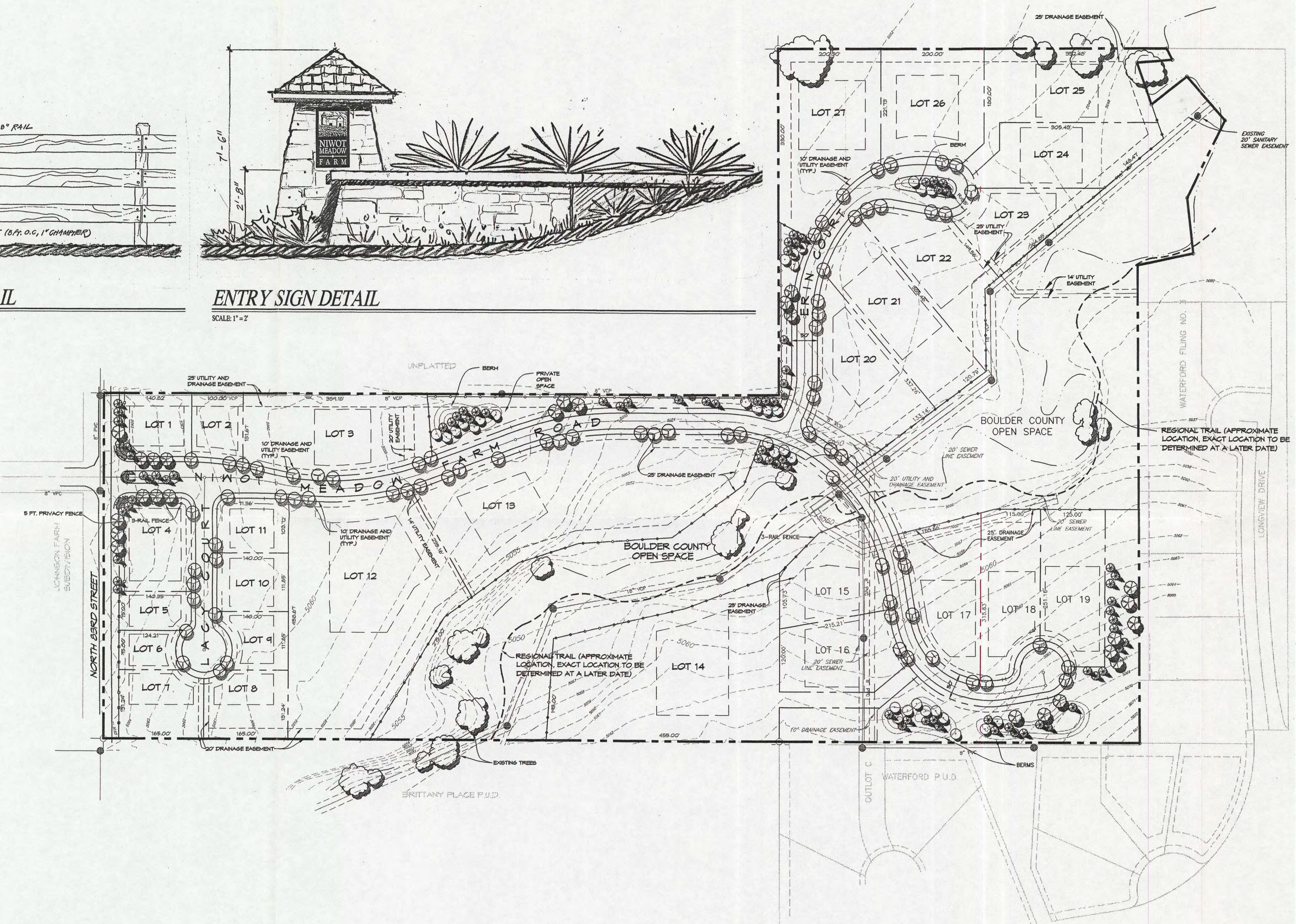
FENCE DETAIL

SCALE: 1" = 2'



ENTRY SIGN DETAIL





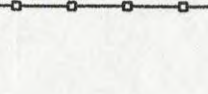
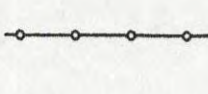

SCALE: 1" = 2'



GENERAL NOTE

• XERISCAPE TECHNIQUES WILL BE USED THROUGHOUT THE PROJECT BY INCORPORATING DROUGHT TOLERANT TURF GRASSES, TREES AND SHRUBS, THAT REQUIRE MINIMAL SUPPLEMENTAL IRRIGATION.

LEGEND

- 
100 DECIDUOUS TREES (min. 2 1/2" caliper):
 (Provided by Developer)
 (Provided by Home Owners)
 Green Ash
 Autumn Purple Ash
 Big Tooth Maple
 Kentucky Coffee Tree
 Ohio Buckeye
 Western Hackberry
 Western Catalpa
- 
32 ORNAMENTAL TREES (min. 1 1/2" caliper):
 (Provided by Developer)
 Shubert Chokecherry
 Washington Hawthorn
 Amur Maple
 Cockspur Hawthorn
 Staghorn Sumac
 Rocky Mountain Maple
- 
78 EVERGREEN TREES (min. 6 ft. tall):
 (Provided by Developer)
 Colorado Blue Spruce
 Ponderosa Pine
 Austrian Pine
- 
EXISTING TREES
- 
5 FT. PRIVACY FENCE
 (Along the perimeter of 83rd street)
- 
3-RAIL FENCE
 (Along the lots that back onto or side onto the Dry Creek outlet and along the perimeter of outlet A)
- 
REGIONAL TRAIL
 (Provided by Boulder County, the location shown on this plan is conceptual. The exact location will be determined at a later date.)

Niwot Meadow Farm

Boulder, Colorado

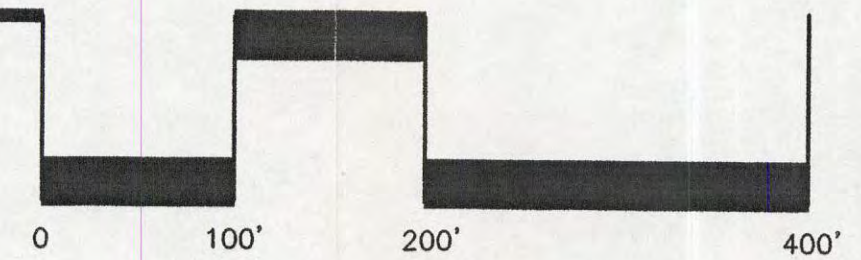
PRELIMINARY LANDSCAPE PLAN

ARCHITECTURE
 PLANNING
 LANDSCAPE ARCHITECTURE
 ENGINEERING

1881 Ninth Street, Suite 103
 Boulder, Colorado 80302
 303-443-7533

DOWNING THORPE JAMES

10/04/98 REVISED 12/10/98
 Project No. 95094.10



for request **SCANNED**

File: T:\Niwo Meadow Farm\Drawings\Bromo2.dwg
 PLOT: T:\Niwo Meadow Farm\Drawings\Bromo2.plt
 Date: 10/10/98
 Plot: 10/10/98



Land Use Department

Courthouse Annex
2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

August 3, 1998

Michael Markel
5723 Arapahoe Road, Suite 2A
Boulder, CO 80303

Dear Applicant:

This letter certifies that a hearing of the Board of County Commissioners, County of Boulder, State of Colorado, was duly called and held on May 5, 1998, in consideration of the following request:

Docket SD-95-10: NIWOT MEADOW FARM PUD (Lacey Property) Preliminary Plan

Request: Preliminary Plan for a Planned Unit Development consisting of twenty-seven lots on 42.09 acres.
Location: In the Niwot C.S.A., North of Brittany Place and Waterford PUD, and east of N. 83rd Street, in Section 30, T2N, R69W
Zoning: Agricultural (A)
Rural Residential (RR)

The Board of County Commissioners APPROVED the request, subject to the conditions that:

1. The Applicant shall provide evidence of a legal right to use Outlot C of the Waterford PUD as an emergency access.
2. The Applicant shall provide details of the Dry Creek crossing, and final drainage and grading plans at Final Plat, to be approved by the County Transportation Department.
3. The Applicant shall provide written commitments from the Left Hand Water District and the Niwot Sanitation District at Final Plat.
4. The residential building size, height and envelopes, and landscaping (including xeriscaping) requirements shall be reserved for County review and approval at Final Plat. The dwellings on Lots 1-11 shall be limited to a maximum of 2,500 square feet above grade. The County shall review mitigation measures such as landscaping and fencing along the eastern boundaries of the Subject Property to adequately buffer the development from adjacent properties.
5. Development within the Niwot Meadow Farm PUD shall be subject to the appropriate County growth management plan and/or open space-impact fee and school-impact fee plans, if and when adopted. The County accepts the Applicant's commitment to pay the County school impact fees as part of the Development Agreement with the County, to be specifically administered through the separate agreement with the St. Vrain Valley School District. The County reserves the right to establish a phasing plan for development of the lots at Final Plat.

Jana L. Mendez
County Commissioner

Ronald K. Stewart
County Commissioner

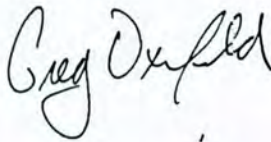
Paul Danish
County Commissioner

BOCC Action Letter
Docket SD-95-10: Niwot Meadow Farm PUD
(Lacey Property) PP
Page 2

6. The Applicant shall commit to participate in any proposed speed mitigation measures at or near the N. 83rd Street entrance to this development.
7. The Applicant shall provide an environmental audit of the open space dedication prior to recording the Final Plat, and water quality ponds should not be within the dedicated area; the Applicant shall construct a post and dowel fence on the north and south lines of the Dry Creek outlet; the Applicant shall hire a wildlife biologist if grading or prairie dog poisoning takes place March 1st - October 30th; and the building envelopes on Lots 20 and 21 shall be adjusted to create a more functional, contiguous open space with the Brittany Place PUD outlet.
8. Detailed geotechnical investigations shall be performed prior to determining the final road section and design bearing loads, and prior to the issuance of building permits on any lot.
9. The traffic island at the intersection of N. 83rd Street shall be dedicated as a outlet and be maintained by the homeowner's association.

If you have any questions, please feel free to contact me at (303) 441-3930.

Sincerely,



Greg Oxenfeld, Planner II
Current Planning Division
Land Use Department

cc: Barbara Weiss / Drexel Barrell & Co.

G:\LUD\LUSHARED\DKTS-97.M-Z\NIWOTMEA.BA



Land Use Department

Courthouse Annex
2045 13th Street • 13th & Spruce Streets • Boulder, Colorado 80302 • (303) 441-3930

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM

TUESDAY, MAY 5, 1998 -- 3:00 PM

Hearing Room, Third Floor, County Courthouse, Boulder

PUBLIC HEARING

STAFF PLANNER: Greg Oxenfeld

STAFF RECOMMENDATION RE:

Docket SD-95-10: NIWOT MEADOW FARM PUD (Lacey Property) Preliminary Plan

Request: Preliminary Plan for a Planned Unit Development consisting of twenty-seven lots on 42.09± acres.

Location: In the Niwot C.S.A. area, north of Brittany Place and Waterford PUD, and east of N. 83rd Street, in Section 30, T2N, R69W.

Zoning: Rural Residential (RR) / Agricultural (A) / Floodplain Overlay (F0)

Applicant: Michael Markel

Agents: Drexel Barrel - c/o Barbara Weiss

Boulder County Comprehensive Plan

Designations: Niwot Community Service Area (RR zone portion)

Minor to Moderate Geologic Constraint Area (Expansive soils)

Agricultural Lands of National Importance

Potential Receiving Site for a TDR / PUD program for the Niwot area

Conceptual Trail Alignment along Dry Creek No. 2

Acres/Lots: 42.09± Acres / 27 Residential Lots

Lot Size: Residential Lots: 25± Acres (59%)

Outlots (Public, Private, Roads): 17± Acres (41%)

Water/Sewer:

Left Hand Water / Niwot Sanitation

Fire Protection:

Mountain View Fire Protection District

Sketch Plan Actions:

Planning Commission - Denial (6/19/96) / Revised Application - Conditional Approval (3/21/97)

Board of County Commissioners - Conditional Approval (7/17/97)

SD-95-10 Staff Recommendation
BOCC -- May 5, 1998
Page 2 of 6

DISCUSSION:

The applicant is proposing to subdivide 42.09± acres through approval of a Planned Unit Development (PUD) into 27 residential lots utilizing 25± acres, a 9.5 acre public open space outlot (100-year floodplain), and the remaining acres in private open space outlots and road right-of-way. The property is located directly east of N. 83rd Street and north of Waterford PUD and Brittany Place PUD. Also, the site is south of undeveloped land and west of Waterford PUD Filing No. 3. There is one single family dwelling on the subject property along N. 83rd Street, and the remaining area is a vacant open field with native grasses and short weeds. Dry Creek flows through the site from the south property line northeast to the northeast corner of the property. The portion of the property south of Dry Creek slopes approximately 5% north to Dry Creek, and the portion north of Dry Creek generally slopes at 1% to 2% easterly. The sketch plan (Lacey Property PUD) was revised several times during the sketch plan review process, and was conditionally approved by both Planning Commission and the Board of County Commissioners in 1997.

One primary access is proposed off of N. 83rd Street, with an emergency only access through the Waterford PUD (Outlot C) to the south. The applicant has proposed larger lots, approximately two acres, with agriculture potential along Dry Creek which flows northeast through the site. To the east, smaller lots of approximately one acre, are proposed around cul-de-sacs that border the Dry Creek lots. The smallest lots of approximately one-fifth to one-third acre, are located adjacent to N. 83rd Street. Lots 26 and 27 are proposed as TDR lots. The applicant will be required to submit an application, which may run concurrently with the final plat application, to formerly plat the two TDR lots.

REFERRALS:

The application was originally submitted for twenty-one lots and two blocks (six lots) and was referred for comment with a response due date of October 15, 1997. The applicant revised the Preliminary Plan to include twenty-seven lots that were approved at Sketch Plan based on the comments received during the initial Preliminary Plan referral. Staff sent out a re-referral to the usual department and agencies, and all adjacent property owners within 1,500 feet for comment. All of the responses received by staff are summarized below:

County Transportation -- Requested that the applicant submit an adequate preliminary plan drainage report and a detailed geotechnical investigation; they note road standards that must be met including turning radius, and need clarification on road sections and road widths; request a traffic report; need confirmation if road is proposed to be public or private; property is subject to the Niwot Area Road Fund; the center island must not extend into the N. 83rd Street right-of-way, and need landscaping maintenance information; require a secondary access for parcels beyond the 100-year floodplain.

County Parks & Open Space -- Requests an adequate area of land to accommodate the trail on the south side of the creek and will work with the developer on fence type; the County will accept dedication of land based on an environmental audit that must be done; they will also accept an at-grade crossing of the main road for the proposed trail along Dry Creek as long as it is safe with respect to topographic, site distance, and other considerations.

SD-95-10 Staff Recommendation
BOCC -- May 5, 1998
Page 3 of 6

St. Vrain Valley School District -- Note that the development will have a significant cumulative impact on Niwot Elementary and Sunset Middle Schools, but would not oppose the development if the developer completes an agreement to participate in a separate (fee) agreement.

Mountain View Fire Protection District -- Noted that the proposed access (original submittal) did not meet District standards - dead end roads in excess of 750 feet are not permitted; they note that the applicant is subject to all other District requirements including fire hydrants and fire flow.

Public Service Company -- Note that easements will need to be finalized prior to recording the plat.

Adjacent Property Owners -- Several adjacent property owners noted a concern about an access through the Waterford PUD (Outlot C); they noted concerns about the development of the area proposed as Tracts in the original submittal; concerned about view corridors; they request information regarding building envelopes, size and heights, and landscaping; they also noted concerns about plans for prairie dog removal; concerned about school overcrowding and traffic impacts on N. 83rd Street; also commented with regards to the need for a semi-rural character.

CRITERIA:

Section 5-202 of the Boulder County Land Use Code sets standards and conditions which must be met for **Preliminary Plan** approval. Staff has analyzed the proposed Niwot Meadow Farm PUD with respect to these criteria as follows:

- 1) **Design** - Staff finds that the proposal does comply with the sketch plan approval. The County Commissioners reserved the right to determine which lots in the Agricultural Zoning District shall be TDR lots. The applicant is proposing that Lots 26 and 27 be TDR lots, and will be subject to a subsequent TDR/PUD public hearing process. The Sketch Plan requires that dwellings on Lots 1-11 be limited to a maximum of 2,500 square feet above grade. The County reserved the right to review appropriate dwelling size on the remaining lots, and further reserves the right to review building envelopes and landscaping requirements (including mitigation measures along the eastern boundaries of the property to adequately buffer the development from adjacent properties) at Preliminary Plan/Final Plat. The County also reserved the right to establish a phasing plan for the development. All of these issues will be required to be resolved during the Final Plat application process.
- 2) **Water Supply** - The property is within the Left Hand Water District service area. The District has noted in their letter, dated August 26, 1997, that pressure and volume is adequate to serve 27 lots with 8" or larger mains installed within the subdivision and tie-ins to the 16" main in 83rd Street and the 8" main in Waterford Court. The applicant must submit detailed water system plans for District review and approval. Installation of District approved water lines and appurtenant facilities will also be required prior to water service.

SD-95-10 Staff Recommendation
BOCC -- May 5, 1998
Page 4 of 6

- 3) **Sanitation** - The property is within the Niwot Sanitation District service area. There are two existing sewer mains within the site, and the applicant has submitted a Master Utility Plan to the District. The District notes that it can provide service provided the final engineering is submitted and a detailed review is completed.
- 4) **Roads** - The applicant has submitted the preliminary engineering plans for the roads, and is working with the County Transportation Department on finalizing the details that are necessary to complete the review. There has been adequate information submitted at this point to continue with the processing of this docket.
- 5) **Drainage** - The applicant has submitted preliminary drainage information, and is working with the County Transportation Department on finalizing the details that are necessary to complete the review. There has been adequate information submitted at this point to continue with the processing of this docket.
- 6) **Fire Protection** - The applicant has provided emergency access and will be providing fire hydrants as shown on the Master Utility Plan. The Mountain View Fire Protection District has not responded with any conflicts with this application.
- 7) **Development Standards** - The applicant does commit to meet all other conditions of Sketch Plan approval. The applicant does commit to participate in any proposed speed mitigation measures at or near N. 83rd Street. Water quality ponds will be located outside public open space, and will be maintained by the Homeowners Association. The owners will dedicate the area along Dry Creek (Outlots D and E) for parks and open space use, which will include a pedestrian path. The applicant also acknowledges its commitment to pay school impact fees per a separate agreement with the St. Vrain Valley School District.

SUMMARY:

The Land Use staff finds that this application can meet the Preliminary Plan criteria for approval based on the review of Section 5-202 of the Boulder County Land Use Code. The applicant has provided adequate information for the Preliminary Plan review, but will be required to submit more detailed engineering information including drainage and road improvements at Final Plat. The Sketch Plan approval allows for the County to reserve the right to review and decide appropriate building heights, building envelopes, and landscaping requirements at Final Plat. This will allow the applicant an opportunity to work with adjacent property owners on preserving view corridors. There were some concerns expressed during the referral process that Outlot C in the Waterford PUD will be used for a primary access. The Preliminary Plan application provides for an emergency access only through the Waterford PUD, and may not be used as a principal access to serve Niwot Meadow Farm PUD.

The Planning Commission held a public hearing regarding this application on January 21, 1998. The County Transportation Department noted that the applicant has been attempting to provide the required engineering information to satisfy County standards, but additional information was necessary. Michael Markel committed to provide information regarding building size, height, envelopes, and landscaping at

SD-95-10 Staff Recommendation
BOCC -- May 5, 1998
Page 5 of 6

final plat. He noted that he would hire an expert to deal with the prairie dog removal, and has volunteered to pay school impact fees. The Planning Commission concurred with the staff recommendation for conditional approval, but were concerned about the need for additional engineering information. Therefore, a condition was added to require that the Transportation issues be resolved before the County Commissioners hearing. Additionally, the Planning Commission added a condition to require the traffic island at the intersection of 83rd Street be dedicated as an outlot and be maintained by the homeowner's association.

The County Transportation Department noted several issues that needed to be resolved by the applicant in a memorandum, dated February 11, 1998. The engineering issues include the Dry Creek crossing, the grading and drainage plan, the road plans, and N. 83rd Street intersection plans. The applicant has been working with the County Transportation Department to provide adequate information for the Preliminary Plan review. The County Transportation Department has noted that the applicant has submitted adequate information, but will need to provide the final engineering at Final Plat application.

RECOMMENDATION:

Based on the above discussion and criteria review, the Land Use staff and Planning Commission recommend that the Board of County Commissioners CONDITIONALLY APPROVE, Docket SD-95-10: Niwot Meadow Farm PUD Preliminary Plan, with the following conditions:

- 1) That the applicant provide evidence of a legal right to use Outlot C of the Waterford PUD as an emergency access.
- 2) That the applicant provide details of the Dry Creek crossing, and final drainage and grading plans at Final Plat, to be approved by the County Transportation Department.
- 3) That the applicant provide written commitments from the Left Hand Water District and the Niwot Sanitation District at Final Plat.
- 4) That the residential building size, height and envelopes, and landscaping (including xeriscaping) requirements be reserved for County review and approval at Final Plat. The dwellings on Lots 1-11 shall be limited to a maximum of 2,500 square feet above grade. The County shall review mitigation measures such as landscaping and fencing along the eastern boundaries of the Subject Property to adequately buffer the development from adjacent properties.
- 5) Development within the Niwot Meadow Farm PUD shall be subject to the appropriate County growth management plan and/or open space-impact fee and school-impact fee plans, if and when adopted. The County accepts the applicant's commitment to pay school impact fees per a separate agreement with the St. Vrain Valley School District. The County reserves the right to establish a phasing plan for development of the lots at Final Plat.

SD-95-10 Staff Recommendation
BOCC -- May 5, 1998
Page 6 of 6

- 6) That the developer commit to participate in any proposed speed mitigation measures at or near the N. 83rd Street entrance to this development.
- 7) That the applicant provide an environmental audit of the open space dedication prior to recording the final plat, and that water quality ponds should not be within the dedicated area; that the applicant construct a post and dowel fence on the north and south lines of the Dry Creek outlot; that the applicant hire a wildlife biologist if grading or prairie dog poisoning takes place March 1st - October 30th; that the applicant construct a post and dowel fence on the north and south lines of the Dry Creek; that building envelopes on Lots 20 and 21 be adjusted to create a more functional, contiguous open space with the Brittany Place PUD outlot.
- 8) That detailed geotechnical investigations be performed prior to determining the final road section and design bearing loads, and prior to the issuance of building permits on any lot.
- 9) That the traffic island at the intersection of N. 83rd Street shall be dedicated as an outlot and be maintained by the homeowner's association.

G:\LUD\LUSHARED\DKTS\M-Z\NIWOTMEA.BR

RECEIVED

JUL 31 1998

LAND USE DEPT.



MEMORANDUM OF COMMISSIONERS ACTION

TO: County Attorney, Land Use
FROM: Commissioners Office
SUBJ: Resolution 98-100

This is to advise you that the Board of County Commissioners took the following action on this matter during a public meeting held

JULY 30, 1998

(XXX) APPROVED () DENIED () OTHER

COMMENTS:

Document distribution.....ORIG: BOCC - Vault
COPY: CA - Bebo
COPY: LU - D. Callahan
COPY: BOCC - Agenda File

Distributed by: mjr

AGENDA ITEM #

2