



**BOARD OF ADJUSTMENT/APPEALS
SPECIAL MEETING**

September 3, 2015 - 7:00 P.M.

Town Board Chambers

301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
3. Reading of the statement of the documents to be entered into the record:
I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.

B. CONSENT CALENDAR

1. Approval of the minutes of July 23, 2015

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-14-260 pertaining to Building Location requirements in the Estate Residential (E-2) zone district, for the Property Located at 5874 Woodcliffe Drive
 - Staff presentation: Paul Hornbeck, Associate Planner
 - a. Motion to open public hearing to receive evidence and comment regarding the variance request and second
 - b. Presentation of variance request by applicant
 - c. Receipt of any comments from the public regarding the variance request
 - d. Staff report and Recommendation
 - e. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
 - f. Motion to close public hearing and second
 - g. Motion on variance and second
 - h. Board discussion
 - i. Board action on variance request

D. COMMUNICATIONS

1. Communications from the Board Members
2. Communications from staff

E. ADJOURN

STATE LAW DICTATES THAT A FAVORABLE VOTE OF 4 OUT OF 5 MEMBERS OF THE BOARD OF ADJUSTMENT IS REQUIRED TO GRANT ANY VARIANCE. A SIMPLE MAJORITY VOTE IS NOT SUFFICIENT.

NOTE TO APPLICANTS: This agenda is considered tentative and may be revised at any time prior to the meeting. Applicants are advised to be present at 7:00 p.m. Final agendas will be available at the meeting.

Applicants may discuss the requests and the recommendations with staff during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. For the convenience of the applicants, appointments are recommended.

Upcoming Meeting Dates

| | | |
|-------------------------------------|-----------|--------------------------------------|
| <u>Thursday, September 24, 2015</u> | 7:00 P.M. | Regular Board of Adjustment Meeting* |
| <u>Thursday, October 22, 2015</u> | 7:00 P.M. | Regular Board of Adjustment Meeting* |

* All regular and special meetings of the Board of Adjustment are subject to the receipt of an item of business to be placed on the meeting agenda.



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

July 23, 2015 – 7:00 P.M.

Third Floor Council Chambers, 301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Monday prior to the meeting to make arrangements.

MINUTES

A. CALL TO ORDER

The meeting was called to order by Chairman Horner at 7:00 p.m.

1. Roll Call

The following members were present:

Chairman Danny Horner
Cindy Scheuerman
Rick Bowers
Jose Valdes

Absent:

Benjamin George
Jim McIntyre
Ken Gerlach

Also present: Associate Planner
Permit Technician

Paul Hornbeck
Robin Volner

2. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
There were no changes to the agenda.

3. Reading of the statement of the documents to be entered into the record:

I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.

4. Public invitation to be heard

Chairman Horner opened the meeting for public comment to which there was none.

B. CONSENT CALENDAR

1. Approval of the minutes of March 26, 2015

Ms. Scheuerman motioned to approve the March 26, 2015 meeting minutes; Dr. Valdes seconded the motion. Motion carried unanimously.

C. BOARD ACTION

1. Public Hearing –Variance of Municipal Code Section 16-9-100(c) (1) pertaining to the height of a building mounted sign in the Central Business (CB) zoning district – Davinci Signs, Applicant

- Staff presentation: Paul Hornbeck, Associate Planner

Ms. Scheuerman motioned to open the Public Hearing; Dr. Valdes seconded the motion. Motion carried unanimously.

The applicant, DaVinci Sign Systems, representing the Hearth Restaurant & Pub is requesting a variance to the Municipal Code Sign height requirements for the building mounted signs in order to construct two new signs on the property located at 205 ½ 4th Street. The applicant presented a power point presentation to show how the signs would be placed on the building. The applicant stated his client is asking for an exception as they feel the code does not address these types of signs. He continued to explain that technically the sign will pass code by rotating 90 degrees, only the clients logo is not oriented that way. If the sign was rotated it would be too small to read if held to the strict interpretation of the written code. The code penalizes any use of vertical signage. My client would ask the board to consider one 3'6" wide by 11' vertical sign on the west elevation and one wall mounted sign of the same size on the north elevation. The signs would be made of aluminum with wood overlays and use LED illumination.

Public Comments: No public comment

Associate Planner Paul Hornbeck stated the applicant, DaVinci Sign Systems, representing the Hearth Restaurant & Pub is requesting a variance to the Municipal Code sign height requirements for building mounted signs in order to construct two new signs on the subject property located at 205 ½ 4th Street. The subject building is 3750 square feet in size, with 100 feet of frontage along Main Street and 45 feet along 4th Street. The business occupies the second floor, and being less the 5000 square feet, is classified as a minor tenant. The subject property is zoned Central Business (CB) and surrounded by other CB zoned properties.

The variance requested is from Municipal Code Section 16-9-100(c)(1) for a building mounted sign, which states the following:

Minor tenant. The height of building-mounted signs for minor tenants shall not exceed either twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted or five (5) feet in height, whichever is less.

Mr. Hornbeck continued explaining that the applicant is proposing to construct one wall mounted sign on the west elevation and one wall mounted sign on the north elevation. The proposed signs would each be 3'6" wide by 11' in height, for an area of 38.5 square feet. The building elevations upon which the sign would be mounted have a height of 31 feet; therefore, a maximum sign height of 5 feet is allowed. The signs would be made of aluminum with wood overlays and use LED illumination.

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship and practical difficulty, and therefore is recommending that the variance request for the proposed sign height as presented in the application for both signs be approved based upon the following findings of fact:

1. The applicable sign regulation does not appear to adequately address vertically oriented signs;

2. The overall size of the signs are in proportion to the size of each building wall upon which each sign will be mounted;
3. The granting of this variance request will not alter the character of the surrounding neighborhood;
4. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
5. The granting this variance will not pose any public safety or welfare concerns.

Staff recommends that the following motion, second and action on the petition be made as follows:

- 1) A motion to approve the request for a variance from Section 16-9-100(c)(1) of the Municipal Code as depicted in the variance application to allow the construction of two wall mounted signs with a height of 11' based upon the aforesaid findings of fact and the applicant obtaining the applicable sign permits;
- 2) A second; and
- 3) The Chair calling for the vote as follows: All members in favor of the variance request vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel:
No comments or questions

Chairman Horner ask for a motion to close the Public Hearing.

Ms. Scheuerman motioned to close Public Hearing; Mr. Bowers seconded the motion. Motion carried unanimously.

Chairman Horner asked for a motion on the variance.

Ms. Scheuerman moved to approve the variance; Dr. Valdes seconded the motion.

Motion was approved.

D. COMMUNICATIONS

1. Communications from the Board Members
None.
2. Communications from staff
Discussion on setback certifications.
3. Communications from the Town Attorney
None.

E. ADJOURN

Mr. Bowers motioned to adjourn; Dr. Valdes seconded the motion. Motion carried unanimously.

The meeting was adjourned at 7:15 p.m.

Robin L. Volner, Permit Technician



MEMORANDUM

Date: September 3, 2015
To: Board of Adjustment
Via: Scott Ballstadt, AICP, Director of Planning
From: Paul Hornbeck, Associate Planner
Re: Public Hearing – Variance of Municipal Code Section 16-14-60 pertaining to Building Location Requirements, distance between a residence and an accessory building housing domestic animals, in the Estate Residential (E-1) zone district
Location: 636 Southwood Lane, Lot 16, Block 15, Westwood Village Subdivision 2nd Filing in the Town of Windsor
Item #: C.1

Background/Discussion:

The applicant, Mr. Adam Luckeroth of Lynn Homes & Development, LLC, is requesting a variance from Municipal Code Section 16-14-60 to allow for the construction of an accessory building housing domestic animals to be located 35 feet away from a residential dwelling, rather than the required 75 feet.

Municipal Code Section 16-14-60 states the following:

No building or structure may be located within twenty-five (25) feet of any property line. The foregoing notwithstanding, no accessory building housing domestic animals may be located within thirty-five (35) feet of any property line, and such accessory buildings may not be located closer than seventy-five (75) feet from any residential dwelling.

The reduced distance would be between the applicant's residence under construction, and an accessory structure he wishes to construct on the same property to house horses. The subject property is located in a transitional area from residential subdivisions to larger, more rural, and agricultural lots. The property is 52,464 square feet in size and zoned Estate Residential, E-1. Per Municipal Code Section 16-14-30, a property of that size in the E-1 zone district is permitted to have one large domestic animal. Keeping of more than one large domestic animal on the property would require approval of a Conditional Use Grant.

Analysis:

Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. Staff has analyzed whether special site specific conditions exist; the impact on public interest, safety, and welfare; impacts to neighborhood character; and whether an unnecessary hardship exists. Variances will not be granted contrary to the public interest and will only be considered when the spirit of the zoning code can be observed and public safety and welfare secured. The Board of Adjustment is empowered to approve or deny variances based on the criteria listed above.

Municipal Code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and *spirit* of the zoning code. Section 16-1-10 states the following:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population...

Staff has researched health and building codes and neighboring communities' regulations and has found no similar requirements or health, safety, or welfare concerns regarding the construction of an accessory structure housing domestic animals 35 feet from a residence.

Recommendation:

Section 16-6-60(b) of the Municipal Code states that, "Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship" and that, "Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured."

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request to allow a separation of 35 feet between the residence and accessory structure housing domestic animals, based upon the following findings of fact:

1. The variance will not negatively impact public health, safety, or welfare
2. The intent of Municipal Code Section 16-14-60 appears to be to protect against the construction of an accessory structure housing domestic animals from adversely impacting residences on neighboring properties, rather a residence on the same property

In addition to the findings of fact, staff recommends approval of the variance be subject to the following conditions of approval:

1. The applicant shall revise the plot plan so that the front plane of the accessory structure is no closer to Southwood Lane than the rear plane of the house in order to comply with Section 16-8-30(d)
2. If a driveway is to be constructed to the accessory structure, the applicant shall first have a driveway permit approved by the Engineering Department

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-14-60
2. A second; and

3. The Chair calling for the vote as follows: All members in favor of the variance vote “yes”; all opposed to the variance request vote “no”, with a minimum of four “yes” votes required to approve the variance request.

Notification:

August 17, 2015 development sign posted on the subject property
August 21, 2015 public hearing notice placed on the Town of Windsor’s website
August 21, 2015 public hearing notice posted in the paper

Enclosures: Application Materials
Presentation Slides

Pc: Adam Luckeroth, applicant
Planning staff



APPLICATION FOR APPEALS

TOWN OF WINDSOR
301 WALNUT STREET
WINDSOR, CO 80550

(Please see Town of Windsor [Fee Schedule](#) for Application Fee)

Office: (970) 674-2415
Fax: (970) 674-2456
www.windsorgov.com

TO BE COMPLETED BY APPLICANT

A request is hereby made for an appeal of an order, requirement, decision, or determination made by the Zoning Officer of the Town within the last forty-five (45) calendar days in the enforcement of Chapter 16 of the Town of Windsor Municipal Code on the property located at:

Street Address: 636 Southwood Lane

Lot: 16 Block: 15 Subdivision: Westwood Village

Describe the nature of the request for appeal. Attach additional sheet(s) if necessary*:

SCALED DRAWINGS AND SPECIFICATIONS NECESSARY FOR THE PROPER CONSIDERATION OF THIS APPEAL SHALL BE SUBMITTED WITH THIS APPLICATION. WITH NEW CONSTRUCTION PROJECTS YOU MUST CONTACT SAFEbuilt COLORADO, INC (970-686-7511) TO DETERMINE IF ANY SPECIAL REQUIREMENTS EXIST ACCORDING TO THE INTERNATIONAL BUILDING CODE.

I hereby depose and state under the penalties of perjury that all statement, proposals and plans submitted within this application are true and correct to the best of my knowledge.

Submitted this 14th day of August, 20 15

Lynn Homes Development, LLC
Applicant (please print)

Adam Luckeroth
Property Owner* (please print)

Applicant's Signature

Property Owner's Signature*

1635 Foxtrail Dr Loveland, CO 80538
Mailing Address (street, city, state, zip)

2917 67th Ave Way Greeley, CO 80634
Mailing Address* (street, city, state, zip)

970-539-0260
Telephone Number (during the day)

Same as
Telephone Number* (during the day)

Fax Number: _____

Fax Number: _____

Email: lynnhomesanddevelopment@gmail.com

Email*: Same as

Applicant's Representative (if any): Name: _____
Address: _____
Telephone: _____ Fax: _____
Email: _____

* indicates required fields



1635 Foxtrail Dr.
Loveland, CO 80538

August 14, 2015

Town of Windsor
Attention: Planning Department
301 Walnut Street
Windsor, CO 80550

RE: 636 Southwood Lane
Outbuilding Set Back Variance

To Whom It May Concern:

Lynn Homes & Development, LLC recently submitted a new site plan with the Town of Windsor to construct an outbuilding at 636 Southwood Lane. This project will involve building my personal residents along with an outbuilding that will house a large domestic animal combined with shop and garage space. It has been brought to my attention per municipal code **Sect. 16-14-60 no accessory building housing domestic animals may be located within thirty five feet of any property line, and such accessory buildings may not be located closer than seventy five feet from any residential dwelling.**

The original site plan submitted shows the outbuilding twenty feet from a residential dwelling. It would be my request of the board to review and approve a variance grating the structure be placed thirty five feet from a residential dwelling. The following reasons below would be the purpose of the applied variance request:

- **Integrity and Esthetic View Of The Lot.** Being mindful of the neighboring properties, placing the structure on the corner of the lot makes the most sense. Meeting the minimum set back requirements would mean placement of the structure would have to be in the far northwest or southwest corner of the lot. This would hinder all the views of the neighboring properties. By placing the structure to the south of my residential dwelling would allow for maximum views for all neighbors. To the south of the lot is vacant land with no structures and to the east is an open hay field. This also allows for the maximum use of the property and resale value of our home. **(Please see attached exhibits).**
- **Utilities and Access.** Having additional garage space within the purposed structure, placement of the structure as purposed would allow us to share driveway access into our home and eliminate a second access onto Southwood Lane. Taking into consideration where all current utilities are

stubbed into the property (water, power, and gas) are within accessible range for both the residential home and the outbuilding. Having to move the structure to the rear of the lot would put the utilities out of accessible and cost affective range. This would also allow for the best access for loading and unloading a horse, parking of the trailer, and putting hay into the barn.

- **Large Domesticated Animal.** Housing a large domestic animal (Horse) It is very important to have the stall front facing to the south. This maximizes heat, wind and snow exposure. Placing the structure as purposed also will allow me to have stall runs away from neighboring properties, easy access to my animal and overall security of the property.

It would be my request of the board to be mindful, and take into careful consideration the above items when looking at the variance request. As you will find in the attached exhibits, placement of the outbuilding to meet the minimum code requirement is very difficult to achieve without hindering the overall property and its value. I appreciate your time and help. I'm looking forward to working with you and being a new resident of the Town of Windsor.

Thank you,

A handwritten signature in black ink, appearing to read 'Adam Luckeroth', with a horizontal line underneath it.

Adam Luckeroth
Lynn Homes & Development, LLC



VARIANCE REQUEST

636 SOUTHWOOD LANE

WESTWOOD VILLAGE SUBDIVISION, 2ND FILING

LOT 16, BLOCK 5

Paul Hornbeck, Associate Planner

September 3, 2015

Board of Adjustment

Item C.1



VARIANCE REQUEST

Municipal Code Section 16-6-60 outlines the regulations and provisions for granting variances.

Variance request from Section 16-14-60:

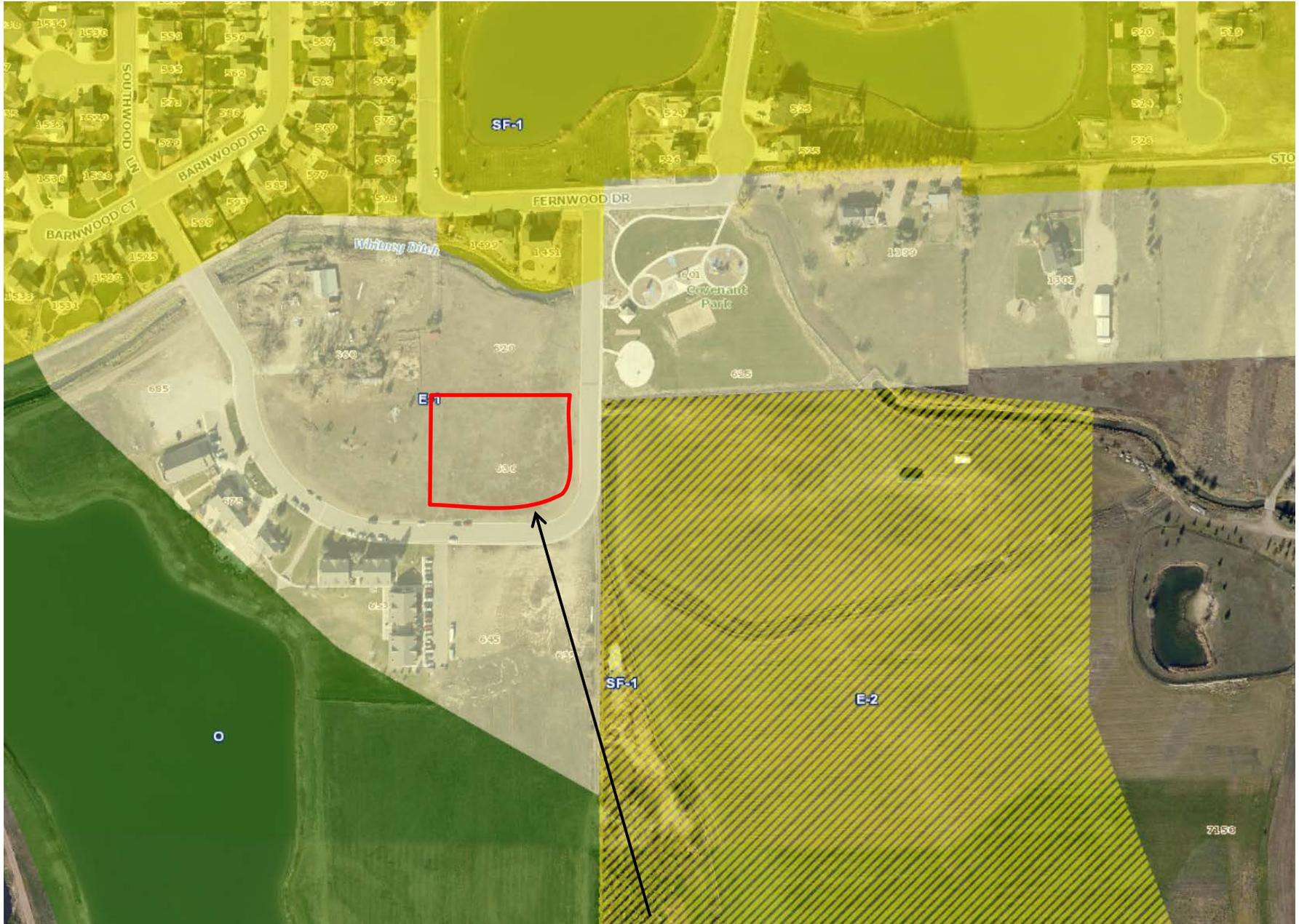
No building or structure may be located within twenty-five (25) feet of any property line. The foregoing notwithstanding, no accessory building housing domestic animals may be located within thirty-five (35) feet of any property line, and such accessory buildings may not be located closer than seventy-five (75) feet from any residential dwelling.

SITE VICINITY MAP



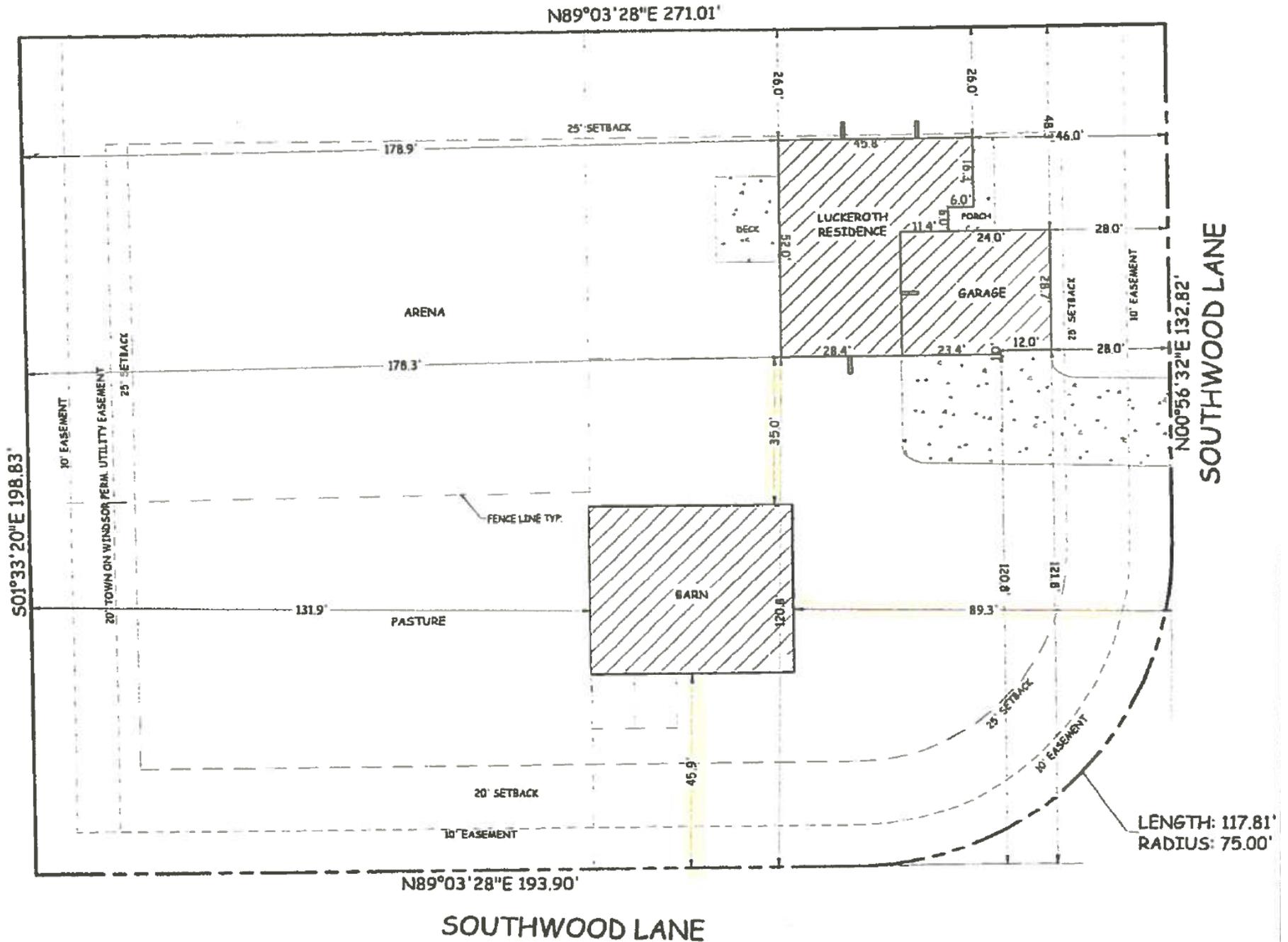
Site Location

SITE PROXIMITY ZONING MAP



Site Location

SITE PLAN



RECOMMENDATION

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request to allow a separation of 35 feet between the residence and accessory structure housing domestic animals, based upon the following findings of fact:

- The variance will not negatively impact public health, safety, or welfare
- The intent of Municipal Code Section 16-14-60 appears to be to protect against the construction of an accessory structure housing domestic animals from adversely impacting residences on neighboring properties, rather a residence on the same property

In addition to the findings of fact, staff recommends approval of the variance be subject to the following conditions of approval:

- The applicant shall revise the plot plan so that the front plane of the accessory structure is no closer to Southwood Lane than the rear plane of the house in order to comply with Section 16-8-30(d)
- If a driveway is to be constructed to the accessory structure, the applicant shall first have a driveway permit approved by the Engineering Department