



719.B.2.b Narrative for Variance, Major Variance

3) Variance Request: CDC 401 Waterbody Setback

August 25, 2025

Property Information:

Owners: Oak Street Partners, LLC
PO Box 775457, Steamboat Springs, CO
135 11th Street
Development Unit River House Condominium
Steamboat Springs, Routt County, Colorado
PIN: 286700004
Zone District: CK-2

Project Description / Request:

The Development Plan application is for the relocation of a historic structure to the subject site. The proposed use of the structure is a restaurant / tavern on the main level, and a cigar lounge on the basement level. The variance requests to locate the historic structure within the 50' waterbody setback of Soda Creek, a 50' encroachment, as 95.5% of the subject site is located within the waterbody setback, see graphic on attached Exhibit 2 Waterbody Setback Site Plan. Variance criteria response by the applicant to Community Development Code criteria below.

719.E Criteria for Approval

- The property and the use of such property for which the Variance is requested meets one of the following:*
 - ~~The property is in full compliance with all requirements of the applicable zone district; or~~
 - The lot is a legal nonconforming lot; or*

The platted lot is 0.23 AC (10,018.8 square feet). Only 454 square feet, or 4.5% of the site, are located outside of the 50' waterbody setback of Soda Creek rendering the site unbuildable by today's waterbody setback standards. Furthermore, 100% of the area outside of the waterbody setback requirements is located within zone district building setbacks.
 - ~~Any nonconformities on the lot are legal nonconforming structures or uses~~
- The Variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and applicable zoning district.*

Numerous existing structures along Soda Creek in the downtown area encroach into the waterbody setback under similar conditions, including all neighboring properties, establishing a built context where development within the setback is common and compatible with surrounding uses.

3. *The special circumstances of the subject property make the strict application of the standard an unnecessary hardship to the applicant, and the special circumstances are not the result of actions of the property owner or applicant.*

Strict application of the 50-foot waterbody setback creates an unnecessary hardship, as only 4.5% of the lot is outside the waterbody setback. This leaves no practical space for development without a variance.

The site's constraints are due to natural conditions, not actions by the applicant, namely the size of the lot and location along the creek. The lot was platted prior to zoning regulations and waterbody setbacks.

4. *The Variance is necessary due to special circumstances relating to the size, shape, topography, location, or surroundings of the subject property and to provide it with use rights and privileges permitted to other properties in the vicinity and in the applicable zone district.*

The variance is necessary due to the property's unique combination of constraints, including its size, location within the downtown area, and the presence of Soda Creek and associated buffers. These conditions severely limit buildable area of the lot, with only 4.5% of the site lying outside the waterbody setback. Without the variance, the property cannot be reasonably developed, denying it the same use rights and privileges enjoyed by other properties in the zone. The variance also enables the preservation and adaptive reuse of a historic structure, supporting community goals for heritage conservation and character retention.

5. *The Variance will not injure or adversely impact legal conforming uses of adjacent property, or the applicant has accurately assessed the impacts of the proposed Variance and has agreed to mitigate those impacts.*

The requested variance will not injure or adversely affect legal conforming uses of adjacent properties. The encroachment into the waterbody setback does not impact wetlands, floodplain, or key natural features. Neighboring properties along Soda Creek already have similar encroachments, creating an established pattern.

6. *The Variance is the least modification possible of the standard that will afford relief to the applicant.*

With nearly all of the site located within the waterbody setback, the requested variance represents the least modification necessary to allow reasonable use of the property while preserving environmental resources. Encroachment into the waterbody setback is necessary to accommodate any development of the site, specifically the proposed historic structure with careful siting orientation and design to reduce overall disturbance.

7. *When considering the amount of variation requested, any existing nonconformity will be considered part of the overall Variance request. For example, an existing nonconforming structure encroaches five feet into the required setback, and the applicant is requesting a Variance to encroach an additional five feet. The Variance request shall be for a ten-foot encroachment into the required setback.*

The site has an existing structure which is entirely located within the waterbody setback due to nearly the entire site being located within the waterbody setback. The variance request shall be for a 50' encroachment into the waterbody setback to accommodate the proposed development.

8. *The Variance is consistent with the purpose and intent of this CDC, the Community Plan, and other adopted plans, as applicable.*

Chapter 7 of the Community Plan outlines the community's goal to protect natural, scenic, and environmentally sensitive areas.

Goal NS-1: The City currently requires development within the 100-year floodplain to be elevated 1' above the base flood elevation. The Marshall House is located outside of the 100-year floodplain, however as stewards of Soda Creek and in anticipation of climate change resiliency, the structure's basement is planned to be set 1' above the nearby base flood elevation in good faith.

Goal NS-3: The structure is intentionally located outside of the delineated wetlands area to protect and maintain this important habitat.

Chapter 11 of the Community Plan addresses the community's Historic Preservation vision and notes success of preservation due to voluntary, incentive-based approach to preservation and partnerships among the public and private sectors to preserve our strong sense of history and character, specifically in Old Town. This is precisely the case in preserving the Marshall House which would otherwise be demolished and remembered solely through a few photographs.

Goal HP-2: The Marshall House is planned to be available for historic tours outside of evening business hours to promote education, awareness, and outreach.

Goal HP-4: The subject site is located within the identified Area of Commercial Historic Interest and a prime candidate for furthering the efforts of the Community Plan's Historic Preservation goals.

Section 112.A.1 & 112.A.2 of the Community Development Code addresses the purpose of Steamboat Springs Register of Historic Places. The relocation of this historic resource to the subject site promotes this purpose to '1. Preserve, protect, enhance, and perpetuate the exteriors of historic buildings, structures, ... that reflect outstanding elements of the City's cultural, artistic, social, economic, political, architectural, historic, or other heritage'; and '2. Stabilize or improve aesthetic and economic vitality and values of Historic Resources....'.

Preservation of our local historic resources has been prioritized in recent community surveys and by City Council. A variance to the property's waterbody setback is minimized in light of preserving a historic resource in downtown Steamboat Springs for generations to experience, learn from, and enjoy.

9. *The property and the use of such property meets at least one of the following:*
 - a. *Strict enforcement of the setback requirement will deprive the property owner of all reasonable economic uses of the property in accordance with the applicable zone district;*
 - or*
 - b. *The circumstances of the subject property meet all of the following:*
 - i. *The riparian environment within the required setback has been previously disturbed on the subject property; and*

- ~~ii.—The development is for the purposes of irrigation and water diversion facilities, flood control structures, trails, recreation access sites, bridges, fences, erosion control devices, underground utilities, and all riparian areas disturbed will be restored to the greatest degree possible; and~~
- ~~iii.—Appropriate avoidance measures will be implemented to eliminate any potential negative impacts on the waterbody; and~~
- ~~iv.—Natural drainage patterns will not be affected; and~~
- ~~v.—Any applicable Army Corps of Engineer's permit has been applied for and will be obtained; and~~
- ~~vi.—A Floodplain Development Permit has or will be obtained, if applicable.~~

- a. Strict enforcement of the 50-foot waterbody setback would deprive the property owner of all reasonable economic use of the site. With only 4.5% of the lot lying outside the setback, there is no feasible location to construct even a modest structure within compliance. The variance is essential to allow any meaningful use of the property in accordance with the zone district, particularly the adaptive reuse of a historic building that aligns with community goals for preservation, pedestrian activity, and small-scale commercial development.

End of narrative.