

**RESOLUTION**

**RE: APPROVE SITE SPECIFIC DEVELOPMENT PLAN AND USE BY SPECIAL REVIEW PERMIT #1584 FOR A USE PERMITTED AS A USE BY RIGHT, ACCESSORY USE, OR USE BY SPECIAL REVIEW IN THE COMMERCIAL AND INDUSTRIAL ZONE DISTRICTS (CONSTRUCTION BUSINESS WITH TWO SHOP BUILDINGS, AN OFFICE, AND OUTDOOR STORAGE) IN THE A (AGRICULTURAL) ZONE DISTRICT - GERRARD FAMILY LIMITED PARTNERSHIP, LLLP**

**WHEREAS**, the Board of County Commissioners of Weld County, Colorado, pursuant to Colorado statute and the Weld County Home Rule Charter, is vested with the authority of administering the affairs of Weld County, Colorado, and

**WHEREAS**, the Board of County Commissioners held a public hearing on the 14th day of February, 2007, at the hour of 10:00 a.m. in the Chambers of the Board for the purpose of hearing the application of Gerrard Family Limited Partnership, LLLP, 1739 South County Road 13C, Loveland, Colorado 80537, for a Site Specific Development Plan and Use by Special Review Permit #1584 for a Use Permitted as a Use by Right, Accessory Use, or Use by Special Review in the Commercial and Industrial Zone Districts (construction business with two shop buildings, an office, and outdoor storage) in the A (Agricultural) Zone District on the following described real estate, being more particularly described as follows:

Part of the SW1/4 of Section 18, Township 5 North,  
Range 67 West of the 6th P.M., Weld County,  
Colorado

**WHEREAS**, said applicant was represented by Nathan Gerrard at said hearing, and

**WHEREAS**, Section 23-2-230 of the Weld County Code provides standards for review of said Use by Special Review Permit, and

**WHEREAS**, the Board of County Commissioners heard all of the testimony and statements of those present, studied the request of the applicant and the recommendation of the Weld County Planning Commission and all of the exhibits and evidence presented in this matter and, having been fully informed, finds that this request shall be approved for the following reasons:

1. The submitted materials are in compliance with the application requirements of Section 23-2-260 of the Weld County Code.
2. It is the opinion of the Board of County Commissioners that the applicant has shown compliance with Section 23-2-230.B of the Weld County Code as follows:
  - a. Section 23-2-230.B.1 – The proposal is consistent with Chapter 22 of the Weld County Code and any other applicable code provisions or ordinance in effect. Some relevant sections included the following:
    - 1) Section 22-2-60 (A.Goal 4) states, "Conversion of agricultural land to nonurban residential, commercial, and industrial uses will be

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accommodated when the subject site is in an area that can support such development. Such development shall attempt to be compatible with the region." The application materials indicate that the site can support the proposed use. The Conditions of Approval and Development Standards ensure that a reasonable attempt will be made to be compatible with the area.

- 2) Section 22-2-170.C (C.Goal 3) states, "Address the compatibility of commercial land uses with adjacent land uses." The applicant proposes significant screening and landscaping of the site to mitigate its impact and to ensure compatibility with the adjacent uses. The eastern portion of the property will remain available for agricultural uses, therefore, impacts to surrounding property owners to the east will be minimal.
- b. Section 23-2-230.B.2 -- The proposal is consistent with the intent of the Zone District in which the use is located. The subject property is zoned A (Agricultural). Commercial and industrial uses of all types are supported within the A (Agricultural) Zone District as Uses by Special Review, as noted by Section 23-3-40.R as follows: "Any use permitted as a Use by Right, an Accessory Use, or a Use by Special Review in the Commercial or Industrial Zone Districts, provided that the property is not a lot in an approved or recorded subdivision plat, or lots part of a map or plan filed prior to adoption of any regulations controlling subdivisions."
- c. Section 23-2-230.B.3 -- The uses which will be permitted will be compatible with the existing surrounding land uses. Surrounding uses include agriculture with associated housing and support facilities, with the closest residence located immediately adjacent to the north along Weld County Road 13. The Indianhead Subdivision is located approximately one-half mile to the northeast. The zoning surrounding the site is Agricultural; land to the west of the site is located within Larimer County. The site is located approximately one-half mile south of U.S. Highway 34, and the applicant is proposing to pave the section of road from the Highway to the site. The Conditions of Approval and the proposed Use by Special Review Permit Plan Map will ensure that the proposed use is limited to the western half of the property and remains compatible with surrounding uses.
- d. Section 23-2-230.B.4 -- The uses which will be permitted will be compatible with future development of the surrounding area, as permitted by the existing zoning, and with the future development as projected by Chapter 22 of the Weld County Code and any other applicable code provisions or ordinances in effect, or the adopted Master Plans of affected municipalities. The proposed use is compatible with the area as discussed above and is permitted within the existing A (Agricultural) Zone District. The subject property is located within the three-mile referral area of the Towns of

Johnstown and Windsor and the City of Greeley, as well as Larimer County. Only the City of Greeley provided referral comments, which reiterate comments of other referral agencies about landscaping and outdoor storage. No comments were received from the Town of Johnstown or Larimer County, and the Town of Windsor indicated no concerns with the application. The site does not lie within any Intergovernmental Agreement (IGA) boundaries.

- e. Section 23-2-230.B.5 -- The application complies with Chapter 23, Article V, of the Weld County Code. The site does not lie within any Overlay Districts. Effective January 1, 2003, building permits issued on the proposed lots will be required to adhere to the fee structure of the County-Wide Road Impact Fee Program. Effective August 1, 2005, building permits issued on the proposed lots will be required to adhere to the fee structure of the Capital Expansion Impact Fee and the Stormwater/Drainage Impact Fee.
- f. Section 23-2-230.B.6 - The applicant has demonstrated a diligent effort to conserve prime farmland. Approximately 18 acres of the 41-acre lot will be used for the construction business; the remainder will continue to be used for agricultural purposes. The United States Department of Agriculture (U.S.D.A.) Soil Map indicates the entire site is located on prime (irrigated) farmland.
- g. Section 23-2-230.B.7 - There is adequate provision for protection of the health, safety, and welfare of the inhabitants of the neighborhood and the County. The Design Standards (Section 23-2-240), Operation Standards (Section 23-2-250), Conditions of Approval, and Development Standards will ensure that there are adequate provisions for the protection of the health, safety, and welfare of the inhabitants of the neighborhood and County.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Weld County, Colorado, that the application of Gerrard Family Limited Partnership, LLLP, for a Site Specific Development Plan and Use by Special Review Permit #1584 for a Use Permitted as a Use by Right, Accessory Use, or Use by Special Review in the Commercial and Industrial Zone Districts (construction business with two shop buildings, an office, and outdoor storage) in the A (Agricultural) Zone District on the parcel of land described above be, and hereby is, granted subject to the following conditions:

- 1. Prior to recording the Use by Special Review Permit Plan Map, the following shall be addressed:
  - A. The applicant shall have in place, with K.P. Kauffman Company, Inc., and its lessees, an agreement for the compatible development for the surface estate and oil and gas estates, or they shall provide evidence of an adequate attempt to reach such agreement.

- B. The applicant shall submit a Dust Abatement Plan, for review and approval, to the Weld County Department of Public Health and Environment. Written evidence of completion shall be provided to the Department of Planning Services.
- C. The applicant shall provide a detailed Design and Operation Plan for the area used for equipment or vehicle washing. The washing area shall be designed and constructed to capture all effluent and prevent any discharges in accordance with the Rules and Regulations of the Water Quality Control Commission and the Environmental Protection Agency. Written evidence of completion shall be provided to the Department of Planning Services.
- D. The applicant shall submit evidence of an Above-ground Storage Tank Permit from the Colorado Department of Labor and Employment (CDL&E), Oil Inspection Section, for any aboveground storage tanks located on the site. Alternately, the applicant can provide evidence from the (CDL&E), Oil Inspection Section, that they are not subject to these requirements. Written evidence of completion shall be provided to the Department of Planning Services.
- E. The applicant shall submit a Waste Handling Plan, for approval, to the Environmental Health Services Division of the Weld County Department of Public Health and Environment. Written evidence of completion shall be provided to the Department of Planning Services. The plan shall include at a minimum, the following:
  - 1) A list of wastes which are expected to be generated on the site (this should include expected volumes and types of waste generated).
  - 2) A list of the type and volume of chemicals expected to be stored on the site.
  - 3) The waste handler and facility where the waste will be disposed (including the facility name, address, and phone number).
- F. The applicant shall enter into an Off-Site Road Improvements Agreement with the Weld County Department of Public Works for the upgrade and paving of Weld County Road 13 from the site to U.S. Highway 34, as indicated on the plat. Written evidence of completion shall be provided to the Department of Planning Services.
- G. The applicant shall attempt to address the concerns and issues of the City of Greeley, as indicated in the referral comments dated October 30, 2006.

- H. The applicant shall submit the items requested by the Johnstown Fire Protection District in the referral dated November 2, 2006, and attempt to address any concerns or issues that are identified.
- I. The Use by Special Review Permit Plan Map shall be amended as follows:
- 1) All sheets of the plan map shall be labeled USR-1584.
  - 2) The plan map shall meet all requirements as listed in Section 23-2-260.D of the Weld County Code.
  - 3) The plan map shall include the attached Development Standards.
  - 4) All items concerning parking spaces, setbacks/offsets, and screening and landscaping, as identified in the landscape referral comments dated October 6, 2006, shall be reflected on the map.
  - 5) Section 23-3-250.A.6 of the Weld County Code addresses the issue of trash collection areas. Areas used for storage or trash collection shall be screened from adjacent properties and public rights-of-way. These areas shall be designed and used in a manner that will prevent trash from being scattered by wind or animals.
  - 6) Weld County Road 13 is designated on the Weld County Road Classification Plan as a Strategic Roadway, which requires 140 feet of right-of-way at full buildout. There is presently 60 feet of right-of-way. An additional 40 feet shall be delineated on the plat as future Weld County Road 13 right-of-way. All setbacks shall be measured from the edge of future right-of-way. The applicant shall verify the existing right-of-way and the documents creating the right-of-way. This road is maintained by Weld County.
  - 7) The off-street parking spaces, including the access drive, shall be surfaced with asphalt, concrete, or the equivalent, and shall be graded to prevent drainage problems. The paved parking area shall be provided to meet the requirements of employees, company vehicles, visitors, and customers adjacent to the office facility. The remaining portion of the site shall be gravel, recycled asphalt, or the equivalent to accommodate employees, trucks, and equipment parking.
  - 8) Each parking space shall be equipped with wheel guards, or curb stops where needed, to prevent vehicles from extending beyond the boundaries of the spaces and from coming into contact with other vehicles, walls, fences, or plantings.

- 9) The paved parking lot shall conform to all standards of the American with Disabilities Act.
  - 10) A minimum of 69 parking spaces shall be required, as provided for in Appendix 23-B of the Weld County Code. Building 1 is indicated as an office building, requiring 48 spaces. Buildings 2 and 3 are considered warehouses, requiring 19 and 2 spaces, respectively. Additional parking may be required for the fueling station and covered parking once additional information is provided.
- J. The applicant shall submit two (2) paper copies of the plan map for preliminary approval to the Weld County Department of Planning Services.
  - K. The applicant or applicant's engineer shall contact the Weld County Department of Public Works, Drainage Division, to coordinate sizing, location, and calculating runoff to the detention pond associated with the proposed site. There is a fee involved in the stormwater review process (Sections 23-2-240.A.5, 24-7-120, and 24-7-130).
2. At least one month prior to construction activities, a Stormwater Discharge Permit may be required for a development/redevelopment/construction site where a contiguous or non-contiguous land disturbance is greater than, or equal to, one acre in area. The applicant shall contact the Water Quality Control Division of the Colorado Department of Public Health and Environment at [www.cdph.state.co.us/wq/PermitsUnit](http://www.cdph.state.co.us/wq/PermitsUnit) for more information.
  3. Prior to construction of any structure, the applicant shall provide a letter of approval and address any automatic sprinkler requirements from the Johnstown Fire Protection District.
  4. Prior to the issuance of the Certificate of Occupancy:
    - A. An individual sewage disposal system is required for the proposed office and shop buildings and shall be installed according to the Weld County Individual Sewage Disposal System (I.S.D.S.) Regulations.
    - B. The septic system is required to be designed by a Colorado registered professional engineer according to the Weld County I.S.D.S. Regulations.
  5. Upon completion of Condition of Approval #1 above, the applicant shall submit a Mylar plat, along with all other documentation required as Conditions of Approval. The Mylar plat shall be recorded in the office of the Weld County Clerk and Recorder by the Department of Planning Services. The plan map shall be prepared in accordance with the requirements of Section 23-2-260.D of the Weld County Code. The Mylar plat and additional requirements shall be submitted within thirty (30) days

from the date of the Board of County Commissioners Resolution. The applicant shall be responsible for paying the recording fee.

6. In accordance with Weld County Code Ordinance #2005-7, approved June 1, 2005, should the plat not be recorded within the required thirty (30) days from the date of the Board of County Commissioners Resolution, a \$50.00 recording continuance charge shall added for each additional three (3) month period.
7. The Department of Planning Services respectfully requests the surveyor provide a digital copy of this Use by Special Review. Acceptable CAD formats are .dwg, .dxf, and .dgn (Microstation); acceptable GIS formats are ArcView shapefiles, ArcInfo Coverages and ArcInfo Export files format type is .e00. The preferred format for Images is .tif (Group 4). (Group 6 is not acceptable). This digital file may be sent to maps@co.weld.co.us.

The above and foregoing Resolution was, on motion duly made and seconded, adopted by the following vote on the 14th day of February, A.D., 2007.

BOARD OF COUNTY COMMISSIONERS  
WELD COUNTY, COLORADO

ATTEST:

Weld County Clerk to the Board

BY: Deputy Clerk to the Board

APPROVED AS TO FORM:

County Attorney

David E. Long, Chair

William H. Jerke, Pro-Tem

William F. Garcia

EXCUSED

Robert D. Masden

Douglas Rademacher

Date of signature: 2/22/07

**SITE SPECIFIC DEVELOPMENT PLAN  
USE BY SPECIAL REVIEW PERMIT  
DEVELOPMENT STANDARDS  
GERRARD FAMILY LIMITED PARTNERSHIP, LLLP  
USR #1584**

1. The Site Specific Development Plan and Use by Special Review Permit #1584 is for a Use Permitted as a Use by Right, Accessory Use, or Use by Special Review in the Commercial and Industrial Zone Districts (construction business with two shop buildings, an office, and outdoor storage) in the A (Agricultural) Zone District.
2. Approval of this plan may create a vested property right pursuant to Section 23-8-10 of the Weld County Code.
3. The total number of employees for all businesses associated with the site shall not exceed forty (40) at any one time. In addition to employee, customer, and delivery vehicles, the number of business truck trips shall be limited to 40 per day, as indicated in the application materials.
4. Hours of operation shall be limited from 6:00 a.m. to 7:00 p.m., Monday through Saturday.
5. Landscaping and screening on the site shall be maintained in conformance with the approved Landscape/Screening Plan at all times.
6. Lighting on the site shall be maintained in conformance with the approved Lighting Plan at all times.
7. Should noxious weeds exist on the property, or become established as a result of the proposed development, the applicant/landowner shall be responsible for controlling the noxious weeds, pursuant to Chapter 15, Articles I and II, of the Weld County Code.
8. The property owner shall allow any mineral owner the right of ingress or egress for the purposes of exploration, development, completion, recompletion, re-entry, production, and maintenance operations associated with existing or future operations located on these lands.
9. All liquid and solid wastes, as defined in the Solid Wastes Disposal Sites and Facilities Act, Section 30-20-100.5, C.R.S., shall be stored and removed for final disposal in a manner that protects against surface and groundwater contamination.
10. No permanent disposal of wastes shall be permitted at this site. This is not meant to include those wastes specifically excluded from the definition of a solid waste in the Solid Wastes Disposal Sites and Facilities Act, Section 30-20-100.5, C.R.S.
11. Waste materials shall be handled, stored, and disposed of in a manner that controls fugitive dust, fugitive particulate emissions, blowing debris, and other potential nuisance conditions.
12. The applicant shall operate in accordance with the approved Waste Handling Plan.



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13. The applicant shall comply with all provisions of the Underground and Above Ground Storage Tank Regulations (7 CCR 1101-14).
14. Any vehicle washing area(s) shall capture all effluent and prevent discharges from drum washing and the washing of vehicles in accordance with the Rules and Regulations of the Water Quality Control Commission and the Environmental Protection Agency.
15. Fugitive dust and fugitive particulate emissions shall be controlled on this site. The facility shall be operated in accordance with the approved Dust Abatement Plan at all times.
16. This facility shall adhere to the maximum permissible noise levels allowed in the Commercial Zone District, as delineated in Section 25-12-103, C.R.S.
17. Adequate hand washing and toilet facilities shall be provided for employees and patrons of the facility.
18. Sewage disposal for the development shall be by septic system. Any septic system located on the property must comply with all provisions of the Weld County Code pertaining to Individual Sewage Disposal Systems.
19. The facility shall utilize the existing public water supply (Little Thompson Water District).
20. If applicable, the applicant shall obtain a Stormwater Discharge Permit from the Colorado Department of Public Health and Environment, Water Quality Control Division.
21. The operation shall comply with all applicable rules and regulations of state and federal agencies and the Weld County Code.
22. A building permit shall be obtained prior to the construction of structures.
23. A plan review is required for each building for which a building permit is required. Plans shall bear the wet stamp of a Colorado registered architect or engineer. Two complete sets of plans are required when applying for each permit. The applicant shall include a Code Analysis Data sheet, which is provided by the Weld County Department of Building Inspection, with each building permit application.
24. Buildings shall conform to the requirements of the various codes adopted at the time of permit application. Currently, the following have been adopted by Weld County: 2003 International Building Code, 2003 International Mechanical Code, 2003 International Plumbing Code, 2003 International Fuel Gas Code, 2005 National Electrical Code, and Chapter 29 of the Weld County Code.
25. All structures will require an engineered foundation based on a site-specific Geotechnical Report or an open hole inspection performed by a Colorado registered engineer. Engineered foundations shall be designed by a Colorado registered engineer.

26. The buildings will be classified as B/S-1 (Office and storage). The shops will be classified S-1 (motor vehicle repair garages not exceeding the amount of hazardous material in Table 307.7(1) of the 2003 International Building Code). Repair garages are required to have an automatic fire sprinkler system when exceeding 12,000 square feet. Fire resistance of walls and openings, construction requirements, maximum building height, and allowable areas will be reviewed at the plan review. Setback and offset distances shall be determined by the Weld County Code.
27. Building height shall be measured in accordance with the 2003 International Building Code for the purpose of determining the maximum building size and height for various uses and types of construction, and to determine compliance with the Bulk Requirements from Chapter 23 of the Weld County Code. Building height shall be measured in accordance with Chapter 23 of the Weld County Code in order to determine compliance with offset and setback requirements. When measuring buildings to determine offset and setback requirements, buildings are measured to the farthest projection from the building. Property lines shall be clearly identified and all property pins shall be staked prior to the first site inspection.
28. The applicant shall provide a letter of approval and address any automatic sprinkler requirements from the Johnstown Fire protection District prior to construction of any structure.
29. Effective August 1, 2005, building permits issued on the proposed lots will be required to adhere to the fee structure of the Capital Expansion Impact Fee and the Stormwater/Drainage Impact Fee.
30. Effective January 1, 2003, building permits issued on the proposed lots will be required to adhere to the fee structure of the County-Wide Road Impact Fee Program.
31. The property owner or operator shall be responsible for complying with the Design Standards of Section 23-2-240, Weld County Code.
32. The property owner or operator shall be responsible for complying with the Operation Standards of Section 23-2-250, Weld County Code.
33. Weld County Government personnel shall be granted access onto the property at any reasonable time in order to ensure the activities carried out on the property comply with the Development Standards stated herein and all applicable Weld County regulations.
34. The Use by Special Review area shall be limited to the plans shown hereon and governed by the foregoing standards and all applicable Weld County regulations. Substantial changes from the plans or Development Standards, as shown or stated, shall require the approval of an amendment of the Permit by the Weld County Board of County Commissioners before such changes from the plans or Development Standards are permitted. Any other changes shall be filed in the office of the Department of Planning Services.

- 35. The property owner or operator shall be responsible for complying with all of the foregoing Development Standards. Noncompliance with any of the foregoing Development Standards may be reason for revocation of the Permit by the Board of County Commissioners.

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