

AGENDA  
LARIMER COUNTY BOARD OF COMMISSIONERS  
Monday, June 13, 2016/6:30 P.M./Hearing Room

A. CALL TO ORDER

B. DISCUSSION ITEMS:

1. PEAKVIEW ESTATES CONSERVATION DEVELOPMEN **PAGE 1**  
FILE #14-S3231

**Staff Contacts:** Karin Madson, Planning, Clint Jones Engineering, Doug Ryan, Health

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2. WINDJAMMER ROADHOUSE SPECIAL EXCEPTION **PAGE 96**  
FILE #15-Z1995

**Staff Contacts:** Karin Madson, Planning, Clint Jones Engineering, Doug Ryan, Health

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C. ADJOURN

2. TITLE: Windjammer Roadhouse Special Exception
- REQUEST: Special Exception for approval to:
1. Continue to use the existing “beer garden” to serve food and beverages, including alcohol.
  2. Provide outdoor musical performance entertainment during the summer months in the “beer garden” area.
  3. Allow the business to hold charitable auctions on the premises periodically.
- LOCATION: 34-05-70; located on the west side of County Road 31 & north of North Shore Drive.
- APPLICANT/ PROPERTY OWNER: Christopher L. and Lisa M. Miller  
3431 S County Road 31  
Loveland, CO 80537
- STAFF CONTACTS: Karin Madson, Planning  
Doug Ryan, Health  
Clint Jones, Engineering
- FILE #: 15-Z1995
- NOTICE GIVEN: Newspaper Publication  
First Class Mailing to surrounding property owners
- LCPC HEARING DATE: April 20, 2016
- LCPC RECOMMENDATION: Approval of the project, motion passed by vote of 5-1

DISCUSSION:

This application was on the discussion agenda at the Planning Commission Hearing. Several neighboring property owners and others in the nearby area attended the hearing. The main issue discussed is the impacts that noise from music on the patio and events held by the business have on neighboring property owners. The comments and minutes from that meeting are attached. Additional comments and petition signatures have been received and are included in the agenda packet and the notebook that includes the petitions. There is a mixture of those in support of the application and those that are opposed to the expanded use.

Just prior to the hearing the applicant’s attorney submitted additional information including a proposed amendment and compromise to the application. The letter and details of that compromise are attached. Included are:

1. Outdoor music to be provided 2 months a year from Memorial Day weekend through Labor Day.
2. Rather than having a band every Thursday and Friday evening through the summer months, limiting weekday outdoor music to two Fridays a month (in addition to July 4<sup>th</sup> if it falls on a Friday).

3. No live outdoor music to be provided past 9:00 p.m. on Fridays and Saturdays. No live music to be provided past 6:00 p.m. on Sundays.

The Miller's bought the property thinking that the beer garden area was OK since it had been there for a number of years. Several issues are of concern to the applicant at this time include: the requirement to dedicate right-of-way, the process to demonstrate compliance with the noise ordinance (prior to construction), moving the access to the business, Special Events permits requirements and restrictions, and the Special Exception process in general.

There was much discussion about the live music proposed and the compatibility of the request in the context of the surrounding environment. Staff had recommended denial of the application as proposed by the applicant or approval with the proposed condition that there be no music outdoors. The Planning Commission modified the proposed condition #1 to state: 'No outdoor **live** music of any kind is allowed on the property.' This would allow recorded music and live music from inside the building to go through outdoor speakers that are located in the patio area.

The main issue continues to be the impacts that outdoor music and events would have on the surrounding residential properties. The public hearing will likely be a source of important additional information that will need to be considered with regard to the compatibility of this project with the surrounding neighborhood.

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**PLANNING COMMISSION RECOMMENDATION:**

The Larimer County Planning Commission and Development Services Team recommends **Approval** of the **Windjammer Roadhouse Special Exception, file #15-Z1995** subject to the following condition(s):

1. No outdoor live music of any kind is allowed on the property.
2. Requests to hold charity auctions at the property (including those with fewer than 300 people at any one time) shall be evaluated through the Special Events process as outlined in Section 7 of the Larimer County Land Use Code. No other outdoor events are allowed.
3. Failure to comply with any conditions of this approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
4. The applicant shall submit a Site Plan Review application for review and approval within 90 days of approval. The Site Plan Review application shall address the comments outlined in the memo from Clint Jones, dated Dec. 2, 2015, including right-of-way dedication, the access along County Road 31, and show that the site has the ability to function properly. The site plan shall be based off of survey data and should include property dimensions, existing and proposed right-of-way, roads, buildings, the septic system, drive isle locations and dimensions, and setbacks.
5. The requirements of the Loveland Fire Rescue Authority as outlined in the memo from Carie Dann, dated Dec. 9, 2015 shall be met at building permit submittal.

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**SUGGESTED MOTIONS FOR BOARD OF COUNTY COMMISSIONERS:**

I move that the Board of County Commissioners **Approve** the **Windjammer Roadhouse Special Exception, file #15-Z1995** subject to the condition(s) as outlined above.

**-OR-**

I move that the Board of County Commissioners **Deny** the **Windjammer Roadhouse Special Exception, file #15-Z1995**.

**PLANNING COMMISSION  
MINUTES  
FROM  
April 20, 2016**

## LARIMER COUNTY PLANNING COMMISSION

### Minutes of April 20, 2016

The Larimer County Planning Commission met in a regular session on Wednesday, April 20, 2016, at 6:30 p.m. in the Hearing Room. Commissioners' Christman, Cox, Dougherty, Glick, and Wallace were present. Commissioner Couch, Gerrard and Miller were absent. Commissioner Jensen presided as Chairman. Also present were Matt Lafferty, Principal Planner, Terry Gilbert, Community Development Director, Karin Madson, Planner II, Tony Brooks, Code Compliance Department, Amy White, Code Compliance Department, Clint Jones, Engineering Department, Doug Ryan, Health Department and Jill Wilson, Recording Secretary.

**WINDJAMMER ROADHOUSE SPECIAL EXCEPTION #15-Z1995:** Ms. Madson provided background information on the request for a Special Exception for approval to:

1. Continue to use the existing "beer garden" to serve food and beverages, including alcohol.
2. Provide outdoor musical performance entertainment during the summer months in the "beer garden" area.
3. Allow the business to hold charitable auctions on the premises periodically.

The property was located on the west side of County Road 31 & north of North Shore Drive.

The current use of the property was a "bar/tavern" based on the approved liquor license for a tavern.

The history of the property was as follows:

- In 1963 the property was zoned O-Open and that zoning allowed all uses not otherwise prohibited, including a restaurant.
- Assessor records indicate the structure on the property was built in 1965. According the applicant it was an ice cream parlor.
- In 1968 (File #33-68) the property was rezoned from O-Open to T-Tourist. The T-Tourist zoning district at that time restricted the serving of food and beverages to "within a building". No outside patio uses were allowed.
- The applicant submitted a photo from 1973 which does not show an outside patio. We can assume the patio was constructed after this date.
- According the applicant the property was transitioned to a bar/tavern around 1974-1976.
- In 1991 the County issued a liquor license issued for a restaurant (Could have been earlier, but nothing prior to this in the Clerk's current file).
- In 1995 the liquor license changed from restaurant to tavern (current license designation).
- In 1992 (File #92-0071) the T-Tourist zoning district was changed to allow outside patio by special review. Prior to this date an outdoor patio was not allowed. There is no of record of a Special Review having been completed.

*Places serving food and beverages for consumption within a building, which may also include an adjoining accessory patio area.*

*Special Review required for: places serving food and beverages for consumption off the premises, or in an area outside a building, which area does not meet the definition of an "accessory patio area."*

*Accessory patio area - any outside, open to the air, courtyard type are for use which is incidental to, subordinate to, and devoted exclusively to the main use of the premises, and which meets the following requirements:*

- a. Does not contain any separate, outside food or beverage station.
- b. Does not permit any live or recorded entertainment or use any amplified sound system on the patio area,
- c. No food or beverage service after 10 pm.
- d. Has requires and received approval from the County Building Inspection Division,

- e. *Complies with all the requirements of the applicable fire protection authority,*
- f. *Complies with the applicable requirements of the State Liquor Enforcement Division, and*
- g. *Said patio area is located at least 250 feet from any residentially zoned property outside the Urban Growth Area.*

- In 2001 the Land Use Code (LUC) would have allowed an outdoor patio or other serving area for either a Restaurant or Nightclub by Special Review. Again, there is no record of Special Review approval during this time.
- In 2007 the LUC was amended. The uses Bar/Tavern (changed from nightclub) and Restaurant allowed an outdoor patio or other serving area by Minor Special Review. There is no record of Minor Special Review approval during this time.
- In 2010 the LUC was again amended (current code). The LUC also allows a restaurant with an outdoor patio or serving area component as an accessory use to a restaurant by Minor Special Review approval.
- The current Land Use Code allows a bar/tavern in the T-Tourist zoning district by Special Review, which would make the current indoor use of the property non-conforming. A Bar/Tavern allows music, live entertainment and/or dancing.
- The LUC also requires Minor Special Review for an outdoor patio or serving area for a Bar/Tavern and restricting that use to the B-Business, C-Commercial, I-Industrial and RFLB-Red Feather Lakes Business zoning districts. An outdoor patio or serving area is not allowed in the T-Tourist zoning district.
- The current owners purchased the property in 2014, believing its current use to be acceptable.

The current Windjammer Roadhouse Bar & Grill Special Exception request consisted of three components:

1. To continue to use the existing “beer garden” to serve food and beverages, including alcohol.
2. To provide outdoor musical performance entertainment during the summer months in the “beer garden” area.
3. To allow the business to hold charitable auctions on the premises periodically.

The business currently operated from 11 am to 9 pm weekdays, and 11 am to 10 pm on weekends during the winter months (November to March). During the summer months when outdoor music was proposed (April to October) the business operated 11 am to 9 pm weekdays, and 11 am to 10 pm on weekends. There were 12 year round employees and 20+/- employees during the summer months. The applicant included some noise mitigation strategies including the construction of a sound stage and limiting the volume through the use of a sound meter and the use of sound board materials. No other physical changes were proposed for the property. Ms. Madson noted a neighborhood meeting had been held on the property regarding the proposal. She also noted several unresolved concerns regarding the noise impacts on surrounding properties as well as other unresolved issues regarding the application as proposed. As a result, approval of the application could not be supported unless the applicant could demonstrate that the venue had the ability to be compatible with the neighborhood and meet the standards Larimer County Noise Ordinance. She remarked that staff could be supportive of application if the proposal was modified to eliminate the outdoor music portion of the request. She also pointed out that there was limited information regarding the request for charitable auctions, and Staff could not support that request.

### **PUBLIC TESTIMONY:**

Audrey Bocoock, Iraq veteran, lived near the site. She stated that she had no ill will toward the owners, and she liked the bar there; however, she had PTSD and the noise created from the bar affected her PTSD. She explained that the bar used part of her property for an access point for deliveries. She had spoken to the owners about that portion of property and asked that they take care of it. She stated that the land was a mess, and they had not taken care of it. She also stated that she had talked to them several times about the music and lights because she had to keep her doors and blinds closed. She also did not want to be in fear of parishioners coming to the site and being threatening. She was against the Special Exception but wanted to make it clear that she did not want the bar to close. She was frustrated that she was forced into the position, and she did not want to have to move. She felt that she had more health issues since the bar changed ownership, and she found that it was due to the noise and lights. She pointed out that her driveway gets blocked by people visiting. She reiterated that she had spoken with the owners several times regarding the issues.

Commissioner Wallace asked if she was objecting to the outdoor dining.

Ms. Bocoock replied no. She understood wanting to expand their business but was afraid that if they were given an inch they would take a mile.

Chris Miller, co-owner of Windjammer, stated that he had the property surveyed and pointed out the property boundaries. He was unsure of the property subject to the issues brought up by Ms. Babcock. He explained the background of how the application came about and that he found out from staff that the property was not zoned for the beer garden. He remarked that the whole process for the Special Exception got overwhelming due to all of the requirements with engineering, septic standards, etc. He felt that they had been trying to come to a compromise. He stated that he researched the property before he bought it and thought it was ok to purchase. He noted that several changes to the bar/tavern were approved by the County Commissioners in the past and none of the issues were ever brought up to previous owners. He understood not being able to demonstrate compliance with the noise ordinance but felt that he could not demonstrate compliance until he built it and tried. He stated that he was unclear about the Special Event permit stipulations. He also disagreed with the requirement to dedicate right of way on County Road 31. In addition, he disagreed with the county wanting to move the access to North Shore Drive. He spoke to other requirements that he disagreed with. He noted a new proposal for sound that he had modified since the neighborhood meeting. The proposal was:

1. Outdoor live music only be provided 3 months of the year from Memorial Day weekend or the last Monday of May through Labor Day weekend or the first Monday in September, which included the entire holiday weekend.
2. Rather than hosting a band every Thursday and Friday evening throughout the summer months they would limit weekday outdoor music performances to two Fridays a month and national holidays such as 4<sup>th</sup> of July, which could land on a Friday but would not be counted as one of the Friday performances.
3. No live outdoor music would be provided past 9 p.m. on Fridays and Saturdays and no live outdoor music would be provided past 6 p.m. on Sundays.

He noted that in the past they had tried to mirror the quiet hours according to the surrounding campground quiet hours, which were 10 p.m.. He pointed out that now they were proposing to cut back on those hours.

Commissioner Cox mentioned the lights on the property.

Mr. Miller stated that there was one, 250 watt flood light on the property that was pointed to the ground, which they usually didn't turn it on. He stated that they had put LED lights on the back perimeter fence.

Commissioner Jensen asked how tall the fence was.

Mr. Miller stated approximately 8 feet and had been there approximately 8-10 years. He stated that the proposed sound stage would be on the northwest corner of the property would be a loafing shed type structure that had three sides and one opening. He noted that it would have the thickest sound barrier that could be manufactured.

Commissioner Cox asked if he would be ok with removing the live music aspect.

Ronald Jung, owner's attorney, stated that his clients were willing to compromise but did not want to go as far as saying they would not have live music. He pointed out that they were proposing sound barriers. He remarked that the music was important to the business and pointed out that three months out of the year was when the business made the most money, which carried their business for the rest of the year.

Mr. Miller reiterated that outdoor music would only be three months of year and during stipulated times of day.

Commissioner Dougherty asked about the times of the music.

Lisa Miller, co-owner, explained that the live music on Fridays and Saturdays would be from 6-9 p.m. and on Sundays it would be in the afternoon hours for approximately 2-3 hours.

Dennis Henneberg, lived near the Windjammer, stated that he started a petition in favor of the Windjammer. He stated that he, along with many others, went there to eat and enjoy music. He understood the noise issue but he supported the proposal. The petition included signatures from 188 residents in the general vicinity, 1968 residents of Larimer County, 41 members from the Carter Lake Sailboat Club, and 164 signatures from people that were at the Carter Lake Marina. He stated that they had 3212 signatures total.

Commissioner Wallace asked if the petition differentiated between live music.

Mr. Henneberg stated that there was a section regarding the outdoor music, and the comments were that provided the noise issues could be agreed upon then the people were supportive of the outdoor music.

Lori McCallum, lived on Rainbow Lane, supported the Windjammer. The music was not overly loud, and the owners had done a lot to the neighborhood and to the facility. She agreed with the previous speaker. She pointed out that the business did a service to the Carter Lake area and the rest of the community, and the owners had taken care of the property. She felt that it was unfortunate that people buy property next to a bar and then complain about. She urged them to remember the service to the community.

Sherri Knorr, live on North Shore Drive, did not want anything to change. She liked the music and having a place to go to eat or meet people. They had cleaned up the property and helped to make it a great part of the neighborhood. They were trying to mitigate the noise and were trying to do right by the neighbors. She did not want the atmosphere in the area to change.

JD Bothun, live immediately west of the Windjammer, stated that he had noticed the volume increase in the last couple of years and would like to see the volume controlled. He wondered how many days they were proposing to have the music. He stated that he would like a limit on the number of days or weeks that the live music could occur.

Phil Nikkel, lived next to the Windjammer for 33 years, stated that in the past it had been a tolerable place to live next to. He remarked that he lived there before the bar was built. He stated that he heard the music 60% of the time and stated that he could no longer live in the area if the music continued.

Commissioner Wallace asked if there was an acceptable amount of time to have the music.

Mr. Nikkel stated that he did not want to be forced to enforce the county noise ordinance.

Don Waldburger, owner of Carter Lake Marina, had been a user of the Windjammer. He stated that the owners were good owners who had improved the property and gave the community a place to enjoy a meal and music. He stated that he could not hear music from his personal property that was close to the Windjammer. He felt that some of the noise concerns could be mitigated. He remarked that it was a good use of the property and it was a form of tourism for the county. He noted that the marina customers did use it along with campers.

Jasper Johnson, lived on Rainbow View Lane, stated that he had been going to the Windjammer for years. He noted that the new owners had been good with the property. He stated that people need to expect noise living next to a bar.

Wayne V, lived four miles down the road, stated that the owners had improved the property, and it was a nice to have a neighborhood place. He felt that sound control could be accomplished. He remarked that a small business should be helped, and the music could help the business.

Richard Hughes, lived in the vicinity, stated that some of the people who signed the petition did not live in the area and did not have to deal with the noise. He stated that the Windjammer special events had an impact on County Road 31 and impacted the different modes of transportation that frequented that road, which were bicycles, motorcycles, motor homes, cars, etc. He submitted a petition signed by more than half of the residents in the area that had received notification of the first notice of the proposal. He also brought up concerns regarding the impact to wildlife in the area.

Diane Jeffries, lived on Rainbow Ridge, had been to the Windjammer and wished no ill will to the property owners. She noted that the topography of the area was like an amphitheater and the sound traveled up the hill. She appreciated what the owners were proposing as far as sound mitigation but wished the commissioners to consider the topography, which magnified the sound. She reiterated that she did not want the restaurant to close but just wanted the sound issue mitigated.

Karen Pierro, direct neighbor of the Windjammer, stated that there was a misconception that neighbors were trying to close the Windjammer which was not true. The way the proposal was set she could not agree with four nights a week of the live music and asked for some neighborly consideration. She agreed that the owners had done a great job cleaning up the property.

Georgina Minto, had been going to the Windjammer for 40 years. She remarked that people should not complain about an established business, and the owners should not be penalized. The owners were limiting their hours of operation which in turn limited their income. It was tourist area. She supported the application and hoped they would accept the proposal and not penalize the Windjammer.

Charlie Nash, stated that he had frequented the site for 15 years. He stated that it was better than it had ever been. They were trying to fix the place up and trying to do what was right. It was good for Larimer County and for Carter Lake.

Christopher Pearson, lived ½ mile from Windjammer, stated that he moved up there 4 months ago. He stated that having the restaurant in the area was nice, and he did not have any noise complaints. Regarding noise mitigation, he wondered about proposing construction of a 6-8 foot fence on the west side of the property and possibly a tree line to help with noise mitigation.

Kevin Hildreth, felt that the applicants were trying to mitigate the noise and encouraged the commission to allow the applicants to try. It was a positive place for Larimer County as far as economics. It was advantageous to the county and the applicant.

Terry Sybrandts, owned the RV Park and store next to the Windjammer, he stated that it had prospered and had been cleaned up. His tenants at the campground had not complained about the Windjammer. He also stated that his house was across the street. He stated that their request should be accepted and pointed out that the applicants were trying to compromise.

Jay Branch, lived at Carter Lake, stated that the Windjammer was like a community center. He admitted that it could get noisy sometimes but they were trying to do something about that. He pointed out that they did many things for the community and that they were trying mitigate the issues.

Barry Gustafson, lived in the area for 35 years, stated that he was in favor of the application with limited noise. He read a letter from a previous owner who had history of the site.

Mr. Jung felt that it was a legal, nonconforming use as it was originally zoned O-Open. He explained that the liquor license authority information from approximately 1997 showed the configuration of the patio as it was today. He stated that the main issue was the noise mitigation. He remarked that the owners wanted to work with the neighborhood, and they were asking to continue a use that had been occurring for 15-20 years. He reiterated that they were willing to reduce days and spend the money needed to help mitigate the noise. He noted that there was only one confirmed noise compliant investigated by the Sheriff's Department. The applicant wondered how they could demonstrate they were at the required sound levels unless the mitigation was installed and tested. He confirmed that they would like to amend the application to the newly proposed hours and times that was provided to staff.

Commissioner Glick pointed out that if it was a non-conforming use then the expansion of the stage was an expansion of a non-conforming use.

Mr. Jung reiterated that his clients wanted to conform to the requirements. They were not trying to expand the footprint, just trying to mitigate the sound.

Commissioner Glick asked about the access to the property.

Mr. Jung stated that the owners were willing to delineate the property line to accommodate the access issues.

Commissioner Glick asked what the occupancy limit was for the bar and the outdoor patio.

Mr. Jung replied the occupancy limit was 78. He stated that Berthoud Fire had not commented yet regarding the patio.

Mr. Miller asked if it would be allowed to have a temporary stage/structure to see if it worked.

Ms. Madson pointed out the zoning history, and she stated that there was not a patio allowed under that zoning until 1992. In 2001, the code changed to allow approval for an outdoor patio. The bar/restaurant was there since 1965 but there was no evidence of the outdoor patio prior to 1992.

Commissioner Cox asked about the sewer system.

Doug Ryan Health Department, stated that there was a septic system on the property. If the Special Exception was approved, an administrative Site Plan Review application would have to be submitted. During that review, the parking and sewage standards would be examined.

Commissioner Dougherty asked about the access to North Shore Drive.

Clint Jones, Engineering Department, stated that there was an existing 60-foot right-of-way along North Shore Drive. The applicants would be required to improve that road up to their access point. The Engineering Department would require access off of North Shore Drive and not County Road 31.

Commissioner Glick asked about driving vehicles over a leach field.

Mr. Ryan stated that when designing the parking lot the leach field needed to be avoided in the drive aisle.

Commissioner Dougherty asked about the light pollution.

Ms. Madson stated that those details would be addressed during the site plan review.

Commissioner Jensen asked about the noise levels and topography.

Mr. Ryan spoke about the Larimer County noise ordinance and its requirements.

### **DISCUSSION:**

Commissioner Cox pointed out that a Special Exception went with the property and not the owners. She stated that she needed to determine if the proposal was compatible with the area. She wondered how the County could monitor the conditions and wondered if it would end up falling on the neighbors to monitor. She also wondered about concerns to wildlife.

Commissioner Wallace pointed out that the commission could try to create standards to make the different issues work but standards might not be able to address the real issue of live music. She pointed out that there were attempts to fix an issue or make it work but sometimes it was not possible.

Commissioner Christman stated that she did not have an issue with the compromise proposed by the applicants. She felt that a temporary test of it would be a good idea.

Commissioner Wallace went over the review criteria for Special Exceptions.

Commissioner Dougherty stated that he was concerned that if the applicants spent money and tried the sound mitigation was not sufficient, then the approval could be revoked.

Commissioner Cox stated that the noise issues depended on where the citizens lived. The petition submitted provided evidence from neighbors that lived in the area that they did have noise concerns.

Commissioner Jensen wondered if a rezoning should have taken place instead of a Special Exception. He pointed out that the noise had an adverse impact on the neighbors. He remarked that he would have a hard time supporting the application as it did have a substantial impact on the surrounding area. He also pointed out that the T-Tourist zoning district did not allow the outdoor music.

Commissioner Glick pointed out that many of the surrounding neighbors did not support the live music. He was not sure he could support the expansion of the patio to allow an outdoor music stage.

Commissioner Cox suggested amending Condition of Approval #1 to state: ‘No outdoor **live** music of any kind is allowed on the property.

Commissioner Cox moved that the Planning Commission adopt the following Resolution:

BE IT RESOLVED that the Planning Commission recommend to the Board of County Commissioners approval of the Windjammer Roadhouse Special Exception, file #15-Z1995, for the property described on “Exhibit C” to the minutes, subject to the following conditions and amended condition 1:

The Development Services Review Team **does support a portion of the Windjammer Roadhouse Special Exception request, file #15-Z1995**, to include an accessory outdoor seating area including outdoor food and drink service in addition to the existing restaurant and bar with the following conditions:

1. No outdoor live music of any kind is allowed on the property.
2. Requests to hold charity auctions at the property (including those with fewer than 300 people at any one time) shall be evaluated through the Special Events process as outlined in Section 7 of the Larimer County Land Use Code. No other outdoor events are allowed.
3. Failure to comply with any conditions of this approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
4. The applicant shall submit a Site Plan Review application for review and approval within 90 days of approval. The Site Plan Review application shall address the comments outlined in the memo from Clint Jones, dated Dec. 2, 2015, including right-of-way dedication, the access along County Road 31, and show that the site has the ability to function properly. The site plan shall be based off of survey data and should include property dimensions, existing and proposed right-of-way, roads, buildings, the septic system, drive isle locations and dimensions, and setbacks.
5. The requirements of the Loveland Fire Rescue Authority as outlined in the memo from Carie Dann, dated Dec. 9, 2015 shall be met at building permit submittal.

Commissioner Glick seconded the Motion.

Commissioners' Christman, Cox, Dougherty, Glick, and Wallace voted in favor of the Motion.

Chairman Jensen voted against the Motion.

MOTION PASSED: 5-1

**PLANNING COMMISSION  
STAFF REPORT  
FROM  
APRIL 20, 2016**

<u>TITLE:</u>	Windjammer Roadhouse Special Exception
<u>REQUEST:</u>	Special Exception for approval to: <ol style="list-style-type: none"> <li>1. Continue to use the existing “beer garden” to serve food and beverages, including alcohol.</li> <li>2. Provide outdoor musical performance entertainment during the summer months in the “beer garden” area.</li> <li>3. Allow the business to hold charitable auctions on the premises periodically.</li> </ol>
<u>LOCATION:</u>	34-05-70; located on the west side of County Road 31 & north of North Shore Drive.
<u>APPLICANT/ PROPERTY OWNER:</u>	Christopher L. and Lisa M. Miller 3431 S County Road 31 Loveland, CO 80537
<u>STAFF CONTACTS:</u>	Karin Madson, Planning Doug Ryan, Health Clint Jones, Engineering
<u>FILE #:</u>	15-Z1995
<u>NOTICE GIVEN:</u>	Posting in the officially designated area of the Larimer County Courthouse Offices no less than twenty-four hours in advance of the hearing.
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<u>SITE DATA:</u>	
Parcel Number(s)	05340-00-025
Total Development Area:	1.05 acres
Existing Land Use:	Restaurant and Bar
Proposed Land Use:	Restaurant and Bar with outdoor patio
Existing Zoning:	T-Tourist
Adjacent Zoning:	
North & West:	T-Tourist and E-1 Estate
South:	T-Tourist and E-1 Estate
East:	E-1 Estate
Adjacent Land Uses:	Mixture of residential, commercial and recreational.
Services:	
Access:	S County Rd 31
Water:	North Carter Lake Water
Sewer:	On-lot septic
Fire Protection:	Loveland Rural Fire Protection
No. Trips Generated by Use:	not determined

PROJECT DESCRIPTION/BACKGROUND:

The current use of the property is a "bar/tavern" based on the approved liquor license for a tavern. The history of the property is as follows:

- In 1963 the property was zoned O-Open and that zoning allowed all uses not otherwise prohibited, including a restaurant.
- Assessor records indicate the structure on the property was built in 1965. According the applicant it was an ice cream parlor.
- In 1968 (File #33-68) the property was rezoned from O-Open to T-Tourist. The T-Tourist zoning district at that time restricted the serving of food and beverages to "within a building". No outside patio uses were allowed.
- The applicant submitted a photo from 1973 which does not show an outside patio. We can assume the patio was constructed after this date.
- According the applicant the property was transitioned to a bar/tavern around 1974-1976.
- In 1991 the County issued a liquor license issued for a restaurant (Could have been earlier, but nothing prior to this in the Clerk's current file).
- In 1995 the liquor license changed from restaurant to tavern (current license designation).
- In 1992 (File #92-0071) the T-Tourist zoning district was changed to allow outside patio by special review. Prior to this date an outdoor patio was not allowed. There is no of record of a Special Review having been completed.

*Places serving food and beverages for consumption within a building, which may also include an adjoining accessory patio area.*

*Special Review required for: places serving food and beverages for consumption off the premises, or in an area outside a building, which area does not meet the definition of an "accessory patio area."*

*Accessory patio area - any outside, open to the air, courtyard type are for use which is incidental to, subordinate to, and devoted exclusively to the main use of the premises, and which meets the following requirements:*

- a. Does not contain any separate, outside food or beverage station.
  - b. Does not permit any live or recorded entertainment or use any amplified sound system on the patio area,
  - c. No food or beverage service after 10 pm.
  - d. Has requires and received approval from the County Building Inspection Division,
  - e. Complies with all the requirements of the applicable fire protection authority,
  - f. Complies with the applicable requirements of the State Liquor Enforcement Division, and
  - g. Said patio area is located at least 250 feet from any residentially zoned property outside the Urban Growth Area.
- In 2001 the Land Use Code (LUC) would have allowed an outdoor patio or other serving area for either a Restaurant or Nightclub by Special Review. Again, there is no record of Special Review approval during this time.
  - In 2007 the LUC was amended. The uses Bar/Tavern (changed from nightclub) and Restaurant allowed an outdoor patio or other serving area by Minor Special Review. There is no record of Minor Special Review approval during this time.
  - In 2010 the LUC was again amended (current code). The LUC also allows a restaurant with an outdoor patio or serving area component as an accessory use to a restaurant by Minor Special Review approval.
  - The current Land Use Code allows a bar/tavern in the T-Tourist zoning district by Special Review, which would make the current indoor use of the property non-conforming. A Bar/Tavern allows music, live entertainment and/or dancing.

- The LUC also requires Minor Special Review for an outdoor patio or serving area for a Bar/Tavern and restricting that use to the B-Business, C-Commercial, I-Industrial and RFLB-Red Feather Lakes Business zoning districts. An outdoor patio or serving area is not allowed in the T-Tourist zoning district.
- The current owners purchased the property in 2014, believing its current use to be acceptable.

The current Windjammer Roadhouse Bar & Grill Special Exception request consists of three components:

1. To continue to use the existing “beer garden” to serve food and beverages, including alcohol.
2. To provide outdoor musical performance entertainment during the summer months in the “beer garden” area.
3. To allow the business to hold charitable auctions on the premises periodically.

The business currently operates from 11 am to 9 pm weekdays, and 11 am to 10 pm on weekends during the winter months (November to March). During the summer months when outdoor music is proposed (April to October) the business operates 11 am to 9 pm weekdays, and 11 am to 10 pm on weekends. There are 12 year round employees and 20+/- employees during the summer months.

The applicant has included some noise mitigation strategies including the construction of a sound stage, limiting the volume through the use of a sound meter and the use of sound board materials. No other physical changes are proposed for the property.

#### REVIEW CRITERIA AND ANALYSIS:

To approve a Special Exception application, the County Commissioners must consider the following review criteria and find that each criterion has been met or determined to be inapplicable:

- A. The proposed use will be compatible with existing and allowed land uses in the surrounding area and will be in harmony with the neighborhood;** Existing uses in the vicinity include the Northshore RV & Store and residences. The area zoned T-Tourist is limited to a few properties nearby and which are currently developed with residences and the Northshore RV & Store. Other properties in the area are zoned E-1 Estate. Most of the nearby properties are developed with single family residences.

The T-Tourist zoning district would allow an outdoor patio that does not include an outdoor music venue as an accessory to a restaurant by Minor Special Review. The zoning district does not allow a bar/tavern accessory outdoor patio where music, live entertainment and/or dancing may be provided. Similarly, the T-Tourist zoning district does not allow for a Community Hall type of use, where events may include music performances. The main issue is the impacts the music venue portion of the request would have on the surrounding residential properties. The public hearings on this application will likely be a source of important additional information that will need to be considered with regard to the compatibility of this project with the surrounding neighborhood.

- B. The recommendations from referral agencies have been considered.** The comments from referral agencies have been considered and are incorporated in this review and staff report. Please refer to the referral comments attached and the discussion below.

- C. The proposed use will not result in a substantial adverse impact on other property in the vicinity of the subject property;** The main issues that have been identified are with noise, being a combination of the outdoor music and the loud motorcycles that frequent the venue. The charitable auctions are described as occurring with charitable bike/motorcycle rides.

Doug Ryan, Health Department, provided comments (dated Dec. 2, 2015 and Feb. 18, 2016) regarding the County Noise Ordinance as it relates to this application. Please refer to his memos for full details. The main issues identified are:

- The noise ordinance decibel standards are expressed as maximum A-weighted measurements and not averages or ranges. While it is useful to report measured sound levels in terms of a range, compliance with the county's ordinance is determined in terms of the maximum level measured.
- The nighttime decibel limit at a property line is 50 dBA, which is lower than the estimated post-mitigation levels. The Special Exception request does not appear to specify hours of operation, but I assume that the bands would play into the evening. Additional mitigation would be necessary for evening hours.
- The sound study estimates that the sound barrier for the stage and patio areas will provide a 30% sound level reduction at the property lines. It is important to note that sound blocking materials are only effective if the sound barrier breaks the line of sight between the sound source and the residential property. The sound study does not quantify if the barriers will meet that test. In this regard, it can be helpful to present representative cross sections to illustrate the sound barrier placement and performance in a noise mitigation report.
- The test used a PA system that produced sound levels of 85-95 dBA in front of the stage. It would be helpful to hear from the applicant if that is an accurate representation of the outdoor music they plan.
- The sound study does not discuss crowd noise. Noise from the audience is noted in many complaints about outdoor music venues. It would be helpful if the sound study could address this additional noise source.
- The sound study does not indicate if the neighbors were present or notified of during the tests. We did suggest that they be notified at the sketch plan meeting. Their participation at the public hearings will be important in evaluating the issue of a potential noise disturbance, and so their comments on the test would be useful.

Several neighbors that were mailed notice of the application provided input regarding the proposal most often identifying noise impacts. A petition to "not grant" approval of the proposed application was received from the majority of these neighbors. Other neighbors and customers of the business provided comments and a petition in support of the business. Comments include enjoying the local, outdoor setting, enjoying a nearby place to eat and drink and that the business is felt by some to be an asset to the mountain community. All of the comments received are included in this agenda packet.

- D. The applicant has demonstrated that this project can and will comply with all applicable requirements of this code;**

**Section 8 Standards for All Development**

**Section 8.1 Adequate Public Facilities**

**Sub-Section 8.1.1 Sewage Disposal Level of Service Standards:** Application materials indicate that business is served by an on-site septic system. Comments from Doug Ryan, Health Department, (refer to memos dated Dec. 2, 2015 and Feb. 18, 2016) indicated that the exact location of that system is not identified. This information will need to be incorporated into a site plan to ensure that it is not affected by parking or traffic areas.

**Sub-Section 8.1.2 Domestic Water Level of Service Standards:** Water service is provided by the North Carter Lake Water District. No changes are proposed to the existing water service.

**Sub-Section 8.1.3 Drainage Level of Service Standards:** The Engineering Department (refer to the memo from Clint Jones, dated Dec. 2, 2015) indicates that the drainage memo submitted is adequate for the existing site layout.

**Sub-Section 8.1.4 Fire Protection & Emergency Medical Level of Service Standards:** The Loveland Fire Rescue Authority provides fire protection services to the site. The district provided comments (refer to memo from Carrie Dann, dated Dec. 9, 2015) with regard to Fire Code requirements & building permit requirements for the sound stage and beer garden occupant load. This information would need to be provided at the building permit review.

**Sub-Section 8.1.5 Road Capacity and Level of Service Standards:** The Engineering Department (refer to the memo from Clint Jones, dated Dec. 2, 2015 and follow-up email dated Feb. 9, 2016) provided comments regarding right-of-way dedication, the need to abandon and access point on County Road 31 and the need for more information to indicated that the site can function properly. This information has not been received to the point.

**Section 8.2 Wetland Areas:** There are no wetland areas on this site.

**Section 8.3 Hazard Areas:** Geologic and wildfire hazards for this area are low.

**Section 8.4 Wildlife.** No adverse wildlife impacts are anticipated.

**Section 8.5 Landscaping:** No landscaping was identified. Should the beer garden area be approved the applicant will be required to submit a Site Plan Review application that includes required landscaping.

**Section 8.6 Private Local Access Road and Parking Standards:** The Engineering Department (refer to the memo from Clint Jones, dated Dec. 2, 2015 and follow-up email dated ) provided comments regarding right-of-way dedication, the need to abandon and access point on County Road 31 and the need for more information to indicated that the site can function properly. This information has not been received to the point.

**Section 8.8 Irrigation:** There are no irrigation facilities.

**Section 8.13 Commercial Mineral Deposits:** There are no commercial mineral deposits.

**Section 8.15 Site Lighting:** No new lighting is proposed.

- E. There is reasonable justification for the use being at the proposed location rather than in a municipality or where zoning would allow the use by right or by special review;** This Special Exception request is a request to expand the existing bar/restaurant business by expanding that use outside of the building to include an outdoor patio, outdoor music performances and charitable auctions associated with bike/motorcycle runs. If this request is not approved, the existing bar/restaurant use within the building may remain. Several individuals have expressed support for the business, noting that it serves as a local gathering spot and serves local camping areas.
- F. The nature of the proposed use and its operations are such that there are significant benefits to the public to be located where proposed;** This issue will need to be addressed at the hearing. There are both perceived beneficial and detrimental features to this business in this location. It is located in an area in which there are many residential neighbors and one other business next door. The uses proposed on the property have the potential to negatively affect adjacent properties if adequate measures are not taken to mitigate the impacts. The business provides a service to nearby residents, campers, boaters, and other tourists.
- G. The proposed use is consistent with the county master plan.** The T-Tourist zoning district does not allow a bar/tavern accessory outdoor patio where music, live entertainment and/or dancing may be provided. Similarly, the T-Tourist zoning district does not allow for a Community Hall type of use, where events may include music performances. Because neither of these uses are allowed Staff has concluded that the use is inconsistent with the Master Plan because it may have detrimental impacts on surrounding residential properties.

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OTHER REVIEW AGENCY COMMENTS:

Loveland Fire Rescue Authority – comments from Carie Dann address requirements for construction of the sound stage, the beer garden occupant load, corrections needed for the submitted materials and Special Events.

Building Department – comments from Stan Griep indicate Building Permit requirements. Building permits are required for the sound stage structure and any modifications to the existing building. In addition handicapped accessibility needs to be addressed.

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MAJOR ISSUES AND CONCERNS:

The Development Review Team has noted several unresolved concerns with the application as proposed. The most significant issue being noise impacts on surrounding residential properties. In addition, the applicant has been asked to confirm that the site has the ability to function adequately from an Engineering standpoint, including the need to address the access point(s), right-of-way dedication, and the location and adequacy of drive isles, parking areas, septic system, etc.

Noise remains a significant issue. Staff does not support approval of the application unless the applicant demonstrates that the venue has the ability to be compatible with the neighborhood and meet the standards in the Noise Ordinance. If the proposal were to be modified to eliminate the outdoor music portion of the request, Staff could likely support approval of an outdoor serving/eating area without music. An application for an outdoor patio that is accessory to a restaurant and that does not include an outdoor music venue would be allowed by Minor Special Review in the T-Tourist zoning district.

The portion of the request that includes charitable auctions also has the potential to create noise nuisance issues. Little information was provided regarding the frequency, number of attendees

or other details associated with this proposed activity. Therefore the Development Review Team does not currently support approval of those type of events.

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**DEVELOPMENT SERVICES TEAM FINDINGS:**

The Development Services Team recommends to the Larimer County Planning Commission the adoption of the following findings with respect to this proposed Special Exception:

- A. The proposed use may not be compatible with existing and allowed land uses in the surrounding area and may not be in harmony with the neighborhood;
- B. The recommendations from referral agencies have been considered;
- C. The proposed use might result in a substantial adverse impact on other property in the vicinity of the subject property;
- D. The applicant has not demonstrated that this project can and will comply with all applicable requirements of this code;
- E. There is reasonable justification for the use being at the proposed location rather than in a municipality, county approved growth management area, or where zoning would allow the use by right;
- F. The nature of the proposed use and its operations are such that there may be benefits to the public to be located where proposed. In addition, the proposed use has the potential to be detrimental to nearby residences; and
- G. The proposed use is not consistent with the county master plan.

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**DEVELOPMENT SERVICES TEAM RECOMMENDATION:**

The Development Services Team **does not support the Windjammer Roadhouse Special Exception, file #15-Z1995** as proposed.

The Development Services Review Team **does support a portion of the Windjammer Roadhouse Special Exception request, file #15-Z1995**, to include an accessory outdoor seating area including outdoor food and drink service in addition to the existing restaurant and bar with the following conditions:

- 1. No outdoor music of any kind is allowed on the property.
- 2. Requests to hold charity auctions at the property (including those with fewer than 300 people at any one time) shall be evaluated through the Special Events process as outlined in Section 7 of the Larimer County Land Use Code. No other outdoor events are allowed.
- 3. Failure to comply with any conditions of this approval may result in reconsideration of the use and possible revocation of the approval by the Board of Commissioners.
- 4. The applicant shall submit a Site Plan Review application for review and approval within 90 days of approval. The Site Plan Review application shall address the comments outlined in the memo from Clint Jones, dated Dec. 2, 2015, including right-of-way dedication, the access along County Road 31, and show that the site has the ability to function properly. The site plan shall be based off of survey data and should include property dimensions, existing and

- proposed right-of-way, roads, buildings, the septic system, drive isle locations and dimensions, and setbacks.
5. The requirements of the Loveland Fire Rescue Authority as outlined in the memo from Carie Dann, dated Dec. 9, 2015 shall be met at building permit submittal.
- 

SUGGESTED MOTION:

I move that the Planning Commission recommend to the Board of County Commissioners:

**Denial of the Windjammer Roadhouse Special Exception** request, file #15-Z1995

-OR-

**Approval of a portion of the Windjammer Roadhouse Special Exception** request, file #15-Z1995, to include an accessory outdoor seating area including outdoor food and drink service in addition to the existing restaurant and bar subject to the condition(s) as outlined above.

APPLICANT'S  
NEW INFORMATION  
AND  
NEW PROPOSAL

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April 19, 2016

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APR 28 2016

**Via: U.S. Mail and email in care of Karin Madson ([kmadson@larimer.org](mailto:kmadson@larimer.org)) for distribution to Planning Commission Members**

Larimer County Planning Commission  
c/o Karin Madson, AICP Planner II  
Larimer County Planning Department  
P.O. Box 1190  
Fort Collins, CO 80522-1190

Re: Windjammer Roadhouse Special Exception Request  
File #15-Z1995

Dear Larimer County Planning Commission Members:

This office represents the interests of Christopher and Lisa Miller (the "Millers") as owners of the Windjammer Roadhouse Bar & Grill located at 3431 S. County Road 31, Loveland, Colorado 80537 ("Windjammer"). It is our understanding that the Millers' application for a Special Exception that is scheduled to be discussed at the upcoming April 20, 2016 Larimer County Planning Commission meeting. The agenda packet for the meeting suggests that the County staff has recommended to the Planning Commission to conclude and recommend to the Board of County Commissioners to deny the Windjammer Special Exception request or approve only the portion of the request to allow an outdoor seating area where food and drinks may be served. As set forth in detail below, the Windjammer should be allowed to continue to use its outdoor patio (sometimes referred to as the "Beer Garden") for food/drink service and live music.

**I. SUMMARY OF FACTS**

The Windjammer has been a part of the Carter Lake community in Larimer County for over forty years. Throughout this time, the Windjammer has had various owners but has remained a constant presence and has served thousands of local residents and tourists to the area. For over twenty years, the Windjammer has also had an outdoor patio where food and drinks are served. Similar to many other restaurants and bars, the Windjammer has several small speakers

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on its patio in order to play background music for its patrons. During its busy summers, the Windjammer also hosts live music both indoors and on the patio. The live music and patio are part of the reason for the Windjammer's continued success over the years.

The Millers were familiar with the Windjammer's excellent reputation and recently purchased the entire business. Continuing the tradition of providing live music entertainment, the Millers began to host bands on the outdoor patio. They also began to make repairs and perform maintenance. Shortly thereafter, a small section of fencing which protected and concealed refrigeration equipment was severely damaged by strong winds. As the Millers were repairing this section of fence, they received a Stop-Work Order/Notice of Building Code Violation from Larimer County (the "County") claiming that the premises were not in compliance with the Larimer County Code (the "Code") and, more specifically, the Land Use Code (the "LUC") section.

In short, the County claims that the Windjammer is currently zoned as "T-Tourist" which does not allow for service of food and drink on an outdoor patio. Although the Millers were only repairing a small section of fence, the Stop-Work Order claimed they were illegally expanding the business premises. The County further claimed that the live outdoor music violated noise and zoning codes. The Millers disagree with these contentions but have nevertheless applied for a Special Exception to allow full use of the outdoor patio at the direction of County staff. Recently, the Larimer County Planning Committee issued an agenda packet "Agenda" for an upcoming hearing on April 20, 2016. The Agenda ultimately suggests that the Planning Committee recommend to the County Commissioners to approve the request to serve food and drinks on the patio but reject the request to allow outdoor live music.

This letter addresses the concerns and questions raised by the Agenda and sets forth the reasons why continued use of the Windjammer's outdoor patio for food/drink service and live music is beneficial for the County and surrounding community.

### II. PRIOR USE OF THE PATIO SHOULD BE ALLOWED TO CONTINUE

A. The use of the Windjammer's outdoor patio for food/drink service and hosting music is a legal nonconforming use.

The agenda briefly mentions that certain aspects of the Windjammer may be considered a nonconformity. Based on the Windjammer's consistent presence and lengthy history in Larimer County, its current use of an outdoor patio is a legal nonconformity and should be permitted to continue.

The LUC defines a nonconforming use as "an existing use that does not comply with the requirements of [the Code] but did conform to all applicable regulations in effect at the time the use commenced." LUC § 4.8.2. The purpose of the exemption for nonconformities is to balance the interests of property owners in continuing productive uses while encouraging "as many aspects of such uses . . . to be brought into conformance with [the Code] as is *reasonably*

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*practicable.*” LUC § 4.8.1 (emphasis added). An owner may present “competent evidence” to the planning director to support the claim of a legal nonconforming use. LUC § 4.8.4.

Where a legal nonconforming use is found, the owner is permitted to continue the nonconforming use. LUC § 4.8.5(A). The owner is also permitted to make normal or routine repairs and maintenance of any building, structure, or area containing the nonconforming use which do not enlarge the building, structure, or area. *Id.* A legal nonconformity is typically eliminated or reduced if the nonconforming use is discontinued or reduced in intensity for twelve (12) consecutive months. LUC § 4.8.6.

While the Millers have sought a Special Exception here, it is our position that the current use of the outdoor patio for food/drink service and live music qualifies as a legal nonconformity. The history of the Windjammer’s zoning rules are discussed in further detail below. However, it is clear that the Windjammer’s outdoor patio was constructed and in full use by at least the 1980s. The photograph attached as **Exhibit A** depicts the Windjammer in 1994 with a fully-constructed outdoor patio with tables, chairs and a large grassy area for activities. Long-time local residents and patrons can testify that the Windjammer has been serving food and drinks and periodically hosting music on its outdoor patio for over thirty years. During that time, the patio’s aesthetics have changed as certain repair and maintenance efforts were made. However, all of the work performed on the patio area has been strictly aesthetic in nature, *e.g.* painting and repairing fencing, and not an attempt to enlarge the Windjammer’s patio. In addition, the Windjammer’s patio is a large draw every summer and, as a result, use of the patio has remained consistent since its construction.

**B. Strict application of the Code would completely dismantle the Windjammer business and force its closure.**

According to the Agenda, the Windjammer’s premises was originally zoned as O-Open with minimal restrictions. The property was later rezoned to T-Tourist in 1968. This new designation apparently permitted the service of food and beverages within a building but may have restricted outdoor service. The current LUC provides a broad range of principal uses for the T-Tourist zone including commercial uses such as restaurants and bars/taverns. LUC § 4.1.16. The LUC describes a “bar/tavern” as an establishment where the primary business is providing or dispensing various alcoholic drinks for on-site consumption. Significantly, the description also specifies that a bar/tavern may provide “music, live entertainment and/or dancing . . .” LUC § 4.3.3(I). Such description further states that an “outdoor seating area requires approval through the minor special review process in the B-Business, C-Commercial, I-Industrial and RFLB-Red Feather Lakes Business zoning districts” LUC § 4.3.3(I)(1).

The Windjammer is only able to operate year-round because of the significant amount of business it receives during the summer months. Bars and taverns near lakes are large draws for summer tourists looking for nighttime activities. Bars are often expected to provide an experience in addition to merely providing food and drinks. The Windjammer has solved this problem by continuously offering outdoor seating and live music throughout the summer

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months. As a result, the practical consequences of a strict application and enforcement of the current T-Tourist zone rules would be a complete dismantling of the Windjammer business.

It is significant to note that the Agenda cannot point to, nor are we aware of, any point where the County notified any of the Windjammer's previous owners of any alleged violation of the Code and LUC. On the contrary, throughout its lengthy history of serving the Carter Lake area and its visitors, the Windjammer has applied for and received several permits and licenses, requiring numerous inspections. For example, the agenda notes that the Windjammer applied for, and received, a liquor license as early as 1991. In April 1992, the Windjammer received a permit from the Larimer County Health Department to significantly update and repair its existing sewer system. A copy of the Permit and related drawing are attached as **Exhibit B**. At various points, e.g., in 2007, 2008, 2009, and 2012, the Windjammer applied for, and received, permits from the Larimer County Board of County Commissioners ("BCC") to construct temporary fencing in its the parking lot. Despite having significant interaction with the County throughout its history, the Windjammer and its owners have never received a notice that any part of the business was not in compliance with the County Code.

C. The Windjammer may be forced to seek legal relief if it is not permitted to continue its legal nonconforming use.

The purpose of this letter is not to exhaustively outline all of the available legal theories upon which the Millers may be entitled to relief. However, it is helpful to briefly highlight a few of the available theories, such as estoppel and laches, which the Millers may pursue in order to protect their business.

The doctrine of estoppel is designed to encourage fair dealing between parties in business relationships. Courts will apply this doctrine in order to prevent "manifest injustice," where the plaintiff has shown a "communication or action by the City by which he was unmistakably misled." *LaFollette v. Bd. of Adjustment of City of Lakewood*, 741 P.2d 1262, 1263 (Colo. App. 1987); *Jones v. City of Aurora*, 772 P.2d 645, 647 (Colo. App. 1988). Here, the County may be estopped from applying the current T-Tourist zoning restrictions to the Windjammer. As previously mentioned, the Windjammer has operated under the County's apparent approval for decades. In addition, previous owners of the Windjammer have applied for and received numerous permits and licenses from the County without any indication of a zoning violation. A strict application of the current Code and LUC language would force the Windjammer to close. We are confident that the courts would step in to prevent such a manifest injustice.

The Millers may also be entitled to relief under the legal theory of laches. In short, laches is designed to address "an unconscionable delay in asserting one's rights which works to defendant's prejudice or injury in relation to the subject matter of the litigation." *City of Thornton v. Bijou Irr. Co.*, 926 P.2d 1, 73 (Colo. 1996) (internal citations omitted). Use of the laches theory against a county has been contemplated in Colorado where the county has actual knowledge of the conditions or its rights. See *Bd. of Cty. Comm'rs of Boulder Cty. v. Echternacht*, 572 P.2d 143, 146 (Colo. 1977). Here, there is ample evidence that the County

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knew of the Windjammer's use as a result of the numerous licenses and permits granted over the Windjammer's lengthy history which carried with them numerous inspections and approvals.

### III. SPECIAL EXCEPTION APPLICATION

Despite having several avenues for seeking legal relief, the Millers wish to resolve the current issues with the County in an amicable manner. To that end, they have submitted the Special Exception application which is to be addressed at the April 20<sup>th</sup> Planning Commission meeting. For the reasons set forth below, the Millers' Special Exception application should be approved.

When a land use matter is brought before the Planning Commission in an attempt to cure an alleged Code violation, the Commission is required to apply the review criteria relevant to the specific type of application. LUC § 21.1(G). Here, § 4.7.3 of the LUC sets forth the review criteria that the Planning Commission and, ultimately, the County Commissioners, must consider in order to approve a Special Exception application. Each criterion is discussed in detail below.

A special exception may only be granted where "the proposed use will not result in negative impacts on the neighborhood . . . and appropriate conditions are attached to the approval." LUC § 4.7.1. However, under § 4.7.4(A), the County Commissioners may impose various conditions on a proposed Special Exception use in order to "accomplish the purposes and intent of [the LUC] and the master plan" and to "prevent or mitigate adverse effects on the public [and] neighborhoods . . . ." Examples of such conditions include limiting the duration of the use and the hours of operation. LUC § 4.7.4(B). Thus, the Commissioners have significant leeway in working around small issues that may otherwise prevent the approval of a Special Exception application. Here, for example, the most significant issue is the noise impact on surrounding residential properties. The County Commissioners may resolve this issue by limiting the days and times the music is permitted and imposing restrictions aimed at limiting the maximum noise produced by the outdoor music. Accordingly, the largest negative impact on the surrounding community can be effectively eliminated via several avenues.

- A. The proposed use will be compatible with existing and allowed land uses in the surrounding area and will be in harmony with the neighborhood.

The Windjammer's immediate neighbor is North Shore RV & Store. With one exception, the single-family residences in the surrounding area are a considerable distance from the Windjammer premises. These surrounding residential properties have co-existed with the Windjammer for decades without issue. An aerial view of the Windjammer and surrounding properties from 1999 is attached as **Exhibit C**. That residential properties may surround a business such as the Windjammer is not a novel concept and many zoning definitions allow for such a mixed use. The T-Tourist zone, for example, allows a broad mix of uses including commercial, accommodation, recreational, and residential.

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The Agenda appears to take special issue with the fact that T-Tourist zone does not allow for a Community Hall type of use where events include live music performances. However, this characterization is misleading and not reflective of the purpose for which the Millers seek a Special Exception. A "Community Hall" is defined as "[a] facility used for recreational, social and cultural activities." LUC § 4.3.4. This is a broad definition that would undoubtedly fit many businesses. The term is, therefore, more likely aimed at facilities where the sole purpose is to provide recreational, social, or cultural activities. Here, the Millers are not seeking to establish a dedicated music venue. Rather, they wish to continue to provide a bar/tavern type of atmosphere which includes providing occasional and moderate live music. The Windjammer is by no means a "music venue" but, instead, offers music to its patrons in order to enhance the atmosphere and draw in more customers for its food and drink services. Indeed, there are some legitimate concerns that loud and constant outdoor music from a dedicated music venue may have a negative impact on the surrounding residential neighborhood. However, such concerns are misplaced here.

**B. The recommendations from referral agencies have been considered.**

Several referral agencies have submitted memorandums and reports. These are considered in greater detail in the sections below.

**C. The proposed use will not result in a substantial adverse impact on other property in the vicinity of the subject property.**

The only concern noted in the Agenda is that the proposed outdoor live music may have a substantial adverse impact on the nearby residential properties. The Millers have previously recognized that outdoor live music can carry past the Windjammer's property line and have expended great effort in order to mitigate this issue. To that end, the Millers retained a sound engineer, Joe O'Bryan, to review the Windjammer's outdoor patio and sound system and provide solutions to reduce the noise to acceptable levels. Mr. O'Bryan found that without mitigation efforts, the area immediately in front of the performance area produced up to 95 dBA during a "typical band performance." As one would expect, this area was by far the loudest. The noise at the property line was approximately 75 dBA or less. Mr. O'Bryan then submitted a sound mitigation proposal plan which involved building a small enclosure using various sound-absorbing materials. In addition, Mr. O'Bryan proposed installing a Noise Meter which could continuously monitor the noise levels. Mr. O'Bryan estimates that these mitigation efforts would bring the noise level down to 46-53 db.

Section 30-155 of the Code establishes the maximum permissible noise levels for residential areas as 55 dBA during the day (7:00 a.m to 7:00 p.m.) and 50 dBA at night (after 7:00 p.m.). Significantly, however, such permitted noise levels may be increased by up to 10 dBA for up to 15 minutes in any one-hour period.

Here, the Agenda points to the concerns of Doug Ryan of the Department of Health and Environment. Mr. Ryan submitted a memorandum on February 18, 2016, which raises several concerns about the anticipated volume of the outdoor live music. For instance, Mr. Ryan notes

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that the post-mitigation noise level exceeds the permitted 50 dBA nighttime limit. However, the proposed mitigation efforts would bring the noise levels to between 46-53 dBA. Mr. Ryan fails to acknowledge that this noise level is, at most, only 3 dBA over the nighttime limit and improperly concludes that the proposed mitigation efforts are not sufficient. Mr. Ryan's conclusion also does not take into consideration the proposed installation of the decibel meter which would allow the staff to adjust the sound volume below 50 dBA at night.

Mr. Ryan also fails to acknowledge that musical groups would likely also be playing during the day. The estimated post-mitigation levels are well under the 55 dBA daytime maximum. Further, any concern that the music and/or crowd noise would exceed 50 dBA from 7:00 p.m. until the Windjammer closes at 10:00 p.m. can be relieved with the proper use of the decibel meter. Again, the Code allows for the sound to exceed the maximum levels by up to 10 dBA for up to 15 minutes every hour. This provides the owners and staff ample time to monitor the noise levels and adjust the sound accordingly.

Mr. Ryan's concern that the crowd noise would exceed the permitted noise levels is unpersuasive because the Planning Committee plans to recommend that food and drink service be allowed to continue. Any additional noise from the patrons due to the live music would be minimal and certainly would not exceed the additional 10 dBA allowed per hour. For example, clapping and cheering in a small venue rarely exceeds a few moments at a time and, if necessary, can be adequately addressed by Windjammer staff. The Windjammer is not a music venue or a concert hall but a local bar that provides occasional moderate live music for its patrons' enjoyment.

The remaining practical argument against permitting outdoor music is that such music constitutes a "noise disturbance." One could argue that the volume, frequency, or intensity might "unreasonably interfere" with enjoyment of life or quiet. However, this argument is a stretch as the Windjammer does not stay open past 10 p.m. on any given night. Further, noise that comes in under the 50 dBA nighttime limit is a very low level which can be comparable to the interior of an average home. *See e.g.* Center for Hearing, Speech and Language, <http://www.chsl.org/soundchart.php>. Thus, it is difficult to argue that such a low level of noise which ends at a reasonable hour every night constitutes unreasonable interference.

Throughout its history, the Windjammer has regularly hosted live music indoors and, on occasion, outdoors. The Millers purchased the Windjammer knowing that local residents often enjoyed eating and drinking on the patio, listening to live and pre-recorded music, and taking in the scenic views. Notably, the Windjammer did not have a history of receiving noise complaints by the surrounding neighbors until after the Millers purchased the property. Since their purchase, the Sheriff's department has only responded to one noise complaint which occurred on August 15, 2015. The Sheriff responded and investigated appropriately at that time. However, this incident did not require further intervention by the Sheriff's office and was resolved quickly.

The Millers recognize that outdoor music has the potential to negatively impact the surrounding community and have made every effort in order to minimize this impact. In addition to the physical mitigation efforts discussed above, the Millers have agreed to limit the times and

## JUNG, KARAVAS & KRANZ, P.C.

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Page 8

days that live music will be provided. These additional proposed limitations are outlined in a subsequent section.

**D. The applicant has demonstrated that this project can and will comply with all applicable requirements of this code.**

*1. LUC § 8.1.1 – Sewage Disposal*

Doug Ryan's December 2, 2015 memorandum notes that a site plan will need to include the location of the on-site septic system in order to ensure that the absorption fields are protected and not located in vehicle traffic or parking areas. In support of this contention, the Agenda points to LUC § 8.1.1. While the preferred method of sewage collection is to connect to the public central wastewater system, on-site sewage treatment systems are permitted where certain requirements are met. LUC § 8.1.1(A) & (B)(2). However, it is important to note that these requirements apply to new developments and not pre-existing applications. Mr. Ryan's memorandum notes that the current septic system was installed in 1992 pursuant to a repair permit issued by his department. **Exhibit B.** The logical conclusion is that the department verified the septic system at that time and did not find any issue with its location. Any current Code violation is likely a legal nonconformity which should be allowed to continue. Further, the purpose and effect of the Special Exception application does not include an expansion of the parking lot and compliance with this section should be deemed inapplicable.

*2. LUC § 8.1.5 – Road Capacity*

This specific section addresses the need to develop safe and adequate access on county roads. For unpaved roads like CR31, the engineer can allow the road to be surfaced with native material (rather than gravel or pavement) only if the average daily traffic volume is less than 50 vehicles per day. LUC § 8.1.(C)(1). This Code section also includes a "catch-all" category that allows the imposition of "additional requirements as a condition of development approval when such requirements are deemed necessary to mitigate the impacts of the development on county and state roads and highways." LUC § 8.1.5(C)(4).

In a December 2, 2015 memorandum, a County engineer, Clint Jones, stated that the proposed use will create fewer than 30 trips per day. This appears to be a minimal level of traffic which should not require further development of the road. However, the Agenda points to a number of concerns including the right-of-way dedication, the need to abandon an access point on CR31, and the need to show that the site can "function properly."

**a. Right-of-Way Dedication (LUC § 9.7)**

Pursuant to LUC § 9.7.3, the required dedication must meet the minimum right-of-way standards as stated in the Larimer County Rural Area Road Standards. Mr. Jones's memorandum concludes that the applicable right-of-way in this case is 80 feet. If necessary, a right-of-way dedication can be later accomplished by executing a deed of dedication at the time of final approval. LUC § 9.7.4. Thus, any potential need for a right-of-way dedication can be addressed at a later date.

## JUNG, KARAVAS & KRANZ, P.C.

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### b. Abandon Access Point

Neither Mr. Jones's memorandum nor the Agenda sufficiently point to any support for the assertion that the Windjammer must abandon the long-used access point from CR31 and establish a new access point on North Shore Drive. Mr. Jones appears to be relying on § 10.3.3 of the Rural Area Road Standards which states that access onto a major or minor collector is not permitted unless "[a]n access or intersection to a lower classified road is not feasible . . . ."

We assume that Mr. Jones is asserting that North Shore Drive is a "lower classified road" and access should be established there rather than from CR31. However, this recommendation fails to take numerous factors into consideration. First, patrons of the Windjammer have been using the current access point from CR31 for decades. Abruptly cutting off this access will not only be inconvenient but can be dangerous. It would require extensive measures to ensure that customers are not only able to find the new entrance but that they do not attempt to use the old entrance by mistake. Second, the current access point is the only way large trucks can make deliveries to the Windjammer. Third, moving the access point would place an unreasonable burden on North Shore Drive. Accordingly, abandoning the CR31 access point is unnecessary and not feasible.

### 3. LUC § 8.6 – Private Local Access Road and Parking Standards

As with § 8.1.5, the major concerns noted in the Agenda under the § 8.6 standard are the right-of-way dedication, the need to abandon an access point on CR31, and the need to show that the site can "function properly." These have been addressed in detail above. Section 8.6 of the LUC deals exclusively with the parking requirements for businesses. It dictates the minimum number of parking spaces, the parking lot layout, the location of parking lots, and other related issues. However, the proposed Special Exception application does not anticipate a significant change to the current traffic volume. Any alleged violation of parking Code standards are likely legal nonconformities.

- E. There is reasonable justification for the use being at the proposed location rather than in a municipality, county approved growth management area, or where zoning would allow the use by right or by special review.

The Windjammer presents a unique situation. For decades it has served the Carter Lake community and its annual summer vacationers by providing a place for friends and neighbors to gather. Although the Windjammer does serve food and drinks inside, people are drawn to the Windjammer in the summer in large part because of its outdoor patio. Bars and taverns are under increasing pressure to provide a certain ambience. In a beautiful, mountainous area like Carter Lake, it is not unreasonable for patrons of a bar/tavern to seek out a bar that allows them to sit in the fresh air and listen to a little music. Relegating an establishment like the Windjammer to an indoor-only venue would have a devastating impact.

## JUNG, KARAVAS & KRANZ, P.C.

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Page 10

- F. The nature of the proposed use and its operations are such that there are significant benefits to the public to be located where proposed.

The Windjammer employs dozens of local residents every summer and brings in much-needed tax revenue for the County. Denying the Millers' application to continue to serve food and drinks and host live music on its outdoor patio could have a drastic impact on a business that has become a landmark of the Carter Lake community. The Millers have expended great effort to address the neighboring community's concerns and have done a remarkable job. Any remaining complaints from a handful of neighbors must be weighed against the substantial positive impact the Windjammer has on the Carter Lake community and the County.

- G. The proposed use is consistent with the county master plan.

A Special Exception application is necessarily not consistent with the county master plan. It is important to remember that the Windjammer is not seeking to be a music venue or a Community Hall. Rather, the Windjammer seeks to provide an atmosphere that is consistent and competitive with bars/taverns in other counties and communities. A balance can be established whereby the nearby residents can enjoy the peace and tranquility of a mountain community while also benefiting from a highly successful business that provides a reasonable amount of outdoor entertainment to its patrons.

### IV. COMPROMISES

It is rare that a business perfectly conforms to all applicable code requirements. However, over its long history, the Windjammer has tried to conform to all codes/ordinances. For example, the Windjammer continuously seeks permits where required, has not had any major liquor license violations, and has worked hard to receive a perfect health inspection record over last few years. *See Exhibit D.* The Millers purchased the Windjammer with the intention of continuing its history of serving the Carter Lake community. The current unfortunate situation is the result a handful of complaints from neighbors and the Millers' attempt to repair a fence. Despite the added and unforeseen expenses they have had to endure, the Millers remain excited about operating the Windjammer in the years to come. In an effort to find some middle ground, the Millers propose the following restrictions on the live outdoor music:

1. Outdoor live music will only be provided roughly three months a year from Memorial Day weekend (the last Monday of May) through Labor Day weekend (the first Monday in September); this includes the entire holiday weekend.
2. Rather than hosting a band every Thursday and Friday evening throughout the summer months, the Windjammer will limit weekday outdoor music performances to two Fridays a month (national holidays, such as July 4<sup>th</sup>, which may land on a Friday will not be counted as one of the Friday performances); and
3. No live outdoor music will be provided past 9:00 p.m. on Fridays and Saturdays. No live outdoor music will be provided past 6:00 p.m. on Sundays.

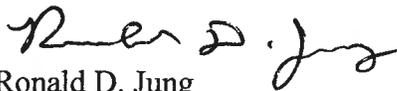
**JUNG, KARAVAS & KRANZ, P.C.**

April 19, 2016  
Page 11

My clients and I plan to attend the Planning Commission meeting on April 20<sup>th</sup> and will be available to answer any additional questions and concerns you may have. Thank you in advance for your consideration.

Sincerely,

JUNG, KARAVAS & KRANZ, P.C.

  
Ronald D. Jung

# Exhibit A



1994

# Exhibit B

# APPLICATION AND PERMIT FOR INDIVIDUAL SEWAGE DISPOSAL SYSTEM



LARIMER COUNTY HEALTH DEPARTMENT  
363 Jefferson Street  
FORT COLLINS, COLORADO 80524

LARIMER COUNTY COLORADO

1. 1/4, 1/4, 1/4, S. 34 T. 5 R. 72

2. Subdivision \_\_\_\_\_

3. Lot \_\_\_\_\_ Block \_\_\_\_\_ Filing \_\_\_\_\_ Zoned \_\_\_\_\_

4. New System \_\_\_\_\_ Repair  New Vault \_\_\_\_\_

5. Address/Location 3431 Altitude Lake Rd

6. Owner of Record Jammerbourg Address \_\_\_\_\_ Phone (970) 221-7496

7. Agent \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

8. System Contractor Self Address \_\_\_\_\_ Phone \_\_\_\_\_

9. Building Type Commercial Basement Bathroom \_\_\_\_\_ Design Capacity \_\_\_\_\_

10. Lot Size \_\_\_\_\_ Slope \_\_\_\_\_ Perc. Rate/H.C. \_\_\_\_\_ Depth to Bedrock \_\_\_\_\_

11. Depth to water Table \_\_\_\_\_ Potable Water Supply well Aquifer \_\_\_\_\_

12. Water District \_\_\_\_\_

13. Sanitation District > 400 ft

14. Nearest Location of Public Sewer To Building \_\_\_\_\_

15. Exhibits check: Plot Plan \_\_\_\_\_ Eng. Geol. Report \_\_\_\_\_ Engineers Design \_\_\_\_\_

16. Owner/Agent Signature Karl G. Jammer Date \_\_\_\_\_

17. Engineer Signature \_\_\_\_\_ P.E. Reg. # \_\_\_\_\_ Date \_\_\_\_\_

18. Fee of \$ 175.00 payable at time Permit is issued. + 2500 per copy fee - PA. S. Schauer

19. Plot plan on reverse of this form.

Receipt # 03112 BP# \_\_\_\_\_

MICROFILMED Environmental Health (303) 221-7496

Permission is hereby granted to the owner or his agent to perform the work indicated below in accordance with the Larimer County Individual Sewage Disposal Regulations and is conditional upon the final installation approval of the Larimer County Health Department. This permit is to remain in full force for the duration of the Larimer County Building Permit, or 120 days after its issuance, where applicable, providing it is not revoked for non-compliance. The issuance of this permit does not constitute assumption by the Department or its employees of liability for the failure or inadequacy of the sewage disposal system.

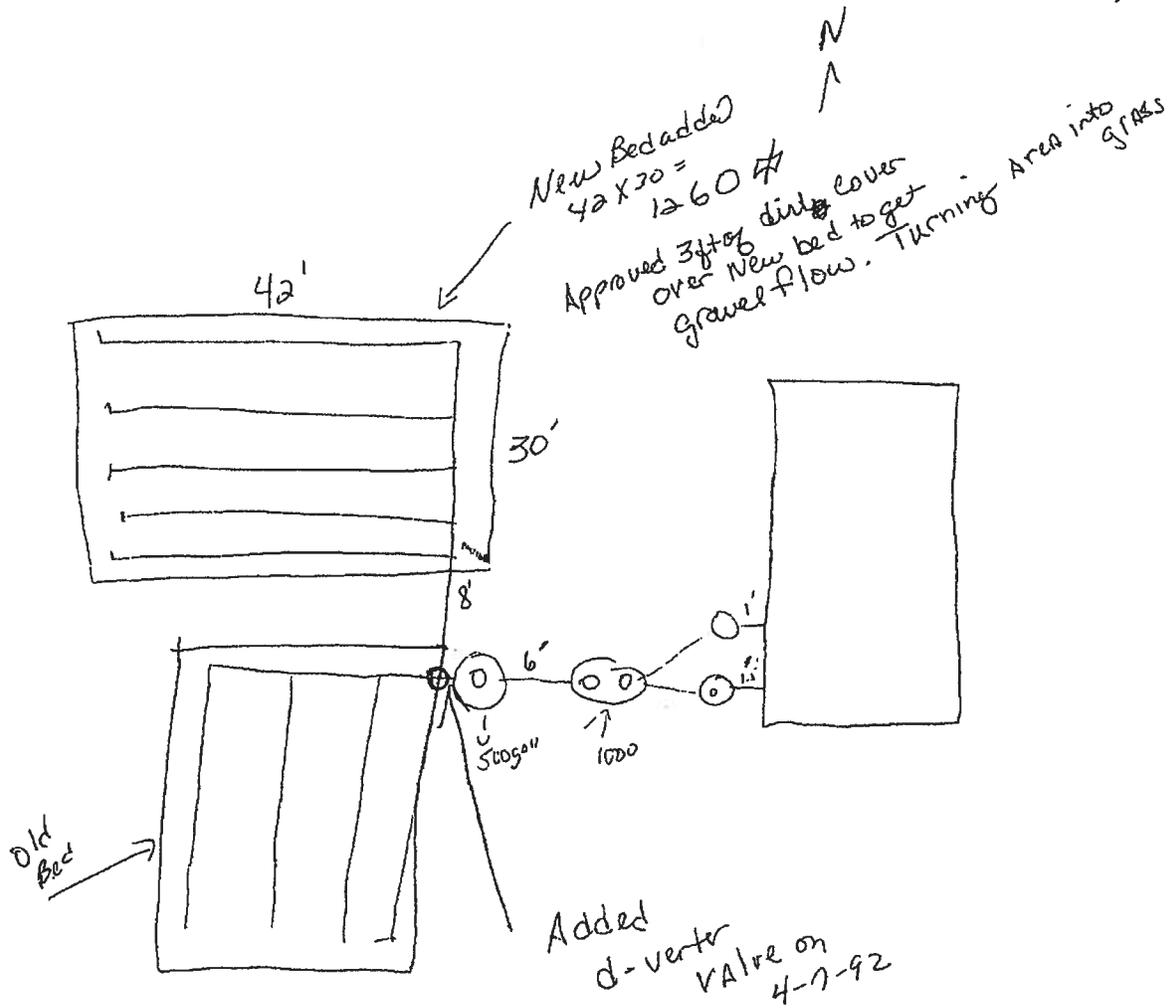
20. Type and design of System Repair existing system with 12" pipe  
and manhole. Need to add 12" minimum of 12" pipe  
to maintain all reach to 4' depth  
per 2011 C.H.D. R.P.S. (Design Code R2(1))

21. Maintenance Schedule Peri checks needed every 3 weeks

22. Please notify the department 24 hours in advance of backfilling to obtain final inspection for issuance of "Occupancy Certificate".

Approval Signature	Date	Approval Signature	Date
23. Site Inspection: <u>Sue Schauer R.P.S.</u>	<u>7-1-13</u>	Sanitation District:	_____
24. Preliminary: <u>Sue Schauer R.P.S.</u>	<u>7-1-12</u>	Occupancy Permit Signed:	_____
25. Final Inspection: <u>Sue Schauer R.P.S.</u>	<u>4-7-92</u>	And Transmitted By:	_____

Route: white - owner; pink - system contractor; Tag Copy - file.



*Item #22***Miller, Christopher L CIV NG COARNG (US)**

---

**From:** Doug Ryan <ryandl@co.larimer.co.us>  
**Sent:** Monday, October 12, 2015 1:25 PM  
**To:** Miller, Christopher L CIV NG COARNG (US)  
**Cc:** Madson, Karin  
**Subject:** Septic System File for Windjammer  
**Attachments:** Windjammer Sewer System.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

This email was sent from a non-Department of Defense email account, and contained active links. All links are disabled, and require you to copy and paste the address to a Web browser. Please verify the identity of the sender, and confirm authenticity of all links contained within the message.

Christopher,

It was nice to meet with you this morning.

Attached is the permit for the repair sewer system installed at the Windjammer in 1992. The map on the second page is our inspector's as-built drawing. It shows two sewer lines coming out of the building (I think the upper one is to a grease trap). Both lines then flow into a 1,000 gallon tank, and then to a 500 gallon tank. Just below the 500 gallon tank is a diverter valve that transfers wastewater from the older leach field to the new 42x30 leach field. It appears to me that the diverter valve is designed to be able to transfer wastewater to either of the fields. That must mean that the older leach field had some capacity, but could not handle the entire load.

As we talked about this morning, that leach fields need to be protected from vehicle traffic or parking.

Doug Ryan  
 Larimer County Department of Health and Environment  
 1525 Blue Spruce Drive  
 Fort Collins CO 80524

(970) 498-6777  
 ryandl@co.larimer.co.us <Caution-mailto:ryandl@co.larimer.co.us >

# Exhibit C



# Exhibit D

2001-01-05	Key-Item	Average
2000-03-21	Key-Item	Excellent
1999-12-08	Key-Item	Excellent
1999-08-20	Key-Item	Good
1998-01-23	Key-Item	Good

COMMENTS  
PRIOR TO  
APRIL 20, 2016  
PC HEARING

April 4, 2016

To Whom It May Concern:

This is in regards to Windjammer Roadhouse Special Exception, file #15-Z1995.

I went down for the neighborhood meeting. I spoke to two people that did not even live in the area that were there to support the bar. That is all well and good, but if they don't live in the area in question, do they even have a say?

Through the years we have camped the Carter Lake area, frequented the Windjammer, the store, & the marina. We have always enjoyed it.

We have lived by the Windjammer for sixteen years. There are others that have lived there a lot longer than we have and we have all peacefully coexisted.

In that time we have tried to be good neighbors to all the owners that have been there. We have always donated parking on our land for their events. Due to recent circumstances we have been concerned for the liability. We have had no trespassing signs up and have put up more.

We have never minded the music from the bar or the motorcycles. But ,if things are expanded, we are concerned about the parking, trespassers, and people leaving their dogs tied up outside or left in their vehicles all day and all night while they either work in the bar or party.

We would like to know how wanting a special exception for an outdoor patio and outdoor music went to a SAVE THE WINDJAMMER petition. It is very misleading to the general public. We had a neighborhood meeting and the Millers have been to MS Audrey Boccock's residence so they cannot justify saying there are "a couple people who won't sit down and talk to them". Others have called the bar.

We are concerned about some overzealous customer retaliating against the neighbors because of the wording in the petition.

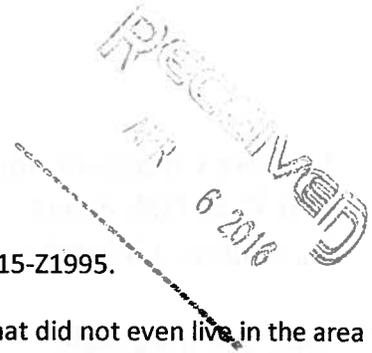
We do not wish the Millers to fail, but it appears their business is doing just fine the way it is without any special exceptions.

Thank you for the chance to voice our opinion,

Alden & Bonnie Stafford

3413 South County Road 31

Loveland, CO 80537





Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

## Fwd: Windjammer photos

Clinton Jones <cdjones@larimer.org>  
 Reply-To: cdjones@larimer.org  
 To: Karin Madson <kmadson@larimer.org>

Mon, Apr 11, 2016 at 9:31 AM

FYI

----- Forwarded message -----

From: **BJ Nikkel** <bjnikkel@gmail.com>  
 Date: Mon, Apr 11, 2016 at 9:01 AM  
 Subject: Windjammer photos  
 To: Clint Jones <cdjones@larimer.org>, sgriep@larimer.org  
 Cc: Dick Hughes <dickhughes39@yahoo.com>

Clint and Stan,

I'm reaching out today to show you a few pictures that shows some of why the parking and traffic situation at the Windjammer can be a nightmare for locals as well as visitors to Larimer County Parks, which has an entry point to a campground, boat ramp and other amenities, less than a block away from the bar.

The Windjammer currently has 17 outdoor tables on the patio and serves 88 patrons seated - more can stand.

In talking with Carie Dann with the Loveland Fire Department, indoor occupancy is around 70.

The outside patio more than doubles the bar's occupancy and as a result, the lack of defined parking along with traffic situation is somewhat of a public hazard because of the constant coming and going at three different points from CR31 into where patrons currently park at the Windjammer.

The traffic entering and exiting at so many different points also poses problems for nearby neighbors who have problems with people often parking and trespassing on their property. One resident, a disabled and wheelchair bound veteran, has issues with cars often blocking her access to her home. She also has problems with snowplows servicing the bar and leaving piles of snow in front of her driveway, which blocks her emergency access. She requires emergency services fairly often because she suffers from seizures.

The bar was never properly zoned for accommodating the myriad of special events held there every week.

See the photos I've attached. They don't show the full extent of problems but give you an idea of the layout, two of the three access points (the third is hidden in the photos but is along CR 31 along the side of the bar), and how people are generally parking all over the place. Keep in mind, it gets substantially worse during big events.

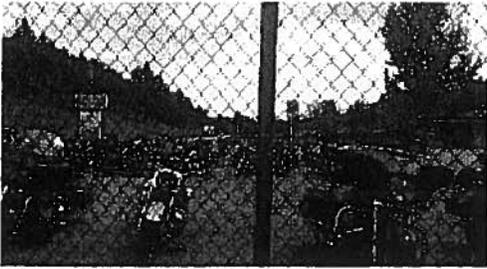
Photo 1 shows bikers leaving the back side of the bar. There are 3 entrance and exit points that are regularly used at the bar. One entrance is behind the bar, one is along the side of the bar, and another is on the front side of the bar by N. Shore Drive. People park all over the place because there's nothing outlined or fenced. I do think having three points poses a danger to the public.

It would be nice if the parking were more structured to prevent problems with people parking wherever they can find room, especially during big events, which causes access issues for neighbors.

Photo 2: Shows inside the patio and just a few of the tables in use

Photo 3: Shows just a little of the parking situation at the bar

Photo 4: Shows the patio occupancy - you can see the neighbor's home in the back of the photo - they block her access at times. She's a disabled veteran and is wheelchair bound and requires emergency services fairly



**Traffic at Windjammer.jpg**  
56K



**View of WJ Patio wAudrey's house .jpg**  
137K



**Birdseye View.jpg**  
21K



**Birdseye View 3.jpg**  
21K



**WJ Event paraglider.png**  
58K

access. She requires emergency services fairly often because she suffers from seizures.

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See the photos I've attached. They don't show the full extent of problems but give you an idea of the layout, two of the three access points (the third is hidden in the photos but is along CR 31 along the side of the bar), and how people are generally parking all over the place. Keep in mind, it gets substantially worse during big events.

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It would be nice if the parking were more structured to prevent problems with people parking wherever they can find room, especially during big events, which causes access issues for neighbors.

Photo 2: Shows inside the patio and just a few of the tables in use

Photo 3: Shows just a little of the parking situation at the bar

Photo 4: Shows the (partial) patio occupancy - you can see the neighbor's home in the back of the photo - they block her access at times. She's a disabled veteran and is wheelchair bound and requires emergency services fairly often - it is life threatening for her if her access is blocked because of traffic - which happens frequently. I gave her your email address so she can send you a note.

Photos 5 & 6 show birdseye views of some parking when it's not bad but gives you an idea of the 3 entry/exit points behind the bar on the left, right beside the bar and on the right side at N. Shore Dr.

Photo 7: Shows a paraglider coming in during a special event in March.

It's been pretty out of control. Even without outdoor bands playing, there are many problems that exist. We hope you will take another look at this and consider this is not a small outdoor patio. It's huge and obviously was built to double the capacity of the bar. This was done without a permit, special exception to zoning and public hearing - which they are now doing after the fact.

Nobody is trying to "shut down down the bar," but because of the huge number of un-permitted special indoor and outdoor events held each week/month, parking should be much better defined to prevent access issues with neighbors. North Shore Drive may need to be improved to allow for better access.

I cc'd my neighbor Dick Hughes in case he'd like to add anything to this.

Sincerely,  
B.J. Nikkel

#### 7 attachments



**Bikers Exit Backside of Bar After Event.jpg**  
93K



WJ Event paraglider.png  
58K

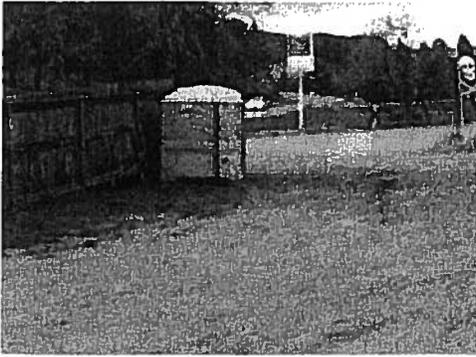
their homes. The Millers like most of the above mentioned sites respect the 10pm (or earlier) Campground noise rules and are willing to compromise on the number of days and times they will use the outdoor patio for live music. They have proposed to build a band shell to help mitigate the noise level and are willing to work with their neighbors to come to a reasonable compromise. It would be a shame to deny the Millers request for the special exception. They have and are trying to be good neighbors. And to deny their request could result in the Millers having to close this important part of our Community here at Carter Lake.

Sandra and Louis (J) Branch Carter Lake Residents 4125 Fawn Trail Loveland, Co 80537

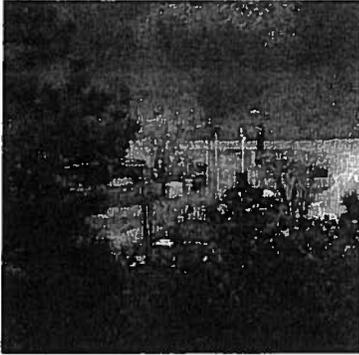
Page sent from: <http://www.co.larimer.co.us/bocc/>

Date/time: 04/11/2016 - 11:00 AM

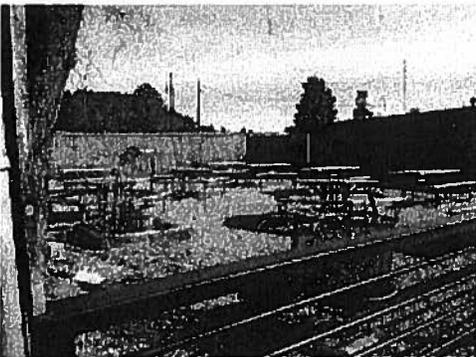
User located at: 10.200.1.20



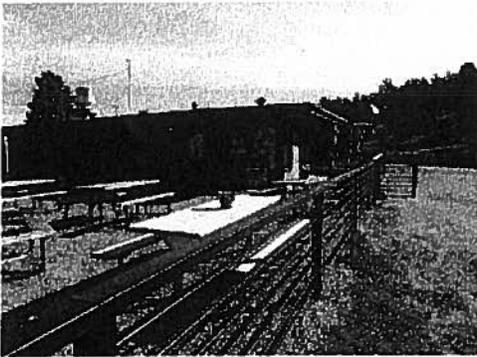
**PortAPots2.jpg**  
9K



**PortAPots3.jpg**  
11K



**WJpatio1.JPG**  
4583K



**WJpatio4.JPG**  
4507K



**WJpatio5.JPG**  
4428K



Karin Madson <madsonkc@co.larimer.co.us>

## Re: My emergency access

Clinton Jones <cdjones@larimer.org>

Thu, Apr 14, 2016 at 7:53 AM

Reply-To: cdjones@larimer.org

To: Audrey <barefeetleather@gmail.com>, Karin Madson <kmadson@larimer.org>

Audrey,

I'll forward this message to Karin Madson with the planning department. Let me know if you have any other questions or concerns.

Thanks

Clint

On Thu, Apr 14, 2016 at 7:47 AM, Audrey <barefeetleather@gmail.com> wrote:

Ms. Dann, Mr. Griep, Mr. Jones,

My name is Audrey Bocock and I am a disabled veteran who is confined to a wheelchair and I live right across the driveway from the Windjammer bar on the north side of Carter Lake.

I wanted to reach out to you about an issue that I've been having with the Windjammer bar and them blocking periodically emergency access to my home.

Because of erratic parking issues at the bar, they periodically block my access in my driveway. This happens when the bar has more people attend events at the bar than parking at the bar than they can handle.

It also occurs when we get snow and the snow removal they hire blocks my driveway.

I have spoken to the owners of the bar multiple times to no resolution.

For me, blocking my access can be life threatening because periodically I suffer seizures and require care. In addition, my caregivers must also have access to be able to get to my home to give me care I require.

Cars and motorcycles come and go at three different access points by the bar. One is at N. Shore Drive, another is behind the bar and the third one is right next to the bar on the side. People park everywhere because parking is undefined and at times they block my legal access to my home.

The occupancy that the bar currently has is apparently around 70 indoors. Outdoors, the huge patio has 17 tables setup that accommodate 88 people. There have been many, many times over the past year that the bar uses all that space and when they do, parking is an absolute nightmare. In fact, there were times I allowed them overflow on my property, as did another next door neighbor, but because of ongoing trespassing issues, we both stopped allowing that.

The bar at this location cannot handle this amount of people. The amount of traffic, parking and road issues are a big problem and create safety issues for the public as well.

I have tried talking with the bar owners and have gotten nowhere with trying to resolve my own issues.

My hope is that you all visit me at my home and can see my situation and evaluate the ingress/egress of the bar. I would like you to take a look at my situation and convey your



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

---

**Fwd: WINDJAMMER ROADHOUSE BAR and GRILL**


---

Matthew Lafferty &lt;laffermn@co.larimer.co.us&gt;

Tue, Apr 19, 2016 at 11:09 AM

To: "Madson, Karin" &lt;kmadson@larimer.org&gt;

FYI

----- Forwarded message -----

From: T. Wright &lt;bothwright@lpbroadband.net&gt;

Date: Tue, Apr 19, 2016 at 10:57 AM

Subject: WINDJAMMER ROADHOUSE BAR and GRILL

To: gaiterl@co.larimer.co.us, johnsosw@co.larimer.co.us, donnelt@co.larimer.co.us

Cc: laffermn@co.larimer.co.us

Good morning,

We would like to comment on the issue for Chris and Lisa Miller. We believe the Miller's should be given an opportunity to continue providing quality service to their clients as they propose.

Lisa Miller was an employee of a small utility construction company we owned from 1997 - 2003 in Loveland. She was employed as an administrative manager in charge of safety and fleet management.

Lisa was an outstanding employee, she was extremely hardworking, honest, dedicated and unfaltering in her work ethic. Sadly, we had to close our business in 2003 but she said "I will stay till the last day you need me". We cannot tell you how rare that type of integrity is and how much her efforts helped us through a very painful time in our lives.

Her husband Chris, then employed with the National Guard as a mechanic could be counted on to help with an emergency truck issue at night and on weekends - never once wanting any compensation for his efforts.

Lisa also served in the military for many years in the National Guard.

**You can take this to the bank** - whatever solution you decide on this issue Chris and Lisa will do their part with the highest degree of ethics and integrity. Chris and Lisa are the most honorable and talented people we have ever encountered in our business associations. We now run a small trucking company and just wish we could find people like them to work with us now!

Please support their small business. If you need any further information we can be reached at 970 232-8392 (T. Wright) or 701 570-8438 (BO)

Respectfully submitted,

Bo and Teresita Wright  
2730 East Highway 402  
Loveland, Colorado



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

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**Windjammer Special Exception Hearing**

1 message

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**Karen** <kmpierro@aol.com>  
To: kmadson@larimer.org

Tue, Apr 19, 2016 at 10:36 PM

Hi Karin

I'm one of the property owners behind the Windjammer. I'm sending you my comments, but I would like to read them tomorrow as well.

I'm writing to you because of my concern of safety at the hearing tomorrow. This has become a huge issue and people are accusing us of trying to shut the Windjammer down. They have waged a "save the Windjammer" Facebook campaign and are calling for all of the patrons to come to the meeting and show their support. I would like to be able to get into the courtroom and be able to voice my concerns as a homeowner directly affected by this exception.

I realize that you may be aware of this, but I'm concerned with what we may encounter entering & leaving the building. I wanted you to be aware of a situation that could become volatile.

I'm very apprehensive about this meeting and what may occur afterwards. Please consider a police presence.

Thank you so much.  
Sincerely,  
Karen Pierro

---

 **WJ Karen.docx**  
15K



Karin Madson <madsonkc@co.larimer.co.us>

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## Fwd: Windjammer Special Events Permit Compliance

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**Tony Brooks** <brookstn@co.larimer.co.us>

Wed, Apr 20, 2016 at 1:32 PM

To: Karin Madson <kmadson@larimer.org>, Matthew Lafferty <laffermn@co.larimer.co.us>, Candace Phippen <phippecl@co.larimer.co.us>

FYI

----- Forwarded message -----

From: **BJ Nikkel** <bjnikkel@gmail.com>

Date: Wed, Apr 20, 2016 at 11:36 AM

Subject: Windjammer Special Events Permit Compliance

To: Tony Brooks <brookstn@co.larimer.co.us>

Hi Tony,

I'm not sure if you're the correct person to send this to, but it's come to my attention that the Windjammer is planning another special "motorcycle run" event this Saturday, April 23, which once again, pertains to use of CR 31.

They did at least 20 of these last year and similar flyers exist to show that to be the case.

My question is - is there any accountability for compliance with an establishment like this that continues to defy county regulations in refusing to get permits to do these kinds of special events? They do after all, bring an extraordinary amount of traffic to our area and it seems pertinent to the safety of the public that permits are obtained to ensure that safety concerns are addressed.

I've attached the flyer.

Sincerely,

B.J. Nikkel  
3201 Cactus Ct.  
Loveland, CO 80537  
970-217-8994

—  
Tony Brooks  
Larimer County  
Code Compliance Officer  
970-498-7706

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COMMENTS  
AFTER APRIL 20, 2016  
PC HEARING

May 31, 2016

To Whom It May Concern:

This is in regards to Windjammer Roadhouse Special Exception, file #15-Z1995.

The Millers have gotten permission to have food on the patio. That is a good thing. If the county continues to allow the bicycle races in our area they should allow the Windjammer to continue the motorcycle runs. The bicycles are far more disruptive than a motorcycle as far as the traffic is concerned.

They are still trying to get approval for live music on the patio from April to October. Most of the people who do support them do not live in the area. They can come and go whenever they choose. We, the neighbors, do not have a choice. They seem to be thriving without the outdoor music. Lots of support to SAVE THE WINDJAMMER. We never minded "some" music, but for them to expect everyone to put up with it from April to October on the patio is very presumptuous!

We have been invited to join a neighborhood watch by concerned neighbors. How sad is this that to feel a neighborhood watch is necessary? We are concerned about some overzealous customer retaliating against the neighbors, especially Audrey, she is the nearest to the bar.

Just recently we had an incident with a patron from the Windjammer and his grandson trespassing on our land and chasing the deer. When I went down to talk to them the man got very defensive and told me his grandson was only four years old so I should let him be on our land and chase the deer???? I told him if he's only four then he should teach him manners. I told him to give me his address. I'd bring my grandkids to trespass on his land. He "gestured" at me as he walked away.

A short time later the little boy and his father were standing on our land to "make a statement". I went down to talk to him. He said he saw our pin markers, but he still got verbally abusive cursing at me. I called the sheriff's office, but they were so busy with emergencies. I did file a report when the officer called me back. The officer asked if it would do any good to talk to the bar owners?

In less than a year we have had two incidents with people from the bar trespassing our land and when we do talk to them they get verbally abusive. The way it is going we all should be concerned for retaliation. We have never had a problem with the past owners that could not be solved by talking to them.

Thank you for the chance to voice our opinion,

Alden & Bonnie Stafford

3413 South County Road 31

Loveland, CO 80537



Karin Madson <madsonkc@co.larimer.co.us>

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## Windjammer Special Exception

1 message

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**iris orlandino** <orlandinocarterlake@lpbroadband.net>

Sun, May 15, 2016 at 7:51 AM

Reply-To: orlandinocarterlake@lpbroadband.net

To: kmadson@larimer.org

Hi Karin,

We will not be able to make the meeting on June 13th. Please include our comments to be reviewed by the County Commissioners before the hearing.

We continue to be strongly against the live music outside of the building. We have lived 1,000 feet from the Windjammer for 21 years, and have never had an issue with the Windjammer until last summer. The loud music from outside the building does not fit with the surroundings of our neighborhood. We live in a typically quiet area and that's what we have enjoyed for many years. To go from this to what occurred last summer with the loud music was shocking and not acceptable for this neighboring community. This impacts our personal enjoyment and we are concerned about how this impacts the value of our homes.

We are not opposed to the continuing outdoor patio business with no music, either live or by speaker. We are also not opposed to charitable auctions within limit of approximately 3 per year.

Let us know if you have any questions.

Thanks!

Tom and Iris Orlandino  
3050 Rainbow Ln  
Loveland, CO 80537  
970-593-0098



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

**Private**

2 messages

**BJ Nikkel** <bjnikkel@gmail.com>

Fri, Apr 29, 2016 at 11:32 AM

To: Karin Madson &lt;kmadson@larimer.org&gt;, Matthew Lafferty &lt;mlafferty@larimer.org&gt;

Karin and Matt,

While I understand that my emails to you may be requested by the Millers or others in regards to the issues with the Windjammer, and I totally understand that you are trying to be transparent, I want to ask that you please NOT include Chris Miller on any subsequent emails to me, in response to my emails to you.

There are been threatening remarks made as a result of the Miller waging a misinformation campaign to "Save the Windjammer," and them telling their patrons that our neighborhood is trying to "shut them down," which we are not - we are simply opposing the special exception because we believe the patio and everything that accompanies it, is incompatible and inharmonious, to our neighborhood and Larimer County Land Use Code.

And as I highlighted briefly in my last email to you, Hell's Angel's are trying to make the Windjammer their "territory" according to conversations I've had with different sheriff's department officers. As you probably noticed, there was presence of various law enforcement personnel at the planning commission hearing because of chatter that Hell's Angels may attend.

To put it simply, the Millers are targeting both me and Audrey Boccock on Facebook, on their GoFundMe page and to patrons, who have told neighbors that both Audrey and I are mentioned specifically by Lisa and Chris Miller as "trying to shut down the Windjammer." This is false of course as we are simply opposing the special exception and trying to ensure they behave as everyone else has to. This, does antagonize their patrons, a couple who are Hell's Angels who live at Carter Lake.

Thus, while my husband and I do support transparency and we wish to highlight the continued issues with the Windjammer to the County and why we oppose the special exception, we do not want to be the targets of potential violence as a result.

Carbon copying Chris Miller to my email, does not make this situation any better. In fact, it incited yet another post last night whereby he continues to try to anger his patrons against us. We aren't asking for any special favors and we are doing things to protect ourselves (several neighbors are putting security cameras outside of our homes) - we would just like to avoid antagonizing the Millers further.

I have highlighted these issues to Larimer County Sheriff officers Lt. Robert Cook and Lt Ian Stewart. For instance, some of the comments made by Windjammer patrons talk about "shutting down the couple of residents that want to shut down the Windjammer" and another who "wishes this could be straightened out with a few baseball bats or pipes."

These are not "normal" responses but this is representative of some of the people who patronize the place. So again, please don't include the Millers in any of our communications. Because of their behavior, we simply are not in a position of being able to have a reasonable conversation together.

I don't know what you policy is, but if they ask for my communications, that fine. If they do not ask, I would ask you to please not send them to him, because it only incites this situation further. Our neighbors are afraid. My husband is afraid for me. Audrey Boccock is most afraid because she's confined to a wheelchair and lives the closest to the place.

I hope you will understand I'm not being critical of what's been done and your efforts to be transparent. I should have communicated this earlier to you, to help you understand that this is the situation.

I do intend to reply to your email from yesterday and highlight why I believe special events permits are indeed  
**BCC 06/13/16** **WINDJAMMER ROADHOUSE SE**

required. I would again ask that if you want to reply back, please do not cc Chris Miller.

Thanks for your understanding.

Sincerely,

B.J. Nikkel  
3201 Cactus Ct.  
Loveland, CO 80537  
970-217-8994

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**Karin Madson** <kmadson@larimer.org>  
To: Terry Gilbert <rtgilbert@larimer.org>

Fri, Apr 29, 2016 at 11:35 AM

FYI, I did include Chris Miller in my response to BJ.

**Karin Madson, AICP**

Larimer County Community Development  
Planning Department  
PO Box 1190  
200 W. Oak St.  
Fort Collins, CO 80522

970.498.7692  
fax 970.498.7711  
[Quoted text hidden]



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

## Windjammer Bar Outdoor Patio Not Compatible with Larimer County Master Plan

BJ Nikkel &lt;bjnikkel@gmail.com&gt;

Wed, Apr 27, 2016 at 11:50 AM

To: Karin Madson &lt;kmadson@larimer.org&gt;, Matthew Lafferty &lt;mlafferty@larimer.org&gt;

Cc: Tom Donnelly &lt;donnelt@co.larimer.co.us&gt;, Steve Johnson &lt;johnsosw@co.larimer.co.us&gt;, Lew Gaiter &lt;gaiterl@co.larimer.co.us&gt;

Good morning Karin, Matt and County Commissioners:

You'll find attached below the flyer for and photos of last Saturday's Poker Run at the Windjammer and another one scheduled for April 30. The photos show the parking and vehicles in attendance which I estimate to be 75.

In addition, there is another flyer attached showing another special event poker run for next Saturday. No special events permit has been applied for in this case either.

Because no special events permits were ever sought last year and now this year, these events remain very problematic. There is obviously no intent by the owners of the bar to comply with County planning department's "condition" that they must get special events permits for events over 50 in attendance.

In voting no at the planning commission hearing, Chairman Jensen said that the outdoor patio is not in harmony with, and is not compatible with our neighborhood because of the noise they create. These special events are a big part of that. I would go one step further and say that the outdoor patio and its use is not in harmony with, or compatibility with our County's Master Plan.

The problem that currently exists is that because of the continued defiance by the bar owners to comply with County regulations (which we all have to do and they are no exception) we would urge an immediate reversal of the use of the outdoor patio by the planning department and would also urge the County Commissioners, whom I have cc'd to this, to vote NO on the portion of the special exception to allow the use of the patio.

The intent of the bar owners is to obviously continue having large outdoor events, and thus, there continue to be ongoing safety, noise, septic, parking, trespassing, and emergency access issues for neighbors, along with too many entrances and exits from the bar along CR 31.

The County has a duty not only to follow their Master Plan, but to also to provide enforcement for the continued defiance in not getting special events - it defies the conditions set forth for temporary use of the outdoor patio.

Sometimes, and I believe this is a good example of the fact that the best enforcement is to simply not allow the use of the outdoor patio in the first place until the owners show they will start complying with conditions set forth by planning department, including having to apply for special events permits instead of defying the County's conditions of use.

Doing otherwise places the policing of this establishment in the hands of neighbors, and forces us to still be subjected to the noise, which places us in a very contentious, unhealthy, possibly dangerous (because Hell's Angel's have the placed marked as their territory) and places us in an untenable situation with them as neighbors. We do not enjoy being in this position. We simply want them to be good neighbors, get special events, let the County decide if they are reasonable, and live with County zoning, building code and other regulations, just like the rest of us must.

Ultimately, because of the outdoor patio and accompanied 100+ occupancy (on top of 70+ indoors) the infrastructure of the bar is incapable of handling the number of people they accommodate for all these special events. That is clear with need for several port-a-pots (which are placed outside of the fence and next to where they do outdoor grilling all year - see photo below) for lack of restroom facilities, the parking nightmare, which causes trespassing issues, the ingress/egress issues with cars and motorcycles not having one specific place

to enter and exit CR 31, and not having specific places to park - that are not on top of their septic field. The infrastructure of the bar simply cannot handle all of the weekly "special events" - which are largely poker runs. These events bring dozens of motorcycles to CR 31 and to our neighborhood and Carter Lake, which might not be a problem if the County can help ensure it's done in a reasonable, safe fashion - and probably not every single weekend.

You can see on the 2 attached screen captures from the Windjammer website (which the owners have taken down recently), that they say "indoor occupancy is 78" (Loveland Fire told me it should only be 70). They boast "outdoor occupancy on the patio to be 100+."

The bar is not a Special Events Center - it is a bar/tavern.

The second screen capture photo shows the number of bikers that show up for these "special events" (which really aren't "special" because they happen every weekend). The photo shows people parking on adjacent neighbors properties. They simply do not have the infrastructure to do these "special events" and clearly, this establishment cannot come close to handling 200 people and the accompanied vehicles with other infrastructure shortcomings.

Continual poker run "special events" are inharmonious with our neighborhood and the County Master Plan. They are also dangerous for people traveling on CR 31. **Over thirty percent of Larimer County's motorcycle accidents occur near Carter Lake.** While we have no statistics that shows conclusively the crash victims were at the bar prior to crashing, it remains a concern. Commissioners would have better access than I do to that information.

According to Larimer County Sheriff's office, there was yet another motorcycle accident last Saturday afternoon during the latest poker run event, which severely injured someone. If they applied for special events permits, at least county road department and sheriff's department would be consulted to help provide for additional public safety aspects if necessary. Finally, the fact that Hell's Angels are trying to stake out their presence and use the bar as a place to recruit is a grave concern for ALL citizens in Larimer County.

**I would advise the Commissioners to ask for a briefing from Dan Rieves who works at Carter Lake and oversees many of the safety issues relating to this establishment. In addition, you can ask for additional information from Lt. Ian Stewart, who is Swat Commander.**

As I mentioned, there is yet another poker run event scheduled for this Saturday, April 30. Once again according to the County's special event page, the Millers have not applied for a special events permit for this event. See: [http://www.co.larimer.co.us/specialevent/upcoming\\_events.cfm](http://www.co.larimer.co.us/specialevent/upcoming_events.cfm)

Finally, the Miller's established pattern of behavior has been to ignore the County planning department advice, regulations and code. To highlight that, according to County logs, the County first responded to a complaint in March 2015 and paid a visit to where the bar owners were building an illegal patio and fence behind the bar. They also found they had installed a grill without proper permits and subsequently discovered the large outdoor patio was never built with a permit or approved for zoning. There may have been other infractions, too.

The owners subsequently met with and asked the County planning department in April 2015 about having outdoor concerts and the County notified them immediately that they needed a special exception to do so. Instead of applying for it, however, they defied planners direction/advice and simply began doing what they wanted - they began having weekly outdoor concerts along with weekly poker run events beginning April 2015 (I have pdf's showing all of these events).

The fact that they continue - to this day - to defy the county directly in not getting special events permits as was a condition set forth - points to their established pattern of behavior - one of continued defiance of County regulations, planning commission good faith vote and planning department conditions of operation. They show no good faith efforts in complying with the County or trying to be good neighbors to our neighborhood.

**The bottom line is that the Windjammer's outdoor patio is simply incompatible and inharmonious with our neighborhood. It is also not compatible with or harmonious with Larimer County's Master Plan. Their infrastructure is simply incapable of handling what they're trying to do.**

**Until such time as the Board of County Commissioners meets, we respectfully request that the County planning department enforce and discontinue the ongoing use of the outdoor patio for these special**

event poker runs, unless the Millers decide to plan in advance and comply with applying for special events permits, which allows the county departments input.

In addition, we respectfully urge Larimer County Commissioners to reverse the planning commission's decision and NOT approve the outdoor patio for continued use based on the fact that is in incompatible with and inharmonious to the Larimer County Master Plan.

I have cc'd Matt Lafferty and the County Commissioners.

Sincerely,

B.J. and Phil Nikkel

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**8 attachments**



**4-23-16 Poker Run 3.jpg**  
68K



**4-23-16 Poker Run 2.jpg**  
63K



**4-23-16 Poker Run 1.jpg**  
79K



**PortAPots.jpg**  
13K

OH FOOT, MATH CYCLE, CAR HOAT.

1. The first paragraph of the document states that the purpose of this document is to provide information regarding the proposed project. The second paragraph discusses the project's location and the impact it may have on the surrounding area. The third paragraph describes the project's objectives and the benefits it is expected to bring to the community. The fourth paragraph outlines the project's timeline and the steps that will be taken to ensure its successful completion. The fifth paragraph discusses the project's budget and the sources of funding. The sixth paragraph describes the project's risk management strategy and the steps that will be taken to minimize risk. The seventh paragraph discusses the project's communication strategy and the steps that will be taken to keep the community informed. The eighth paragraph describes the project's monitoring and evaluation strategy and the steps that will be taken to ensure that the project is meeting its objectives. The ninth paragraph discusses the project's sustainability strategy and the steps that will be taken to ensure that the project's benefits are long-lasting. The tenth paragraph discusses the project's conclusion and the steps that will be taken to ensure that the project's objectives are met.

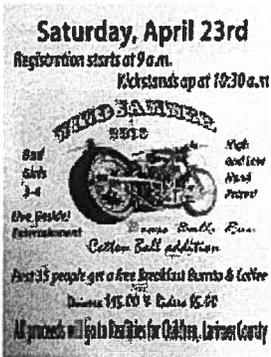
Screen Shot 2015-11-12 at 7.24.31 PM.png  
141K



Screen Shot 2015-11-12 at 7.25.15 PM.png  
497K



4-30-16 Poker Run Event.jpg  
69K



4-23-16 Poker Run 4.jpg  
78K

April 20, 2016

To whom it may concern,

We have lived very close to the Windjammers for the past five years. When we first moved here we were a bit apprehensive when told that it was a “biker” bar. However, it was soon apparent that these bikers were just folks like us, out to enjoy the beauty of Colorado and stopping by the bar to get some food and drink and when available, take in some music. The Windjammer became a place for us to meet and get to know our new neighbors. It is fun to look at all of the beautiful bikes that pull in and we even get to listen to some free music that drifts up to our patio.

In particular we have enjoyed the changes brought by the new owners, Lisa and Chris. They spruced the place up, improved the menu, hired a nice group of bartenders and cooks. More local families come in on a regular basis, even in the winter. They strive to make their place a part of the Carter Lake community just as they themselves have been a part of it for many years. Recently, we celebrated our 40<sup>th</sup> wedding anniversary there and it was great! This weekend there will be a charity bike run.

There have been outside bands playing at the Windjammers long before the new owners took over and they were loud then. We have noticed that the music is harder to hear up at our house now that they have changed the positioning of the bands as they play. Our understanding is that Lisa and Chris are more than willing to work with their neighbors to get the sound to a reasonable level (actually, we think it is fine already.) Forcing the bands to play indoors in the summer will greatly decrease the level of enjoyment of those who want to be outside in the summer – that’s kind of the whole point. If that change cuts into the summer profits, I would imagine that that the entire operation would be put into jeopardy as that is the money that gets them through the leaner winter months – not an unusual situation for many seasonal businesses. Surely there can be common ground found that will allow us to enjoy the music and laughter of summer in the Beer Garden at the Windjammers.

Sincerely,

Sharon and Butch Knorr

3428 North Shore Road, Loveland

Windjammer Roadhouse Bar & Grill  
3431 S CR31  
Loveland, CO 80537

SUBJECT: Project Description 05340-00-025

1. Summary:

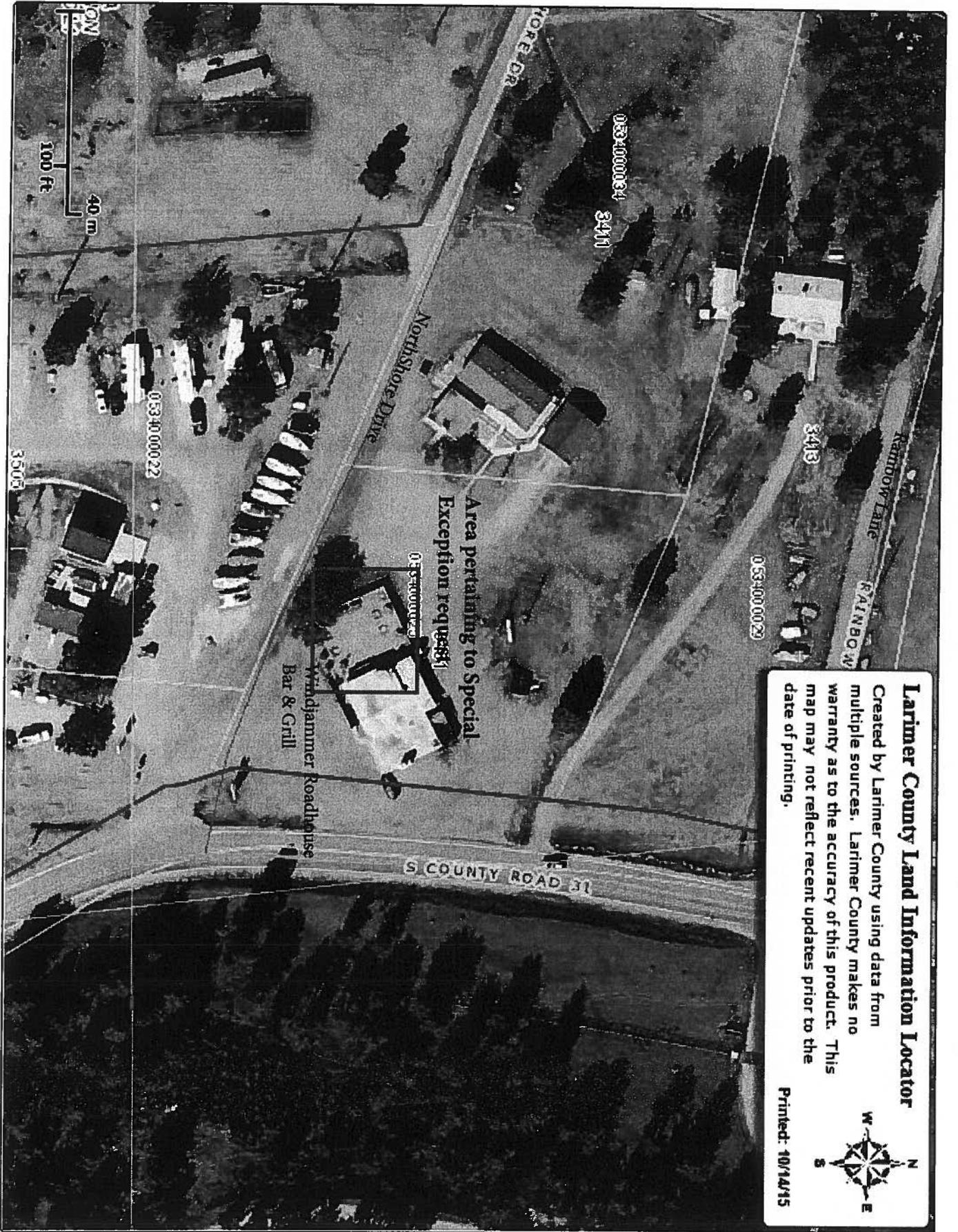
The Special Exception review for the Windjammer Roadhouse Bar & Grill consists of three (3) areas of consideration.

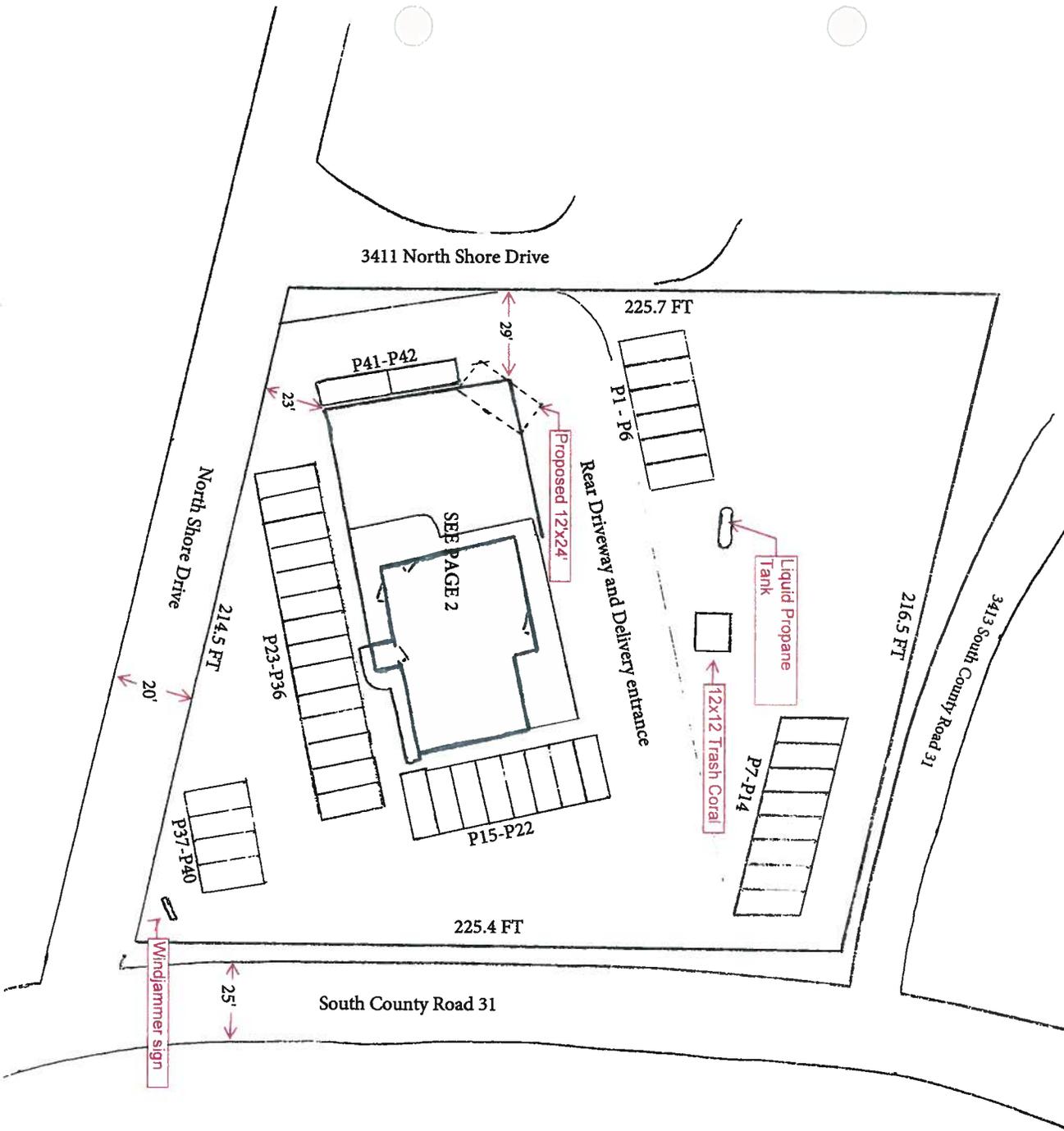
  - i. A special exception approval for the Windjammer Roadhouse Bar & Grill to continue the use of the existing "Beer Garden" to serve patrons with food and beverage service, to include alcohol.
  - ii. A special exception approval for the Windjammer Roadhouse Bar & Grill to provide patrons with outdoor musical performance entertainment during the summer months, which would run in conjunction with current county campground and marina operating months and hours.
  - iii. A special exception approval for the Windjammer Roadhouse Bar & Grill to hold charitable auctions on the premises.
2. Review Criteria:
  - a. The Windjammer Roadhouse Bar & Grill was originally built around 1964. To the best of our knowledge from historical records, it was first established as an ice cream parlor and around 1974-1976 transitioned to a bar/tavern.
  - b. The business is current zoned T-Tourist.
  - c. Prior to the purchase of the property from the previous owner, we observed the operation for two (2) years. Following our purchase in 2014, our operation has been consistent with that of previous owners, to include the use of the "Beer Garden" and providing patrons with outdoor musical performances during the summer months.
  - d. During our process of changing operating licenses (alcohol and liquor board and food sales) it was never discovered nor brought to our attention there may be a non-conforming issue in regards to the zoning of the property.
3. Existing Conditions:
  - a. The current use of the Windjammer Roadhouse Bar & Grill is a bar and restaurant with an outdoor serving patio.
  - b. There is only one (1) main building currently on the property consisting of 2,437 square feet.
  - c. Surrounding properties consist of one (1) T-Tourist property, NorthShore RV, and rural residential property to the west and north.
4. Operation:
  - a. The Windjammer Roadhouse Bar & Grill operates 11am to 9pm weekdays and 11am to 10pm weekends during the winter months (November thru March).
  - b. The Windjammer Roadhouse Bar & Grill operates 11am to 9pm weekdays and 8am to 10pm weekends during the summer months (April thru October).
  - c. The Windjammer Roadhouse Bar & Grill operates with 12 employees on a regular basis, however increases to +/- 20 employees during the summer months.

SUBJECT: Project Description 05340-00-025

- d. To mitigate noise levels of the outside music performances during the summer months and to comply with ordinance 97-03, the Windjammer Roadhouse Bar & Grill is proposing to construct a sound stage with acoustical barriers. Sound tests performed 7 November 2015 will be available approximately 13 November 2015 to evaluate if the ordinance levels can be met.
  - e. The proposed sound stage is 288 square feet.
  - f. Special events outside of normal operations are the charitable auctions held during the summer months in conjunction with charitable bike/motorcycle rides.
5. Infrastructure:
- a. The Windjammer Roadhouse Bar & Grill currently has no storm water detention or retention ponds and easements.
  - b. All existing utilities and easements remain in effect throughout this review without changes.
6. Proposed Changes and Improvements:
- a. The proposed sound stage is 288 square feet. Outer dimension is 12' x 24'. Location of the proposed sound stage is located in the map(s) contained in tab 7.
  - b. The use of the proposed sound stage is to mitigate noise to the neighbors of the Windjammer Roadhouse Bar & Grill.
7. Traffic and Access:
- No changes to the current traffic and access is necessary for this special exception review.

Lisa and Chris Miller  
Owners





PRELIMINARY SITE PLAN Page 1

WINDJAMMER ROADHOUSE BAR & GRILL

Parcel No.: 05340-00-025

Scale 1/32

Lot Size: 1.05 acres

45,032 sq feet

Main Building: 2,437 sq feet

Proposed Structure: 288 sq feet

Parking: P1-P6 8x23

P7-P14 8x23

P15-P22 8x23

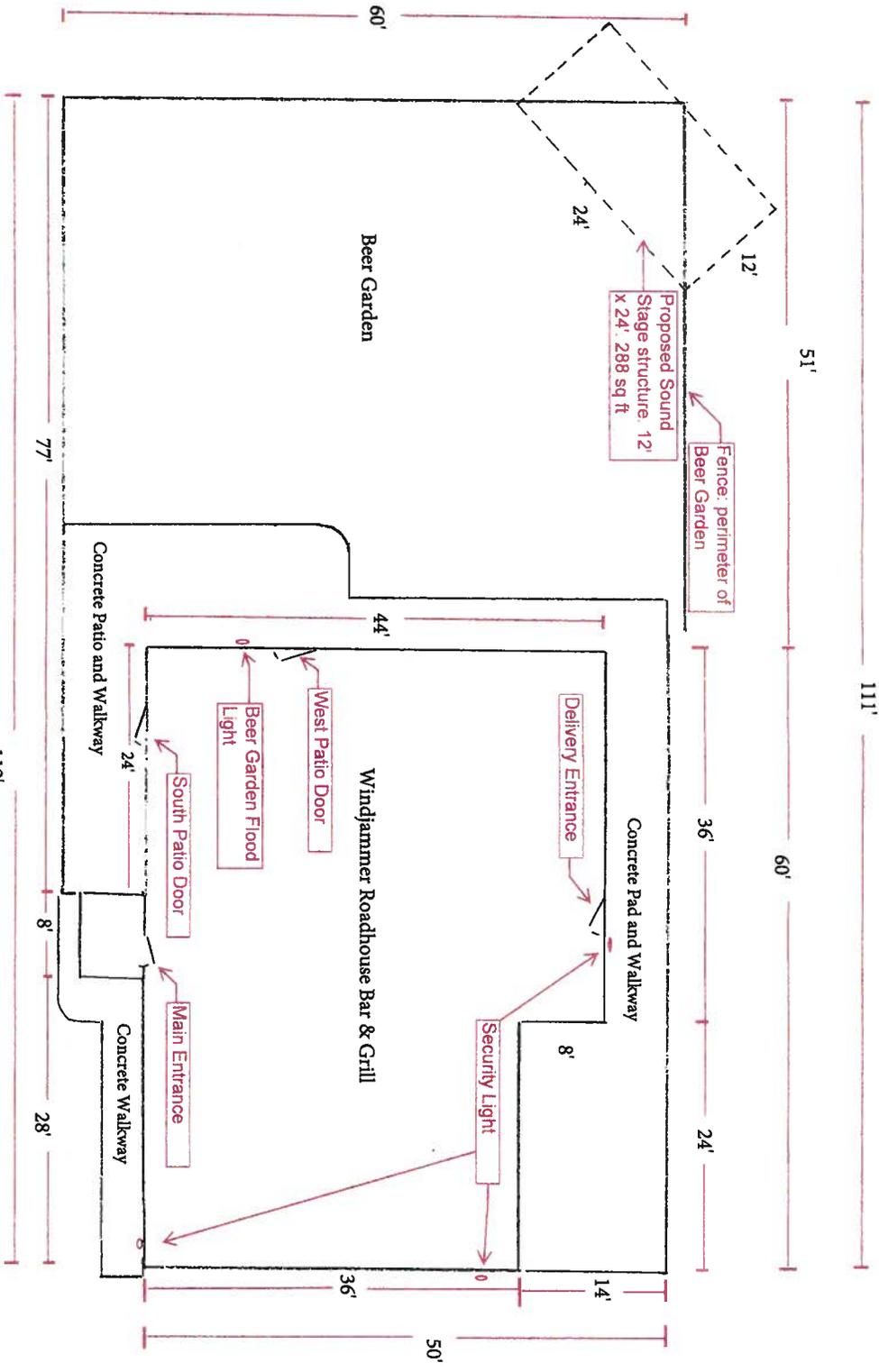
P23-P36 8x23

P37-P40 8x23

P41-P42 8x23

Parking and Driveway material: Road base gravel

Vehicle Access, Emergency Access  
from CR31 and North Shore Drive



113'

PRELIMINARY SITE PLAN PAGE 2

WINDJAMMER ROADHOUSE BAR & GRILL

Parcel No.: 05340-00-025

Scale 3/32

Main Building: 2,437 sq ft

.....

Windjammer Roadhouse Bar & Grill  
3431 S CR31  
Loveland, CO 80537

SUBJECT: Preliminary Site Plan 05340-00-025

1. Drawing Title and Project Name: Windjammer Roadhouse Bar & Grill; 05340-00-025.
2. Applicant Information:
  - a. Christopher L Miller
  - b. 3431 South County Road 31, Loveland, CO 80537
  - c. 303-961-3081
3. Owner Information:
  - a. Lisa and Christopher L Miller
  - b. 3911 Rainbow Lane, Loveland, CO 80537
  - c. 303-961-3081 or 970-566-3794
4. North Arrow and Scale:
5. Site Data:
  - a. Lot Size: 1.05 acres
  - b. Square footage of new structure: 288 sq ft
  - c. Square footage of existing structures: 2,437 sq ft
  - d. Proposed number and type of use(s)
    - i. Existing structure is designated as a Bar & Grill/Tavern.
    - ii. New structure is to be used as a sound stage for outdoor music performances.
  - e. Number of parking spaces required and provided for:
    - i. Handicapped - 2
    - ii. Regular - 24+
  - f. Distance between property lines and all existing and proposed buildings and structures.
    - i. See tab 7 and 8.
  - g. Project boundary annotated with distances
  - h. Setbacks
  - i. Off-site property information
6. Existing and Proposed Location of:
  - a. The main building of the Windjammer Roadhouse Bar & Grill is the only structure currently on the property.
  - b. The special exception review submittal is to include an outdoor use area, "Beer Garden", which will be allowed to serve food and beverage, to include alcohol in that area.
  - c. In addition the special exception review, outdoor use area, to include the construction of an outdoor stage area for musical performances during the summer months.
7. Engineering Items:
  - a. Exterior and access opening from the building are identified in site plans contained in tab 7.
  - b. Vehicular access is from South County Road 31.
  - c. Emergency Vehicular access is from South County Road 31.
  - d. There are no proposed road right of way dedications for this submittal.

SUBJECT: Preliminary Site Plan 05340-00-025

8. Drainage and Erosion report and Plan

- a. Drainage takes place on a natural basis with the contour of the hill plateau.
- b. Drainage flows from the north side of the building in a west to east direction towards CR31. Then flowing along CR31 to the south. (see map)
- c. Drainage flows from the south side of the building in a southern direction towards NorthShore Drive and then west to east towards CR31 continuing on to the south. (see map)
- d. All property around the Windjammer Roadhouse Bar & Grill is gravel or compacted soils. Erosion control is mitigated by added to the road base as needed throughout the year.

9. Fire Protection Plan

- a. Fire protection is currently provided for by Loveland/Berthoud rural fire departments.
- b. The Windjammer Roadhouse Bar & Grill, internal fire protection consists of a kitchen hood and fire suppression system and hand held fire extinguishers throughout the building.

10. Sewage Disposal Report

The Windjammer Roadhouse Bar & Grill sewage disposal is an on-site septic and leach field system. Latest permit and drawings are contained in tab 13. Septic tanks are serviced every other month or as needed during the summer months.

11. Site Lighting.

- a. Current lighting (exterior) consists of three security lights which illuminate the perimeter from dusk to dawn.
- b. The 'Beer Garden' has one (1) 120v/200w flood lamp that illuminates the Beer Garden when necessary. All other lighting within the Beer Garden is solar powered.
- c. Lighting for the proposed sound stage has not been determined at the time of this submittal.

Lisa and Chris Miller  
Owners

Windjammer Roadhouse Bar & Grill  
3431 S CR31  
Loveland, CO 80537

SUBJECT: Special Exception; Drainage and Erosion Control Report and Plan  
05340-00-025

1. Drainage takes place on a natural basis with the contour of the hill plateau.
2. Drainage flows from the north side of the building in a west to east direction towards CR31. Then flowing along CR31 to the south. (see map)
3. Drainage flows from the south side of the building in a southern direction towards NorthShore Drive and then west to east towards CR31 continuing on to the south. (see map)
4. All property around the Windjammer Roadhouse Bar & Grill is gravel or compacted soils. Erosion control is mitigated by added to the road base as needed throughout the year.

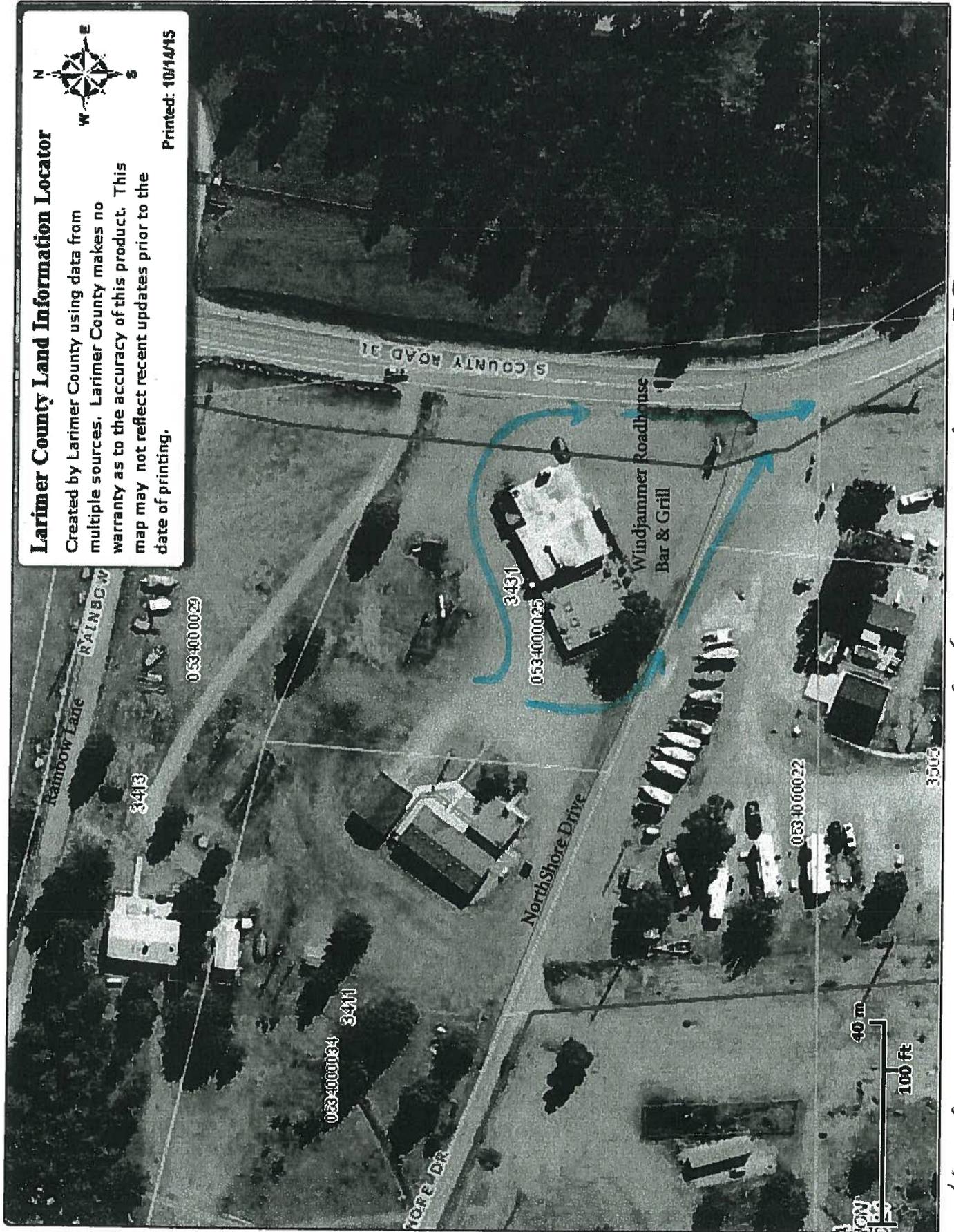
Lisa and Chris Miller  
Owners

Item #13

### Larimer County Land Information Locator

Created by Larimer County using data from multiple sources. Larimer County makes no warranty as to the accuracy of this product. This map may not reflect recent updates prior to the date of printing.

Printed: 10/14/15



0534000025

Item #13 Drainage & Erosion Control



Karin Madson <madsonkc@co.larimer.co.us>

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## Windjammer Special Exception File#15-Z1995

---

Miller, Christopher L CIV NG COARNG (US) <christopher.l.miller80.civ@mail.mil> Wed, Feb 3, 2016 at 11:37 AM  
To: Karin Madson <kmadson@larimer.org>

Karin

Enclosed is the sound test and abatement for the noise study. I have also been in contact with Behrens and Associates, Environmental Noise Control, regarding the test results. They have suggested the ENC-STC25 acoustical blankets as the barrier, however an ENC-STC35 acoustical blanket is coming to the market but I do not have the product data for this as of yet.

The remainder of this email will focus on the responses to document: 151112085641.pdf. If you need this in a formal letterhead format I can type that up for the file. Each sub paragraph below will reference a specific memo.

a. Windjammer Roadhouse SE (Doug Ryan-Health and Environment).

i. Noise. Noise abatement testing and solutions can be found in Sound test\_abatement\_Windjammer.pdf.

ii. Septic System. The current septic system is located within the center of the existing bear garden and is not effected by right-of-way, drainage or parking. Only foot traffic is above the absorption field.

iii. Food Service Plan and Review. Within the special exception process there are no plans to remodel or expand the facilities from what is currently being requested (beer garden use only). The outdoor patio will not change from its existing footprint, nor will the interior of the Windjammer proper. Wait stations are located within the building and only food service (delivery) to the customer is provided. To my knowledge, during the latest health/environment inspection, the inspector was aware of patrons having a meal within the beer garden and no issues were noted.

b. Windjammer-Special Exception (Clint Jones-Engineering Department).

i. Transportation/Access. Properly executed Deed of Dedication at the time of final approval. This needs to be explained to the owners. I am not sure what this means.

ii. Transportation/Access. Access along CR31 needs to be

abandoned. I am not sure how to resolve this request. Distance from corner of building to edge of county road does not leave proper distance to place any type of barrier. In addition I believe the access along CR31 has existed from the Windjammer's inception (1964).

iii. A majority of the comments seem to be tailored to a 'new' commercial property and not an existing commercial property that has been in existence for 50+ years. As noted in the memo, engineering does not consider a patio a traffic generating use. It is better described as a place for patrons to congregate outside rather than indoors.

c. Windjammer Roadhouse SE (Jim Frick-Road and Bridge Department).

i. I do not believe the special exception request approval is going to generate any additional traffic to the facility. That is not our purpose in seeking the special exception.

d. Windjammer Roadhouse SE (Stan Griep-Building Department).

i. Building Permit. I understand the need for the building permit if the sound stage proposal with the special exception was approved.

ii. Code Analysis. I do not understand the need for the code analysis, being the special exception request has no bearing on the main structure of the Windjammer. No remodeling or expansion of the main building is within the request.

iii. Alterations. No alterations to the existing main building are being planned or included in the special exception request. The proposed sound stage is 60 feet from the main structure.

iv. Handicapped Accessibility. Approved options need to be discussed with the building department.

e. Windjammer Roadhouse SE (Lori Hodges-Emergency Management).

i. There are no Emergency Management concerns.

f. Windjammer Roadhouse SE (Carie Dann-LFRA).

i. Propane tank. The propane tank serves a dual purpose. It is used to heat the restaurant and provides gas for the kitchen appliances.

g. Neighborhood letters.

i. Terry and Cassie Carlstrom. The only comment that needs to

be addressed is the notation of the 'dumpster'. The dumpster in question is not owned by the Windjammer but is leased by the homeowners residing on Cactus Court.

ii. Bill and Peggy Martin. No comments required.

iii. Phil and Kristie Huff, Tom and Iris Orlandino and Phillip and B.J. Nikkel. We are trying to satisfy all the residents within the vicinity of the Windjammer and mitigate noise to the best of our ability.

I believe the above covers the issues immediately at hand. If you feel it is necessary for us to have a face to face meeting to continue please let me know and I can be available at any time. There are certainly some issues that I would like to discuss but not within this format.

Chris L. Miller

Windjammer Roadhouse

720-250-3111 (o)

303-961-3081 (c)

**From:** Karin Madson [mailto:kmadson@larimer.org]  
**Sent:** Tuesday, January 26, 2016 10:16 AM  
**To:** Miller, Christopher L CIV NG COARNG (US) <christopher.l.miller80.civ@mail.mil>  
**Cc:** Ryan, Doug <dryan@larimer.org>  
**Subject:** [Non-DoD Source] Fwd: Windjammer Special Exception File#15-Z1995

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

---

Chris,

I am forwarding an email from Doug Ryan regarding the noise study information that is needed for your application review. We look forward to receiving this information on or before Feb. 8 as stated in my last email.

If you need anything or have any questions please let me know.

Thanks, Karin

**Karin Madson, AICP**

Larimer County Community Development  
Planning Department  
PO Box 1190  
200 W. Oak St.  
Fort Collins, CO 80522

970.498.7692  
fax 970.498.7711

----- Forwarded message -----

From: **Doug Ryan** <ryandl@co.larimer.co.us < Caution-mailto:ryandl@co.larimer.co.us > >  
Date: Tue, Jan 26, 2016 at 10:10 AM  
Subject: Re: Windjammer Special Exception File#15-Z1995  
To: Karin Madson <kmadson@larimer.org < Caution-mailto:kmadson@larimer.org > >  
Cc: bjnikkel@gmail.com < Caution-mailto:bjnikkel@gmail.com >

Thanks Karin,

I did have conversation with B.J. Nikkel yesterday. I'll look out for the noise study, although it should come to your office for routing first.

To the point of who does the noise study, I explained that my understanding is that the applicant has the responsibility to demonstrate that the proposal complies with county standards. In this case I anticipate that some significant mitigation measures would be needed, and so any initial noise measurements would need to be augmented by adding mitigation measures and then modeling or predicting how those measures would impact the sound readings at the adjacent residential properties. That process of selecting and testing the mitigation measures is part of the design and application process that only the applicant can provide. Our office will review the noise study and mitigation plan once it is received and provide comments at that point. Our expectation is that the study will be prepared by a qualified consultant and provide detailed information about sound levels in order to allow reasonable conclusions.

Doug Ryan

Larimer County Department of Health and Environment  
1525 Blue Spruce Drive  
Fort Collins CO 80524

(970) 498-6777 < tel:%28970%29%20498-6777 >  
ryandl@co.larimer.co.us < Caution-mailto:ryandl@co.larimer.co.us >

On Mon, Jan 25, 2016 at 1:15 PM, Karin Madson <kmadson@larimer.org < Caution-mailto:kmadson@larimer.org > > wrote:

Joe O'Bryan  
Recording/Live Sound Engineer  
Keptone Music Workshop  
273B East 29<sup>th</sup> St.  
Loveland, CO 80538  
970-308-1186

Client:  
Windjammer (outdoor stage/patio)-Lisa and Chris  
3431 North County Rd 31  
Loveland, CO 80537

Reported Issue: Patio Volume cannot exceed 55db at the property line (Class A readings)

Current Situation: Test Results

Sound levels pushed from a 1500 watt PA system from the designated "band area" at typical band performance volume (all readings taken with a decibel meter set for Class A reading)

- @ 10' from performance area approx 85-95db
- @ front patio edge approx 65-70db
- @ front edge of parking lot (near business sign) approx 55-60db
- @ immediately behind stage (behind patio fence) approx 75-80db
- @ building edge (behind patio fence) approx 70-75db
- @ rear property line (behind patio fence-in direction of neighboring home) approx 65-75db
- @ side property line (behind patio fence-in direction of neighboring home) approx 65-75db

Proposed Solution:

1. Install ½" Soundboard around the perimeter of the patio area (attached to existing fence)
2. Build a small pitched roof over the "stage area" with ½" soundboard to project sound inward to the patio and away from the neighbors

3. Build a small raised stage with a minimum of 1/2" rigid foam insulation beneath the stage to reduce the amount of low frequencies traveling to the surrounding area
4. Install a Noise Meter (Sound Alert from Noise Meters Inc) with a light near the edge of the patio area. The noise meter will be set to have the light go off for anything over 65db indicating the music will need to be turned down in order to be at 55db or less at the property line.

**Expected Results:**

The addition of the aforementioned sound abatement materials should be expected to reduce sound levels at the business property line by 30% bringing the estimated decibel levels to 46db – 53db. The addition of the “noise meter” will enable performers and the owners/staff to quickly monitor the decibel levels at the edge of the patio insuring that the sound levels are staying below 55db at the property line.

# Behrens and Associates, Inc.

Environmental Noise Control

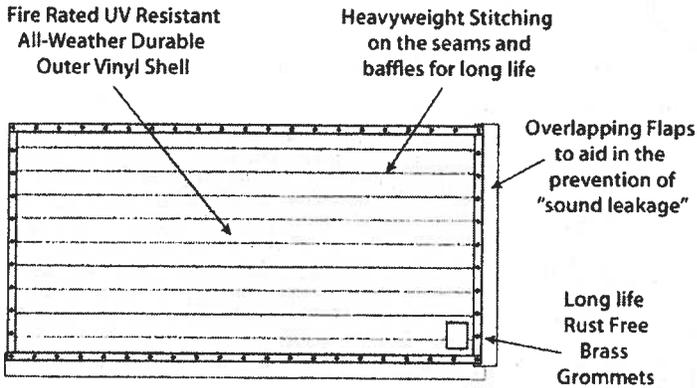
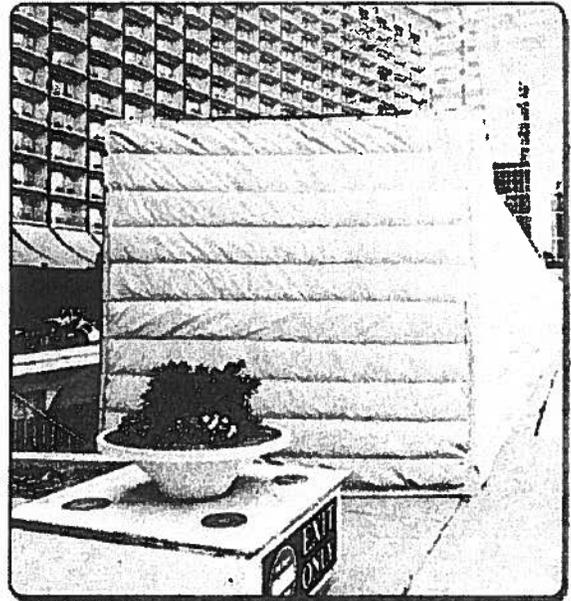
## ENC STC-25 ACOUSTICAL BARRIER BLANKET

### ENC Style STC-25 Acoustical Barrier Blanket

The ENC-25 Acoustical Blankets are manufactured using state of the art acoustical composite materials and design. The ENC-25 Acoustical Blankets are designed to provide optimum sound control for both blocking and absorbing unwanted noise. The ENC-25 Acoustical Blankets have been tested by an independent acoustical laboratory per ASTM E-90 and ASTM E 413 requirements and have a verified sound transmission loss rating of an STC-25.

Fabricated from poly-vinyl-chloride coated outer shells and our specially developed inner composite construction including two layers of acoustical absorber material with an X-5 septum barrier, these blankets have been both laboratory and field tested to achieve optimum performance for both the blocking and absorption of unwanted noise. They have proven extremely effective for withstanding the elements of nature and extensive handling. They also conform to California Construction Codes.

We stock ENC-25 Acoustical Blankets in standard sizes including 10' X 10' and 8' X 20' but we can manufacture them to any configuration and size required. Stock acoustical blanket colors include beige, gray and black with custom colors available in most primary colors.



Custom sizes and colors available

### ENC STC-25 Acoustical Barrier Blanket Product Specifications

- Oil and UV resistant + anti-fungal Poly-vinyl-chloride outer shell
- Flame retardant to California Fire Marshall F-419 D1 spec
- After flame: 2 second.
- Length of char: 3.5.
- Weight: 0.92 lbs. per square foot.
- Working temperature: -40 degrees to +200 degrees F
- Conforms to California Construction Codes.
- Sound Transmission Class in accordance with ASTM E-413.

### SOUND TRANSMISSION LOSS DATA (dB)

1/2 Octave Band Center Frequency	63 Hz	80 Hz	100 Hz	125 Hz	160 Hz	200 Hz	250 Hz	315 Hz	400 Hz	500 Hz	<b>STC 25</b>
Transmission Loss	8 dB	10 dB	11 dB	10 dB	7 dB	7 dB	11 dB	17 dB	23 dB	28 dB	
1/2 Octave Band Center Frequency	630 Hz	800 Hz	1000 Hz	1250 Hz	1600 Hz	2000 Hz	2500 Hz	3150 Hz	4000 Hz	5000 Hz	
Transmission Loss	33 dB	36 dB	39 dB	41 dB	41 dB	40 dB	41 dB	44 dB	46 dB	50 dB	

**TEXAS**  
10111 East Barkhead Road  
Aledo, TX 76008  
Phone 817 441-5558  
Fax: 817 441-5561

**PENNSYLVANIA**  
1215 Henderson Ave.  
Washington, PA 15301  
Phone: 724 208-0145

**CORPORATE OFFICE CALIFORNIA**  
13806 Inglewood Avenue  
Hawthorne, CA 90250  
Phone: 310 879-8833  
Fax: 310 331-1538

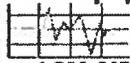
**COLORADO**  
1400 18th St., Suite 400  
Denver, CO 80202  
(303) 818-5322

**LOUISIANA**  
1442 Hawn Avenue, Suite 1B  
Shreveport, LA 71107  
Phone: 817 441-5558  
Fax: 817 441-5561

Field Office:  
**Napa California Office**  
(707) 252-9019

**ENVIRONMENTAL NOISE CONTROL, INC.**



**Test Equipment Depot**  
  
 1-800-517-8431

99 Washington Street  
 Melrose, MA 02176  
 Phone 781-565-1400  
 Toll Free 1-800-517-8431

▶ Visit us at [www.TestEquipmentDepot.com](http://www.TestEquipmentDepot.com)

**EXTECH**  
 INSTRUMENTS

Product **DATASHEET**

**Sound Level Alert with Alarm**

Built-in LEDs alert user when sound level is too high or too low

**Features:**

- Bright LEDs (red flashing or green) alert user when sound level is too high or too low – LEDs can be read from 30m (100ft)
- Continuous Monitoring of Sound Level
- Ideal for industrial, hospital, auditoriums, schools and other areas where there is a need for being alerted when sound level reaches set point
- Meets ANSI Type 2 and EN 60651 accuracy, specs compliant to OSHA
- User settable high or low limit (30 to 130dB) indication with output to drive external relay module
- Wall, desk or tripod mount
- Microphone rotates 180° for desired placement. Optional 15ft (5m) microphone extension cable for remote monitoring
- Complete with AC adaptor, microphone wind cover, wall, desk or tripod mount (optional Tripod TR100)

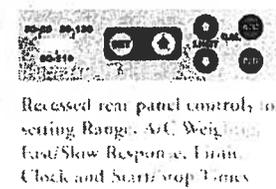


**Applications:**

- Industrial, Hospitals, Classrooms, and special quiet zones – When the sound level exceeds the HI set point the RED LEDs flash and can be seen from 100 ft (30m).
- Speakers/Educators/Instructors, Auditoriums and Theaters – The user can set the SL130 so the RED LEDs flash when the sound level is below the LO set point where people in the audience may not be able to hear. When the sound level is above the LO set point, the GREEN LEDs indicate the sound level is acceptable. The user can reverse the Red and Green LEDs activation per user color preference.



Selectable two-colored LEDs (Green and Red) alert user when reading is above or below setpoint



Recessed rear panel controls for setting Range, AC Weighting, Fast/Slow Response, Limit, Clock and Start/stop Times



Optional DC Alarm Relay Module with 9 foot (3m) cable

CE

<b>Specifications</b>	Display	4.6 x 3.125" multifunction LCD
	Frequency bandwidth	31.5 Hz to 8 kHz
	Microphone	0.5" Electret Condenser Microphone (removable)
	Measurement ranges	30 to 80dB, 60 to 110dB, 80 to 130dB
	Frequency weighting	A and C (Programmable)
	Response time	Fast (125ms) / Slow (1s) (Programmable)
	Resolution	0.1dB
	Alarm output	3.5mm Mono Phone Plug, Maximum: 3.4mA @ 5 VDC
	Minimum Output	Voltage: 2.5 VDC
	Power	AC/DC Adaptor for full functions; 8xAAA batteries for monitoring function only without LED alert
	CE/Warranty	CE approved / 1 year warranty
Dimensions / Weight	8.75x7.1x1.25" / 0.63 lbs. (22x18x3.2mm / 285g)	

**Ordering Information:**

- SL130G** ..... Sound Level LED Alert, 110VAC Adaptor
- SL130G-NIST** ..Sound Level LED Alert with NIST certificate

**Accessories**

- SL125** ..... Remote Microphone cable 15' (4.5m)
- SL124** ..... DC Alarm Relay Module 9 foot cable (3m)
- SL123** ..... AC Alarm Relay Module 9 foot cable (3m)
- TR100** ..... Tripod (for meters with Tripod mount feature)
- 407766** ..... Sound Level Calibrator, 94/114dB

"Make mine an Extech!"  
[www.extech.com](http://www.extech.com)

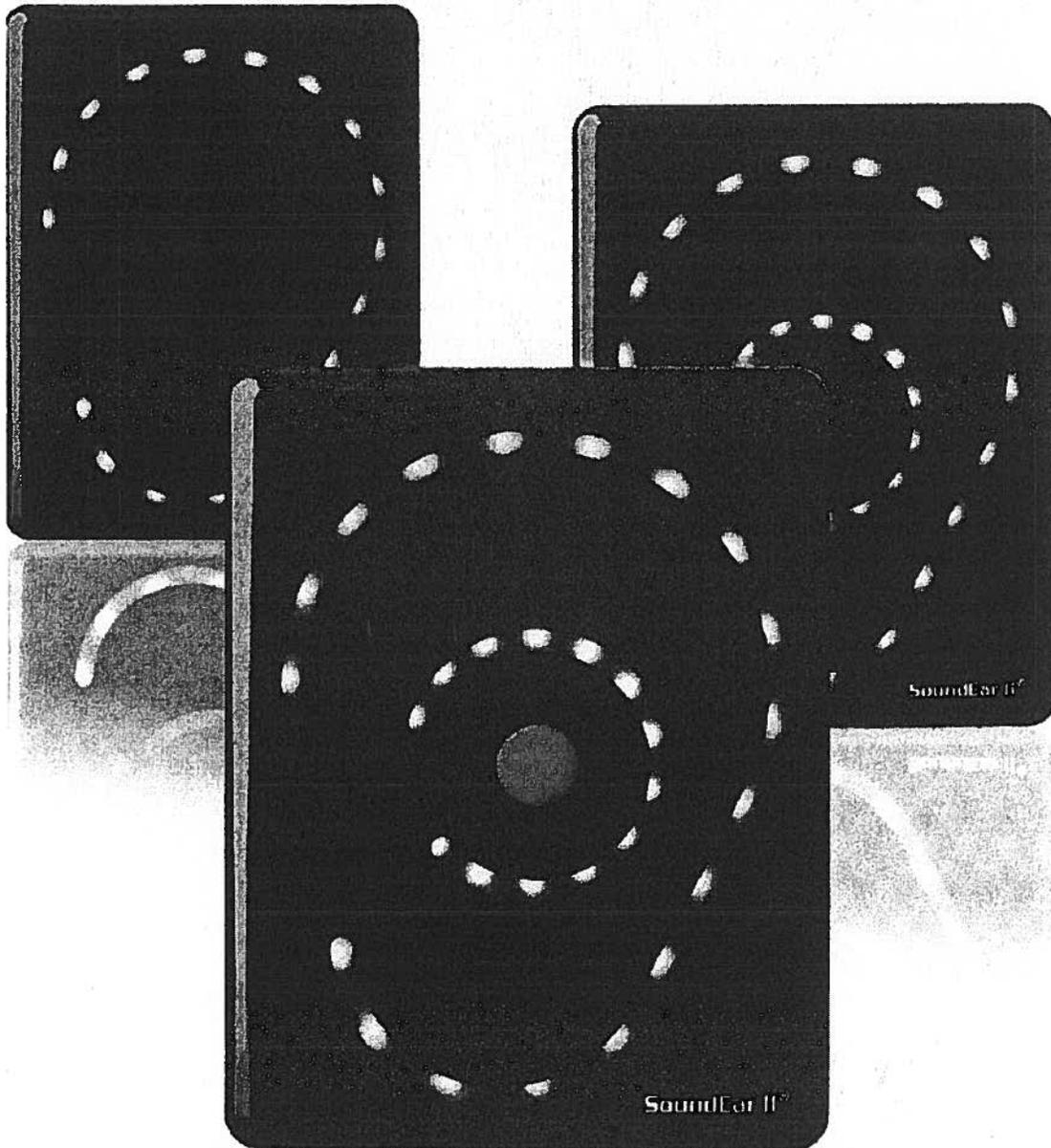


▶ Back to the Extech SL130 Product Info Page

NoiseMeters Inc

# SoundEar II<sup>®</sup>

The sound of a good working environment



**NoiseMeters Inc.**

United States ▼

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Tel. 888-206-4377

info@noisemeters.com

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## SoundEar II Noise Warning Sign

Noise Sign | Data Logging | Applications | Installation | Options

### Music Noise Monitoring

Music from clubs, discos and even restaurants and hotels can cause problems for local residents and be at dangerous levels for staff. The SoundEar II Noise Sign is the perfect solution to keeping control of the noise and monitoring the effectiveness of controls.

- Club, disco, nightclub and restaurant noise monitoring
- Protect bar and club staff from dangerous noise levels
- Avoid noise complaints from residents
- Inform DJ or live band when the levels are too high



Entertainment Noise

The **SoundEar II Noise Warning Sign** can be set to light first the yellow and then the red lights when the noise level is above the set limit. See the **SoundEar II web page** for more information on the sign itself.

One of the major problems of controlling noise levels in clubs is that of **human perception**. If the music is to somebody's taste it will not sound so annoying as to whom it is not. On top of this, after just a short time being exposed to high levels the ear becomes less sensitive so it is very difficult to decide whether the level is too high without the use of a noise level measuring device such as the SoundEar.

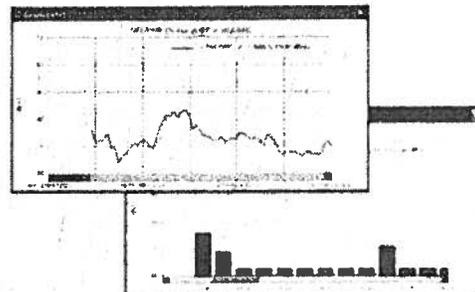
The SoundEar is mounted on the wall using a single screw and plugs into the power using the adapter provided. It is very quick and easy to install.

### Evidence of Compliance - Data Logging

The data logging module for the SoundEar stores the average sound level every five minutes, giving evidence of compliance (or non-compliance) with limits set. If you need to see how the levels have been in your absence then this is the ideal option.

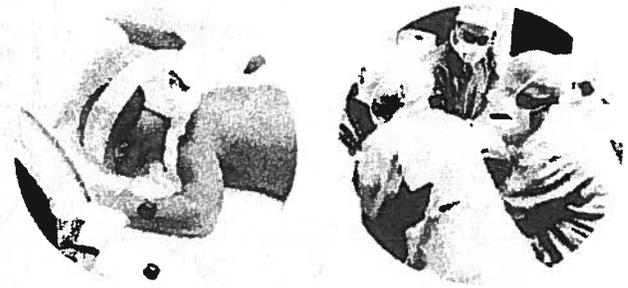
The recordings can be downloaded to a computer using the SoundLog software that is included with the logging module.

Please see the **Data Logging** web page for more information.



# SoundEar II®

The sound of a good working environment



Many hospital patients complain about too much noise. This includes noise from medical equipment, staff and visitors, closing doors etc.

Research has shown that noise levels above 50 dB(A) delay recovery and rehabilitation periods, thereby causing patients to stay for an unnecessary, longer period of time due to bad acoustic and sound environments within modern hospitals.

Hospitals of the future focus on lower noise levels. Not only does a good acoustic environment facilitate recovery, it also leads to better sleep patterns and higher levels of patient and staff well-being.

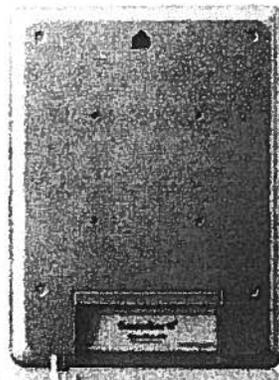
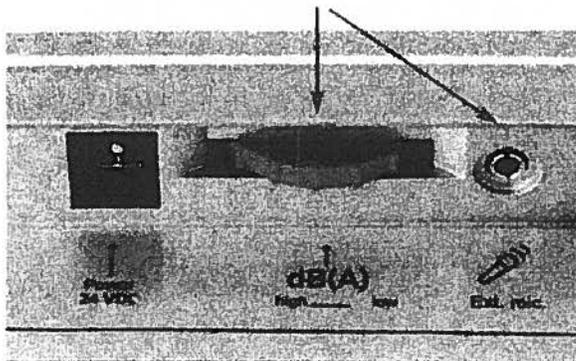
Let SoundEar II® help you save money by reducing patient hospitalization periods and staff sickness absence.

SoundEar II® is mounted onto a wall, showing the noise level in an easy to understand manner, and it gives a warning whenever the noise level gets too high. SoundEar II® is a good system to utilize in particularly sensitive hospital areas:

- Neonatal units
- Operating rooms
- Recover rooms
- Rooms with several beds
- Quiet areas
- Waiting rooms

You can pre-set your SoundEar II® to provide a visual warning sign consisting of a flashing red light at 16 different noise limits ranging from 40 to 115 dB(A). Use the red wheel at the bottom of the device to select the desired noise limit. Our website contains information on suitable noise limits.

SoundEar II® can be connected to an external microphone.



## Technical Data

**Standards:** 60601-1 Medical electrical equipment  
Part 1: General requirements for Basic safety and essential performance.  
60601-1-2: Medical electrical equipment  
Part 1-2: General requirements for basic safety and essential performance.

## Mechanical features:

Cabinet: Shockproof acrylic  
Measurements: length: 256mm,  
width: 205mm, height: 46mm  
Weight: 1.5 kg

## Electrical features:

Power supply: 24 V DC

**Temperature:** During operation: 0°C to 50°C  
Storage: -20°C to 60°C

## Dampness and dust:

IP42

## Measurement parameters:

Frequency: 20Hz to 16kHz  
Scope of measurement: 40dB to 115dB  
Frequency weighting: A  
Time weighting: Slow (1 sec)  
Deviation: ±3dB

## SoundLog

A data log that saves measurements for up to four weeks is available for the SoundEar II® system. SoundEar II® measures sounds and the measurements are saved by the data log. The computer program delivered along with the data log allows the measurements from the last four weeks to be shown in a printable graph.

**NoiseMeters Inc**

Tel: 888 206 4377  
Email: [info@noisemeters.com](mailto:info@noisemeters.com)  
Web: [www.noisemeters.com](http://www.noisemeters.com)

**Miller, Christopher L CIV NG COARNG (US)**

*Permit # 22*

**From:** Doug Ryan <ryandl@co.larimer.co.us>  
**Sent:** Monday, October 12, 2015 1:25 PM  
**To:** Miller, Christopher L CIV NG COARNG (US)  
**Cc:** Madson, Karin  
**Subject:** Septic System File for Windjammer  
**Attachments:** Windjammer Sewer System.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

This email was sent from a non-Department of Defense email account, and contained active links. All links are disabled, and require you to copy and paste the address to a Web browser. Please verify the identity of the sender, and confirm authenticity of all links contained within the message.

Christopher,

It was nice to meet with you this morning.

Attached is the permit for the repair sewer system installed at the Windjammer in 1992. The map on the second page is our inspector's as-built drawing. It shows two sewer lines coming out of the building (I think the upper one is to a grease trap). Both lines then flow into a 1,000 gallon tank, and then to a 500 gallon tank. Just below the 500 gallon tank is a diverter valve that transfers wastewater from the older leach field to the new 42x30 leach field. It appears to me that the diverter valve is designed to be able to transfer wastewater to either of the fields. That must mean that the older leach field had some capacity, but could not handle the entire load.

As we talked about this morning, that leach fields need to be protected from vehicle traffic or parking.

Doug Ryan  
 Larimer County Department of Health and Environment  
 1525 Blue Spruce Drive  
 Fort Collins CO 80524

(970) 498-6777

ryandl@co.larimer.co.us <Caution-mailto:ryandl@co.larimer.co.us >

# APPLICATION AND PERMIT FOR INDIVIDUAL SEWAGE DISPOSAL SYSTEM



**LARIMER COUNTY HEALTH DEPARTMENT**  
363 Jefferson Street  
FORT COLLINS, COLORADO 80524

LARIMER COUNTY COLORADO

1.  $\frac{1}{4}$ ,  $\frac{1}{4}$ ,  $\frac{1}{4}$ , S. 34 T. 5 R. 70
2. Subdivision \_\_\_\_\_
3. Lot \_\_\_\_\_ Block \_\_\_\_\_ Filing \_\_\_\_\_ Zoned \_\_\_\_\_
4. New System \_\_\_\_\_ Repair  New Vault \_\_\_\_\_
5. Address/Location 3421 Willow Lake Rd
6. Owner of Record Jammerbourg Address \_\_\_\_\_ Ph. (970) 463-1111
7. Agent \_\_\_\_\_ Address \_\_\_\_\_ Ph. \_\_\_\_\_
8. System Contractor Self Address \_\_\_\_\_ Ph. \_\_\_\_\_
9. Building Type Commercial Basement Bathroom \_\_\_\_\_ Design Capacity \_\_\_\_\_
10. Lot Size \_\_\_\_\_ Slope \_\_\_\_\_ Perc. Rate/H.C. \_\_\_\_\_ Depth to Bedrock \_\_\_\_\_
11. Depth to water Table \_\_\_\_\_ Potable Water Supply well Aquifer \_\_\_\_\_
12. Water District \_\_\_\_\_
13. Sanitation District > 400 ft
14. Nearest Location of Public Sewer To Building \_\_\_\_\_
15. Exhibits check: Plot Plan \_\_\_\_\_ Eng. Geol. Report \_\_\_\_\_ Engineers Design \_\_\_\_\_
16. Owner/Agent Signature Kied L. Watson Date \_\_\_\_\_
17. Engineer Signature \_\_\_\_\_ P.E. Reg. # \_\_\_\_\_ Date \_\_\_\_\_
18. Fee of \$ 75.00 payable at time Permit is issued. + 25.00 for copy fee - pd. 8/19/92
19. Plot plan on reverse of this form.

**MICROFILMED**

Environmental Health  
(303) 221-7496

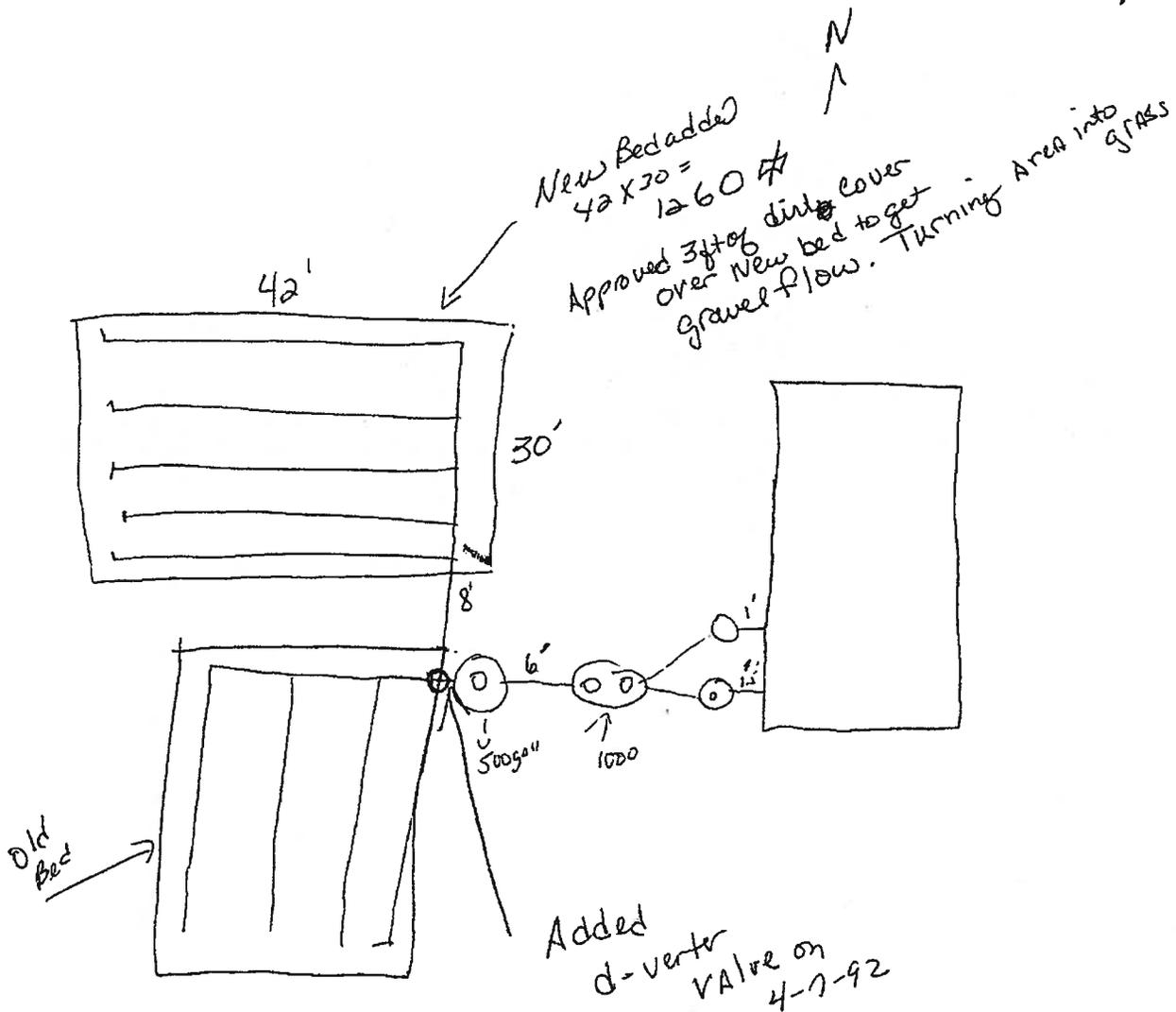
Receipt # 03112 BP# \_\_\_\_\_

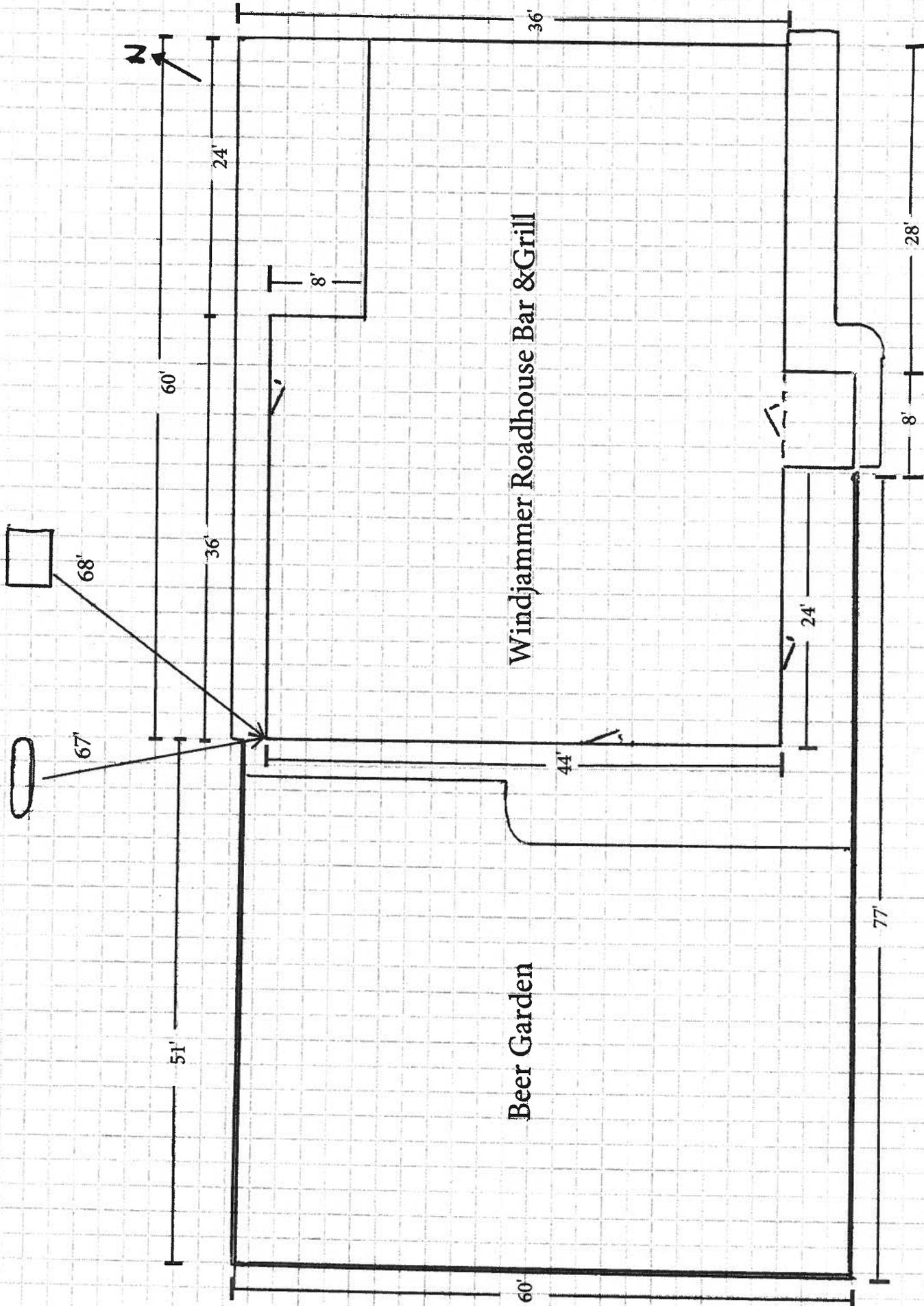
Permission is hereby granted to the owner or his agent to perform the work indicated below in accordance with the Larimer County Individual Sewage Disposal Regulations and is conditional upon the final installation approval of the Larimer County Health Department. This permit is to remain in full force for the duration of the Larimer County Building Permit, or 120 days after its issuance, where applicable, providing it is not revoked for non-compliance. The issuance of this permit does not constitute assumption by the Department or its employees of liability for the failure or inadequacy of the sewage disposal system.

20. Type and design of System Keep existing septic tank and add 110 gallon of absorption bed. Need to add minimum of 110 gallons of absorption bed. Minimize all health Dept contact from fig 2 of L.C.H.D. S.P. (Design Code R2(1))
21. Maintenance Schedule Area work as needed. Every 3-4 yrs.
22. Please notify the department 24 hours in advance of backfilling to obtain final inspection for issuance of "Occupancy Certificate".

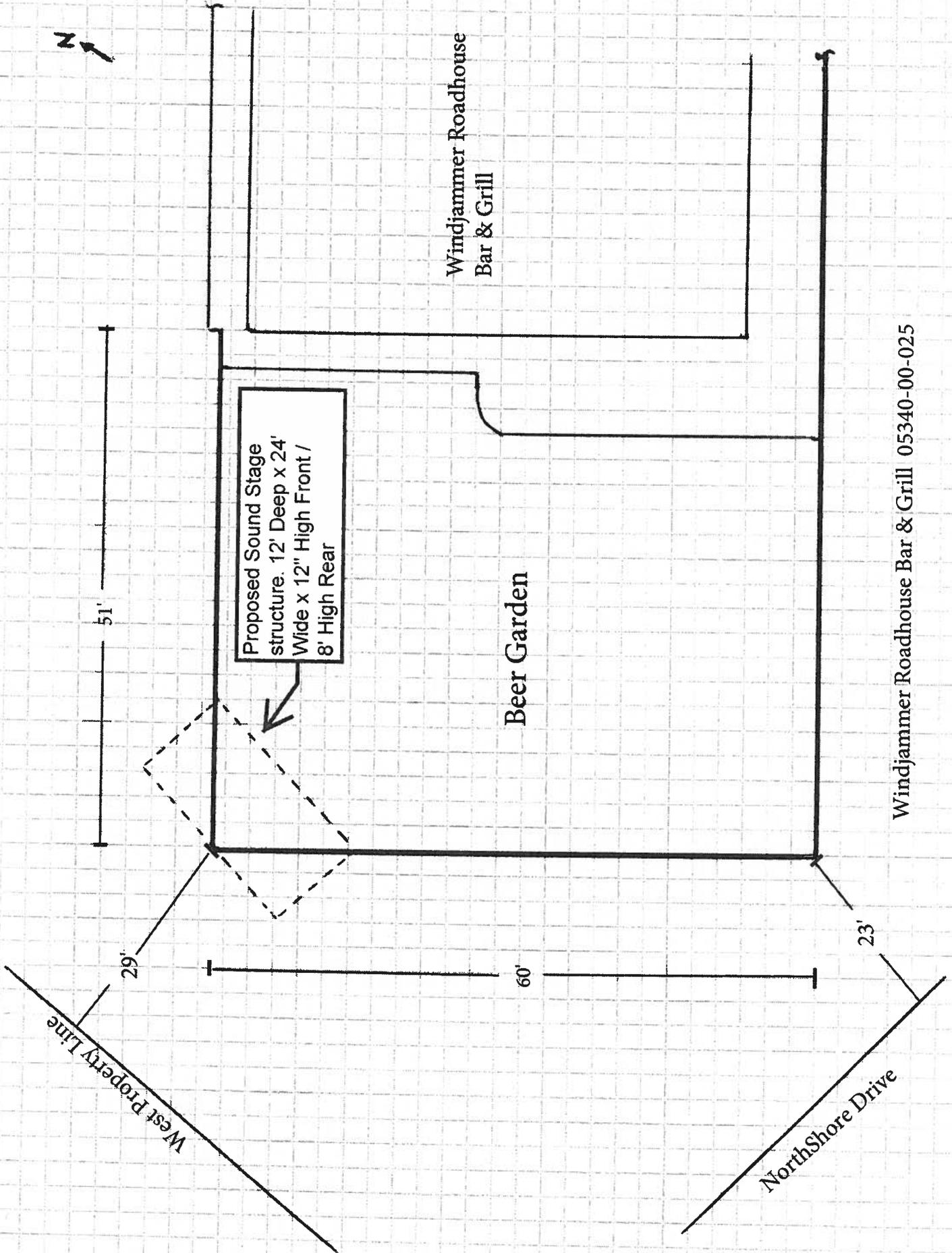
Approval Signature	Date	Approval Signature	Date
23. Site Inspection: <u>Sue Schewe</u>	<u>4-1-92</u>	Sanitation District:	_____
24. Preliminary: <u>Sue Schewe R.P.S.</u>	<u>7-1-92</u>	Occupancy Permit Signed:	_____
25. Final Inspection: <u>Sue Schewe R.P.S.</u>	<u>4-7-92</u>	And Transmitted By:	_____

Route: white - owner; pink - system contractor; Tag Copy - File.





Windjammer Roadhouse Bar & Grill 05340-00-025



Windjammer Roadhouse  
Bar & Grill

Proposed Sound Stage  
structure. 12' Deep x 24'  
Wide x 12" High Front /  
8' High Rear

Beer Garden

Windjammer Roadhouse Bar & Grill 05340-00-025

51'

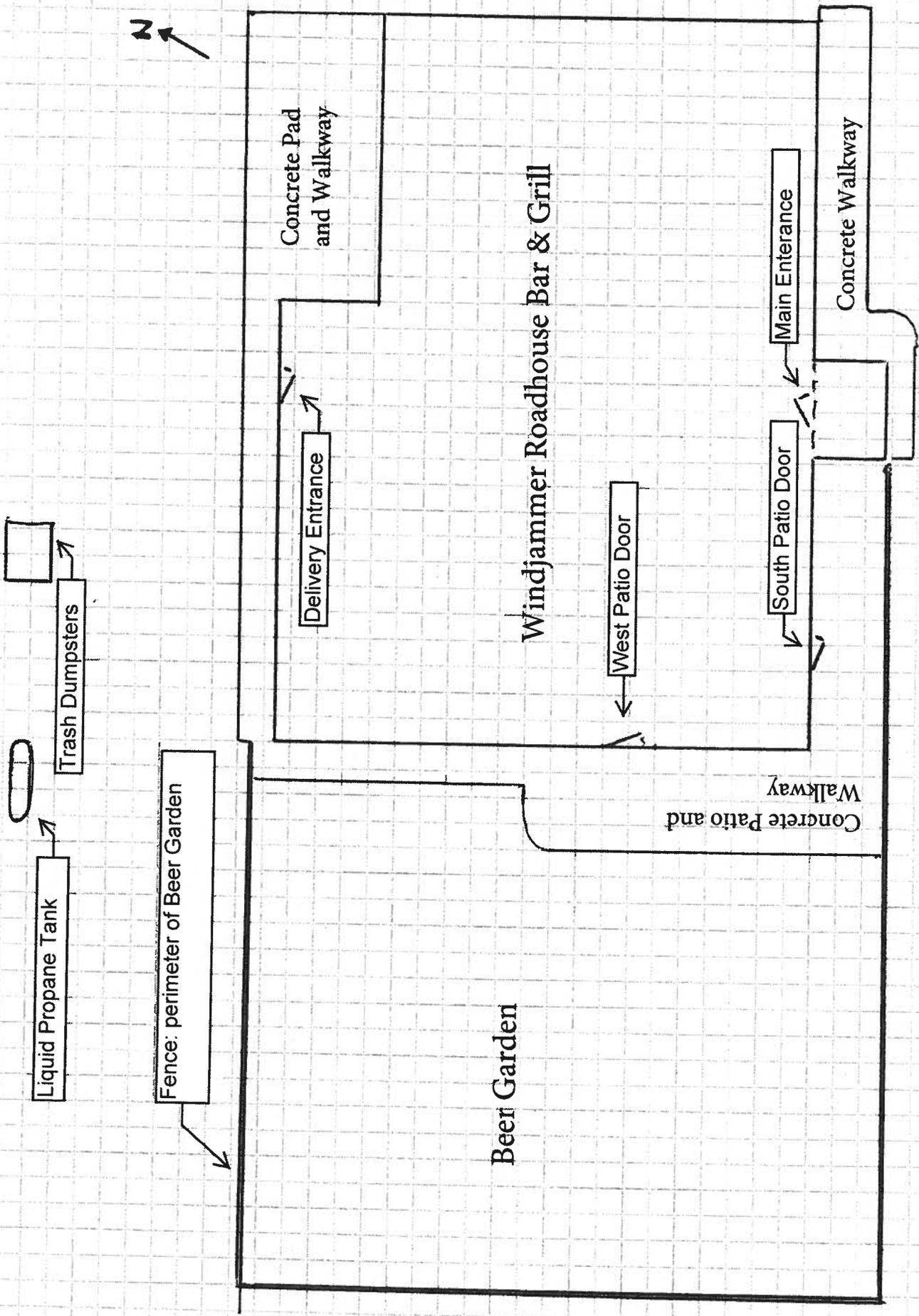
29'

60'

23'

West Property Line

NorthShore Drive



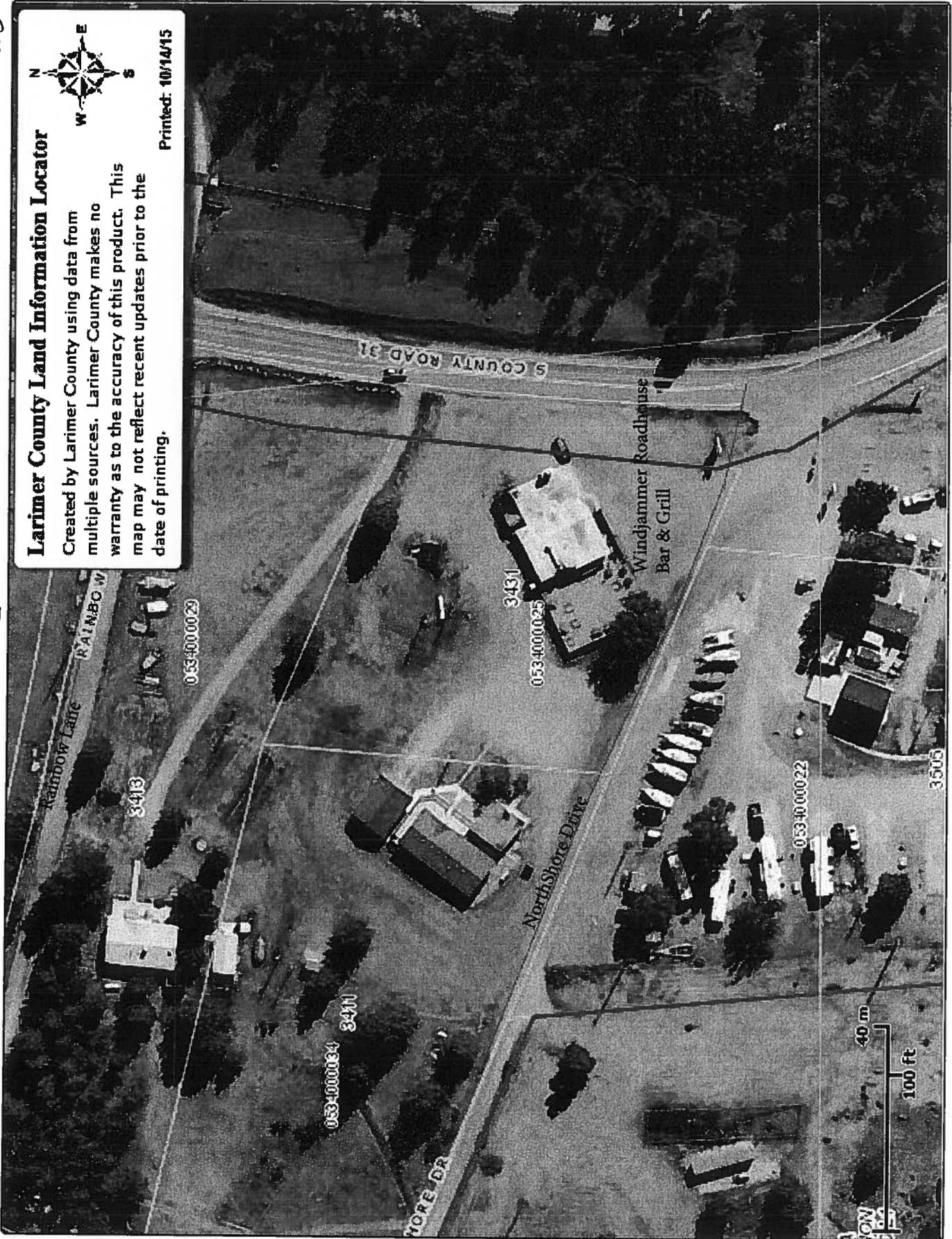
Windjammer Roadhouse Bar & Grill 05340-00-025

1 Tenn #8 @ 534-000-025

### Larimer County Land Information Locator

Created by Larimer County using data from multiple sources. Larimer County makes no warranty as to the accuracy of this product. This map may not reflect recent updates prior to the date of printing.

Printed: 10/14/15



Windjammer Roadhouse  
Bar & Grill

LOW  
BAR

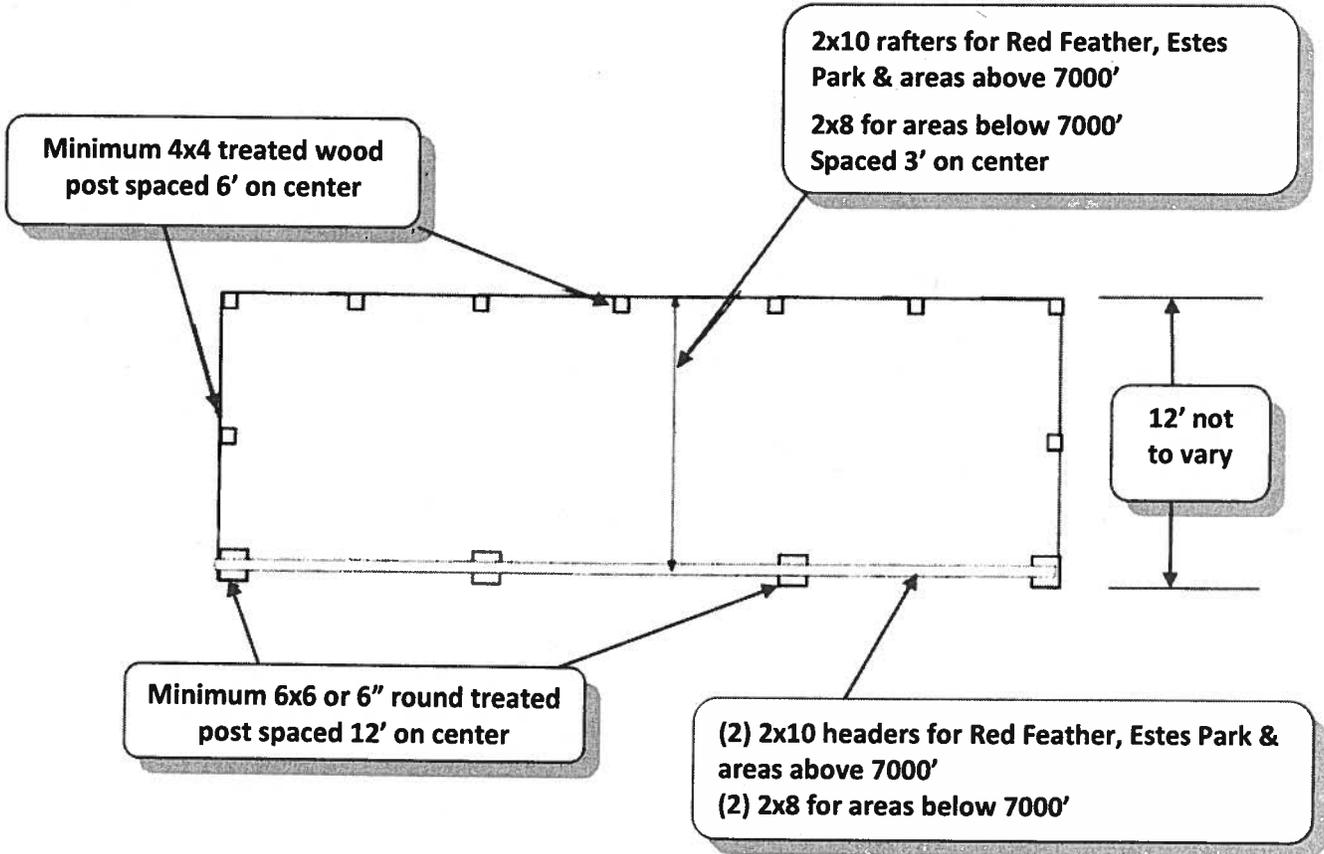
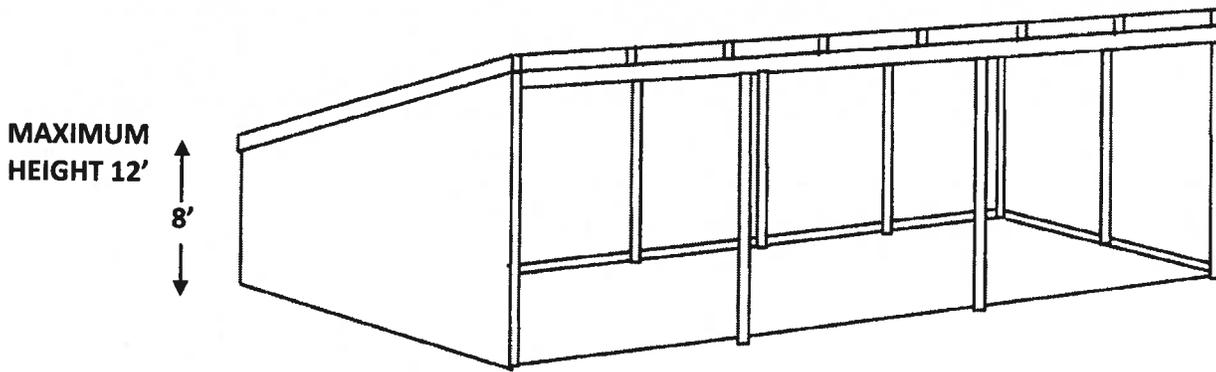


**PLANNING AND BUILDING DIVISION**

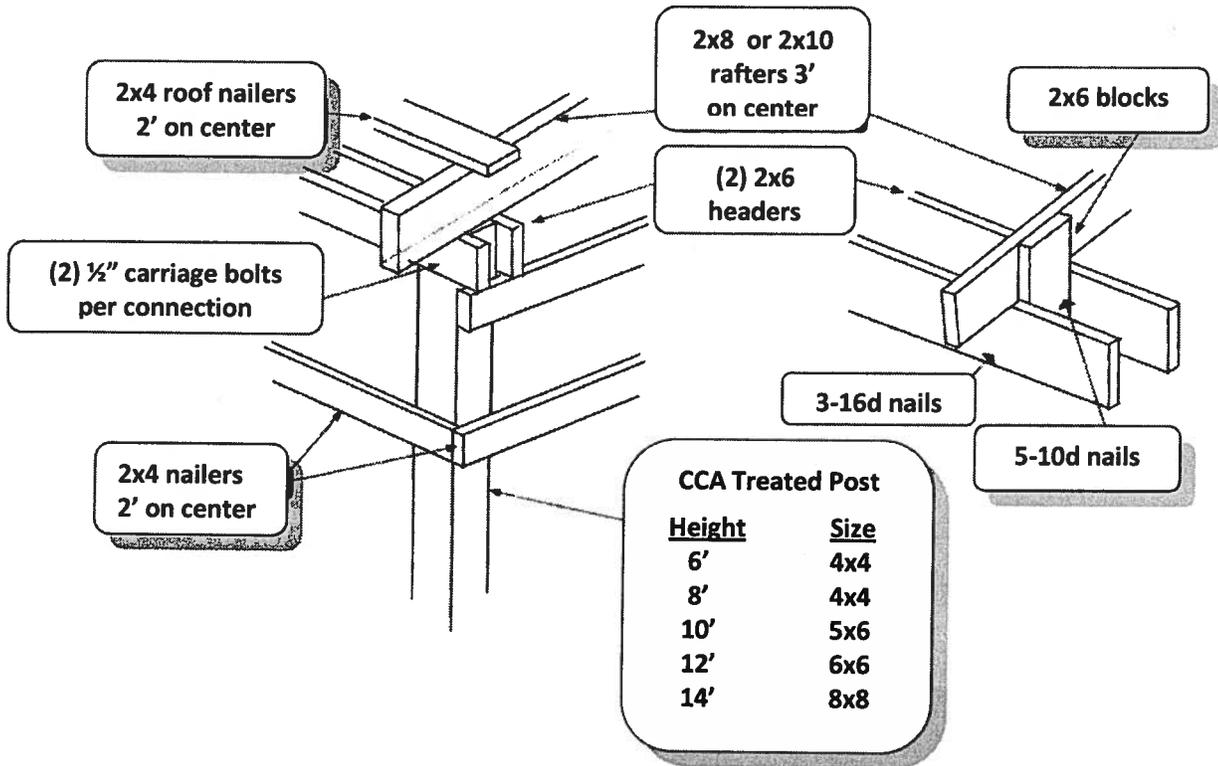
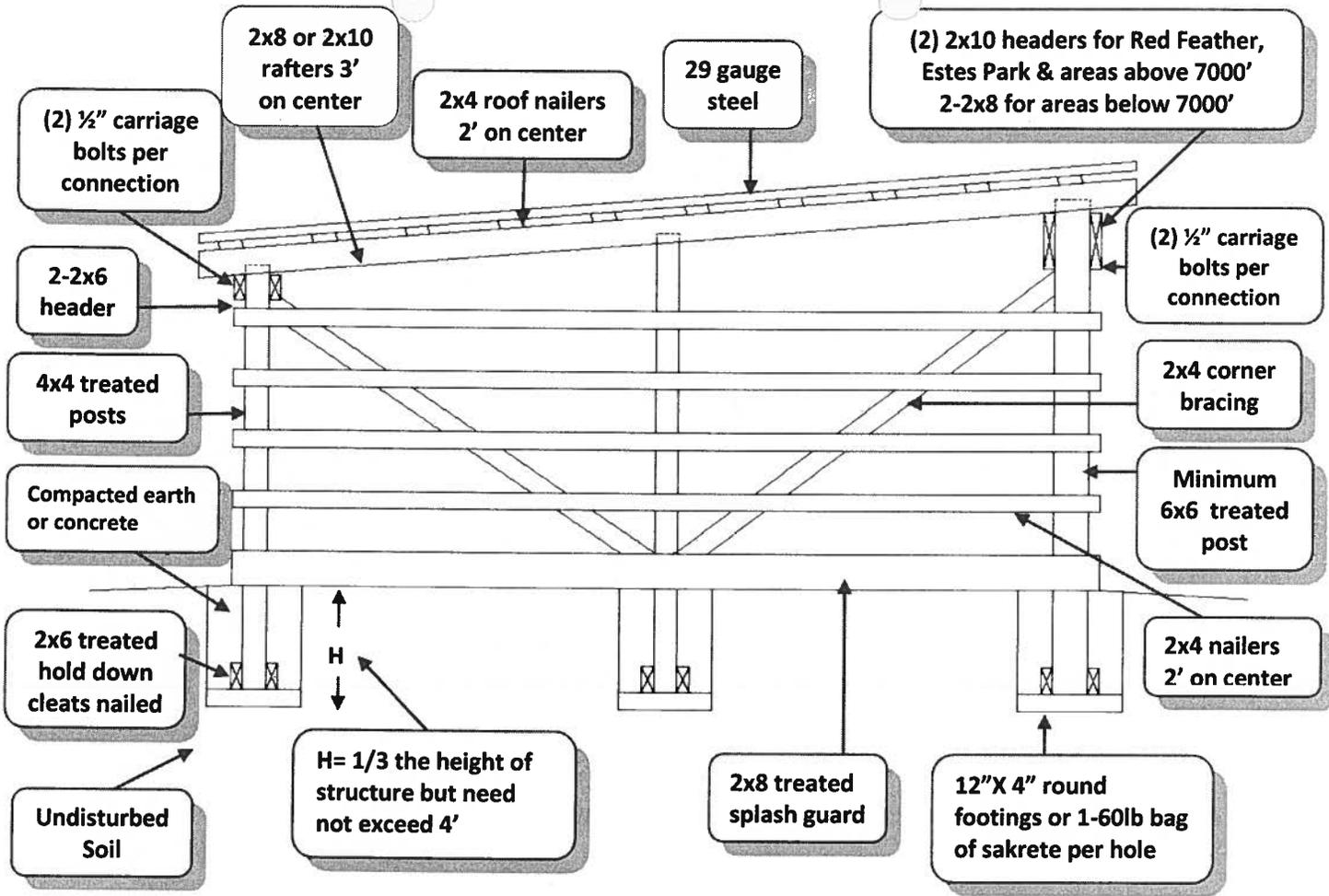
P.O. Box 1190  
 Fort Collins, CO 80522-1190  
 Planning Department (970) 498-7683  
 Building Department (970) 498-7700

# LOAFING SHED

*Sound stage structure w/ interior acoustical barriers*



continued on next page



November 2, 2015

Windjammer Roadhouse & Grill Neighborhood meeting

Reason: Code enforcement and Zoning issues

Start time 6:16 pm

End Time 7:30 pm

6:16 pm Chris Miller opened meeting explaining the reason behind meeting and introducing the Larimer County representatives attending the meeting.

Cause for meeting:

1. According to Larimer County zoning department the "Beer Garden" located on the west side of the building was not properly permitted by the previous owners. The current zoning does not allow for outside liquor and food sales nor live music performances.
2. Due to a Complaint(s) filed with Larimer county code compliance for regarding to noise compliance the Windjammer is not allowed to hold outdoor live music performances until further notice.

Larimer County Representatives:

Tony Brooks - Code Compliance

Karin Madson - Planning & Zoning

Rob Helmick - Planning & Zoning

Karin Madson explained to attendee's the processes for code compliance and Zoning compliance.

Owner Chris Miller displayed slides showing property lines for the business location. Mr. Miller showed the area of the property that is under special exception review of the planning department. Mr. Miller explained a compromise to both issues to the attendees pertaining to the noise complaints.

1. Noise decibel meter
2. Outdoor bands April-October 7pm - 10pm (same operating schedule as campgrounds and marina).

Mr. Miller asked attendees for a raise of hands in favor of or opposed to the use of the "Beer Garden".

There was a majority vote by attendees in favor.

6:30 Chris Miller opened the floor to questions

Scott (Last name)

Question 1: What is the noise ordinance?

Code compliance states that between the hours of 7am and 7pm noise levels cannot go above 55 dba. Noise levels between 7pm and 7am cannot go above 50 dba.

Answer 1: Mr. Miller also explained how the Windjammer planes to adhere to the noise ordinance rules and regulations using a portable decibel meter (2).

Windjammer Roadhouse & Grill Neighborhood meeting

Scott requested the noise ordinance be reexamined by the county.

Jim Gararri (Sp?)

Question 2: What would be the frequency of bands between the months of April and October?

Answer 2: Lisa Miller explained that the music would run 4 days a week. Thursday - Sunday. Evening bands on Thursdays, Fridays, and Saturdays outside depending on weather. Bands on Sundays on patio weather permitting. Mrs. Miller also stated that the frequency is open for compromise.

Mike Dieter

Question 3: Is the noise level requested enforced throughout the county?

Answer 3: County representative, Karin Madson answered stated question.

BJ Nikkel - In opposition

Question 4: Where you aware of the zoning issues in the beer garden when you purchased the property?

Answer 4: Chris Miller answered this question by stating that the Millers were Unaware of the zoning issues due to the fact that the business was purchased as a whole. The business name and LLC was purchased as one. The liquor authority did NOT bring it to attention when the request for license transfer was submitted and approved. The zoning issues were brought to light when repair of an existing fence on the property was about to take place. Nor was it brought to our attention when the food sales license was issued or during recent restaurant health inspection.

BJ Nikkel then stated her opposition to allowing a "Concert" venue at the Windjammer location. This attendee repeatedly referred to the live music supplied by the establishment as a "concert" venue. It was pointed out more than once by several other people that the Windjammer Roadhouse is NOT a Concert venue.

BJ Nikkel also stated that the previous owners never had live music in the beer garden to the west of the property and requested that music only be played occasionally inside of the establishment.

Several neighbors disputed that fact that live music had never been played before at the Windjammer.

Kim Sybrandts (Owner of North Show RV park and Outdoor venue) spoke in defense of BJ on her concerns stating that she understands and supports the opinion that the Windjammer Roadhouse should only hold indoor entertainment because that is what the area is zoned for.

Windjammer Roadhouse & Grill Neighborhood meeting

Mrs. Sybrandts has owned the RV Park and newly outdoor venue for 30 years.

Question 5: Is 55 dba a practical level where live music is involved?

Answer 5: Chris Miller stated that they are in process of gaining approval to test the decibel meters. Until a sound level test can be done he cannot honestly answer that question.

Dick Hughs

Question 6: Have you looked at other venues to see how they mitigate the sound from live music?

Answer 6: Chris Miller answered "Yes" to this question explaining that he is in the process of implementing different ideas that have been observed at different locations. One idea is to build a "sound Box" structure to deflect sound from the west and north mountain directly behind the beer garden.

It was suggested that a sound technician be hired to help with the process.

Tammy Cook (Rock Hill road)

Question 7: There are three levels for decibel reading, A,B & C. What level is the county requesting you comply to?

Answer 7: Chris Miller stated it was level A

Berry (Last Name)

Question 8: Permitting the outdoor venue is approved what are the suggested parameters

Answer 8: Chris Miller explained the use of the decibel meters, the sound box to deflect the noise and the seasonal days and times of future live music in the beer garden.

Joann Tremel (Von Trail)

Question 9: How long is the application process and is it going to affect summer revenue for the establishment.

Answer 9: County rep Karin Madson answered question stating that the process will take at least 4 months as long as everything is done in a timely fashion.

7:15 Chris Miller brought to attention the Charity auctions that are held at the Windjammer Roadhouse during the Poker runs and memorial runs during the year. Mr. Miller asked for a show of hands for or against the use of the property for charity auctions.

The Vote was a majority in favor of the charity auctions

7:20 Chris Miller opened the floor for discussion

### Windjammer Roadhouse & Grill Neighborhood meeting

Kathleen Carol compared the current issue to people buying property next to an airport and then start complaining about the noise level and demanding that the airport be moved to suit them. Mrs. Carrol stated that the Windjammer has been an established part of the mountain long before any of the complainers.

Paul Boerger (house on the Hill) stated that he is happy with how the place is being maintained and ran.

Mr. Boerger suggested opening up a line of communication with the owners Chris and Lisa Miller before going to the county. He has had many conversations with the Miller's in the past and they have always been very welcoming to open communication. Mr. Boerger also suggested planting trees as a sound buffer for the live music.

Mike Dieter pointed out that there are many other areas of the mountain that have a very high level of noise including but not limited to the RV Park, the marina, the camp grounds and several personal houses that have parties on the weekends. If the Windjammer has to comply with the noise ordinance then the whole mountain should follow suit.

Several people expressed their gratitude to the Millers for cleaning up the property and doing a good job of putting a family friendly touch to the establishment.

7:30pm meeting was closed

Note taker: Rainia Stephens

Windjammer Roadhouse Bar & Grill  
3431 S CR31  
Loveland, CO 80537

**SUBJECT: Owners Response to Neighborhood Meeting 05340-00-025**

**1. Summary:**

The Special Exception review for the Windjammer Roadhouse Bar & Grill required a neighborhood meeting, which was conducted on 2 November 2015. The following information is the Owners response to the meeting.

**2. Question 1: What is the noise ordinance?**

- a. Code compliance states that between the hours of 7am and 7pm noise levels cannot exceed 55 dBA. Noise levels between 7pm and 7am cannot exceed 50dBA.

R1. We plan to use portable decibel meters in the future to adhere to the ordinance if the special exception is granted. The portable meters were on hand at the neighborhood meeting for review.

R2. We have also consulted with a sound engineer, as of 7 November, and a dBA meter is available with visual warning so that if the set parameters of the meter are exceeded the band and/or owners are aware that adjustments are necessary.

**3. Question 2: What is the frequency of bands between the months of April and October?**

- a. Lisa Miller explained that the music would run 4 days a week. Thursday - Sunday. Evening bands on Thursdays, Fridays, and Saturdays outside depending on weather. Bands on Sundays on patio weather permitting. Mrs. Miller also stated that the frequency is open for compromise.

R1. We currently have a band on Thursday Evenings from 6-9 from May – Sep and we would like to continue this. We are willing to end the music at 8 p.m. if the neighbors feel strongly about this.

R2. We currently have a band every Friday Evening in the Beer Garden from 7-10 p.m. We are willing to change this to have bands on the 2<sup>nd</sup> and 4<sup>th</sup> Friday of the Month from Memorial Day through Labor Day from 7-10 p.m.

R3. We currently have a band on Saturday Evenings in the Beer Garden from 7-10 p.m., we are willing to change our Saturday evening music to the hours of 6-9 p.m. in the Beer Garden.

R4. We currently have live music in the Beer Garden on Sunday afternoons anywhere from 2-6 p.m. depending on the activity i.e. auction, benefit etc., and would like to continue this. This would not necessarily be a weekly event.

R5. We currently have live music in the Beer Garden on both Memorial and Labor Day from approximately 2-5 p.m. or 3-6 p.m., and would like to continue this as all the neighbors and campers like to start and end their holiday weekend this way.

SUBJECT: Owners Response to Neighborhood Meeting 05340-00-025

4. Question 3: Is the noise ordinance enforced throughout the county?
  - a. Karin Madson, Larimer County, answered the question. Yes.

R1. No response from the owners necessary.

5. Question 4: Where you aware of the zoning issues in the beer garden when you purchased the property?
  - a. Chris Miller answered this question by stating that the Millers were Unaware of the zoning issues due to the fact that the business was purchased as a whole. The business name and LLC was purchased as one. The liquor authority did NOT bring it to our attention when the request for license transfer was submitted and approved. The zoning issues were brought to light when repair of an existing fence on the property was about to take place. Nor was it brought to our attention when the food sales license was issued or during recent restaurant health inspection.

R1. No additional response from the owners is necessary.

6. Question 5: Is 55 dBA a practical level where live music is involved?
  - a. Chris Miller stated that they are in process of gaining approval to test the decibel meters. Until a sound level test can be done he cannot honestly answer that question.

R1. We have consulted with a sound engineer to see if the dBA levels are achievable. On 7 November, we met with the engineer at the Windjammer Roadhouse Bar & Grill. We discussed possible construction of the sound stage and noise mitigation materials that are best for the issue at hand. Preliminary sounds tests were performed and measurements taken at the property lines in accordance with the ordinance. The sound engineer is planning on giving us the preliminary findings along with suggestions by 13 November 2015. The meeting ended on a very positive note that the levels being required by the county should be achievable.

7. Question 6: Have you looked at other venues to see how they mitigate the sound from live music?
  - a. Chris Miller answered "Yes" to this question explaining that he is in the process of implementing different ideas that have been observed at different locations. One idea is to build a "sound Box" structure to deflect sound from the west and north mountain directly behind the beer garden.

R1. See response in paragraph 6 above; question 5.

8. Question 7: There are three levels for decibel reading, A,B & C. What level is the county requesting you comply to?
  - a. Answer 7: Chris Miller stated it was level A

**SUBJECT: Owners Response to Neighborhood Meeting 05340-00-025**

9. **Question 8: Permitting the outdoor venue is approved what are the suggested parameters**
  - a. **Chris Miller explained the use of the decibel meters, the sound box to deflect the noise and the seasonal days and times of future live music in the beer garden.**

**R1. See responses in paragraph 3, question 2 above.**

10. **Question 9: How long is the application process and is it going to affect summer revenue for the establishment.**
  - a. **County rep Karin Madson answered question stating that the process will take at least 4 months as long as everything is done in a timely fashion.**

**Lisa and Chris Miller  
Owners**

*Windjammer Roadhouse  
Bar & Grill*

Neighborhood Meeting

2 November 2015

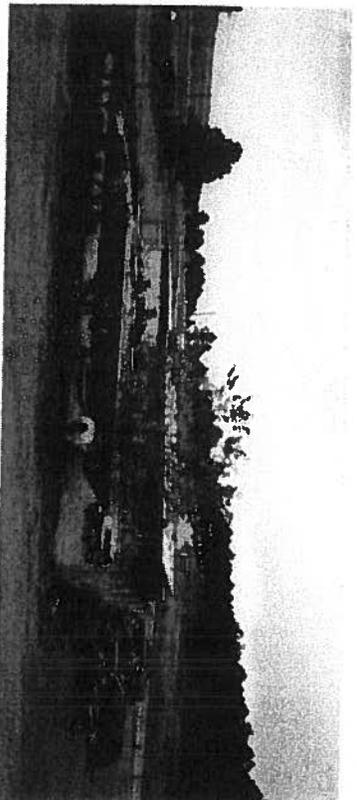
6 PM



## Discussion Points

Continuation of food and beverage service, to include alcohol, within the boundaries of the beer garden.

Historical photos show this has been taking place since 1980 and prior.



# Discussion Points

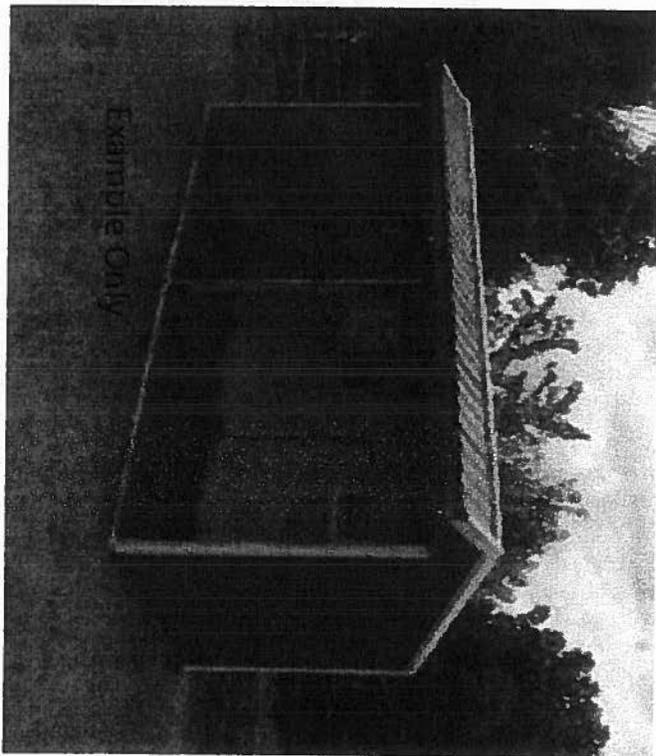
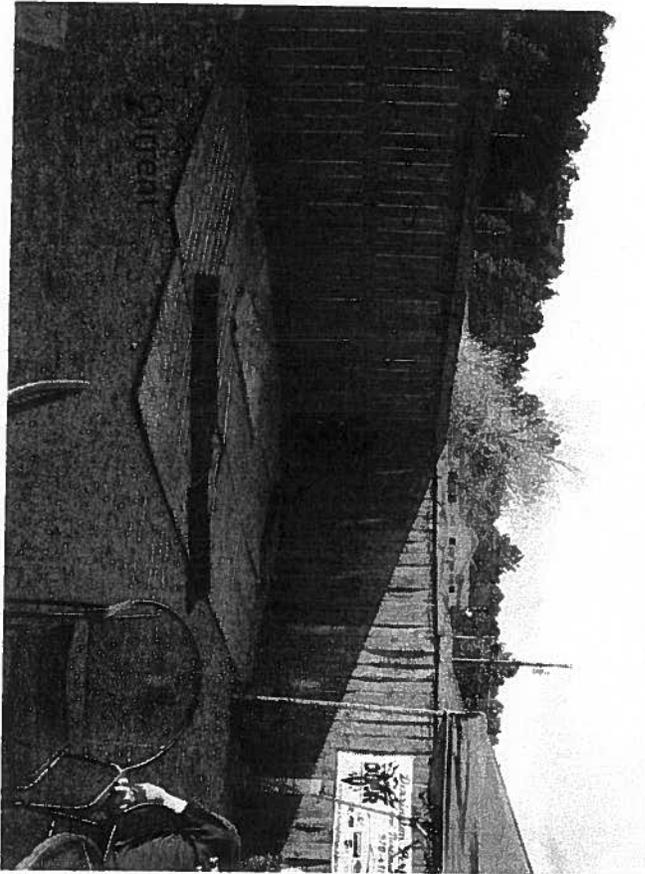
## Outside Music Performances

Compliance with Ordinance No. 97-03; Noise Levels in Unincorporated Larimer County.

Construction of outside sound stage to mitigate noise levels to the North and West of the beer garden.

Seasonal Dates and Hours outside musical performances can take place in conjunction with Larimer County Campground and Marina.

# Sound Stage Option



## Discussion Points

### Charity Auctions

To hold charity auctions in conjunction with charity bike rides during the summer months. This is normally during the months of April through October.

# Neighborhood Concerns

NAME	ADDRESS	SIGNATURE
1 Marlene Henneberg	9101 Four Wheel Dr <sup>Loveland</sup> 80537	Marlene Henneberg
2 Lynette Hansher	9101 Four Wheel Dr Loveland	Lynette Hansher
3 DENNIS HENNEBERG	9101 FOUR WHEEL DR	Dennis Henneberg
4 MARTINI TREML	3812 FAUN TRAIL	Must B D
5 GREGORY MYLES	8701 ROCK HILL RD.	Gregory Myles
6 TAMMIE COLE	8701 Rock Hill RD	Tammie Cole
7 RUE MELBOURNE	8701 Rock Hill RD	Rue Melville
8 E. T. TRATCHER	3911 RAINBOW LAKE	E. T. Tratcher
9 James H. Casper	8712 RAZA ROAD	James H. Casper
10 Rainda Stephens	3754 Hwy 34 <sup>Loveland</sup>	Rainda Stephens
11 Sued Guinn	8821 5th St SW <sup>Loveland</sup>	Sued Guinn
12 Cassie Truax	2821 5th St SW Loveland	Cassie Truax
13 Judy Bonifant	1554 Shiloh St NW <sup>Loveland</sup>	Judy Bonifant
14 Dorothy Johnson	4601 Fawnwood Lane	Dorothy Johnson
15 Carolyn Cole	4061 Fawn Bow Lane	Carolyn Cole
16 Norm & Linda Smith	3912 Fawn Tr.	Norm & Linda Smith

	NAME	ADDRESS	SIGNATURE
17	Jed Shepard	6201 Four Wheel Dr	[Signature]
18	Teryl Shepard	"	"
19	Staci Swift	2212 Eagle Dr.	[Signature]
20	Grand Kethum Howell	8701 Cottontail Rd.	Kethum Howell P.O. Box 7, Rye
21	Bonnie Staggs	3413 S CR 31	Bonnie Staggs
22	Dave Watson	4100 Stone P	[Signature]
23	PAUL BOERGEN	9829 REPAIRS WAY	Paul Bergen
24	Patricia Wayne Seale	9001 Four Wheel Dr	Patricia Seale
25	Judy Hughes.	3200 Rainbow Ln	Judy Hughes
26	DICK HUGHES	"	[Signature]
27	Kevin Madath	3225 South Gentry Rd 31	[Signature]
28	Sineg Pelt	1443 Duke Dr	[Signature]
29	Leona Pehl	1443 Duke Dr	[Signature]
30	Bee Hiles	1485 Chur Dr	[Signature]
31	Tom Phadino	3050 Rainbow Lane	[Signature]
32	Jimmy & Karen Peeper	3030 Rainbow Ln	[Signature]

	NAME	ADDRESS	SIGNATURE
33	Keslie & Norm Gaydos	3505 Rainbow Ln Loveland	<i>Keslie Gaydos</i>
34	Ferny & Kym Sybrandts	3505 SEC # 31	<i>Ferny Sybrandts</i>
35	BRETT & AUSSIE CLOUSING	4900 WHEATFRONT DR. LOVELAND	<i>Brett Clousing</i>
36	Michael & Tonya Dexter	4100 Lakeland Dr. Loveland	<i>Michael Dexter</i>
37	Ivy DONNELLYS	4010 WINDY GATE - LOVELAND	<i>Ivy Donnelly</i>
38	JAC LUND	4377 FAUNTTL Loveland	<i>Jac Lund</i>
39	DANA INNES	4377 FAUNTTL Loveland	<i>Dana Innes</i>
40	Sharon & Scott McDonigal	9016 Cotton tail Rd Loveland	<i>Sharon McDonigal</i>
41	DON & CONNIE STACHOWAK	1441 SHELBY DR. BERTHOUS	<i>Don Stachowak</i>
42	Bruce & Peggy Mastin	3305 CHACTUS Loveland	<i>Bruce Mastin</i>
43	Bobby & Fern Mastin	4001 FAUNTL Loveland	<i>Bobby Mastin</i>
44	BQ & Paul Mulhol	3201 Cactus Ct	<i>BQ Mulhol</i>
45	Delicia & Pat Williams	4893 Basswood Dr. Loveland	<i>Delicia Williams</i>
46	AET SILVERSTEIN	6204 W Country KS 4	<i>AET Silverstein</i>
47	Al Sipes	3501 Ranch Road	<i>Al Sipes</i>
48	LOGAN DERRENGTON	6754 W HAWAY 34 LOVELAND	<i>Logan Derrengton</i>

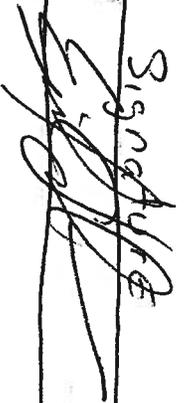
NAME

ERIK JOHNSON

Address

321 Mc Colm St Berthoud

Signature





## DEPARTMENT OF HEALTH AND ENVIRONMENT

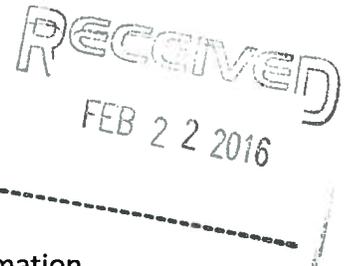
1525 Blue Spruce Drive  
 Fort Collins, Colorado 80524-2004  
 General Health (970) 498-6700  
 Environmental Health (970) 498-6775  
 Fax (970) 498-6772

To: Karin Madson  
 Larimer County Planning Department

From: Doug Ryan *Doug Ryan*

Date: February 18, 2016

Subject: Windjammer Roadhouse SE – Response to Additional Information



The Windjammer Roadhouse Special Exception is a proposal to allow an outdoor patio use with outdoor music during the summer months, and to allow charitable auctions on the premises. My original comments are dated December 2, 2015. My memo today addresses the additional information provided by the applicant about noise.

As we noted previously, noise is an important issue for outdoor music venues. Larimer County has adopted a noise ordinance intended to protect residential properties. The text is available online at <http://larimer.org/policies/noise.htm>.

There are two provisions in the ordinance that are relevant to consider for this application. Section 5 of the ordinance specifies that the maximum sound level at an adjacent residential property line cannot exceed 50 decibels on measured on the "A" scale (dBA) for the nighttime hours of 7:00 PM to 7:00 AM, or 55 dBA during daytime hours. Section 4 of the ordinance prohibits a noise disturbance. The definition of a noise disturbance includes sound ... *of such a volume, frequency and/or intensity that it unreasonably interferes with the enjoyment of life, quiet, comfort or outdoor recreation of an individual of ordinary sensitivity and habit.* Both the decibel limit, and the noise disturbance definition are useful for evaluating compatibility under the land use code standards for a special exception. The decibel limit is an objective standard that can be measured, while the noise disturbance issue is more subjective and relates to public comments that the Planning Commission and Commissioners consider.

In response to the noise issue, the applicant commissioned a sound study from Joe O'Bryan at the Keptone Music Workshop. The report from that study indicates that a sound level test was performed on the property using a 1500 watt public address speaker system. It indicates that music volume in front of the proposed stage area was 85-95 dBA. Measurements taken at the west and north property lines were reported as 65-75 dBA. Measurement at the southeast property line were 55-60 dBA.

The property line measurements were higher than the 50 and 55 dBA nighttime/daytime maximum sound levels specified in the ordinance. In response, the sound study proposed a four-part solution that includes: installing ½" soundboard around the perimeter of the patio area; constructing a pitched roof over the stage area with ½" soundboard; installing rigid foam insulation beneath the stage to reduce low frequency sound traveling to the surrounding area; and installing a permanent noise meter with a warning light to indicated excessive noise. The Kepton Music Workshop report estimates that these measures would reduce sound levels at the property line by 30%, bringing the mitigated levels down to 46 to 53 dBA, and that the noise meter would alert performers and staff of the need to reduce levels if the band was too loud.

The applicant's sound study is useful for estimating the sound impacts. I would note some concerns at this stage of the review that the applicant may wish to address or clarify either before or at the Planning Commission hearing. Those issues are:

1. The noise ordinance decibel standards are expressed as *maximum* A-weighted measurements and not averages or ranges. While it is useful to report measured sound levels in terms of a range, compliance with the county's ordinance is determined in terms of the maximum level measured.
2. The nighttime decibel limit at a property line is 50 dBA, which is lower than the estimated post-mitigation levels. The Special Exception request does not appear to specify hours of operation, but I assume that the bands would play into the evening. Additional mitigation would be necessary for evening hours.
3. The sound study estimates that the sound barrier for the stage and patio areas will provide a 30% sound level reduction at the property lines. It is important to note that sound blocking materials are only effective if the sound barrier breaks the line of sight between the sound source and the residential property. The sound study does not quantify if the barriers will meet that test. In this regard, it can be helpful to present representative cross sections to illustrate the sound barrier placement and performance in a noise mitigation report.
4. The test used a PA system that produced sound levels of 85-95 dBA in front of the stage. It would be helpful to hear from the applicant if that is an accurate representation of the outdoor music they plan.
5. The sound study does not discuss crowd noise. Noise from the audience is noted in many complaints about outdoor music venues. It would be helpful if the sound study could address this additional noise source.
6. The sound study does not indicated if the neighbors were present or notified of during the tests. We did suggest that they be notified at the sketch plan meeting. Their participation at the public hearings will be important in evaluating the issue of a potential noise disturbance, and so their comments on the test would be useful.

Thank you for the opportunity to comment. I can be reached at (970) 498-6777 if there are questions about any of these issues.

cc: Christopher and Lisa Miller



## DEPARTMENT OF HEALTH AND ENVIRONMENT

1525 Blue Spruce Drive  
 Fort Collins, Colorado 80524-2004  
 General Health (970) 498-6700  
 Environmental Health (970) 498-6775  
 Fax (970) 498-6772

To: Karin Madson  
 Larimer County Planning Department

From: Doug Ryan *Doug Ryan*

Date: December 2, 2015

Subject: Windjammer Roadhouse SE



The Windjammer Roadhouse Special Exception is a proposal to allow an outdoor patio use with outdoor music during the summer months, and to allow charitable auctions on the premises.

**Noise.** Based on the initial citizen complaints, staff consultation with the applicant, and notes from the neighborhood meeting it is clear than concerns about noise associated with the outdoor music use is one of the main compatibility issue that needs to be considered.

The application materials correctly point out that the outdoor music venue would be subject to the County's noise ordinance. The ordinance is intended to protect residential properties. It is available online at <http://larimer.org/policies/noise.htm>.

There are two provisions in the ordinance that are relevant to consider here. Section 5 of the ordinance specifies that the maximum sound level at the residential property line cannot exceed 50 decibels on measured on the "A" scale (dBA) evening hours, or 55 dBA during daytime house. Section 4 of the ordinance prohibits a noise disturbance. The definition of a noise disturbance includes sound ... *of such a volume, frequency and/or intensity that it unreasonably interferes with the enjoyment of life, quiet, comfort or outdoor recreation of an individual of ordinary sensitivity and habit.*

Based on our Department's experience, and on complaints from nearby residents, I would anticipate that a regular band setup at the outdoor patio would produce noise that is louder than the decibel standards in the ordinance at the adjacent property lines.

The project description indicates that a noise study and noise mitigation plan will be presented in order to demonstrate that the outdoor music will comply with the ordinance. We would offer to help review that study and mitigation plan if it becomes available.

**Septic System.** The Windjammer Roadhouse uses a septic system that was installed under a repair permit issued by our Department in 1992. I provided a copy of that permit – including an

as built drawing showing its approximate location – to the applicant. It is our understanding that if a Special Exception is granted an administrative site plan review will be required to deal with technical issues such as right-of-way, drainage, and parking. At that stage, the location of the septic system will need to be incorporated onto the site plan in order to verify that the absorption fields are protected and not located in vehicle traffic or parking areas.

**Food Service Plan Review.** The Windjammer is licensed as a Colorado Retail Food Establishment. Our Department inspects restaurants in the County and performs plan review for remodeled or expanded facilities. Any changes to the outdoor patio or interior that involve wait stations or other food service functions need to be reviewed by our office prior to construction. We are available to consult with the applicant on the plan review process.

Thank you for the opportunity to comment. I can be reached at (970) 498-6777 if there are questions about any of these issues.

cc: Christopher and Lisa Miller



Karin Madson <madsonkc@co.larimer.co.us>

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## Windjammer Roadhouse SE comments

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Clinton Jones <cdjones@larimer.org>

Tue, Feb 9, 2016 at 8:05 AM

Reply-To: cdjones@larimer.org

To: Karin Madson <kmadson@larimer.org>

Karin,

The applicant did not address any of my comments in my original memo dated 12/2/2015. If the applicant has questions or is confused about any of my comments, they can contact me to set up a face to face meeting.

Thanks

Clint

Clint Jones, PE  
Larimer County Engineering Department  
200 W. Oak St., Suite 3000  
PO Box 1190  
Fort Collins, CO 80521-1190  
Phone: (970) 498-5727



## ENGINEERING DEPARTMENT

Post Office Box 1190  
Fort Collins, Colorado 80522-1190

(970) 498-5700  
FAX (970) 498-7986

### MEMORANDUM

**TO:** Karin Madson, Larimer County Planning Department

**FROM:** Clint Jones, Larimer County Engineering Department *CS*

**DATE:** December 2, 2015

**SUBJECT:** Windjammer- Special Exception

#### **Project Description/Background:**

This is a Special Exception to continue operation of an outdoor patio including music during summer months. As part of the approval the applicant would also like to hold charitable auctions on the premises. The site is located on the north west corner of CR31 and North Shore Drive, north of Carter Lake.

#### **Review Criteria:**

The intent of the special exception is to provide all of the information that is needed to ensure that the development complies with all of the requirements of the Larimer County Land Use Code (LCLUC). The materials submitted need to provide adequate information to accurately assess the drainage and transportation aspects for the site and how these aspects may impact the surrounding area. Larimer County Engineering Department development review staff members have reviewed the materials that were submitted to our office under these guidelines and per the criteria found in the Larimer County Land Use Code (LCLUC), Larimer County Rural Area Road Standards (LCRARS), Larimer County Urban Area Street Standards (LCUASS), Larimer County Stormwater Design Standards (LCSDS), and pertinent Intergovernmental Agreements.

#### **Transportation/Access Issues:**

1. This project has frontage on County Road 31. The Larimer County Transportation Plan, adopted in November of 2006, functionally classifies CR31 as a minor collector that requires an 80 foot right-of-way (40 foot half right-of-way). According to Section 9.7.4 of the LCLUC, right-of-way dedication for this project must be accomplished by a properly executed Deed of Dedication at the time of final approval. The existing and any proposed dedicated right-of-way necessary to meet these requirements must be delineated on the preliminary and final plans.
2. Per Section 8.1.5.E of the LCLUC and Appendix F of the LCRARS, this site is presumed to have an insignificant impact on the roadway system and will be exempt from the paving traffic impact study requirements since this proposed development will create less than 30 trips per day.
3. The access along County Road 31 will need to be abandoned and a defined access point will need to be provided on North Shore Drive. The new access will need to meet the access spacing requirements of Table 10-1 in the Larimer County Rural Area Road Standards.
4. In order to show that the site can function properly, a more detailed site plan will be required. The site plan needs to be based off of survey data and should include property dimensions, existing and

proposed right-of-way, roads, buildings, the septic system, drive isle locations and dimensions, and setbacks.

5. The applicant should contact the Loveland Rural Fire Protection to ensure that the building and internal street layout is adequate for their purposes.

**Drainage/Floodplain/Erosion Control Issues:**

1. The submitted drainage memo adequately addresses our concerns for the existing site layout. The applicant should keep in mind that a drainage report prepared by an Engineer may be required if significant improvements are proposed with the next submittal.

**Fees and Permits:**

1. Per Section 9.5 and 9.6 of the LCLUC, Engineering Staff would like to notify the applicant that Transportation Capital Expansion Fees will not be required since we do not consider a patio a traffic generating use.
2. Any access construction on CR31, or work in the County right-of-way, will require an Access or Right-of-Way Construction Permit from this office. Access information and permits can be obtained by contacting Erich Purcell at (970) 498-5733.

**Staff Recommendation:**

Once the above comments have been addressed, the Larimer County Engineering Department would support an approval of this application.

Please feel free to contact me at (970) 498-5727 or e-mail me at [cdjones@larimer.org](mailto:cdjones@larimer.org) if you have any questions. Thank you.

cc: Christopher/Lisa Miller, 3431 S County Road 31, Loveland CO 80537  
file



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

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## Windjammer Roadhouse Special Exception 15-Z1995 Comments

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**Stan Griep** <sgriep@larimer.org>  
To: Karin Madson <kmadson@larimer.org>  
Cc: Eric Fried <efried@larimer.org>

Mon, Feb 8, 2016 at 7:45 AM

Hi Karin,

My original comments have not changed on this project. How the occupant load of the outdoor patio will be handled must still be addressed by the project Architect. If those attending events on the patio must exit through the main structure, it could easily cause big problems for the current number of exits provided and their layout.

Stan

*Stan V. Griep*  
*Plans Examiner (Part-Time)*  
*Larimer County Building Department*  
*Ft. Collins, CO 80522-1190*  
*Phone: (970) 498-7714*  
*Fax: (970) 498-7667*  
[Quoted text hidden]

**COMM-REQ 2012\_IBC\_EMAIL.pdf**

110K



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

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## Windjammer Roadhouse Special Exception 15-Z1995 Comments

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Stan Griep &lt;sgriep@larimer.org&gt;

Mon, Nov 23, 2015 at 9:31 AM

To: Karin Madson &lt;kmadson@larimer.org&gt;, windjammerroadhouse@comcast.net

Hi Karin and Mr & Mrs Miller,

Below are our Building Department comments concerning this Special Exception Project Review;

1. A Building Permit is required for the Sound Stage Structure. All plans for the proposed structure, including its foundation and anchorage system, shall be designed and wet stamped by a Colorado Registered Structural Engineer.
2. We will need a Code Analysis/Study by a Colorado Licensed Architect for the entire facility addressing the proposed uses. The Study/Analysis will need to address the effects such uses will have upon the main structure and the overall exiting availability and layout and occupant loads, as well as looking at the toilet facilities available to be sure they are adequate for the occupant loads served at the worst case/highest occupant load scenario times.
3. Should alterations be required to the existing structures on the property due to the proposed changes of use, a Building Permit will be required for those as well. A Colorado Licensed Architect will be required to wet stamp plans for any such required alterations. Colorado Registered Engineers (structural, mechanical, electrical, etc..) may be required as well depending upon the scope of the work to be done.
4. Handicapped accessibility shall be well detailed upon the plans submitted for Building Permit review for all public accessible areas. This includes Accessible Routes and Accessible Facilities on the project site.

I am attaching our handout for plans required for new commercial structures as a guide to typical plans submittal requirements.

Please feel free to contact me with any questions on the above comments.

Respectfully submitted,

Stan

*Stan V. Griep  
Lead & Commercial Plans Examiner  
Larimer County Building Department  
Ft. Collins, CO 80522-1190  
Phone: (970) 498-7714  
Fax: (970) 498-7667*

>

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 **COMM-REQ 2012\_IBC\_EMAIL.pdf**  
110K



Post Office Box 1190  
Fort Collins, Colorado 80522-1190  
Planning (970) 498-7683 Building (970) 498-7700  
Planning Fax (970) 498-7711 Building Fax (970) 498-7667  
www.larimer.org/planning

Wednesday, November 18, 2015

LARIMER COUNTY - LORI HODGES  
EMERGENCY MANAGEMENT

Enclosed is a proposal for a Special Exception that has been submitted to the Planning Department for review. Please review and comment as applicable.

Proposal Enclosed: WINDJAMMER ROADHOUSE SE  
Case Number: 15-Z1995  
Comments Due By: Wednesday, December 09, 2015

**NOTE:** As a recipient of this referral, the Planning Department asks that you please respond to this mailing by Wednesday, December 09, 2015. If comments are not received by Wednesday, December 09, 2015, the Planning Department will assume that you or your agency have no conflict or comment on the submitted plan. If additional time is needed to respond to this mailing, please advise the staff planner no later than Wednesday, December 09, 2015 with a request for additional time and an estimated time for the response. Please note that comments received after Wednesday, December 09, 2015 may not be able to be incorporated into the staff recommendations.

Meeting Type: Larimer CO Planning Commission  
Meeting Location: Larimer County Courthouse Offices, Hearing Room - 1st Floor, 200 West Oak Street, Fort Collins, Colorado.  
Meeting Date: Unscheduled  
Meeting Time: Unscheduled 6:30

Please send your comments to the planner listed below and to the applicant at the following address:

MILLER CHRISTOPHER L/LISA M  
3431 S COUNTY ROAD 31  
LOVELAND CO 80537  
WINDJAMMERROADHOUSE@COMCAST.NET

Karin Madson  
Planner II  
970-498-7692  
kmadson@larimer.org

No Emergency Management Concerns -  
L. Hodges, OEM



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

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**Windjammer Roadhouse SE (Case # 15-Z1995)**

4 messages

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**Jim Frick** <frickj@co.larimer.co.us>

Mon, Nov 23, 2015 at 1:23 PM

To: Karin Madson &lt;kmadson@larimer.org&gt;

Hello Karin,

After reviewing to proposal for case # 15-Z1995 we have a concern and a request before approving this proposal. If this addition to the Windjammer is going to generate any additional traffic to the area and facility we would require improvements to the North Shore ( CR 31) paved approach. This approach is narrow with no radius currently. Any questions please feel free to contact me.

Thanks,

Jim

—  
**Jim Frick**  
**Non-Paved Roads Group Manager**  
**Road and Bridge Department**  
2643 Midpoint Drive, Suite C  
P.O. Box 1190  
Fort Collins, CO 80522-1190  
970-498-5663  
970-498-5678 Fax

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**Karin Madson** <kmadson@larimer.org>

Mon, Nov 23, 2015 at 1:34 PM

To: Clint Jones &lt;cdjones@larimer.org&gt;

FYI.

I believe you indicated that we don't consider a patio a traffic generating use? Is that correct?

**Karin Madson, AICP**

Larimer County Community Development  
Planning Department  
PO Box 1190  
200 W. Oak St.  
Fort Collins, CO 80522

970.498.7692

fax 970.498.7711

[Quoted text hidden]

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**Clinton Jones** <cdjones@larimer.org>

Tue, Nov 24, 2015 at 10:29 AM

Reply-To: cdjones@larimer.org

To: Karin Madson &lt;kmadson@larimer.org&gt;

That's correct Karin.

[Quoted text hidden]

—  
Clint Jones, PE

Larimer County Engineering Department  
200 W. Oak St., Suite 3000  
PO Box 1190  
Fort Collins, CO 80521-1190  
Phone: (970) 498-5727

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**Karin Madson** <kmadson@larimer.org>  
To: Jim Frick <frickj@co.larimer.co.us>

Tue, Nov 24, 2015 at 10:41 AM

Good morning Jim,  
The Engineering Dept does not consider the addition of a patio to be a traffic generating addition.  
Thanks, Karin

**Karin Madson, AICP**

Larimer County Community Development  
Planning Department  
PO Box 1190  
200 W. Oak St.  
Fort Collins, CO 80522

970.498.7692  
fax 970.498.7711

[Quoted text hidden]



Loveland Fire Rescue Authority  
Community Safety Division  
410 East 5th Street  
Loveland, Colorado 80537  
Phone (970) 962-2537

TO: Karin Madson, Planner II

FROM: Carie Dann, Deputy Fire Marshal, Loveland Fire Rescue Authority, phone 970.962.2518, email [carie.dann@cityofloveland.org](mailto:carie.dann@cityofloveland.org)

RE: Windjammer Roadhouse SE (15-Z1995)

CC: Lisa and Christopher Miller, Owners

DATE: December 9, 2015

*These comments pertain to a Special Exception request for the business for the following:*

- *Continue the use of an outdoor beer garden to serve food and beverages, including alcohol. An outdoor patio and beer garden has been in existence for several years but was never approved through Larimer County.*
- *Provide outdoor musical performances during the summer months. This includes construction of a 288-SF sound stage.*
- *Conduct charitable auctions on the premises.*

*The property is located within the Loveland Fire Rescue Authority jurisdiction.*

*The existing structure is 2,437 SF. The restaurant has a kitchen hood extinguishing system and portable fire extinguishers.*

***LFRA approves of this Special Exception application, provided General Requirements and Corrections/Clarifications are met and/or corrected, as is applicable.***

#### **GENERAL REQUIREMENTS**

1. LFRA requires that a building permit be issued for construction of the sound stage, as well for approval of the existing beer garden/patio area, since it was built without permit or approval. LFRA, along with the Larimer County Building Department, will review plans for issuance of two building

permits (each jurisdiction will issue one building permit). This is to ensure that patrons in the beer garden have safe, compliant exiting from the building.

2. Because the beer garden occupant load exceeds 10 occupants, a licensed design professional is required to submit the building permit drawings.

#### CORRECTIONS/CLARIFICATIONS

3. Please correct 9.a. under Fire Protection Plan to Loveland Fire Rescue Authority. The property is located within the LFRA jurisdiction; Berthoud Fire Department provides automatic aid when necessary.
4. Please clarify if the propane tank shown on Page 1 is used to heat the restaurant.
5. The kitchen hood extinguishing system is required to be inspected every six months by a licensed fire-suppression contractor.
6. The owner should confirm with the Larimer County Clerk and Recorder if special events permits are needed for auctions or other charity events.



Karin Madson <madsonkc@co.larimer.co.us>

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## Windjammer Roadhouse File #15-CC0124

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Lori McCallum <Lori.McCallum@viavisolutions.com>

Wed, Oct 28, 2015 at 7:16 AM

To: "kmadson@larimer.org" <kmadson@larimer.org>

Cc: Lori McCallum <Lori.McCallum@viavisolutions.com>, "McCallum, Kevin (kevin.mccallum@hpe.com)" <kevin.mccallum@hpe.com>

Hello Karin,

My husband, Kevin McCallum, and I live at 3500 Rainbow Lane - just above the Windjammer. We received the invitation for the neighborhood meeting but, unfortunately, we will be out of town and unable to attend.

Kevin and I both want to express our **STRONG** support for the Windjammer's proposal to continue utilizing the beer garden as an outdoor venue. The Millers have turned the Windjammer around in the short time they have owned it. The food is great, the staff is wonderful, the entire place has been cleaned up, updated, and Lisa and Chris Miller run a very tight ship.

The Windjammer is a beacon for the residents in this area to meet and get to know one another; a real community center. The outdoor events Lisa held this summer always had a good attendance and Lisa and her team do a great job of ensuring people have a good time while following the rules. We enjoy, and look forward to, a meal in the beer garden and listening to music. We routinely bring our family and friends to the Windjammer to do the same. Lots of places have music, but at the Windjammer they keep the volume down so you can still carry on a conversation even when the band is playing. Our grandson loves the music!

We fully support the Millers' project and would love to see this proposal approved so they can build a stage and continue to hold music events, not to mention the impact to the community from the various charity events hosted by the Windjammer.

Please do not hesitate to contact us if you have questions or if we can be of any further help. Our home number is (970) 278-1258.

Thanks,

Lori McCallum

Director, Global Client Services

Office 303-416-9606

Cell 970-443-9094

Oct. 30, 2015

Dear Sheriff,

My husband and I have lived at Carter Lake for almost 20 years and have seen the Windjammer go thru several owners, some better than others. At one time I believe there was a high level of gang and drug activity and now that is simply not true.

Lisa and Chris have done an exceptional job of cleaning and updating the building as well as the menu.

The weekend bands during the summer were an added bonus and I believe the music was never too loud and did not disrupt the campers who should have thought of the free music as a bonus to their trip. In my opinion if you camp in a neighborhood you should expect some noise from the nearby houses. Our property is directly across from Eagle camp ground so if we have our music on during the summer with the house windows open I am sure the campers can hear it.

With respect to the Windjammer outdoor patio, that looks awesome now by the way, there is one issue which I imagine can be a source of concern. In the past the patio was enclosed by a higher fence. At this time there is a gate that opens into the parking lot. That said, I am sure there are folks with a cocktail who believe it is OK to walk from the patio out onto the parking lot since there is no barrier and no signage. Before closing the entire outdoor patio, perhaps an easy fix would be to lock that gate at all times and post signs like "no alcohol beyond this point", so that people realize they are indeed leaving the bar. And/or raise the level of fencing around the entire patio area, without detracting too much from the great view and overall ambiance.

As a long time resident, the Windjammer has served as a gathering place for many events and as a mini town hall in bad times, like when we had fires out this way. Dozens of men gathered there to go help a friend defend his home during one of the larger fires.

There will always be careless people who drink and think it is OK to drive back to town or out to the interstate, for us folks on the hill we depend on the Windjammer to serve our very local needs and appreciate having this 50+ business in our neighborhood.

Life wouldn't be the same on the hill without JAMMING at the JAMMER!!

Thank you for your time.

Respectfully,



Mrs. Mary Estes  
9201 Prairie Way  
Loveland, CO 80537

October 30, 2015

RE: Support of the Windjammer located at Carter Lake

The Windjammer is a nice attraction not only to the residents of the various communities that reside near Carter Lake but also to the many tourists that frequent the area. It is the only place nearby that provides a full menu that not only is inexpensive but also very tasty.

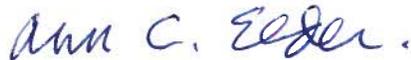
This letter is written in support of the continued service for the Windjammer owners.

Signed,



Darrell K. Elder

premises located at 3513 Ranch Road  
Loveland, Colorado  
80537



Ann C. Elder



TO: LARIMER COUNTY PLANNING  
FROM: J.D. & CAROL BOTHUN  
3615 RAINBOW RIDGE

WE HAVE NOTICED THE VOLUME  
OF CONCERTS HAS INCREASED  
THIS PAST SUMMER (2015)

PLEASE KEEP IT DOWN

MUSIC SHOULD BE OVER BY  
10:00 PM OR 10:30 AT THE  
LATEST.

WINDJAMMER SHOULD ALWAYS  
REMINDE THEIR CLIENTEL  
THAT THE NEIGHBORS  
HEAR THE LOUD PIPES  
AND TO RIDE CONSERVATIVELY  
IN THE NEIGHBOR HOOD.

thank you,

J.D. & Carol Bothun  
970-669-7159



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

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**WEB: Re:Windjammer Roadhouse SE 15-Z1995**

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tccjcecho@gmail.com &lt;tccjcecho@gmail.com&gt;

Sun, Dec 6, 2015 at 9:23 AM

To: kmadson@larimer.org

This message was sent by a visitor to the Virtual Courthouse.

Name: Terryand Cassie Carlstrom

Email: tccjcecho@gmail.com

Phone: 970-690-3158

We have lived at our address for 22 years (a quarter mile) just North of the bar. We are on County Road 31 which is the main road going to the bar. There has never been any issue with anything concerning the bar such as noise, traffic, music or whatever we don't even know that it is there unless we drive by. The new owner has tried to clean up the appearance of the place, but as we understand was told to take down a new fence that hid all of the equipment on the north side of the bldg. Now that just doesn't make sense. Therefore we vote yes to all special exceptions and approvals requested by the property owner. Of more concern to us is the neighbors dumpster located on county land, it sits on my fence line on the S/E of my land. Garbage blows in my pasture and across the highway, bears and animals are always climbing in because lids are left open, and lights shine in our windows through all hours of the night with people using it. Thank You for this opportunity to voice our concerns. Terry & Cassie Carlstrom

Page sent from: <https://www.google.com/>

Date/time: 12/06/2015 - 9:23 AM

User located at: 10.200.1.20



Karin Madson <madsonkc@co.larimer.co.us>

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## WEB: Re: Windjammer Roadhouse Special Exception

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pegmartin45@gmail.com <pegmartin45@gmail.com>

Mon, Dec 14, 2015 at 2:45 PM

To: kmadson@larimer.org

This message was sent by a visitor to the Virtual Courthouse.

Name: Bill and Peggy Martin  
Email: pegmartin45@gmail.com  
Phone: 970-391-1745

We are in favor of allowing the Windjammer Bar & Grill to have live music in the beer garden during the summer months and for the beer garden to be approved. We live just north of the Windjammer and frankly enjoy the music that we do hear during the summer months. We feel that the current owners have done a great job of maintaining the appearance and overall improvement of this establishment since they have purchased it. It has been there for over 50 years and have always had outdoor events since we have resided there.

We have lived there almost 10 years and it was only once that the music seemed too loud. I'm sure they are willing to control that but to take that away from a business owner would certainly impair their business. We are strongly in favor of keeping local businesses going in our community that serve our local residence and especially this one.

Sincerely, Bill and Peggy Martin

Page sent from: [http://larimer.org/planning/planning/current\\_applications.cfm](http://larimer.org/planning/planning/current_applications.cfm)

Date/time: 12/14/2015 - 2:44 PM  
User located at: 10.200.1.20



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

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**Windjammer Roadhouse SE 15-Z1993 - neighbor comments**

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**Philip Huff** <philip.huff@gmail.com>  
To: kmadson@larimer.org

Tue, Dec 15, 2015 at 10:03 AM

Hi,

We are Phil and Kristie Huff who own a home at 3100 Rainbow Lane, Loveland, CO. This home has been in Kristie's family since the early 1960's and predates most existing homes in the area. Kristie spent her childhood summers living at a rustic cabin which has been succeeded by a 1800 square foot home with large garage / boat storage building. A deck surrounds the home on three sides and has an unobstructed sound corridor looking down on the Windjammer Roadhouse. This is the long axis of them home and so all activities on the deck, Kitchen, Master bedroom and Living Room are subject to sounds from that location. It is currently possible to hear voices from the outside patio area of the Windjammer in the summer. Certainly the loud and aggressive sounds of motorcycle arrival and departures are unabated and can, late in the summer evenings, be quite startling.

The WindJammer Roadhouse is and has been a part of the landscape for 3100 Rainbow Lane for many years and while distracting and unpleasant on weekends this has been accepted at current levels. What would not be desired would be a large increase in either the number of loud evenings or in the volume. Currently we are in residence mostly on weekends and during some 3 or 4 week periods during the summer. The addition of a heavily attended venue would have a high percentage impact on our enjoyment of 3100 Rainbow Lane.

We are, therefore, in opposition to the granting of the proposed 15-Z1995 exemption.

Phil and Kristie Huff



Karin Madson <madsonkc@co.larimer.co.us>

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## Windjammer special exception

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iris orlandino <orlandinocarterlake@lpbroadband.net>  
Reply-To: orlandinocarterlake@lpbroadband.net  
To: kmadson@larimer.org, laffemn@co.larimer.co.us

Tue, Dec 22, 2015 at 8:52 PM

Hello Karin and Matt,

Please be aware that the meeting held at the Windjammer on November 2, 2015 was open to supporters and friends of the Millers rather than the 8 homes that the special exception directly impacts. Although you heard support from the Millers friends and supporters, the majority of the 8 home owners directly impacted oppose the exception.

We have lived in our home since 1995 and none of the former owners of the Windjammer had live music outside. We do not want to hear live music from our home and we do not want the value of our property to go down as a result of it.

We do not support live music outside of the Windjammer and oppose the special exception.

Thank you for your consideration.

Tom and Iris Orlandino

3050 Rainbow Ln

Loveland, CO 80537

970-593-0098

January 6, 2016

To Larimer County Planners and County Commissioners:

My husband Phil and I have lived at our house in Larimer County on Cactus Court since 1983. We are writing to share our concerns and to ask Larimer County to not grant a special exception for the Windjammer bar's current zoning status. We request that you not permit and approve the outdoor patio for use as a "beer garden" either.

We own about 4 acres and our home is about a block away from the Windjammer bar. From our deck you can hear a person talking in a normal voice at the Windjammer. This mountain region is a "natural amphitheater" next to Larimer County Park at Carter Lake. All sound, noise and vibrations are naturally amplified as a result of the geography. As a result, we hear everything that goes on outdoors at the bar because of our proximity and because of the mountainous terrain where we live. Sound waves have no choice but to bounce back and forth between the hillsides until they eventually dissipate. If sounds are continual, they continually reverberate or echo. Also, depending on how windy it is and the wind's direction, any sound or noise is pushed in a particular direction.

For us, the continual "sounds" we experienced throughout a good part of 2015 from the Windjammer bar became noise pollution. It was disruptive and stopped us from peacefully enjoying our homes and the quiet, and solitude that we moved here to enjoy. It diminished the livability of our homes and property, and it was detrimental to our wellbeing. That's because what is "music" to some, is "noise" to others. We simply could not escape it and we always knew more was coming.

As you probably know, the Windjammer bar was sold to the current owners in 2014. After a complaint was made in March 2015, Larimer County got in touch with the bar owners, Chris and Lisa Miller in April 2015. They found the Windjammer was not in compliance in various ways. The County advised that they needed to seek a special exception for doing outdoor events.

The Millers ignored the County planner's advice and instead of pursuing the special exception, in May 2015 they proceeded to advertise outdoor events in their "beer garden" which they knew had also been determined to be an illegal patio that was constructed. They not only disregarded the County, but also their neighbors and created a noisy, hostile environment for our neighborhood.

Good neighbors keep noise to themselves. That's because the impact of environmental noise is known to be adverse for people. Because of the continual noise pollution from the Windjammer throughout a good portion of 2015, we were regularly forced to keep our windows closed, even though we would've preferred to keep them open. At times we had to turn our TV up in order to drown out the

noise from the bar. It was hard to escape the thump-thump-thumping of the amplified bass beat vibrating and pulsating outdoors and throughout our house.

We measured decibel levels regularly from the deck of our home and the noise associated with the amplified outdoor concerts and patio parties consistently exceeded the County's acceptable daytime and nighttime decibel levels.

This greatly diminished the desirability of living in this longstanding rural family neighborhood, which is next to a couple of different campgrounds run by Larimer County Parks at Carter Lake. I can't imagine that noise pollution is attractive to campers who come to Larimer County Park to escape from the city with their families, to enjoy the peace and quiet.

Larimer County's Noise Ordinance 97-03 is a good reminder of why there are regulations for noise. It states:

**The Board of County Commissioners of Larimer County, Colorado, finds and declares that noise in excess of the limits provided in this Ordinance is a major source of environmental pollution which represents a threat to the serenity and quality of life in Larimer County, and excess noise often has an adverse physiological and psychological effect on human beings, thus contributing to an economic loss to the community.**

We would ask that before the County *even considers* granting a special exception, that you require the Millers' to hire professional sound engineers specializing in environmental noise pollution control to do a complete assessment and "noise abatement study" at their expense to determine if there is any way to mitigate the environmental pollution. You should also require that results must also be shared with the County and those of us directly impacted.

The volume, frequency, intensity and vibrations from noise pollution at the bar unreasonably interfered with our enjoyment of our home and it detracted from the comfort and recreation we would ordinarily enjoy, were it not for having to try to find a way to block it or escape it, only to know it would quickly return.

We purchased our home and property and live in this area because it's rural and it's a beautiful, serene setting near a lake in the mountains. We chose to live here, as did most of our neighbors, because it's away from the noise of the city. We enjoy the peace and quiet associated with living near the county park and we enjoy the solitude associated with living in a rural setting. We enjoy seeing eagles, hawks, deer and other wildlife that have coexisted with us for decades. The noise pollution created must surely be as disruptive to them as it is to us.

While we appreciated Larimer County's efforts to do a mailing to encourage "discussion" between the owners of the Windjammer and those of us who are their neighbors who are directly impacted, it was a wasted effort because the

Millers' had no intent of truly engaging in a dialogue to truly hear our concerns. Instead, they invited all their friends and patrons to attend the meeting. We attended in good faith only to find a quick series of "staged votes" taking place.

Afterwards, we asked for several things from the County. We asked for logs showing the complaints about the bar made throughout 2015 and the County's various interactions regarding the Millers. We asked for the mailing list that the County used to notify residents who are "directly impacted." Finally, we asked for the "sign in sheet" of people who actually attended the "neighborhood meeting."

We did so because we didn't recognize the majority of people in attendance at the "neighborhood meeting." We found they were NOT people on the county's mailing list of those directly impacted. They attended as friends of the Millers or were patrons of the bar. So, instead of engaging in real dialogue with their neighbors who are subject to the noise pollution they create, they invited friends and patrons to attend the meeting so they could stage a series of votes to portray for the County planners that "they had huge support" for their plans. The report the County posted online is also misleading. It's biased because it was written by a friend of the bar owners.

With all due respect we found all of that incredibly deceptive. While friends and patrons might be in favor of a special exception, they don't have to live with the ongoing noise pollution. They simply drive home. **The majority of actual residents directly impacted are not in favor of the County granting a special exception to the current zoning of the bar because of the noise pollution.**

We found that according to the logs, the County originally engaged in this in March 2015, because of a complaint by my neighbor about illegally building another concrete patio and fence without a permit. This neighbor who lives even closer, is a disabled veteran and suffers from PTSD.

The County then engaged with the Millers in April 2015. At that time they inquired about doing "outdoor events" and the County advised them that the bar wasn't zoned for that, and also that their outdoor patio was never permitted. In spite of being properly advised of all this, the Millers proceeded to make plans for having outdoor events on the illegal patio, and began advertising the concerts and "beer garden" on their website. At the neighborhood meeting, their "excuse" for proceeding without approval was that they "didn't know when they purchased the bar that it wasn't zoned for outdoor events." They didn't tell us the rest of the story, how the County advised them how to proceed – and they ignored it.

We can all live with some occasional noise from our neighbors – whether it's a generator, chain saw, lawn mower, dogs barking – or even if someone wants to host an outdoor event at their home. We've tolerated the "poker runs" each Windjammer bar owner held over the years, which are disruptive, but we knew they were temporary, just as we tolerate the bicycle races each year on CR 31,

which are disruptive, because we know they are temporary. We want others to enjoy the beauty of where we live. We just don't want permanent disruptions.

What the Millers did in moving the operations of the bar outside was indeed disruptive because it subjected us to the ongoing noise that goes along with people drinking at outdoor concert events. We understand the Millers' want to make money with their business and we wish them every possible success, but the profitability of their venture should not be at their neighbors' expense and wellbeing, nor should it diminish the livability of our homes/property. While we sympathize if the Millers' didn't understand the zoning or know the outdoor patio wasn't permitted, the fact is, in purchasing the bar, that was their responsibility.

While the Miller's may now exhibit regrets for how they mishandled this, we don't trust that they would do anything differently if the County granted the special exception. **More importantly, because of the geography of where we live, we believe it's impossible to mitigate the effects of the noise pollution from continual outdoor events.**

Besides the noise, it's also important to consider the effects of the "outdoor party atmosphere" and how that could impact the families raising children who live in our neighborhood. With all due respect, the Windjammer bar is not a "model of good behavior" that neighborhood children should be continually exposed to. That's another reason why the activities should be kept indoors.

We chose to live here to enjoy the peace, quiet and solitude of living in a pine forest near Larimer County Park, near Carter Lake, and while we knew the bar was there, the activities were largely kept indoors, up until when the Millers departed from that and began hosting outdoor events four nights/two days/week.

We believe that denying the special exception for the Windjammer bar and not permitting the outdoor patio for food/liquor consumption, will best protect us, and our neighbors, so we may continue to peacefully enjoy our homes/property and to preserve the livability of our neighborhood. We respectfully urge you to retain the current zoning of the bar as it is - with its activities contained indoors. We rely upon you to protect us, and our quality of life, and to protect the livability of our home and the serenity of our neighborhood.

Thank you for your time and for hearing us on this issue. Feel free to call if you have any questions.

Sincerely,

Philip and B.J. Nikkel  
3201 Cactus Court  
Loveland, CO 80537  
970-217-8994 cell



Karin Madson <madsonkc@co.larimer.co.us>

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## Windjammer Special Exception File#15-Z1995

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**BJ Nikkel** <bjnikkel@gmail.com>

Mon, Jan 25, 2016 at 12:34 PM

To: Karin Madson <kmadson@larimer.org>

Cc: Matthew Lafferty <laffermn@co.larimer.co.us>, Phil Nikkel <phil.nikkel@gmail.com>, Tom Donnelly <donnelt@co.larimer.co.us>, Lew Gaiter <gaiterl@co.larimer.co.us>, Steve Johnson <johnsosw@co.larimer.co.us>

Thanks for sending the attached information, Karin.

I spoke with Doug Ryan with the County's Department of Health and Environment and he indicated he'd be happy to share all of the results of the "noise study" that the Windjammer owners are doing. I don't have his email address, so will you forward this email on to him?

As I told Doug, I think it would serve the public much interest better if Larimer County hired the company that could do an actual noise pollution study. They could simply charge a fee as part of the application process and be the neutral party to handle this as part of your process.

There is otherwise a perceived conflict of interest because the applicant who stands to benefit from the results not only chooses the company, but they directs them in what they are paying them to do. In addition, they may or may not share all of the results.

I'm sure the County wants the public to rely on the information being presented as having integrity, as being unbiased, and we want to make sure that every aspect of the report is transparent and made available.

The only way to ensure that, is if Larimer County stands as the neutral party who hires a sound engineering company to do an actual noise abatement study, done by professional sound engineers specializing in environmental noise.

Doing so, would lend credibly to the entire process and would also ensure a quality study that residents could rely on, would be done.

Sincerely,  
B.J. Nikkel

Rep. B.J. Nikkel  
970-217-8994

[Quoted text hidden]

FEB 12 2016

COMMISSIONERS OFFICE

To Larimer County Planning Staff and County Commissioners,

My name is Audrey Bocock. I'm a wheelchair bound veteran of Operation Enduring Freedom and Operation Iraqi Freedom. I served as a medic and was on my way to becoming a doctor when I suffered a traumatic brain injury. I also have post-traumatic stress syndrome as a result of serving in these operations.

I bought a home at Carter Lake because of the beauty and peacefulness of the area. My legal access runs behind the bar up to my house. I knew the bar was next door, but when I purchased my home, the bar was being managed properly and I had no problem with its management because they confined their activities mostly to the indoors. They occasionally had a "poker run" but they never played music outdoors beyond that. They were good neighbors.

After the Windjammer changed hands in 2014 things began to change. I tried to have a good relationship with the owners, but they began turning the bar into something it is not. What they are changing it into is not the best thing for my neighborhood and it not best for me. After they started having bands play outdoors, the noise became unbearable and the clientele became a terrible nuisance throughout 2015.

Because of my medical conditions, stress, bright lights and noise affect me very adversely. That's why I bought my home where it is located – because it was peaceful and quiet. But the noise from the bar got so bad during 2015 that it has adversely affected my health and has caused me to have even more emergency visits to the hospital.

On top of the noise, there are other bad things happening at the Windjammer, which are not good for our neighborhood and adds to the stress as well.

Because I live so close, I see a lot of what goes on and I have to look out for myself too. I regularly observe people smoking pot and am aware of other drug-related issues at the Windjammer. A few weekends ago, I had a friend over and we heard a young female screaming for someone to help her. Since I'm wheelchair bound, my friend went down to the bar only to find a man raping a young woman on the outside patio. His presence stopped the attack. My friend told me a gentleman that worked at the bar came out when

my friend went to help and he said something to the effect of it's ok we've got it. There were no police called.

As a result of living right next door to the Windjammer and the outdoor patio, people from the bar wander around and end up on my property, too. I have to regularly run lewd people off my property.

In addition, because of my medical condition, I need to have emergency access year round up my legal access. I recently had to call the Sheriff's department because the Miller's had someone snowplow behind the bar, which is also my legal access, and they shoved the snow up and across my driveway, which blocked it. I have talked with them repeatedly, asking them to NOT block my emergency access because it can be a life or death situation for me. It seems to fall on deaf ears, however.

I ask you to please deny the special exception for the bar. Do not allow the zoning to be changed to allow for any outdoor activities at the bar. It's become a nightmare for me because of what the Millers have turned it into, which it was NOT when I first moved here. I would ask Larimer County to please help protect my ability to quietly enjoy my home.

Sincerely,

Audrey Bocock

A handwritten signature in black ink, appearing to read 'AB', with a long horizontal flourish extending to the right.

Larimer County Commissioners, Community Development and Planning Officials

Enclosed is a petition signed by a majority of full time residing residents that received the notification of the November 2, 2015 meeting at the Windjamer Roadhouse Bar & Grill that would be directly impacted by the granting of a Zoning "Special Exception."

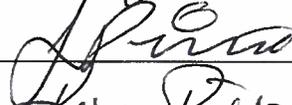
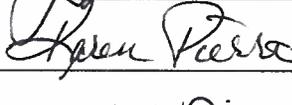
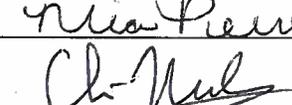
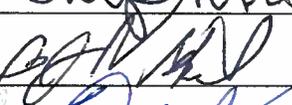
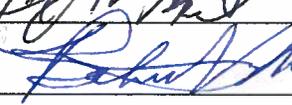
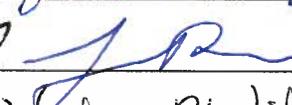
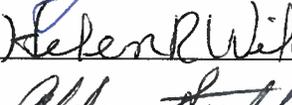
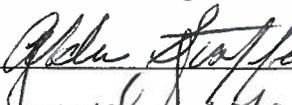
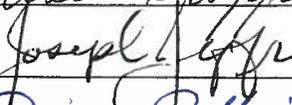
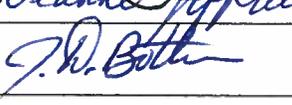
## PETITION

## Directly Affected Residents OPPOSE a Special Exception to the Bar/Tavern Zoning of the Windjammer

We the undersigned residents who are "directly affected" by the potential change of the zoning of the Windjammer Bar, petition Larimer County to not grant the "Special Exception" to the current long standing "Bar/Tavern" zoning of the Windjammer.

Granting a Special Exception will adversely affect the disirability, livability and peaceful enjoyment of our homes, and our neighborhood. It would not be compatible with existing and allowed uses in the surrounding and adjacent areas, nor would it be in harmony with our neighborhood as outlined in Larimer County Guidelines and Noise Ordinance 97-03 which states:

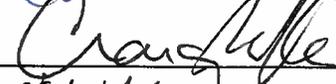
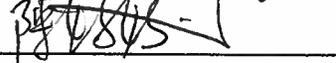
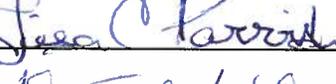
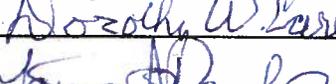
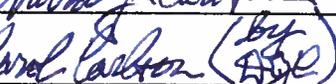
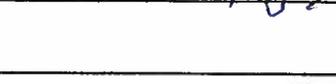
*"The Board of County Commissioners of Larimer County, finds and declares that noise in excess of limits provided in this Ordinance is a major source of environmental pollution which represents a threat to the serenity and quality of life in Larimer County, and excess noise often has an adverse physiological and psychological effect on human beings, thus contributing to an economic loss to the community."*

	PRINTED NAME	PROPERTY ADDRESS	ZIP CODE	SIGNATURE	Date
1	Tom & Iris Orlando	3050 Rainbow	80537		1-27-16
2	JIM PIERRO	3030 RAINBOW LANE	80537		1-27-16
3	KAREN PIERRO	3030 RAINBOW LN	80537		1/27/16
4	Mia Pierro	3030 rainbowln	80537		1/27/16
5	Chris Nikkel	3201 Cactus Ct	80537		1/27/16
6	PHIL NIKKEL	3201 Cactus Ct	80537		1/27/16
7	BJ NIKKEL	3201 cactus Ct	80537		1/27/16
8	RICHARD HUGHES	3200 RAINBOW LN	80537		1/27/16
9	JUDITH HUGHES	3200 RAINBOW LN	80537		1/27/16
10	AUPREY BOGCK	3411 North Shore Dr	80537		1/28/16
11	Helen Wilcox	9715 Prairie Way	80537		1/28/16
12	Alden Stafford	3413 C.R. 31	80537		1-28-16
13	JOSEPH JEFFRIES	3614 RAINBOW RIDGE	80537		1-28-16
14	DIANNE JEFFRIES	3614 RAINBOW RIDGE	80537		1/28/16
15	J.D. BOTHUN	3615 RAINBOW RIDGE	80537		1/28/16

## PETITION

**Directly Affected Residents OPPOSE a Special Exception to the Bar/Tavern Zoning of  
the Windjammer**

Page 2

	PRINTED NAME	PROPERTY ADDRESS	ZIP CODE	SIGNATURE	Date
16	Carol Bothun	3615 Rainbow Ridge	80537		1/28
17	Craig Miller	3501 Rainbow Ridge	80537		1/29
18	Ting Ting Miller	3501 Rainbow Ridge			1/29
19	Ryan Page	3200 Rainbow Ln	80537		2/5
20	Bonnie Stafford	34135 CR 31	80537		2/6/16
21	FRANK A PARRISH	3410 S CR 31	80537		
22	Lisa C PARRISH	" "	80537		2-6-16
23	DOROTHY W CARLSON	" " "	80537		2-6-16
24	Taryn Parrish	" " "	80537		2-6-16
25	David Carlson	3410 S. CR 31	80537		2/6/16
26	Carol Carlson	" " " "	"		2/6/16
27					
28					
29					
30					
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32					
33					
34					
35					

To Larimer County Planning Staff and County Commissioners

In November we attended a meeting at the Windjammer Bar as a result of a letter we received with a Larimer County letterhead from Karin Madson. I contacted Karin prior to the meeting and inquired about the format of the meeting and if someone from the county would be present. She advised me that she would be present, the meeting would be informal and conducted by the business owner.

The business owner would be informing us of his plans and what changes he was requesting from the county in his business zoning and use. He would also listen to feedback from the neighborhood residents that would be impacted by any such changes that received notification of the meeting from Larimer County.

Of the 48 individuals that signed the attendance sheet for the meeting, only eight of them had received a notification letter from Larimer County. It would seem obvious that the other 40 attendants were in some fashion invited by the business owner for support, even though **they would not be impacted in any way by changes** in use or zoning of this establishment.

This gathering resulted in a meeting planned for an exchange of constructive dialog into a "**Pep Rally**" for Mr. & Mrs. Miller. Feedback and valid questions by the eight area residents that received notification from the county were *outnumbered 5 to 1*. Those eight property owners questions, concerns and comments were **shouted down and ridiculed** by the other 40 attendants **not directly effected** or invited by the county process..

As a result of that experience, I felt the proper action was to wait and voice my concerns at the public hearing when it was scheduled. *Do to recent developments I feel the process is requiring input prior to any hearing.*

Any interpretation that a majority of the residents in the area are in favor of the granting of the exception is disingenuous as it is not based on input from or an actual sampling of the residents actually effected by the granting of any exception. Not to be left out are the campers in the camp grounds that come for a quiet weekend of camping away from city noise that have no way of expressing their concerns.

It is also true and well known the the Windjammer has developed into a major attraction for motorcycles in the warm weather seasons of the year. This is when the camp grounds are generally full of boaters and campers. Larimer county spent a considerable amount of tax dollars over the last few years to expand the camping area around Carter Lake. I am sure its goal was to improve and enlarge its camping and boating areas for some peaceful time away from the city life.

Unfortunately a substantial number of the motorcycle operators feel it's necessary the rev their engines and when leaving the Windjammer, rev out to demonstrate the loud exhaust sound each is capable of. This loud sound is amplified by the hills surrounding Carter lake. This action increased significantly during 2015. I feel this increase is a direct result of law enforcement in the area are busy the the camping and boating visitors, they have no time to address the issue. I live a quarter a mile from the county road and can hear them easily as though they are close by. It has to be substantially worse down by the campgrounds. This activity increased considerably during 2015.

It would seem to be a fact that CR 31 is stretched to the limit for safety with traffic volume. A lot of the traffic issues are on the weekend with recreation driving. The bicycles, camping trailers, motor homes and boats arriving and leaving the lake and camp grounds are at this point in competition with the 100's of motorcycles for road space on the weekends. Before this issue of a Special Exception had come up, I had decided before the spring of 2016 to contact the sheriff's department and county officials for some action to control the environmental noise and traffic problems.

We have owned our property in Larimer County for over 25 years and moved here for its quiet close to nature environment and scenery. We have used the Carter Lake and its camp grounds for 50 years. We appreciate the improvements Larimer County has made in its Carter Lake camping and boating facilities over those 50 years as we are sure many campers and boaters do.

We have also patronized the Windjammer over that time and want the current owners to succeed in their business. In the past, band performances were inside where a small dance floor was in place. The outside area held several horseshoe pits and picnic tables for use by patrons of the business. Family, friends and I have played horseshoes there many times.

We, however do not feel it is just to have that success to be at our neighbors and our expense. Therefore we cannot support and, I know many of our neighbors that are directly impacted by a change *do not support a Special Exception* approval. It would be severe negative impact on the value of our property and our quality of life in Larimer County

Sincerely,



Richard Hughes  
Judith Hughes

970 6228146

KARIN MADSON

FROM DENNIS HENNEBERG



DENNIS W. HENNEBERG  
9101 FOUR WHEEL DR  
LOVELAND, CO 80537

970 776 8480 HOME  
" 481 4761 CELL

We the under signed residents of the Carter Lake area would like to express our concern regarding the " Special Exception " allowing the Windjammer to continue serving food and alcohol in the outdoor patio area. We consider this to be our local getaway to enjoy something to eat and a cold drink and enjoy the outdoor setting, fresh air and the company of friends and neighbors. Nearly everyone in the vicinity goes to the Windjammer at one time or another and we can't imagine the possibility that it could cease to exist and force us to drive 10 + miles and not have the mountain atmosphere and friends that we now enjoy.

In regard to the outdoor music. It is very enjoyable and we would love to see it continue provided the Larimer county noise limits can be met and reach a happy medium for everyone.

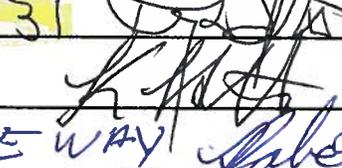
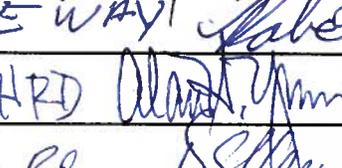
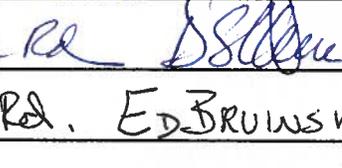
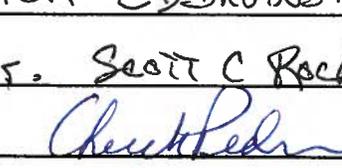
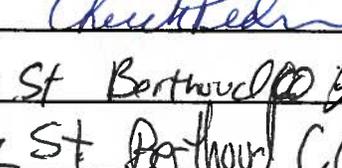
This outdoor service has been here for for 35 + years and now we have a couple area residents complaining. I'm sure if the couple people complaining had set down with the owners of the Windjammer, they could have reached a solution like most good neighbors on our mountain. Please don't allow a couple people spoil the outdoor setting we all enjoy.

printed name	street address	signature	years residence
DENNIS HENNEBERG	9101 FOUR WHEEL DR.	Dennis Henneberg	17 yrs
Marlene Henneberg	9101 Four Wheel Dr.	Marlene Henneberg	17 yrs
Louis H. Branch	4125 Fawn Trail	Louis H. Branch	1 1/2 yrs
Sandy Branch	4125 Fawn Trail	Sandy Branch	1 1/2 yrs
<del>William Rager</del> Teri	9233 Prairie Way	Teri Rager	2 1/2 yrs
WILLIAM RAGER	9233 PRAIRIE WAY	William Rager	2 1/2 yrs
Jim Carter	8712 RANCH RD	Jim Carter	75 yrs
Leslie Stacy	8700 RANCH RD	Leslie Stacy	6 yrs.
Larry Stacy	8700 RANCH Rd.	Larry Stacy	6 yrs.
Rita Watterud	8713 Sunflower Rd	Rita Watterud	58 yrs
Glenn Watterud	8713 Sunflower Rd	Glenn Watterud	30 yrs
Rob Watterud	8713 Sunflower Rd	Rob Watterud	35 yrs
Jim Lytle	8809 Cottontail Rd	Jim Lytle	13 yrs
Scott McGonigal	9016 Cottontail Rd	Scott McGonigal	3 1/2 years
Sherry McGonigal	9016 Cottontail Rd	Sherry McGonigal	3 1/2 years
Mike Walters	8916 Fourwheel Dr	Mike Walters	11 yrs

We the under signed residents of the Carter Lake area would like to express our concern regarding the " Special Exception " allowing the Windjammer to continue serving food and alcohol in the outdoor patio area. We consider this to be our local getaway to enjoy something to eat and a cold drink and enjoy the outdoor setting, fresh air and the company of friends and neighbors. Nearly everyone in the vicinity goes to the Windjammer at one time or another and we can't imagine the possibility that it could cease to exist and force us to drive 10 + miles and not have the mountain atmosphere and friends that we now enjoy.

In regard to the outdoor music. It is very enjoyable and we would love to see it continue provided the Larimer county noise limits can be met and reach a happy medium for everyone.

This outdoor service has been here for for 35 + years and now we have a couple area residents complaining. I'm sure if the couple people complaining had set down with the owners of the Windjammer, they could have reached a solution like most good neighbors on our mountain. Please don't allow a couple people spoil the outdoor setting we all enjoy.

printed name	street address	signature	years residence
Russell Rogers	12707 Pole Hill Rd		1 1/2 yrs
Luci Rogers	12707 Pole Hill Rd		1 1/2 yrs
* TERRY SYBRANDTS	3505 SCR #31		12 yrs
Kevin Hildreth	PO Box 611		40 YRS
ROBERT ESTES	9201 PRAIRIE WAY		20 YEAR
ALAN YOUNG	1582 QUILLAN GULCH RD		15 YRS.
Debbie Ken	1582 Quillan Gulch Rd		2 yrs
Ed Brunsma	1326 N. Carter Dr. Rd.	ED BRUNSM A	46 YRS.
Scott C Roehon	3912 Lakefront Dr.	SCOTT C ROEHON	2 1/2 yrs
CHULT PEDERSEN	3400 MOUNTAIN AVE	Chuck Pedersen	35 yrs
<del>Lynn</del> Baalman	308 Lakritz St	Berthoud CO Baalman	2.5
Derrick JONES	308 LAKRITZ ST	Berthoud CO	2.5
LEWIS WINNINGHAM	466 SEDONA HILLS DR.	LOVELAND CO	16 YRS
Randy Coble	9616 Cottontail Rd	LOVELAND CO	20 yrs
Mary & Bob ESTES	9201 Prairie Way	Lid Mary & Bob	20 yrs
Julie Mann & Wade Clemons	4400 Fern Trail	Julie Mann	1.5 yrs

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printed name	street address	signature	years residence
① JERRY KOCH / JEANNE McGRATH	3700 FAUN TRAIL	Jerry Koch Jeanne McGrath	20
GREG MYLES	8701 ROCK HILL RD	[Signature]	.75
Tammy Cook	8701 Rock Hill RD	Tammy Cook	.75
Albert L. Sipes	3501 Ranch Rd	Albert L. Sipes	15
Cathy Sipes	3501 Ranch Rd	Cathy Sipes	15
Laurie Irwin	8809 COTTONTAIL RD	Laurie Irwin	15
Robert Buchholz	8801 Cottontail Rd	Robert Buchholz	6
Judy Walters	8916 Fourwheel	Judy Walters	11
DWAYNE SCHOSSOW	3500 RANCH RD	Dwayne Schossow	22
GREG EISENTRANT	8727 RANCH RD	Greg Eisenrant	18
Ed Rios	4005 FAUN TR.	Ed Rios	17
Charles A. MEIERLE	41 <sup>HOV 1</sup> 50 <sup>RD 31</sup> HOMALOSS	Charles A. Meierle	
MARTIN TREHC	3812 FAUN TRC	Martin Trehc	15
HELEN MELBOURNE	8701 ROCK HILL RD	Helen Melbourne	.75
Donald Waldberger	4011 So City Rd 31	Donald Waldberger	28

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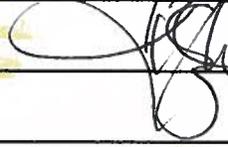
printed name	street address	signature	years residence
TIMOTHY STINGLCOOMB	N. SHORES #4		1 yr
Michael Christy	3207 Indian Blvd Dr		25 yr
Kevin Hildreth	3320 South city Rd 31		50
Gayle Telley	16256 W CRD 18E Loveland Co.		11 years
GLEN PINKARD	CROOKED "P" RANCH		2 years
Darryl Gustafson	4001 Fourwheel TR 80537		35 yr
LARRY L. HANNEMAN	8801 SOWFLOWER Rd		30 + years
Susan Hanneman	8801 SOWFLOWER Rd		30 + years
Kimberly Mansfield	1350 SCR 29		14 yrs.
THOMAS Kolo	1350 South C. Rd 29 - Thomas kolo		30 yr.
Terry Green	4001 Fourwheel RR		4 yr
<del>XXXXXXXXXX</del>	<del>XXXXXXXXXX</del>	<del>XXXXXXXXXX</del>	<del>XXXXXXXXXX</del>
<del>XXXXXXXXXX</del>	<del>XXXXXXXXXX</del>	<del>XXXXXXXXXX</del>	<del>XXXXXXXXXX</del>
JOHN SEABERRY	2517 S. County Road 29		5 years
Sky Seaberry	2517 S. County Rd. 29		6 years

e o le

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printed name	street address	signature	years residence
Jon Becker	208 McCalm ST <sup>Berthoud, CO</sup> 80513		2
MIKE TALLEY	16256 WCR IYE		10+
* Sybrandts	3505 SCR #31		10+

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printed name	street address	signature	years residence
MARGARET SCHOTANES	525 Southview RD, Berthoud	<i>Margaret Schotanes</i>	30
JAMES SCHOTANES	525 SOUTHVIEW RD	<i>James Schotanes</i>	30 YEARS

TOTAL 67

CARTER LAKE AREA

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printed name	street address	signature	years residence
LARRY LUEBCKE	LITTLETON, CO 10952 W Bellwood Pl	Larry Luebcke	35
Lynne Luebcke	" "	Lynne Luebcke	35
Syd Stumper	2241 1/2 St. Anne, CO 80001	Syd Stumper	31
Rainia Stephens	908 SW 21st Street	Rainia Stephens	37
Jacob YOUNG	1582 Quillin Gutch Rd.	Jacob Young	3
P. Michael Brewer	2318 BRECKENRIDGE CT	P. Michael Brewer	19
BERNIE & DEB MILLER	1907 Grays Peak	LOVELAND	(4)
Ron Carnon	51995 Arness RD	Kenai AK	
John Macdonald	733 St. J. n. n. Ln.	John Macdonald	15
Allisa Allen	719 22nd St SW Loveland, Co.	Allisa Allen	42
Jim Allen	719 22nd St SW Loveland	Jim Allen	21
Doug Kile	<del>303-673-1342</del> 21433 E Lehigh Ave Denver, CO	Doug Kile	10
Judy Kile	21453 E. Lehigh Ave Aurora, CO	Judy Kile <sup>4170</sup> <del>Eastman</del> <sup>guy</sup>	10
Rick Minor	2948 Bowline Pl Longmont CO 80503	Rick Minor	10
Winslow Taylor	10226 SPINNAKER LN, LOVELAND, CO 80501	Winslow Taylor	15
Janet McHarty	16362 11th St. Mead	Janet McHarty	8
THOMAS MORITZ	5403 RABBIT CR RD	Tom Moritz	11
Mike Rauh	401-1/2 Lilac Ln Fort Collins, CO	Mike Rauh	3.5

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printed name	street address	signature
Cindy Smith	81 Smith Bridge Rd	Bellvue Co
LAVONNE MITCHELL	2555 SAPPARE ST.	LONGMONT CO
Cassandra Truax	2821 5 <sup>th</sup> St SW	Loveland Co
LAVONNE BOERSMA	4342 N Monroe Ave,	Loveland Co
Kathleen Dorsey	1492 Sailercrest Ct	Fort Collins, Co
Glady's Schull	2143 Wright Ct.	Longmont Co.
JOHN SPREITZER	6100 TIMBER RUN	LOVELAND, CO
Natalie Young	7126 Woodglenn Ln	Fort Collins Co 80525
Dustin Young	7126 Woodglenn Ln	Fort Collins, Co 80525
Allemanda Ringer	7126 Woodglenn Ln	Fort Collins, Co 80525
Devin Ringer	7126 Woodglenn Ln	Fort Collins, Co 80525
Ryan Bredenstiner	1310 Jennifer Ct	Loveland, CO
Rachael Davis	574 E. 27 <sup>th</sup> St	Loveland, CO 80538
Judy Gesumaria	2640 Farisita Dr.	Loveland, CO 80538
MICHAEL SAUNDERS	1109 SPENCER ST.	LONGMONT, CO 80503
JOANN TREML	3812 FAWN TRL	LOVELAND, CO 80537

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printed name	street address	signature
June Hanson	5600 W. 3rd St. Greeley Co.	June Hanson
ROBERT GESUMARIA	2640 FARISITA DR WLD Co	Robert Gesumaria
Ashlee Hamsher	698 Eagle Dr WLD Co	Ashlee Hamsher
Kyle Smith	1275 W Prospect Rd Ft Collins	Kyle Smith
Danny Hamsher	17598 Barron Cir Firestone Colo	Danny Hamsher
<b>JOHN STRASSER</b>	<b>26019 WCR RD GILL CO</b>	<b>John Strasser</b>
Tory Hanson	4613 PENDLETON AVE EVANS CO	Tory Hanson
<del>LORI STRASSER</del>	<del>26019 WCR RD GILL CO</del>	<del>Lori Strasser</del>
Terri Hanson	4613 Pendleton Ave Evans CO	Terri Hanson
Tami Fisher	1942 27th St Greeley Co	Tami Fisher
Jay Callough	5225 Newton St Denver Co	Jay Callough
Cindy Freeze	" " " "	Cindy Freeze
Eary Dorsey	1492 Sailcrest Ct Ft Collins	Eary Dorsey
Manuel Salano	5172 Fallgold Ct WLD	Manuel Salano
Larry Hultman	2903 Heawatha Greeley	Larry Hultman
Mike Smith	81 Smith Bridge Rd Bellevue Co	Mike Smith

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printed name	street address	signature
Clay DeWitt	3369 Schmickle Rd, Marion, IA	<i>[Signature]</i>
Hannah DeWitt	3369 Schmickle Rd, Marion, IA	<i>[Signature]</i>
Kathy Cordle	1433 Westshore Dr., Loveland, CO	<i>[Signature]</i>
Michael Boggs	15924 9 Wandcrest Dr, Pine, CO	<i>[Signature]</i>
Miguel Vargas	4856 w gillip Denver, CO	<i>[Signature]</i>
Art Silbaugh	6204 W CR 4 Berthoud, CO	<i>[Signature]</i>
Kendy Starck	12445 Edinburgh Dr Loveland CO	<i>[Signature]</i>
Amy Starck	12445 Edinburgh Dr Loveland	<i>[Signature]</i>
DIANA STARCK	105 SW. 50 <sup>th</sup> St Loveland	<i>[Signature]</i>
SCOTT STARCK	105 SW. 50 <sup>th</sup> St. Loveland	<i>[Signature]</i>
Tylar Riek	104 51st Ave Greeley, CO	<i>[Signature]</i>
TIM STINCHCOMB	5632 CORINTH DR CO SPRINGS, CO 80923	<i>[Signature]</i>
Gayle Gulley	16256 W. C. Rd. 18E Loveland, CO	<i>[Signature]</i>
John D. Smith	314 Wash Ave. Berthoud, CO	<i>[Signature]</i>
Nery Sme	314 Wark Ave Berthoud CO	<i>[Signature]</i>
Tzel Spritzer	6109 timber run Loveland CO,	<i>[Signature]</i>
Bret Merichs	7100 W CR 20 Loveland CO	<i>[Signature]</i>
Vincent Aquino	Loveland	<i>[Signature]</i>
Jared Guinn	2821 5th St SW Loveland CO	<i>[Signature]</i>

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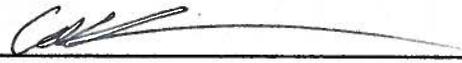
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printed name	street address	signature
Abel Zaper	1331 Cleveland	
DAVE NEIL	637 Modena Ct, Lubad	
Marvin Wilson	2301 Cherry Ave Greeley	
Evan Biteman	5521 WCR 38E Ft Collins	
Marsha Biteman	5521 WCR 38E ft Collins Co	
BRAD WIREY	498 WEST 5TH ST LOVELAND, CO	
Robert Rowland	1100 E 17TH AVE Longmont CO. 80501	
Alvin Nelson	15555 N 98rdst, Longmont	
Steven Elmes	2363 Keystone Ct.	
Thomas Korman	4524 Keelson Court	
Aaron Sylvester	523 S. Emerson St.	
David Harper	3070 S. LAKEWEDGE TR.	DAVID HARPER
USA Plunkett	9641 N. 63rd St. Longmont 80503	USA Plunkett
JOHN McHUGH	2000 S. CR29 LOVELAND CO 80537	

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printed name	street address	signature
CODY VILLEGAS	1131 2nd St SE Loveland	
Becky Dickerson	3280 Boulder Cir Bronfield Co	Rebecca M Dickerson
Scott T. Newson	49602 Nalle Monroe Loveland	Scott Newson
Gina Laey	517 Ruby Ave Loveland Co	Gina Laey
MEG MARSHALL	<del>6850</del> 6850 W. US Hwy 34 Loveland Co	M. Marshall
JOHN PENALVER	PO Box 1263 Loveland, Co 80539	John Pen
JAY ADRIANES	676 Yuma Ct Loveland, CO. 80537	Jay Adrianes
FRANK PFAB	420 E 57 <sup>th</sup> St, Loveland Co 80538	Frank Pfab
Allan Curtis	1437 Denver Ave Loveland CO 80537	Allan Curtis
Nicole North	420 E. 57 <sup>th</sup> St Loveland, CO 80538	Nicole North
Tina Coercia	2301 15 <sup>th</sup> Ave Lugnut Co 80503	Tina Coercia
Francisco Gonzalez	2301 15 <sup>th</sup> Ave Lugnut Co 80503	Francisco Gonzalez

## WINDJAMMER SPECIAL EXCEPTION REVIEW...CONTINUED

PRINTED NAME:

ADDRESS:

SIGNATURE:

Connie McLeod	4203 W 30 <sup>th</sup> + Greeley	Connie McLeod
JANICE HARMS	2125 72ND AVE CT GREELEY	Janice Harms
Kathy Ratten	4984 W 6 <sup>th</sup> St Greeley	Kathy Ratten
Kristi Johnson	4912 W 2nd St Rd Greeley	Kristi Johnson
<del>Dorothy Butler</del>		
Dorothy Butler	2490 Boise Ave Loveland	Dorothy Butler
KATHY ELLIOTT	3313 72 Ave Greeley	Kathy Elliott
Don Holtz	2158 Country Club Pkwy - Milliken	Don Holtz
Jana Carpenter	4631 W 21 <sup>st</sup> St Greeley	Jana Carpenter
LIZ FISHER	5423 W 7 <sup>th</sup> St Rd Greeley Co	
ELIZABETH Smith	109 Smith Bridge Rd Bellvue, CO	Elizabeth Smith
Bryce Smith	81 Smith Bridge Rd Bellvue, CO	Bryce Smith
Julia Robinson	1225 W Prospect Rd #E203 Fort Collins, CO	Julia Robinson

TOTAL 101

NON CARTER LAKE



Karin Madson <madsonkc@co.larimer.co.us>

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## Windjamer #15-Z1995

1 message

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**Barry Gustafson** <barry@advantageinsllc.com>

Tue, Mar 15, 2016 at 12:36 PM

To: kmadson@larimer.org

Cc: barry@advantageinsllc.com

Karin & to whom it may concern,

I moved to Colorado in 1978 & built a home by Cater Lake in 1981. The Windjammer has been there way before I moved to Colorado.

It has always been owned & operated by a local person or family and serves as a good local place to eat & have a drink. I am fully in support to have it continue as it is used today and limited hours (for bands outside) as proposed by the county.

It is not fair to the owners of any business to have neighbors buy a home by an existing business then complain about noise & traffic. (Not in my back yard) People never should have bought a home there if they don't like noise of business & traffic on a public roadway.

Let them run their business as it has been for many decades

Sincerely,

Barry Gustafson

4001 Fawn Trail

Loveland, Co 80537

970-290-1922



Karin Madson <madsonkc@co.larimer.co.us>

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## April 20 hearing - Windjammer special exception

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iris orlandino <orlandinocarterlake@lpbroadband.net>

Mon, Mar 21, 2016 at 8:13 PM

Reply-To: orlandinocarterlake@lpbroadband.net

To: kmadson@larimer.org

Hello Karin,

Please include our written comments as we are unable to attend the hearing.

We have lived approximately 1,000 feet from the west side of the Windjammer for 21 years. Last summer was our first experience with the live music from the outdoor patio. The noise was excessive and included 4 days and/or evenings of loud music and loud cheering and yelling from individuals on the patio. We were not able to sit outside and enjoy our own patio and we had to close our windows if we did not want to hear the noise from inside our home.

Prior to last summer, this has always been a typically quiet area in the summer with the only noise being the coming and going of the motor cycles. Last summer, the constant noise of the music and patrons at the bar impacted our enjoyment of our quiet mountain neighborhood. In the past, there was the occasional charitable auction that wasn't an issue for us. The music was always inside and the noise level was not excessive outside. We don't mind having 1-3 charitable functions during the year.

Another concern we have is the potential for the residential property values to go down due to the noise of the outdoor patio and music during the summer.

Please consider this our opposing of the special exception due to the noise levels, impact to our enjoyment of our mountain property, and potential decrease of the property values. We highly oppose the approval of this special exception.

Sincerely,

Tom and Iris Orlandino  
3050 Rainbow Ln  
Loveland, CO 80537  
970-593-0098

03/18/16  
Mary Estes  
9201 Prairie Way  
Loveland, CO 80537



Dear Ms. Madson:

I am writing in support of the Windjammer's outdoor patio.

The Millers have done an excellent job keeping this iconic location clean and friendly for locals, campers and bikers. During the last 20 years, all previous owners have served food and drinks outside on the patio, hosted bands and all has been fine. I see no reason for this zoning change to be passed.

Carter Lake has always been a busy area in the summer and will continue to be so. The Windjammer provides a great place for lunch and dinner when no other options exist for locals as well as campers especially since the county took away the full kitchen from the marina.

As a local resident for 20 years, active voter and tax payer I request that the Windjammer be left as it is and Ms. Nikkel's complaint be dropped as a **frivolous request** wasting the zoning commission's valuable time.

Will Ms. Nikkels' next complaint be against Harleys being too loud?

Thank you,

A handwritten signature in cursive script that reads "Mary Estes". The signature is written in black ink and is positioned above the typed name.

Mary Estes



Karin Madson <madsonkc@co.larimer.co.us>

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**WEB: Re: Windjammer Roadhouse Special Exception**

1 message

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mrclmx@gmail.com <mrclmx@gmail.com>

Sat, Mar 26, 2016 at 8:37 PM

To: kmadson@larimer.org

This message was sent by a visitor to the Virtual Courthouse.

Name: Marc Lomax

Email: mrclmx@gmail.com

Phone: 303-466-8595

It would be a shame to close down this well established restaurant for the simple indication that some self entitled person want the noise decreased or is attempting to change her property value out of pure greed. I cannot believe that some people will put personal hardship on others out of their own greed. Please do not support the closing of this fine establishment.

Page sent from: [http://www.larimer.org/planning/planning/current\\_applications.cfm](http://www.larimer.org/planning/planning/current_applications.cfm)

Date/time: 03/26/2016 - 8:37 PM

User located at: 10.200.1.20



Karin Madson &lt;madsonkc@co.larimer.co.us&gt;

## Fwd: FW: Letters opposing special exception to Windjammer bar zoning

Matthew Lafferty <laffermn@co.larimer.co.us>  
 To: "Madson, Karin" <kmadson@larimer.org>

Thu, Mar 31, 2016 at 9:10 AM

Karin

Please respond to Nancy on this as I don't know the answer.

Thanks you

Matt

----- Forwarded message -----

From: **Nancy L Wallace** <nwallace@frii.com>

Date: Thu, Mar 31, 2016 at 9:02 AM

Subject: FW: Letters opposing special exception to Windjammer bar zoning

To: "Matt Lafferty (E-mail 2)" <mlafferty@larimer.org>

Matt,

I asume the whole PC and staff received these? Nancy

-----Original Message-----

**From:** BJ Nikkel [mailto:bjnikkel@gmail.com]

**Sent:** Thursday, March 31, 2016 8:28 AM

**To:** nwallace@frii.com

**Subject:** Letters opposing special exception to Windjammer bar zoning

Good morning Nancy,

I've attached a letter expressing to Planning Department and County Commissioners why my husband and I oppose the special exception to the Windjammer bar's zoning status.

My neighbors have also put together a petition where the majority of homeowners and families in our neighborhood oppose the special exception - these are the folks whom the county deemed "directly impacted" by the Windjammer's noise pollution. Together, we oppose the special exception to the bar because of the extreme noise that we were subjected to last year.

You will likely be given a copy of our petition by planning department, and if you don't see it, let me know. I can then ask Dick Hughes, who put the petition together and got signatures of the majority of our neighbors who are directly impacted by the new bar owners actions, to send a copy to you. We could have expanded that to include many others, but chose to stick to those who are directly impacted.

You will also likely see a petition by folks supporting the special exception - keep in mind, these are not people who are directly impacted and don't necessarily even live in the area. They are largely friends, family or clients of the bar.

The petition to "Save the Windjammer" is an overly dramatic, emotional diversion from the true facts which are that the majority of neighbors directly affected are simply opposing a "special exception" to the bar's current zoning status.

Nobody is trying to "shut down" the bar or "close down their business." We simply do not want outdoor amplified bands withloud sub-woofers continuously playing every night - along with loud nightly parties on the bar's illegal patio, which was never permitted or approved by the county. We have no problem with the bar co-existing peacefully in our neighborhood as they did before the new owners purchased it and willfully chose to ignore its zoning status. We'd like them to keep their business indoors.

I've been asked by my neighbor, Audrey Bocock, who made the initial complaint to the county about the noise and other

illegal activities at the Windjammer, to give you her letter also. It is attached.

Audrey is a wheelchair bound disabled veteran with a Traumatic Brain Injury she suffered in the last Gulf War and she also suffers from PTSD as a result of her injuries, too. She's very articulate and smart and she has suffered a lot as a result of the extreme noise she is subjected to living across the driveway from the bar. She was a Medic and also served as a Sound Quality Technician for the military, which essentially was a position that she made decisions about environmental noise pollution that affect our military members adversely. She has a keen knowledge about the issue. Please read her letter and if you'd like to talk with her I can give you her phone number. I believe she will attend the April 20 hearing.

Please also read my attached letter explaining the details of how all of this came about last year, what I found out from county records and why my husband and I oppose it - and if you'd like to talk about it please give me a call.

I would respectfully ask you to vote No on the special exception for the Windjammer on April 20th, because the effects of the noise and adverse affects would be detrimental to so many of us.

See the two attachments.

Sincerely,  
B.J. Nikkel  
970-217-8994 cell

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**2 attachments**

 **1-11-16 Letter to Larimer County Planners and Commissioners - (3).docx**  
28K

 **Audrey Bocock Letter (1).pdf**  
43K

April 4, 2016

To Whom It May Concern:

This is in regards to Windjammer Roadhouse Special Exception, file #15-Z1995.

I went down for the neighborhood meeting. I spoke to two people that did not even live in the area that were there to support the bar. That is all well and good, but if they don't live in the area in question, do they even have a say?

Through the years we have camped the Carter Lake area, frequented the Windjammer, the store, & the marina. We have always enjoyed it.

We have lived by the Windjammer for sixteen years. There are others that have lived there a lot longer than we have and we have all peacefully coexisted.

In that time we have tried to be good neighbors to all the owners that have been there. We have always donated parking on our land for their events. Due to recent circumstances we have been concerned for the liability. We have had no trespassing signs up and have put up more.

We have never minded the music from the bar or the motorcycles. But ,if things are expanded, we are concerned about the parking, trespassers, and people leaving their dogs tied up outside or left in their vehicles all day and all night while they either work in the bar or party.

We would like to know how wanting a special exception for an outdoor patio and outdoor music went to a SAVE THE WINDJAMMER petition. It is very misleading to the general public. We had a neighborhood meeting and the Millers have been to MS Audrey Bocock's residence so they cannot justify saying there are "a couple people who won't sit down and talk to them". Others have called the bar.

We are concerned about some overzealous customer retaliating against the neighbors because of the wording in the petition.

We do not wish the Millers to fail, but it appears their business is doing just fine the way it is without any special exceptions.

Thank you for the chance to voice our opinion,

Alden & Bonnie Stafford

3413 South County Road 31

Loveland, CO 80537