

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

HEARING DATE: March 6, 2023

PROJECT NAME: Bloom Offsite Water

CASE NUMBER: BDR220004

APPLICANT REPRESENTATIVE: David Thorpe
Hartford Homes
4801 Goodman Road
Timnath, CO 80547

OWNER: Poudre Valley Co-Operative
225 NW Frontage Road
Fort Collins, CO 80524

HEARING OFFICER: Marcus McAskin

PROJECT DESCRIPTION & BACKGROUND: The Bloom Offsite Water project relates to the proposed construction of a 20” water main from approximately Redman Drive north to East Vine Drive (the “**Project**”). The site is located generally southwest of the East Vine Drive and I-25 intersection, in the NE1/4 of Section 9, Township 7 North, Range 68 West, 6th P.M., City of Fort Collins, Larimer County, Colorado (parcel numbers 8709000001 and 8709105003) (the “**Subject Property**”).

The Project is intended to provide water utility customers served by the East Larimer County Water District (“ELCO”) with adequate water pressure as the Mulberry Corridor continues to develop. The Project is a requirement of Bloom Filing One, which is the first filing of the Mulberry & Greenfields Planned Unit Development. Specifically, Bloom Filing One is conditioned so that prior to issuance of any building permits within Filing One the 20” water line included as part of the Project must be constructed in accordance with the approved plans.

The Subject Property is located in the Industrial (I) zone district and is subject to Administrative, Type 1 review (per Section 4.28(B)(2)(b) of the LUC).

The surrounding zoning and land uses are set forth below:

	North	South	East	West
Zoning	Low Density Mixed Use Neighborhood (LMN)	Larimer County	Industrial (I)	Industrial (I)
Land Use	Waterglen residential subdivision.	Super Vacuum Manufacturing Company, Poudre Valley Coop - farm supply store	Agricultural land, Interstate 25, Warehouse	Single-family detached – single residence along Vine Drive.

There are *no* requests for modifications of standards or for alternative compliance.

Additional background on the Project and analysis of its compliance with the City of Fort Collins Land Use Code (“**LUC**”) are provided in the Development Review Staff Report, a copy of which is attached to this decision as **ATTACHMENT A** (the “**Staff Report**”) and is incorporated herein by reference.

The Staff Report recommends approval of the combined PDP/FP.

SUMMARY OF DECISION: Approved.

ZONE DISTRICT: Industrial (I) Zone

HEARING: This matter was heard as a Type 1 (Administrative) virtual hearing conducted on Monday, March 6, 2023. The Hearing Officer opened the virtual hearing at approximately 5:30 P.M and reviewed the Order of Proceedings with the Applicant and other attendees participating in the virtual hearing.

EVIDENCE: Prior to or at the hearing, the Hearing Officer accepted the following documents as part of the record of this proceeding:

1. Development Review Staff Report prepared for Bloom Offsite Water, BDR220004. A copy of the Staff Report is attached to this decision as **ATTACHMENT A** and in incorporated herein by reference.
2. Vicinity Map (1 page).
3. Project Description Narrative by Galloway (1 page).

4. Storm Water Management Plan by Galloway (101 pages).
5. Utility Plans for Bloom Offsite Water (15 pages).
6. Waterline And Wetlands Interaction Exhibit (1 page).
7. Temporary Construction Easement (2 pages).
8. Corrected Temporary Construction Easement (7 pages).
9. Corrected Permanent Exclusive Water Pipeline Easement (10 pages).
10. Public Comments submitted via email (4 pages).
11. Comments by ELCO (1 page).
12. Applicant Presentation by Hartford Homes (10 slides).
13. Staff Presentation by Kai Kleer, Fort Collins City Planner (13 slides).
14. Confirmation of Publication of Notice of Hearing (Ad# 0005601025) published on February 20, 2023 in *The Coloradoan*.
15. Confirmation of posted notice (November 23, 2020, Sign #586).
16. Copy of Written Notice of Virtual Public Hearing dated February 17, 2023.
17. Administrative (Type 1) Order of Proceedings.
18. The City's Comprehensive Plan, the Land Use Code, and the formally promulgated ordinances and polices of the City are all considered part of the record considered by the Hearing Officer.

TESTIMONY: The following persons attended the virtual hearing:

From the City:

Kai Kleer, Senior City Planner
Katie Claypool, Community Development & Neighborhood Services
Sophie Buckingham, City Engineering

From Applicant:

Dave Thorpe – Hartford Homes (VP of Entitlement)
Patrick McMeekin – Hartford Homes / Mulberry Development LLC (President of Land)
Shane Weslind – Hartford Homes (VP of Land)
Wendi Cudmore – Hartford Homes (Entitlements)
James Prelog – Galloway (Civil Engineering)
Rob Van Uffelen – Galloway (Civil Engineering)
Mike Scheid – ELCO General Manager
Randy Siddens, ELCO Engineer

The public comment portion of the hearing was opened at 6:01 P.M. and was closed at approximately 6:02 P.M. No public comments were received.

The March 6, 2023 virtual public hearing on Bloom Offsite Water, BDR220004 was closed at approximately 6:03 P.M.

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the virtual public hearing was properly posted, mailed, and published.
2. Based on testimony provided at the public hearing and a review of the materials in the record of this case, the Hearing Officer concludes as follows:
 - A. The Application complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
 - B. The Application complies with the applicable General Development Standards set forth in Article 3 of the LUC, including but not limited to Section 3.3.1(C)(1) (the Applicant has secured the necessary temporary construction easement and permanent exclusive water line easement, and have caused the same to be granted to ELCO), and Section 3.3.5 (ELCO has reviewed and approved the design of the proposed water line).
 - C. The Application also complies with the applicable General Development Standards set forth in Division 3.4.1 of Article 3 of the LUC – Natural Habitats and Features. The Project is immediately adjacent to a branch of the Cooper Slough (“Slough”), which is one of the largest remaining undeveloped, mostly intact stream/wetland complexes in the City’s Growth Management Area. As part of the Project a wetland delineation was conducted on August 6, 2022 by Professional Wetlands Consulting, Inc. that identifies the Slough’s eastern boundary. As set forth in the Staff Report, City Environmental Planning staff has reviewed the application and found that no portion of the proposed project will disturb the Slough, and the western edge of the permanent exclusive water line easement is a minimum of 75-feet from the Slough’s eastern boundary.
 - D. The Application complies with the applicable Industrial District (I) standards contained in Article 4 of the LUC.
 - E. The Application’s satisfaction of the Article 2, 3 and 4 LUC requirements is sufficiently detailed in the Staff Report, a copy of which is attached as **ATTACHMENT A** and is incorporated herein by reference.

DECISION

Based on the findings set forth above, the Hearing Officer hereby enters the following ruling:

- A. The Bloom Offsite Water project, BDR220004 is hereby **approved**.

DATED this 13th day of March, 2023.



Marcus McAskin
Hearing Officer

ATTACHMENT A

Staff Report
Bloom Offsite Water, BDR220004

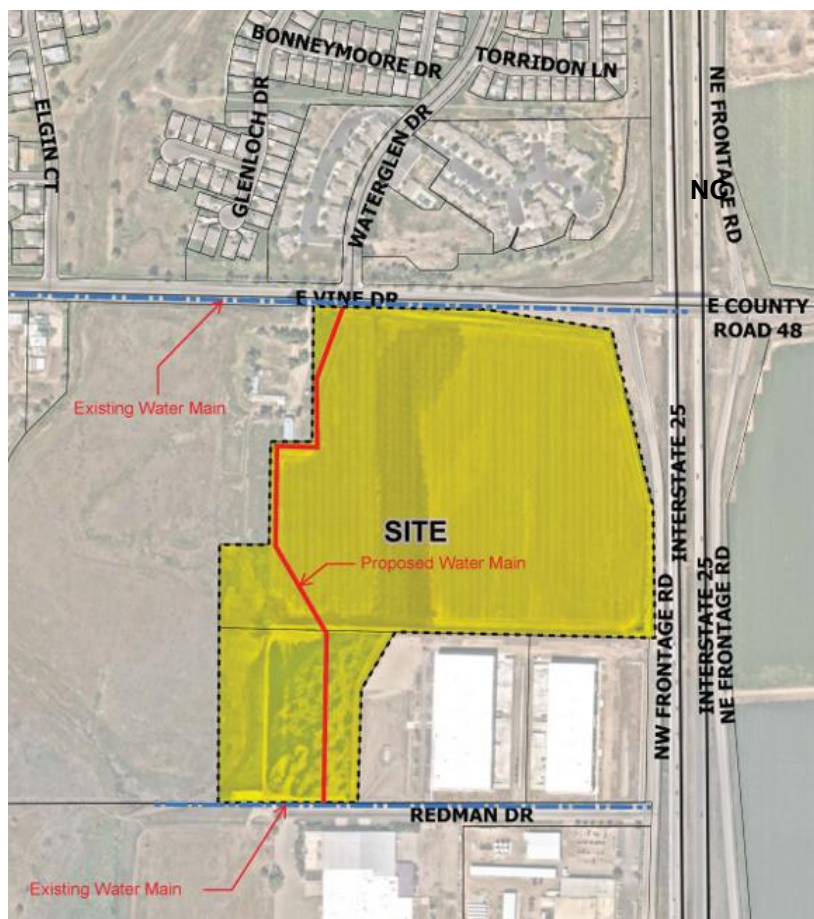
Administrative Hearing – March 6, 2023

Bloom Offsite Water, BDR220004

Summary of Request

This is a request for Basic Development Review to construct a 20" water main that will connect between the existing water mains in East Vine Drive and Redman Drive. The site is located southwest of the E Vine Drive and I-25 overpass and located within the Industrial (I) zone district and is subject to and Administrative, Type 1 review.

Zoning Map



Next Steps

If approved, the applicant will be eligible to record final plans and would be eligible to apply for construction and building permits.

Site Location

Located southwest of the E Vine Drive and I-25 overpass parcel #s 8709000001 and 8709105003.

Zoning

Industrial (I)

Property Owner

Poudre Valley Co-Operative
225 NW Frontage Road
Fort Collins, CO 80524

Applicant/Representative

Patrick McMeekin
Hartford Homes
4801 Goodman Road
Timnath, CO 80547

Staff

Kai Kleer, City Planner

Contents

1. Project Introduction	2
2. Public Outreach	3
3. Article 2 – Applicable Standards.....	3
4. Land Use Code Article 3.....	4
5. Land Use Code Article 4.....	7
6. Findings of Fact/Conclusion	7
7. Recommendation.....	8
8. Attachments	8

Staff Recommendation

Approval

1. Project Introduction

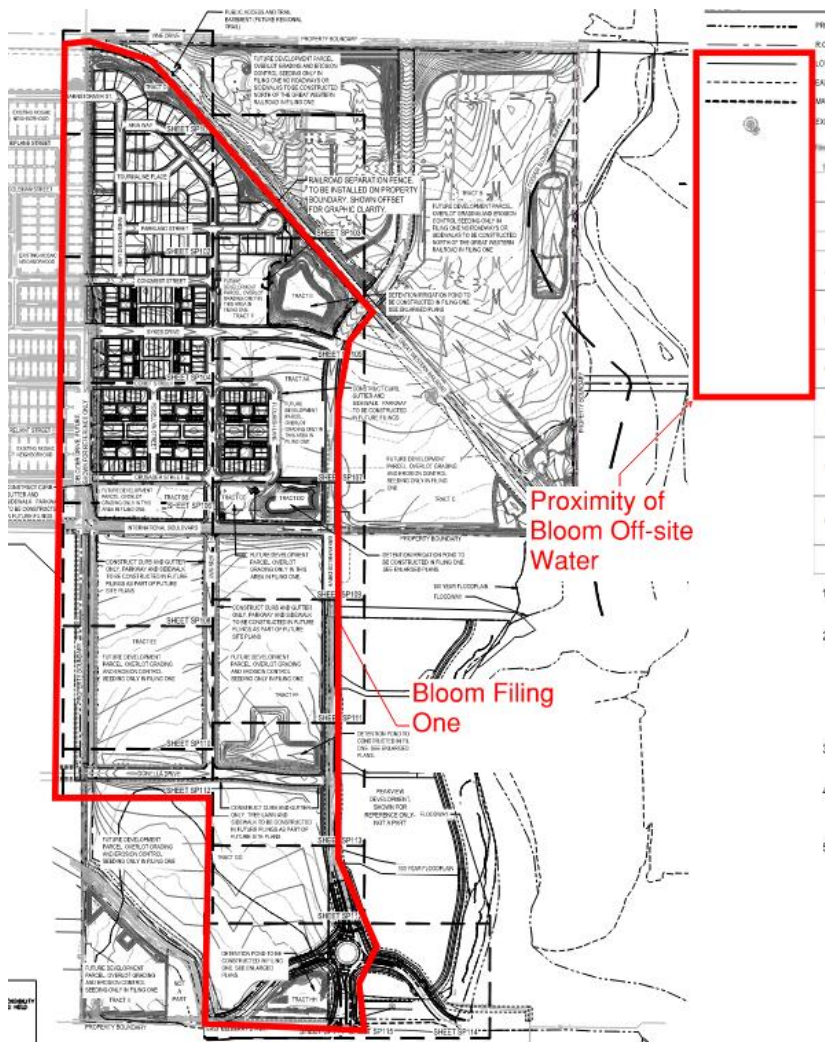
A. PROJECT DESCRIPTION

- The proposed water main is meant to provide customers served by East Larimer County Water District (“ELCO”) with adequate water pressure as the Mulberry Corridor continues to develop.
- This improvement is tied to Bloom Filing One and paid for by private development and will not affect water service or prices for customers within the ELCO water district.
- The proposal would span 2,200 lineal feet and require a connection into the existing water line under E Vine Drive (public street) and Redman Drive (private street) which is anticipated to cause a lane closure at a future unknown date.

B. SITE CHARACTERISTICS

1. Development Status/Background

This project is required to satisfy the conditional approval of Bloom Filing One, which is the first filing of the Mulberry & Greenfields PUD. Bloom Filing One includes a system of roadways, and utility infrastructure within the PUD that will serve future residential and commercial development. Filing One is conditioned so that prior to issuance of any building permit that the water line must be constructed in accordance with approved and recorded plans associated with this application, BDR220004.



2. Surrounding Zoning and Land Use

	North	South	East	West
Zoning	Low Density Mixed Use Neighborhood (LMN)	Larimer County	Industrial (I)	Industrial (I)
Land Use	Waterglen residential subdivision.	Super Vacuum Manufacturing Company, Poudre Valley Coop - farm supply store	Agricultural land, Interstate 25, Warehouse	Single-family detached – single residence along Vine Drive.

2. Public Outreach

A. PUBLIC COMMENT

City staff have received several comments related to the project which include:

- Concerns of service disruption.
- Concerns of cost increases to ELCO customers.
- Concerns on how the project would impact water quality for ELCO customers.

Staff have responded to questions to indicate that there were no anticipated impacts to water quality, service, or cost as part of this project.

3. Article 2 – Applicable Standards

A. DIVISION 2.2 – PROCEDURAL OVERVIEW

1. Neighborhood Meeting – Not Applicable

Because this project is subject to a Type 1 (Administrative Hearing) a neighborhood meeting is not required and was not held for this project.

2. First Submittal – BDR220004

The first submittal of this project was completed on October 13, 2022.

3. Notice (Posted, Written and Published)

Posted Notice: November 9, 2022, Sign # 690

Published Hearing Notice: February 20, 2023 – AD# 005601025

4. Land Use Code Article 3

A. DIVISION 3.3 – ENGINEERING STANDARDS

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.3.1(C) – Public Sites, Reservations and Dedications.	<p>An applicant shall be required to dedicate rights-of-way for public streets, drainage easements and utility easements as needed to serve the area being developed and/or platted. In cases where any part of an existing road is abutting or within the tract being developed and/or subdivided, the applicant shall dedicate such additional rights-of-way as may be necessary to increase such roadway to the minimum width required under this Land Use Code for such street.</p> <p>The 20-inch waterline will be contained within a 30-foot exclusive water pipeline easement. The easement was recorded (Reception #20230002421) on January 19, 2023, and satisfies all City and ELCO design requirements.</p>	Complies
3.3.5 – Engineering Design Standards	<p>The project must comply with all design standards, requirements, and specifications for the Eastern Larimer County Water District.</p> <p>Eastern Larimer County Water District has reviewed and approved the water line design. A letter is attached to this staff report.</p>	Complies

B. DIVISION 3.4 – CULTURAL RESOURCE PROTECTION STANDARDS

The purpose of this Section is to ensure that when property is developed consistent with its zoning designation, the way in which the proposed physical elements of the development plan are designed and arranged on the site will protect any natural habitats and features both on the site and in the vicinity of the site.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
<p>3.4.1 – Natural Habitats and Features</p>	<p>The General Standard requires, to the maximum extent feasible, the development plan be designed and arranged to be compatible with and to protect natural habitats and features and the plants and animals that inhabit them and integrate them within the developed landscape of the community by: (1) directing development away from sensitive resources; (2) minimizing impacts and disturbance through the use of buffer zones; (3) enhancing existing conditions; or (4) restoring or replacing the resource value lost to the community when a development will result in the disturbance of natural habitats or features.</p> <p>This project is immediately adjacent to a branch of the Cooper Slough ('Slough'), which is one of the largest remaining undeveloped, mostly intact stream/wetland complexes in the City's Growth Management Area. Besides from its size, the Slough is unique due to its warm-water nature that supports high bird diversity and valuable wildlife habitat during the winter months. The primary functions associated with the wetlands in general besides wildlife habitat are contributing to groundwater discharge and recharge and improving water quality. According to the Land Use Code Section 3.4.1(E), a 300' buffer zone standard is applied to the Slough; however, this buffer can vary if qualitative performance standards are met. The Slough is considered non-jurisdictional (not regulated by the US Army Corps of Engineers).</p> <p>As part of the project a wetland delineation was conducted on August 6, 2022 by Professional Wetlands Consulting, Inc. that identifies the Slough's eastern boundary. The report highlights the Slough's oxbow characteristics and hydrology inputs of stormwater runoff, precipitation, and groundwater discharge. Adjacent to the Slough is a narrow band of weedy species and active irrigated agricultural fields (hay) in an upland habitat. No natural habitat buffer zones are proposed since the current agricultural land use is intended to continue.</p> <p>Environmental Planning staff has reviewed the application and found that no portion of the proposed project disturbs the Slough itself, and the western edge of the permanent easement is a minimum of 75-feet from the Slough's eastern boundary.</p> <p>The applicant proposes meeting LUC 3.4.1 (E) performance standards by the following measures:</p> <ul style="list-style-type: none"> • Locating the easement a sufficient distance from the resource (the Slough) that would not interfere with future restoration efforts should future development be proposed; • Using cut-off walls to maintain existing groundwater flow paths and patterns to retain the Slough's hydrology; and • Re-seeding any disturbed non-agricultural areas with a native seed mix. 	<p>Complies</p>

C. DIVISION 3.7 – COMPACT URBAN GROWTH STANDARDS

The purpose of the adequate public facilities (APF) management system is to establish an ongoing mechanism which ensures that public facilities and services needed to support development are available concurrently with the impacts of such development.

Applicable Code Standard	Summary of Code Requirement and Analysis	Staff Findings
3.7.3(D)(2) - Water	<p>All development shall provide adequate and functional lines and stubs to each lot as required by the current City or special district, as applicable, design criteria and construction standards.</p> <p>Approval of the proposed project would satisfy a condition of approval related to Bloom Filing One. Eastern Larimer County Water District has reviewed the project and finds that it complies with all design criteria and construction standards of the District.</p>	Complies

5. Land Use Code Article 4

A. DIVISION 4.28 – INDUSTRIAL DISTRICT (I)

The Industrial District is intended to provide a location for a variety of work processes and workplaces such as manufacturing, warehousing and distributing, indoor and outdoor storage, and a wide range of commercial and industrial operations. The Industrial District also accommodates complementary and supporting uses such as convenience shopping, childcare centers, and housing. While these Districts will be linked to the City's transportation system for multiple modes of travel, some may emphasize efficient commercial trucking and rail traffic as needed. Industrial and manufacturing processes used in this District may, by necessity, be characteristically incompatible with residential uses.

Applicable Standard	Summary of Requirement and Analysis	Staff Findings
4.28(B) - Permitted Uses	<p>Minor public facilities are a permitted use within the Industrial zone district subject to Administrative, Type 1 review.</p> <p>Minor public facilities is defined by Article 5 – Terms and Definitions as, “ structures or facilities, such as electrical generating and switching stations, substations, underground vaults, poles, conduits, water and sewer lines, pipes, pumping stations, natural gas pressure-reducing stations, repeaters, antennas, transmitters and receivers, valves and stormwater detention ponds, that are not occupied by persons on a daily basis except for periodic inspection and maintenance, are capable of operation without daily oversight by personnel and do not generate daily traffic. Such facilities also include similar structures for fire protection, emergency service, parks and recreation and natural areas. Minor public facilities shall not include outdoor storage and wireless telecommunications equipment or facilities.”</p> <p>The project is a permitted use within the Industrial zone district subject to an Administrative, Type 1 review.</p>	Complies

6. Findings of Fact/Conclusion

In evaluating the Bloom Offsite Water #BDR220004, staff makes the following findings of fact:

- A. The BDR complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code.
- B. The BDR complies with pertinent standards located in Article 3 – General Development Standards.
- C. The PDP complies with pertinent standards located in Article 4; Division 4.28 - Industrial zone district.

7. Recommendation

Staff recommends approval of the Bloom Offsite Water, BDR220004.

8. Attachments

1. Vicinity Map
2. Narrative
3. Stormwater Management Plan
4. Utility Plans
5. Wetland Exhibit
6. Temporary Construction Easement
7. Corrected Temporary Construction Easement
8. Water Pipeline Easement
- 9.

9. Links

No links