

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING
FINDINGS AND DECISION**

HEARING DATE: October 1, 2014

PROJECT NAME: GRE Prospect Subdivision

CASE NUMBER: FDP140016

APPLICANT: Brad Schwindt
GRE Holdings, LLC
1331 17th Street, 2nd Floor
Denver, CO 80202

OWNER: GRE Holdings, LLC
1331 17th Street, 2nd Floor
Denver, CO 80202

HEARING OFFICER: Kendra L. Carberry

PROJECT DESCRIPTION: This is a combined Project Development Plan and Final Plan (PDP/FP) to plat a currently unplatted 18,677 square foot property at 2430 West Prospect Road, and change the use of the property from a child care center to a single-family residential use. The parcel is located on the corner of West Prospect Road and Fuqua Drive. The lot contains an existing house that was originally developed outside of the City boundaries on an unplatted parcel.

SUMMARY OF DECISION: Approved

ZONE DISTRICT: Low Density Residential (R-L)

HEARING: The Hearing Officer opened the hearing at approximately 5:00 p.m. on October 1, 2014, in Conference Room A, 281 North College Avenue, Fort Collins, Colorado.

EVIDENCE: At the hearing, the Hearing Officer accepted the following evidence: (1) Planning Department Staff Report; (2) application, plans, maps and other supporting documents submitted by the applicant; and (3) a copy of the public notice (the formally promulgated policies of the City are all considered part of the record considered by the Hearing Officer).

TESTIMONY: The following persons testified at the hearing:

From the City: Clark Mapes

From the Applicant: Brad Schwindt

From the Public: Ron Young

FINDINGS

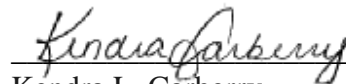
1. Evidence presented to the Hearing Officer established the fact that the hearing was properly posted, legal notices mailed and notice published.
2. The PDP/FP complies with the applicable General Development Standards contained in Article 3 of the Code.
 - a. The PDP/FP complies with Section 3.3.1(C), Public Sites, Reservations and Dedications, because the PDP/FP dedicates the required land area.
 - b. The PDP/FP complies with Section 3.3.2(A)(1), Approval of City Engineer, because the PDP/FP provides for the construction of an accessible sidewalk curb ramp at the corner of Prospect and Fuqua.
 - c. Because the house is existing, no additional development standards apply to this PDP/FP.
3. The PDP/FP complies with the applicable standards contained in Article 4 of the Code for the R-L zone district.
 - a. The PDP/FP complies with the purpose of the R-L zone district, because the PDP/FP proposes a single-family residential use.
 - b. The PDP/FP complies with Section 4.4(D)(1), Density, because the existing house of 3,017 square feet will remain on a lot of 15,606 square feet.

DECISION

Based on the foregoing findings, the Hearing Officer hereby enters the following rulings:

1. The PDP/FP is approved as submitted.

DATED this 13th day of October, 2014.



Kendra L. Carberry
Hearing Officer



HEARING DATE October 1, 2014

STAFF Mapes

ADMINISTRATIVE HEARING

STAFF REPORT

PROJECT: GRE Prospect Subdivision
#FDP140016

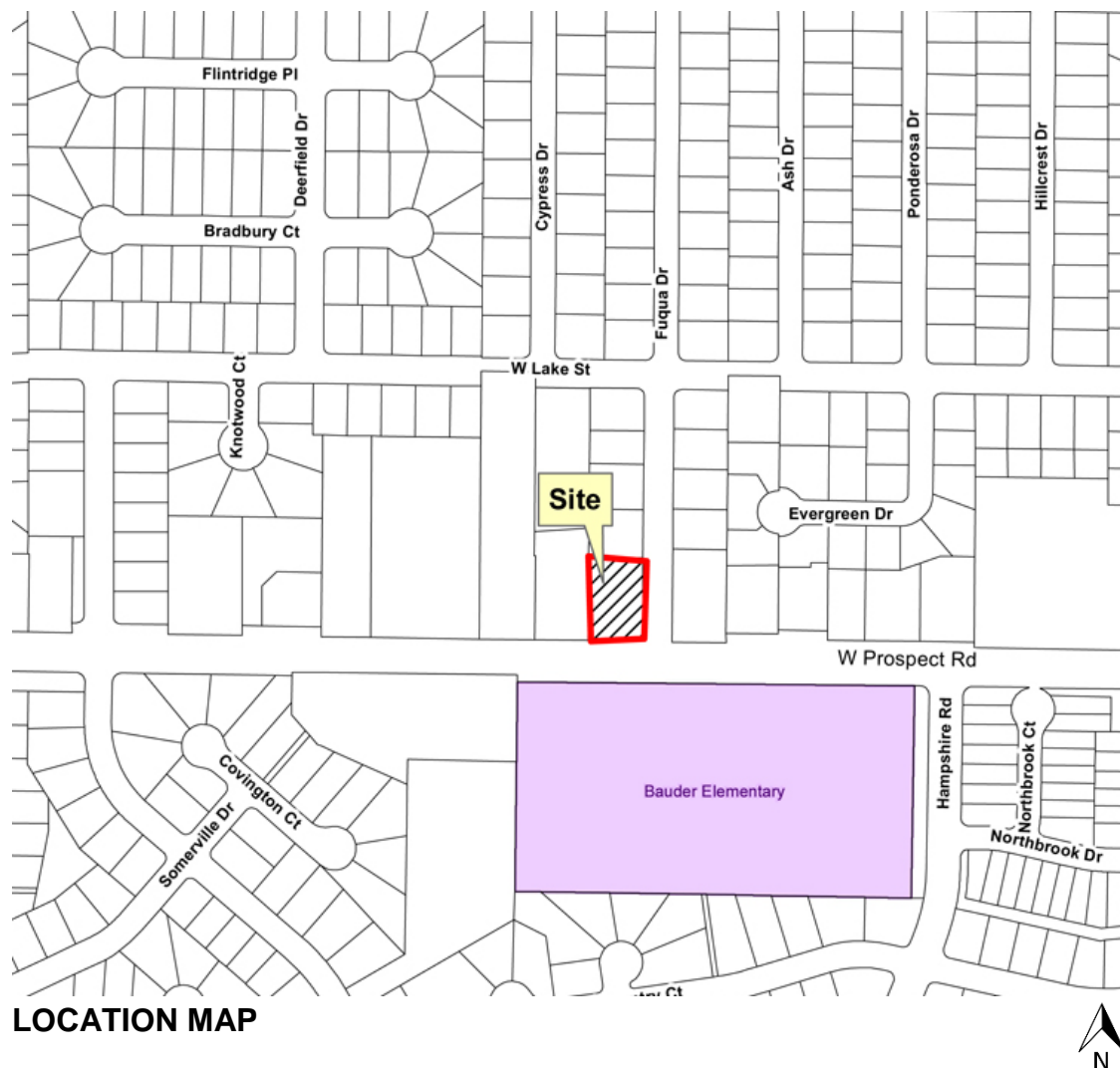
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OWNER: GRE Holdings, LLC
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PROJECT DESCRIPTION:

This is a combined Project Development Plan (PDP) and Final Plan (FP) to 1) plat a currently unplatted 18,677 square-foot property at 2430 West Prospect Road, and 2) change the use of the property from child care center to single family residential use. The parcel is located on the corner of West Prospect Road and Fuqua Drive. The property is zoned R-L, Low Density Residential. The lot contains an existing house, to remain, that was originally developed outside of City Limits on an unplatted parcel.

The existing house was previously used as a child care business, but has been abandoned for well over a year.



RECOMMENDATION:

Approval.

EXECUTIVE SUMMARY:

The main result of this PDP/FP will be to record a subdivision plat and file a site plan. The plat creates a subdivided lot and dedicates required right-of-way and utility easements. The site plan authorizes single-family residential use so that existing house can then be converted back to its original use as a residence. The plan shows the existing development, requires removal of a section of existing fence from the area being dedicated for right-of-way, requires removal of a sign from the former child care business, and requires the curb ramp mentioned previously.

No physical improvements are proposed, with the exception of an accessible sidewalk ramp at the abutting street corner which is being required in the review process.

COMMENTS:

Background

The house was built in 1959 and later converted to a child care center which operated through approximately 2011. The property was included in the Overland Trail annexation in 1970.

Surrounding zoning and land uses are as follows:

Direction	Zone District	Existing Land Uses
North	R-L, Low Density Residential	Single-family subdivision
South	R-L, Low Density Residential	Bauder elementary school, single family subdivision
East	R-L, Low Density Residential	Single family subdivision
West	R-L, Low Density Residential	Single family subdivision

Compliance with Applicable Standards of Division 4.4, Low Density Residential (R-L) Zone District

The purpose of the R-L zone is “for predominately single-family residential areas located throughout the City which were existing at the time of adoption of this Code.”

Staff finds that the PDP/FP complies with the applicable standards under this zoning.

Section 4.4(D)(1), Density. This standard requires minimum lot area at least three times the building floor area but not less than 6,000 square feet. The plat creates a lot that is 15,606 square feet, and the floor area of the existing house to remain is 3,017 square feet.

Because the physical development is existing, and no additional building is proposed, no other zone district standards are applicable. However, the existing house would nevertheless comply with the remaining standards for the zone district, which are

dimensional standards for a minimum 60-foot lot width, 20-foot front setback, 15-foot rear setback, 5-foot side setbacks, and 28-foot maximum building height.

Compliance with Applicable General Development Standards of Article Three

Because the development is existing, and no additional building is proposed, staff finds only two applicable General Development Standards, both regarding engineering requirements for the plat and site plan. The PDP/FP complies with these applicable standards, as follows:

Section 3.3.1(C) Public Sites, Reservations and Dedications. This Section requires development plans to dedicate rights-of-way for public streets, and utility easements as needed to serve the area being platted. The plat dedicates the required land area.

Section 3.3.2(A)(1). This subsection requires that improvements have been designed according to the City's various design criteria and construction standards. The PDP/FP triggered a requirement to add an accessible sidewalk curb ramp at the corner of Prospect and Fuqua, and the Site Plan complies.

FINDINGS OF FACT AND CONCLUSION:

In evaluating the GRE Prospect Subdivision, staff makes the following findings of fact:

- The PDP/FP complies with relevant standards located in Article 3 – General Development Standards because the plat and site plan meet requirements for right-of-way and easement dedication, and for required public improvements in the form of an accessible sidewalk curb ramp.
- The PDP complies with relevant standards located in Article 4, Division 4.4, Low Density Residential District, because the plat creates a lot that complies with the lot size requirements, and no other standards are applicable due the lack of any changes to existing development.

RECOMMENDATION:

Staff recommends approval of GRE Prospect Subdivision #FDP140016.

ATTACHMENTS:

- 1 Site Plan
- 2 Plat

GRE PROSPECT SUBDIVISION

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF FORT COLLINS, STATE OF COLORADO

STATEMENT OF OWNERSHIP AND SUBDIVISION:

Know all persons by these presents, that the undersigned owner(s) of the following described land:

A TRACT OF LAND SITUATE IN THE SE 1/4 OF SECTION 16, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO, WHICH CONSIDERING THE SOUTH LINE OF SAID SE 1/4 AS BEARING S 89 DEGREES 41' E, AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO IS CONTAINED WITHIN THE BOUNDARY LINES WHICH BEGINS AT A POINT ON THE SOUTH LINE OF SAID SE 1/4 WHICH BEARS S 89 DEGREES 41' E, 540.00 FEET FROM THE S 1/4 CORNER OF SAID SECTION 16 AND RUN THENCE S 89 DEGREES 41' E, 110.00 FEET; THENCE N 00 DEGREES 06' 30" W, 200.10 FEET; THENCE N 89 DEGREES 41' W, 110.00 FEET; THENCE S 00 DEGREES 06' 30" E, 200.10 FEET TO THE POINT OF BEGINNING.

contains 21,975 square feet or 0.504 acres, more or less.

For themselves and their successors in interest (collectively "Owner") have caused the above described land to be surveyed and subdivided into lots, tracts and streets as shown on this Plat to be known as GRE PROSPECT SUBDIVISION (the "Development"), subject to all easements and rights-of-way now of record or existing or indicated on this Plat. The rights and obligations of this Plat shall run with the land.

CERTIFICATE OF DEDICATION:

The Owner does hereby dedicate and convey to the City of Fort Collins, Colorado (hereafter "City"), for public use, forever, a permanent right-of-way for street purposes and the "Easements" as laid out and designated on this Plat; provided, however, that (1) acceptance by the City of this dedication of Easements does not impose upon the City a duty to maintain the Easements so dedicated, and (2) acceptance by the City of this dedication of streets does not impose upon the City a duty to maintain streets so dedicated until such time as the provisions of the Maintenance Guarantee have been fully satisfied. The streets dedicated on this Plat are the fee property of the City as provided in Section 31-23-107 C.R.S. The City's rights under the Easements include the right to install, operate, access, maintain, repair, reconstruct, remove and replace within the Easements public improvements consistent with the intended purpose of the Easements; the right to install, maintain and use gates in any fences that cross the Easements; the right to mark the location of the Easements with suitable markers; and the right to permit other public utilities to exercise these same rights. Owner reserves the right to use the Easements for purposes that do not interfere with the full enjoyment of the rights hereby granted. The City is responsible for maintenance of its own improvements and for repairing any damage caused by its activities in the Easements, but by acceptance of this dedication, the City does not accept the duty of maintenance of the Easements, or of improvements in the Easements that are not owned by the City. Owner will maintain the surface of the Easements in a sanitary condition in compliance with any applicable weed, nuisance or other legal requirements.

Except as expressly permitted in an approved plan of development or other written agreement with the City, Owner will not install on the Easements, or permit the installation on the Easements, of any building, structure, improvement, fence, retaining wall, sidewalk, tree or other landscaping (other than usual and customary grasses and other ground cover). In the event such obstacles are installed in the Easements, the City has the right to require the Owner to remove such obstacles from the Easements. If Owner does not remove such obstacles, the City may remove such obstacles without any liability or obligation for repair and replacement thereof, and charge the Owner the City's costs for such removal. If the City chooses not to remove the obstacles, the City will not be liable for any damage to the obstacles or any other property to which they are attached.

The rights granted to the City by this Plat inure to the benefit of the City's agents, licensees, permittees and assigns.

OWNER: GRE Holdings, LLC

BY: _____
Brad Schwindt, Manager

STATE OF COLORADO)
)
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Brad Schwindt, as Manager of GRE Holdings, LLC.

Witness my hand and official seal

My commission expires: _____

Notary Public

NOTES:

1) The Basis of Bearings is the South line of the Southeast 1/4 of Section 16, as bearing South 88°48'21" East (assumed bearing) as monumented on drawing.

2) All information regarding easements, right-of-way or title of record, Northern Engineering relied upon File Number FC25123398 prepared by Land Title Guarantee Company, dated 05-30-2014.

3) The lineal unit of measurement for this plat is U.S. Survey Feet.

In accordance with Section 24-95 of the City Code the property owner is responsible for the constructing of the local portion of public street adjacent to the site prior to the issuance of the first building permit. As of the date of the recording of this plat, incomplete public street improvements (sidewalk, curb and gutter) along with substandard public street improvements (access ramp at Prospect Road and Fuqua Drive) exist along Prospect Road and would need to be addressed with development in accordance with this provision of City Code. Development or redevelopment may include (but not limited to): the expansion of the existing use to a tenant or use in the same use category that will generate a greater impact or higher traffic impact, change of use of the property, expansion of the property use(s) on the property, or a remodel or expansion of the building(s). The City reserves the right to withhold issuance of building permits and/or other approvals in conjunction with development or redevelopment until satisfaction of the public street improvement requirements.

MAINTENANCE GUARANTEE:

The Owner hereby warrants and guarantees to the City, for a period of two (2) years from the date of completion and first acceptance by the City of the improvements warranted hereunder, the full and complete maintenance and repair of the improvements to be constructed in connection with the Development which is the subject of this Plat. This warranty and guarantee is made in accordance with the City Land Use Code and/or the Transitional Land Use Regulations, as applicable. This guarantee applies to the streets and all other appurtenant structures and amenities lying within the rights-of-way, Easements and other public properties, including, without limitation, all curbing, sidewalks, bike paths, drainage pipes, culverts, catch basins, drainage ditches and landscaping. Any maintenance and/or repair required on utilities shall be coordinated with the owning utility company or department.

The Owner shall maintain said improvements in a manner that will assure compliance on a consistent basis with all construction standards, safety requirements and environmental protection requirements of the City. The Owner shall also correct and repair, or cause to be corrected and repaired, all damages to said improvements resulting from development-related or building-related activities. In the event the Owner fails to correct any damages within thirty (30) days after written notice thereof, then said damages may be corrected by the City and all costs and charges billed to and paid by the Owner. The City shall also have any other remedies available to it as authorized by law. Any damages which occurred prior to the end of said two (2) year period and which are unrepaired at the termination of said period shall remain the responsibility of the Owner.

REPAIR GUARANTEE:

In consideration of the approval of this final Plat and other valuable consideration, the Owner does hereby agree to hold the City harmless for a five (5) year period, commencing upon the date of completion and first acceptance by the City of the improvements to be constructed in connection with the development which is the subject of this Plat, from any and all claims, damages, or demands arising on account of the design and construction of public improvements of the property shown herein; and the Owner furthermore commits to make necessary repairs to said public improvements, to include, without limitation, the roads, streets, fills, embankments, ditches, cross pans, sub-drains, culverts, walls and bridges within the right-of-way, Easements and other public properties, resulting from failures caused by design and/or construction defects. This agreement to hold the City harmless includes defects in materials and workmanship, as well as defects caused by or consisting of settling trenches, fills or excavations.

Further, the Owner warrants that he/she owns fee simple title to the property shown hereon and agrees that the City shall not be liable to the Owner or his/her successors in interest during the warranty period, for any claim of damages resulting from negligence in exercising engineering techniques and due caution in the construction of cross drains, drives, structures or buildings, the changing of courses of streams and rivers, flooding from natural creeks and rivers, and any other matter whatsoever on private property. Any and all monetary liability occurring under this paragraph shall be the liability of the Owner. I further warrant that I have the right to convey said land according to this Plat.

NOTICE OF OTHER DOCUMENTS:

All persons take notice that the Owner has executed certain documents pertaining to this Development which create certain rights and obligations of the Development, the Owner and/or subsequent Owners of all or portions of the Development site, many of which obligations constitute promises and covenants that, along with the obligations under this Plat, run with the land. The said documents may also be amended from time to time and may include, without limitation, the Development Agreement, Site And Landscape Covenants, Final Site Plan, Final Landscape Plan, and Architectural Elevations, which documents are on file in the office of the clerk of the City and should be closely examined by all persons interested in purchasing any portion of the Development site.

ATTORNEY'S CERTIFICATION

I hereby certify that this Subdivision Plat has been duly executed as required pursuant to Section 2.2.3(C)(3)(a) through (e) inclusive of the Land Use Code of the City of Fort Collins and that all persons signing this Subdivision Plat on behalf of a corporation or other entity are duly authorized signatories under the laws of the State of Colorado. This Certification is based upon the records of the Clerk and Recorder of Larimer County, Colorado as of the date of execution of the Plat and other information discovered by me through reasonable inquiry and is limited as authorized by Section 2.2.3(C)(3)(f) of the Land Use Code.

Attorney: _____

Address: _____

Registration No.: _____

APPROVED AS TO FORM, CITY ENGINEER

By the City Engineer of the City of Fort Collins, Colorado this ____ day of _____ A.D., 20____.

City Engineer

PLANNING APPROVAL

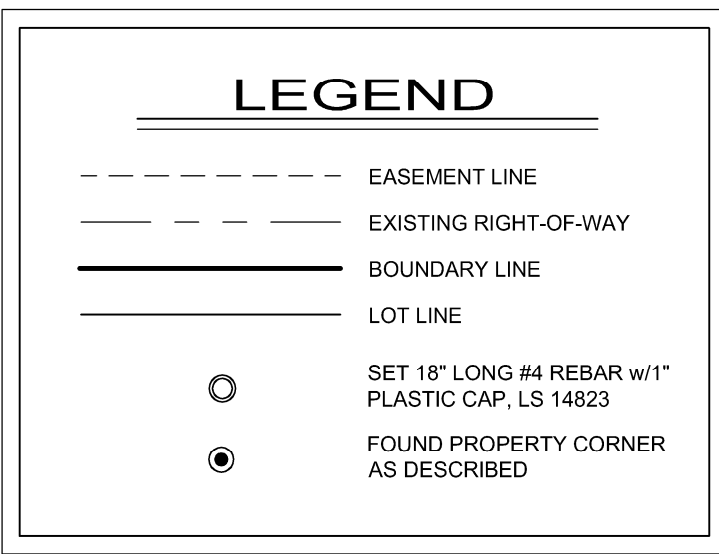
By the Director of Planning the City of Fort Collins, Colorado this ____ day of _____ A.D., 20____.

Director of Planning

SURVEYOR'S STATEMENT

I, Gerald D. Gilliland, a Colorado Registered Professional Land Surveyor do hereby state that this Subdivision Plat was prepared from an actual survey under my personal supervision, that the monumentation as indicated hereon were found or set as shown, and that the foregoing plat is an accurate representation thereof, all this to the best of my knowledge, information and belief.

Gerald D. Gilliland
Colorado Registered Professional
Land Surveyor No. 14823



(M) = MEASURED BEARING & DISTANCE
(R) = RECORDED BEARING AND DISTANCE

LOT 3, CAMILLE SUB.

SW CORNER LOT 3,
CAMILLE SUB.
#4 REBAR W/1 1/4" AL CAP
PLS NO. 1650

OWNER: MILLER JUSTIN K
(UNPLATTED)

(R) N89°41'W 110.00'
(M) S88°51'55"E 109.91'

#4 REBAR
W/OBLITERATED CAP

9' UTILITY EASEMENT
TO BE DEDICATED BY THIS PLAT

LOT 1
15,606 sq. ft.
0.358 ac.

114.43'
S00°46'59"W
200.10'

127.38'
S00°46'59"W
200.10'

Delta= 90°24'40"
R=9.00' L=14.20'
Dir= S45°59'19"W
Chord= 12.77'

91.84'
N88°48'21"W

15' UTILITY EASEMENT
TO BE DEDICATED BY THIS PLAT

N88°48'21"W 94.79'

Delta= 90°24'38"
R=15.00' L=23.67'
Dir= S45°59'20"W
Chord= 21.29'

42.61'

72.61'

30.00'

EXISTING 30' ROW
BOOK: R, PAGE: 96

ADD'L 27.5' ROW TO BE
DEDICATED BY THIS PLAT

9.85'

17.65'

57.50'

#4 REBAR
NO CAP

OWNER: ZERLAN DENNIS/GENA
(UNPLATTED)
(R) S00°06'30"E 200.10'
(M) N00°46'46"E 199.89'

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GRE PROSPECT SUBDIVISION - SITE PLAN

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16,
TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF FORT COLLINS, STATE OF COLORADO

ALL FEATURES ARE EXISTING

DIRECTOR OF PLANNING

Approved by the Director of Planning the City of Fort Collins, Colorado this ____ day of _____
A.D., 20 ____.

Director of Planning

OWNER'S CERTIFICATION:

The undersigned does/do hereby certify that I/we are the lawful owners of real property described on this site plan and do hereby certify that I/we accept the conditions and restrictions set forth on said site plan.

BY: _____

STATE OF COLORADO)
)ss
COUNTY OF LARIMER)

Subscribed and sworn to before me this ____ day of _____, 20 ____

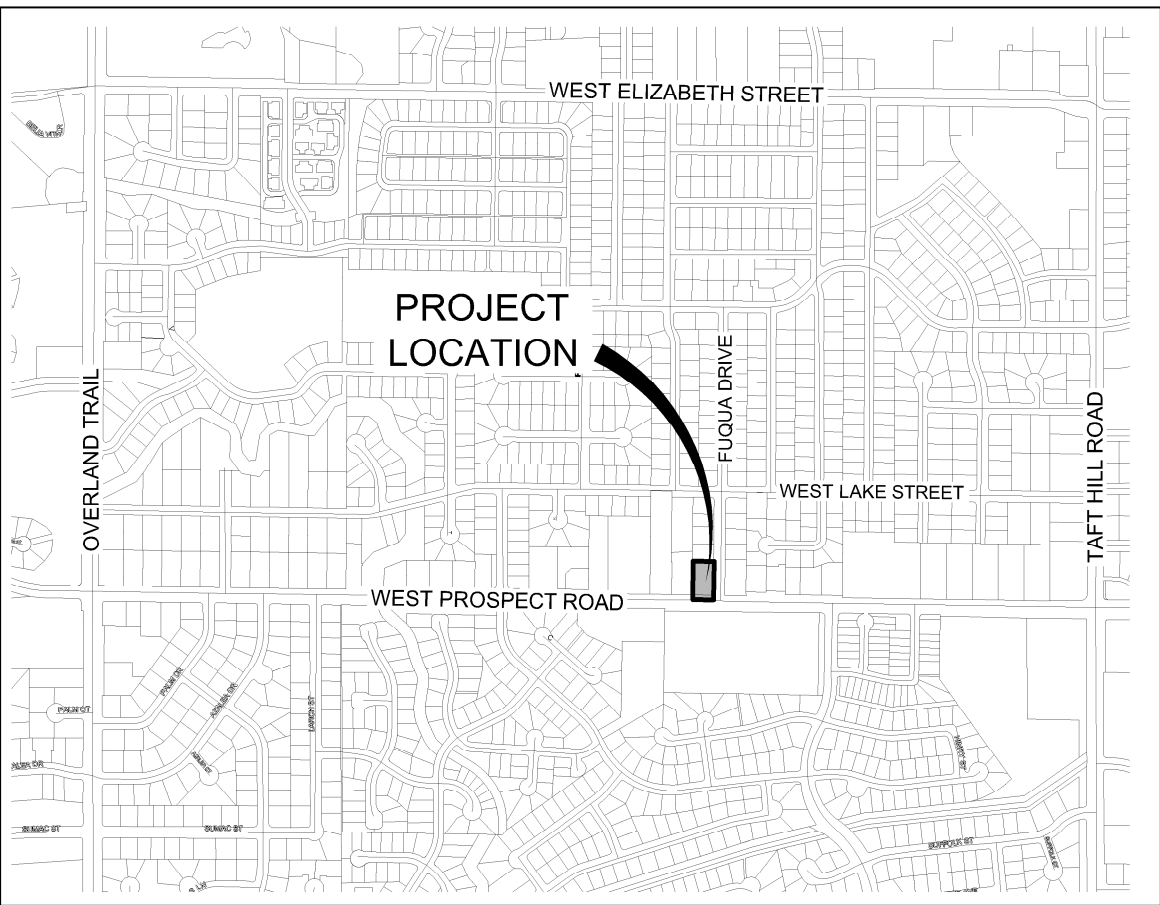
Witness my hand and official seal

My commission expires: _____

Notary Public

FUTURE STREET IMPROVEMENTS WITHIN R.O.W.:

In accordance with Section 24.95 of the City Code the property owner is responsible for the constructing of the local portion of public street adjacent to the site prior to the issuance of the first building permit. At the date of recording of this plat, incomplete public street improvements (sidewalk, curb and gutter) along with substandard public street improvements (access ramp at Prospect Road and Fuqua Drive) exist along Prospect Road and shall be addressed with development or redevelopment in accordance with this provision of City Code. Development or redevelopment may include (but not be limited to): the expansion of the existing use to a tenant or use in the same use category that will generate a greater impact or higher traffic impact, change of use of the property, expansion of the property use(s) on the property, or a remodel or expansion of the building(s). The City reserves the right to withhold issuance of building permits and/or other approvals in conjunction with development or redevelopment until satisfaction of the public street improvement requirements.

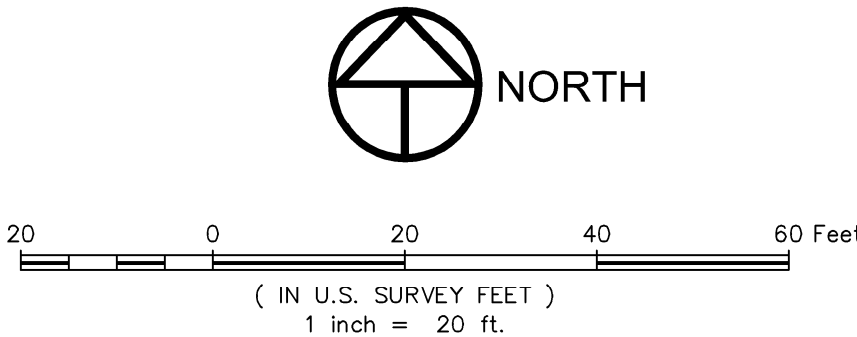
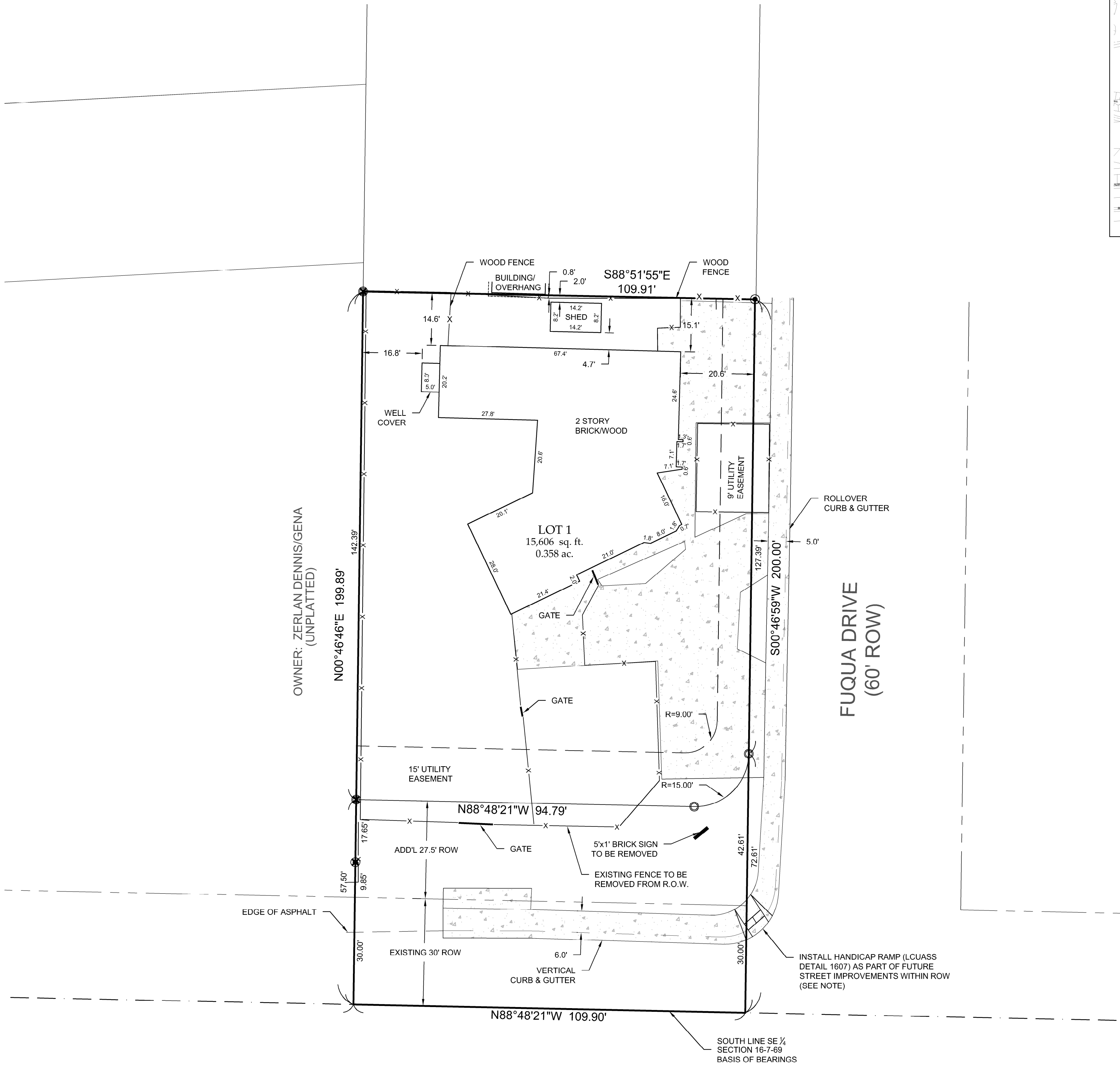


VICINITY MAP
1" = 1000'

LEGEND

- EASEMENT LINE
- - - EXISTING RIGHT-OF-WAY
- BOUNDARY LINE
- LOT LINE

PARCEL	AREA SQ. FT.	LAND USE
LOT 1	15,606	SINGLE FAMILY DETACHED DWELLING



DRAFT

NOTICE:
According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years after the date of the certificate shown herein.

SECTION: 16	TOWNSHIP: 7N	RANGE: 69 W of the 6th PM
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NORTHERN ENGINEERING

301 North Hovea Street, Suite 100
Fort Collins, Colorado 80521
PHONE 970.221.4198 FAX 970.221.4199
www.northernengineering.com

PROJECT: 1031-001	DATE: 08/19/14	SCALE: 1"=20'
DESIGNED BY: M. Kinkade	REVIEWED BY: E. Smith	

GRE PROSPECT SUBDIVISION - SITE PLAN

CITY OF FORT COLLINS
STATE OF COLORADO

Sheet
1
Of 1 Sheet