



1026 Park Ave · PO Box 99
 Grand Lake, CO 80447
 970-627-3435
 www.townofgrandlake.com

REQUEST FOR VARIANCE FROM
STREAM AND LAKE SETBACK
ZONING REGULATIONS

PLEASE FILL OUT THE FOLLOWING INFORMATION.

Property Legal Description: Subd: Sunnyside addition Lot: 18 Block 1

Property Street Address: 210 Rapids Lane

Property Owner: Tomlynson, Inc

Applicant's Name: Max Ludwig Day Phone: [REDACTED]

Applicant's Mailing Address: [REDACTED]

Variance Requested:

825 sq/ft of patio at issue located on the east side. See exhibit A

At a minimum, a variance request shall include the following information:

I. Application Deposit and executed Agreement for Development Fees

II. Documentation of unusual hardship via answers to the criteria listed below (only need to prove ONE)

- a. By reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of Municipal Code 12-2-29 [Shoreline and Surface Water Regulations]
- b. Literal interpretation of the provisions would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of Municipal Code 12-2-29
- c. The special conditions and circumstances do not result from the actions of the applicant
- d. Granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district
- e. The granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of Municipal Code 12-2-29

III. A topographic survey that includes locations of all streams, wetlands, floodplain boundaries, slope, topography, and other natural features

IV. A detailed site plan that shows the locations of all existing and proposed activities/improvements, both inside and outside the setback.

- a. A calculation of the total area (square footage) of the proposed improvements shall be indicated
- b. The exact area of the 30' setback to be affected shall be accurately and clearly indicated.

V. At least one alternative plan, which does not include a setback intrusion, or an explanation of why such a plan is not possible

VI. An erosion and sedimentation control plan (i.e. temporary and permanent interventions such as retaining walls, straw wattles and silt fencing, french drains, or other practices)

VII. A stormwater control plan, if applicable.

STATEMENT OF AUTHORITY

1. This Statement of Authority relates to an entity¹ named Tomlynson, Inc.
and is executed on behalf of the entity pursuant to the provisions of Section 38-30-172, C.R.S.
2. The type of entity is a:
- | | |
|--|---|
| <input type="checkbox"/> trust | <input type="checkbox"/> registered limited liability partnership |
| <input type="checkbox"/> nonprofit corporation | <input type="checkbox"/> registered limited liability limited partnership |
| <input type="checkbox"/> limited liability company | <input type="checkbox"/> limited partnership association |
| <input type="checkbox"/> general partnership | <input type="checkbox"/> government or governmental subdivision or agency |
| <input type="checkbox"/> limited partnership | <input type="checkbox"/> corporation |
3. The entity is formed under the laws of Colorado
4. The mailing address for the entity is P.O. 1400 Grand Lake, CO
5. The ☒ name ☐ position of each person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is Maxwell G. Ludwig
- 6.² The authority of the foregoing person (s) to bind the entity is ☒ not limited ☐ limited as follows: _____
7. Other matters concerning the manner in which the entity deals with interests in real property: Variance request and any other permits required
- Executed this 26th day of October, 2023

Signature

Signature

STATE OF COLORADO }
COUNTY OF Grand } ss:

The foregoing instrument was acknowledged before me this 26th day of October, 2023
by Maxwell Ludwig

Witness my hand and official seal.

Patricia Corcoran

Notary Public

My commission expires: 12/26/2026

¹This form should not be used unless the entity is capable of holding title to real property.

²The absence of any limitation shall be prima facie evidence that no such limitation exists.

³The statement of authority must be recorded to obtain the benefits of the statute.



Attachment A

Request for Variance from Stream and Lake Setback Zoning Regulations

Town of Grand Lake Planning Commission

RE: 210 Rapid Lane

Grand Lake, CO 80447

1. Site Map: see attached survey.
2. The Rapids Lodge, completed in 1915, is located on Lot #18, Block #1, Sunny-Side Addition (Aka: 210 Rapids Lane) in the Town of Grand Lake., Colorado. Lot #18 covers 7315.89 SQ Ft (not including Parcel B which covers half of the river) and is situated on the bank of the Tonahutu River (North Inlet). It is a relatively flat property with mature trees and stable soils. At issue is the patio added below the gazebo and the original deck that pre-date the set-back ordinance. The patio at issue is between the building with its cement walkway and the river bank. The 10'x10' Gazebo sits at the North East corner of the lot. The west wide of the river-bank of the North inlet is reinforced with medium sized boulders that serve as flood control. The vegetation consists of ten mature lodgepole pine trees, aspen trees and wild rose bushes. The property is operated as a lodge and restaurant. The operation of the business and use of the property does involve the storage or handling of hazardous or toxic materials.
3. Site plan evidences that the patio was build around the trees and did not cause any disturbances. See attached survey.
4. Documentation of unusual hardship should the setback be maintained:
 - a. See Exhibit B;
 - b. As evidenced by the survey, enforcement of the setback would render the property, which is a lodge and restaurant almost unusable. The setback comes to the eastern wall of the building – a building that was built in 1915 that predates the setback ordinances. The enforcement of the setback would defacto make the owner, guests and residents prisoner's of the building.

5. An alternative plan that does not include a setback intrusion is not possible because there is other land on which the outdoor patio space that is essential to the business can be built. The building abuts the road on the west side of the building, the east the of the building is just thirty feet (or less) from the river. And not having the patio as depicted on the survey would put owners, staff and guests at risk of tripping and falling on the roots, rocks and uneven terrain. Also, as the only usable open space to the building, the area at issue is a high foot traffic area. Thus, the patio is also the best solution to protect the trees and ground from destruction and erosion from the heavy foot traffic. No plantings were removed or destroyed by the installation of the patio.

6. A calculation of the total areas and length of intrusion:

See attached survey.

7. An erosion and sedimentation control plan:

To prevent overflow, the west side riverbank has been built-up with medium sized boulders. Since the time of this improvement, the river has not run over the banks into the property. The patio offers protection from the high traffic area from erosion and protects the tree roots. Deep tree roots from the mature trees stabilizes the land.

8 NA

9 NA

Attachment B

Request for Variance from Stream and Lake Setback Zoning Regulations

Hardship

At the public hearing the applicant can prove that the activity conforms to all five of the hardship criteria. Per municipal code, documentation of unusual hardship via criteria listed only requires that ONE of the five criteria set in Section 12-3-5(A)(4)(a) through (e) be proven, here the applicant can establish that the activity conforms with all five of the exceptions:

- a. Practical difficulties or unnecessary hardship would result to the owners of said property from a strict enforcement of MC 12-2-29:
 - i. Strict enforcement of 12-2-29 would cause extreme financial hardship for The Rapids. The Rapids, like many other businesses in Grand Lake, conducts @80% of its business in the summer months. In the summer season the vast majority of the restaurant revenue come from customers dining on the patio outside along the riverbank;
 - ii. The exposed roots were being damaged without the protection of the patio;
 - iii. The liability from risk of fall and injury without a platform was significant. Customers and employees ran the risk of injury by tripping over the roots of the trees and uneven ground.

b. Literal interpretation of the provision would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of 12-2-29:

- i. As the Rapids was built in 1915 long before the setback ordinance was adopted, enforcing the 30-foot setback now deprive the owners and guests their right to quiet enjoyment of the property as it would render the property without any meaningful outdoor space - the west side of the building abuts the road and the 30-foot setback would leave marginal outdoor space for owners and guests.

c. Special conditions and circumstances do not result from actions of the applicant:

- i. The applicant did not build the Rapids lodge and restaurant or site it on the lot. It was built in 1915. As built, it partially encroaches in the later adopted 30-foot set back. Enforcing the 30-foot setback would render the property without any meaningful outdoor space that can safely be used by owners, guests and staff: the west side of the building abuts the road and enforcement of the 30-foot setback would deny the owners, guests and staff use of the outdoor space.

d. Granting the variance request will not confer an applicant any special privilege that is denied to the lands ,structures or buildings in the same district:

No special privilege would be conferred by this variance that is denied to the lands, structures or buildings in the same district. The patio at issue is core to the business and allows use and

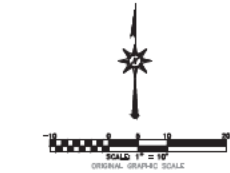
enjoyment of the waterfront. Docks, boat houses, and commercial marinas and businesses in the same district. The applicant should not be put at an unfair disadvantage and be deprived of similar water-front enjoyment. Furthermore, the assessed tax value is higher for water-front property, yet this set-back would deprive the applicant of the enjoyment and use of that water-front property for which it pays taxes.

e. Granting of variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of MC 12-2-29:

The stated purpose of the 30 foot setback is to "help preserve the environmental quality of the water in Grand Lake". The ordinance goes on to address that it is applicable to buildings, parking, snow storage, etc. Clearly, the oil and contamination from snow storage and parking is obvious. Whereas the patio at the Rapids does not pose such risk or contaminants. Furthermore, the patio protects the trees which are essential to help prevent erosion.

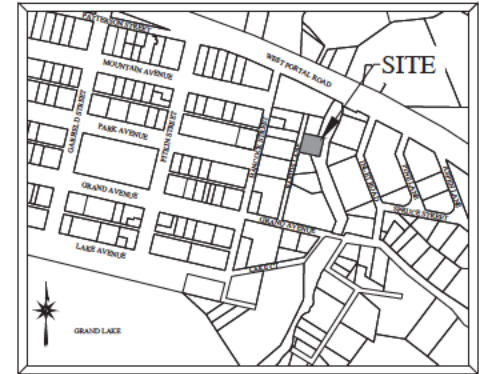
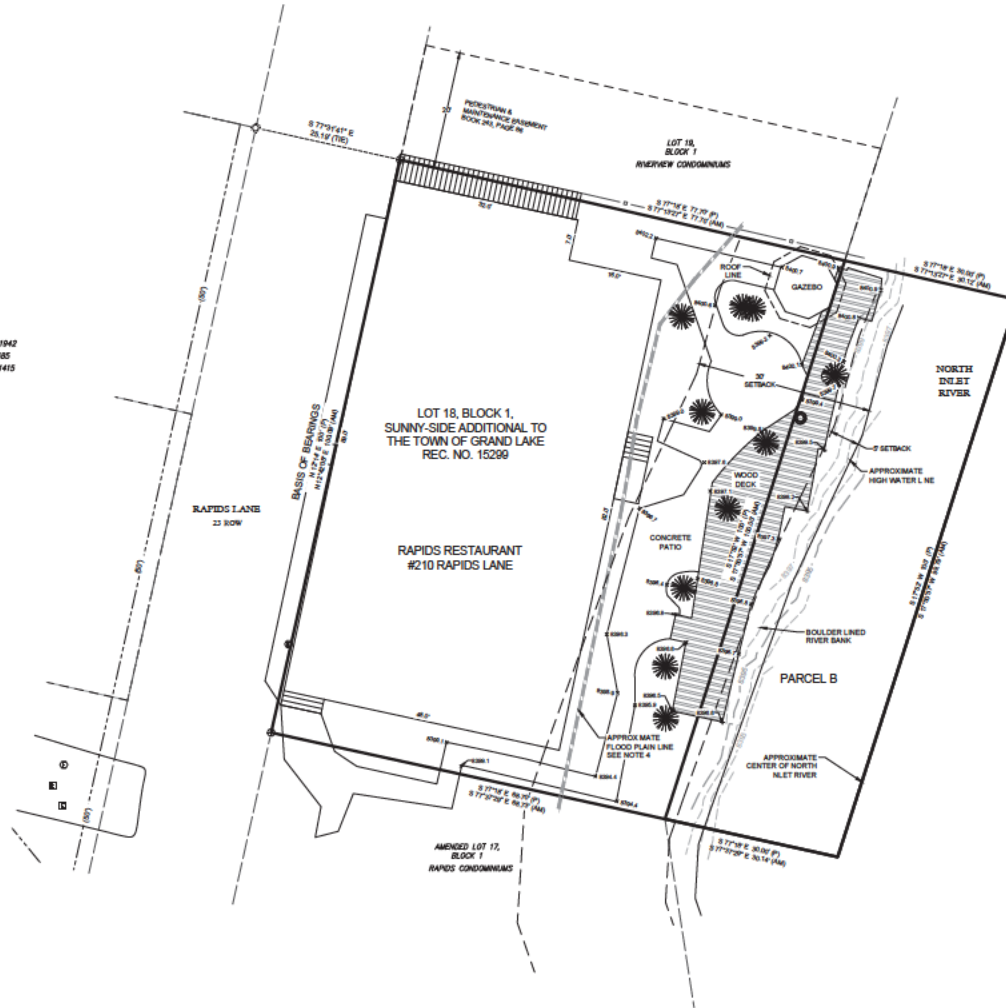
Most importantly, the patio affords the owners, guests and staff safety. Previously, the exposed tree roots and uneven terrain caused falls and posed a safety risk.

EXHIBIT
PATIO \ WOOD DECK, RAPIDS RESTAURANT
LOT 18, BLOCK 1, SUNNY-SIDE ADDITION TO THE TOWN OF GRAND LAKE, RECEPTION NO. 15299 AND
PARCEL B, AS DESCRIBED IN WARRANTY DEED RECEPTION NO. 98007171
SITUATED IN SECTION 5, TOWNSHIP 3 NORTH, RANGE 75 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF GRAND LAKE, GRAND COUNTY, COLORADO
#209 RAPIDS LANE



LEGEND

REC. NO.	RECEPTION NUMBER
SF	SQUARE FEET
AC	ACRES
(P)	PLATED
(AM)	AS MEASURED
○	FOUND ALUMINUM CAP, PLS #31942
○	FOUND PLASTIC CAP, PLS #06685
○	FOUND ALUMINUM CAP, PLS #11415
○	ELECTRICAL PEDESTAL
○	TREE STUMP
○	MATURE TREE
---	PROPERTY LINE
---	ADJACENT LOT
---	EASEMENT LINE



VICINITY MAP
SCALE: 1" = 300'

- NOTES**
1. FOLLOWING IS A PARTIAL LIST OF SURVEY PLATS UTILIZED IN THE PREPARATION OF THIS SURVEY:
A. GRAND COUNTY RECORDS, TOWN OF GRAND LAKE, RECEPTION NO. 9086.
B. GRAND COUNTY RECORDS, SUNNY-SIDE ADDITION TO THE TOWN OF GRAND LAKE, RECEPTION NO. 15299.
 2. BASIS OF BEARING IS N 17°42'00" E (ASSUMED) AS MEASURED FROM THE SOUTHWEST CORNER OF LOT 18, BLOCK 1, ALUMINUM CAPPED REBAR, PLS #11415 TO THE NORTHWEST CORNER OF LOT 18, BLOCK 1, ALUMINUM CAPPED REBAR, PLS #11415 WITH ALL BEARINGS SHOWN HEREIN BEING RELATIVE THERETO.
 3. THE BASIS OF ELEVATION IS 8441.34' (PER NAVD 83 DATUM) AS MEASURED FROM THE BUREAU OF RECLAMATION BRASS CAP 17.584' WHICH IS SITUATED ON THE BRIDGE OVER THE NORTH INLET RIVER ON THE WEST PORTAL ROAD WITH ALL ELEVATIONS SHOWN HEREIN RELATIVE THERETO.
 4. THE FLOOD PLAIN DEPICTED HEREIN IS REFERENCED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) NUMBER 060400140C HAVING AN EFFECTIVE DATE OF JANUARY 2, 2008. SAND MAP CLASS F IS THE NORTH INLET RIVER AS ZONE A WHICH HAS - NO BASE FLOOD ELEVATIONS DETERMINED. CONSEQUENTLY, DEPICTED HEREIN IS AN APPROXIMATE LOCATION OF THE WESTERLY LIMIT OF SAND ZONE A.
 5. THIS EXHIBIT IS NOT A LAND SURVEY PLAT, IMPROVEMENT SURVEY PLAT OR FLOOD PLAIN SURVEY. IT IS PREPARED TO GRAPHICALLY DEPICT THE HIGH WATER MARK OF NORTH INLET RIVER RELATIVE TO THE WOOD DECK AND CONCRETE PATIO AREA OF RAPIDS RESTAURANT.

LAND SURVEYOR'S CERTIFICATE

I, TIMOTHY R. SHENK, A DULY LICENSED LAND SURVEYOR, IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS EXHIBIT REPRESENTS THE RESULTS OF FIELD SURVEYING AND DRAFTING MADE BY ME OR UNDER MY DIRECT SUPERVISION. THIS IS NOT A LAND SURVEY PLAT, IMPROVEMENT SURVEY PLAT OR FLOOD PLAIN SURVEY.



TIMOTHY R. SHENK, COLORADO P.L.S. #51040
PREPARED ON BEHALF OF TIM SHENK LAND SURVEYING, INC.

TIM SHENK
LAND SURVEYING, INC.
P.O. BOX 1670
GRAND, CO 80446
(970) 887-1046

EXHIBIT
PATIO \ WOOD DECK, RAPIDS RESTAURANT
LOT 18, BLOCK 1, SUNNY-SIDE ADDITION TO THE
TOWN OF GRAND LAKE AND PARCEL B
SECTION 5, TOWNSHIP 3 NORTH, RANGE 75 WEST OF THE 6TH PRINCIPAL MERIDIAN,
TOWN OF GRAND LAKE, GRAND COUNTY, COLORADO

JOB: 01148	SCALE: 1" = 20'	DATE: 10/09/2023	DRAWN BY: JAN
DWG: 01148_PATIO EXH-B	ORD: 01148	CHECKED: TRS	SHEET: 1 OF 1

Fwd: Riverside safety

Tatyana Ludwig <rapids@rapidslodge.com>

Wed 9/27/2023 10:20 PM
[REDACTED][Get Outlook for Android](#)

From: ROBERT BALINK [REDACTED]**Sent:** Wednesday, September 27, 2023 6:08:58 PM**To:** Tatyana Ludwig <rapids@rapidslodge.com>**Subject:** Riverside safety

Dear Max and Tatiana,

We want to thank you for the improvements you have made to the Rapids outdoor dining experience.

There wasn't much, if anything, to improve with the meals and service guests regularly receive- but the outside dining in the past, on uneven ground, was somewhat difficult to maneuver...as desirable as most guests found outside dining at The Rapids was.

The new decks added in the last two years ensured not only an un-paralleled Grand Lake dining experience but they added greatly to the safety of your guests.

Sadly, during a walk along another waterway trail in Grand Lake this summer, a family member fell on uneven ground along a relatively flat trail and suffered a concussion after a face-plant into the ground.

Thank you for improving the safety measures at your outside dining tables...that was very thoughtful and much appreciated by your patrons.

Bob and Adele

Getsafetynow.com

Issue Date:

Expiration Date:

Town of Grand Lake, Colorado
FLOODPLAIN DEVELOPMENT PERMIT

(See Terms and Conditions)

Grand Lake Planning Department

Phone: 970-627-3435

Email: kwhite@togleco.com

Permit #

Permit becomes void if there are changes to the effective Flood Insurance Rate Map

Owner: Maxwell Ludwig
[Redacted]
Grand Lake City CO State
80447 Zip Code
Telephone# [Redacted]
Contact Name Maxwell Ludwig Cell
Emergency Telephone [Redacted]
E-mail [Redacted]

Contractor/Developer _____
Address _____
City _____ State _____
Zip Code _____
Telephone# _____ Fax# _____
Contact _____ Name _____
Emergency# _____
E-mail _____

Development Address 210 Rapids LN, Grand Lake, CO 80447 C
Legal Description: Lot #18 Block #1 Parcel B Latitude/Longitude # _____

Development Overview

Description of development: Wooden Flooring to protect flood plain soil and improve safety by River.

Estimated Cost of development: \$3000
If development is on, within or connected to an existing structure:
Valuation of existing structure: Source of valuation:
When was the existing structure built: 1915

* If the value of an addition, remodel or alteration to a structure equals or exceeds 50% of the value of the structure before the addition, remodel or alteration, the entire structure must be treated as a substantially improved structure and is required to comply with the relevant Floodplain Damage Prevention Ordinance. A relocated structure, including mobile homes, manufactured home, or cabins, must be treated as a new construction.

CHANNEL IMPROVEMENTS

- ☐ Bank Stabilization
☐ Grade Control
☐
☐
☐ Outfall
☐ Fill
Other _____

STRUCTURAL DEVELOPMENT

- ☒ New Construction
☐ Residential Building
☐ Permanent Drop Structure
☐ Rehabilitation
☐ Manufactured Home
☐ Rehabilitation (<50%)
☐ Substantial Improvement (≥50%)
Other _____

MISCELLANEOUS

- ☐ Bridge
☐ Culvert
☐ Non-Residential
☐
☐ Fence
☐ Grading/ Parking Lot
Other _____

TYPE

- ☐ Temporary
☐
☐ Demolition
☐
☐ Emergency Repair
☐ Maintenance
☒ Other Wood Floor

Flood Hazard Data

TO BE COMPLETED BY FLOODPLAIN ADMINISTRATOR

Watercourse Name: Effective FIRM Panel Number and Date: _____

Is the development in or impacts a floodplain? _____

Is the development in the floodway? If yes, a No-Rise Certification is required.

Special Flood Hazard Zone: Base Flood Elevation: _____

Method used to determine Base Flood Elevation: _____

Vertical Datum: Must be either NGVD 29 or NAVD 88 and the same vertical datum of the effective FIRM: _____

Elevation of lowest floor, including basement or crawlspace*: Elevation of lowest, habitable floor*: _____

Elevation of floodproofing (non-residential structures only)*: _____

*Source of Elevation and/or floodproofing Information: _____

Does the development require that a CLOMR be processed?: _____ Is a LOMR required?: _____

Issue Date:
Expiration Date:

Town of Grand Lake, Colorado
FLOODPLAIN DEVELOPMENT PERMIT
(See Terms and Conditions)
 Grand Lake Planning Department
 Phone: 070-627-3435

Permit#
<i>*Permit becomes void if there are changes to the effective FIRM*</i>

Floodplain Development Permit Checklist (THIS PAGE TO BE COMPLETED BY FLOODPLAIN ADMINISTRATOR)

The following documents may be required at the discretion of the approving community official:

- ☐ Tax assessor map
- ☐ Maps and/or plans showing the location, scope and extent of the development
- ☐ Floodproofing Certificate: Certificate and supporting documentation used to provide the certification
- ☐ Documentation showing compliance with the Endangered Species Act
- ☐ No-Rise Certificate: Certificate and supporting documentation used to provide the certification
- ☐ Elevation Certificate
 - ☐ Constructional Drawing
 - ☐ Building Under Construction
 - ☐ Finished Construction
- ☐ Grading plans
- ☐ Detailed hydraulic and hydrology model for development in a Zone A
- ☐ Conditional Letter of Map Revision (CLOMR)
- ☐ Structure valuation documentation
- ☐ Non-conversion agreement: Required for all structures that are constructed with an enclosure
- ☐ Wetland Permit from the U.S. Army Corps of Engineers
- ☐ Copies of all federal, local and state permits that may be required.
- ☐ Manufactured home anchoring certificate: Certificate and supporting documentation used to provide the certification
- ☐ Other documents deemed necessary by the Floodplain Administrator

Permit Action

_____ PERMIT APPROVED: The information submitted for the proposed development was reviewed and complies with approved floodplain management standards.

_____ PERMIT APPROVED WITH
CONDITIONS: The information submitted for the proposed development was reviewed. For the proposed development to be approved, certain restrictions or conditions must be met. These restrictions or conditions are attached.

_____ PERMIT DENIED: The proposed development does not meet approved floodplain management standards (explanation on file).

_____ VARIANCE GRANTED: A variance was granted from the base (1%) flood elevation established by FEMA consistent with variance requirements of Title 44 of the Code of Federal Regulations part 60.6 (Variance action documentation is on file).

Signature of Community Official: _____ Date: _____

Print Name and Title of Community Official: _____

Issue Date:
Expiration Date:

Town of Grand Lake, Colorado
FLOODPLAIN DEVELOPMENT PERMIT
(See Terms and Conditions)
Town of Grand Lake Planning
Department
 Phone: 970-627-3435
 Email: kwhite@togleco.com

Permit#
<i>*Permit becomes void if there are changes to the effective Flood Insurance Rate Maps*</i>

The Floodplain Development Permit is used to help our community evaluate all impacts of activities proposed within our regulated floodplains. All activities—work, projects, development, construction, modifications, or additions heretofore referred to as "development"—must comply with Article 5 of Chapter 12 of the Grand Lake Town Code, the Floodplain Damage Prevention Ordinance (FDPO), of the Town, as well as all applicable regional or state regulations. Compliance with the FDPO is required for eligibility in the National Flood Insurance Program (NFIP), which provides flood insurance to individuals at reduced premiums than could otherwise be purchased through private insurers, and makes certain federal funds available to communities. For citizens to be eligible for the national flood insurance policies, or for communities to receive certain kinds of federal funds, the community must agree to meet minimum floodplain standards such as the FDPO. This application is a tool to ensure that development in our community complies with those standards.

Any party undertaking development within a designated floodplain must obtain a Floodplain Development Permit prior to commencing development. FEMA defines development in Title 44 of the Code of Federal Regulations part 59.1 as: *Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.* Other human activities that are considered "development" include the following: alterations of a structure through additions, demolition and remodeling, fences, retaining walls, moving/placement of remanufactured or mobile homes, campgrounds, storage of equipment, vehicles, or materials (e.g., storage yards, salvage yards).

General Provision of the Floodplain Development Permit Terms (applicant to read and sign):

1. No development may start until a permit has been issued.
2. The permit may be revoked if:
 - a. Any false statements are made herein;
 - b. The effective Flood Insurance Rate Map has been revised;
 - c. The development is not done in accordance with the FDPO of the Town or other local, state and federal regulatory requirements.
 - d. The development is different than what is described and submitted to the Town as part of the Floodplain Development Permit application.
3. If revoked, all development must cease until a permit is reissued.
 - a. If the permit cannot be reissued, applicant acknowledges that they will be responsible to correct the issue, which may require removal of any development that may have occurred.
4. Development shall not be used or occupied until the development has received a final inspection, a final elevation and approval by the Town.
5. The permit will expire if the development has not been completed and approved by the Town by the expiration date noted on the permit.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements and acknowledges that it is their responsibility to ensure that all necessary permits are obtained.
 - a. This includes documentation showing compliance with the Endangered Species Act.
7. Applicant hereby gives consent to the local floodplain administrator or their representative (including state and federal agencies) to make reasonable inspections required to verify compliance.
8. Applicant acknowledges that the development will be designed to minimize any potential drainage onto surrounding properties and will be responsible for any drainage issues that may arise.
9. I, the applicant, certify that all statements herein and in attachments to this application are, to the best of my knowledge, true and accurate. Furthermore, I have read and understand the relevant FDPO for the Town of Grand Lake, and will adhere to the ordinance and will or have already obtained all necessary state, federal and local permits for the proposed development.

Applicant's Name:

Maxwell Ludwig (Dba The Rapids)

Applicant's Signature:



Date:

10/26/2023