

## **AGENDA**

Zoning Board of Appeals Regular Meeting

April 5, 2012 – 5:30 p.m.

Evans Community Complex – 1100 37<sup>th</sup> Street

Zoning Board of Appeals packets are prepared several days prior to the meetings. This information is reviewed and studied by the Board, eliminating lengthy discussions to gain basic understanding. Timely action and/or short discussion on agenda items do not reflect lack of thought or analysis. An informational packet is available for public inspection and is posted on the bulletin board adjacent to the Council Chambers as soon as it is available. It can be accessed Monday through Friday 8:00 a.m. to 5:00 p.m. excluding holidays. You may also subscribe to receive notices of meetings and agendas at [www.cityofevans.org](http://www.cityofevans.org)

1) CALL TO ORDER

2) ROLL CALL:

Chairman: Marty Schanwolf  
Vice-Chairman: Steve Bernardo  
Board Members: Ron Thaden

3) APPROVAL OF MINUTES

a. Minutes of February 27, 2012

4) APPROVAL OF THE AGENDA

5) AGENDA ITEMS:

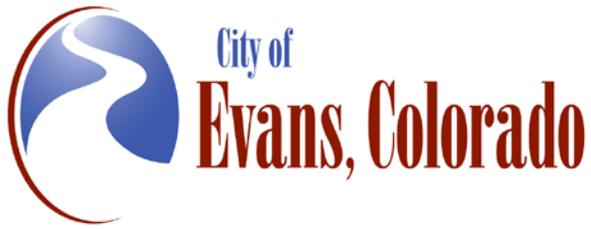
- a. Public Hearing – Variance Request for Carports at The Grove – 3202 11<sup>th</sup> Avenue, Evans, Colorado 80620
- b. Meeting with the Planning Commission

6) AUDIENCE PARTICIPATION:

(This portion of the Agenda is provided to allow members of the audience to provide comments to the Planning Commission on items that were not considered on the current Agenda.)

7) GENERAL DISCUSSION:

- a. Dates for next meeting



- i. Update and adopt the National Electric Code

8) ADJOURNMENT

**MINUTES**  
**EVANS ZONING BOARD OF APPEALS**  
Regular Meeting, 5:30 pm  
February 27, 2012

**CALL TO ORDER**

The February 27, 2012, meeting of the Zoning Board of Appeals was called to order at 5:33 p.m. by Board Chair Schanwolf.

**ROLL CALL:**

Present: Board Members Thaden, Schanwolf, Bernardo, Clark, Buck  
Absent: None

**APPROVAL OF MINUTES**

**Adoption of Minutes** from April 28, 2011. There were no changes to the minutes. It was moved by Board Member Bernardo, seconded by Board Member Thaden to approve the minutes as submitted. Unanimous consent

**APPROVAL OF THE AGENDA**

There were no changes to or comments on the agenda.

**AGENDA ITEMS:**

**Annual Election of Officers** – According the Zoning Board of Appeals Rules of Procedure, the Chairperson and Vice-Chairperson are elected annually at the first meeting of the year. However, nothing in the Rules of Procedure prevents the Board from re-electing the same person.

A motion to was made by Mr. Clark, seconded by Mr. Buck to reappoint Mr. Schanwolf as the Chair and Mr. Bernardo as the Vice Chair for the Zoning Board of Appeals for 2012.

**Public Hearing** - Variance Request for Carports at The Grove – 3202 11<sup>th</sup> Avenue, Evans, Colorado 80620

Chair Schanwolf opened the public hearing and asked to hear from staff. The following information from the packet was reviewed:

BACKGROUND INFORMATION		
<b>Location:</b>	3202 11 <sup>th</sup> Avenue	
<b>Applicants:</b>	Campus Crest, Owner SolarCity Corp, Applicant	
<b>Existing Land Use:</b>	C-3 High Intensity Commercial	
<b>Proposed Land Use:</b>	Same	
<b>Surrounding Land Use:</b>	<b>North</b>	Commercial vacant land to be developed, church
	<b>South</b>	Post Office, Moose Lodge
	<b>East</b>	Ditch, storage and industrial uses
	<b>West</b>	Residential
<b>Existing Zoning:</b>	C-3	
<b>Proposed Zoning:</b>	Same	
<b>Surrounding Zoning:</b>	<b>North</b>	C-3
	<b>South</b>	C-3
	<b>East</b>	C-3
	<b>West</b>	R-1, R-2, C-1
<b>Future Land Use Designation:</b>	Commercial	

**PROJECT DESCRIPTION:** The City has received an application from Campus Crest, land owner, represented by SolarCity Corp, for a Variance in order to construct carports. The carports will serve as the supporting structure for installation of solar panels. Please see the attached vicinity map and the attached application for the property location, which is 3202 11<sup>th</sup> Avenue in Evans, commonly referred to as The Grove.

A previous USR for this property has been approved for the installation of solar panels on the roofs of some of the buildings.

**RECOMMENDATION:** Staff is suggesting that the Zoning Board of Appeals recommend denial to City Council.

**ANALYSIS:**

**Background:**

The development was originally constructed in 2005 with a Use by Special Review as allowed under the code. High Intensity Commercial land, as this is zoned, allows multi family housing to be constructed pursuant to the USR.

SolarCity is proposing to construct solar carports at The Grove, Campus Crest's multi-family housing complex located at 3200-3300 11<sup>th</sup> Ave. The solar carports would be built to cover existing parking spaces on the east, south, and west sides of the lot.

If approved, the applicants will have to come through the site planning process to apply for a building permit, and will be required to adhere to all the standards in the Evans Municipal Code. As known to staff at this point (without a formal application) the designs of the proposed solar carports comply with Chapter 18.33.060, Multifamily Architectural and Site Design Standards of the City of Evans Land Use Code. The materials and colors of the carports are compatible with the character of the surrounding buildings. Adequate pedestrian lighting will be installed in the carports.

**Section 19.48 of the Evans Municipal Code (Accessory Structures):**

The entire Section 19.48 has been attached for the review of the Zoning Board of Appeals. The applicable sections that are under consideration for this variance application have been pulled out as follows:

"Carport" shall mean a structure that is not fully enclosed and which is accessory to a residence or residences and capable of being used for storage of one or more vehicles." **The proposed variance will meet this code.**

Maximum height. Accessory structures other than garages shall not exceed the height of the principal building or 15 feet, whichever is less. Garages shall not exceed the height of the principal building. This provision shall not apply to structures used for agricultural purposes in the AG – Agricultural – zoning district, or to structures in I – Industrial – zoning districts. **The proposed variance will meet this code**

Maximum number. In all R – Residential – zoning districts, only one detached accessory structure/building, not including garages, shall be permitted per 8,000 square feet of lot area, or fraction thereof, up to a maximum of three such structures per lot. The preceding provision notwithstanding, each principal building shall be allowed at least one detached accessory structure/building. For example, three mobile homes on one lot would each be allowed one detached accessory structure/building, even if the lot were less than 24,000 square feet. **The proposed variance will NOT meet this code.**

Garages and carports accessory to multifamily dwellings. Detached garages and carports shall be compatible with the principal building architecture, and shall incorporate similar and compatible forms, scale, materials, colors, and details. **The proposed variance will NOT meet this code due to the form and scale of the carports.**

Carports shall be limited to six spaces per parking structure and each carport structure shall be located not closer than 20 feet to any other carport structure. **The proposed variance will NOT meet this code – several of the carports have between 20 and 40 spaces.**

Detached garages and carports shall have pitched roofs with a minimum slope of 4:12.  
**The proposed variance will NOT meet this code.**

To the maximum extent feasible, garage entries, carports, and parking garages shall not be located between a principal multifamily building and a street frontage, but shall instead be internalized in building groups so that they are not visible from adjacent public streets. **The proposed variance will NOT meet this code.**

The applicant has stated the following:

Chapter 19.48.034 E, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article 5: *Carports shall be limited to six spaces per parking structure and each carport structure shall be located not closer than 20 feet to any other carport structure.* The proposed solar carport designs occupy between 24 and 40 parking spaces. The purpose of this project is to build adequate roof area to house solar PV panels that will generate enough electricity to offset all of the electricity used by the building's occupants. In addition, covered parking is a valuable commodity that will be in demand so it is desirable for the building's occupants to see a multitude of available covered parking spaces. In order to conform to this code article, the size of the carports would have to be drastically reduced which would negatively impact the ability for the solar carports to serve their intended purpose of providing enough solar electricity to offset building electricity usage.

Chapter 19.48.034 E, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article 8: *Detached garages and carports shall have pitched roofs with a minimum slope of 4:12.* The proposed solar carport designs have a pitched roof with a slope of 1:12. Based on our experience building carports for the past several years, we believe that a 1:12 pitch is the most aesthetically pleasing for a carport roof. A steeper roof, while matching the pitch of surrounding buildings, creates a strange-looking roof line for a carport.

Please see the picture below. If this carport had a 4:12 pitch, the front edge of the carport roof would be 15' lower than the back edge of the roof.

NOT YET APPROVED



These carports were built with a 1:12 roof pitch. The red line imagines a 4:12 pitch.

**Section 19.58 of the Evans Municipal Code (Variance Criteria):**

Below are the Criteria for approval of a Variance:

**19.58.030 Criteria for Variances.**

A. The City Council must find all of the following circumstances to be true in order to approve a variance:

1. Approval of the variance would not jeopardize the health, safety, or welfare of any person; **Staff finds the proposed variance would meet this criteria of approval.**
2. Denial of the variance would result in a practical difficulty and unnecessary hardship to the applicant; **Staff finds that there is no practical difficulty or unnecessary hardship to the applicant if the variance is denied.**
3. Such practical difficulty and unnecessary hardship are due to an irregular, narrow, or steep lot, or other physical situation or condition of the building or land; **Staff finds that this criteria has not been met**
4. Such practical difficulty and unnecessary hardship have not been unreasonably self-imposed by the applicant. **Staff finds that since no hardship exists, this criteria is not applicable.**

**Issues:**

The main concern with the application is the adjacency and compatibility with the existing structure and the surrounding land uses. The construction of the carports will be a significant

physical addition to the site and change the character of the building and the compatibility of the building with surrounding land uses. The very large and long carports will be seen from the street frontage on 11<sup>th</sup> from the west and from the south, as well as from the north on the west side.

The applicant has not met the criteria in the code regarding approval of a variance.

Notice of this public hearing was provided in accordance with Chapter 19.64 of the Municipal Code.

### **FINDINGS OF FACT AND CONCLUSIONS**

After reviewing the Campus Crest USR for installation of solar panels the following findings of fact and conclusions have been determined by staff:

The variance criteria in Section 19.58 of the Evans Municipal Code cannot be appropriately and sufficiently met.

### **STAFF RECOMMENDATION:**

Staff would recommend that the Zoning Board of Appeals forward a recommendation of denial of the requested variance with the findings and conclusions listed above.

Chair Schanwolf then asked to hear from the applicant and/or the applicants representative. Mr. Derek Esposito, representing Solar City, addressed the Zoning Board of Appeals.

Mr. Schanwolf asked about why the applicant would need more solar panels. Mr. Esposito indicated that the rooftop solar panels, when fully built, would be maxed out at 10% of total power needed on the site at about 200 KW. The carports would generate another 400KW, which would increase their ability to generate power to 30%. The customer wants to gain more energy from solar. Mr. Schanwolf asked where the inverters would be located on the site. They are mounted on the side of the building.

Mr. Schanwolf asked about the carports on the east side of the building and if they would get enough sun in the winter. Mr. Esposito said that was addressed during the solar audit and that's why the carports were designed as indicated. Their contracts with Campus Crest state that 90% of the sun during the day must be captured – that's dictated by Xcel Energy in order to get rebates. Mr. Schanwolf asked about the angle of the roof at a 4:12 pitch versus the 1:12 pitch and how drainage was affected by the lower angle. He added that if snow or ice did slide off, how would the management handle that issue (potential blockage of the carports). Mr. Esposito stated that they install flush mount solar on roof tops no matter what the pitch. For aesthetic reasons they don't want to angle the solar panels, because a 37% roof pitch is the perfect angle. A 1:12 pitch on the carport is ideal, although they can pitch a 4:12 if necessary, but the solar panels would look very odd.

Mr. Esposito continued to point out that as proposed, the low edge is 11', over 13' is the maximum on the top edge, less than 10 degree pitch. Snow sliding would not be a concern on a 4:12 pitch but would be on a 1:12 pitch. Structural engineers would stamp all of the plans. Mr. Schanwolf asked about the dimensions of each solar panel. 40" wide by 60" tall.

Mr. Clark asked about the roofs and if they would leak. Mr. Esposito pointed out that the

photo was from Lancaster, California and would leak water. The designs from Campus Crest have a layer of metal decking under the panels to protect them from the elements and be used as a real carport. They would have gutters.

Mr. Buck asked about the amount of space occupied by the carports. Ten percent of the total area was listed in the municipal code regarding coverage of the lot. The proposal would cover 50% of all the parking spaces. Mr. Buck asked about the total number of spaces for all three: the large carport on the east would cover 40, the other two would cover 24 and 26 spaces, so approximately 90 spaces would be covered by carports.

Mr. Schanwolf asked if anyone in the audience wanted to comment on the public hearing. There were no comments from the audience. He then asked for any clarification questions from Board or staff.

Mr. Schanwolf then closed the public hearing and asked the Zoning Board of Appeals for any comments or a motion. There were no additional questions or comments.

Mr. Buck: Mr. Chairman, on the issue of the Campus Crest Variance for construction of carports, I move that the Zoning Board of Appeals forward a recommendation of denial because it does not meet the criteria outlined in Sections 19.58 of the Municipal Code. Mr. Clark seconded the motion. Motion carried unanimously.

### **GENERAL DISCUSSION**

Mr. Schanwolf welcomed the two new Board members, Mr. Clark and Mr. Buck.

Mr. Anson introduced himself and it was suggested that the Zoning Board of Appeals meet with Mr. Anson at a later date in order to review procedural and legal questions. Mr. Anson quickly reviewed procedures in variances.

Mr. Bernardo asked if staff had worked with the applicant prior to the meeting about the variance. Ms. Trent responded that staff had worked with the applicant, suggesting several other options that might work. Mr. Bernardo also asked if the ZBA could talk to other staff prior to the meeting, and Mr. Anson suggested that any information that the ZBA wanted should be presented at the meeting itself instead of ex parte communications, as it would be unfair to the applicant not to be able to hear the same information.

### **AUDIENCE PARTICIPATION:**

(This portion of the Agenda is provided to allow members of the audience to provide comments to the Planning Commission on items that were not considered on the current Agenda.) There were no comments from the audience.

The next meeting would be a Thursday night, April 5th at 5:30.

### **ADJOURNMENT**

The February 27, 2012, meeting of the Zoning Board of Appeals was ended at 6:30 p.m. by

Board Chair Schanwolf.

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Sheryl Trent, Community and Economic Development Director

NOT YET APPROVED

**ZONING BOARD OF APPEALS  
INFORMATION SHEET**

**AGENDA ITEM A**

**DATE:** March 29, 2012

**SUBJECT:** Public Hearing —Resolution No. 53-2012 – Variance Request to Section 19.48 of the Evans Municipal Code for Carports - 3202 11<sup>th</sup> Avenue, Evans, Colorado - (The Grove/Campus Crest)

**PRESENTED BY:** Sheryl Trent, Community and Economic Development Director

**ACTION:** Recommendation to City Council

**CITY COUNCIL DATE:** Tuesday, April 17, 2012 at 7:30 pm

BACKGROUND INFORMATION		
<b>Location:</b>	3202 11 <sup>th</sup> Avenue	
<b>Applicants:</b>	Campus Crest, Owner SolarCity Corp, Applicant	
<b>Existing Land Use:</b>	C-3 High Intensity Commercial	
<b>Proposed Land Use:</b>	Same	
<b>Surrounding Land Use:</b>	<b>North</b>	Commercial vacant land to be developed, church
	<b>South</b>	Post Office, Moose Lodge
	<b>East</b>	Ditch, storage and industrial uses
	<b>West</b>	Residential
<b>Existing Zoning:</b>	C-3	
<b>Proposed Zoning:</b>	Same	
<b>Surrounding Zoning:</b>	<b>North</b>	C-3
	<b>South</b>	C-3
	<b>East</b>	C-3
	<b>West</b>	R-1, R-2, C-1
<b>Future Land Use Designation:</b>	Commercial	

**PROJECT DESCRIPTION:** The City has received an application from Campus Crest, land owner, represented by SolarCity Corp, for a Variance in order to construct carports. The carports will serve as the supporting structure for installation of solar panels. Please see the attached vicinity map and the attached application for the property location, which is 3202 11<sup>th</sup> Avenue in Evans, commonly referred to as The Grove.

A previous USR for this property has been approved for the installation of solar panels and on the roofs of some of the buildings. A USR is in the process for approval of sheds to house the electrical equipment for those solar arrays. Finally a USR will be presented if the variance is approved for final approval of the carports.

A previous variance for this construction was denied by the Zoning Board of Appeals, and the applicant has resubmitted a new request with a re-design and re-location of the carports.

**RECOMMENDATION:** Recommend approval to City Council.

#### **ANALYSIS:**

##### **Background:**

The development was originally constructed in 2005 with a Use by Special Review as allowed under the code. High Intensity Commercial land, as this is zoned, allows multi family housing to be constructed pursuant to the USR.

SolarCity is proposing to construct solar carports at The Grove, Campus Crest's multi-family housing complex located at 3200-3300 11<sup>th</sup> Ave. The solar carports would be built to cover existing parking spaces on the east, and south sides of the lot. (The previous request also included the west side, which fronts on to 11<sup>th</sup> Avenue).

If approved, the applicants will have to come through the site planning process to apply for a building permit, and will be required to adhere to all the standards in the Evans Municipal Code. As known to staff at this point (without a formal application) the designs of the proposed solar carports comply with Chapter 18.33.060, Multifamily Architectural and Site Design Standards of the City of Evans Land Use Code. The materials and colors of the carports are compatible with the character of the surrounding buildings. Adequate pedestrian lighting will be installed in the carports.

##### **Section 19.48 of the Evans Municipal Code (Accessory Structures):**

The entire Section 19.48 has been attached for the review of the Zoning Board of Appeals. The applicable sections that are under consideration for this variance application have been pulled out as follows:

“Carport” shall mean a structure that is not fully enclosed and which is accessory to a residence or residences and capable of being used for storage of one or more vehicles.” **The proposed variance will meet this code.**

Maximum height. Accessory structures other than garages shall not exceed the height of the principal building or 15 feet, whichever is less. Garages shall not exceed the height of the principal building. This provision shall not apply to structures used for agricultural purposes in the AG – Agricultural – zoning district, or to structures in I – Industrial – zoning districts. **The proposed variance will NOT meet this code**

Maximum number. In all R – Residential – zoning districts, only one detached accessory structure/building, not including garages, shall be permitted per 8,000 square feet of lot area, or fraction thereof, up to a maximum of three such structures per lot. The preceding provision notwithstanding, each principal building shall be allowed at least one detached accessory structure/building. For example, three mobile homes on one lot would each be allowed one detached accessory structure/building, even if the lot were less than 24,000 square feet. **The proposed variance will NOT meet this code.**

Garages and carports accessory to multifamily dwellings. Detached garages and carports shall be compatible with the principal building architecture, and shall incorporate similar and compatible forms, scale, materials, colors, and details. **The proposed variance will meet this code due to the new submittal that allows for some façade improvements such as brick on the carports.**

Carports shall be limited to six spaces per parking structure and each carport structure shall be located not closer than 20 feet to any other carport structure. **The proposed variance will NOT meet this code – several of the carports have between 20 and 40 spaces and will be located immediately adjacent to each other..**

Detached garages and carports shall have pitched roofs with a minimum slope of 4:12. **The proposed variance will NOT meet this code.**

To the maximum extent feasible, garage entries, carports, and parking garages shall not be located between a principal multifamily building and a street frontage, but shall instead be internalized in building groups so that they are not visible from adjacent public streets. **The proposed variance will meet this code.**

The applicant has submitted a letter stating the following:

SolarCity is proposing to construct solar carports at The Grove, Campus Crest’s multi-family housing complex located at 3200-3300 11<sup>th</sup> Ave. The solar carports would be built to cover existing parking spaces on the east and south sides of the lot. This letter shall serve to describe the practical difficulty which would deprive the property owner of the reasonable use of the property, but for the variance.

- (1) The designs of the proposed solar carports comply with Chapter 18.33.060, Multifamily Architectural and Site Design Standards of the City of Evans Land Use Code. The materials and colors of the carports are compatible with the character of the surrounding buildings. The structural steel posts of the carports will have a brick façade matching the existing buildings. Adequate pedestrian lighting shall be installed in the carports.
- (2) Chapter 19.48.034 E, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article 5: *Carports shall be limited to six spaces per parking structure and each carport structure shall be located not closer than 20 feet to any other carport structure.* The proposed solar carport designs occupy between 24 and 40 parking spaces. The purpose of this project is to build adequate roof area to house solar PV panels that will generate enough electricity to offset all of the electricity used by the building's occupants. In addition, covered parking is a valuable commodity that will be in demand so it is desirable for the building's occupants to see a multitude of available covered parking spaces. In order to conform to this code article, the size of the carports would have to be drastically reduced which would negatively impact the ability for the solar carports to serve their intended purpose of providing enough solar electricity to offset building electricity usage.
- (3) Chapter 19.48.034 B, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article B7: *Carports should not be located closer to the front property line than the front façade of the principal structure.*

It is recognized that 11<sup>th</sup> Avenue is considered a major arterial of the City of Evans, and therefore the carports have been designed to have very minimal impact on any views to or from 11<sup>th</sup> Avenue. The carports are to be located on the eastern and southern existing parking lots on the site. The eastern parking lot is completely screened by the existing buildings so these carports will not be visible from 11<sup>th</sup> avenue. The southern parking lot is mostly screened by the Post Office and Elks Club along 11<sup>th</sup> avenue so there is very minimal impact to the aesthetic views to or from 11<sup>th</sup> avenue.

- (4) Chapter 19.48.034 E, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article E8: *Detached garages and carports shall have pitched roofs with a minimum slope of 4:12.* The proposed solar carport designs have a pitched roof with a slope of 1:12. Based on our experience building carports for the past several years, we believe that a 1:12 pitch is the most aesthetically pleasing for a carport roof. A steeper roof, while matching the pitch of surrounding buildings, creates a strange-looking roof line for a carport.  
Please see the picture below. If this carport had a 4:12 pitch, the front edge of the carport roof would be 15' lower than the back edge of the roof.



These carports were built with a 1:12 roof pitch. The red line imagines a 4:12 pitch.

### **Section 19.58 of the Evans Municipal Code (Variance Criteria):**

Below are the Criteria for approval of a Variance:

#### **19.58.030 Criteria for Variances.**

A. The City Council must find all of the following circumstances to be true in order to approve a variance:

1. Approval of the variance would not jeopardize the health, safety, or welfare of any person; **Staff finds the proposed variance would meet this criteria of approval.**
2. Denial of the variance would result in a practical difficulty and unnecessary hardship to the applicant; **Staff finds that there is no practical difficulty or unnecessary hardship to the applicant if the variance is denied, however they would not be able to have additional solar arrays, which may cause higher electrical bills to the owner and in turn, the residents. That could be a practical difficulty or hardship.**
3. Such practical difficulty and unnecessary hardship are due to an irregular, narrow, or steep lot, or other physical situation or condition of the building or land; **Staff finds that this criteria could be met as the number of buildings on the lot are limited and in use with solar arrays, the shadows cast by those buildings make the location and size of the carports necessary, and the solar panels themselves are constructed in a manner that would limit the location and construction.**
4. Such practical difficulty and unnecessary hardship have not been unreasonably self-imposed by the applicant. **Staff finds that the owner chose to put in solar panels, so any**

hardship is self imposed. However, the installation of solar panels is limited by the obvious factors of the sun, the shadow, the existing lot size, and existing construction on the lot.

**Issues:**

The main concern with the application is the adjacency and compatibility with the existing structure and the surrounding land uses. The construction of the carports will be a significant physical addition to the site and change the character of the building and the compatibility of the building with surrounding land uses. The very large and long carports will be seen from the street frontage on 11<sup>th</sup> from the west and from the south, as well as from the north on the west side.

The applicant may have met the criteria in the code regarding approval of a variance.

Notice of this public hearing was provided in accordance with Chapter 19.64 of the Municipal Code.

**FINDINGS OF FACT AND CONCLUSIONS**

After reviewing the Campus Crest USR for installation of solar panels the following findings of fact and conclusions have been determined:

The variance criteria in Section 19.58 of the Evans Municipal Code may be able to be appropriately and sufficiently met.

**STAFF RECOMMENDATION:**

I recommend that the Planning Commission forward a recommendation of approval of the requested variance with the findings and conclusions listed above.

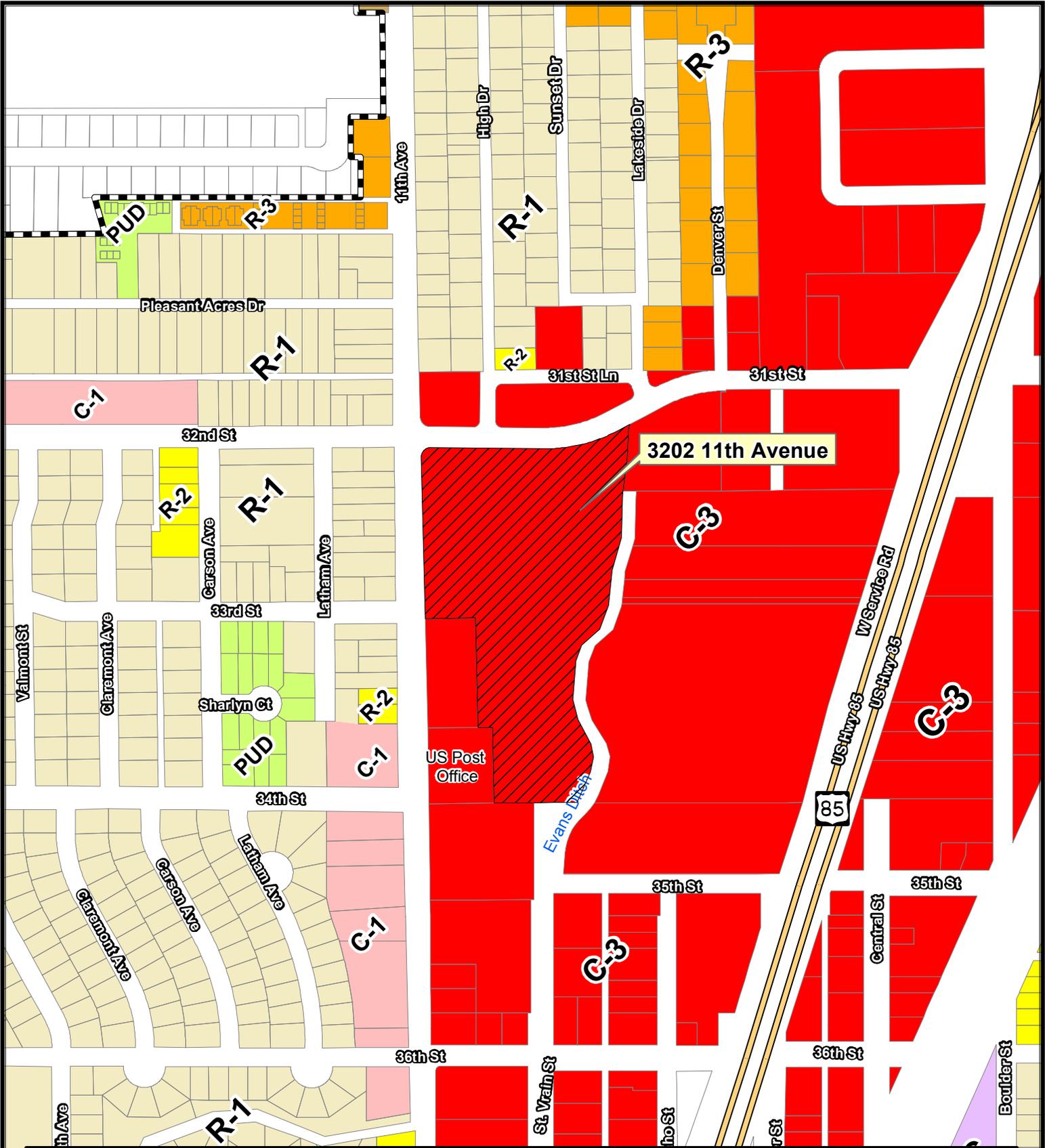
**RECOMMENDED PLANNING COMMISSION MOTION:**

“Mr. Chairman, on the issue of the Campus Crest Variance for construction of carports, I move that the Zoning Board of Appeals forward a recommendation of approval because it meets the criteria outlined in Sections 19.58 of the Municipal Code.”

“Mr. Chairman, on the issue of the Campus Crest Variance for construction of carports, I move that the Zoning Board of Appeals forward a recommendation of denial because it does not meet the criteria outlined in Sections 19.58 of the Municipal Code.”

“Mr. Chairman, on the issue of the Campus Crest Variance for construction of carports, I move that the Zoning Board of Appeals forward a recommendation of approval with conditions as follows because it meets the criteria outlined in Sections 19.58 of the Municipal Code.” Conditions:

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3202 11th Avenue

US Post Office

Evans Dish

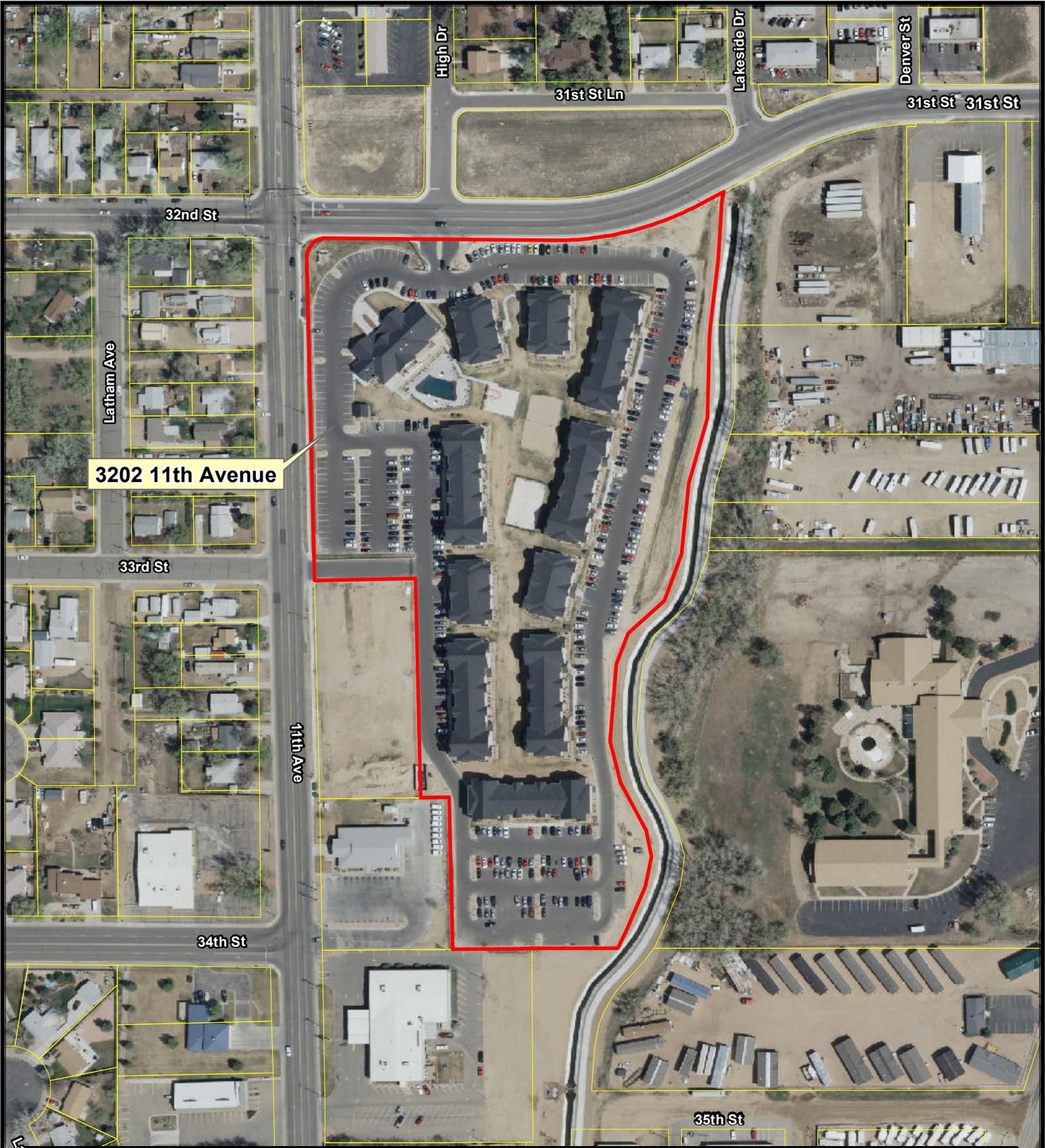
**Legend**

-  Evans City Limits
-  Project Site

Zoning Map

**USR -**

**3202 11th Avenue**



**Legend**



Evans  
City Limits

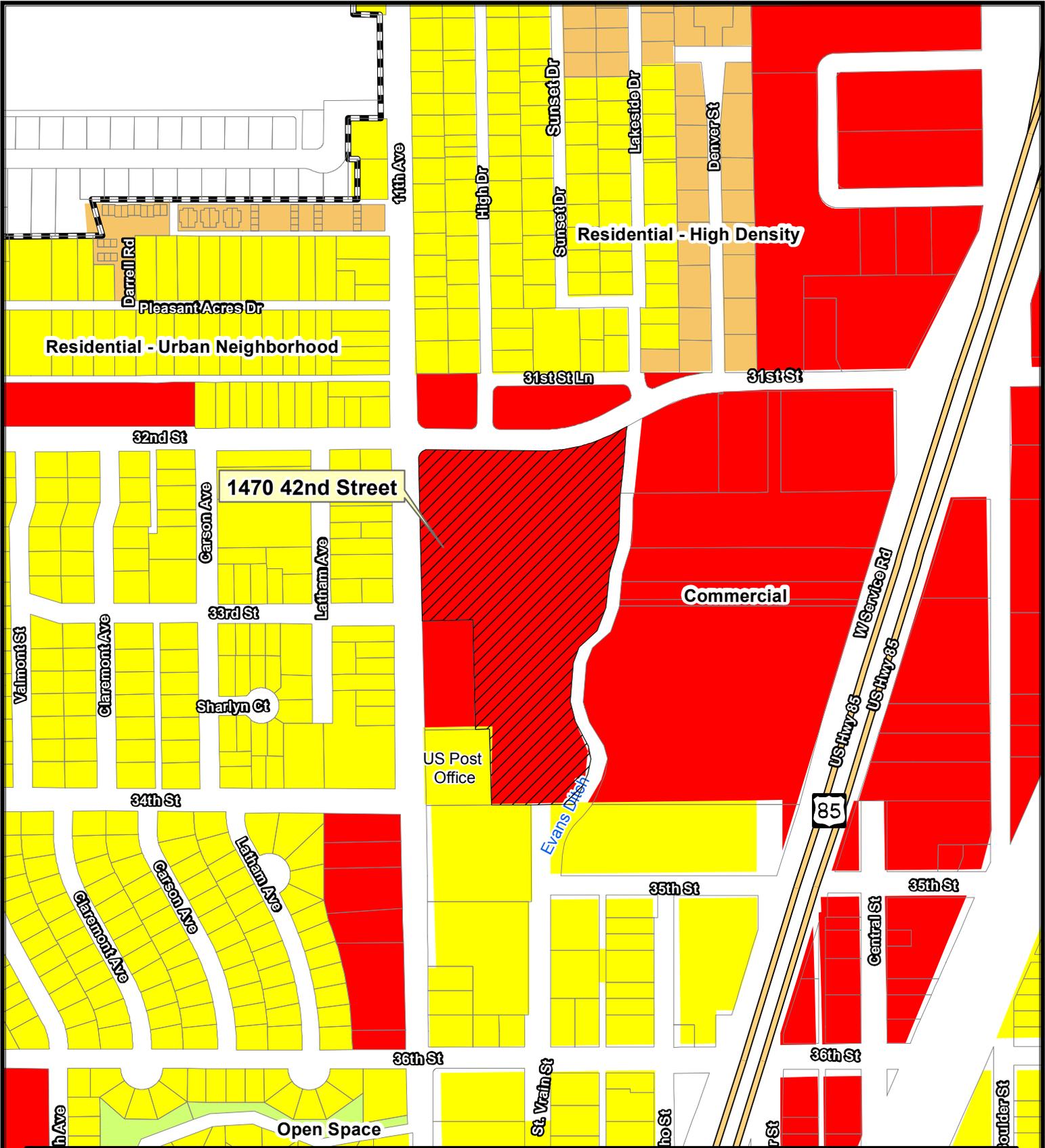


Project Site

Aerial Map

USR -  
3202 11th Avenue





**Future Land Use Map**

**USR -**  
**3202 11th Avenue**

<p><b>Legend</b></p> <ul style="list-style-type: none"> <li> Evans City Limits</li> <li> Project Site</li> </ul>
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## **19.48 - Accessory Structures and Uses**

### **Chapter 19.48 - ACCESSORY STRUCTURES AND USES**

**NOTE: This Chapter has many diagrams included within the chapter. To view the chapter in its entirety, open the PDF located at the bottom of this page.**

#### **Sections:**

- 19.48.010 Intent.
- 19.48.020 Definitions.
- 19.48.030 Accessory uses, structures and buildings.
- 19.48.032 Setbacks.
- 19.48.034 Garages and carports.
- 19.48.036 Accessory structures for mobile homes.
- 19.48.040 Fences, walls and hedges.
- 19.48.050 Household pets, horses, and other animals,
- 19.48.055 Outdoor storage.
- 19.48.060 Home occupations.
- 19.48.070 Auxiliary business uses.
- 19.48.080 Variances.
- 19.48.090 Enforcement authority.
- 19.48.100 Violation – Penalty.

**19.48.010 Intent.** The intent of this chapter is to provide regulations governing accessory uses, structures and buildings to ensure acceptable design, installation, and use of accessory structures while maintaining the integrity of the principal use of the property. Furthermore, it is intended to provide assurances that activities that take place are compatible with the designated zoning classifications and that such activities will have no adverse effects on the surrounding properties. (Ord. 350-05: Ord. 272-04: Ord. 015-00: Ord. 1164-99)

#### **19.48.020 Definitions.**

For the purposes of this chapter, the words and phrases below shall have the following meanings:

“Accessory building or structure” shall mean a building or structure located upon the same lot as the principal building or structure to which it is associated, and which is incidental to and customarily found in connection with such principal building or structure and which is not to be used for human habitation, including, but not limited to, garages and other buildings for storage.

“Accessory use” shall mean a use customarily incidental and subordinate to the main use of the lot, building or structure, and which does not alter the principal use.

“Board and care home” shall mean a residential facility providing room and board to one or two individuals who are not part of the principal occupant’s family as defined by the zoning code, and who because of impaired capacity for independent living, elect protective oversight, personal services and social care, but do not require regular 24-hour medical or nursing care. A board and care home shall not be considered an assisted living unit or nursing home.

“Carport” shall mean a structure that is not fully enclosed and which is accessory to a residence or residences and capable of being used for storage of one or more vehicles.

“Garage” shall mean a fully-enclosed structure accessory to a residence or residences and capable of being used for storage of one or more vehicles, i.e., having a garage door.

“Garage, alley-loaded,” shall mean a garage that is accessed from an alley and not from a street.

“Garage, front-facing,” shall mean a garage with vehicular doors generally parallel to the front property line.

“Garage, side-loaded,” shall mean a garage with vehicular doors generally perpendicular to the front property line.

“Fence” shall mean an artificially constructed barrier or combination of materials erected vertically to enclose or screen areas of land.

“Home occupation” shall mean an occupation, profession, activity or use conducted within a residential dwelling unit that is incidental and secondary to the use of the residential dwelling unit, which does not alter the exterior of the property or affect the residential character of the residential neighborhood.

“Outdoor storage” shall mean storage of materials, supplies, parts, machines, equipment, containers, operable

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vehicles, tractor-trailers, unoccupied mobile homes, or other items used in conjunction with the principal use of the property and not kept in a permitted structure having at least four walls and a roof. This definition shall not apply to items for sale to the general public such as new and used cars, recreational vehicles, boats, and landscape and building materials; nor to parking of vehicles regularly used in connection with the operation of an establishment or parked for less than 48 hours for maintenance service. "Outdoor storage" shall not include the storage of junk as defined by Chapter 19.04 of the Municipal Code.

"Storage/utility shed" shall mean a detached accessory structure not more than 120 square feet in extended roof area used to store tools and equipment such as, but not limited to, lawn mowers, bicycles, garden tools, and similar chattels related to the primary permitted use located on the same lot. (Ord. 350-05: Ord. 272-04: Ord. 015-00)

**19.48.030 Accessory uses, structures and buildings.** The following provisions shall apply to all garages, carports, accessory uses, structures and buildings:

A. Establishment prior to principal use prohibited. Accessory uses, structures or buildings shall not be established prior to a principal use, except in the AG – Agricultural – zoning district, nor shall an accessory use be permitted without an associated principal use on the same lot.

B. Maximum area. The total footprint area of all detached accessory structures and buildings on any one lot shall not exceed the lesser of 10 percent of the total lot area or 2,100 square feet. This provision shall not apply to structures used for agricultural purposes in the AG – Agricultural – zoning district, or to structures in I – Industrial – zoning districts.

C. Maximum height. Accessory structures other than garages shall not exceed the height of the principal building or 15 feet, whichever is less. Garages shall not exceed the height of the principal building. This provision shall not apply to structures used for agricultural purposes in the AG – Agricultural – zoning district, or to structures in I – Industrial – zoning districts.

D. Materials and colors. In all R – Residential – zoning districts, accessory structures/buildings shall be constructed of materials and with colors compatible with the principal building/structure.

E. Maximum number. In all R – Residential – zoning districts, only one detached accessory structure/building, not including garages, shall be permitted per 8,000 square feet of lot area, or fraction thereof, up to a maximum of three such structures per lot. The preceding provision notwithstanding, each principal building shall be allowed at least one detached accessory structure/building. For example, three mobile homes on one lot would each be allowed one detached accessory structure/building, even if the lot were less than 24,000 square feet. (Ord. 350-05: Ord. 272-04: Ord. 228-03: Ord. 015-00)

**19.48.032 Setbacks.**

A. Garages, accessory buildings and structures and storage/utility sheds shall comply with all applicable open space and minimum yard sizes (setbacks), with the following exceptions:

1. Detached garages, accessory buildings, and structures that are separated from the principal structure by at least ten feet shall be set back from side and rear property lines at least five feet, plus one additional foot for every three feet, or fraction thereof, of building height over 15 feet. This provision notwithstanding, alley-loaded garages shall be set back at least 15 feet from alleys, whether or not attached to the principal structure.

2. Storage/utility sheds and accessory structures and buildings shall not be located closer to the front property line than the front façade of the principal structure with the following exceptions: accessory structures that are open on all sides, such as gazebos, and attached accessory structures that are open on three sides and have a floor not more than three feet above the surrounding grade, may extend to within 15 feet of a front or rear property line.

3. Storage/utility sheds under eight feet in height that maintain a minimum of six feet from all principal structures, accessory structures and storage/utility sheds, whether or not located on the same lot, may extend to side and/or rear yard property line(s).

4. An uncovered patio or deck that is not more than three feet above the surrounding grade may extend to the side, but not street side, and/or rear property line(s), provided it does not encroach into any utility easement.

5. Attached side-loaded garages may extend to within 15 feet of a front property line.

**19.48.034 Garages and carports.**

A. Driveways required. All garages and carports in all R – Residential – zoning districts, except the R-1E – Estate Residential – zoning district, shall have a minimum ten-foot wide paved driveway extending from the vehicular opening of such structure to the public right-of-way improvements, or to the right-of-way line if public improvements do not exist. Such driveway shall be constructed of asphalt, concrete or similar impervious surface. The Public Works Director has the authority to grant a conditional waiver to the requirement for the paving of such driveway based upon existing public improvements and other factors in the vicinity of the proposed accessory structure. The absence of public improvements in the vicinity shall not automatically guarantee such a waiver.

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### B. Garages and carports accessory to single-family dwellings.

1. The front plane of an attached front-facing garage shall be no more than five feet closer to the front property line than the front façade of the principal structure, unless (a) the garage is located no less than thirty feet from the front property line, and (b) the house includes a front porch. In no event shall the front plane of a front-facing garage be more than ten feet closer to the front property line than the front façade of the principal structure and in no event shall a front-facing garage encroach into a required front yard.
2. Detached garages and carports shall be no closer to the front property line than ten feet behind the front façade of the principal residential structure.
3. A three-stall garage shall only be permitted if one of the garage doors is recessed a minimum of two feet behind the other garage doors (i.e., two feet farther from the property line parallel to the garage doors).
4. A garage with more than three stalls shall only be permitted if (a) the lot is greater than 13,000 square feet in area, (b) two of the garage doors are recessed a minimum of two feet behind the other garage doors, and (c) the garage is located no less than thirty-five feet from the property line to which the garage is oriented (that is, the front property line for front-facing garages or the side property line for side-loaded garages).
5. Side-loaded garages shall have at least one window or similar feature on the elevation oriented to the front property line.
6. Garages and carports shall have similar exterior finish, including roofing material, as the principal structure of the lot.
7. Carports shall not be located closer to the front property line than the front façade of the principal structure.
8. Carports shall be limited to eight feet in height, as measured to the top of the vehicle entrance, and 500 square feet in area.

### C. Garages and carports accessory to two-family dwellings.

1. Attached garages with more than two stalls for each unit shall not be permitted.
2. Two abutting attached two-stall garages shall only be permitted if (a) one of the garage doors is recessed a minimum of three feet behind the other garage door and (b) the garages are located no less than thirty feet from the front property line. The Director of Public works shall have the authority to waive this requirement for lots platted prior to adoption of this provision if there exists a practical difficulty, in the opinion of the Director of Public Works.
3. The front plane of an attached garage shall be no more than five feet closer to the front property line than the front façade of the principal structure, unless (a) the garage is located no less than thirty feet from the front property line, and (b) the house includes a front porch. In no event shall the front plane of a front-facing garage be more than ten feet closer to the front property line than the front façade of the principal structure and in no event shall a front-facing garage encroach into the required front yard.
4. Side-loaded garages shall have at least one window or similar feature on the elevation oriented to the front property line.
5. Detached garages and carports shall be no closer to the front property line than ten feet behind the front façade of the principal residential structure.
6. Garages and carports shall have similar exterior finish, including roofing material, as the principal structure of the lot.
7. Carports shall not be located closer to the front property line than the front façade of the principal structure.
8. Carports shall be limited to eight feet in height, as measured to the top of the vehicle entrance, and 500 square feet in area.

### E. Garages and carports accessory to multifamily dwellings.

1. Attached garages shall contain no more than 25% of the area of the elevation of which they are a part.
2. Detached garages shall be designed to be compatible with the related residential structures and shall be designed and oriented to minimize the visual effect of the scale and massing of the garages and create visual interest on all sides of the garage that are visible from the public right-of-way, through the use of landscaping, berming, architectural features or styles, building materials, and/or orientation of the site.
3. Detached garages and carports shall be compatible with the principal building architecture, and shall incorporate similar and compatible forms, scale, materials, colors, and details.
4. On any multifamily building elevation there shall be no more than six two-stall or twelve single-stall garage doors, and the plane of each garage door shall be offset at least two feet from the plane of at least one garage door adjacent to it.
5. Carports shall be limited to six spaces per parking structure and each carport structure shall be located not closer than 20 feet to any other carport structure.
6. Carports shall include lighting to deter theft and vandalism. At least every other parking space shall have lighting of a minimum of 100 watts and a maximum of 250 watts.
7. Carports shall be situated or landscaped so that headlights of parked vehicles will not shine into windows or onto

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public streets.

8. Detached garages and carports shall have pitched roofs with a minimum slope of 4:12.

9. To the maximum extent feasible, garage entries, carports, and parking garages shall not be located between a principal multifamily building and a street frontage, but shall instead be internalized in building groups so that they are not visible from adjacent public streets. (Ord. 350-05: Ord. 272-04)

### **19.48.036 Accessory Structures for Mobile Homes**

A. Each mobile home site shall be limited to the following accessory structures:

1. One detached garage or carport not exceeding 600 square feet.

2. One unenclosed porch and/or covered entry, or one enclosed porch and/or covered entry with less than 120 square feet of extended roof area, per exterior door of the mobile home unit.

3. Awnings.

4. One storage shed located at least five feet from any mobile home and, if located on a corner lot, at least three feet from perimeter fencing, common areas, or streets.

B. Accessory structures, including but not limited to storage bins, shall be secured and provided with tie-down anchors.

C. Structures legally existing as accessory to a mobile home prior to August 19, 1997, and not in compliance with the requirements of this section may remain in place only until the mobile home to which such a structure is accessory is itself removed or replaced. (Ord. 350-05: Ord. 272-04)

### **19.48.040 Fences, walls and hedges.**

A. Fences, walls and hedges may be placed in appropriate locations in order to provide screening and enclosures. Fences and walls shall be constructed of materials which are visually pleasing and compatible with the surrounding improvements. Height changes, offset angles, and the use of complementary materials may be used to create variety in fences and walls.

B. Fences, walls and hedges may be permitted in the various zoning districts as accessory structures in accordance with the following limitations:

1. Fences/walls shall not exceed six feet in height as measured vertically from the surrounding grade, on all sides of the fence/wall, to the highest point of the fence/wall and shall comply with all applicable sight distance provisions. Fences/walls installed by a government agency for the purpose of a traffic sound barrier shall be allowed to be up to 12 feet in height, provided a building permit is obtained.

2. Fences and walls which are located in required front yard setbacks shall not exceed 48 inches in height above adjoining grade, except in industrial zoning districts.

3. Fences, walls and hedges shall not be located on any public right of way without the written consent of the Public Works Director. The City may require such improvements to be removed or relocated by the adjacent property owner at no cost to the City.

4. Fences, walls and hedges shall maintain a minimum clearance from fire hydrants as provided for in the latest edition of the International Fire Code, as adopted.

5. No barbed wire fence may be permitted within the City of Evans, unless approved by the Director of Public Works or designee. An application for the installation of barbed wire fencing shall be accompanied by a written submittal explaining the purpose for such fencing and a design which allows for the installation of the fence which would ensure that the barb wire fence shall not be constructed in a hazardous manner. Barbed wire fencing in industrial areas may be allowed provided that no more than three strands of barbed-wire are added to the height of a fence and provided the lowest strand of barbed-wire is maintained at least six and one-half feet (6 ½') above the adjoining grade. Barbed wire required by Title 16 shall be exempt from this provision.

6. Fences with pickets and adjacent to public right-of-way shall have the posts erected on the interior side of the fence so that the pickets are between the posts and the right-of-way.

C. Materials and maintenance.

1. No fence shall be constructed, in whole or in part, of concertina, razor wire, tin or wood scraps.

2. Electrically charged and/or swimming pool fences shall be erected and maintained in accordance with Title 15 of the Evans Municipal Code, as amended.

3. All fencing shall be constructed of brick, wood pickets, vinyl, wrought iron, decorative concrete block, chain link or other material normally used for fencing and shall be constructed to conceal or integrate all structural members of the fence into the architectural design of the fence. All other materials and construction methods shall be subject to review and approval by the Director of Public Works.

D. Where there is an established or uniform character of fencing (type of material, height, etc.) along and generally parallel to a section of an arterial or collector roadway, all fences along rear and street side property lines abutting

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and generally parallel to that section of the road shall be constructed consistent with the existing character of fencing. (Ord. 466-09: Ord. 350-05: Ord. 339-05: Ord. 272-04: Ord. 249-03: Ord. 015-00)

**19.48.050 Household pets, horses, and other animals.** Areas in which animals are maintained shall not create odors, dust, noise or drainage which constitutes a hazard or nuisance to adjoining properties or uses. The housing and/or existence of animals shall be in accordance with Title 6 of the Evans Municipal Code. (Ord. 350-05: Ord. 272-04: Ord. 015-00)

### **19.48.055 Outdoor storage.**

Except by approval of a Use by Special Review, granted in accordance with Chapter 19.44 of the Municipal Code, outdoor storage shall only be allowed as an accessory use in the I – Industrial – zoning districts and only in accordance with the following limitations:

- A. No more than 10 percent of the area of any lot or parcel in the I-1 – Light Industrial – zoning district may be used for outdoor storage.
- B. No more than 20 percent of the area of any lot or parcel in the I-2 – Medium Industrial – zoning district may be used for outdoor storage.
- C. No more than 30 percent of the area of any lot or parcel in the I-3 – Heavy Industrial – zoning district may be used for outdoor storage. (Ord. 350-05: Ord. 272-04)

### **19.48.060 Home occupations.**

A. Intent. The purpose of this section is to provide for limited business uses within dwellings when such uses will clearly not alter the character or appearance of the residential neighborhood.

B. Application. Prior to the establishment of any home occupation, an application for such Home Occupation shall be made to the Planning Division and filed with the City Clerk. If the Planning Division determines the use does not comply with all requirements for a home occupation, then the Home Occupation Permit shall not be issued. If such use has been previously established, the use shall either be brought into full compliance with the provisions of this chapter effective January 1, 2003, or the use shall be abandoned and all operations ceased.

- 1. Home occupations shall be permitted as an accessory use to any dwelling in accordance with the provisions of this section.
- 2. The conduct of a home occupation requires the approval of the Planning Division, or Planning Commission as provided in Section 19.48.060 (D&E), who may establish conditions to further the intent of this section. An application for a Home Occupation Permit shall be on a form provided by the Planning Division.
- 3. Home occupations shall not be transferable to alternate locations or persons.

C. A home occupation shall be allowed as a permitted accessory use, provided all of the following conditions are met:

- 1. The exterior appearance of the dwelling and lot shall not be altered, nor shall the occupation within the dwelling be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or signage, or by the emission of sounds, noises, dust, odors, fumes, smoke, heat, glare, or vibrations detectable outside the dwelling.
- 2. The home occupation shall be confined within the primary dwelling, which shall be the principal use and building on the lot, and shall not include use of any accessory structure, whether attached or detached. All persons involved, directly or indirectly in carrying on the home occupation shall be legal and regular inhabitants of the dwelling unit.
- 3. The dwelling unit shall continue to be used primarily for residential purposes and the occupational activities shall be harmonious with the residential use. Such occupational activities must be clearly incidental and secondary to the use of the dwelling purposes.
- 4. No more than 20 percent of the living space shall be used for the home occupation and any related storage of materials and supplies, except where the home occupation is a licensed board and care home or a day care home that meets applicable state requirements. In no event shall an accessory structure be counted toward the total living space area.
- 5. Only one home occupation shall be permitted per residence unless more than one home occupation can be operated using no more than 20 percent of the living space.
- 6. On-site retail/wholesale transactions cannot be the primary activity of the home occupation. All such sales must remain incidental and secondary to the home occupation. There shall be no window display of merchandise.
- 7. Personal and professional customer-service based businesses shall operate on an appointment-only basis.
- 8. Vehicular traffic associated with the home occupation shall not adversely affect traffic flow and parking in the area. No more than one customer or client vehicle associated with the home occupation shall be at the home at

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any one time, and no more than 20 customer/client visits to the home per week shall be permitted, with the exception of child/day care homes. In addition to the customer trips, no more than two trips per week shall be related to the delivery of products and/or materials.

9. In addition to the required off-street parking, home occupations, including studios or rooms for instruction, shall provide additional paved off-street parking adequate to accommodate all needs created by the home occupation subject to approval of the Public Works Director or designee.

10. Only one vehicle, not to exceed one ton capacity, and one trailer, not to exceed fifteen feet, may be related to and used in conjunction with the home occupation and may be parked on-site, except as provided in Section 19.48.060.E. Such parking shall also conform with Chapter 19.52 off-street parking.

11. There shall be no exterior advertising or use of any signs related to a home occupation on the premises including areas such as, but not limited to walls, fences, mailboxes, and yards, except that one window sign not to exceed three square feet shall be permitted.

12. There shall be no exterior storage on the property of material and/or equipment used as part of the home occupation. In addition, there shall be no use or storage of mechanical equipment not recognized as being part of a normal household or hobby use.

13. The use of utilities shall be limited to that normally associated with the use of the property for residential purposes. Electrical or mechanical equipment that creates audible interference in radio receivers or visual or audible interference in television receivers or causes fluctuations in line voltage outside the dwelling unit shall be prohibited.

14. Home occupations having customer/client visits shall only conduct business hours between 7:00 a.m. and 8:00 p.m.

15. Activities conducted and buildings, equipment and material used or stored in coordination with the home occupation shall comply with all building and fire codes, as adopted by the City of Evans.

16. Upon request by the City, applicant shall provide City with access to all books, records, and information relating to the business activity being conducted thereof. Said information shall remain confidential, and shall be used to ascertain compliance with the home occupation criteria.

17. Home Occupations shall be conducted by the resident of the parcel, and if the applicant/resident requesting the home occupation permit is not the property owner, then they must obtain written approval from the property owner.

D. Prohibited Home Occupations. Certain home business uses have demonstrated a tendency to cause impacts to a neighborhood that are detrimental to the character and value of residential properties, and have associated impacts upon the public health, safety and general welfare in residential areas. The following uses, regardless of whether they meet the performance standards, are not permitted. These businesses shall include but are not limited to the following:

1. Veterinary clinics, animal hospitals or kennels;
2. Equipment rental;
3. Funeral chapels, mortuaries or funeral homes;
4. Wedding chapels;
5. Medical or dental clinics;
6. Repair/servicing or painting of automobiles, motorcycles, trailers, boats and other vehicles;
7. Repair/servicing of large appliances including stoves, refrigerators, washers and dryers;
8. Repair/servicing of power equipment including lawn mowers, snow blowers, chain saws, string trimmers and similar equipment;
9. Restaurants;
10. Welding, metal, and wood fabrication shops;
11. Dispatching of vehicles to and from residential premises. This prohibition includes, but is not limited to taxi services, towing services, and the like;
12. The sale of firearms and gunsmithing;
13. Taxidermy;
14. Storage of construction equipment.

E. The production and sale of agricultural produce at a rural home occupation, at which all produce for sale has been grown at the site, shall be permitted within the dwelling and/or from accessory buildings located within 500 feet of the dwelling occupied by those conducting the rural home occupation. Equipment used in the production of agricultural produce shall be that customarily associated with farming or agricultural purposes and shall not be limited in size or number.

F. Permitted home occupations that would otherwise violate Section 19.48.060(C)(8) & (14) regarding customer/client visits and hours of operation shall require special review pursuant to Chapter 19.44, "Approval of

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Special Uses.”

G. Fees. Each new and renewal application for a Home Occupation Permit shall be accompanied at the time of filing by a fee as established by City Council by Resolution. Each home occupation permit shall be renewed annually.

H. Complaints and Revocation.

1. Persons may file a written complaint with the Planning Division regarding a home occupation. Upon receipt of such a complaint, the City shall investigate the home occupation to determine if any provisions of this chapter or conditions of approval are being violated by the home occupation.

2. A Home Occupation Permit may be revoked or modified by the City if any of the following circumstances are found to be true:

- a. The use has become detrimental to the public health, safety, or welfare or constitutes a nuisance;
- b. The permit was obtained by misrepresentation or fraud;
- c. The use for which the home occupation permit was granted has changed, and a different home occupation is occurring;
- d. The condition of the premises has deteriorated because of the home occupation;
- e. The use is in violation of any statute, ordinance, or regulation.

3. Whenever an apparent violation of this section is observed, a written notice shall be served certified mail from the City notifying the applicant of the intent to revoke the Home Occupation Permit.

Such notice may include:

- a. Findings in support of revocation;
- b. A statement of the action required to bring the home occupation into compliance;
- c. A statement advising that if any required actions are not brought into compliance within the time specified, the Home Occupation Permit will be revoked;
- d. A statement advising that any person having legal interest in the home occupation involved may file a written request for a hearing before the City Council within ten days after receipt of notice. Should a request for a hearing not be made within ten days, then the home occupation shall cease operations without further action by the City. (Ord. 350-05: Ord. 272-04: Ord. 015-00)

**19.48.070 Auxiliary business uses.** Newsstands, refreshment stands, restaurants and other auxiliary business uses shall be permitted in connection with hospitals, schools and other public buildings if such auxiliary business uses are incidental thereto, and are for the convenience of occupants thereof; provided, the floor area used for such auxiliary business uses does not exceed 25 percent of the ground-floor area of the principal building, and that no sign is exhibited on the outside of any such principal building in connection with such auxiliary businesses as are permitted by this section. (Ord. 350-05: Ord. 272-04)

**19.48.080 Variance.** Variances to accessory structure, though not accessory use, regulations may be approved in accordance with Chapter 19.58 – Variances – of the Evans Municipal Code. (Ord. 350-05: Ord. 272-04: Ord. 015-00)

**19.48.090 Enforcement Authority.** The administrative authority is authorized and directed to administer and enforce all of the provisions of this chapter. (Ord. 350-05: Ord. 272-04: Ord. 015-00)

**19.48.100 Violation – Penalty.** Any person convicted of a violation of any provision stated or adopted in this section shall be punished as provided in Section 1.16.010 of the City of Evans Municipal Code, as amended. (Ord. 350-05: Ord. 272-04: Ord. 015-00)

### Code Documents



[19.48 - Accessory Structures and Uses](#)

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## **19.58 - Variances**

### **Chapter 19.58 - VARIANCES**

#### **Sections:**

- 19.58.010 Intent
- 19.58.020 Duties of the Zoning Board of Appeals
- 19.58.030 Criteria for Variances
- 19.58.040 Procedure for Variance Requests
- 19.58.050 Regulations Not Eligible for Variances
- 19.58.060 Minor Variances
- 19.58.070 Expiration
- 19.58.080 Fees

**19.58.010 Intent.** The intent of this chapter is to provide standards for variances and to detail the responsibilities and authority of the Zoning Board of Appeals of the City of Evans. (Ord. 332-05: Ord. 015-00)

#### **19.58.020 Duties of the Zoning Board of Appeals.**

- A. The Zoning Board of Appeals (hereinafter “the Board”) shall make recommendations to City Council on applications for variances from the dimensional or numerical requirements or limitations of Titles 12, 15, 19, and other regulations of the Evans Municipal Code, as specified in such sections of the Code, as amended.
- B. The Board shall also make recommendations to City Council on applications for appeals of staff decisions, which shall be processed the same as variance requests.
- C. Such recommendations and applications shall be in accordance with this chapter.  
(Ord. 332-05)

#### **19.58.030 Criteria for Variances.**

- A. The City Council must find all of the following circumstances to be true in order to approve a variance:
  - 1. Approval of the variance would not jeopardize the health, safety, or welfare of any person;
  - 2. Denial of the variance would result in a practical difficulty and unnecessary hardship to the applicant;
  - 3. Such practical difficulty and unnecessary hardship are due to an irregular, narrow, or steep lot, or other physical situation or condition of the building or land;
  - 4. Such practical difficulty and unnecessary hardship have not been unreasonably self-imposed by the applicant.  
(Ord. 332-05)

#### **19.58.040 Procedure for Variance Requests.**

- A. Petition. A petition in the form prescribed by the City shall be filed with the City Clerk and shall be accompanied by a letter explaining why the variance should be granted. Additional supporting evidence such as letters of support from surrounding property owners, photographs, and maps may be submitted and may be required by the City.
- B. The Board shall hold a public hearing and make a recommendation to the City Council.
- C. The Board may recommend approval or denial of a variance as requested, or may recommend approval of a variance differing from the request. The Board may recommend conditions be placed on the approval of a variance.
- D. After the Board makes a recommendation on the request, the City Council shall hold a public hearing and make the final decision to grant the requested variance, grant a variance differing from the request, or deny the variance. The City Council may place conditions on such approval. Approval shall be made by resolution.
- E. Notification of the public hearings shall be given in accordance with Chapter 19.64 of the Evans Municipal Code.  
(Ord. 332-05)

**19.58.050 Regulations Not Eligible for Variances.** The Board shall not consider applications for variances from Chapter 19.08, Annexation, or Chapter 19.40, PUD Planned Unit Development. Under no circumstances shall the Board consider a variance to allow a use not expressly permissible under the terms of this Title 19. (Ord. 332-05)

#### **19.58.060 Minor Variances.**

- A. The Director of Public Works/Planning shall have the authority to approve minor variances, subject to the

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following limitations:

1. Such authority shall only be to allow up to a ten percent reduction of required yard setbacks, required number of parking spaces, or a ten percent increase in the maximum height of structures including principal structures, accessory structures, and fences, and to the maximum size of accessory structures.
2. The applicant, in addition to the other items required by this chapter, shall provide letters from the owners of property adjacent to the property for which the request is made, stating they have no objection to the minor variance being granted, or other evidence to that effect satisfactory to the Director of Public Works/Planning. For the purpose of this section, property directly across the street from the subject property shall be considered adjacent. If the applicant is unable to provide such letters, staff shall notify such owners of the request and allow them ten days to object to its approval.
3. If the Director of Public Works decides not to approve the minor variance, the request shall be processed according to Section 19.58.040 if requested by the applicant. (Ord. 332-05)

**19.58.070 Expiration.** Unless otherwise stated in the approving resolution, all variance approvals not exercised within six months from the date of the approving resolution shall become null and void. (Ord. 332-05)

**19.58.080 Fees.** Each application for a variance shall be accompanied at the time of filing by a fee as established by City Council by resolution. The applicant shall also pay the cost of publication and notification of the public hearings in accordance with Chapter 19.64 of the Municipal Code. (Ord. 332-05)

### Code Documents



[19.58 - Variances](#)

Source URL (retrieved on *Fri, Feb 3rd 8:43am*): <http://www.cityofevans.org/municipalcode/1958-variances>

CITY OF EVANS, COLORADO

RESOLUTION NO. xx-2012

A RESOLUTION APPROVING A VARIANCE FROM SECTION 19.48.010 OF THE EVANS MUNICIPAL CODE TO CONSTRUCT CARPORTS THAT EXCEED THE SPACE REQUIREMENTS AT THE GROVE, 3202 11<sup>th</sup> AVENUE, EVANS

WHEREAS, the City of Evans has received a request from Campus Crest, property owner, and SolarCity, applicant for a variance to Section 19.48 of the Evans Municipal Code in order to be allowed to construct carports that exceed the space limitations, and

WHEREAS, said request has been processed in accordance with Chapter 19.58, Variances, of the Evans Municipal Code, and

WHEREAS, the Zoning Board of Appeals conducted a public hearing on April 5, 2012, and recommended an approval of said variance, and

WHEREAS, the City Council conducted a public hearing, has carefully reviewed the request and finds, by a vote of at least five members of Council, that such request does meet the variance criteria and that it does comply with the purpose of the zoning codes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that the decision of the Zoning Board of Appeals is hereby upheld and a variance is hereby approved from Section 19.48 of the Evans Municipal Code for the property known as The Grove, located at 3202 11th Avenue, to construct carports.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 17th day of April, 2012.

ATTEST:

CITY OF EVANS, COLORADO

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor



March 23, 2012

**Derek Esposito,  
Project Manager  
SolarCity Corp.  
490 E. 76<sup>th</sup> St. Unit C  
Denver, CO 80229**

**City of Evans Planning & Zoning  
1100 37<sup>th</sup> St  
Evans, CO 80620**

**Letter of Intent regarding Variance Application for Solar Carport Construction at The Grove, 3202 11<sup>th</sup> Ave, Evans, CO**

SolarCity is proposing to construct solar carports at The Grove, Campus Crest's multi-family housing complex located at 3200-3300 11<sup>th</sup> Ave. The solar carports would be built to cover existing parking spaces on the east and south sides of the lot. This letter shall attempt to describe why this project meets the criteria for a variance, according to the City of Evans Land Use Code chapter 19.58.030.

- 1. Approval of the variance would not jeopardize the health, safety, or welfare of any person.*

The proposed project would not jeopardize the health, safety, or welfare of any person. The project will improve the lives of the residents of The Grove in that they would have covered parking areas to protect their vehicles from inclement weather.

- 2. Denial of the variance would result in a practical difficulty and unnecessary hardship to the applicant.*

Looking to a future of increasing power rates from the Utility as well as pressure to build more coal power plants in order to deliver future electricity, the owners of The Grove are committed to generating clean solar power to supply all of the needs of the residents of The Grove. Solar panels are being installed on all suitable building roofs at the site, however this will only meet approximately 40% of the power needs of the site. Denial of the variance would result in The Grove not being able to meet its green electricity goals.

- 3. Such practical difficulty and unnecessary hardship are due to an irregular, narrow, or steep lot, or other physical situation or condition of the building or land.*

The limited space to install solar carports is due to a narrow lot at this particular site. Recognizing the importance of maintaining existing viewsheds along 11<sup>th</sup> Avenue, this proposal has been revised to remove any carport structures on the western portion of the

lot. This leaves the southern and eastern parking lots, which are screened from view from 11<sup>th</sup> Avenue by existing buildings, to house solar carports. Only half of the space of the eastern parking lot is suitable for a solar carport due to shade created by the existing buildings. The southern parking lot is suitable for solar carports but it is not very large so the size of the carports that can be built there is limited.

4. *Such practical difficulty and unnecessary hardship have not been unreasonably self-imposed by the applicant.*

The size and shape of The Grove's lot is what it is. There are only so many square feet at this site that is suitable for building effective solar carports.

In addition to meeting the above criteria for a variance, this letter shall address some items from the City of Evans Land Use Code that apply to this proposal:

- (1) The designs of the proposed solar carports comply with Chapter 18.33.060, Multifamily Architectural and Site Design Standards of the City of Evans Land Use Code. The materials and colors of the carports shall be compatible with the character of the surrounding buildings. The structural steel posts of the carports will have a brick façade matching the existing buildings. Adequate pedestrian lighting shall be installed in the carports.
- (2) Chapter 19.48.034 E, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article 5: *Carports shall be limited to six spaces per parking structure and each carport structure shall be located not closer than 20 feet to any other carport structure.*

The proposed solar carport designs occupy between 24 and 40 parking spaces. The purpose of this project is to build adequate roof area to house solar PV panels that will generate enough electricity to offset all of the electricity used by the building's occupants. In addition, covered parking is a valuable commodity that will be in demand so it is desirable for the building's occupants to see a multitude of available covered parking spaces. In order to conform to this code article, the size of the carports would have to be drastically reduced which would negatively impact the ability for the solar carports to serve their intended purpose of providing enough solar electricity to offset building electricity usage.

- (3) Chapter 19.48.034 B, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article B7: *Carports should not be located closer to the front property line than the front façade of the principal structure.*

It is recognized that 11<sup>th</sup> Avenue is considered a major arterial of the City of Evans, and therefore the carports have been designed to have very minimal impact on any views to or from 11<sup>th</sup> Avenue. The carports are to be located on the eastern and southern existing parking lots on the site. The eastern parking lot is completely screened by the existing buildings so these carports will not be visible from 11<sup>th</sup> avenue. The southern parking lot is mostly screened by the Post Office and Elks Club along 11<sup>th</sup> avenue so there is very minimal impact to the aesthetic views to or from 11<sup>th</sup> avenue.

(4) Chapter 19.48.034 E, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article E8: *Detached garages and carports shall have pitched roofs with a minimum slope of 4:12*. The proposed solar carport designs have a pitched roof with a slope of 1:12. Based on our experience building carports for the past several years, we believe that a 1:12 pitch is the most aesthetically pleasing for a carport roof. A steeper roof, while matching the pitch of surrounding buildings, creates a strange-looking roof line for a carport.

Please see the picture below. If this carport had a 4:12 pitch, the front edge of the carport roof would be 15' lower than the back edge of the roof.



These carports were built with a 1:12 roof pitch. The red line imagines a 4:12 pitch.

Thank you for considering this variance application for our solar carport proposal. I look forward to the opportunity to discuss this project further during the public hearing procedures. Please don't hesitate to contact me with any questions prior to then.

Sincerely yours,

Derek Esposito  
Project Manager, SolarCity



March 23, 2012

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Sincerely yours,

Derek Esposito  
Project Manager, SolarCity





MOOSE LODGE  
909

**PUBLIC HEARING PROCEDURE**  
**ZONING BOARD OF APPEALS**

A. Chairman opens Public Hearing.

B. City Staff gives report.

C. Applicant presents his/her position.

D. Chairman asks to hear from anyone in the audience who wishes to speak in support of the issue.

\*In order to afford all members of the public an equal opportunity to comment on this issue, we respectfully request that you limit your comments to 2 minutes.

E. Chairman asks to hear from anyone in the audience who wishes to speak in opposition to the issue.

\*In order to afford all members of the public an equal opportunity to comment on this issue, we respectfully request that you limit your comments to 2 minutes.

F. Applicant rebuttal.

G. Chairman asks Board if there are any questions that need clarified that were brought up during the Public Hearing.

H. Chairman closes the Public Hearing.

I. Chairman asks for Board discussion.

J. Board will then take action on the issue.