



Zoning Board of Appeals

May 10, 2022 at 1:15 PM

1001 11th Avenue, City Center South, Greeley, CO 80631

Agenda

1. Call to Order
2. Roll Call
3. Approval of the Agenda
4. Approval of January 11, 2022 minutes
5. Appeal of an Administrative Decision Related to the Maximum Size of Accessory Structures in the Residential High-Density (R-H) Zone District (BRX2108-0121)
6. Adjournment

City of Greeley, Colorado
ZONING BOARD OF APPEALS PROCEEDINGS

January 11, 2022

1. Call to Order

Chair Yeater called the virtual meeting to order at 1:15 p.m.

2. Roll Call

The hearing clerk called the roll.

PRESENT

Commissioner Erik Briscoe
Commissioner Larry Modlin
Commissioner Chelsie Romulo
Chair Justin Yeater

ABSENT

Commissioner Jeff Carlson
Commissioner Brian Franzen
Commissioner Christian Schulte

3. Recognition of former Commissioner Louisa Andersen

Chair Yeater requested to move this item to a date when the Commission could meet in person.

4. Approval of Agenda

Commissioner Romulo moved to approve the Agenda. Commissioner Modlin seconded the motion. Motion carried 4-0. Commissioners Carlson, Franzen and Schulte were absent.

5. Approval of September 14, 2021 Minutes

Commissioner Romulo moved to approve the minutes dated September 14, 2021. Commissioner Briscoe seconded the motion. Motion carried 4-0. Commissioners Carlson, Franzen and Schulte were absent.

6. Public hearing to consider a variance request to reduce the interior side setback of the west property line from five feet to zero feet to accommodate an existing shed on property zoned Planned Unit Development located at 7714 Plateau Road (Project No. VAR2021-0015)

Darrell Gesick addressed the Commission and presented a map showing the site located in the Poudre River Ranch subdivision. He described the surrounding area and land uses. Mr. Gesick presented photographs and described the situation leading to a request for a variance.

Mr. Gesick presented a rendering that was attached to the original building permit in 2005 and pointed out the features of the structure at the time. He also presented renderings that were attached to a 2006 building permit that was signed off by Planning and issued by Building Inspection. Mr. Gesick noted that the staircase on the plans is allowed in the side setback, adding that a shed is not allowed. He was unclear whether Planning or Building Inspection were aware of the proposed shed at the time of the permit. A Certificate of Occupancy was issued in 2007 and the shed has been in place since that time. Mr. Gesick reported that in 2020, the current owner (applicant for this variance) started work to add a second story to expand the shed. A stop work order was issued by Building Inspection and the owner then applied for a building permit. At that time, city staff discovered that the existing shed encroached into the side setback. The owner voluntarily removed the staircase and stonework at that time.

Mr. Gesick described the approval criteria and stated that criteria 1 and 3 were met, adding that criteria 2, 4 and 5 are not applicable. Mr. Gesick stated that all three mandatory criteria had been met. He advised that the owner did not create the hardship and that strict application of the Code would result in a hardship to the current owner.

Notices were mailed to surrounding property owners and one objection was received. Staff received two emails in support. Mr. Gesick reported receiving two telephone calls, one in support and the other asking general questions. An additional email was received prior to the hearing and Mr. Gesick read the contents into the record. Mr. Gesick pointed out the property west of the site and shared the individual's concern.

Staff recommended approval. Mr. Gesick offered to answer questions and advised that the applicant was also present to answer questions.

Melinda Strauss, 7714 Plateau Road, addressed the Board and expressed that she should not be held responsible for a shed that was in place a number of years prior to purchasing the property. Ms. Strauss stated that she has attempted to work with the neighbor on every issue and feels that she has complied with requirements by city staff.

Chair Yeater opened the public hearing at 1:28 p.m. There being no public comment, the public hearing was closed at 1:28 p.m.

Commissioner Briscoe moved that based on the application received and the preceding analysis, the Zoning Board of Appeals finds that the requested variance to allow for a reduction of the interior side setback from 5 feet to 0 feet complies with Section 24-515(f), Items 1 and 3, and Section 516(g), Items 1, 2 and 3 of the 1998 Development Code; and, therefore, approves the request. Commissioner Romulo seconded the motion.

During discussion, Commissioner Romulo added that a request for a driveway setback variance for the neighboring property was previously approved by the Board and felt that this was consistent with previous Zoning Board of Appeals action. Chair Yeater added that anyone moving in or near the property was aware of the situation prior to today's hearing. Commissioner Briscoe agreed and felt it was somewhat disingenuous for the owner of the neighboring property to request a variance and then oppose this one. Motion carried 4-0. Commissioners Carlson, Franzen and Schulte were absent.

7. Adjournment

With no further business before the Board, Chair Yeater adjourned the meeting at 1:31 p.m.

Justin Yeater, Chair

Becky Safarik, Secretary

Zoning Board of Appeals Agenda Summary

May 10, 2022

Key Staff Contact: Carol Kuhn, Chief Planner, 970-350-9276

Title:

Appeal of an Administrative Decision Related to the Maximum Size of Accessory Structures in the Residential High-Density (R-H) Zone District (BRX2108-0121)

Summary:

An appeal of an administrative decision to deny a building permit for a 20,000 square foot accessory structure on a 15.91-acre site located at 8944 10th Street. The property is zoned Residential High-Density (R-H).

Recommended Action:

Uphold the Community Development Director's determination to deny the building permit based on the maximum allowed size for accessory structures in the R-H zone district.

Attachments:

Attachment A – Vicinity Map

Attachment B – Aerial Photo

Attachment C – Applicant's Appeal Letter (April 6, 2022)

Attachment D – Letter from Community Development Director (March 29, 2022)

Attachment E – City's 1998 Development Code Section – Accessory Uses & Structures

ZONING BOARD OF APPEALS SUMMARY

ITEM: Appeal of an Administrative Decision Related to the Maximum Size of Accessory Structures in the Residential High-Density (R-H) Zone District

PROJECT: 8944 10th Street – Building Permit for 20,000 Square Foot Accessory Structure (BRX2108-0121)

LOCATION: 8944 10th Street

APPLICANT: Bob Choate, Esq. on behalf of Owner, Alan Wiedeman

CASE PLANNER: Carol Kuhn, AICP, Chief Planner

ZONING BOARD OF APPEALS HEARING DATE: May 10, 2022

ZONING BOARD OF APPEALS FUNCTION:

The appeal of administrative decisions is a process to determine if there was an error in any final decision in the interpretation, administration or enforcement of this code by an administrative official of the City (24-210). Appeals of administrative decisions are filed with the Zoning Board of Appeals and the Board shall grant the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. A majority vote of the Board present shall be necessary to sustain an appeal. An appeal shall be sustained only upon written findings that the official was in error. In exercising the appeal power, the Board shall have all the powers of the official from whom the appeal is taken, and the Board may reverse or affirm wholly or partly or may modify the decision being appealed (24-210(c)).

EXECUTIVE SUMMARY

The appellant has submitted an appeal of the administrative decision regarding a building permit for the construction of a 20,000 square foot accessory structure in the R-H zone district. The building permit was denied based on the maximum allowance for accessory structures in the zone district. The appellant asserts that the Community Development Director erred in denying the building permit for the accessory structure and requests that the Zoning Board of Appeals overturn the Community Development Director's decision and allow a 20,000 square foot accessory structure in the R-H zone district. The maximum size for accessory structures in the R-H zone district, under the 1998 development code is 60% of the principal structure.

A. REQUEST

The applicant is appealing the administrative decision regarding the maximum size of the accessory structure permitted in R-H Zone District. Specifically, that the appeal be granted and

the denial of the building permit be overturned. The appellant’s full written appeal request is included as an attachment to this staff report (Attachment C).

B. STAFF RECOMMENDATION

Uphold the Community Development Director’s determination to deny the building permit based on the maximum size of accessory structures in the R-H zone district.

C. SITE DATA:

Site Area: 15.91 acres

Zoning: R-H (Residential High Density)

Surrounding Zoning:

North:	PUD – Planned Unit Development; Weld County – Agricultural
South:	R-L – Residential Low
East:	R-H – Residential High; R-L – Residential Low
West:	H-A – Holding Agriculture

Existing Uses: One Single-Family Home (1050 square feet), Accessory Buildings, Two Oil & Gas Wells, Agricultural Production

Surrounding Land Uses:	North:	Undeveloped Residential (Cache); Our Saviors Lutheran Church
	South:	Residential – Pebble Brook and Mountain Shadows
	East:	Residential – Trails at Sheep Draw
	West:	Residential; Vacant/Undeveloped Land – PDC Energy

D. BACKGROUND

The 15.91-acre site contains a one-story ranch home, addressed off of 10th Street. This single-family residence was originally constructed in 1897 (See Attachments A & B Zoning Map & Aerial).

The property was annexed in 2006 as part of the Creekside Annexation and was zoned as Residential High-Density (R-H) in 2006 as part of the Reichert Farm Establishment of Zoning, project file number Z 20:05. The Reichert Farm Establishment of Zoning included two other parcels, a 56.49-acre parcel zoned R-L (Residential Low Density), and a 1.53-acre parcel zoned CD (Conservation District).

On August 6, 2021, the applicant applied for a building permit to construct a 20,000 square foot accessory structure (BRX2108-0121). The permit was reviewed by Planning, but was not issued, due to the proposed size of the accessory structure. Accessory structures are limited to a maximum size of 60% of the size of the principal structure (24-1264(a)3) (Attachment E).

“Section 24-1264(a)(3) Accessory structures shall not exceed the height of the principal building or structure and 60 percent of the footprint of the principal building on the site, including attached garage area, except in the H-A Zone, which shall not have a limit on the size of accessory structures and buildings used for agricultural purposes.”

The decision to deny the building permit was made based on the maximum size of accessory structures for residentially zoned properties. In this case, the maximum size of accessory structures for the R-H property would be 630 square feet.

The applicant contends, and the staff concurs, that the continuation of farming is an allowed use under the current residential zoning on the property. However, the staff contends that all new structures and site improvements must conform to the current residential zoning designation on that property. Accessory buildings are not considered incidental or accessory to a use, but to a principal structure.

On November 8, 2021, the applicant met with Community Development Staff regarding the permit. During the meeting, staff noted that the 20,000 square foot storage building is not allowed under the R-H zoning. The applicant was also provided with two options, both of which involved rezoning the property, which were both later outlined in a letter from the Community Development Director dated March 29, 2022 (Attachment D).

D. APPROVAL CRITERIA

DEVELOPMENT CODE COMPLIANCE

Appeals: The appeal of administrative decisions is a process to determine if there was an error in any final decision in the interpretation, administration or enforcement of this code by an administrative official of the City. Except for where this Chapter and Table 24-2-1 establish a different appeal process for specific applications, appeals of administrative decisions may be filed with the Zoning Board of Appeals. Appeals may be filed by any person aggrieved and materially affected by a final decision of an administrative official, or by any officer, department, board, or official public body of the City. Appeals of administrative decisions shall be filed in writing with the Community Development Department within 10 days of the date of the decision being appealed (24-210 a. Appeal of Administrative Decision).

Section 24-210 c. Action and Review Criteria

The Zoning Board of Appeals shall grant the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. A majority vote of

the Board present shall be necessary to sustain an appeal. An appeal shall be sustained only upon written findings that the official was in error. In exercising the appeal power, the Board shall have all the powers of the official from whom the appeal is taken, and the Board may reverse or affirm wholly or partly or may modify the decision being appealed.

1. There was no error in any final decision in the interpretation, administration or enforcement of this code by an administrative official of the City (24-210)

Staff Comment

Based on the existing zoning of R-H, established in 2006, the maximum size of all accessory structures for the subject parcel is 630 square feet. This is based on a calculation of 60% of the principal structure (1050 square feet), per Section 24-1264(a)(3) of the City's 1998 Development Code. The proposed 20,000 square-foot structure would exceed the maximum allowance for the R-H property and therefore the building permit (BRX2108-0121) cannot be issued.

E. PUBLIC NOTICE AND COMMENT

No public notice is required for appeals.

F. ZONING BOARD OF APPEALS RECOMMENDED MOTION

Motion:

A motion that, based on the project summary and analysis, the Zoning Board of Appeals upholds the administrative decision of the Community Development Director to deny a building permit for a 20,000 square foot accessory structure in a Residential High-Density zone district, and hereby denies the request for approval of Building Permit BRX2108-0121, based on meeting the approval criteria Section 24-210 e, Effect of Decision as outlined below:

Section 24-210 e Effect of Decision

An appeal shall be sustained only upon written findings that the official was in error and the Zoning Board of Appeals finds that the administrative official was not in error, as the 20,000 square foot accessory structure exceeds the maximum allowance for accessory structures in a residential zone district.

Alternative Motion:

A motion that, based on the project summary and analysis, the Zoning Board of Appeals overturns the administrative decision of the Community Development Director to deny a building permit for a 20,000 square foot accessory structure in a Residential High-Density zone district and approves the building permit for a 20,000 square foot accessory structure, Building Permit BRX2108-0121.

Section 24-210 e Effect of Decision

This motion is based a finding that the administrative official acted in error.

J. ATTACHMENTS:

Attachment A – Zoning Map

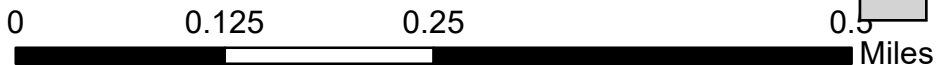
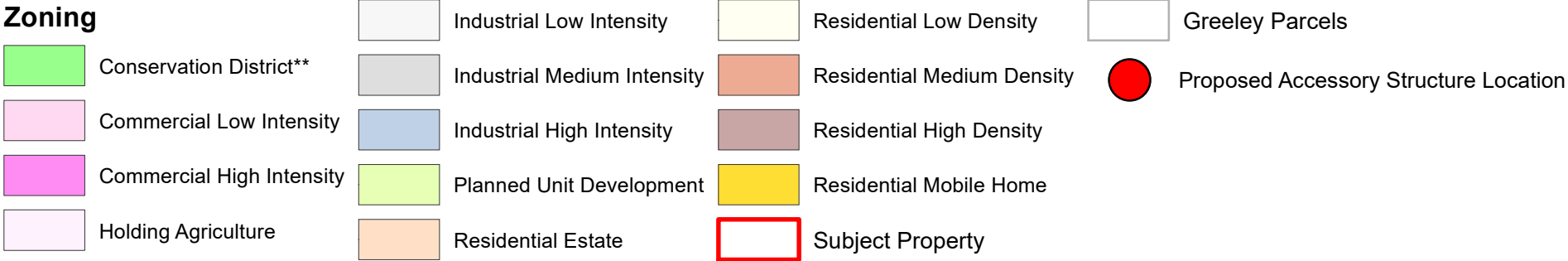
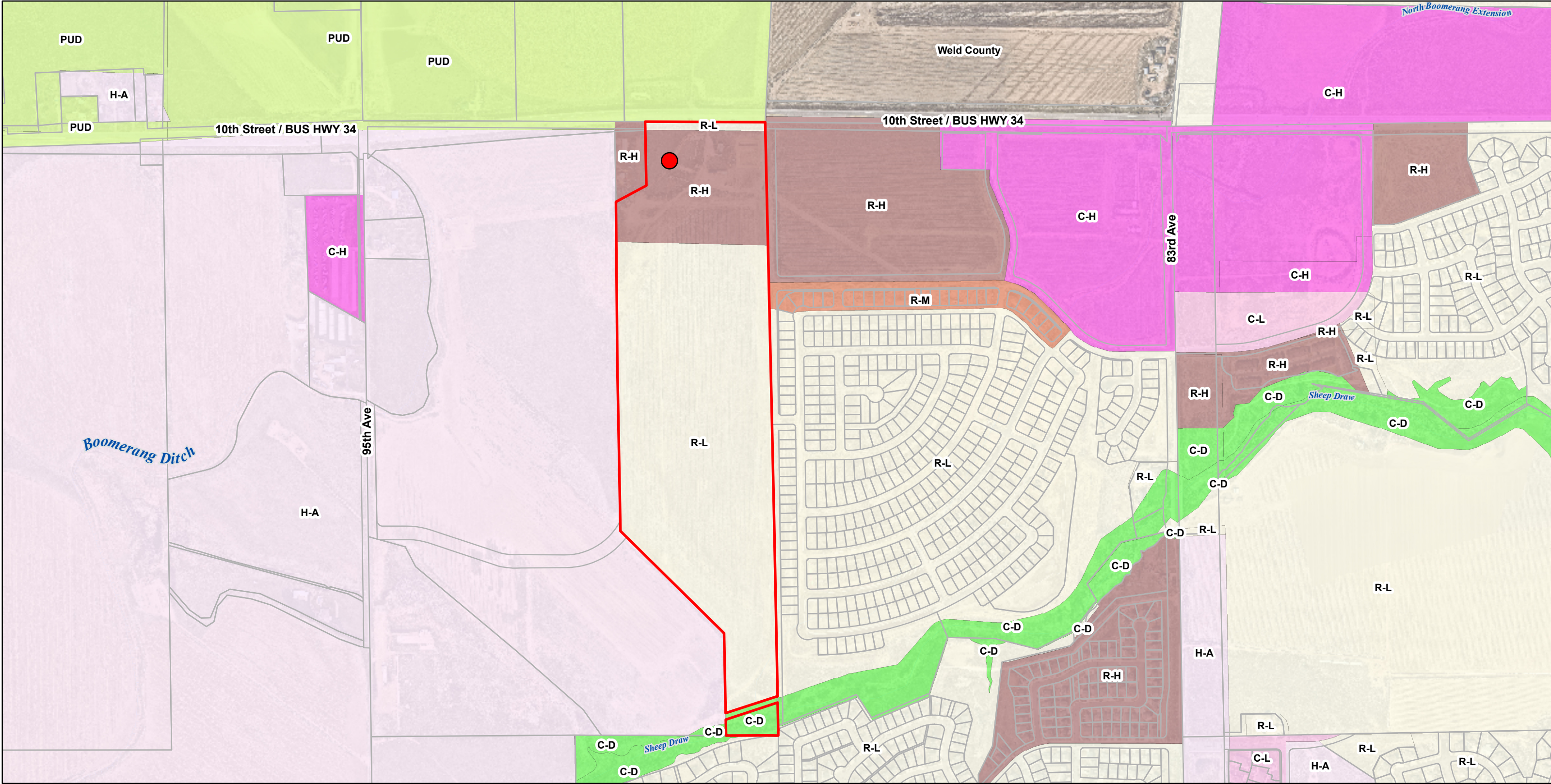
Attachment B – Aerial

Attachment C – Applicant’s Appeal Letter (April 6, 2022)

Attachment D – Letter from Community Development Director (March 29, 2022)

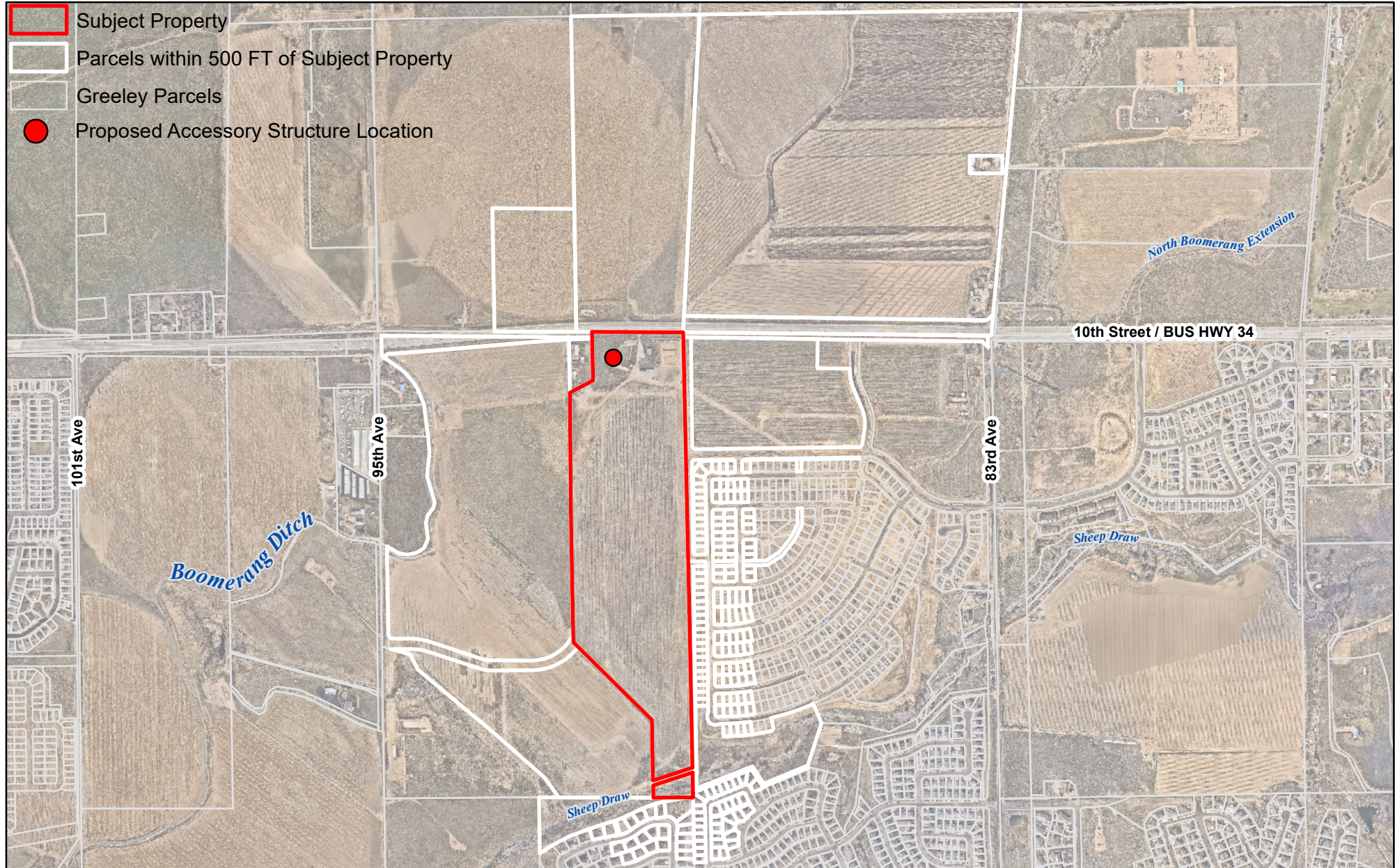
Attachment E – City’s 1998 Development Code Section – Accessory Uses & Structures

Current Zoning of Subject Property and Adjacent Properties



Vicinity Map - 8944 W. 10th Street

Attachment B





COAN, PAYTON & PAYNE, LLC

April 6, 2022

To the City of Greeley Zoning Board of Appeals

Ms. Becky Safarik
Interim Community Development Director
Deputy City Manager
City of Greeley
Via Email Only: Becky.Safarik@greeleygov.com

Bob Choate, Esq.

1711 61st Avenue, Suite 100
Greeley, CO 80634

103 W. Mountain Ave., Suite 200
Fort Collins, CO 80525

970-225-6700
rchoate@cp2law.com
www.cp2law.com

RE: Appeal of Administrative Decision; 8944 10th Street – Parcel No. 095907000075

Ms. Safarik:

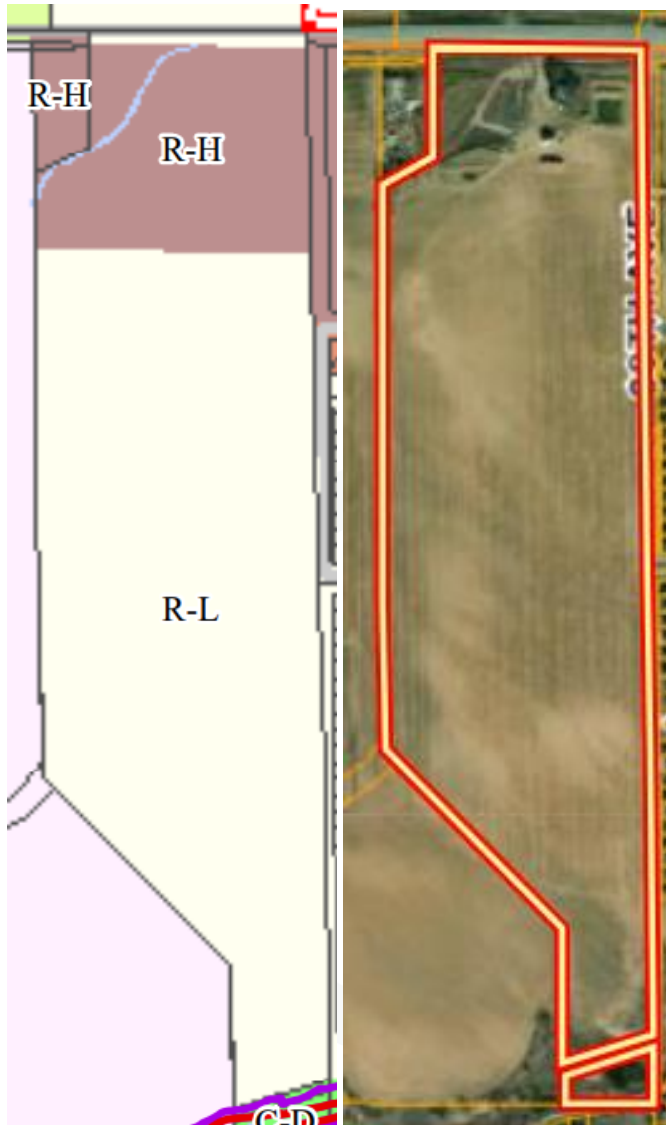
On behalf of Mr. Alan Wiedeman and Wiedeman Farms and Ranch LLC, we respectfully submit an appeal of the final decision to deny Mr. Wiedeman's building permit application, BRX2108-0102, pursuant to Greeley Municipal Code sections 24-103(e)(2), 24-201(i), and 24-210, and request a hearing before the City of Greeley Zoning Board of Appeals. For your convenience, a copy of the letter containing the administrative decision is attached.

The relevant portion of the City's letter states that

“the storage building you hoped to construct on the site is not allowed under the residential zoning on the property. You are entitled to the historic agricultural use of the property, but not allowed to expand that use under the changed residential zoning.”

We respectfully disagree with this legal interpretation of the City of Greeley's development code.

The site has split residential zoning, both RH (Residential High Density) and RL (Residential Low Density):



The City’s interpretation presumes that farming is a non-conforming use within a residential zone district. If that were the case, there could be no expansion of such non-conforming use, including the construction of accessory structures. However, under the code that existed at the time that the building permit application was submitted, Farming was a permitted use in most zone districts, including, as relevant here, the RH and RL zone districts. Please see the attached “Table of Principal Land Uses”. In fact, with the updated development code approved by the City Council last year (after the building permit application was submitted), Farming is still a permitted use in the RH and RL zone districts. Please see the attached “Table 24-4-2: Zoning Districts & Uses.”

A permitted land use is not limited to historical use of the property. Rather, it is a use which has been legislatively determined to be compatible with other permitted uses in the same zone district. Given the agricultural roots of our community, allowing Farming in a residential zone district is an appropriate legislative determination made by the Greeley City Council.

“Farming” is defined in the City’s current Development Code. It is substantively identical to how it was defined at the time that this building permit application was submitted:

Farming. The production of crops such as vegetables, fruit trees or grain; the growing of trees and shrubs for landscape purposes; and the raising of farm animals such as poultry or swine, as limited by the standards for accessory keeping of livestock. Farming shall not include the commercial raising of animals, commercial production of milk, commercial pen feeding (feed lots) or the commercial feeding of garbage or offal to swine or other animals.

Sec. 24-401 District Intent & Applicability – b. Description of Uses (Effective 10/01/2021).

Farming means the production of crops such as vegetables, fruit trees or grain; the growing of trees and shrubs for landscape purposes; and the raising of farm animals such as poultry or swine, which shall be limited to the animal unit capacity as determined in the definition of animal unit and the animal unit equivalency chart in these definitions. The term "farming" shall not include the commercial raising of animals, commercial production of milk, commercial pen feeding (feed lots) or the commercial feeding of garbage or offal to swine or other animals.

Sec. 24-5. Definitions. (Effective prior to 10/01/2021).

Mr. Wiedeman has farmed this property and many others in the area, both within and outside city limits, for many years. Until such time as this site is developed for residential purposes, he intends to continue to farm it. As such, after consultation with and initial agreement from City staff as early as February 2021, and after expending substantial funds to prepare for the building permit application, he is now faced with a denial of his application.

The structure Mr. Wiedeman desires to build is to be used for the storage of agricultural equipment that is used for farming this particular site and others in the vicinity. The structure is therefore clearly incidental to the primary, permitted use of Farming on site. As such, it is an accessory structure that is permitted under the Development Code that was in effect at the time he submitted his building permit application.

Prior to applying for this permit, Mr. Wiedeman met with City staff, who agreed with his plan to build this structure. Thereafter, he spent substantial funds to move an open ditch into an underground pipeline, build a dirt pad for the building site, and order the structure, which was delivered to the site in July of 2021.

Approval of a building permit application is a ministerial act. An applicant is either objectively entitled to it, or they are not. There is no discretion to be exercised in the approval or denial of a building permit, in contrast to (for example), a zoning permit. Mr. Wiedeman acted as any prudent landowner would in this instance before expending tens of thousands of dollars on site preparation. He applied for a building permit to which he was entitled, and he was denied his permit based on an incorrect legal conclusion.

Therefore, we respectfully request the Zoning Board of Appeals grant this appeal and approve the building permit application.

Respectfully,
Coan, Payton & Payne, LLC

Bob Choate

Bob Choate

cc: Alan Wiedeman





SENT VIA EMAIL ONLY

March 29, 2022

Alan W. Wiedeman
8944 10th Street
Greeley, CO. 80634
Wiedeman Farms
e_alnw@yahoo.com
Cell 970-301-0555

Re: 8944 10th Street – Parcel No. 095907000075

Mr. Wiedeman:

This letter is in response to your request to build a 20,000 square foot storage building (100' x 200') on the northeast side of the subject property in which you indicated you would intend to store tractor trailers and farming equipment to serve the adjacent agricultural property. As was explained to you in earlier meetings, your property is zoned Residential – High Density (R-H) and Residential – Low Density (R-L) and has been so zoned since April 2006. Our research indicates there is an existing principal structure (1,200 square feet), as well as four accessory structures (totaling approximately 3,535 square feet), as well as a detached garage on the site.

On August 6, 2021, a building permit for a 20,000 square foot storage building (Permit No. BRX2108-0121) was submitted. On November 8, 2021, you and Jay Pier met with Community Development staff, Mike Garrott, Michael Franke, and me to discuss your request for the storage building. We noted that the storage building you hoped to construct on the site is not allowed under the residential zoning on the property. You are entitled to the historic agricultural use of the property, but not allowed to expand that use under the changed residential zoning. Based upon our earlier discussion, we have again reviewed and discussed under what conditions the type of building you seek to build could be allowed and have identified two options, both of which would entail rezoning of the property and each carries some trade-offs:

1. Rezone the property to Holding Agriculture (HA): this zoning is contemplated with undeveloped parcels of land that have been used for agriculture and may have some structures on the site directly related to that historic use (e.g. single family home, corrals, barn, etc.). This zoning category would also allow an accessory building, but only up to

5,000 sq. ft in size. This category of zoning is considered transitional until a permanent use and zoning of the site is determined so may be considered acceptable under the City's Comprehensive Plan. So, while a large accessory use is possible to support the on-site agricultural use (only), it would be smaller than you had envisioned.

2. Rezone the property to Light Industrial (I-L): warehouses and industrial buildings are allowed in this zoning category at the size you seek, but would also include other site improvements such as paved parking, landscaping, etc. It could also render some of the existing uses on the site as lawfully non-conforming (e.g. the residential uses), which means they could continue to be used as historically developed but not expanded. Industrial zoning at this location has not been contemplated as desirable under our Comprehensive Plan so may not be easily supportable.

Rezoning applications involve review and analysis and public hearings before the Planning Commission and City Council, which makes the final decision. This process includes fees, required submittals usually prepared by a professional engineer or land planner, and can take 6-9 months to complete.

Based upon your description of your interest in the use of the large storage building at this property it seems the avenues open to you for this purpose may have some downsides to consider. Let me know if you have additional questions or if you would like to discuss or pursue the rezoning application process in further detail.

Sincerely,



Becky Safarik
Interim Community Development Director/Deputy City Manager
becky.safarik@greeleygov.com

cc: Mike Garrott, AICP, Planning Manager, mike.garrott@greeleygov.com
Carol Kuhn, AICP, Chief Planner, carol.kuhn@greeleygov.com

TABLE OF PRINCIPAL LAND USES

See article VI of chapter 8 of this title for further information on Zoning District Development Standards
 Infill sites require review of all land uses as Design Review Uses

<i>Uses/Districts</i>	<i>R-L R-E</i>	<i>R-MH</i>	<i>R-M</i>	<i>R-H</i>	<i>C-L</i>	<i>C-H</i>	<i>I-L</i>	<i>I-M</i>	<i>I-H</i>	<i>H-A</i>	<i>C-D</i>	<i>PUD*</i>
Residential												
Single-family dwellings—not permitted in PUDs as sole land use	P	--	P	P	S	S	--	--	--	P	--	*
Two-family dwellings	--	--	P	P	S	S	--	--	--	--	--	*
Multifamily dwellings	--	--	--	P	S	S	--	--	--	--	--	*
Townhouse dwellings	--	--	P	P	S	S	--	--	--	--	--	*
Mobile homes, mobile home parks, land lease communities	--	D	--	--	--	--	--	--	--	--	--	*
Boardinghouses and roominghouses, dormitories, fraternities, sororities, group quarters, SROs	--	--	--	P	S	S	--	--	--	--	--	*
Farming	P	--	P	P	P	P	P	P	P	P	P	*
Group homes (8 or fewer residents)	D	--	D	D	D	D	--	--	--	--	--	*
Group homes (more than 8 residents)	--	--	--	S	S	S	--	--	--	--	--	*
Group home, elderly (no more than 8 residents)	D	--	D	D	D	D	--	--	--	--	--	*
Mixed-use (must include residential)	--	--	--	D	D	D	--	--	--	--	--	*
Secondary dwelling	--	--	--	D	D	D	--	--	--	--	--	*
Institutional												
Cemeteries, columbariums	--	--	--	--	--	P	P	P	P	--	--	*
Childcare, day care centers, preschools	S	--	S	D	D	D	S	S	--	--	--	*
Churches	S	S	S	S	S	P	P	S	S	--	--	*
Correctional, jail, detention facilities	--	--	--	--	--	--	--	--	--	--	--	*
Emergency shelters, missions	--	--	--	S	S	P	S	--	--	--	--	*
Hospitals	--	--	--	--	S	P	--	--	--	--	--	*
Intermediate and long term care, assisted living units (8 or fewer residents)	--	--	--	D	D	D	--	--	--	--	--	*

Table 24-4-2: Zoning Districts & Uses

P = Permitted Use S= Use by special review blank = prohibited		Districts												
Use	R-E	R-L	R-M	R-H	R-MH	C-L	C-H	MU-L	MU-H	I-L	I-M	I-H	H-A	C-D
Residential Uses														
Single-family Dwelling	P	P	P	P		S	S	P	P				P	
Two-family dwellings			P	P		S	S	P	P					
Row House dwellings			P	P		S	S	P	P					
Multi-family Dwellings			P	P		S	S	P	P					
Mixed-use dwelling				S		P	P	P	P					
Established Residential (all types)						P	P			P	P	P	P	
Accessory Dwelling Unit (See 24-403.b)			P	P		P	P	P	P					
Mobile / Manufactured Home & Parks					P									
Boarding House & Single Room Occupancies				P		S	S	S	S					
Farming	P	P	P	P		P	P			P	P	P	P	P
Residential Care – Group Home	P	P	P	P		P	P	P	P					
Residential Care – Assisted Living			S	S		P	P	P	P	P				
Residential Care - General				S		S	P	S	P	P				
Residential Care - Institutional				S		S	P	S	P	P				
Public & Civic Uses														
Assembly – Limited (up to 499 occupancy)	P	P	P	P	P	P	P	P	P	P	P	P		
Assembly - General (500 – 1,500 occupancy)		S	S	S	S	S	P	S	P	P	P	P		
Assembly – Large (1,501+ occupancy; or outside)							P		P	P	P			
Cemeteries, Columbarium							P	P	P	P	P	P		



SENT VIA EMAIL ONLY

March 29, 2022

Alan W. Wiedeman
 8944 10th Street
 Greeley, CO. 80634
 Wiedeman Farms
 e_alnw@yahoo.com
 Cell 970-301-0555

Re: 8944 10th Street – Parcel No. 095907000075

Mr. Wiedeman:

This letter is in response to your request to build a 20,000 square foot storage building (100' x 200') on the northeast side of the subject property in which you indicated you would intend to store tractor trailers and farming equipment to serve the adjacent agricultural property. As was explained to you in earlier meetings, your property is zoned Residential – High Density (R-H) and Residential – Low Density (R-L) and has been so zoned since April 2006. Our research indicates there is an existing principal structure (1,200 square feet), as well as four accessory structures (totaling approximately 3,535 square feet), as well as a detached garage on the site.

On August 6, 2021, a building permit for a 20,000 square foot storage building (Permit No. BRX2108-0121) was submitted. On November 8, 2021, you and Jay Pier met with Community Development staff, Mike Garrott, Michael Franke, and me to discuss your request for the storage building. We noted that the storage building you hoped to construct on the site is not allowed under the residential zoning on the property. You are entitled to the historic agricultural use of the property, but not allowed to expand that use under the changed residential zoning. Based upon our earlier discussion, we have again reviewed and discussed under what conditions the type of building you seek to build could be allowed and have identified two options, both of which would entail rezoning of the property and each carries some trade-offs:

1. Rezone the property to Holding Agriculture (HA): this zoning is contemplated with undeveloped parcels of land that have been used for agriculture and may have some structures on the site directly related to that historic use (e.g. single family home, corrals, barn, etc.). This zoning category would also allow an accessory building, but only up to

5,000 sq. ft in size. This category of zoning is considered transitional until a permanent use and zoning of the site is determined so may be considered acceptable under the City's Comprehensive Plan. So, while a large accessory use is possible to support the on-site agricultural use (only), it would be smaller than you had envisioned.

2. Rezone the property to Light Industrial (I-L): warehouses and industrial buildings are allowed in this zoning category at the size you seek, but would also include other site improvements such as paved parking, landscaping, etc. It could also render some of the existing uses on the site as lawfully non-conforming (e.g. the residential uses), which means they could continue to be used as historically developed but not expanded. Industrial zoning at this location has not been contemplated as desirable under our Comprehensive Plan so may not be easily supportable.

Rezoning applications involve review and analysis and public hearings before the Planning Commission and City Council, which makes the final decision. This process includes fees, required submittals usually prepared by a professional engineer or land planner, and can take 6-9 months to complete.

Based upon your description of your interest in the use of the large storage building at this property it seems the avenues open to you for this purpose may have some downsides to consider. Let me know if you have additional questions or if you would like to discuss or pursue the rezoning application process in further detail.

Sincerely,



Becky Safarik
Interim Community Development Director/Deputy City Manager
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Carol Kuhn, AICP, Chief Planner, carol.kuhn@greeleygov.com

Sec. 24-1264. - Requirements of accessory uses and structures.

- (a) The following provisions shall apply to accessory uses, structures and buildings:
 - (1) The accessory uses or structures shall be subordinate to and customarily found with the principal use of the land or site.
 - (2) Accessory uses or structures shall be located on the same lot as the principal use.
 - (3) Accessory structures shall not exceed the height of the principal building or structure and 60 percent of the footprint of the principal building on the site, including attached garage area, except in the H-A Zone, which shall not have a limit on the size of accessory structures and buildings used for agricultural purposes.
 - (4) In residential zones, the 60 percent limit may be exceeded for one detached garage if all of the following criteria are met:
 - a. The detached garage is used to accommodate parking for residential uses on-site.
 - b. The detached garage shall be no larger than 660 square feet in size.
 - c. The site cannot exceed 150 percent of the required amount of parking spaces.
- (b) The total square footage of all accessory buildings and structures in residential zones shall not exceed the footprint of the principal building, including attached garage area. In commercial and industrial zones, there shall be no limit on the size or number of accessory buildings and structures, but such accessory buildings and structures shall be required to meet all applicable design review standards if in an infill location.
- (c) Accessory uses or structures shall be operated and maintained for the benefit or convenience of the occupants, employees and customers of or visitors to the premises which contains the principal use.
- (d) Accessory structures shall not be used for living or sleeping quarters except for industrial uses which may provide accessory living or sleeping quarters for the housing of security or maintenance personnel in close proximity to the industrial use and which shall not exceed 1,200 square feet in size. In no event shall such accessory living or sleeping quarters become an independent living unit, nor shall the accessory building or structure be subdivided from the remainder of the site.
- (e) Accessory structures shall comply with the front, rear and side yard setbacks set forth in article VI of chapter 8 of this title. Portable accessory buildings less than 120 square feet in size which do not require a building permit shall be permitted to locate in rear and interior side yard setbacks. When accessory buildings and structures have alley access, the setback from the alley shall be a minimum of five feet when access to the accessory building or structure occurs parallel to the alley. Otherwise, the minimum setbacks for accessory buildings or structures that have direct access from the alley shall be a minimum of ten feet.
- (f) Accessory structures which require building permits shall be constructed of similar materials and in a similar design as the principal building or structure.