

Planning and Zoning Commission Hearing: October 20, 2022

**Lofts at Timberline Addition of a Permitted Use**

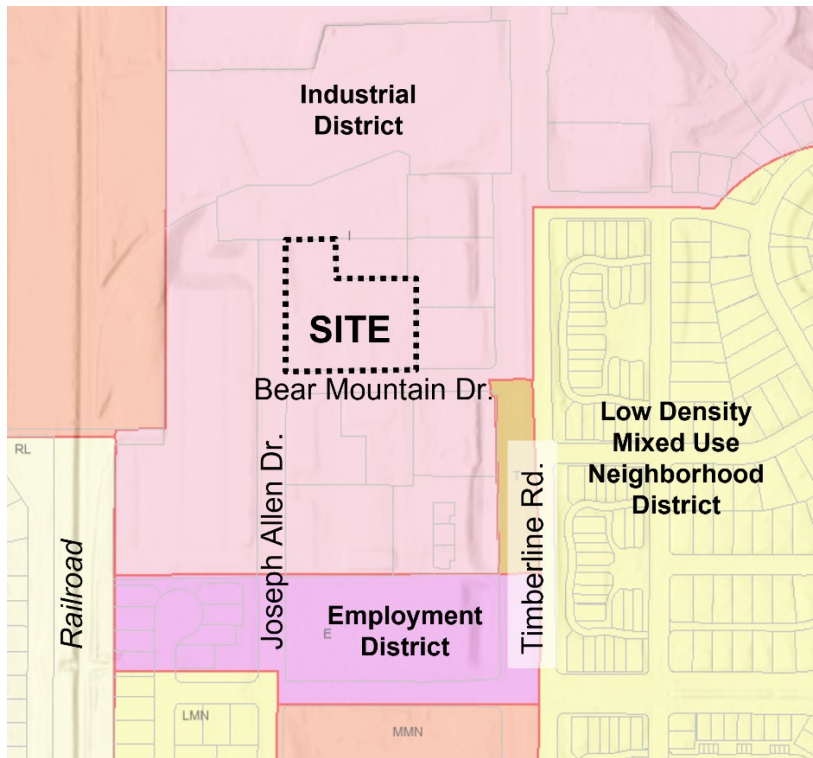
**Summary of Request**

This is a request for Addition of a Permitted Use (APU) to add 'Personal and Business Service Shops' as an allowed use in the recently built Lofts at Timberline industrial flex space building in the Timberline Center Industrial Park. Project #APU220001.

The Planning and Zoning Commission is the decision maker on this APU. The APU request is being processed in conjunction with a Minor Amendment of the approved development plan. Minor Amendments are reviewed administratively by staff.

The Minor Amendment would consist of adding the use to the listing of land uses on the site plan cover sheet for the Lofts at Timberline plan set.

**Zoning Map**



**Next Steps**

If the Commission approves the APU, then the Minor Amendment will be approved by staff.

**Location**

2026 Bear Mountain Dr. (Parcel #8719129001) within the Timberline Center Industrial Park.

**Zoning**

Industrial (I).

**Property Owner**

Omina Cum Deo, LLC  
 Zach Smith, Manager  
 P.O. Box 270038  
 Fort Collins, CO 80527

**Applicant/Representative**

Keith Meyer  
 2133 S. Timberline Rd., Ste. 110  
 Fort Collins, CO 80525

**Staff**

Clark Mapes, City Planner

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**Staff Recommendation**

Staff recommends that the Commission approve the APU.

# 1. Project Introduction

## A. PROJECT DESCRIPTION

- The applicant’s original request was to allow a barbershop in a specific unit within the Lofts at Timberline flex space building, which was built in 2021. That unit, Unit 105, would be 800 square feet within the two-level, multi-tenant building which comprises 39,901 square feet divided into 19 condominium units. The applicant’s narrative is based on this original request.
- A barbershop falls within the classification of ‘Personal and Business Service Shops’ in the Land Use Code, and the Industrial zone district does not list that use as a Permitted Use. Therefore, the APU is needed to enable the barbershop.
- Rather than adding ‘Barbershop in Unit 105’ as an approved use, staff recommends adding ‘PERSONAL AND BUSINESS SERVICE SHOPS’ to the Lofts at Timberline plan, in the listing of land uses on its site plan cover sheet. This would be done in the Minor Amendment (MA), if the Commission approves the APU.
- Staff is also recommending crossing out the BUILDING BREAKDOWN on the approved plan as shown below. There is no reason for it, and it is likely to become obsolete as tenants change, if it is not obsolete already. It was not a factor in review or approval of the plan in any way.
- Relatedly, staff is also recommending adding more of the permitted uses in the I zone to the plan as shown below. These uses were mentioned in the staff report for the Lofts at Timberline and thus they were a factor in approval of the plan, but the site plan cover sheet did not capture them as potential uses. The point is simply to capture this opportunity to update the cover sheet if the APU is approved, and avoid future MAs if tenants change and one of these uses is sought.

Below is a snip of the cover sheet that staff recommends changing in the MA.

### Land-Use Statistics:

EXISTING ZONING:	I - INDUSTRIAL
GROSS LAND AREA:	175,481 SQ. FT. 4.028 ACRES
NUMBER OF BUILDINGS:	1
TOTAL BUILDING GROSS S.F.:	39,901 SQ. FT.
TOTAL STORIES:	2
<b>POTENTIAL</b> <del>PROPOSED</del> LAND USES:	LIMITED INDOOR RECREATION, GENERAL OFFICE, WORKSHOP AND CUSTOM SMALL INDUSTRY ←

**Add:**  
**PERSONAL AND BUSINESS SERVICE SHOPS, PLUMBING, ELECTRICAL AND CARPENTER SHOPS, ARTISAN AND PHOTOGRAPHY STUDIOS, VET AND SMALL ANIMAL CLINICS, DOG DAY CARE, PRINT SHOPS, FOOD CATERING, MUSIC STUDIOS, LIGHT INDUSTRIAL USES, RESEARCH LABS, INDOOR RV AND BOAT STORAGE, MICRODISTILLERIES/ BREWERIES/WINERIES, PERSONAL AND BUSINESS SERVICE SHOPS**

<del><b>BUILDING BREAKDOWN:</b></del>	
<del>24,616 SQ. FT. - WORKSHOP AND CUSTOM SMALL INDUSTRY</del>	
<del>8,190 SQ. FT. - GENERAL OFFICE</del>	
<del>7,095 SQ. FT. - LIMITED INDOOR RECREATION</del>	
<del>39,901 SQ. FT. TOTAL</del>	

- Note that *Personal and business service shops* is defined by the Land Use Code to mean shops primarily engaged in providing services generally involving the care of the person or person's apparel or rendering services to business establishments such as beauty or barber shops, laundry or dry-cleaning retail outlets, portrait/photographic studios, employment service, or mailing or copy shops.

## B. OVERVIEW OF MAIN CONSIDERATIONS IN STAFF’S REVIEW

The reasons for staff’s suggestion to add Personal and Business Services to the plan are 1) similarity to the other uses that are permitted in the I zone; 2) lack of impacts or compatibility issues; and 3) lack of any notable opportunity cost if tenant spaces are used for these types of uses.

Staff’s considerations and findings are explained under the criteria for APUs.

## C. DEVELOPMENT STATUS/BACKGROUND

### 1. Annexation and Planning

The property is part of Timberline Center Industrial Park, which was annexed and subdivided in 1997 as part of the Timberline Annexation. The subject property was developed and the building constructed in 2021.

### 2. Surrounding Zoning and Land Use

The property is encompassed by the Timberline Center Industrial Park on all side, in the I zone, with a variety of I zone uses.

## 2. Land Use Code Article.

### A. DIVISION 1.3 – ZONING AND APU

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p><b>Section 1.3.4</b> <b>Addition of Permitted Uses</b></p>	<p>The purpose of the APU process is to allow for approval of a particular land use on a specific parcel within a zone district that otherwise would not permit such a use.</p> <p>An applicant may submit a plan that does not conform to the zoning, with the understanding that such plan will be subject to a heightened level of review, with close attention being paid to compatibility and impact mitigation.</p> <p>This process is intended to allow for consideration of unique circumstances on specific parcels with evaluation based on the context of the surrounding area. The process encourages dialogue and collaboration among applicants, affected property owners, neighbors and City Staff.</p> <p>There are two versions of APUs:</p> <p><b>The First Version.</b> The first version is <i>not</i> the type of APU being proposed in this case. However, it is important in understanding staff’s review under this Section.</p> <p>This version applies where a proposed use is new to the Fort Collins Land Use Code, meaning that it is not recognized in any existing use classification, and is proposed as being appropriate to add into a zone district(s).</p> <p>In other words, it is to incorporate a new use into the code that was not previously recognized. Approval or denial is determined by staff (“the Director”).</p>	<p>Complies</p>

A list of eight criteria must be met for such a use to be approved.

The eight criteria are:

- (a) Such use is appropriate in the zone district to which it is added.
- (b) Such use conforms to the basic characteristics of the zone district and the other permitted uses in the zone district to which it is added.
- (c) The location, size and design of such use is compatible with and has minimal negative impact on the use of nearby properties.
- (d) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added.
- (e) Such use will not change the predominant character of the surrounding area.
- (f) Such use is compatible with the other listed permitted uses in the zone district to which it is added.
- (g) Such use, if located within or adjacent to an existing residential neighborhood, shall be subject to two (2) neighborhood meetings, unless the Director determines, from information derived from the conceptual review process, that the development proposal would not have any significant neighborhood impacts. The first neighborhood meeting must take place prior to the submittal of an application. The second neighborhood meeting must take place after the submittal of an application and after the application has completed the first round of staff review.
- (h) Such use is not a medical marijuana business as defined in Section 15-452 of the City Code or a retail marijuana establishment as defined in Section 15-603 of the City Code.

**The Second Version.** The second version *is* the type of APU that is proposed.

It applies where the proposed use is a recognized use listed in other zone districts than the zoning on the subject property; and is proposed based solely on unique circumstances and attributes of the site and development plan.

In other words, this second type is to allow a use to be added on one specific site in a given development plan, rather than adding an entirely new use to the Land Use Code.

However, this second type refers to the same criteria. Accordingly, staff has consistently interpreted the criteria differently in this second type than in the first type, because the use is not proposed to be added to the zone, which is the basis for the criteria as written.

In many cases, a proposed use may *not* be appropriate to be added to the zone district; may *not* conform to basic characteristics of other uses in the zone; may generate more traffic than other uses permitted in the zone; and may *not* be compatible with other uses in the zone district, except for the unique circumstances of a particular plan.

The way staff typically interprets the criteria is illustrated by the yellow highlighted and underlined ideas below. These interpretations can be compared to the criteria as stated in the code text on the previous page.

(a) Such use is appropriate in the particular location within the zone district, based on the plan and the context and circumstances of the specific location.

(b) Such use has basic characteristics that are appropriate in the particular location, based on the plan and the circumstances and context of the proposed location.

(c) The location, size and design of such use is compatible with the context of the specific location within the zone district and has minimal negative impact on the use of nearby properties.

(d) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added, unless: any additional impacts are addressed/accounted for in the plan, and warranted by the plan and the context and circumstances. Considerations may include the degree of any more impacts; the degree of sensitivity in the area affected; whether the location is already characterized by such impacts; offsetting benefits to adjacent properties and/or the community; and any other pertinent considerations unique to the situation.

(e) Such use will not change the predominant character of the surrounding area.

(f) Such use is compatible with the other listed permitted uses in the zone district to which it is added, in the given location based on the plan as proposed.

Staff will propose an update to the code Section with criteria along these lines to acknowledge the difference in the second type of APU.

Staff finds that the APU request conforms to the code criteria as follows:

**(a) Such use is appropriate in the zone district to which it is added.**

The proposed uses are appropriate in the particular location, based on the plan and the context and specific circumstances, because 1) the use is very similar to other commercial uses that are already permitted in the I zone; 2) relatedly, staff sees no impacts or compatibility issues; and 3) staff sees no notable opportunity cost in terms of loss of space for permitted uses if tenant spaces are used for this use.

**(b) Such use conforms to the basic characteristics of the zone district and the other permitted uses in the zone district to which it is added.**

The use has basic characteristics appropriate in the particular location, based on the plan and the circumstances and context of the proposed

location; and furthermore, staff finds that the use conforms to the basic characteristics of the permitted uses in the I zone generally.

The I zone has an extensive list of permitted commercial uses, which demonstrates that the proposed use has similar impacts.

Examples of such permitted commercial uses are restaurants, art studios and galleries, health clubs, dog day-care, print shops, bars, vet clinics, and microbreweries/wineries/distilleries.

The main example of similar impact is parking. The proposed uses on the current approved plan require one to three spaces per 1,000 square feet under code standards, and personal and business service shops require two spaces per thousand square feet, well within the existing range.

**(c) The location, size and design of such use is compatible with and has minimal negative impact on the use of nearby properties.**

The use would go into tenant space within the existing building, and would not introduce any new, negative impacts.

**(d) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences or any more traffic hazards, traffic generation or attraction, adverse environmental impacts, adverse impacts on public or quasi-public facilities, utilities or services, adverse effect on public health, safety, morals or aesthetics, or other adverse impacts of development, than the amount normally resulting from the other permitted uses listed in the zone district to which it is added.**

Staff, including Traffic Operations staff, sees no problem with allowing this use for this development plan because Personal and Business Services is not a significant trip generator and is unlikely to generate any more trips than any of the other uses already allowed in the Industrial Zone district.

The applicants original request included a Traffic explanation letter for a barbershop in one specific unit (attached), but staff's acceptance of the explanation applies to adding the proposed use to the overall plan as suggested by staff.

**(e) Such use will not change the predominant character of the surrounding area.**

The proposed use would be contained inside the existing building, which is an integral part of the character of the Timberline Center Industrial Park.

**(f) Such use is compatible with the other listed permitted uses in the zone district to which it is added.**

The proposed expansion of existing uses is compatible with the other listed permitted uses in the zone district to which it is added, in the given location based on the plan as proposed, for all of the reasons stated above; an furthermore, staff finds that the use is compatible with the other uses in the I zone generally.

**(g) Such use, if located within or adjacent to an existing residential neighborhood, shall be subject to two (2) neighborhood meetings, unless the Director determines, from information derived from the conceptual review process, that the development proposal would not have any significant neighborhood impacts. The first neighborhood meeting must**

**take place prior to the submittal of an application. The second neighborhood meeting must take place after the submittal of an application and after the application has completed the first round of staff review.**

Not applicable. The use is not within or adjacent to a residential neighborhood.

**Applicants Justification.** The applicants' justification narrative is attached. Note that it was written for the original request for a barbershop in one specific unit, unit 105.

The points in the narrative would still be pertinent to staff's suggested approach, and applicants agree with staff's approach to add the use to the site plan for the development in general, and not just the one unit – provided that staff's suggestion does not become a problem for approval of the original request.

The applicants also agree with taking this opportunity to add more permitted uses as potential uses as explained previously.

This photo below shows the building.



### 3. Land Use Code Article 2

#### A. DIVISION 2.2 – DEVELOPMENT REVIEW PROCEDURES

Applicable Code Standard	Summary of Code Requirement and Staff Analysis	Staff Findings
<b>2.2.1-2.2.8 Procedural Steps</b>	<p>These subsections outline the required steps for processing development applications. Pertinent steps have been:</p> <p><b>Conceptual Review – CDR190082</b> A conceptual review meeting was held on September 15, 2022.</p> <p><b>First Submittal –ODP 200001</b> The application was submitted on September 20, 2021.</p> <p><b>Neighborhood Meetings</b> Pursuant to LUC Section 2.2.2, the Director determined that the APU would not have significant neighborhood impact and accordingly no meeting was required or held.</p> <p><b>Notice (Posted, Written and Published)</b> Posted Notice: Sign posted September 28, 2022, Sign #716. Written Hearing Notice: October 5, 2022, 111 addresses mailed. Published Hearing Notice: Scheduled for October 9, 2022.</p>	<p>Complies</p>

### 4. Land Use Code Article 3

Staff finds that no Article 3 standards are pertinent, because the existing development was recently built and complies with all standards; and the APU review under criteria in Section 1.3.4 covers the few considerations that are pertinent to this review.

### 5. Land Use Code Article 4

Similar to Article 3 findings, staff finds that no standards in the Industrial zone district are pertinent because the existing building already complies and the APU does not introduce any new zoning issues other than allowing the additional use.

### 6. Findings of Fact/Conclusion

In evaluating the request for the Lofts at Timberline Addition of a Permitted Use, #APU220001, staff makes the following findings of fact and conclusions:

1. The Project Development Plan complies with criteria for Addition of Permitted Uses in Article 1, Section 1.3.4 as required for approval of the proposed uses.
2. The Project Development Plan complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.



## 7. Recommendation

Staff recommends that the Planning and Zoning Commission make a motion to approve the Addition of Permitted Uses for personal and business service shops in the Lofts at Timberline development, #APU220001, based on the Findings of Fact and supporting explanations found in the staff report.

## 8. Attachments

1. Applicant Narrative
2. Traffic Letter
3. Staff Presentation