

Paul Guglielmo  
317 Galena St., Unit D  
Frisco, CO 80443

February 5, 2020

Frisco Community Development Department  
Town of Frisco  
PO Box 4100  
Frisco, CO 80443

RE: Planning File No. 260-19-VAR (Miller Waterside Setback variance)

To whom it may concern:

What are we talking about? Building in the wetlands; Wetland degradation in Frisco. Why? It's against federal environmental protection regulations, Frisco town code, basic ethics, & common sense. This variance, if approved, benefits the land seller & buyer only. There is no benefit to the local community. This and future attempts to degrade our natural resources need to be stopped and discouraged in order to preserve what gives this region its value.

Frisco has made allowances for projects in the past which have benefitted the greater good of the town.

Across the street from our home, the town constructed affordable housing; benefitting our business owners & making Frisco home to people previously unable to afford to live here. The development of the peninsula area is an achievement which makes me proud to be a Frisco resident. The elevated boardwalk traversing the marsh of our lake shoreline exhibits thoughtful engineering & social integrity. I applaud these thoughtful projects, all which benefit the greater good of the community.

But what is the thought process here?

How many people will benefit if this variance is approved? You need only the fingers of a single hand to tally this total.

Why are we discussing this destruction of a wetland? Is there a threat of a lawsuit if a variance is not approved? Is it easier to roll over than to stand on our principles? Will there also be lawsuits filed if wetland degradation is allowed by town of Frisco?

What has changed since the town codes & federal guidelines were initiated? Do water quality, animal habitat, & societal ethics no longer matter? Is the plot of land we're discussing no longer a wetland? The delineation of the wetland by the engineers is an approximation. If you were to straddle the boundary demarcated by the engineers along the south side of the plot, with the wetland located to the northwest of you, the wetland still exists on the opposing southeast side of you on this property. This fact is evidenced by the 20+ foot tall willow, over 30 feet away from stated boundary, located on the 3<sup>rd</sup> Avenue Right of Way, in the area designated "Upland" in the engineers' drawing (See Pg. 5 Frisco Planning Com. staff report[northwest view photo]). The wetlands to the east, across 4<sup>th</sup> avenue previously connected directly to this wetland area. Only the construction of 4<sup>th</sup> avenue created the break in connectivity. Again, the building of 4<sup>th</sup> avenue exhibits an obvious communal benefit, not one benefitting a few entities.

The engineering firm which did the survey, 285 Engineering, provided the accompanying report. Their surveyor spent 1 afternoon, on a miserable, rainy, late summer day; in August I believe. My neighbor Crystal & I both watched as the surveyor emerged from the wetland with watermarks on her jeans up to her knees. She lit a cigarette, and took one extremely long drag, finishing the smoke entirely with one hit, her body language reflecting the miserable weather conditions of the day.....this was the extent of Engineering 285's observation that day.

I don't know how many days total were spent collecting data, but I have over 15 years observing the life of this wetland....the variety of bird species and snow hares, the generations of foxes who make their dens here, and the moose that bed down in the tall marsh grasses within this wetland and use this as safer passage than the 4<sup>th</sup> Avenue bridge. Why should this ecosystem be degraded, have its hydrology, chemistry, biota altered? Is it for a communal benefit? Are we building a burn center & no other location is available? Are we building housing for government employees in order to offer more competitive job opportunities? No.

We are being asked to make major environmental changes to a vital ecosystem for the financial benefit of a few.

### **Data per 285 Engineering**

#### **Wetland Impacts**

- Over 82% of subject property falls WITHIN the wetland delineation.
- 79% of these wetlands on subject property will be "permanently impacted by proposed disturbance."

### **LET'S ADDRESS THE MILLERS' LETTER.**

#### **My responses to each topic, by paragraph.**

Paragraph 2- The creek side is not where the water is coming from. It comes from the water table of saturated soils within the wetland they want to build upon. It comes from below, not from the creek

on the North side. Displacement of the soil by the house's foundation in conjunction with filling the depression with hundreds of square feet of soil will impede and or alter natural water flows, increase the water table level, permanently destroy animal breeding and resting areas, as well as shut down safe, familiar corridors of travel known to moose, foxes, bears, etc.

Paragraph 3- They are correct. **THESE ARE REQUIREMENTS.** The "unbuildable" part of this equation is ....IT'S WITHIN A WETLAND!!

Paragraph 4- "no adverse impacts"... Without restating the obvious, let's consider altering the hydraulic gradient, hence natural runoff flows from Galena Street, snow storage, not to mention "street, or in this case 3<sup>rd</sup> Avenue Right of Way" parking issues which will arise the very first summer once the East entry to 3<sup>rd</sup> Avenue Right of Way no longer is bounded by a sidewalk and curb.

Paragraph 5- "Not injurious to property values or character"?

Given the choice of buying a home beside a wetland or buying an identical home in a community that **allows** development within wetlands, where might you spend your money???

"Improving the alley" -- Adding impervious areas (driveway and access to driveway) which accelerates overland flows, increases erosion within the 3<sup>rd</sup> Avenue Right of Way. Water previously flowing into the wetland will slow or become stagnant, standing water behind our homes.

Paragraph 6 – "Not asking for anything extra".....just let us build where no one else may or should.

Paragraph 7 – If you insist on building, build proportionally to the allowable limits of the size and location of the lot. Pretty simple.

## **PLANNING COM. STAFF REPORT**

**How did the Planning Com. come to resolutions regarding the following specific topics, criteria, & contradictions?**

Pg. 4 – Last para. The connectivity of the proposed building site to the adjoining property's wetlands is undeniable from a scientific perspective. To claim to be able to "remove a wetland" from the building site and not alter the larger wetland it exists within is absurdly false. The "removable" wetland is within the same, albeit larger, wetland. There are not multiple, disconnected wetlands there.

Pg. 5 – Front & center (northwest view photo) exists the large willow on town property I previously referenced. Although it's possible for a willow to exist outside a wetland, it is considered a defining wetland species.

Pg. 7 – 180-6.7.3. Waterway degradation. Are they planning to bury the willows with the fill or do they plan to rip them out? I feel I don't need to detail the function & importance of the Phreatophytes, such as willows (plants that use water from the saturated zone) to you.

Pg. 8 – 9 Criterion #1 & #2

B. Applicability- “The variance procedure may not be used to allow a use in a zoning district where it is not currently permitted, and is not intended to alleviate inconveniences or financial burden imposed on landowners”. Wetlands are not zoned for buildings. The buyers/builders want the town to alleviate an inconvenience, disallowing a house the size they wish to build, by altering reasonable, protective town codes.

Why, as written on Page 9 in “Staff Analysis”, if the lot has been designated for residential development, why do the tax records reflect another designation? Why not design a house for the lot size? Additionally, regarding “residential development” the 1972 CWA (wetland protections, etc.) should be your guide, not “Grandfather Clauses”.

*“EPA's Section 404 enforcement program has three goals: protect the environment and human health and safety, deter violations, and treat the regulated community fairly and equitably. EPA's enforcement program achieves these goals through voluntary compliance and by using the enforcement tools provided under Sections 309 and 404 of the Clean Water Act.” (EPA Website, 2020)*

Pg. 9 & 10 Criterion # 3 “No adverse impacts” see above responses to Millers’ letter... (altering the hydraulic gradient, snow storage, parking issues, community that builds in a wetland).

Dec. 18 meeting with DRC...No one had concerns? Who comprised these “relevant referral agencies?”

Pg. 10 Criterion # 4 Staff Analysis, paragraph 4—Reference to residence 212 North 3<sup>rd</sup> Avenue comparable footprint to proposed building site... The development of the 3<sup>rd</sup> Avenue predates current zoning codes. The current proposed building in the wetlands is one reason why these codes are created & implemented. Additionally, although the corner of the building site @ 212 North 3<sup>rd</sup> clearly exists in the wetland, the building is elevated far above the creek and set on stone, not affecting the water table. There is little displaced water. This is not comparable to the proposed house footprint of the lot under consideration of variance which sits several feet lower in elevation, in the wetland and alters the functionality of this wetland.

Pg. 15 Criterion # “5 Frisco Community Plan identifies the subject property as an existing residential use.” Tax records dispute this.

Pg. 11-12 Guiding Principle 6 Sustainable Environment – “Frisco’s natural environment is the primary quality that attracts residents & visitors.....The community should embrace measures for sustainability that reduce greenhouse gas emissions and conserve water resources....A variance from the waterside setback is generally not supported by the Community Plan Guiding Principle of

Sustainable Environment” **WETLANDS ARE THE BEST NATURAL RESOURCE KNOWN TO SCIENCE TO REDUCE GREENHOUSE GAS EMISSIONS & CONSERVE WATER RESOURCES!** Yet this variance

removes wetlands. Why .... How does this meet this criterion?

**Pg. 15 Criterion # 7 Reasonable use...render the subject property unbuildable. Although I believe the lot is unbuildable, currently, by law, it's not. It just doesn't allow for a house the size this builder wants to build.**

**I write this letter not because the site is behind my home. I write this letter because the wetland in jeopardy is in my town.**

**Thank you for considering my and our community members' concerns. Please deny this variance.**

**Paul Guglielmo**

**317 Galena Street**