



**WESTMINSTER**  
COLORADO

**AGENDA  
PLANNING COMMISSION PRE-MEETING**

**Tuesday, August 9, 2022**

***A light dinner for Commissioners and staff will be served from  
5:45-6:10 p.m. in the kitchen off  
City Council Chambers***

***Pre-Meeting Begins at 6:30 p.m.  
Council Chambers Board Room  
Main Level, City Hall***

**ITEM NO. 1: Items for Planning Commission Discussion**

Scheduling of Planning Commission meeting for By-laws update

**ITEM NO. 2: Upcoming Planning Commission Meeting Agenda Items**

August 23, 2022 Benton Park Animal Hospital ODP and Foster Property  
PDP amendment

September 13, 2022 4001 W 76<sup>th</sup> Ave-Nepalese Community Center Rezoning  
and PDP

September 27, 2022 PDP and ODP for Applewood Pointe at Walnut Grove  
Senior Living and PF Chang's Sign Variance

**ITEM NO. 3: Items on This Evening's Agenda**

- 3a) Public Hearing and action on a requested variance for an accessory building size increase for 7261 Lamar Court in the Farms Subdivision, a Planned Unit Development

*Prepared by: David German, AICP, Senior Planner*

- 3b) Public Hearing and Action on a Five Feet Two and Fifteen Sixteenth Inch Residential Rear Setback Variance for 11010 Meade Court in the Legacy Ridge Filing Nine Official Development Plan, a Planned Unit Development

*Prepared by: Patrick Caldwell, Senior Planner*



## PLANNING COMMISSION MEETING AGENDA

1. ROLL CALL
2. CONSIDERATION OF PREVIOUS MEETING MINUTES  
Meeting Minutes of June 14, 2022
3. CONSIDERATION OF NEW BUSINESS
  - a. Public Hearing and Action on a requested variance for an accessory building size increase for 7261 Lamar Court in the Farms Subdivision, a Planned Unit Development

*Prepared by: David German, AICP, Senior Planner*

- b. Public Hearing and Action on a Five Feet Two and Fifteen Sixteenth Inch Residential Rear Setback Variance for 11010 Meade Court in the Legacy Ridge Filing Nine Official Development Plan, a Planned Unit Development

*Prepared by: Patrick Caldwell, Senior Planner*

4. OLD BUSINESS
5. MISCELLANEOUS BUSINESS
6. ADJOURNMENT

### PLEASE NOTE

The following are the procedures used by the Planning Commission for in-person meetings.

For virtual participation guidelines please visit [www.cityofwestminster.us/pc](http://www.cityofwestminster.us/pc)

1. Staff will present agenda items. The Developer may present after Staff.
2. Those in attendance who favor the proposed development may address the Commission, followed by those who do not favor the proposed development. The Chair may impose time limits on speakers.  
**PLEASE SIGN THE SHEET IN THE FRONT OF THE COUNCIL CHAMBERS WHEN YOU SPEAK.**
3. All questions shall be addressed to the Chair of the Planning Commission. The Chair will call on Staff to address questions at the end of the hearing. Planning Commission reserves the right to question anyone at any time during the Public Hearing.
4. The Commission is charged with the review of Comprehensive Plan Amendments, Rezoning, Preliminary Development Plans, Amended Preliminary Development Plans, Official Development Plans, Amended Official Development Plans, Preliminary Plats and Amended Preliminary Plats that are not approved administratively by the City Manager.
5. There are two different procedures involved in the review of applications for development plan approval and the procedure depends on the type of plan under consideration:
  - a. After review and a public hearing, the Planning Commission may recommend approval of an application, approval subject to specified conditions, or denial of an application. The Planning Commission is **not** the final authority on these applications. The City Council is the final decision maker.
  - b. On applications for Official Development Plans and Amended Official Development Plans, the Planning Commission **does** make the final decision, unless the decision of the Planning Commission is appealed to the City Council within 10 days of the Planning Commission decision by a "party-in-interest," as described in Section 11-5-13(B.1) of the Westminster Municipal Code. If a decision of the Planning Commission is properly appealed to the City Council, the City Council will schedule the item for consideration at one of their upcoming meetings and, after holding a public hearing, make a final decision on the application.

If you need further information regarding this process, or any other matter related to the City's development review process, please contact the City Planning Division at 303-658-2092.

**NOTE:** Persons needing an accommodation, such as an interpreter for another language, or who have an impairment that requires accommodation, must notify the Planning Aide no later than noon on the Thursday prior to the scheduled Planning Commission hearing to allow adequate time to discuss arrangements. Please call 303-658-2092/TTY711 or State Relay or email [jbaden@cityofwestminster.us](mailto:jbaden@cityofwestminster.us) to make a reasonable accommodation request.



## WESTMINSTER

CITY OF WESTMINSTER  
PLANNING COMMISSION  
Meeting Minutes  
June 14, 2022

1. ROLL CALL

The regular meeting was called to order at 7:00 pm by Vice-Chair Joe McConnell Present were Commissioners Chennou Xiong, Rick Mayo, David Carpenter, Lawrence Dunn, David Tomecek, and Tracy Colling. Excused from attendance was Chair Jim Boschert and Commissioner Elisa Torrez. Also present: Staff members, John McConnell, Interim Planning Manager, Stephanie Ashmann, Senior Planner, and Jennifer Baden, Associate Planner. With the roll called, Vice-Chair McConnell stated that the alternate would be voting.

CONSIDERATION OF MINUTES

Meeting Minutes from April 26, 2022.

Commissioner Colling made a motion to accept the minutes from the April 26, 2022 Planning Commission meeting. Commissioner Dunn seconded the motion. The minutes were unanimously accepted (7-0).

2. CONSIDERATION OF NEW BUSINESS AND PUBLIC HEARINGS

3a) Public Hearing and Action on the Annexation of 1.345-acres of Unincorporated Adams County, and Associated Establishment of a Comprehensive Plan Designation and Municipal Zoning in conformance with the Westminster Station Specific Area Plan adopted in May, 2017.

Stephanie Ashmann, Senior Planner, entered into the record the agenda memorandum, attachments, and public notice affidavit of publication from the *Westminster Window* on May 31, 2022. Ms. Ashmann narrated a PowerPoint presentation for the proposal to:

- a. Hold a public hearing.
- b. Recommend that City Council approve the annexation of the 1.345-acre property addressed as 6971 Federal Boulevard.
- c. Recommend that City Council approve the Comprehensive Plan designation of Mixed-Use Center for the 1.345-acre property addressed as 6971 Federal Boulevard.
- d. Recommend that City Council approve the establishment of zoning for 1.345-acres of property address as 6971 Federal Boulevard as Specific Plan District.

The applicant team, represented by Brian Bulatovic of Sherman Associates, was present and narrated a PowerPoint presentation.

Vice-Chair McConnell opened the floor for discussion and questions from the Commissioners to the Staff.

Commissioner Colling asked the applicant to confirm the total number of acres. Mr. Bulatovic responded 4.1 total acres.

Commissioner Dunn asked the applicant about their plans for using energy efficient and sustainable products. Mr. Bulatovic responded by stating that one of Sherman's goals is energy efficiency and sustainable design. The developer also stated that their project in Downtown Westminster is LEAD certified and that would continue through all of the projects that they do - either LEAD or if things change to follow those principles.

Commissioner Carpenter asked staff about the water usage. Ms. Ashmann responded that the Westminster Station Area Specific Plan has a cap on the number of total allowable units to be developed - 1,340 units. Currently under review staff have 222 to be entitled. One is already entitled which is where the garage wrap is but this is accounted for in that total.

Vice-Chair McConnell opened the public hearing at 7:23 pm.

Testimony heard was in regards to clarification on what the application being heard tonight was about, clarification regarding if future public hearings would happen and how many signs were posted on the property.

Vice-Chair McConnell closed the public hearing at 7:27pm.

Vice-Chair McConnell asked for staff and applicant rebuttal.

Commissioner Carpenter motioned that the Planning Commission recommend City Council approve the annexation of the 1.345-acre property addressed at 6971 Federal Boulevard. A recommendation of approval must be conditioned on City Council finding that the petition filed by the applicant substantially complies with the statutory requirements.

Commissioner Colling seconded the motion.

The motion passed unanimously (7-0).

Commissioner Dunn motioned that the Planning Commission recommend City Council approve the Comprehensive Plan designation to Mixed-Use Center for the 1.345-acre property addressed at 6971 Federal Boulevard. This recommendation is based on the finding that the amendment is supported by the criteria set forth in Sections 11-5-2, W.M.C.

Commissioner Tomecek seconded the motion.

The motion passed unanimously (7-0).

Commissioner Xiong motioned that the Planning Commission recommend City Council approved the establishment of zoning for 1.345-acres of property, addressed at 6971 Federal Boulevard to Specific Plan District. This recommendation is based on the finding that the amendment is supported by the criteria set forth in Sections 11-5-3 and 11-5-20, W.M.C.

Commissioner Tomecek seconded the motion.

The motion passed unanimously (7-0).

#### MISCELLANEOUS BUSINESS

Mr. McConnell announced to the Commission that Principal Planner, Andrew Spurgin, was no longer with the City.

#### 4. ADJOURNMENT

The meeting was adjourned at 7:33 p.m.

#### THE WESTMINSTER PLANNING COMMISSION

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Joe McConnell, Vice-Chairperson

A full recording of the meeting has been posted on The City of Westminster website. [www.cityofwestminster.us/pc](http://www.cityofwestminster.us/pc)



## WESTMINSTER

Agenda Memorandum

Agenda Item 3a

Planning Commission Meeting  
August 9, 2022

**SUBJECT:** Public Hearing and action on a requested variance for an accessory building size increase for 7261 Lamar Court in the Farms Subdivision, a Planned Unit Development

**PREPARED BY:** David German, AICP, Senior Planner

### **RECOMMENDED ACTION:**

1. Hold a public hearing.
2. Recommend that the Planning Commission denies the requested 274-square-foot accessory building size increase variance, to allow for a 1,000-square-foot accessory building, at 7261 Lamar Court in the Farms Subdivision.

### **SUMMARY STATEMENT:**

- Kenneth and Mary Kokoszka own a single-family detached home located at 7261 Lamar Court within the Farms Subdivision, and would like to erect a 1,000-square-foot accessory building to serve as an auxiliary garage for the property;
- The Official Development Plan (ODP) document for the Farms Subdivision does not include regulations governing accessory buildings. Thus, the Kokoszka's request is regulated and evaluated under Westminster Municipal Code Section §11-4-6(N), *Accessory Buildings*, which allows for only a 726-square-foot accessory building to be erected upon the property;
- The Kokoszka's are seeking a variance from the Planning Commission to exceed this 726-square-foot allowance to build the desired 1,000-square-foot building. This variance, if granted, would allow for a 274-square-foot size increase.
- As proposed, the Kokoszka's would meet all of the other requirements of Westminster Municipal Code Section §11-4-6(N), including the removal of any other accessory building(s) upon their property.

### **POLICY ISSUE(S):**

Should Planning Commission deny the requested 274-square-foot accessory building size increase variance, to allow for a 1,000-square-foot accessory building, at 7261 Lamar Court in the Farms Subdivision?

## **ALTERNATIVE:**

1. Planning Commission could choose to approve the requested variance. Staff does not recommend this option because the requested 274-square-foot accessory building size increase variance for 7261 Lamar Court in the Farms Subdivision does not meet three of the six criteria outlined in Section 2-2-8(B) of the Westminster Municipal Code (W.M.C.).

## **BACKGROUND INFORMATION:**

### Overview of Variance Process

Section 2-2-2(E) of the Westminster Municipal Code (W.M.C.) provides that the Planning Commission shall hear and decide variance requests. Variances may be requested from the following provisions of Title XI (Land Development and Growth Procedures) of the W.M.C.:

1. Section 11-7-4, W.M.C., regarding off-street parking standards;
2. Section 11-11-13(E), W.M.C., regarding sign regulations;
3. Section 11-4-5, W.M.C., regarding density schedule;
4. Section 11-4-6, W.M.C., regarding special regulations;
5. Section 11-16-1, et al., W.M.C., regarding antennas, towers, and telecommunications facilities;
6. Those portions of Section 11-4-12, W.M.C., specified in Subsection 11-4-12(I), W.M.C., regarding satellite earth stations;
7. Section 11-4-15, W.M.C., as it applies to nonconforming structures;

Section 2-2-8(B) of the W.M.C. specifies that there are six criteria that must be met before the Planning Commission may grant a variance. These criteria, as they apply to this application, are addressed in detail below. The Planning Commission may only grant a variance if it finds that all six criteria are appropriately addressed and satisfied; otherwise the variance request must be denied. Section 2-2-8(C) of the W.M.C. provides that decisions of the Planning Commission are final subject only to an appeal to district court.

### Nature of Request

This variance request application seeks a variance to W.M.C. Section 11-4-6(N) Accessory Buildings, and specifically to subsection (4) which states:

*“Size. For all residential zoning districts and residential PUD districts, the total of any detached garage and accessory buildings shall be limited to five percent of the building lot area or 600 square feet, whichever is greater, unless a different size is provided for in the PUD district. In no case shall the combined square footage of all accessory buildings be more than 2,000 square feet per building lot. For all nonresidential PUD zoning districts, size will be determined in the ODP or ODP amendment. Maximum height of an accessory building shall be limited to 15 feet, except in O-1 zoning districts where maximum height shall be limited to 35 feet.”*

The total size of the Kokoszka property according GIS parcel area geometry is 14,525 square feet. Five percent of this total area yields an allowable accessory building size of 726 square feet. Mr. Kokoszka is seeking 1,000-square-foot building. The variance, if granted, would allow for the requested 1,000-square-foot building and the area difference of 274 square feet.

### History of Subject Property

The ODP and final plat for The Farms Subdivision were approved in 1977. The dwelling at 7261 Lamar Court, built in 1980, is located on Lot 19 of Block 4, as designated on the final plat. The Farms Subdivision consists of 172 single family detached homes organized into one filing. Lot sizes within the subdivision range in size from 7,000 to 27,630 square feet, with an average size of 9,699 square feet. At 14,525 square feet, the Kokoszka property is estimated to be the 11<sup>th</sup> largest within the

subdivision. It should be noted that the 14,525 square-foot area measurement is considered to be a very close and valid estimate of the true area of the property, but, should the lot be formally surveyed, it may be determined that the lot is slightly larger or slightly smaller. The Farms subdivision is zoned Planned Unit Development (PUD), and is designated as Residential R-3.5 in the Comprehensive Plan.

#### Public Notification

Section 11-5-13(A), of the W.M.C. requires the following three public notification procedures for Planning Commission Public Hearings:

- **Published Notice:** Notice of the public hearing shall be published at least ten days prior to such hearing. Notice was published in the Westminster Window by the required deadline of July 28, 2022.
- **Property Posting:** Notice of the public hearing shall be posted and maintained on the property at least ten days prior to the hearing with a minimum of one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. A sign was posted on the subject property by the required deadline of July 28, 2022. The applicant has provided the City's Planning Manager with a certification that the sign was posted and properly maintained throughout the posting period.
- **Written Notice:** At least ten days prior to the date of the public hearing, the applicant shall mail individual notices via first-class mail to property owners and homeowner's associations registered with the City within 300 feet of the subject property. The applicant has provided the City's Planning Manager with a certification that the required notices were mailed by the required deadline of July 28, 2022.

#### Applicant / Property Owner

Kenneth J. and Mary D. Kokoszka  
7261 Lamar Court  
Westminster, Colorado 80003-3135

#### Location

The vicinity map in Attachment 1 shows the 7261 Lamar Court property, which is an interior corner lot with street access to the Lamar Court cul-de-sac, and bordered by other properties within The Farms Subdivision to the north, east, and west. The south boundary of the property is also the south boundary of the subdivision, and borders on W. 72nd Avenue. No access is possible from the property directly to 72nd Avenue due to traffic and grade-change considerations. The 72nd Avenue corridor also serves as the boundary between the City of Westminster and the City of Arvada in this area.

The Farms Subdivision abuts residential neighborhoods in the City of Arvada to the northwest and southwest (The Highlands and Lamar Heights, respectively), and the Marin residential subdivision in the City of Westminster to the west. To the northeast, the subdivision abuts Favershaim Park, and to the southeast, it abuts the Patio Subdivision. To the east, The Farms abuts the Shoenberg Farms Subdivision, which includes both residential and commercial filings. These surrounding land uses are summarized in the following table:

## Surrounding Land Uses and Designations

<b>Direction</b>	<b>Development Name</b>	<b>Zoning</b>	<b>Comp Plan Designation</b>	<b>Current Use</b>
<b>North</b>	The Highlands – City of Arvada	(Arvada)	(Arvada)	Single Family Detached Residential
<b>Northeast</b>	Favershaim Park – City of Westminster	P.U.D.	Public Parks	Public Park
<b>East</b>	Shoenberg Farms – City of Westminster	P.U.D.	Residential R-8, R-18, Mixed-Use, and Retail/ Commercial	Single-Family Attached and Multi-Family Residential / Commercial
<b>Southeast</b>	Patio Subdivision – City of Westminster	P.U.D.	Residential R 3.5	Single Family Attached Residential
<b>South</b>	Lamar Subdivision – City of Arvada	(Arvada)	(Arvada)	Single Family Detached Residential
<b>Southwest</b>	Lamar Subdivision – City of Arvada	(Arvada)	(Arvada)	Single Family Detached Residential
<b>West</b>	Marin Subdivision – City of Westminster	R-1	Residential R 3.5	Single Family Detached Residential
<b>Northwest</b>	The Highlands – City of Arvada	(Arvada)	(Arvada)	Single Family Detached Residential

## Site Plan / Site Design Information

Attachment 2 shows a more detailed view of the Kokoszka property and its immediately surrounding area, while Attachment 3 is a copy of the site plan provided by the applicant. Attachment 3 shows the rear-yard location of the proposed garage in relation to the existing house and property lines, and demonstrates that the building would avoid any easements located on the property. Specific plans for vehicle access connecting the proposed garage to Lamar Court were not provided.

## Traffic and Transportation

Not Applicable.

## Landscape Design

The City does not manage or review landscape in private yards within The Farms subdivision. The proposed garage would be built over an existing concrete pad within the rear yard; this pad would be properly upgraded to support the new structure if applicable under the Building Code. It is likely that landscaping on the property would be affected by vehicle access to connect the new garage to Lamar Street.

## Public Land Dedication / School Land Dedication

Not Applicable.

## Architectural / Building Materials

The Kokoszkas have indicated that the proposed garage would be clad in a siding acceptable to the City as matching the siding used on the principal building (the residence on the property), and would also employ a shingle of a similar color and style as that used on the roof of the principal building. An initial line drawing of the building is provided with Attachment 4. This drawing depicts vertically oriented siding, while the principal building employs a wider horizontal siding. The Kokoszkas are working with Tuff Shed, the company building the garage, to come up with a comparable horizontal siding to better match the principal building.

## Signage

Not Applicable.

## Westminster Municipal Code Analysis

*2-2-8 (B) - The Planning Commission may grant a variance if it finds that all of the following requirements are satisfied, where applicable:*

*(1) That the strict application of the provisions of Title XI of this Code would result in practical difficulties or unnecessary hardship that is inconsistent with the general purpose and intent of this Code.*

#### Applicant Justification

“The strict application of the ordinance would limit the size of the structure by 10 feet of length, 274 ft<sup>2</sup>, and would require the existing shed to be removed. The existing accessory structures (small shed and gazebo) will both be removed when the shed is constructed so that the workshop can use the full square footage allotted to the property. [The size limitation] would create practical difficulties for the new garage-it is planned to be multi-function. For example, to have sufficient room to work on a vehicle under a covered area in addition to storage & access to tools. The size reduction makes it more difficult to achieve. The intent of the ordinance is to ensure citizens can modify their property while protecting neighbors & aesthetics of community. In this case the ordinance prohibits the build, but the neighborhood is unaffected in either case. Adding on to the existing garage structure that is built into the house was ruled out because there is not sufficient room to lift a vehicle to work on it. It is important to work on a vehicle in a covered space to have a clean work area that can accommodate a project that takes more than a single day in any weather condition. Vehicle access to the proposed garage would be achieved around the South side of the property.”

#### Staff Analysis

Staff agrees that strict application of the code would result in practical difficulties for Mr. Kokoszka, who wishes to use the garage, once built, to support his hobby of restoring cars. The additional space would provide Mr. Kokoszka with more room to work around and under his vehicles in a sheltered environment. Staff does not believe that this situation rises to the level of constituting an unnecessary hardship, however, as the strict application of the code still provides for a very large building at 726 square feet, which does provide ample space for the storage of vehicles and tools.

*(2) That there are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property.*

#### Applicant Justification

“The property is adjacent to 72nd Ave in a way not all properties are, making a structure in this location useful to block line of sight & sound to a busy roadway. The goal of the garage is to meet 2 needs. A 40x18 garage would meet the need of blocking road noise but would be much less efficient as a work area due to the restricted width. The desire is to have the work area to restore cars as a hobby during retirement.”

#### Staff Analysis

Staff does not find that there are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property. In fact, the Kokoszka property is larger than all but ten others in the subdivision, and, as such, is legally afforded the opportunity for a much larger accessory building than most of the neighboring properties. See Attachment 5 for a comparison of the lots within The Farms Subdivision. The larger size, location, and other physical characteristics of the Kokoszka property are more of a benefit than a detriment in this scenario.

The Kokoszkas have indicated that they view the building not only as a garage / workshop, but also as a noise / sight barrier versus 72nd Avenue. Staff suggested a longer narrower garage to support this secondary function, but this was not accepted by the Kokoszkas because they believed this approach would create a less usable workspace.

*(3) That these unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.*

Applicant Justification

“The proximity to traffic on 72nd is not true for all properties in the neighborhood-only the series of properties directly bordering the street. Proximity to 72nd avenue, and the stoplight and intersection that are in close proximity creates the hardship of the sound conditions from the road that many other residents do not have. This requires a long building to block the sound in order to resolve the hardship. This is exacerbated by the fact that the retaining wall on the South side of 72nd is taller than the retaining wall on the North side which borders my property. This adds to the hardship by reflecting more sound in my direction.”

Staff Analysis

Staff agrees that unusual circumstances or conditions exist for the Kokoszkas that do not affect the entirety of The Farms Subdivision. There are thirty other lots within The Farms Subdivision that are directly adjacent to the 72nd Avenue right-of-way, so while this circumstance is not unique, 72nd Avenue noise and sight issues only affect 17 percent of the subdivision at a similar level. It should be noted, however, that the Kokoszkas have more opportunities afforded them due to their greater lot area, to better mitigate these nuisances.

*(4) That because of such physical circumstances or conditions, the property cannot be reasonably developed in conformity with the provisions of this Code.*

Applicant Justification

“Only the homes located on a corner-area of a cul-de-sac have the additional problem of inability to add on to the existing garage to increase its size. Some other property owners are utilizing the same solution of building new structures to block sound from the street. Another property with a larger structure used to resolve the hardship of 72nd avenue road noise is at 7271 Ingalls Ct Westminster CO 80003. The existing garage structure attached to the house would not fit a lift of sufficient height to work under a vehicle, even if a smaller garage of the allotted square footage were added to accommodate my storage needs.”

Staff Analysis

Staff finds that the property has been reasonably developed in conformity with the provisions of this Code. Staff finds that special physical conditions and circumstances do not exist for the Kokoszka property. Due to the lot's larger size, shape, and other characteristics, a larger-than-average accessory building is permitted on the property, which is an advantage rather than a detriment.

Staff notes that no records were found to indicate proper permitting of the construction that has occurred on 7271 Ingalls Court, and that multiple violations may be present on this property. Further, the accessory buildings located on the 7271 Ingalls Court property do not appear to be oriented in a manner that will help to mitigate noise impacts.

*(5) That the special conditions and circumstances do not result from the present or prior actions of the applicant.*

Applicant Justification

“The unique circumstances were created when the lot was initially designed & the home built. The expansion of 72nd Avenue is also a factor. All of the above did not involve myself as homeowner. The

Location is unique in that not every homeowner has a property that backs up to 72nd avenue. When 72nd avenue was expanded it increased road noise which a long building can solve. But the width of the building must exceed the usual square footage allotment in order for it to be efficiently used as a work area to meet my needs.”

#### Staff Analysis

Staff agrees that any special conditions or circumstances that might exist are not the result of present or prior actions of the applicant.

*(6) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.*

#### Applicant Justification

“Character of neighborhood will not be altered because the longer side of the proposed building is along 72nd so the neighbors will have the short-side facing them either way. Also, other properties have larger secondary structures already so this new build would not appear to stand out in comparison.”

#### Staff Analysis

Staff believes that the variance, if granted, will alter the essential character of The Farms Subdivision, and that it will potentially impair the appropriate future use or development of adjacent properties. There are no other variances for oversized accessory buildings in the subdivision. This variance, if granted, would provide a precedent for other homeowners to seek larger accessory buildings than allowed by the W.M.C. While the Kokoszka property is large enough that an additional 274 square feet may represent a negligible impact for immediate neighbors, the same may not be true for other lots within the subdivision. Oversized buildings may add adverse visual impacts for neighbors, and reduce their enjoyment of their own properties.

*Any application not meeting such criteria shall be denied. In approving an application meeting the above criteria, the commission may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of Title XI or the various adopted codes.*

#### Neighborhood Meeting(s) and Public Comments

Neighborhood meetings are not required for this type of application.

#### Summary of Staff Recommendation

Staff Recommendation is not supportive of this request for variance from the maximum accessory building size because the variance does not meet three of the six criteria required for a variance. The criteria not met were the second, fourth, and sixth, as Staff found that no unique physical circumstances or conditions of the lot exist, that no circumstances have prevented or will prevent reasonable development of the lot, and that the essential character of the neighborhood would be harmed by approval of this variance.

#### Recommended Conditions for Approval

Should the Planning Commission elect to approve the variance request, Staff would recommend that the following conditions be attached to the approval to ensure the least amount of impact to adjoining properties:

- 1) The accessory building must be built entirely in conformance with all applicable building codes and with all requirements of W.M.C. Section §11-4-6(N), excepting the allowance for the larger size;
- 2) Only one accessory building may exist on the property. Once the new garage is constructed, any other existing accessory buildings must be properly removed within thirty days of final inspection of the garage;
- 3) The accessory building may be up to 1,000 square feet in size, and may not be expanded beyond this limit with either enclosed or unenclosed space, such as adding a carport for example;
- 4) The accessory building may not be used to house any business or home occupation, as defined and regulated in the Westminster Municipal Code Sections §11-2-1 and §11-4-10.

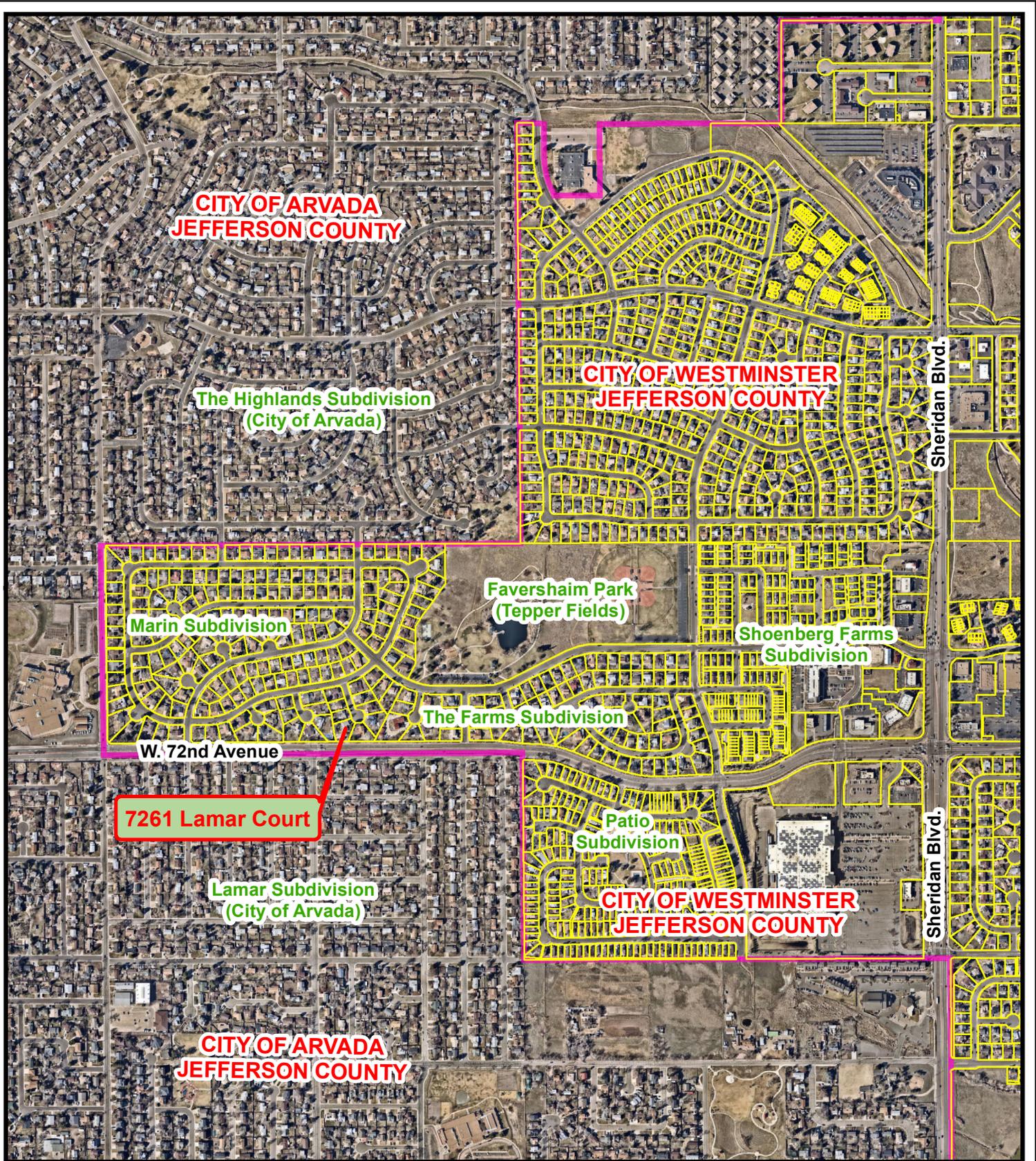
Respectfully Submitted,



John McConnell, AICP  
Interim Planning Manager

**ATTACHMENTS:**

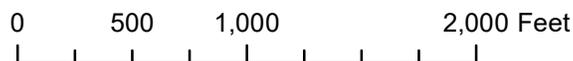
- Attachment 1: Vicinity Map
- Attachment 2: Site Map
- Attachment 3: Proposed Site Plan
- Attachment 4: Rendering of Proposed Accessory Building
- Attachment 5: Lot Comparison: The Farms Subdivision

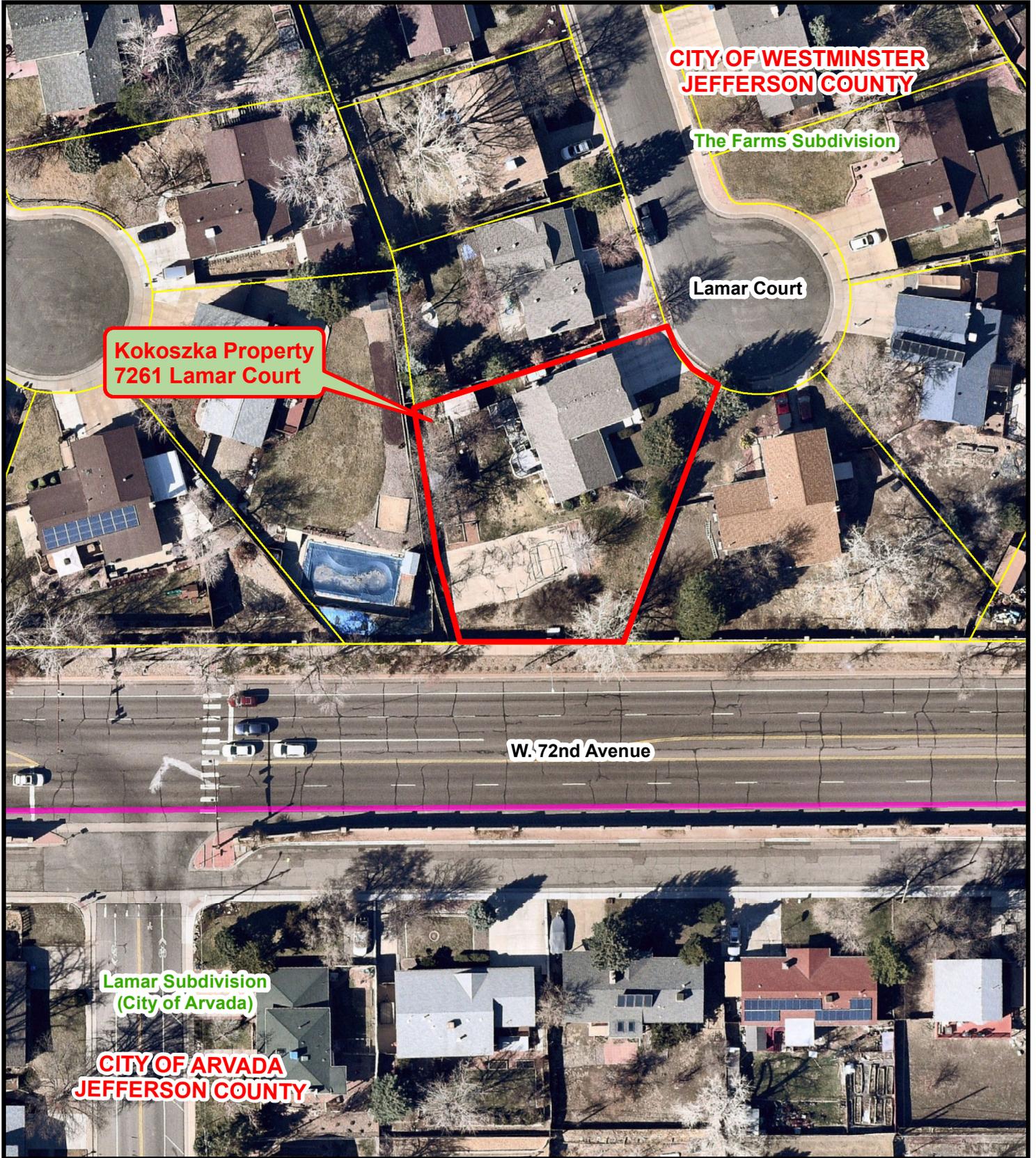


**Vicinity Map  
Kokoszka Variance  
7261 Lamar Court**



**WESTMINSTER**





**Kokoszka Property  
7261 Lamar Court**

**CITY OF WESTMINSTER  
JEFFERSON COUNTY**

**The Farms Subdivision**

**Lamar Court**

**W. 72nd Avenue**

**Lamar Subdivision  
(City of Arvada)**

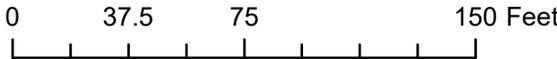
**CITY OF ARVADA  
JEFFERSON COUNTY**

**Site Map**

**Kokoszka Variance  
7261 Lamar Court**

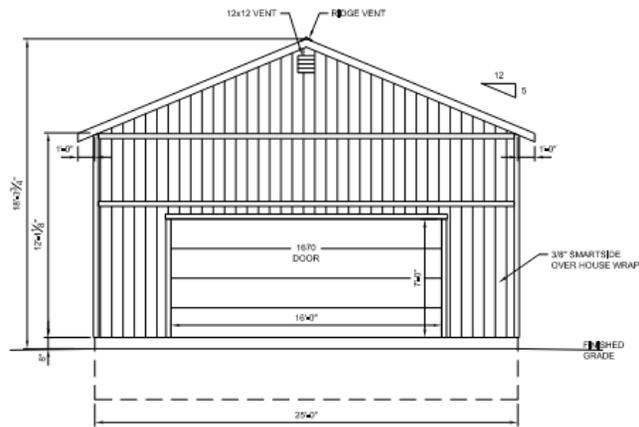


**WESTMINSTER**



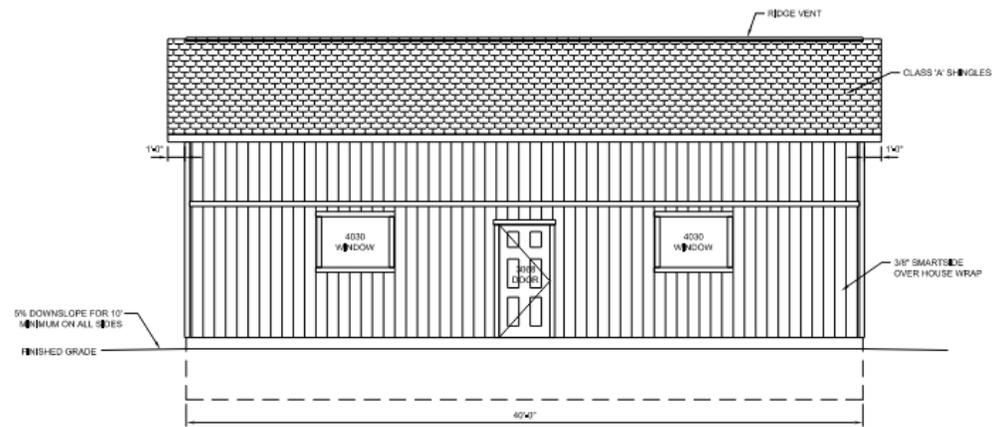


ACCESSORY BUILDING  
25' X 40' = 1000 SQ FT

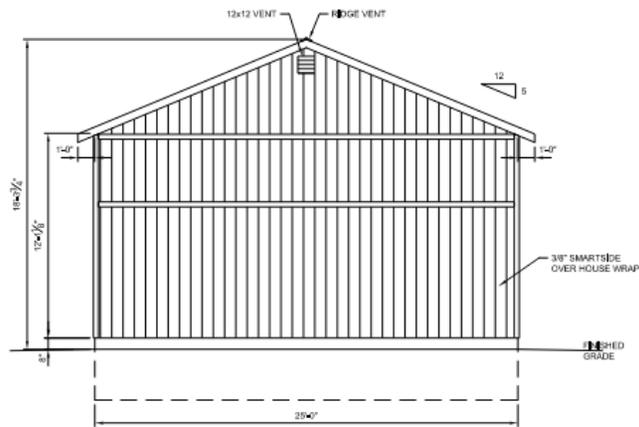


**WALL A ELEVATION**

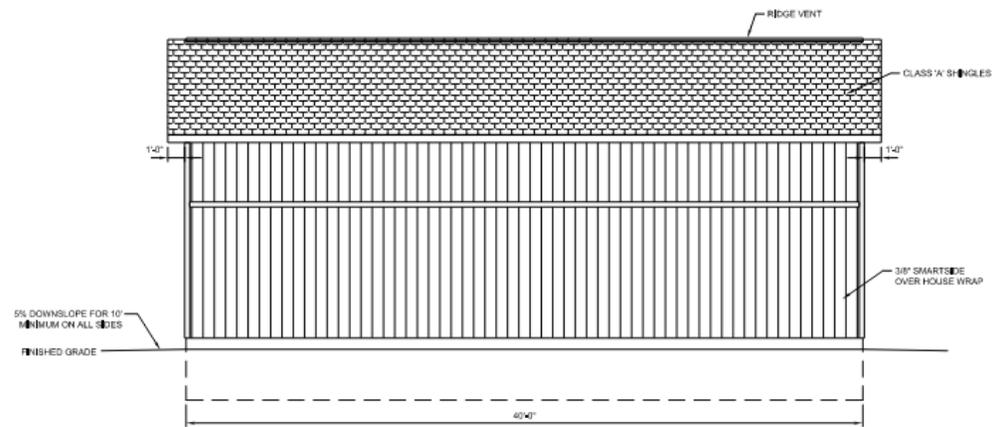
DIMENSIONS SHOWN ARE NOMINAL - CUSTOMER TO CONFIRM FINISH OPENING WITH TUFF SHED REPRESENTATIVE



**WALL B ELEVATION**



**WALL C ELEVATION**



**WALL D ELEVATION**

**PROPERTY COMPARISON: THE FARMS SUBDIVISION**

ADDRESS:	STREET:	TYPE:	LOT AREA:	MAX SIZE:
6610	73rd	Ave	7,010	600
6271	74th	Ave	7,190	600
5701	72nd	Dr	7,220	600
6511	72nd	Dr	7,264	600
7330	Jay	St	7,269	600
6510	73rd	Ave	7,295	600
6281	74th	Ave	7,314	600
6430	73rd	Ave	7,319	600
5651	72nd	Dr	7,325	600
7270	Ingalls	St	7,342	600
5901	72nd	Dr	7,353	600
7260	Ingalls	St	7,355	600
6421	72nd	Dr	7,362	600
5730	73rd	Ave	7,365	600
6420	73rd	Ave	7,387	600
6401	72nd	Dr	7,401	600
6521	72nd	Dr	7,423	600
6501	72nd	Dr	7,426	600
6311	72nd	Dr	7,444	600
5631	72nd	Dr	7,463	600
6520	73rd	Ave	7,477	600
5621	72nd	Dr	7,479	600
5821	72nd	Dr	7,481	600
5641	72nd	Dr	7,484	600
6400	73rd	Ave	7,502	600
6431	72nd	Dr	7,548	600
6410	73rd	Ave	7,559	600
7233	Eaton	Cir	7,639	600
6411	72nd	Dr	7,646	600
6251	74th	Ave	7,658	600
7264	Eaton	Cir	7,674	600
6310	73rd	Ave	7,679	600
5700	73rd	Ave	7,690	600
7231	Eaton	Cir	7,706	600
5630	73rd	Ave	7,734	600
5620	73rd	Ave	7,776	600
5650	73rd	Ave	7,794	600
7340	Jay	St	7,815	600
7266	Eaton	Cir	7,830	600
5640	73rd	Ave	7,831	600
7229	Eaton	Cir	7,836	600
5900	73rd	Ave	7,843	600
7278	Eaton	Cir	7,893	600
7235	Eaton	Cir	7,917	600
5820	73rd	Ave	7,921	600
6641	72nd	Dr	7,923	600
5710	73rd	Ave	7,930	600
5911	72nd	Dr	7,934	600
5831	72nd	Dr	7,950	600
5720	73rd	Ave	7,994	600
6650	73rd	Ave	8,020	600
7237	Eaton	Cir	8,024	600
7281	Lamar	Ct	8,033	600
6291	74th	Ave	8,058	600
7331	Jay	St	8,091	600
7321	Jay	St	8,130	600
6601	72nd	Dr	8,159	600
5830	73rd	Ave	8,168	600
5811	72nd	Dr	8,179	600
7350	Kendall	St	8,192	600
6631	72nd	Dr	8,202	600
6621	72nd	Dr	8,206	600
6280	74th	Ave	8,226	600
7232	Eaton	Cir	8,266	600
7234	Eaton	Cir	8,271	600
7261	Ingalls	St	8,306	600
5910	73rd	Ave	8,333	600
6261	74th	Ave	8,356	600
7271	Lamar	Ct	8,392	600
7258	Eaton	Cir	8,401	600
7283	Marshall	Ct	8,422	600
5601	72nd	Dr	8,444	600
5711	72nd	Dr	8,452	600
7230	Eaton	Cir	8,469	600
6611	72nd	Dr	8,524	600
7240	Ingalls	St	8,535	600
5721	72nd	Dr	8,542	600
7320	Jay	St	8,685	600
6620	73rd	Ave	8,714	600
5810	73rd	Ave	8,718	600
7301	Jay	St	8,727	600
7293	Marshall	Ct	8,806	600
7238	Eaton	Cir	8,824	600
6290	74th	Ave	8,832	600
7350	Jay	St	8,876	600
7276	Eaton	Cir	8,904	600
7276	Eaton	Cir	8,904	600

ADDRESS:	STREET:	TYPE:	LOT AREA:	MAX SIZE:
5900	72nd	Dr	8,908	600
7242	Eaton	Cir	8,929	600
6140	73rd	Ave	8,934	600
5600	73rd	Ave	8,938	600
5800	73rd	Ave	8,957	600
7236	Eaton	Cir	8,959	600
7228	Eaton	Cir	8,968	600
7371	Jay	St	8,999	600
7340	Kendall	St	9,008	600
5921	72nd	Dr	9,015	600
7252	Eaton	Cir	9,032	600
5950	72nd	Dr	9,085	600
7320	Kendall	St	9,116	600
7280	Eaton	Cir	9,342	600
7281	Eaton	Cir	9,352	600
7283	Eaton	Cir	9,370	600
5801	72nd	Dr	9,425	600
7341	Jay	St	9,449	600
7361	Jay	St	9,478	600
7280	Lamar	Ct	9,572	600
6690	72nd	Dr	9,601	600
5960	72nd	Dr	9,619	600
7241	Ingalls	St	9,700	600
6131	73rd	Ave	9,704	600
7291	Ingalls	Ct	9,708	600
5640	72nd	Dr	9,754	600
6680	72nd	Dr	9,764	600
7279	Eaton	Cir	9,804	600
5920	73rd	Ave	9,922	600
7271	Ingalls	St	9,940	600
7291	Lamar	Ct	9,951	600
6300	73rd	Ave	9,957	600
6640	73rd	Ave	10,072	600
6630	73rd	Ave	10,103	600
6651	72nd	Dr	10,114	600
6251	73rd	Ave	10,293	600
6130	73rd	Ave	10,424	600
7290	Lamar	Ct	10,448	600
7280	Ingalls	Ct	10,505	600
7259	Eaton	Cir	10,564	600
7281	Ingalls	Ct	10,720	600
7201	Ingalls	St	10,773	600
7282	Marshall	Ct	10,787	600
6610	72nd	Dr	10,789	600
6650	72nd	Dr	10,810	600
5720	72nd	Dr	10,827	600
7200	Ingalls	St	10,836	600
5920	72nd	Dr	10,897	600
7270	Lamar	Ct	10,936	600
7290	Ingalls	Ct	11,067	600
7351	Jay	St	11,124	600
7282	Eaton	Cir	11,215	600
6120	73rd	Ave	11,287	600
7267	Eaton	Cir	11,377	600
7260	Ingalls	Ct	11,568	600
7360	Jay	St	11,602	600
6620	72nd	Dr	12,066	603
7380	Jay	St	12,126	606
6670	72nd	Dr	12,135	607
5710	72nd	Dr	12,205	610
6121	73rd	Ave	12,237	612
5910	72nd	Dr	12,354	618
5930	72nd	Dr	12,375	619
5644	72nd	Dr	12,464	623
6241	74th	Ave	12,536	627
7244	Eaton	Cir	12,631	632
7310	Jay	St	12,711	636
7292	Marshall	Ct	12,770	639
7370	Jay	St	12,868	643
7277	Eaton	Cir	13,690	685
7263	Marshall	Ct	13,864	693
7260	Lamar	Ct	13,910	696
6640	72nd	Dr	14,198	710
7263	Eaton	Cir	14,274	714
7250	Lamar	Ct	14,287	714
<b>7261</b>	<b>Lamar</b>	<b>Ct</b>	<b>14,525</b>	<b>726</b>
5940	72nd	Dr	14,617	731
6110	73rd	Ave	14,742	737
6630	72nd	Dr	15,132	757
7270	Ingalls	Ct	15,510	776
5642	72nd	Dr	15,516	776
7265	Eaton	Cir	15,533	777
7248	Eaton	Cir	15,951	798
7273	Marshall	Ct	16,012	801
7272	Marshall	Ct	16,827	841
7271	Ingalls	Ct	27,630	1,382
7271	Ingalls	Ct	27,630	1,382

**NOTES:**

9,699 = Average Lot Size

- = Lot of 12,000 square feet or less (default maximum size = 600 square feet)
- = Lot of more than 12,000 square feet (maximum size = 5% of total lot area)

MAX SIZE refers to maximum allowed area for an Accessory Building on the Property



## WESTMINSTER

Agenda Memorandum

Agenda Item 3b.

Planning Commission Meeting  
August 9, 2022

**SUBJECT:** Public Hearing and Action on a Five Feet Two and Fifteen Sixteenth Inch Residential Rear Setback Variance for 11010 Meade Court in the Legacy Ridge Filing Nine Official Development Plan, a Planned Unit Development

**PREPARED BY:** Patrick Caldwell, Senior Planner

**RECOMMENDED ACTION:**

1. Hold a public hearing.
2. Recommend the Planning Commission Deny a Five Feet Two and Fifteen Sixteenth Inch Residential Rear Setback Variance for 11010 Meade Court in the Legacy Ridge Filing Nine Official Development Plan, a Planned Unit Development.

**SUMMARY STATEMENT:**

- Jack and Jennifer Schaufele own a dwelling at 11010 Meade Court in the “Hilltop Neighborhood” of the Legacy Ridge Filing 9 Official Development Plan (ODP), a Planned Unit Development (PUD). There are 15 lots in the Hilltop Neighborhood and these are identified in the ODP as “Cluster Single-Family” and have different minimum setbacks and lot sizes from the “Custom Lot Areas” noted in the Legacy Ridge Filing 9 ODP.
- The dwelling is in a gated community with its own Homeowners Association (HOA). There is an existing open, uncovered deck with stairs at the rear of the existing dwelling at 11010 Meade Court. The existing deck is approximately 240 square feet (ft.), and complies with the setbacks in the Legacy Ridge Filing 9 ODP. The Schaufeles are proposing to remove the existing deck and stairs, and expand the deck area to become a 554 square foot (sq. ft.) covered deck at the rear of the existing dwelling. The proposed deck will encroach a maximum of five ft. two and fifteen sixteenths inches (5'- 2 15/16”) into the 15 ft. residential rear setback established for “Cluster Single-Family” in the Legacy Ridge Filing 9 ODP. It is for this encroachment that the Schaufeles are requesting a variance.
- The proposed deck will be elevated over the existing walk-out basement.
- The proposed deck will match the contemporary style and stucco and stone materials of the existing dwelling.

- The proposed deck will have a retractable style roof. The sides will be open with an open rail style railing.
- A new stair at the west will connect the proposed deck to the ground.
- The proposed deck will not intrude into the adjacent private open space (Tract C) at the rear of the lot.
- The proposed deck will encroach 5'- 2 15/16" inches into the 15 ft. rear setback at the western end of the deck, and will taper to a 4'- 9 1/8" encroachment on the eastern end of the deck for a total length of 32'- 1 1/8", and a total square footage encroachment of 160.69 sq. ft. of the 554 sq. ft. proposed deck. This is approximately 29% of the proposed deck.
- The proposed encroachment will put the edge of the proposed deck at 9 ft. and 9 1/16 inches from the existing rear property line of Lot 4.
- The private yards and private open spaces in the Legacy Ridge Filing 9 ODP are not fenced and are commonly maintained by the HOA so the private yards and private open spaces have a fluid/open appearance.

**POLICY ISSUE(S):**

Should Planning Commission deny a 5'- 2 15/16" residential rear setback variance for 11010 Meade Court in the Legacy Ridge Filing Nine ODP, a PUD?

**ALTERNATIVE:**

Planning Commission could choose to approve the requested variance. Staff does not recommend this option because the proposed encroachment into the 15 ft. rear setback does not meet five of the six criteria outlined in Section 2-2-8(B) of the Westminster Municipal Code (W.M.C.).

**BACKGROUND INFORMATION:**

Overview of Variance Process

Section 2-2-2(E), W.M.C. provides that the Planning Commission shall hear and decide variance requests. Variances may be requested from the following provisions of Title XI (Land Development and Growth Procedures) of the W.M.C.:

- 1) Section 11-7-4, W.M.C., regarding off-street parking standards;
- 2) Those portions of Chapter 11 specified in Section 11-11-8, W.M.C., regarding sign regulations;
- 3) Section 11-4-5, W.M.C., regarding density schedule;
- 4) Section 11-4-6, W.M.C., regarding special regulations;
- 5) Section 11-16-1, et al., W.M.C., regarding antennas, towers, and telecommunications facilities;
- 6) Those portions of Section 11-4-12, W.M.C., specified in Subsection 11-4-12(I), W.M.C., regarding satellite earth stations;

7) Section 11-4-15, W.M.C., as it applies to nonconforming structures;

Section 2-2-8(B), W.M.C. specifies that there are six criteria that must be met before the Planning Commission may grant a variance; (these criteria, as they apply to this application, are addressed in detail below). The Planning Commission may only grant a variance if it finds that all six criteria are appropriately addressed and satisfied; otherwise the variance request must be denied. Section 2-2-8(C), W.M.C. provides that decisions of the Planning Commission are final subject only to an appeal to district court.

Nature of Request

This variance request application seeks a variance to Section 11-4-6(D)(4), W.M.C., Decks, that states: “Open, unenclosed and uncovered decks or patios may extend into a required setback, provided they are constructed at ground level and do not conflict with any utility or other easements.” The proposed deck at 11010 Meade Court is proposed above an existing walk-out basement level, and the proposed deck is to be covered with a flexible shutter-style roof.

History of Subject Property

The ODP and Final Plat for Legacy Ridge Filing 9 were approved in 1998. The dwelling at 11010 Meade Court is on Lot 4 of Block 1 in the Legacy Ridge Filing 9 Final Plat. The one-floor plus walkout basement dwelling was constructed in 1999, and no changes to the building footprint or existing deck have occurred since the initial construction of the dwelling. The existing dwelling and deck currently are in full compliance for setbacks with the Legacy Ridge Filing 9 ODP and Final Plat. The Schaufele’s purchased the dwelling in 2021.

Public Notification

Section 11-5-13(A), W.M.C. requires the following three public notification procedures for Planning Commission Public Hearings:

- **Published Notice:** Notice of the public hearing shall be published at least ten days prior to such hearing. Notice was published in the Westminster Window by the required deadline of July 28, 2022.
- **Property Posting:** Notice of the public hearing shall be posted and maintained on the property at least ten days prior to the hearing with a minimum of one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Sign(s) were posted on the subject property by the required deadline of July 28, 2022. The applicant has provided the City’s Planning Manager with a certification that the sign(s) were posted and properly maintained throughout the posting period.
- **Written Notice:** At least ten days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City within 500 ft. of the subject property. The applicant has provided the City’s Planning Manager with a certification that the required notices were mailed by the required deadline of July 28, 2022.

Applicant/Property Owner

Jack and Jennifer Schaufele  
11010 Meade Court  
Westminster, Colorado 80031

## Location

The vicinity map in Attachment 1 shows the lot for the proposed variance to be located near the northeast corner of 110<sup>th</sup> Avenue and Meade Court. Two private open spaces platted as Tracts F and S, and a private drive, and a gated entry separate this lot from the 110<sup>th</sup> Avenue right of way. North is to the top of the map and the proposed deck is proposed on the north side of the existing dwelling.

## Surrounding Land Uses and Designations

<b>Direction</b>	<b>Development Name</b>	<b>Zoning</b>	<b>Comp Plan Designation</b>	<b>Current Use</b>
<b>North</b>	Legacy Ridge ODP Filing 9	P.U.D.	Residential R 3.5	Single Family Detached Residential
<b>East</b>	Legacy Ridge ODP Filing 9	P.U.D.	Residential R 3.5	Single Family Detached Residential
<b>South</b>	Legacy Ridge ODP Filing 9	P.U.D.	Residential R 3.5	Single Family Detached Residential
<b>West</b>	Legacy Ridge ODP Filing 9	P.U.D.	Residential R 3.5	Single Family Detached Residential

## Site Plan Information

Attachment 2 indicates the existing dwelling footprint and shows the current location of a deck on the north side of the existing dwelling. The existing deck and stairs are proposed to be removed. A new and expanded deck is proposed to be constructed in the same general location as the existing deck.

## Site Design

Attachments 2 and 3 show the existing private 10 ft. utility easement along the north side of the lot. The proposed expanded deck shown on Attachment 3 is proposed to encroach up to 2 and 15/16 inches into this existing 10 ft. utility easement. To clarify, the proposed deck will encroach approximately 5 ft. into the existing rear setback, and almost 3 inches into the 10 ft. private utility easement at the rear of the lot. A letter from Excel Energy is provided in Attachment 4 and indicates approval of this proposed 2- and 15/16-inches encroachment into the existing private 10 ft. utility easement.

The proposed stair from the deck to the ground is shown on Attachment 3. The proposed stair is at the west side of the proposed deck. Existing patio and walkways that are now in place are not proposed to change with the proposed expanded deck, except to add a concrete pad at the base of the proposed stairs, and to add a walk from the base of the proposed new stair to existing patio areas beneath the proposed expanded deck.

## Traffic and Transportation

Not Applicable.

## Landscape Design

The City does not manage or review landscape in private yards at Legacy Ridge Filing 9. No existing trees or shrubs are shown to be removed for the proposed expanded deck. Private yards and private open spaces in Legacy Ridge Filing 9 are maintained by the Legacy Ridge Filing 9 HOA and fences are not allowed to separate private yards from the private open spaces. This condition is not proposed to change with this proposed Variance.

## Public Land Dedication/School Land Dedication

Public Land Dedication and School Land Dedication are typically required for new residential development, but not for existing residential development. All land dedications for the larger Legacy Ridge P.U.D. were made when the Legacy Ridge P.U.D. was approved by the City Council. No additional land dedications are required for this proposed Variance.

## Architectural/Building Materials

The proposed deck columns will use masonry materials, and synthetic stucco that match the existing masonry and synthetic stucco style on the existing dwelling. The deck frame, the deck railings, and the stair railings will be painted in the trim color that is used on the existing dwelling. The metal retractable shutter style roof will also be painted in a consistent color. The deck style, column design, railing design, roof design, and stairs design are consistent with a style used in other locations in the larger Legacy Ridge PUD. A colored perspective rendering of the proposed deck with railings, columns, and retractable roof is shown in Attachment 5.

## Signage

Not Applicable.

## Westminster Municipal Code Analysis

*2-2-8 (B) - The Planning Commission may grant a variance if it finds that all of the following requirements are satisfied, where applicable:*

*(1) That the strict application of the provisions of Title XI of this Code would result in practical difficulties or unnecessary hardship that is inconsistent with the general purpose and intent of this Code.*

## Applicant Comment

“Strict application of the Cluster Single-Family Home rear setback requirement for properties abutting open space (15’) within Legacy Ridge Filing 9 PUD would result in practical difficulties in the development of the Property and is not consistent with the intent of PUDs under the Code. The 15-foot rear setback within the PUD for Cluster Single-Family Homes abutting open space results in practical difficulties and unnecessary hardship because strict application would prevent the construction of a usable elevated deck on the Property. Specifically, the Property has no other viable location to construct an elevated deck and therefore, strict application of the 15’ setback would result in the unnecessary hardship of prohibiting a usable deck on only this Property (nearly all of the homes within the Hilltop neighborhood have walkout basements with elevated decks). The west side-yard of the Property would be inconsistent with the neighborhood and too close to the gate for the Hilltop neighborhood, there is no room in the front (south) side of the Property, and the east and northeast corners of the Property would require an even greater setback encroachment. Therefore, the northwest corner of the existing home is the logical and practical location to construct a usable elevated deck, yet the open space at the rear of the home (shown on the image on the next page) creates a false sense of an additional setback from the private drive to the rear of the Property when in reality, the actual Property line is too close to the existing home to permit

construction of a usable elevated deck. Additionally, under the Code, PUDs are intended to permit a developer an opportunity to “more fully utilize the physical characteristics of a site, through the reduction of lot sizes and the absence of setback and bulk restricts” and to provide for “diversification and flexibility” in overall design. (Code § 11-4-7(B)). The strict application of the PUD setback is not consistent with the intent of the Code because it prevents flexibility of design and does not allow the Schaufeles to fully utilize the physical characteristics of the Property because they would be precluded from constructing a usable elevated deck on the Property.”

Staff Analysis

Staff does not find that the strict application of the provisions of Title XI of this Code would result in practical difficulties or unnecessary hardship that is inconsistent with the general purpose and intent of this Code.

- There is an existing deck at the rear of the existing dwelling and the existing deck is constructed within the existing 15 ft. rear setback. The applicant has not presented evidence in their application that the size of the existing deck has created a hardship that requires an expansion into the existing 15 ft. rear setback.
- In many similar detached residential subdivisions in the City of Westminster the minimum requirement for a rear patio, rear deck, or rear private outdoor space is 120 sq. ft. The existing deck appears to be about 240 sq. ft. and this is double the minimum standard in many other residential subdivisions.
- The ODP for Legacy Ridge Filing 9 does not list a minimum or maximum deck size, or require a deck for any of the dwellings in the ODP. The ODP is silent on deck requirements, except to set a minimum setback for rear decks.
- The City has categorized housing types into five groups. The minimum deck or patio size varies with each housing type. The categories, and minimum deck or patio size are listed in Table 1 herein. For several categories note that there is a minimum outdoor space requirement at the side or rear of the dwelling for only a percentage of the dwellings.

<b>TABLE 1</b>	Detached	Attached	Multi Family	Senior Housing	TMUND
Deck Minimum Sq. Ft.	Side or rear patio of 120 sq. ft. on min 50% of dwellings	Patio of 120 sq. ft. or balcony of 80 sq. ft. on min 50% of dwellings	Patio of 120 sq. ft. or balcony of 80 sq. ft. min. on 50% of dwellings	Patio of 120 sq. ft. or balcony of 80 sq. ft. on 80% of dwellings - elective	For SFD 400 sq. ft. min. yard; deck included in yard area
Front Porch Minimum Sq. Ft.	80 Sq. Ft. w/ 6 ft. min. depth on min 50% of dwellings	80 Sq. Ft. w/6 ft. min. depth on min 50% of dwellings	Not required	Not Required	90 Sq. Ft. min. area; 6 – 8 ft. min. depth
Deck Minimum Setback	Rear: 18 ft. Side for 1-story: 7.5 ft. Side for 2-story: 10 ft.	_____	_____	_____	_____

*(2) That there are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property.*

## Applicant Comment

“The Property’s lot has many unique physical circumstances. First, the Property is surrounded by two street frontages, one sliver of open space adjacent another street, and only one other single-family cluster home, as depicted in the image below. These street frontages and open space create a unique lot whereby instead of a typical square or rectangular lot with one street frontage, two side lot lines and one rear lot line, the Property functions as though it has three street frontages, which impacts the offsite impact of a deck on 6 4865-4036-0208, v. 7 the Property. Specifically, because of the Property’s street frontages, there is no opportunity to put a deck out of sight of a street. Second, the Property is a “V” or “pie” shape, with the lot being narrower on the western side and wider on the eastern side, which impacts the developable area of the northwest corner of the lot – which is the only viable location for the Proposed Deck. Specifically, if the Property was not narrower on the western side, and the private open space was actually part of the Property, the setbacks would be further away from the existing house, which might permit the Proposed Deck without a variance. However, the reality is that because of the narrowness of the lot on the western side, the Proposed Deck requires a variance. Third, the Property slopes from the high side on the east to the low side on the west. Therefore, in addition to the fact that the existing house is closer to the Property line on the eastern side, an elevated deck on the northeastern portion of the Property would likely create a sense of “towering” over the existing house and would not fit into the character of the neighborhood. Alternatively, because the northwest corner of the Property is lower than the northeast corner, the Proposed Deck creates a consistent sense of mass and scale. Fourth, the Property’s only available space for a deck without violating the required setbacks is the western side yard. The western side yard is not viable for a deck because (a) it would be exposed to all of the traffic coming through the gate into the Hilltop neighborhood (see the gate circled in yellow below); (b) there are no other side yard decks within the Hilltop neighborhood and therefore, it would not be consistent with the character of the Hilltop neighborhood; and (c) an elevated deck on the western side of the house would require an entire redesign of the interior of the house.”

## Staff Analysis

Staff does not find that there are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property.

- The lot is not a square lot, but is generally rectangular with a general dimension of 104 ft. by 112 ft. This is not a unique lot configuration in a custom lot subdivision such as Legacy Ridge Filing 9. The lot is neither narrow or shallow.
- The lot is a corner lot and in most subdivisions in the City the minimum side setback next to a street is subject to a larger side setback than the interior side of the lot. In Legacy Ridge Filing 9 the side setback is 6 ft. for the dwelling whether it is on a corner or whether the side is to another more interior lot. The existing dwelling constructed in 1999 meets this setback on both sides of the existing dwelling.
- The topography of the lot is not unique. The lot was designed to take advantage of the natural slope of the land and the existing dwelling was sited to intentionally have a walk out condition on the rear of the existing dwelling.
- The existing dwelling constructed in 1999 could have been sited more forward at the minimum front setbacks and then additional area would have been available at the rear for a larger deck.

*(3) That these unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.*

## Applicant Comment

The unique physical circumstances of the Property do not exist throughout the neighborhood within the Legacy Ridge Golf Course, where the Property is located. The Property's specific neighborhood consists of 15 properties within the Legacy Ridge Golf Course designated as the "Hilltop neighborhood" and are identified as Cluster Single-Family Homes in the Legacy Ridge Filing 9 PUD. These 15 properties are subject to the Hilltop Homeowner's Association (the "Hilltop HOA") architectural committee when proposing design changes in order to retain the Hilltop neighborhood's character. While there are several properties that are on corner lots within the Hilltop neighborhood, the Property is unique because it is the only property with the appearance of three street frontages (two street frontages + the open space) and the only property where the rear street frontage is located close to the structure of the home in comparison to the rest of the neighborhood. Due to the closeness of the rear street, which is different from other homes, the Proposed Deck encroaches into the setback 5' 2 15/16" inches on the western end of the Proposed Deck and angles to 4' 9 1/8" on the eastern end of the deck. Furthermore, currently 13 of the 15 existing homes within the Hilltop neighborhood have elevated decks and none of the 12 elevated decks required a variance and therefore, the Property's physical circumstances and conditions are unique because they necessitate a variance for a deck when other properties do not.

## Staff Analysis

Staff finds that these unusual circumstances or conditions do exist throughout the neighborhood or district in which the property is located.

- Legacy Ridge Filing 9 is a part of the larger Legacy Ridge golf course community PUD. Many of the lots in the larger Legacy Ridge PUD are shaped to allow the dwelling to take advantage of golf course access, or to allow dwellings to capture views of the golf course or of the Rocky Mountains to the west, or to allow a potential walk-out level basement. Legacy Ridge 9 is generally designed with similar intentions. Odd shape lots, or long or narrow lots are not unusual in Legacy Ridge 9 and are designed with the intents as noted.
- In the Legacy Ridge Filing 9 ODP the lot sizes range from 7,919 sq. ft. to 19,097 sq. ft. Most dwellings on the lots in Filing 9 have a deck and none have applied for a variance. The lot is reasonably shaped and the existing dwelling with the existing conforming deck are a reasonable fit for the lot. Special conditions and circumstances do not exist and the existing code and ODP compliant dwelling and deck are testimony to the lack of special conditions and circumstances.

*(4) That because of such physical circumstances or conditions, the property cannot be reasonably developed in conformity with the provisions of this Code.*

## Applicant Comment

"The unique physical circumstances of the Property prevent building a functional covered, elevated deck over the basement at the rear of the Property in compliance with the Legacy Ridge Filing 9 PUD. There are several reasons why building the deck at the rear is necessary. The deck's design at the rear naturally flows from the kitchen and great room on the first floor of the home. This natural flow would not be possible elsewhere on the Property. The only other alternative location possible would be the west side of the Property. However, as discussed above, this is not an option because (a) it would be exposed to all of the traffic coming through the gate into the Hilltop neighborhood; (b) there are no other side yard decks within the Hilltop neighborhood and therefore, it would not be consistent with the character of the Hilltop neighborhood; and (c) an elevated deck on the western side of the house would require an entire redesign of the interior of the house. Furthermore, during the Hilltop HOA architectural review process, the HOA expressed concerns about a deck on the western side of

the Property because of its exposure to the traffic on Meade Court and the visibility from the gate into the Hilltop neighborhood. In fact, the Hilltop HOA asked the Schaufeles to, after construction of the 8 4865-4036-0208, v. 7 Proposed Deck, plant one or more evergreen trees between the Proposed Deck and the western Property boundary so as to screen the Proposed Deck's stairway from being seen upon entering the community. This is also related to maintaining the character of the neighborhood, discussed further below, because no other properties in the neighborhood have side decks."

#### Staff Analysis

Staff finds that the property has been reasonably developed in conformity with the provisions of this Code. Staff finds that special physical conditions and circumstances do not exist for this lot.

The physical circumstances and conditions on Lot 4, Block 1 of Legacy Ridge Filing 9 are not unusual or different from most other lots in Filing 9. There is an existing and reasonably sized deck on this lot and it is in conformity with the provisions of the W.M.C. The existing deck on this lot in the Legacy Ridge Filing 9 ODP is constructed within the minimum 15 ft. rear setback to private open space. The proposed encroachment of approximately 5 ft. into the minimum rear setback is not consistent with the intent of keeping a structure a minimum of 15 ft. from the edge of the private open space. *(5) That the special conditions and circumstances do not result from the present or prior actions of the applicant.*

#### Applicant Comment

"The Schaufeles are not responsible for the current unique physical circumstances of the Property. The Schaufeles bought the Property in March of 2021, long after its original build and design in 1999. To their knowledge, the footprint of the home has remained largely the same since its construction in 1999. Accordingly, the Property's physical circumstances necessitating the variance have nothing to do with the Schaufeles' previous or present actions."

#### Staff Analysis

Staff finds that special conditions and circumstances are not present for this lot, and if they do exist they are not the result of present or prior actions of the applicant.

The applicant has noted they recently purchased the dwelling - in 2021. The existing dwelling and existing deck were in place at the time of their purchase, and their actions have not changed any conditions or circumstances that existed prior to their purchase. *(6) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.*

#### Applicant Comment

"The variance for the Proposed Deck will not alter the essential character of the Legacy Ridge Golf Course community. The Proposed Deck will be located in what is currently a "notch-in" on the home and therefore, the minor addition to permit the Proposed Deck simply modifies the design of the home from a "notch in" on the northwestern corner to a minor "jut out." Additionally, the Proposed Deck is designed in an architecturally compatible fashion, which will actually add to the overall aesthetic appeal, and character, of the neighborhood. In fact, the Schaufeles have already received applicable Hilltop HOA approvals for the Proposed Deck, which included collaboration on appropriate architectural design for the Proposed Deck and requires the use of materials, colors and design that are similar to the other homes within the Hilltop neighborhood. Accordingly, the Hilltop HOA approvals show that the community generally agrees that the Proposed Deck would not alter the essential character of the neighborhood. Lastly, the Proposed Deck will match the character of the neighborhood because there are 12 other homes (of a total of 15) within the Hilltop neighborhood that have elevated, covered

decks. The Proposed Deck will not substantially or permanently impair the appropriate use or development of adjacent property. As depicted in the maps above, the Property sits on a corner lot within the neighborhood that ends in a cul-de-sac. Accordingly, the Property only shares a property line with one other home, 11020 Meade Court, which is on the eastern boundary of the Property. The Proposed Deck will be located at the northwest corner of the Property and therefore, is the maximum distance possible from the adjacent property. These characteristics 9 4865-4036-0208, v. 7 will naturally decrease effects, if any, on uses and development at the adjacent property. Additionally, the neighbor at this adjacent property, along with other neighbors in the community, have been supportive of the Proposed Deck. This support includes approval by the Hilltop HOA's architectural committee."

### Staff Analysis

Staff finds that the variance, if granted, will alter the essential character of the neighborhood in which the property is located. The neighborhood in Legacy Ridge Filing 9 is identified in the Legacy Ridge Filing 9 ODP as "Cluster Single- Family". The residents refer to this group of 15 dwellings as the "Hilltop Neighborhood".

- There are no other variances for deck setbacks in the Hilltop Neighborhood. The variance, if granted, would provide a precedent for other dwellings to encroach into the rear setback and this may eventually alter the essential character of the Hilltop Neighborhood.
- The intent of the "Cluster Single-Family" area in the Legacy Ridge Filing 9 ODP is to create a pastoral setting with no fences on lot lines or on the private open space parcels. The proposed deck encroachment will intrude into the pastoral setting and permanently alter the essential character of this neighborhood.

*Any application not meeting such criteria shall be denied. In approving an application meeting the above criteria, the commission may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of Title XI or the various adopted codes.*

### Neighborhood Meeting(s) and Public Comments

A neighborhood meeting was not required for this type of application. A letter of support from the Legacy Ridge Filing 9 HOA Design Review Committee on November 16, 2021 is included as Attachment 6.

An email with photos, dated August 3, 2022 from Elizabeth and Gary Bernard, property owners at 11027 Meade Court, states objection to the proposed Variance. The email with photos are included in this memo as Attachment 7.

### Summary of Staff Recommendation

Staff Recommendation is not supportive of this request for variance from the minimum 15 ft. rear setback because the variance does not meet five of the six criteria required for a Variance. Staff did not find hardship, difficult lot configuration, unusual circumstances in the neighborhood, circumstances that prevent reasonable development of the lot, or no harm to the future neighborhood design.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "John McConnell".

John McConnell, AICP

Interim Planning Manager

**ATTACHMENTS:**

Attachment 1: Vicinity Map within Legacy Ridge Filing 9

Attachment 2: Existing Site Plan

Attachment 3: Proposed Site Plan

Attachment 4: Xcel Energy Letter of Support for Easement Encroachment

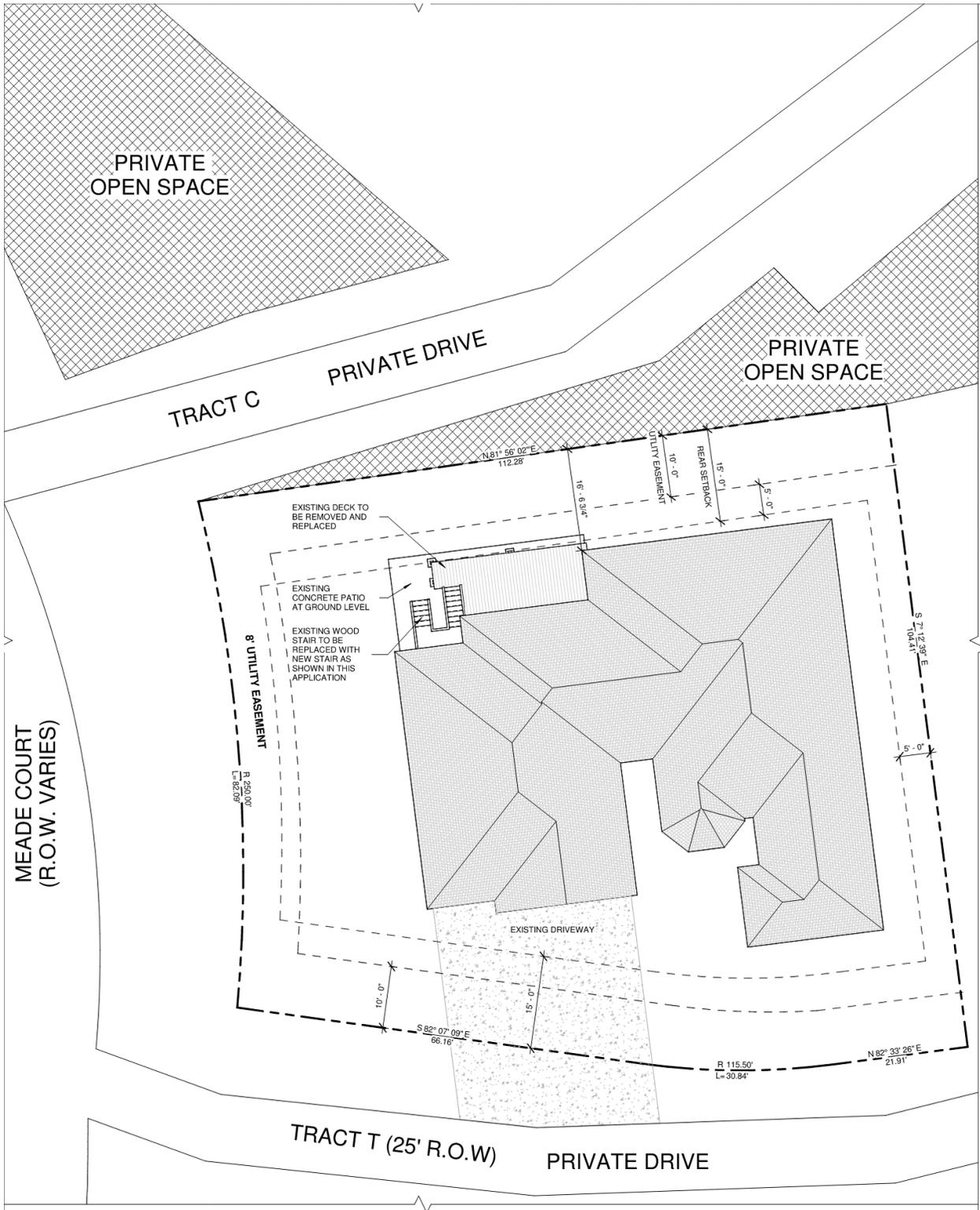
Attachment 5: Color Perspective of Proposed Deck Design

Attachment 6: Legacy Ridge Filing 9 (Hilltop Neighborhood) HOA Design Review Committee Letter of Support for Deck Variance

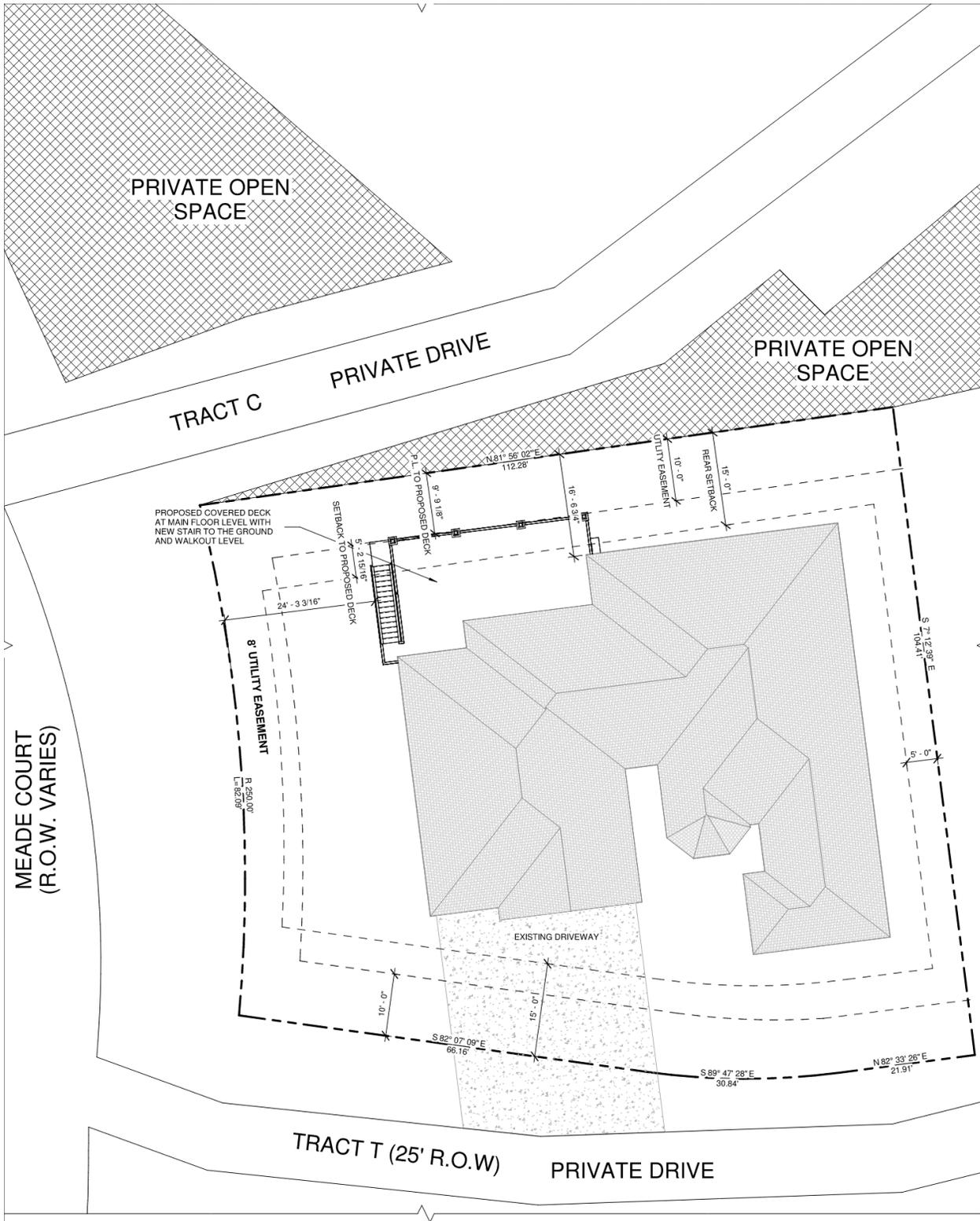
Attachment 7: Copy of email from Elizabeth and Gary Bernard, property owners at 11027 Meade Court stating Objection to Proposed Variance



VICINITY MAP - ZOOMED IN











Right of Way and Permits  
5460 W. 60<sup>th</sup> Ave  
Arvada, CO 80003

Jennifer and Jack Schaufele  
11010 Meade Ct.  
Westminster, CO 80031

8/19/2021

**Re: Utility Easement Encroachment  
11010 Meade Ct. Westminster, CO 80031**

Dear Property Owner,

You have notified Xcel Energy of the new cantilevered deck on your property at 11010 Meade Ct, Westminster, Colorado, more particularly described as **Lot 4, Block 1 Legacy Ridge Filing No. 9**, located in Section 8, Township 2 South, Range 68 West, County of Adams, State of Colorado.

Please be advised that Public Service Company of Colorado (PSCo) has reviewed the request to allow the cantilevered deck to encroach into the 10' platted Utility Easement along the rear lot line. **Public Service Company of Colorado has NO OBJECTION to this encroachment as described.** You are advised that all risk and responsibility of this encroachment is unilaterally that of the property owner. Additionally, in the event said structure is damaged or destroyed due to Public Services use of this easement at any time in the future, the property owner will make repairs to the structure at its sole expense.

When any digging is commenced on the property, PSCo reminds you of your lawful duty to contact the Utility Notification Center of Colorado (UNCC) two days before starting the work. They can be reached at 811. UNCC will mark the locations of the various underground utilities on the ground.

Should you have any questions, please contact me at the phone number or email address listed below.

Please retain this letter in your permanent property records & provide to any future owner.

Sincerely,

A handwritten signature in black ink that reads 'Brett McGrath'.

Brett McGrath, RWA  
Right-Of-Way & Permits  
303-810-3957  
[brett.p.mcgrath@xcelenergy.com](mailto:brett.p.mcgrath@xcelenergy.com)





OPEN TRELLIS STYLE COVERING OF  
MOTORIZED AWNING FOR  
COVERING AS NEEDED

NEW UPPER COLUMN OF  
WOOD MATERIAL TO MATCH  
OPEN ROOF MATERIAL

NEW MASONRY WRAPPED  
COLUMN TO MATCH  
EXISTING MASONRY ON  
HOUSE

EXISTING LOWER LEVEL  
WALKOUT TO REMAIN

EXISTING CONCRETE SLAB  
AT GRADE LEVEL

NEW 3'-10" X 10'-0" SOFT  
CONCRETE SLAB AT  
GRADE LEVEL

NEW STAIR FROM MAIN  
LEVEL TO WALKOUT

EXTERIOR RENDERING  
12" = 1'-0"

Design Review Request

Hilltop HOA

FOR OFFICE USE ONLY

Date Received: \_\_\_\_\_

Crucial Date: \_\_\_\_\_

Date Sent To Committee: \_\_\_\_\_

Date Rcvd From Committee: \_\_\_\_\_

CM: \_\_\_\_\_

Request#: \_\_\_\_\_

Name: Jack & Jennifer Schaufele  
Address: 11010 Meade Ct.  
City/State/Zip: Westminster, Co 80031

Home Phone: \_\_\_\_\_

Work Phone: \_\_\_\_\_

My request involves the following type of improvement:

- Painting
- Deck/Patio Slab
- Roofing
- Drive/Walk Addition
- Landscaping
- Patio Cover
- Fencing
- Other: \_\_\_\_\_

Describe improvements (attach additional documentation as needed):

See attached documentation.

Planned completion date: \_\_\_\_\_

I understand that I must receive approval of the Association in order to proceed. I understand that Association approval does not constitute approval of the local building department and that I may be required to obtain a building permit. I understand that my improvements must be completed per specifications or approval is withdrawn. I agree to complete improvements promptly after receiving approval.

Date \_\_\_\_\_ Homeowner's Signature: \_\_\_\_\_

Committee Action:

Approved as submitted

Approved subject to the following requirements:

Approval based on Westminster written building code guidelines.

Disapproved for the following reasons:

Completion required by: \_\_\_\_\_

Committee Member Signature: \_\_\_\_\_

Carol Kreiman

Date: 11/16/2021

August 3, 2022

To: Patrick Caldwell  
Senior Planner  
City of Westminster

Re: Schaufele Family Request for Variance  
11010 Meade Court, Westminster, CO 80031

Dear Mr. Caldwell.

We are the owners of the property located at 11027 Meade CT. Westminster Co. 80031. Our property faces the property located at 11010 Meade Ct. Westminster CO, 80031.

Jack and Jennifer Schaufele, owners of the above referenced property, are asking the city of Westminster to approve a variance so they may extend an existing deck. The approval of the deck will have a direct and negative impact on our view from our primary living area. While our architecture committee has granted approval pending the decision of the City's planning division, we wish to go on record as objecting to the approval of the variance.

It is our opinion that the planned structure will negatively affect the value of our home. In addition, the proposed structure is not consistent with any of the decks located within our small community of 15 homes.

Thank you for your attention to this matter.

Elizabeth and Gary Bernard, Citizens

