

CALL TO ORDER Mayor Gutierrez called the regular meeting of the Loveland City Council to order on the above date at 6:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL Roll was called and the following responded: Gutierrez, Heckel, McEwen, Klassen, Johnson, McKean, Shaffer, Rice and Solt.

PROCEDURAL INFORMATION Mayor Gutierrez made the following procedural announcement: Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it. Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption of the staff recommendation for those items. Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.

CONSENT AGENDA Mayor Gutierrez asked if anyone in the audience, Council or staff wished to speak on any of the items or public hearings listed on the Consent Agenda. Councilor Johnson moved to approve the Consent Agenda. The motion was seconded by Councilor Heckel and a roll call vote was taken with all councilors present voting in favor thereof.

- 1. MINUTES**
- a) Minutes for the November 9, 2010 study session were approved.
 - b) Minutes for the November 15, 2010 special meeting were approved.
 - c) Minutes for the November 16, 2010 regular meeting were approved.

2. CITY MANAGER

Board & Commission Appointments

Motion Administrative Action: The following appointments were made:
Affordable Housing Commission: Jenny Mishler for a term effective until June 30, 2013.
Disabilities Advisory Commission: John Teumer & Zach Wood for terms effective until June 30, 2013
Historic Preservation Commission: Cara Scohy for a term effective until June 30, 2011 and reappoint Jim Cox for a term effective until June 30, 2013

3. DEVELOPMENT SERVICES

Rezone Ehrlich Addition

Ordinance #5547 Administrative Action: "AN ORDINANCE AMENDING SECTION 18.04.040 OF THE LOVELAND MUNICIPAL CODE, THE SAME RELATING TO ZONING REGULATIONS FOR CERTAIN PROPERTY LOCATED IN THE EHRlich ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on second reading.

4. POLICE

Municipal Code Amendment – Unlawful Possession of Marijuana

Ordinance #5548

Administrative Action: "AN ORDINANCE AMENDING SECTION 9.41.020 OF THE CITY OF LOVELAND MUNICIPAL CODE TO AUTHORIZE PROSECUTION IN THE LOVELAND MUNICIPAL COURT FOR THE UNLAWFUL POSSESSION OF UP TO TWO OUNCES OF MARIJUANA" was approved and ordered published on second reading.

5. CITY MANAGER

2011 Meeting Times & Dates

Resolution #R-67-2010

Administrative Action: Resolution #R-67-2010 adopting the schedule of the 2011 meeting dates for the Loveland City Council and the City's Boards and Commission was approved.

RESOLUTION #R-67-2010

A RESOLUTION ADOPTING THE SCHEDULE OF THE 2011 MEETING DATES FOR THE LOVELAND CITY COUNCIL AND THE CITY'S BOARDS AND COMMISSIONS

WHEREAS, City Code Section 2.14.020B. provides that each year at the City Council's last regularly scheduled meeting, the City Council shall establish the regular meeting dates of all boards, committees, commissions, and other policymaking and rulemaking bodies of the City; and

WHEREAS, Code Section 2.14.020B. requires that seven days after such meeting dates are so established that the meeting dates shall be published once in a newspaper of general circulation in the City and be posted in a conspicuous place in the City Municipal Building; and

WHEREAS, Section 2.14.020B. also requires that the secretary or clerk of each of the City's boards, committees, commissions, and other policymaking and rulemaking bodies shall provide notification of the regularly scheduled date of such meetings in advance of or on occasion of any special meetings duly called to those qualified electors who have made written request to the City for such notification; and

WHEREAS, the purpose of this Resolution is to so establish said meeting dates, and to require the publication, posting and notifications required in City Code Section 2.14.020B.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO AS FOLLOWS:

Section 1. That the schedule of regular meeting dates, times and places in 2011 for the Loveland City Council and the City's boards and commissions, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, is hereby adopted as provided in City Code section 2.14.020B.

Section 2. That the City Council may, from time to time, change by motion the date, time and place of any of its regular meetings in 2011 as established in this resolution and those of the City's boards and commissions. In addition, the City Manager, in consultation with the Mayor, is authorized to schedule fourth Tuesday study sessions as needed and to cancel the other Tuesday study sessions if there are no study session items to present or ready to present to Council.

Section 3. That the City Clerk is directed pursuant to City Code Section 2.14.020B. to publish the meeting dates established in Exhibit "A" within seven days after the date of this Resolution to be published in a newspaper of general circulation in the City and in addition post such notice of meetings in a conspicuous place in the City Municipal Building.

Section 4. That in addition, the City Clerk shall notify the secretary of each of the City's boards, committees, commissions, and other policymaking and rulemaking bodies to provide notification of this notice of meetings to all qualified electors who have requested such notice in accordance with Section 2.14.020B.

Section 5. That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 7th day of December, 2010.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

6. HUMAN RESOURCES

Appointed Officials Contract Renewals

- a) **Resolution #R-68-2010** Legislative Actions:
Resolution #R-68-2010 of the Loveland City Council reappointing William E. Starks as the Municipal Judge for a new two-year term beginning February 15, 2011 was approved.

RESOLUTION #R-68-2010

A RESOLUTION OF THE LOVELAND CITY COUNCIL REAPPOINTING WILLIAM E. STARKS AS THE MUNICIPAL JUDGE FOR A NEW TWO-YEAR TERM BEGINNING FEBRUARY 15, 2011

WHEREAS, on February 2, 1999, the City of Loveland (the "City") and William E. Starks ("Starks") entered into an agreement appointing Starks as Loveland's Municipal Judge for a two-year term effective February 15, 1999; and

WHEREAS, on February 20, 2001, the City and Starks entered into a second agreement reappointing Starks as Loveland's Municipal Judge for a second two-year term effective February 15, 2001 (the "Agreement"); and

WHEREAS, on February 4, 2003, the City and Starks entered into that certain "Addendum to Employment Agreement" (the "First Addendum") amending the Agreement to reflect Starks' reappointment for a third two-year term effective February 15, 2003; and

WHEREAS, in January of 2005, the City and Starks entered into that certain "Second Addendum to Employment Agreement" (the "Second Addendum") amending the Agreement to reflect Starks' reappointment for a fourth two-year term effective February 15, 2005; and

WHEREAS, on February 6, 2007, the City Council adopted Resolution #R-7-2007 reappointing Starks to a fifth two-year term effective February 15, 2007 as reflected in the "Third Addendum to Employment Agreement" which the City and Starks have entered into (the "Third Addendum"); and

WHEREAS, on February 17, 2009, the City Council adopted Resolution #R-13-2009 reappointing Starks to a sixth two-year term effective February 15, 2009 as reflected in the "Fourth Addendum to Employment Agreement" which the City and Starks have entered into (the "Fourth Addendum"); and

WHEREAS, on March 3, 2009 the City Council adopted Resolution #R-19-2009 increasing the compensation of Starks based on its annual evaluation of Starks in his capacity as Municipal Judge; and

WHEREAS, on November 3, 2009, the City Council adopted Resolution #R-106-2009 that decreased the compensation of Starks through the use of four furlough days based on the economic downturn and to be consistent with the 2010 budget which reduced pay to most city employees through the implementation of four furlough days; and

WHEREAS, it is City Council's custom to evaluate the Municipal Judge's job performance annually; and

WHEREAS, the City Council has conducted its annual evaluation of Starks as the Municipal Judge for 2010, and finds that is in the best interest of the citizens of Loveland to reappoint Starks for a seventh two-year term effective February 15, 2011; and

WHEREAS, the City Council further finds that a decrease in the annual compensation of Starks through the use of furlough days is no longer necessary and that the compensation of Starks shall not be subject to furlough days; and

WHEREAS, the City and Starks desire to amend the Agreement as previously amended by the First Addendum, Second Addendum, Third Addendum and Fourth Addendum to reappoint Starks for a seventh two-year term effective February 15, 2011, as reflected in the "Fifth Addendum to Employment Agreement" attached hereto as Exhibit "A" and incorporated herein by reference (the "Fifth Addendum") and to exclude furlough days from Starks' compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, that:

Section 1. The Fifth Addendum is hereby approved and the Mayor is authorized to enter into the Fifth Addendum on behalf of the City to appoint Starks to a new two-year term as the City's Municipal Judge beginning February 15, 2011.

Section 2. That the Agreement, as amended by the First Addendum, Second Addendum, Third Addendum, Fourth Addendum and Fifth Addendum is hereby reaffirmed and ratified.

Section 3. Starks' annual salary shall not be decreased through the use of furlough days.

Section 4. Except as amended by this Resolution and the Fifth Addendum, Starks' compensation and benefits as set forth in the Agreement and Resolution #R-19-2009 shall remain unchanged and in full force and effect.

Section 5. This Resolution shall take effect on the date and at the time of its adoption.

ADOPTED this 7th day of December, 2010.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk
Exhibit A is available in the City Clerk's Office

b) **Resolution #R-69-2010** Resolution #R-69-2010 of the Loveland City Council regarding the compensation of the City Attorney was approved.

RESOLUTION #R-69-2010

A RESOLUTION OF THE LOVELAND CITY COUNCIL REGARDING THE COMPENSATION OF THE CITY ATTORNEY

WHEREAS, on April 23, 2001, the City of Loveland ("the City") and John Duval ("Duval") entered into an Agreement appointing him as Loveland's City Attorney effective May 8, 2001 (the "Agreement"); and

WHEREAS, on March 2, 2004, the City and Duval entered into that certain "First Addendum to Employment Agreement" (the "First Addendum") in which paragraph 6.B. of the Agreement was amended to provide a severance payment after Duval's initial three years of employment with the City; and

WHEREAS, in January of 2005, the City and Duval entered into that certain "Second Addendum to Employment Agreement" (the "Second Addendum") in which paragraph 4.B. of the Agreement was amended to provide that the City's contribution to Duval's 401a plan was increased from two and one-half percent (2.5%) of Duval's annual salary to three percent (3%) of Duval's annual salary; and

WHEREAS, on March 3, 2009 the City Council adopted Resolution #R-20-2009 increasing the compensation of Duval based on its annual evaluation of Duval in his capacity as City Attorney; and

WHEREAS, on November 3, 2009, the City Council adopted Resolution #R-107-2009 that decreased the compensation of Duval through the use of four furlough days based on the economic downturn and to be consistent with the 2010 budget which reduced pay to most city employees through the implementation of four furlough days; and

WHEREAS, Paragraph 3 of the Agreement provides that the City Council shall evaluate Duval's job performance as the City Attorney annually as required by Loveland City Charter Section 9-1 (g); and

WHEREAS, the City Council has conducted its annual evaluation of Duval as the City Attorney for 2010, and has determined that Duval's vacation benefits and maximum vacation accrual carryover should be increased as hereinafter provided; and

WHEREAS, the City Council has further determined that a decrease in the annual compensation of Duval through the use of furlough days is no longer necessary and that the compensation of Duval shall not be subject to furlough days.

WHEREAS, the City and Duval desire to amend the Agreement as previously amended by the First Addendum and Second Addendum to increase Duval's vacation benefits by 5 days annually and to increase the annual maximum vacation accrual carryover from 480 hours to 520 hours, as reflected in the "Third Addendum to Employment Agreement" attached hereto as Exhibit "A" and incorporated herein by reference (the "Third Addendum") and to exclude furlough days from Duval's compensation.

NOW, THEREFORE. BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO that:

Section 1. The Third Addendum is hereby approved and the Mayor is authorized to enter into the Third Addendum on behalf of the City to increase Duval's vacation benefits and annual maximum vacation accrual carryover.

Section 2. Duval's annual salary shall not be decreased through the use of furlough days.

Section 3. Except as amended by this Resolution, the First Addendum, Second Addendum, Third Addendum and Resolution #R-20-2009, Duval's compensation and benefits as set forth in the Agreement shall remain unchanged and in full force and effect.

Section 4. That the Agreement, as amended by the First Addendum, Second Addendum and Third Addendum, is hereby reaffirmed and ratified.

Section 5. Adequate cash reserves have been and shall be placed irrevocably in the City budget to be held for any severance payment made necessary pursuant to the terms of the Agreement.

Section 6. This Resolution shall take effect on the date and at the time of its adoption.

ADOPTED this 7th day of December, 2010.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

7. DEVELOPMENT SERVICES

Three Mile Plan

Resolution #R-70-2010

Legislative Action: A public hearing was held and Resolution #R-70-2010 adopting a Three Mile Plan for the City of Loveland, Colorado was approved.

8. DEVELOPMENT SERVICES

Vacation of Utility Easement West Industrial Addition

1st Rdg Ord & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE VACATING A UTILITY EASEMENT LOCATED ON LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF WEST INDUSTRIAL ADDITION, SITUATED IN THE NORTH HALF OF SECTION 15, TOWNSHIP 5 NORTH, RANGE 69 WEST OF 6TH P.M., CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on first reading.

9. FINANCE

Fuel Contract for 2011

Motion

Administrative Action: A motion to award a contract for fuel in an amount not to exceed \$1,000,000 to Gray Oil; authorize the City Manager to sign the contract on behalf of the City for a period of twelve months (January – December 2011); and give the City Manager or his designee the authority to select the fuel purchase method for 2011 that is in the best interest of the City was approved.

10. CITY MANAGER

Resolution #R-71-2010

Administrative Action: Resolution #R-71-2010 confirming dissolution of the Loveland Downtown Development Authority effective December 31, 1999 was approved.

RESOLUTION #R-71-2010

A RESOLUTION CONFIRMING DISSOLUTION OF THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY EFFECTIVE DECEMBER 31, 1999

WHEREAS, by Ordinance No. 1730, approved on second reading by the City Council of the City of Loveland, Colorado on November 21, 1978, Council determined to establish a downtown development authority, pursuant to Title 31, Article 25, Part 8, Colorado Revised Statutes, as amended, and to submit the question to a vote of the qualified electors within the central business district; and

WHEREAS, pursuant to C.R.S. §31-25-804, as amended, and Ordinance 1730, the question of establishing a downtown development authority was submitted to and approved by a majority of the qualified electors at a special election held on Tuesday, January 23, 1979, and,

WHEREAS, pursuant to Ordinance No. 1775, approved on second reading by the City Council on April 3, 1979, the Loveland Downtown Development Authority (the "Authority") was established in accordance with C.R.S. §31-25-804; and

WHEREAS, Ordinance No. 4215, approved on second reading by the City Council on November 5, 1996, provided that "Unless an election is held prior to December 31, 1999, at which the landowners within the Downtown Development Authority District boundaries vote to retain the DDA, the Loveland Downtown Development Authority shall be dissolved effective December 31, 1999"; and

WHEREAS, City records contain no record of or evidence that an election to retain the Authority was held prior to December 31, 1999; and

WHEREAS, on December 7, 1999, City Council considered an ordinance on second reading entitled "AN ORDINANCE AMENDING ORDINANCE NO. 4215 BY CHANGING THE DATE UPON WHICH THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY SHALL BE DISSOLVED FROM DECEMBER 31, 1999 TO DECEMBER 31, 2000" and the motion to approve the ordinance on second reading failed by a 7 to 1 vote; and

WHEREAS, the failure of the motion to approve an extension of the date upon which the Authority was to be dissolved failed, meaning that the Authority was dissolved effective December 31, 1999 in accordance with Ordinance No. 4215; and

WHEREAS, representatives of the Colorado Department of Local Affairs and Larimer County have requested a letter certifying that the Authority has been dissolved and should be removed from State and County records, thereby relieving the City of any responsibility to adopt an annual budget, certify a mill levy, prepare an annual financial report, or take any other administrative actions related to the Authority.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. The City Council hereby confirms and certifies that no election to retain the Authority was held prior to December 31, 1999 as required by Ordinance 4215 and the City of Loveland, through the Ordinances and actions set forth above, intended to and did dissolve the Authority effective December 31, 1999 pursuant to Ordinance 4215.

Section 2. The City Clerk is authorized to provide a letter to the Colorado State Department of Local Affairs, other agencies of the State of Colorado, officials in various capacities at Larimer County, and any other interested parties, confirming that the City did not conduct an election to retain Authority by the December 31, 1999 deadline and the Authority was therefore dissolved effective December 31, 1999 by Ordinance 4215 and requesting that that any references or reporting requirements related to the Authority cease as of the date of approval of this resolution.

That this Resolution shall be effective as of the date and time of its adoption.

ADOPTED this 7th day of December, 2010.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

11. PUBLIC WORKS

Contract with CDOT for safety improvements at Boyd Lake Avenue & 5th Street

Resolution #R-72-2010

Administrative Action: Resolution #R-72-2010 of the City Council of the City of Loveland, Colorado approving an agreement between the State of Colorado, for the use and benefit of the Department of Transportation, and the City of Loveland, Colorado was approved.

RESOLUTION #R-72-2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO APPROVING AN AGREEMENT BETWEEN THE STATE OF COLORADO, FOR THE USE AND BENEFIT OF THE DEPARTMENT OF TRANSPORTATION, AND THE CITY OF LOVELAND, COLORADO

WHEREAS, Part 2 of Article 1 of Title 29, C.R.S. authorizes governments to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, the City of Loveland desires to design and construct safety improvements at Boyd Lake Avenue and 5th Street in Loveland (the "Project"); and

WHEREAS, the State of Colorado, acting through the Colorado Department of Transportation ("CDOT"), is responsible for the general administration and supervision of the performance of projects under the program through which federal-aid funds may be made available; and

WHEREAS, Federal-aid funds are available for the Project in the amount of \$100,000; and

WHEREAS, the City and CDOT desire to enter into an Agreement, attached hereto and incorporated herein as Exhibit A, to define the division of responsibilities with regard to the Project; and

WHEREAS, the City Council desires to approve the attached Agreement on behalf of the City of Loveland; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the Contract between the State of Colorado, for the use and benefit of the Colorado Department of Transportation, and the City of Loveland, Colorado, a copy of which is Contract is attached hereto and incorporated herein as Exhibit A, is hereby approved.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to approve changes to the form of the Contract provided that such changes do not impair the intended purpose of the Contract.

Section 3. That the City Manager and the City Clerk are authorized and directed to execute the Contract on behalf of the City.

Section 4. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 7th day of December, 2010.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

12. PUBLIC WORKS

Contract with CDOT for purchase of Traffic Signal Equipment along US 287 corridor

Resolution #R-73-2010

Administrative Action: Resolution #R-73-2010 of the City Council of the City of Loveland, Colorado approving an agreement between the State of Colorado, for the use and benefit of the Department of Transportation, and the City of Loveland, Colorado was approved.

RESOLUTION #R-73-2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO APPROVING AN AGREEMENT BETWEEN THE STATE OF COLORADO, FOR THE USE AND BENEFIT OF THE DEPARTMENT OF TRANSPORTATION, AND THE CITY OF LOVELAND, COLORADO

WHEREAS, Part 2 of Article 1 of Title 29, C.R.S. authorizes governments to cooperate and contract with one another to provide any function, service, or facility lawfully authorized to each; and

WHEREAS, the City of Loveland desires to upgrade the traffic signals along the US 287 Corridor in Loveland (the "Project"); and

WHEREAS, the State of Colorado, acting through the Colorado Department of Transportation ("CDOT"), is responsible for the general administration and supervision of the performance of projects under the program through which federal-aid funds may be made available; and

WHEREAS, Federal-aid funds are available for the Project in the amount of \$120,000; and

WHEREAS, the City and CDOT desire to enter into an Agreement, attached hereto and incorporated herein as Exhibit A, to define the division of responsibilities with regard to the Project; and

WHEREAS, the City Council desires to approve the attached Agreement on behalf of the City of Loveland; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the Contract between the State of Colorado, for the use and benefit of the Colorado Department of Transportation, and the City of Loveland, Colorado, a copy of which is Contract is attached hereto and incorporated herein as Exhibit A, is hereby approved.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to approve changes to the form of the Contract provided that such changes do not impair the intended purpose of the Contract.

Section 3. That the City Manager and the City Clerk are authorized and directed to execute the Contract on behalf of the City.

Section 4. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 7th day of December, 2010.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

13. DEVELOPMENT SERVICES

Historic Landmark Designation – 901 N Jefferson

1st Rdg Ord & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE LLOYD HOUSE LOCATED AT 901 NORTH JEFFERSON AVENUE IN LOVELAND, COLORADO" was approved and ordered published on first reading.

14. DEVELOPMENT SERVICES

Historic Landmark Designation – 544 E 4th Street

1st Rdg Ord & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE WILSON HOUSE LOCATED AT 544 EAST 4TH STREET IN LOVELAND, COLORADO" was approved and ordered published on first reading.

END OF CONSENT AGENDA

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

Anyone who wishes to speak to an item NOT on the Agenda may address the Council under Citizens' Report.

a) Citizens' Reports

Max Moree, 3007 Sanford Cir presented "before & after" pictures of the rehabilitation project of the Namaqua Star.

Neil Spooner, 633 Harrison Ave, ask Council to address the following budgeting practices: 1) taxing of enterprise monies; 2) prohibiting intergovernmental loans

b) City Council/City Manager Announcements

- Gutierrez Mayor Gutierrez talked about looking at the budget process, January - April 2011, in study sessions which are open to the public.
- Solt Councilor Solt was a judge for the Gingerbread Challenge at the Library. As liaison to the Youth Advisory Commission, Councilor Solt, announced commission members logged 525 volunteer hours in 2010.
- McEwen Councilor McEwen attended the National League of Cities conference in Denver the first week in December.
- Klassen Councilor Klassen attended the Larimer County economic work session. He recommended that a speaker at the session, Tim Fritz, be invited to speak at a future joint meeting between Loveland, Fort Collins and Larimer County on the topic of airports as a catalyst to economic development.
- Rice Councilor Rice attended the grand opening of the Lake Vista apartment complex.
- Shaffer Councilor Shaffer attended the transportation meetings at the National League of Cities conference where Keith Reester did a great presentation.
- Heckel Councilor Heckel announced the grand re-opening of the Chilson Center will be held on December 18th from 10:00 a.m. to 2:00 p.m.
- McKean Councilor McKean attended the National League of Cities conference.
- McEwen Councilor McEwen stated Artspace is looking for real estate property in Loveland. Lightening Hybrids had a booth at the National League of Cities conference. The Community Marketing Commission will interview in December the top two candidates, out of four.
- Cahill City Manager Cahill attended the National League of Cities conference and complimented staff on Loveland's booth. The open house for Westwood Professional Services, Inc is Thursday, December 9th in the afternoon.
- Gutierrez Mayor Gutierrez attended the National League of Cities conference. He congratulated staff on the booth at the conference. He observed that December 7th was the anniversary of the bombing of Pearl Harbor. The North Front Range Metropolitan Planning Organization honored Larry Heckel for his many years of service. The Mayor attended several Holiday events: the lighting of the Christmas Tree at the Museum, the lighting of the Namaqua Star, the Menorah lighting, the 7th Annual Winter Walk, and the winter market at Sylvan Dale Guest Ranch. Downtown, this week and weekend, is the Sculpture in the Dark - Snow Sculptures and Street Festival.

PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council present vote in favor of the

ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

15. BUSINESS DEVELOPMENT

IGA with AIMS Community College for the Office of Creative Sector Development

Resolution #R-74-2010

Administrative Action: Business Development Manager Betsey Hale introduced this item. Executive Fiscal Advisor Alan Krcmarik was also present. This administrative action is a follow up of the November 9th Study Session and the direction from City Council to bring the Resolution and Intergovernmental Agreement with Aims Community College for the Office of Creative Sector Development to a City Council meeting for review and approval. There is a budget impact of \$100,000 annually for three years. It is recommended that the annual appropriation to the incentive fund be reduced to \$250,000 and the remaining \$100,000 be used for this program annually for three years. A seven member advisory committee will be formed. Betsey Hale will provide quarterly updates to the City Council Economic Development Subcommittee. Councilor Johnson moved to approved Resolution #R-74-2010 approving an Intergovernmental Agreement between the City of Loveland, Colorado and AIMS Community College for the Office of Creative Sector Development. The motion was seconded by Councilor Heckel and a roll call vote was taken with eight Councilors present voting in favor thereof and Councilor Johnson voting against.

RESOLUTION #R-74-2010

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND AIMS COMMUNITY COLLEGE FOR THE OFFICE OF CREATIVE SECTOR DEVELOPMENT

WHEREAS, the City of Loveland seeks to strengthen the overall economic health and vitality of the City by facilitating the growth, development and retention of creative arts businesses, including artists, art related businesses and organizations in the fine arts, visual, performing, and literary arts, cultural and design fields (collectively, the "Creative Sector"); and

WHEREAS, in furtherance of its goal to support economic development of the Creative Sector, the City desires to establish the Office of Creative Sector Development ("OCSD") to provide a central location for staff and volunteers to develop and implement Creative Sector related business retention and attraction strategies, while providing training related to the business of the Creative Sector, networking for the promotion of Creative Sectors events, and sales of art or other Creative Sector products which will attract new wealth, Creative Sector related businesses and organizations to Loveland; and

WHEREAS, Aims Community College ("Aims") is a community college operating in the City and Weld County offering high-quality educational programs relevant to the Creative Sector and desires to cooperate in the establishment and support of the OCSD in support of its educational mission; and

WHEREAS, Loveland and Aims anticipate that the OCSD pilot program will operate on an annual basis for a pilot period of approximately three years ending on December 31, 2013; and

WHEREAS, as governmental entities in Colorado, the City of Loveland and Aims are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the Intergovernmental Agreement Between the City of Loveland, Colorado and Aims community College for the Office of Creative Sector Development ("Intergovernmental Agreement"), attached hereto as Exhibit A and incorporated herein by reference, is hereby approved.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Intergovernmental Agreement on behalf of the City of Loveland.

Section 4. That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 7th day of December, 2010.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available in the City Clerk's Office

16. DEVELOPMENT SERVICES

Appeal Merit Hearing – Namaqua Hills Central Second Subdivision

Motion

Quasi-judicial Action: Current Planning Manager Bob Paulsen introduced this item to Council. This is a quasi-judicial action. This item is a hearing to determine if an appeal of a Planning Commission's decision on October 11, 2010 has sufficient merit to consider the appeal at a fully noticed City Council public hearing at a later date. The Planning Commission decision being appealed is approval of a preliminary subdivision plat known as the Namaqua Hills Central Second Subdivision. The project contains approximately 49.4 acres for thirty-eight (38) single family lots generally located west of N. Wilson Avenue between future alignments of 29th and 22nd Streets, and north of the current terminus of Morning Drive. The appellant is Mike Thompson of 1713 Sunnyside Drive, Loveland, Colorado 80538. Councilor Johnson moved to find that the appeal filed by Mike Thompson has insufficient merit based on the findings listed in Section V of the October 11, 2010 Planning Commission staff report and based on those findings, uphold the decision of the Planning Commission to approve the Namaqua Hills Central Second Subdivision Preliminary Plat, subject to all conditions as amended on the record. Councilor Klassen seconded the motion and a roll call vote was taken with four Councilors present voting in favor and Councilors McKean, Gutierrez, Shaffer, Solt, and McEwen voting against. The motion failed. Councilor Johnson made a motion that Council finds there is sufficient merit to hold a public hearing at the Council meeting on January 4, 2010. Councilor Shaffer seconded the motion and a roll call vote was taken with five councilors voting in favor and Councilors Rice, Klassen, Heckel and Johnson voting against. The motion passed.

17. DEVELOPMENT SERVICES

Municipal Code Amendment - Graffiti

1st Rdg Ord & P.H.

Legislative Action: Police Chief Luke Heckel and Building Official Tom Hawkinson introduced this item to Council. A legislative action to amend Titles 7 and 9 of the Loveland Municipal Code by removing code provisions regarding graffiti from Title 9 and replacing those provisions with new provisions in Title 7 of the Code. In Title 7, graffiti will be described as a nuisance with provisions to allow the City to abate graffiti on private property. Mayor Gutierrez opened the public hearing at 8:10 p.m. Hearing no comment Mayor Gutierrez closed the public hearing. Councilor Solt suggested the creation of a restitution fund. Councilors Shaffer, McEwen and Rice supported the suggestion and directed staff to bring back at a future date. Councilor Johnson moved to approve and ordered published on first reading "AN ORDINANCE AMENDING TITLES 7 AND 9 OF THE LOVELAND MUNICIPAL CODE BY REPEALING CHAPTER 9.45 REGARDING GRAFFITI AND ENACTING A NEW CHAPTER 7.30 DECLARING GRAFFITI TO BE A NUISANCE AND ALLOWING CITY ABATEMENT OF GRAFFITI ON PRIVATE PROPERTY". Councilor McKean seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

18. FINANCE

October 2010 Financial Report

Administrative Action: Assistant City Manager and Finance Director Renee Wheeler introduced this item to Council. This is an information only item. No action is required. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the ten months ending October 31, 2010. Citywide Revenue (excluding internal transfers) of \$156,920,426 is 101.1% of year to date (YTD) budget. Sales tax, the City's single largest source of revenue, is 104.2% of the YTD budget. City wide total expenditures, \$146,516,572 (excluding internal transfers) are 83.4% of YTD budget. The City's health claims paid year to date is \$5,551,478 or 88.1% of YTD budget. Councilor Shaffer suggested sales tax revenue collected from Medical Marijuana Dispensaries could be funneled through Human Services to non-profits in the City. Councilor Klassen supported the idea and suggested CLEAR, an organization against meth addition as a possible recipient.

19. CITY MANAGER

Investment Report for October 2010

Executive Fiscal Advisor Alan Krcmarik introduced this item to Council. This is an information only item. No Council action is required. The budget estimate for investment earnings for 2010 is \$4,195,750. For the year to date, the amount posted to the investment account is \$3,321,283 including realized gains. The actual year-to-date earnings are now lower than the year-to-date budget projection by \$175,176. Based on October's monthly statement, the estimated annualized yield is about 2.0%, about 2/10 of a percent lower than last month. Despite the record setting fall in interest rates since the budget estimates were done in August 2009, the portfolio may be able to reach the budget projection.

NEW BUSINESS

City Manager

No report.

City Council

Rice

Councilor Rice requested an update from Staff regarding the Colorado vNet Offer. Attorney John Duval told Council the interested parties had not signed the agreement yet and there appeared to be several complications. Councilor Johnson moved to direct staff to withdraw the offer made to Colorado vNet and proceed with litigation. The motion was seconded by Councilor Solt. Councilor McKean moved to amend the original motion to direct staff to bring back a resolution at a December 14, 2010 special meeting to that affect. Councilor Heckel seconded the motion and a roll call vote was taken with five councilors voting in favor and Councilors McEwen, Solt, Shaffer and Gutierrez voting against. A roll call vote was taken of the original motion as amended. The motion carried with five councilors voting in favor and Councilors McEwen, Solt, Shaffer and Gutierrez voting against.

Special Meeting

Councilor Johnson made a motion to set December 14, 2010 as a special meeting to consider the Resolution regarding Colorado vNet. Councilor Rice seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

Shaffer

Councilor Shaffer mentioned the letter sent to Council regarding a code violation has been addressed.

Gutierrez

Mayor Gutierrez discussed the Council retreat planned for the end of January. A committee comprised of Councilors McKean, Heckel and the Mayor will focus the retreat agenda on goal setting and prioritization discussions.

City Attorney

No report

ADJOURNMENT

Having no further business to come before Council, the December 7, 2010 Regular Meeting was adjourned at 10:01 p.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor

CALL TO ORDER

Mayor Gutierrez called the Special meeting of the Loveland City Council to order on the above date at 6:30 PM.

ROLL CALL

Roll was called and the following responded: McEwen, Solt, Johnson, Klassen, Heckel, Rice and Gutierrez. Councilor Shaffer arrived at 6:31 p.m. and Councilor McKean arrived at 6:32 p.m.

1. CITY ATTORNEY

Colorado vNET Economic Incentive and Performance Agreement

Administrative Action: City Attorney John Duval introduced this item to Council. This Resolution is an administrative action to repeal and rescind Resolution #R-61-2010 which approved the Amended and Restated Colorado vNet Economic Incentive and Performance Agreement and to direct the City Attorney to proceed with legal proceedings to collect all amounts owed to the City under the Colorado vNet Economic Incentive and Performance Agreement. Councilor Klassen noted there was no representation for Bill Beierwaltes, Russound or Colorado vNET at the Council meeting. Councilor Johnson moved to approve Resolution #R-75-2010 repealing and rescinding Resolution #R-61-2010 which approved the amended and restated Colorado vNET Economic Incentive and Performance Agreement and directing the Loveland City Attorney to proceed with legal proceedings to collect all amounts owed to the City under the Colorado vNET Economic Incentive and Performance Agreement. Councilor McEwen seconded the vote and a roll call vote was taken with all Councilors present voting in favor thereof.

RESOLUTION #R-75-2010

A RESOLUTION OF THE LOVELAND CITY COUNCIL REPEALING AND RESCINDING RESOLUTION #R-61-2010 WHICH APPROVED THE AMENDED AND RESTATED COLORADO vNET ECONOMIC INCENTIVE AND PERFORMANCE AGREEMENT AND DIRECTING THE LOVELAND CITY ATTORNEY TO PROCEED WITH LEGAL PROCEEDINGS TO COLLECT ALL AMOUNTS OWED TO THE CITY UNDER THE COLORADO vNET ECONOMIC INCENTIVE AND PERFORMANCE AGREEMENT

WHEREAS, the City and Colorado vNet, LLC, a Colorado limited liability company, now known as L & B, LLC ("CVN, LLC") and William Beierwaltes and Lynda Beierwaltes (jointly, "Beierwaltes") are parties to that certain Colorado vNet Economic Incentive and Performance Agreement dated March 28, 2008 (the "2008 Agreement"); and

WHEREAS, on October 19, 2010, the City Council adopted Resolution #R-61-2010 approving an Amended and Restated Colorado vNet Economic Incentive and Performance Agreement ("the Amended Agreement") between the City, CVN, LLC, the Beierwaltes, Colorado vNet Corp. ("Colorado vNet"), Russound/FMP, Inc. ("Russound") and Maureen K. Baldwin ("Baldwin"); and

WHEREAS, shortly after the City Council approved the Amended Agreement, the City forwarded it to the other parties for their signature and for Colorado vNet to provide the \$100,000 payment and the \$400,000 letter of credit to the City as required in the Amended Agreement, but to date those parties have not signed the Amended Agreement and Colorado vNet has not paid the \$100,000 or provided the letter of credit; and

WHEREAS, the City Attorney has also been recently advised by attorneys for Colorado vNet, Russound and Baldwin that their circumstances have changed and they appear no longer willing to enter into the Amended Agreement; and

WHEREAS, the Council has determined that it is in the best interest of the City to rescind its approval of the Amended Agreement granted in Resolution #R-61-2010 and to direct and authorize the City Attorney, in consultation with the City Manager, to pursue legal proceedings against CVN, LLC and the Beierwaltes to collect from them any and all amounts owed to the City under the 2008 Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO AS FOLLOWS:

Section 1. That the City Council hereby repeals and rescinds Resolution #R-61-2010 and also rescinds its approval of the Amended Agreement as provided in Resolution #R-61-2010. The City Attorney is directed to notify the other parties to the Amended Agreement that this Resolution has been adopted.

Section 2. That the City Attorney is hereby directed and authorized, in consultation with the City Manager, to pursue all appropriate legal proceedings against CVN, LLC and the Beierwaltes to collect from them all amounts owed to the City under the 2008 Agreement.

Section 3. That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 14th day of December, 2010.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

CITY COUNCIL NEW BUSINESS

Heckel	Councilor Heckel commended Public Works Director Keith Reester and staff from Public Works, Fire, Police on their outstanding performance during the Sculpture in the Dark events including the parade.
Gutierrez	Mayor Gutierrez thanked the committee who organized the Sculpture in the Dark events which included Councilor Larry Heckel, Kristine Koschke from Engaging Loveland and Bill Vick.
Shaffer	Councilor Shaffer thanked Councilor Heckel for his work on the Sculpture in the Dark event and received positive feedback from downtown businesses. The Mayor and Councilor Shaffer gave Max Moree a gift certificate in appreciation for his work on restoring the Namaqua Star.
Klassen	Councilor Klassen attended the holiday performance of the Loveland Choral Society and Holiday Orchestra at the Rialto Theater the previous weekend
Rice	Councilor Rice mentioned an editorial about Colorado vNET. She also attended an event where Governor-Elect Hickenlooper spoke on being Effective, Efficient, Elegant.
Gutierrez	Public Works Director Keith Reester is accumulating airport materials for Council.

CITY MANAGER'S STAFF REPORT None

CITY ATTORNEY'S REPORT None

ADJOURNMENT Having no further business to come before Council, the December 14, 2010 Special Meeting was adjourned at 6:53 p.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor

City Council adjourned from the Special Meeting into the Study Session. Mayor Gutierrez called the Study Session of the Loveland City Council to order at 6:57 p.m. on the above date. Councilors present: Gutierrez, Johnson, Rice, Klassen, McEwen, Shaffer and McKean. Councilors Solt and Heckel were absent. City Manager Bill Cahill was also present.

CITY MANAGER'S OFFICE

Capital Expansion Fee Public Outreach Process

Executive Fiscal Advisor Alan Krcmarik introduced this item to Council. This item is in response to Council's request at the September 28, 2010, study session for staff to seek additional input on capital expansion fees, a form of impact fees. Cities that charge impact fees operate under a "growth pays for growth" policy, meaning that taxpayers should not have to shoulder 100% of the cost of bringing streets, fire stations, parks and other services to new neighborhoods. The City of Loveland has used capital expansion fees, system impact fees, and plant investment fees for over 25 years. This process focuses only on the non-utility fees. The fees are collected at the time development comes on line and places demands on the services provided by the City. The fees are used to build capital projects and acquire capital equipment necessary to support the provisions of services. The presentation slides outline the proposed public outreach process.

FINANCE

Process for Ensuring Financial Sustainability

Finance Manager and Assistant City Manager Renee Wheeler introduced this item to Council. Review an action plan with City Council to balance General Fund resources projected to be generated with the General Fund expenses in each of the years within the ten year general fund financial master plan.

Having no further business to come before Council the meeting adjourned at 7:58 p.m.

Respectfully Submitted,

Jeannie M. Weaver, Deputy City Clerk

Cecil A. Gutierrez, Mayor



CITY OF LOVELAND
CITY MANAGER

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 2
MEETING DATE: 1/4/2011
TO: City Council
FROM: City Manager's Office

TITLE:

Appointments to Citizens' Finance Advisory Commission, Construction Advisory Board, Cultural Services Board, Golf Advisory Board, Human Services Commission, Parks and Recreation Commission, Open Lands Advisory Commission, Planning Commission, Senior Advisory Board, and Visual Arts Commission

DESCRIPTION:

This is an Administrative Item recommending the appointment of members to the Citizens' Finance Advisory Commission, Construction Advisory Board, Cultural Services Board, Golf Advisory Board, Human Services Commission, Parks and Recreation Commission, Open Lands Advisory Commission, Planning Commission, Senior Advisory Board, and Visual Arts Commission

BUDGET IMPACT:

Yes No

SUMMARY:

The **Citizens' Finance Advisory Commission** has three term vacancies. Interviews with five candidates occurred on December 8, 2010. The committee recommends reappointing Bruce Finger and appointing Jennifer Travis and Bradley Pierson to three year terms effective until December 31, 2013. Ryan Cosner is recommended for removal due to non-attendance. The committee recommends the appointment of Ralph Trenary to complete the partial term effective until December 31, 2011.

Construction Advisory Board has had a term vacancy since Dan Rodgers did not apply for reappointment during the Summer, 2010 recruiting effort. One application was received and that person was interviewed December 6, 2010. The committee recommends the appointment of Ingrid McMillan-Ernst to the Construction Advisory Board for a term effective until June 30, 2013.

Interviews for members of the **Cultural Services Board** were held mid-December with five candidates. Juanita Cisneros and Jan DesJardin are recommended for reappointment to four year terms and Kerri McDermid is recommended for appointment to a four year terms, all effective until December 31, 2014.

The interviews for three term vacancies on **Golf Advisory Board** were held with six candidates on December 15, 2010. Jon Krizman, Noel Mickelson, and Michael Ford are all recommended for appointment to three year terms effective until December 31, 2013. Jim Thompson is recommended for appointment as Alternate for a one year term effective until January 4, 2012.

The **Human Services Commission** has had one high school membership vacancy since both previous student members resigned in August, 2010. One position was filled in November, 2010. Alouette Greenridge is recommended for appointment as a member for a term effective until June 30, 2011. Alison Miller is recommended as an Alternate for a one year term effective until January 4, 2012.

Open Lands Advisory Commission held interviews December 8, 2010 with five candidates for three term vacancies. Andy Hawbaker, Joel Johnston, and Lori Bell are all recommended for reappointment for three year terms effective until December 31, 2013. Chris Bryand is recommended for appointment as Alternate for a one year term effective until January 4, 2012.

Parks and Recreation Commission has three term vacancies. Interviews were conducted with three candidates. Katie Davis and Jack Doyel are recommended for reappointment and Sean Cronin is recommended for appointment, all for three year terms effective until December 31, 2013.

The **Planning Commission** has three term vacancies and one partial term vacancy due to Fraser Walsh's resignation in mid-2010. After interviews with six candidates, Stephanie Fancher, Richard Middleton, and Michael Ray are recommended for reappointment for three year terms. Carol Dowding is recommended for appointment to the partial term, effective until December 31, 2012. Joe Bocson is recommended for appointment to Planning Commission as an Alternate with a one year term effective until January 4, 2012.

Interviews were conducted December 8, 2010 with five candidates for three term vacancies on the **Senior Advisory Board**. Judy Jones, Larry Roos, and Earl Stevens are all recommended for reappointment to three year terms effective until December 31, 2013. Sally Musso and Richard Zlamany are recommended for appointment as Alternate for a one year term effective until January 4, 2012.

Visual Arts Commission has two term vacancies. There are three partial term vacancies due to the resignations of Randy Amys (8/17/10,) Susan White (8/18/10,) and Carol Sarchet (12/10/10.) Interviews were conducted with seven candidates for these five vacancies. Roger Clark and Lynn Kincannon are recommended for reappointment for three year terms effective until December 31, 2013. Angela Canada Hopkins is recommended for appointment for a partial term effective until December 31, 2011. Alyson Kinkade and Margaret Rosborough are recommended for partial terms each effective until December 31, 2012.

LIST OF ATTACHMENTS:

None

RECOMMENDED CITY COUNCIL ACTION:

Motion to remove Ryan Cosner from the Citizens' Finance Advisory Commission ("CFAC") due to non-attendance. Motion to reappoint Bruce Finger and to appoint Jennifer Travis and Bradley Pierson to CFAC for three year terms effective until December 31, 2013. Motion to appoint Ralph Trenary to CFAC for a one-year partial term effective until December 31, 2011.

Motion to appoint Ingrid McMillan-Ernst to the Construction Advisory Board for a full term effective until June 30, 2010.

Motion to reappoint Juanita Cisneros and Jan Des Jardin and to appoint Kerri McDermid to the Cultural Services Board all for terms effective until December 31, 2014.

Motion to appoint Jon Krizman, Noel Mickelson, and Michael Ford to the Golf Advisory Board for three year terms effective until December 31, 2013. Motion to appoint Jim Thompson as Alternate on the Golf Advisory Board of a one year term effective until January 4, 2012.

Motion to appoint Alouette Greenridge to the Human Services Commission for a term effective until June 30, 2011 and motion to appoint Alison Miller as Alternate High School Member for a one year term effective until January 2, 2012.

Motion to reappoint Andy Hawbaker, Jowl Johnston, and Lori Bell to the Open Lands Advisory Commission for three year terms effective until December 31, 2013. Motion to appoint Chris Bryand as Alternate on the Open Lands Advisory Commission for a one year term effective until January 4, 2012.

Motion to reappoint Katie Davis and Jack Doyel and to appoint Sean Cronin to Parks & Recreation Commission for three year terms effective until December 31, 2013.

Motion to reappoint Stephanie Fancher, Richard Middleton to the Planning Commission, each for three year terms effective until December 31, 2013. Motion to appoint Carol Dowding to a partial term on Planning Commission until December 31, 2012. Motion to appoint Joe Bocson as Alternate to the Planning Commission for a one year term effective until January 4, 2012.

Motion to reappoint Judy Jones, Larry Roos, and Earl Stevens to the Senior Advisory Board, each for three year terms effective until December 31, 2013. Motion to appoint Sally Musso and Richard Zlamany as Alternate to the Senior Advisory Board for a one year term effective until January 4, 2012.

Motion to reappoint Roger Clark and Lynn Kincanon to Visual Arts Commission ("VAC") for three year terms effective until December 31, 2013. Motion to appoint Angela Canada Hopkins to VAC for a one year term effective until December 31, 2011. Motion to appoint Alyson Kinkade and Margaret Rosborough to VAC for two year terms effective until December 31, 2012.

REVIEWED BY CITY MANAGER:



CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
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AGENDA ITEM: 3
MEETING DATE: 1/4/2011
TO: City Council
FROM: Greg George, Development Services Department
PRESENTER: Thomas Hawkinson, Building Official

TITLE:

SECOND READING OF AN ORDINANCE AMENDING TITLES 7 AND 9 OF THE LOVELAND MUNICIPAL CODE BY REPEALING CHAPTER 9.45 REGARDING GRAFFITI AND ENACTING A NEW CHAPTER 7.30 DECLARING GRAFFITI TO BE A NUISANCE AND ALLOWING CITY ABATEMENT OF GRAFFITI ON PRIVATE PROPERTY

DESCRIPTION:

A legislative action to amend Titles 7 and 9 of the Loveland Municipal Code by removing code provisions regarding graffiti from Title 9 and replacing those provisions with new provisions in Title 7 of the Code. In Title 7, graffiti will be described as a nuisance with provisions to allow the City to abate graffiti on private property.

BUDGET IMPACT:

Yes No

SUMMARY:

Historically and currently the City has not had the ability to enforce the required removal of graffiti from private property. The proposed provisions are written in the same fashion and consistent with other nuisance provisions in the code such as for weeds. The new provisions require abatement of graffiti on private property by the property owner.

City Council approved the ordinance on first reading December 7, 2010 with the following revisions. The revisions made to the ordinance were as follows:

- In Section 7.30.020 a definition of “Public Nuisance” has been added
- In Section 7.30.040 the time in which the owner must abate the graffiti after receipt of the first notice has been increased from 7 days to 15 days.
- In Section 7.30.050.A the time in which the owner has to file an objection with the City Manager to any notice issued by the City allowing the City to enter the property to abate the graffiti has been extended from 10 days to 20 days.

- In Section 7.30.050.E language has been added to require the City to use reasonable care to select paint that matches the preexisting paint color.

LIST OF ATTACHMENTS:

Ordinance

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motions for City Council actions:

Move to adopt on second reading: AN ORDINANCE AMENDING TITLES 7 AND 9 OF THE LOVELAND MUNICIPAL CODE BY REPEALING CHAPTER 9.45 REGARDING GRAFFITI AND ENACTING A NEW CHAPTER 7.30 DECLARING GRAFFITI TO BE A NUISANCE AND ALLOWING CITY ABATEMENT OF GRAFFITI ON PRIVATE PROPERTY

REVIEWED BY CITY MANAGER:

First Reading: December 7, 2010

Second Reading: January 4, 2011

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLES 7 AND 9 OF THE LOVELAND MUNICIPAL CODE BY REPEALING CHAPTER 9.45 REGARDING GRAFFITI AND ENACTING A NEW CHAPTER 7.30 DECLARING GRAFFITI TO BE A NUISANCE AND ALLOWING CITY ABATEMENT OF GRAFFITI ON PRIVATE PROPERTY

WHEREAS, City Council finds that updates to Titles 7 and 9 of the Loveland Municipal Code are necessary and required in the interest of the health, safety and welfare of the citizens of Loveland; and

WHEREAS, Section 31-15-401 of the Colorado Revised Statutes grants the governing bodies of municipalities the power to declare what is a nuisance and abate the same, and to impose fines upon parties who may create or continue nuisances or suffer nuisances to exist; and

WHEREAS, the City Council finds and declares that the defacing of public or private property by graffiti, is a serious and growing menace which constitutes a visual blight upon the area in which it is located and upon the city generally; and

WHEREAS, the City Council further finds that graffiti is used as a method for gang communication, contributes substantially to the spread of violence and crime, and that prompt eradication of graffiti is necessary to control the spread of graffiti and promote the public health, safety and general welfare of the residents of the city; and

WHEREAS, the City Council recognizes the constitutionally protected rights of freedom of expression and association, and it is not the intent of the City Council to interfere with such rights; and

WHEREAS, the City Council desires to revise titles 7 and 9 of the City Code by repealing chapter 9.45 and enacting a new chapter 7.30 regarding the prohibition and abatement of graffiti.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, THAT:

Section 1. Chapter 9.45 of the Loveland Municipal Code is hereby repealed in its entirety.

Section 2. A new chapter 7.30 of the Loveland Municipal Code is enacted to read in full as follows:

GRAFFITI

Sections:

7.30.010 Purpose.

7.30.020 Definitions.

7.30.030 Graffiti prohibited.

7.30.040 Notice and Order of Abatement.

7.30.050 City removal and assessment.

7.30.060 Administrative review of assessment.

7.30.070 Owners have ultimate responsibility for violations.

7.30.080 No duty upon City.

7.30.090 Concurrent Remedies.

7.30.100 Penalties.

7.30.010 Purpose.

Graffiti is hereby determined to be a public nuisance because it constitutes a visual blight within the area in which it is located and upon the city generally. The existence of graffiti acts as a catalyst for gang communication, the spread of crime, and other antisocial behavior. It is the intent of this chapter to prevent the destruction and devaluation of public and private property by the application and continued existence of graffiti, and to provide the City with the ability to abate any such graffiti in order to reduce deterioration of neighborhoods within the city.

7.30.020 Definitions.

As used in this chapter, the following definitions shall apply:

- A. "City manager" means the city manager of the City of Loveland, Colorado, or the city manager's designee.
- B. "Enforcement officer" means a code enforcement officer of the City of Loveland.
- C. "Public nuisance" means any condition affecting a property which: (1) creates a health or safety hazard; (2) directly or indirectly causes the devaluation of the property or of any neighboring property; (3) constitutes a gang communication; or (4) promotes crime, vandalism or gang communication.
- D. "Graffiti" means any defacing of public or private property by means of painting, drawing, writing, etching, inscription, or carving with paint, spray paint, ink, knife, or any similar method, with any contrast medium whatsoever, without advance authorization by the owner of the property or, which despite such advance authorization, is otherwise a public nuisance.
- E. "Owner" means any person who is specified as the owner of property by the records of the Larimer County Assessor, or any person leasing, occupying or having control or possession of any property in the city.
- F. "Property" means any real or personal property, including without limitation, vacant land, improvements to land, fixtures, buildings, structures, vehicles, and dumpsters.

7.30.030 Graffiti prohibited.

A. It shall be unlawful for any person to apply graffiti upon any public or private property, except with the advance authorization of the owner of the property.

B. It shall be unlawful for any person to possess any paint, spray paint, or other substance or article adapted, designed, or commonly used for committing or facilitating the commission of the offense of application of graffiti, with the intent to use the substance or article in the commission of such offense, or with the knowledge that some person intends to use the substance or article in the commission of such offense.

C. It shall be unlawful for any owner of property to fail to abate graffiti from such property when the graffiti is visible to public view or from an adjacent property, within three days from the time such person knows, or reasonably should have known, either directly or through such owner's agents, of such graffiti.

7.30.040 Notice and Order of Abatement.

If any person fails to comply with Section 7.30.030.C, a written Notice of Violation and Order of Abatement may be served by the City upon the owner or agent in charge of such property, requiring abatement of the graffiti within fifteen (15) days after mailing or delivery of such notice. Such notice and order shall be served by personal service, by regular mail, or by posting on the property.

7.30.050 City removal and assessment.

A. If a Notice of Violation and Order to Abate is served pursuant to Section 7.30.040, and if the graffiti has not been abated within the stated time, the city manager may cause a Notice of Abatement to be served upon the owner or agent in charge of such property, either by personal service or by posting and certified mail, which notice shall allow the City to enter upon the property and abate the graffiti, and assess the whole cost thereof, including ten percent for inspection and other incidental costs in connection therewith, upon the land. The Notice of Abatement shall allow the owner a period of time, of not less than twenty (20) days, within which the owner may contact the city manager in writing, to object to the abatement of the graffiti by the City and to request an appeal hearing before the municipal court.

(1) If, after receiving a Notice of Abatement, an owner timely objects in writing to the City entering the subject property to abate, cover, or remove the graffiti, an administrative appeal hearing with the municipal court shall be scheduled within fifteen (15) days. The owner shall be given written notice of such hearing by personal service or by certified mail, addressed to the owner at the address specified in the written objection filed by the owner.

(a) At the hearing, the enforcement officer shall present evidence regarding the existence of graffiti on the subject property. The owner may then present evidence and show cause why the graffiti should not be abated forthwith.

(b) If the municipal court finds by a preponderance of the evidence that graffiti exists on the property as alleged and that the owner has failed to abate such graffiti without good cause, then the municipal judge shall issue an administrative order and warrant requiring abatement of the graffiti by the owner, and authorizing the City or its private contractors to enter upon the

property for the purpose of abating, covering, or removing such graffiti, if the owner has not abated such graffiti within five (5) days of the administrative order and warrant, and to assess the whole cost thereof, including ten percent (10%) for inspection and other incidental costs associated therewith, upon the land. The costs and any charges for graffiti abatement, assessed by the City pursuant to this chapter, shall be paid by the owner of the property or agent for such owner within thirty (30) days after mailing of the bill or assessment of such cost by the City to said owner or agent. The City shall have the right to proceed for the collection of any unpaid charges for graffiti abatement in the manner provided by law for collection of debts and claims on behalf of the City, including without limitation, the collection and lien procedures provided in this section.

(2) If, after receiving a Notice of Abatement, the graffiti has not been abated and no objection to the City entering the property has been received by the City within the twenty-day period following such notice, the enforcement officer may arrange for City employees or private contractors to enter upon the property and abate, cover, or remove such graffiti. The owner shall pay all reasonable costs for the abatement of such graffiti, including ten percent for inspection and other incidental costs associated therewith. The costs and any charges for graffiti abatement, assessed by the City pursuant to this chapter, shall be paid by the owner of the property or agent for such owner within thirty (30) days after mailing of the bill or assessment of such cost by the City to said owner or agent. The City shall have the right to proceed for the collection of any unpaid charges for graffiti abatement in the manner provided by law for collection of debts and claims on behalf of the City, including without limitation, the collection and lien procedures provided in this section.

B. In addition to the process and procedures the City may pursue to abate graffiti as provided above in paragraph A. of this Section, if a property owner does not abate the graffiti, or make arrangements satisfactory to the city manager for the abatement of such graffiti, within twenty (20) days after service on the owner of the Notice of Abatement as provided above in paragraph A., and the city manager determines that entry onto the property is opposed by the property owner or will be technically difficult or if the city manager wishes to clarify the appropriate nature and conditions of entry upon the land, the city manager may also submit an affidavit to the municipal court in support of a request for an administrative warrant to authorize entry upon the property to remove graffiti. Such affidavit shall set forth probable cause to believe that graffiti exists on the property and shall specify that the owner of the property has not removed the graffiti following notice to do so. Upon receipt of such affidavit and determination of probable cause, the municipal court shall issue a warrant authorizing the manager or the manager's agents to enter upon the property as needed to abate the graffiti.

C. If the owner fails to pay the charges associated with graffiti abatement within the described 30-day period, a Notice of Assessment shall be mailed via certified mail by the City to the owner of the property, notifying the owner that failure to pay the assessed amount within ten (10) days of the date of the letter shall cause the assessment to become a lien against the property.

D. If any assessment for graffiti abatement is not paid within the ten-day period specified in the Notice of Assessment, the same may be certified by the City Clerk to the county treasurer and placed by the treasurer upon the tax list for the current year, and thereby collected in the same

manner as other taxes are collected, with ten percent penalty added thereto to defray the cost of collection, as provided by the laws of the state. Failure to pay the amount assessed for graffiti abatement shall cause such assessment to become a perpetual lien against such lot, block or parcel of land associated with and benefiting from said services. This lien and collection procedure is supplementary and additional to any collection or foreclosure procedures provided by law, or described elsewhere within this section or this code.

E. If the City proceeds with abatement of graffiti as provided in this section, and such abatement is effectuated by painting over said graffiti, the City shall not be required to use paint that matches the preexisting paint in color or kind, but shall use reasonable care in selecting the type and color of paint used. In this regard, a rebuttable presumption shall arise and be deemed to exist in any proceeding under this chapter and in other judicial proceeding related in any way to the City's abatement of the graffiti to the effect that the eradication of graffiti with contrasting paint does not damage private property more than does the continued presence of such graffiti on the property.

7.30.060 Administrative review of assessment.

Any owner who disputes the amount of an assessment made against such owner's property under Section 7.30.050 may, within twenty (20) days of the date of the initial notice of such assessment, petition the city manager for a revision or modification of such assessment in accordance with the administrative appeal provisions in Chapter 7.70 of this title.

7.30.070 Owners have ultimate responsibility for violations.

Every owner remains liable for violations of responsibilities imposed upon an owner by this chapter even though an obligation is also imposed on the occupant of the premises and even though the owner has by agreement imposed on the occupant the duty of maintaining the premises.

7.30.080 No duty upon City.

Nothing in this chapter shall impose an affirmative duty upon the city manager to remove or eradicate graffiti. Nothing in this chapter shall prevent the city manager or the municipal judge from providing additional notice and time for abatement to a property owner or agents of a property owner, should it appear to the manager or the judge that such extra notice and time for abatement is likely to produce prompt removal of the graffiti.

7.30.090 Concurrent Remedies.

The remedies set forth in this chapter shall not be exclusive, and nothing in this chapter shall restrict the City from concurrently pursuing criminal enforcement of any violations of this code or pursuing any other remedy provided by law.

7.30.100 Penalties.

Any person found guilty of violating any provisions of this chapter shall be sentenced in accordance with chapter 1.12 of this code. Additionally, any person found guilty for violating section 7.30.030.A of this chapter, may be ordered by the court to abate any graffiti they have caused, or pay for any such abatement as provided by the City or other property owner.

Section 3. Section 7.70.010 of the Loveland Municipal Code is amended to read in full as follows:

7.70.010 Intent.

It is the intent of this chapter to protect the health, safety and welfare of the public by reducing the occurrence of nuisances, including but not limited to, graffiti, trash, rubbish, refuse, weeds, grass, brush, or other rank or noxious vegetation through abatement of the same, and to provide procedures for persons to appeal an administrative decision or action taken for enforcement of this title where allowed by this code.

Section 4. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Signed this _____ day of _____, 2011

ATTEST:

CITY OF LOVELAND, COLORADO

City Clerk

Mayor

APPROVED AS TO FORM:


Assistant City Attorney



CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 4
MEETING DATE: January 4, 2011
TO: City Council
FROM: Steven Williams, Current Planning
PRESENTER: Steven Williams

TITLE: AN ORDINANCE VACATING A UTILITY EASEMENT LOCATED ON LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF WEST INDUSTRIAL ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO

DESCRIPTION: A legislative action to consider an ordinance on second reading vacating a 21,561 square foot utility easement located in LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF WEST INDUSTRIAL ADDITION. The applicant is the TJ & I, LLC.

BUDGET IMPACT:

Yes No

SUMMARY: The application proposes to vacate the utility easement at 999 North Van Buren Avenue, north of W. 8th Avenue and south of Longs Peak Drive on Lot 1, Block 1, Replat of Lots 1, 4, 5, 6 And 7 of West Industrial Addition. The vacation is necessary to allow for a proposed building expansion to accommodate a dock. All providers of public utilities have reviewed the application and recommend approval. City Council adopted the ordinance on first reading on December 7, 2010 by unanimous vote.

LIST OF ATTACHMENTS:

- Easement vacation ordinance
- Staff memorandum with attachments

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

“Move to make the findings in Section V of the staff memorandum dated December 7, 2010 and, based on those findings, adopt on second reading, ‘AN ORDINANCE VACATING A UTILITY EASEMENT LOCATED ON LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF WEST INDUSTRIAL ADDITION, SITUATED IN THE NORTH HALF OF SECTION 15, TOWNSHIP 5 NORTH, RANGE 69 WEST OF 6TH P.M., CITY OF LOVELAND, LARIMER COUNTY, COLORADO.”

REVIEWED BY CITY MANAGER:

FIRST READING: December 7, 2010

SECOND READING: January 4, 2011

ORDINANCE NO. _____

AN ORDINANCE VACATING A UTILITY EASEMENT LOCATED ON LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF WEST INDUSTRIAL ADDITION, SITUATED IN THE NORTH HALF OF SECTION 15, TOWNSHIP 5 NORTH, RANGE 69 WEST OF 6TH P.M., CITY OF LOVELAND, LARIMER COUNTY, COLORADO

WHEREAS, the City Council, at a regularly scheduled meeting, considered the vacation of a utility easement described below, located on Lot 1, Block 1, Replat of Lots 1, 4, 5, 6 and 7 of West Industrial Addition, situated in the North Half of Section 15, Township 5 North, Range 69 West of 6th P.M., City of Loveland, Larimer County, Colorado; and

WHEREAS, the City Council finds and determines that no land adjoining any right-of way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement; and

WHEREAS, the City Council finds and determines that the utility easement to be vacated is no longer necessary for the public use and convenience; and

WHEREAS, the City Council further finds and determines that the application filed at the Development Center was signed by the owners of more than 50% of property abutting the easement to be vacated.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the following described utility easement be and the same is hereby vacated:

That portion of LOT 1, BLOCK 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF WEST INDUSTRIAL ADDITION, situate in the North Half of Section 15, Township 5 North, Range 69 West of 6th P.M., to the City of Loveland, County of Larimer, State of Colorado being more particularly described as follows:

Considering the West line of said Lot 1, Block 1, REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF WEST INDUSTRIAL ADDITION as bearing North 12°16'00" East and with all bearings contained herein relative thereto:

Beginning at the Northwest corner of Lot 2, Block 1 of said REPLAT OF LOTS 1, 4, 5, 6 AND 7 OF WEST INDUSTRIAL ADDITION; thence along the West line of said Lot 1, Block 1, North 12°16'00" East 140.75 feet to the TRUE POINT OF BEGINNING; thence departing said West line, South 77°44'00" East 834.88 feet, more or less to a point on the East line of said Lot 1, Block 1 said point also being a point on the West right of

way line of North Van Buren Ave.; thence along said East line of Lot 1, Block 1 and said West right of way line of North Van Buren Ave., North 51.54 feet; thence departing said East line of Lot 1, Block 1 and said West right of way line of North Van Buren Ave., North 77°44' 00" West 15.26 feet; thence South 12°16'00" West 25.37 feet; thence North 77°44'00" West 252.86 feet; thence North 12°16'00" East 15.00 feet; thence North 77°44'00" West 20.00 feet; thence South 12°16'00" West 15.00 feet; thence North 77° 44' 00" West 535.81 feet, more or less, to a point on the West line of said Lot 1, Block 1; thence along said West line, South 12°16'00" West 25 .00 feet to the TRUE POINT OF BEGINNING.

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 3. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this ____ day of _____, 2011.

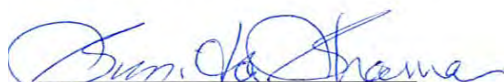
ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:


Assistant City Attorney



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M E M O R A N D U M

TO: City Council

FROM: Steven Williams, Current Planning Division

DATE: December 7, 2010

SUBJECT: Vacation of a utility easement in the West Industrial Addition

I. ATTACHMENTS

- A. Vicinity Map
- B. Site Plan for West Industrial Addition
- C. Utility Easement Vacation Exhibits
- D. Applicant's Request for Vacation letter
- E. West Industrial Addition Replat of Lots 1, 4, 5, 6, & 7.

II. KEY ISSUES

Staff believes that there are no outstanding issues regarding this requested vacation of easement.

III. PROJECT DESCRIPTION

The application proposes to vacate a utility easement within Lot 1, Block 1, Replat of Lots 1, 4, 5, 6 and 7 of West Industrial Addition, which lies west of North Van Buren, north of W. 8th Street, and south of Longs Peak Drive.

The utility easement was granted to the City of Loveland on October 3, 2008, by the 999 North Van Buren, LLC, because at that time the installation of a water line was required to meet the necessary fire flows for the site. Subsequent waterline improvements in the area have rendered the additional waterline unnecessary. Recent fire flow testing has shown that adequate fire flows do exist; therefore, the looping arrangement for the water utilities that utility easement was intended to achieve is not needed.

IV. BACKGROUND

October 2008 A Utility Easement for West Industrial Addition was granted and recorded at Reception number 20080064401.

V. FINDINGS and ANALYSIS

The following two findings must be met in order for the City Council to vacate the temporary drainage, maintenance, and utility easements. These findings are included in section 16.36.010.B of the Loveland City Code.

1. *That the right-of-way or easement to be vacated is no longer necessary for the public use and convenience.*

Transportation: Staff believes that this finding can be met. The Transportation Development Review (TDR) Division understands per the easement vacation application received, that this is a proposed vacation of a utility easement on the property, (with no proposed vacation of any existing street rights-of-way which exist in this area). Public street rights-of-way presently exist to serve as vehicular access to the property.

Since the vacation of this easement does not involve the vacation of any existing public street or alley rights-of-way, no land will be left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement. (This utility easement vacation will not leave adjoining land without access to the existing public street/alley system).

Since this vacation is for a utility easement only, and does not include any existing alley or street rights of way, the vacation of the utility easement has no bearing to the existing public use and convenience in regards to access.

In light of all of the above the TDR Division has no objection to the vacation of the easement (no public street or alley right-of-way is involved in this easement vacation).

Power: Staff believes that this finding can be met. The existing underground utilities serving the property at 999 N. Van Buren are located along the north side of the property running east to west. There also is an overhead power line along the east side of the property located just west of 999 N. Van Buren starting in the northwest corner of lot one block one going south to the northwest corner of lot two block one. Then heads east to lot three block one. This overhead power line is also located along the north side of lot three block one starting in the northwest corner and continues to the east. These overhead lines are serving the properties to the west and south of 999 N. Van Buren and will not be affected by this utility vacation.

Stormwater: Staff believes that this finding can be met. The existing utility easement, to be vacated, is not used to convey stormwater and thus is not necessary for the public use and conveyance of stormwater.

Water/Wastewater: Staff believes that this finding can be met. The existing easement to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development. The existing easement to be vacated is no longer necessary for public use and convenience.

Fire: Staff believes that this finding can be met. This easement vacation can be supported by the Fire Department. The easement was originally intended for a waterline extension to increase fire flows, however, modifications have been made to the existing distribution system that negates the need for this waterline.

VI. RECOMMENDATION

Staff recommends, subject to any further information that may be presented at the public hearing, that City Council approve the vacation ordinance on first reading.

VII. CONDITIONS

No City departments or other review agencies have submitted any recommended conditions for this application.



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 DEVELOPMENT SERVICES DEPARTMENT
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AGENDA ITEM: 5
MEETING DATE: 1/04/2011
TO: City Council
FROM: Greg George, Development Services Department
PRESENTER: Bethany Clark, Community & Strategic Planning

TITLE:

AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE LLOYD HOUSE LOCATED AT 901 NORTH JEFFERSON AVENUE IN LOVELAND, COLORADO

DESCRIPTION:

This item is a legislative action to consider approval on second reading of an ordinance to designate as a Historic Landmark the “Lloyd House” at 901 N. Jefferson Avenue, per Section 15.56 of the Municipal Code dealing with Historic Preservation.

The application is owner-initiated and staff had met with the owner to review the benefits and obligations of historic designation.

BUDGET IMPACT:

Yes No

SUMMARY:

The Historic Preservation Commission on September 20, 2010, found the Lloyd House to be eligible for designation as detailed in the attached staff report and has forwarded this recommendation to Council.

On December 7, 2010, City Council unanimously approved the ordinance on first reading, as part of the Consent Agenda.

The Lloyd House is architecturally significant for its Late Victorian era architectural characteristics, including its distinctive front porch, decorative shingles in the upper gable ends, and steeply-pitched hipped roof with intersecting gables. This particular example maintains its historic integrity and includes unique craftsmanship.

To be considered eligible for designation as a historic landmark on the Loveland Historic Register, a property must be at least fifty (50) years old and must meet one (1) or more of the criteria for

architectural, social cultural, or geographic/ environmental significance as identified in Loveland Municipal Code 15.56.090. Specific criteria for nomination are contained in the staff report.

Designation on the Loveland Historic Register protects the building into the future, while allowing for rehabilitation and alteration of the structure, and setting criteria under which the owner could demolish the building. Any alterations requiring approval would be reviewed by the Loveland Historic Preservation Commission pursuant to the Historic Preservation Ordinance, Municipal Code Section 15.56.100.

LIST OF ATTACHMENTS:

- Ordinance designating 901 N. Jefferson Avenue to the Loveland Historic Register

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion:

Move to adopt on second reading AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE LLOYD HOUSE LOCATED AT 901 N. JEFFERSON AVENUE IN LOVELAND, COLORADO

REVIEWED BY CITY MANAGER:

FIRST READING: December 7, 2010

SECOND READING: January 4, 2011

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE LLOYD HOUSE LOCATED AT 901 NORTH JEFFERSON AVENUE IN LOVELAND, COLORADO

WHEREAS, Chapter 15.56 of the Loveland Municipal Code provides that the City Council may designate as a historic landmark an individual structure, site, or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value; and

WHEREAS, Section 15.56.090 of the Loveland Municipal Code further provides that landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social/cultural, or geographic/environmental significance; and

WHEREAS, the City of Loveland has, through the Historic Preservation Commission, worked to evaluate the nomination for designation as a landmark of certain property located at 901 North Jefferson Avenue in Loveland, Colorado, known as the Lloyd House; and

WHEREAS, the Historic Preservation Commission has recommended that the City Council designate the Lloyd House as a landmark; and

WHEREAS, a duly noticed public hearing has been held on the proposed landmark designation.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO THAT:

Section 1. The City Council finds that the Lloyd House, more particularly described on **Exhibit A**, attached hereto and incorporated herein, satisfies the age requirement and meets the following significant criteria for designation as a landmark to the Loveland Historic Register:

- a) Architectural
 1. Exemplifies specific elements of an architectural style or period.
 2. Demonstrates superior craftsmanship.
- b) Social/Cultural
 1. Exemplifies the cultural, political, economic or social heritage of the community.
- c) Physical Integrity
 1. Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
 2. Retains original design features, materials, and/or character.

3. Retains its original location.

Section 2. The Lloyd House, described on **Exhibit A**, is hereby designated as a landmark to the Loveland Historic Register.

Section 3. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 4. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this _____ day of _____, 2011

Mayor

Attest:

City Clerk

APPROVED AS TO FORM:

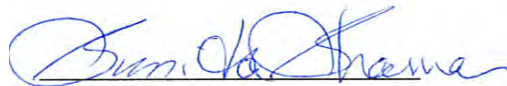

Assistant City Attorney

Exhibit A

LOTS 11 & 12, BLK 1, ORCHARD PK, CITY OF LOVELAND, COUNTY OF LARIMER,
STATE OF COLORADO



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 DEVELOPMENT SERVICES DEPARTMENT
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AGENDA ITEM: 6
MEETING DATE: 1/04/2011
TO: City Council
FROM: Greg George, Development Services Department
PRESENTER: Bethany Clark, Community & Strategic Planning

TITLE:

AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE WILSON HOUSE LOCATED AT 544 EAST 4TH STREET IN LOVELAND, COLORADO

DESCRIPTION:

This item is a legislative action to consider approval on second reading of an ordinance to designate as a Historic Landmark the "Wilson House" at 544 E. 4th Street, per Section 15.56 of the Municipal Code dealing with Historic Preservation.

The application is owner-initiated and staff has met with the owner to review the benefits and obligations of historic designation.

BUDGET IMPACT:

Yes No

SUMMARY:

The Historic Preservation Commission on September 20, 2010, found the Wilson House to be eligible for designation as detailed in the attached staff report and is forwarding this recommendation to Council.

On December 7, 2010, City Council unanimously approved the ordinance on first reading, as part of the Consent Agenda.

The Wilson House is historically significant for its association with residential development in Loveland dating from the late 1800s and early 1900s. It is also architecturally significant for its Late Victorian era architectural style, and for the fine craftsmanship shown in its brick construction.

To be considered eligible for designation as a historic landmark on the Loveland Historic Register, a property must be at least fifty (50) years old and must meet one (1) or more of the criteria for

architectural, social cultural, or geographic/environmental significance as identified in Loveland Municipal Code 15.56.090. Specific criteria for nomination are contained in the staff report.

LIST OF ATTACHMENTS:

- Ordinance designating 544 E. 4th Street to the Loveland Historic Register

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion:

Move to adopt on second reading AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE WILSON HOUSE LOCATED AT 544 E. 4TH STREET IN LOVELAND, COLORADO

REVIEWED BY CITY MANAGER:

FIRST READING: December 7, 2010

SECOND READING: January 4, 2011

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE WILSON HOUSE LOCATED AT 544 EAST 4TH STREET IN LOVELAND, COLORADO

WHEREAS, Chapter 15.56 of the Loveland Municipal Code provides that the City Council may designate as a historic landmark an individual structure, site, or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value; and

WHEREAS, Section 15.56.090 of the Loveland Municipal Code further provides that landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social/cultural, or geographic/environmental significance; and

WHEREAS, the City of Loveland has, through the Historic Preservation Commission, worked to evaluate the nomination for designation as a landmark of certain property located at 544 East 4th Street in Loveland, Colorado, known as the Wilson House; and

WHEREAS, the Historic Preservation Commission has recommended that the City Council designate the Wilson House as a landmark; and

WHEREAS, a duly noticed public hearing has been held on the proposed landmark designation.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO THAT:

Section 1. The City Council finds that the Wilson House, more particularly described on **Exhibit A**, attached hereto and incorporated herein, satisfies the age requirement and meets the following significant criteria for designation as a landmark to the Loveland Historic Register:

- a) Architectural
 1. Exemplifies specific elements of an architectural style or period.
 2. Demonstrates superior craftsmanship.
- b) Social/Cultural
 1. Exemplifies the cultural, political, economic or social heritage of the community.
- c) Physical Integrity
 1. Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
 2. Retains original design features, materials, and/or character.

3. Retains its original location.

Section 2. The Wilson House, described on **Exhibit A**, is hereby designated as a landmark to the Loveland Historic Register.

Section 3. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 4. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this _____ day of _____, 2011

Mayor

Attest:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

Exhibit A

E 62 1/2 FT OF N 160 FT OF BLK 35, EVERETTS, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO



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 DEVELOPMENT SERVICES DEPARTMENT
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AGENDA ITEM: 7
MEETING DATE: 1/4/2011
TO: City Council
FROM: Greg George, Development Services
PRESENTER: Greg George

TITLE:

AN ORDINANCE AMENDING TITLE 12 OF THE LOVELAND MUNICIPAL CODE BY AMENDING CHAPTER 12.08 REGARDING NAMES OF ALLEYS IN THE DOWNTOWN AREA

DESCRIPTION:

A legislative action to amend Title 12 of the Loveland Municipal Code to establish a convention for naming alleys in Downtown Loveland. The boundaries of the naming convention encompass twenty-four blocks, as shown on Exhibit A to the ordinance (see attached). The naming convention would require that alley names within the convention area be related to arts and entertainment or to Loveland history and be designated as an "Alley".

Since approval of first reading on November 2, 2010, the ordinance has been revised to extend the naming convention area one block southward to First Street.

BUDGET IMPACT:

Yes No

SUMMARY:

On April 6, 2010 the Loveland Downtown Team (LDT) established a subcommittee to assist in the naming process for alleys in Downtown. Over a series of meetings, the subcommittee developed and revised names for seven alleys in the downtown area. On August 17, 2010 City Council considered the item and directed City staff to broaden the naming convention to allow alleys to also have names related to Loveland history. On November 2, 2010, the City Council approved the ordinance on first reading. Since first reading, the ordinance and the associated map of the naming convention area has been adjusted one block southward to First Street.

If the ordinance establishing the naming convention is adopted on second reading on January 4, 2011, then a resolution will be presented to City Council at an upcoming meeting to officially name the seven alleys as recommended by the LDT.

LIST OF ATTACHMENTS:

- A. Ordinance amending Title 12 of the Loveland Municipal Code, including Exhibit A (Map of Alley Naming Convention Boundary)
-

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to adopt on second reading AN ORDINANCE AMENDING TITLE 12 OF THE LOVELAND MUNICIPAL CODE BY AMENDING CHAPTER 12.08 REGARDING NAMES OF ALLEYS IN THE DOWNTOWN AREA

REVIEWED BY CITY MANAGER:

FIRST READING: November 2, 2010

SECOND READING: January 4, 2011

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 12 OF THE LOVELAND MUNICIPAL CODE
BY AMENDING CHAPTER 12.08 REGARDING NAMES OF ALLEYS IN THE
DOWNTOWN AREA**

WHEREAS, C.R.S. §31-15-702 authorizes the governing body of a municipality to name and change the name of any street, alley, avenue or other public place within its boundaries; and

WHEREAS, Chapter 12.08 of the Loveland Municipal Code regulates the naming and numbering of streets and alleys within the city limits of Loveland, Colorado; and

WHEREAS, on April 6, 2010 the Loveland Downtown Team established a subcommittee to assist in the naming process for alleys in the Loveland downtown area; and

WHEREAS, on July 6, 2010 the Loveland Downtown Team was presented a recommendation from the subcommittee on a naming convention area for alleys in the Loveland downtown area which was approved by the Loveland Downtown Team; and

WHEREAS, on August 17, 2010, the City Council considered a recommendation of the Loveland Downtown Team for adoption of revisions to Chapter 12.08 of the Loveland Municipal Code regarding a naming convention for alleys in the Loveland downtown area related to the arts and entertainment; and

WHEREAS, City Council directed City staff to broaden the naming convention to allow names related to Loveland history; and

WHEREAS, on October 5, 2010, the Loveland Downtown Team was presented a revised recommendation from the subcommittee on a naming convention area for alleys in the Loveland downtown area related to arts and entertainment and to Loveland history, as depicted in the area shown on **Exhibit A**, attached hereto and incorporated herein, which was approved by the Loveland Downtown Team for recommendation to City Council; and

WHEREAS, the City Council desires to adopt the recommendations of the Loveland Downtown Team and revise Chapter 12.08 of the Loveland Municipal Code regarding alley names in the Loveland downtown area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, THAT:

Section 1. Chapter 12.08 of the Loveland Municipal Code is hereby amended by the addition of a new Section 12.08.194 to read as follows:

12.08.194 DOWNTOWN AREA ALLEY NAMES

In the area north of East 1st Street, east of Railroad Avenue, south of East 7th Street and west of North Washington Avenue, alleys shall have names related to arts and entertainment or to Loveland history, and shall be designated as an “Alley”.

Section 2. As provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Signed this _____ day of _____, 2011.

ATTESTED:

CITY OF LOVELAND, COLORADO

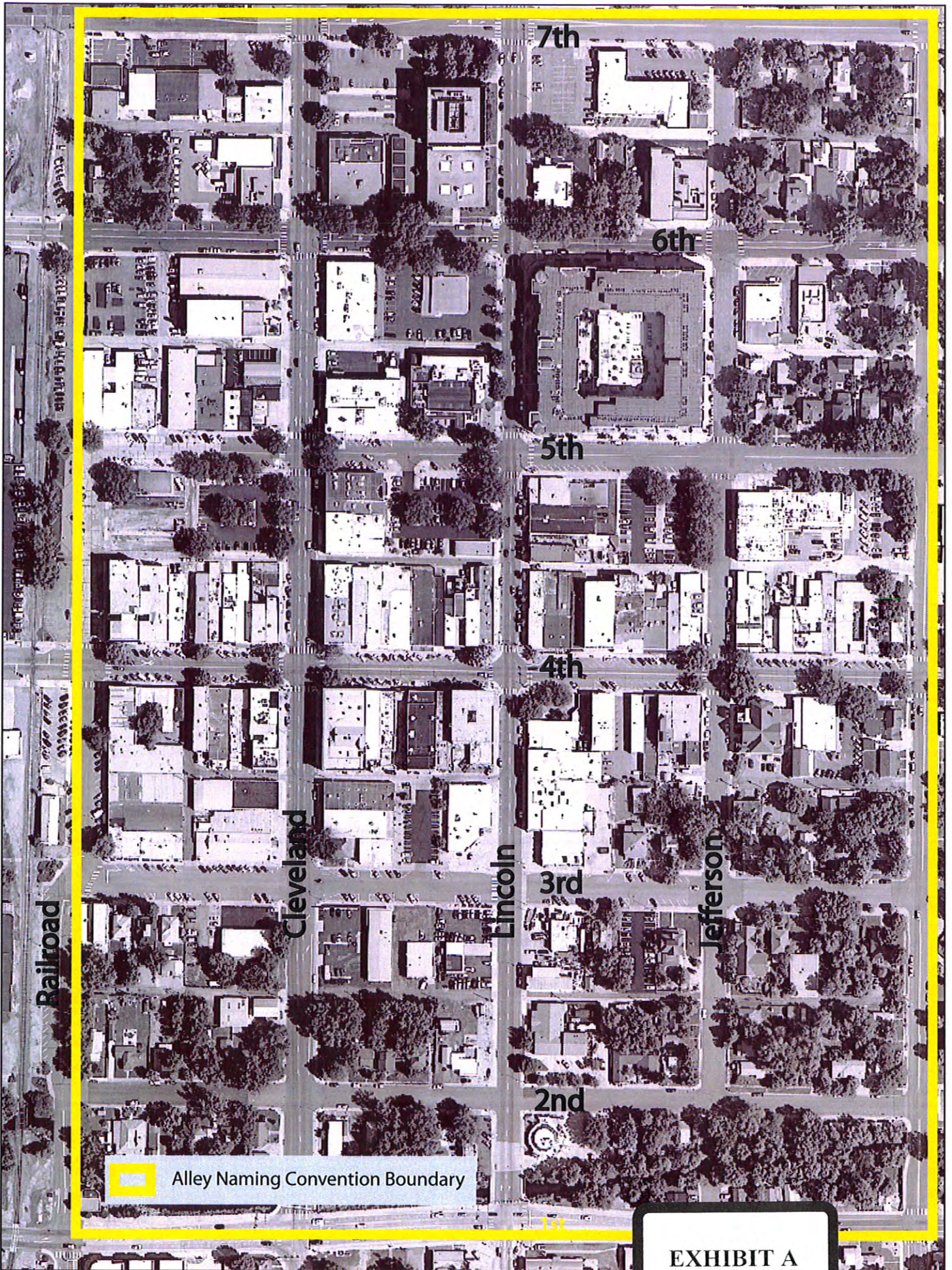
City Clerk

Mayor

APPROVED AS TO FORM:



Assistant City Attorney



Alley Naming Convention Boundary

EXHIBIT A



CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 8
MEETING DATE: 1/4/2011
TO: City Council
FROM: Brian Burson, Current Planning Division
PRESENTER: Brian Burson, Current Planning Division

TITLE:

AN ORDINANCE VACATING A PORTION OF A PUBLIC ACCESS EASEMENT LOCATED ON LOT 4, BLOCK 1, MCKEE MEADOWS SIXTH SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO

DESCRIPTION:

A public hearing to consider an ordinance, on first reading, to vacate the westerly 285.66 feet of a public access easement within the McKee Meadows 6th Subdivision. This is a legislative action by the City Council.

BUDGET IMPACT:

Yes No

SUMMARY:

The site is located along the east side of North Madison Avenue, just off of the northeast corner of East Eisenhower Boulevard and North Madison Avenue. The easement has provided historic access from North Madison Avenue into and through the site, and connecting to North Boise Avenue. The application proposes to vacate only the public access purpose of this portion of the easement.

In conjunction with the recent intersection improvements at this location, the North Madison Avenue drive access for the site has been moved further north, making the westerly alignment of the easement obsolete. A new public access easement will be granted by the property owner to re-align the internal easement with the new drive access point. The easement is also dedicated for public utility purposes, and the utility purpose will be preserved by the language of the vacation ordinance.

The Planning Commission considered the application at a public hearing on December 13, 2010, as the only item on their Consent Agenda. No request was made to pull the matter for testimony or information. The Planning Commission recommended approval of the request, by unanimous approval of the Consent Agenda. Since the matter was approved on the Consent Agenda, no Planning Commission minutes are included with this staff memorandum.

LIST OF ATTACHMENTS:

- A. Vacation Ordinance
 - B. Staff memorandum, dated January 4, 2011
-

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

"Move to make the findings in Section VI of the December 13, 2010 Planning Commission staff report, and adopt on first reading, ' AN ORDINANCE VACATING A PORTION OF A PUBLIC ACCESS EASEMENT LOCATED ON LOT 4, BLOCK 1, MCKEE MEADOWS SIXTH SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO.' "

REVIEWED BY CITY MANAGER:

FIRST READING: January 4, 2011

SECOND READING: _____

ORDINANCE NO. _____

**AN ORDINANCE VACATING A PORTION OF A PUBLIC ACCESS EASEMENT
LOCATED ON LOT 4, BLOCK 1, MCKEE MEADOWS 6TH SUBDIVISION, CITY OF
LOVELAND, LARIMER COUNTY, COLORADO**

WHEREAS, the City Council, at a regularly scheduled meeting, considered the vacation of a portion of a public access easement described below, located on Lot 4, Block 1, McKee Meadows 6th Subdivision, City of Loveland, Larimer County, Colorado; and

WHEREAS, it is necessary that the portion of easement to be vacated, be preserved as a public utility easement, as dedicated on the plat of McKee Meadows 6th Subdivision, as recorded May 23, 1995 at Reception No. 95029042 of the records of the Larimer County Clerk and Recorder; and

WHEREAS, it is further necessary that the Property Owner of said Lot 4, Block 1, McKee Meadows 6th Subdivision, City of Loveland, County of Larimer, State of Colorado, submit to the City a fully executed public access easement, in a form acceptable to the City, for the land depicted and described in Exhibit A, attached hereto and by reference incorporated herein; and

WHEREAS, to assure ongoing provision of public and emergency access to the property, this ordinance and the fully executed public access easement described in the provision listed above, shall be recorded concurrently; and

WHEREAS, the City Council finds and determines that upon fulfillment of the above requirements, no land adjoining any right-of way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement; and

WHEREAS, the City Council finds and determines that the portion of a public access easement to be vacated is no longer necessary for the public use and convenience; and

WHEREAS, the City Council further finds and determines that the application filed at the Development Center was signed by the owners of more than 50% of property abutting the easement to be vacated.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO THAT:

Section 1. Subject to the conditions listed in Sections 2 through 4, the following described portion of a public access easement be and the same is hereby vacated:

A parcel of land being part of Lot 4, McKee Meadows 6th Subdivision, recorded May 23, 1995 as Reception No. 95029042 of the records of the Larimer County Clerk and Recorder, located in the Southwest Quarter (SW1/4) of Section Seven (7), Township Five North (T.5N.) Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.) City of Loveland, County of Larimer, State of Colorado, and being more particularly described as follows:

COMMENCING at the Northeast corner of that parcel of land described in that Deed of Dedication recorded January 22, 1997 as Reception No. 97004424 of the records of the Larimer County Clerk and Recorder and assuming the East line of that parcel of land described in said Deed of Dedication as bearing South 00° 07' 58" West, being a Grid Bearing of the Colorado State Plane Coordinating System, North Zone, North American Datum 1983/92, with all bearings contained herein relative thereto:

THENCE South 00° 07' 58" West along the East line of that parcel of land described in said Deed of Dedication a distance of 73.47 feet to the Northerly line of an access easement, being Thirty (30) feet in width, as shown on the plat of said McKee Meadows 6th Subdivision, said point being the POINT OF BEGINNING;

THENCE South 89° 40' 03" East along the Northerly line of said access easement a distance of 285.66 feet;

THENCE South 00° 19' 57" West a distance of 30.00 feet to the Southerly line of said access easement;

THENCE North 89° 40' 03" West along the Southerly line of said access easement a distance of 285.56 feet to the east line of that parcel of land described in said Deed of Dedication;

THENCE North 00° 07' 58" East along the East line of that parcel of land described in said Deed of Dedication a distance of 30.00 feet to the POINT OF BEGINNING.

Said parcel of land contains 8,568 sq. ft. or 0.197 acre, more or less (+-), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

Section 2. The vacated portion of the public access easement shall be preserved as a public utility easement, as dedicated on the plat of McKee Meadows 6th Subdivision, as recorded May 23, 1995 at Reception No. 95029042 of the records of the Larimer County Clerk and Recorder.

Section 3. Prior to recordation of this ordinance, the Property Owner of said Lot 4, Block 1, McKee Meadows 6th Subdivision, City of Loveland, County of Larimer, State of Colorado, shall submit to the City a fully executed public access easement, in a form acceptable to the City, for the land depicted and described in Exhibit A, attached hereto and by reference incorporated herein.

Section 4. To assure ongoing provision of public and emergency access to the property, this ordinance and the fully executed public access easement described in Exhibit A, shall be recorded concurrently.

Section 5. As provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 6. The City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this ____ day of _____, 2011.

ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:


Assistant City Attorney

PROPERTY DESCRIPTIONExhibit A
(1 of 2)

A strip of land, Thirty (30) feet in width, being part of Lot 4, McKee Meadows 6th Subdivision, recorded May 23, 1995 as Reception No. 95029042 of the records of the Larimer County Clerk and Recorder, located in the Southwest Quarter (SW1/4) of Section Seven (7), Township Five North (T.5N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), City of Loveland, County of Larimer, State of Colorado, and being more particularly described as follows:

BEGINNING at the Northeast corner of that parcel of land described in that Deed of Dedication, recorded January 22, 1997 as Reception No. 97004424 of the records of the Larimer County Clerk and Recorder and assuming the East line of that parcel of land described in said Deed of Dedication as bearing South 00°07'58" West, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, with all other bearings contained herein relative thereto;

THENCE South 89°40'01" East along the Northerly line of said Lot 4, also being along the South line of Lot 1, McKee Meadows Fifth Subdivision, recorded March 8, 1994 as Reception No. 94020788 of the records of the Larimer County Clerk and Recorder, a distance of 171.03 feet to a Point of Curvature (PC);

THENCE along the arc of a curve which is concave to the Southwest a distance of 51.05 feet, said curve having a radius of 65.00 feet, a central angle of 44°59'57" and a long chord bearing South 67°10'02" East a distance of 49.75 feet to a Point of Tangency (PT);

THENCE South 44°40'03" East a distance of 62.48 feet to a Point of Curvature (PC);

THENCE along the arc of a curve which is concave to the Northeast a distance of 27.49 feet, said curve having a radius of 35.00 feet, a central angle of 45°00'00" and a long chord bearing South 67°10'03" East a distance of 26.79 feet to the Northerly line of an access easement, being Thirty (30) feet in width, as shown on the plat of said McKee Meadows 6th Subdivision;

THENCE South 00°19'57" West, non-tangent to aforesaid curve, a distance of 30.00 feet to the Southerly line of said access easement, said point being the beginning point of a curve, said curve being non-tangent to aforesaid line;

THENCE along the arc of a curve which is concave to the Northeast a distance of 51.05 feet, said curve having a radius of 65.00 feet, a central angle of 45°00'00" and a long chord bearing North 67°10'03" West a distance of 49.75 feet to a Point of Tangency (PT);

THENCE North 44°40'03" West a distance of 62.48 feet to a Point of Curvature (PC);

THENCE along the arc of a curve which is concave to the Southwest a distance of 27.49 feet, said curve having a radius of 35.00 feet, a central angle of 44°59'57" and a long chord bearing North 67°10'02" West a distance of 26.79 feet to a Point of Tangency (PT), said point being Thirty (30) feet, as measured at a right angle, South of the Northerly line of said Lot 4, also being the South line of said Lot 1;

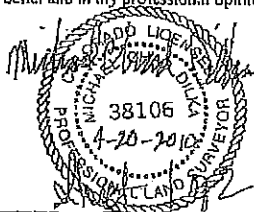
THENCE North 89°40'01" West along a line being Thirty (30) feet, as measured at a right angle, South of and parallel with the Northerly line of said Lot 4, also being the South line of said Lot 1, a distance of 170.93 feet to the East line of that parcel of land described in said Deed of Dedication;

THENCE North 00°07'58" East along the East line of that parcel of land described in said Deed of Dedication a distance of 30.00 feet to the POINT OF BEGINNING.

Said parcel of land contains 9,360 sq.-ft. or 0.215 acre, more or less (±), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYOR'S STATEMENT

I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief and in my professional opinion.



Michael Chad Dilka - on behalf of King Surveyors, Inc.
Colorado Licensed Professional Land Surveyor #38106

KING SURVEYORS, INC.
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011

JN: 2009045

PROPERTY DESCRIPTION EXHIBIT A (2 of 2) MCKEE MEADOWS 6TH SUBDIVISION LOT 4

MCKEE MEADOWS FIRST ADDITION REC. NO. 918948

20' RIGHT-OF-WAY ALLEY

40' RIGHT-OF-WAY

LINE TABLE		
LINE	BEARING	LENGTH
L1	S44°40'03"E	82.48'
L2	S00°19'57"W	30.00'
L3	N44°40'03"W	82.48'
L4	N00°07'58"E	30.00'

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C1	51.05'	65.00'	44°39'57"	49.75'	S87°10'02"E
C2	27.49'	35.00'	45°00'00"	26.79'	S67°10'03"E
C3	51.05'	65.00'	45°00'00"	49.75'	N67°10'03"W
C4	27.49'	35.00'	44°39'57"	26.79'	N87°10'02"W

NORTH MADISON AVENUE

10' POSTAL EASEMENT

LOT 1 MCKEE MEADOWS FIFTH SUBDIVISION REC. NO. 94809181

POINT OF BEGINNING

S89°40'01"E 171.03'

9,360 SQ. FT. 0.215 ACRE

N89°40'01"W 170.93'

20' UTILITY EASEMENT

50' RIGHT-OF-WAY

30' ACCESS EASEMENT

30' INGRESS, EGRESS & UNDERGROUND UTILITIES EASEMENT (BOOK 1483 PAGE 125)

10' RIGHT-OF-WAY FROM DEED OF DEDICATION (REC. NO. 97004424)

LOT 4 MCKEE MEADOWS 6TH SUBDIVISION REC. NO. 95029042

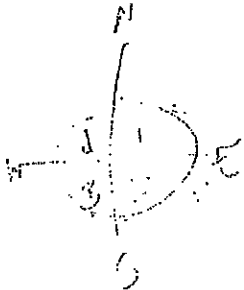
40' RIGHT-OF-WAY FROM PLATTING

SCHRADEF SUBDIVISION REC. NO. 401943

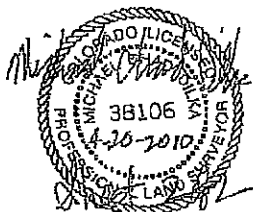
OUTLET OF MCKEE MEADOWS FIRST ADDITION REC. NO. 918948

BASIS OF BEARINGS: S00°07'58"W EAST LINE OF REC. NO. 97004424

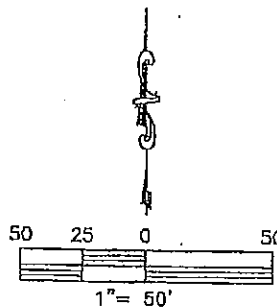
10 reasons



NCTE: This exhibit drawing is not intended to be a monumentalized land survey. It's sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



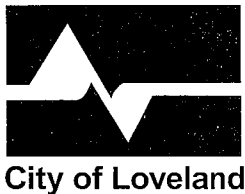
Michael Chad Dilka - on behalf of King Surveyors, Inc. Colorado Licensed Professional Land Surveyor #38106



KING SURVEYORS, INC.

650 East Garden Drive | Windsor, Colorado 80550
 phone: (970) 686-5811 | fax: (970) 686-5821
 www.kingsurveyors.com

PROJECT NO: 2D09045
 DATE: 04/20/2010
 CLIENT: INTERWEST CONSULTING GROUP
 DWG: MCKEEMEADOWS6THSUB L4-ACCESSESMT_R1
 DRAWN: MCD CHECKED: MCD



DEVELOPMENT SERVICES

Current Planning

500 East Third Street, Suite 310 • Loveland, CO 80537
 (970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

Memorandum

TO: City Council

FROM: Brian Burson, Current Planning Division

DATE: January 4, 2011

SUBJECT: vacation of a portion of public access easement in McKee Meadows 6th Subdivision

I. EXHIBITS

- A. December 13, 2010 Planning Commission staff report, with Attachments 1-6.
- B. Exhibit 2 depicting land to be dedicated as new/replacement public access easement

II. EXECUTIVE SUMMARY

A. Project Description

This application proposes to vacate the westerly 285.66 feet of a public access easement that provided street access to North Madison Avenue for the commercial center at the northeast corner of East Eisenhower Boulevard and North Madison Avenue. Part of the recent CFI intersection improvements relocated the curb cut for this drive access approximately 75 feet further to the north, making the original drive access obsolete and requiring a new easement to restore connection and internal circulation to North Madison Avenue. A new easement will be dedicated by the owner to re-align the west end of the internal easement with the new access point on North Madison Avenue. The City's current policy for such internal access easements on private property is to have them dedicated as private, shared-access easements. However, since the existing easement has been a public access easement, the replacement access easement will also be dedicated as a public access easement, thus assuring ongoing access to all owners and users of the center, as well as access for emergency services to the site. This will preserve the historic access into and through the site from both North Madison Avenue and North Boise Avenue.

(For further analysis, please see the December 13, 2010 Planning Commission staff report included with this staff memorandum as **Exhibit A**)



B. Key Issues

The easement was also platted as a public utility easement, and there are existing utilities in the easement. Therefore, only the access element of the easement will be vacated. The entire easement, as platted, will remain as a dedicated public utility easement. The language of the ordinance provides for this.

C. Planning Commission Recommendation

The Planning Commission considered the application at a public hearing on December 13, 2010, as the only item on their Consent Agenda. No request was made to pull the matter for testimony or information. The Planning Commission recommended approval of the request, by unanimous approval of the Consent Agenda. Since the matter was approved on the Consent Agenda, no Planning Commission minutes are included with this staff memorandum.

D. Subsequent to Planning Commission

Since the Planning Commission hearing, no new issues or concerns have surfaced; and staff has received no further inquiry or concerns from the Applicant, adjacent property owners or the general public.

III. RECOMMENDED CONDITIONS

Planning Commission and staff recommend the following conditions. These conditions are also incorporated into the vacation ordinance.

1. The easement shall be preserved as a public utility easement, as dedicated on the plat of McKee Meadows 6th Subdivision, as recorded May 23, 1995 as Reception No. 95029042 of the records of the Larimer County Clerk and Recorder.
2. Prior to second reading of the ordinance, the Property Owner of said Lot 4, Block 1, McKee Meadows 6th Subdivision, City of Loveland, County of Larimer, State of Colorado, shall submit to the City a fully executed public access easement, in a form acceptable to the City, for the land depicted and described in Exhibit 2, attached hereto and by reference incorporated herein;
3. To assure ongoing provision of public and emergency access to the property, this ordinance and the fully executed public access easement described in Condition 2, above, shall be recorded concurrently.

PROPERTY DESCRIPTION

Exhibit A
(1 of 2)

A strip of land, Thirty (30) feet in width, being part of Lot 4, McKee Meadows 6th Subdivision, recorded May 23, 1995 as Reception No. 95029042 of the records of the Larimer County Clerk and Recorder, located in the Southwest Quarter (SW1/4) of Section Seven (7), Township Five North (T.5N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), City of Loveland, County of Larimer, State of Colorado, and being more particularly described as follows:

BEGINNING at the Northeast corner of that parcel of land described in that Deed of Dedication, recorded January 22, 1997 as Reception No. 97004424 of the records of the Larimer County Clerk and Recorder and assuming the East line of that parcel of land described in said Deed of Dedication as bearing South 00°07'58" West, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, with all other bearings contained herein relative thereto:

THENCE South 89°40'01" East along the Northerly line of said Lot 4, also being along the South line of Lot 1, McKee Meadows Fifth Subdivision, recorded March 8, 1994 as Reception No. 94020788 of the records of the Larimer County Clerk and Recorder, a distance of 171.03 feet to a Point of Curvature (PC);

THENCE along the arc of a curve which is concave to the Southwest a distance of 51.05 feet, said curve having a radius of 65.00 feet, a central angle of 44°59'57" and a long chord bearing South 67°10'02" East a distance of 49.75 feet to a Point of Tangency (PT);

THENCE South 44°40'03" East a distance of 62.48 feet to a Point of Curvature (PC);

THENCE along the arc of a curve which is concave to the Northeast a distance of 27.49 feet, said curve having a radius of 35.00 feet, a central angle of 45°00'00" and a long chord bearing South 67°10'03" East a distance of 26.79 feet to the Northerly line of an access easement, being Thirty (30) feet in width, as shown on the plat of said McKee Meadows 6th Subdivision;

THENCE South 00°19'57" West, non-tangent to aforesaid curve, a distance of 30.00 feet to the Southerly line of said access easement, said point being the beginning point of a curve, said curve being non-tangent to aforesaid line;

THENCE along the arc of a curve which is concave to the Northeast a distance of 51.05 feet, said curve having a radius of 65.00 feet, a central angle of 45°00'00" and a long chord bearing North 67°10'03" West a distance of 49.75 feet to a Point of Tangency (PT);

THENCE North 44°40'03" West a distance of 62.48 feet to a Point of Curvature (PC);

THENCE along the arc of a curve which is concave to the Southwest a distance of 27.49 feet, said curve having a radius of 35.00 feet, a central angle of 44°59'57" and a long chord bearing North 67°10'02" West a distance of 26.79 feet to a Point of Tangency (PT), said point being Thirty (30) feet, as measured at a right angle, South of the Northerly line of said Lot 4, also being the South line of said Lot 1;

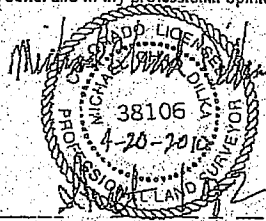
THENCE North 89°40'01" West along a line being Thirty (30) feet, as measured at a right angle, South of and parallel with the Northerly line of said Lot 4, also being the South line of said Lot 1, a distance of 170.93 feet to the East line of that parcel of land described in said Deed of Dedication;

THENCE North 00°07'58" East along the East line of that parcel of land described in said Deed of Dedication a distance of 30.00 feet to the POINT OF BEGINNING.

Said parcel of land contains 9.360 sq. ft. or 0.215 acre, more or less (±), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYOR'S STATEMENT

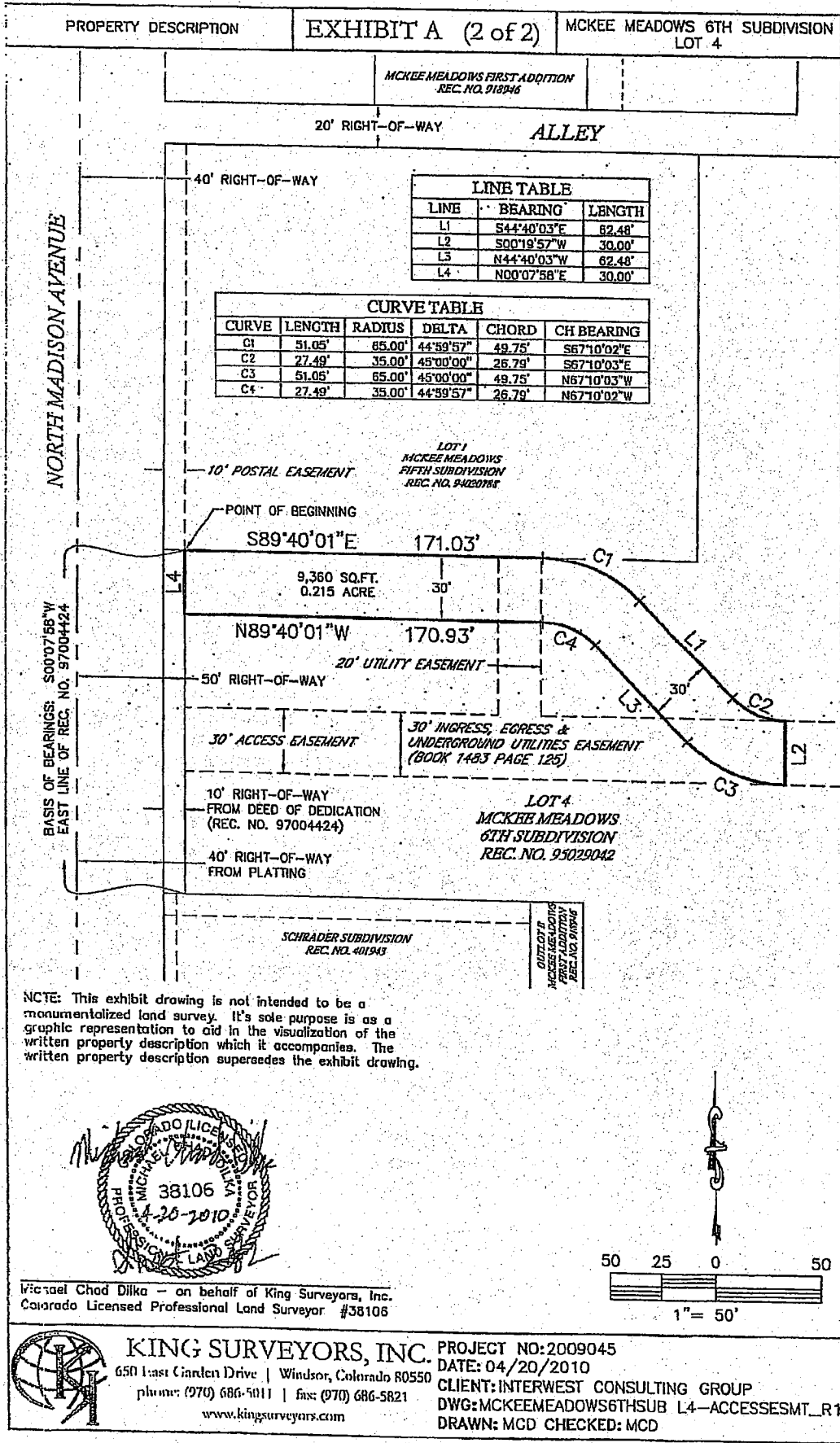
I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief and in my professional opinion.



Michael Chad Dilka - on behalf of King Surveyors, Inc.
Colorado Licensed Professional Land Surveyor #38106

KING SURVEYORS, INC.
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011

JN: 2009045



Michael Chad Dilka - on behalf of King Surveyors, Inc.
Colorado Licensed Professional Land Surveyor #38106



KING SURVEYORS, INC.
650 East Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
www.kingsurveyors.com

PROJECT NO: 2009045
DATE: 04/20/2010
CLIENT: INTERWEST CONSULTING GROUP
DWG: MCKEEMEADOWS6THSUB L4-ACCESSESMT_R1
DRAWN: MCD CHECKED: MCD



DEVELOPMENT SERVICES

Current Planning

500 East Third Street, Suite 310 • Loveland, CO 80537
 (970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

ITEM NO:

Consent Agenda - #1

PLANNING COMMISSION MEETING:

December 13, 2010

TITLE:

McKee Meadows 6th Subdivision

LOCATION:

along the east side of N. Madison Ave.,
 approximately 350 lf north of the intersection of E.
 Eisenhower Blvd. and N. Madison Ave.

APPLICANT:

Public Works Department of the City of Loveland,
 on behalf of the owner, Ace Holdings, LLC

STAFF CONTACT:

Brian Burson, Current Planning
 Sean Kellar, Engineering
 Romeo Gervais, Fire
 Melissa Morin, Water & Wastewater
 Kevin Gingery, Storm
 Kathleen Porter, Power
 Janet Meisel-Burns, Parks & Rec.
 Tom Hawkinson, Building
 Dave Sloat, Police

APPLICATION TYPE:

Vacation of a portion of public access easement on
 private property.

STAFF RECOMMENDATION:

Staff recommends the following motion, subject to
 additional evidence presented at the public hearing:

*“Move to make the findings listed in Section VI. of
 this report dated 12/13/10, and based on those
 findings recommend that City Council approve the
 vacation of a public access easement as depicted
 and described on Attachments 3 and 4, subject to
 the conditions listed in Section VII. of said report,
 as amended on the record.”*

I. ATTACHMENTS

1. Vicinity Map
2. Applicant's letter of request
3. Vacation legal description
4. Vacation Exhibit and new easement alignment
5. McKee Meadows 5th Subdivision final plat (for information only)
6. McKee Meadows 6th Subdivision final plat (for information only)

II. PROJECT SUMMARY

This application proposes to vacate the westerly 285+ feet of a public access easement that provided street access to N. Madison Ave for this commercial center. Part of the new CFI intersection improvements relocated the curb cut for this drive access approximately 75 feet further to the north, making the original drive access obsolete and requiring a new easement to restore connection and internal circulation to N. Madison Ave. A new easement will be dedicated by the owner to re-align the west end of the internal easement with the new access point on Madison Ave.

In conjunction with historic development of the site as a commercial center, the previous owners had dedicated private shared access, circulation and parking easements across the property in a manner that assured access to all adjacent streets and shared internal circulation and parking for all internal uses. At the time of McKee Meadows 5th Subdivision, the primary east-west element of the easements was dedicated to the public to further assure shared access to the general public, but also to assure public access for emergency services. The plat of McKee Meadows 6th Subdivision continued that dedicated access easement across the Applicant's property, continuing the historic access and shared circulation. Since it is a public access easement, it can only be vacated by the City, with Planning Commission consideration prior to City Council action. Staff supports the application for vacation, with the conditions set forth below in Section VII..

III. KEY ISSUES

A new public easement will be dedicated as a replacement and will preserve the purpose and rights for this cross access for all owners and the general public. Since there are existing utilities in the easement, only the access element of the easement will be vacated. The entire easement, as platted, will remain as a dedicated public utility easement.

No part of this application seeks recommendation or approval of the recent intersection improvements by the City. No consideration or testimony regarding the pros and cons of the new intersection should be part of the Planning Commission consideration of the application.

IV. BACKGROUND

- 6/7/66 - City approval of McKee Meadows 1st Addition
- 1/18/94 - City approval of McKee Meadows 5th Subdivision
- 4/4/95 - City approval of McKee Meadows 6th Subdivision

V. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

- A. Notification:** An affidavit was received from Public Works staff certifying that written notice was mailed on 11/24/10 to all other surface owners and all owners of the easement being vacated. Public notice was posted by Current Planning Division staff in prominent locations on the perimeter of the project site on 11/24/10, and an affidavit to that effect was placed in the file. In addition, a notice was published in the Reporter Herald on 11/27/10. All notices stated that the Planning Commission will hold a public hearing on 12/13/10.
- B. Neighborhood Response:** Staff has received no calls or correspondence from any notified property owner or the general public regarding the application. Staff received one personal inquiry from one of the owners internal to the site. Upon seeing information in the file, this owner indicated no concern about the proposal.

VI. FINDINGS AND ANALYSIS

1. *That no land adjoining any right-of-way or easement to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.*

Transportation: The purpose of the west end of the easement was to provide access for the site to N. Madison Ave. The owner's parcel, as well as other parcels in the subdivision, have other access points to adjacent public streets, with other portions of the internal easement linking to those access points. The application proposes to dedicate a new access easement connecting from the historic easement to a new City authorized drive access on N. Madison Ave. This will further assure that no land will be left without an established easement and assure the intent of the historic access.

2. *That the right-of-way or easement to be vacated is no longer necessary for the public use and convenience.*

Transportation: The part of this easement to be vacated connected to a drive access on N. Madison Ave which has been closed with the recent intersection improvements. Vacation of the access element of the internal easement will further the purposes of the relocation of this drive access further to the north to the new access that is acceptable to the Public Works Department in both alignment and width. Vacation of the westerly end of the 30-foot wide access easement will not negatively impact the City's public street network and the easement is no longer needed for access.

Fire: Vacation of this easement can be supported by the Fire Department since it will be replaced with an equivalent easement to assure equivalent access for emergency services into and through the site.

Water/Wastewater: This easement is also dedicated as a public utility easement, and is

currently used by the City for providing both water and wastewater service to the properties. Vacation of the access element of the easement will not impact the existing water and wastewater utility configuration within and adjacent to this development, provided the public utility element of the easement is preserved.

Power: This easement is also dedicated as a public utility easement. Underground three phase power is located along the east side of Madison Avenue and turns into the site within the southerly portion the easement to be vacated. Vacation of the access element of this easement will not affect the existing utilities, but the public utility element of the easement must be preserved.

Stormwater: This easement is also dedicated as a public utility easement. However, the portion of the easement to be vacated is not used to convey storm water and thus is not necessary for the public use and conveyance of storm water.

VII. RECOMMENDED CONDITIONS

Staff recommends the following conditions to be part of any approval of the application.

Fire:

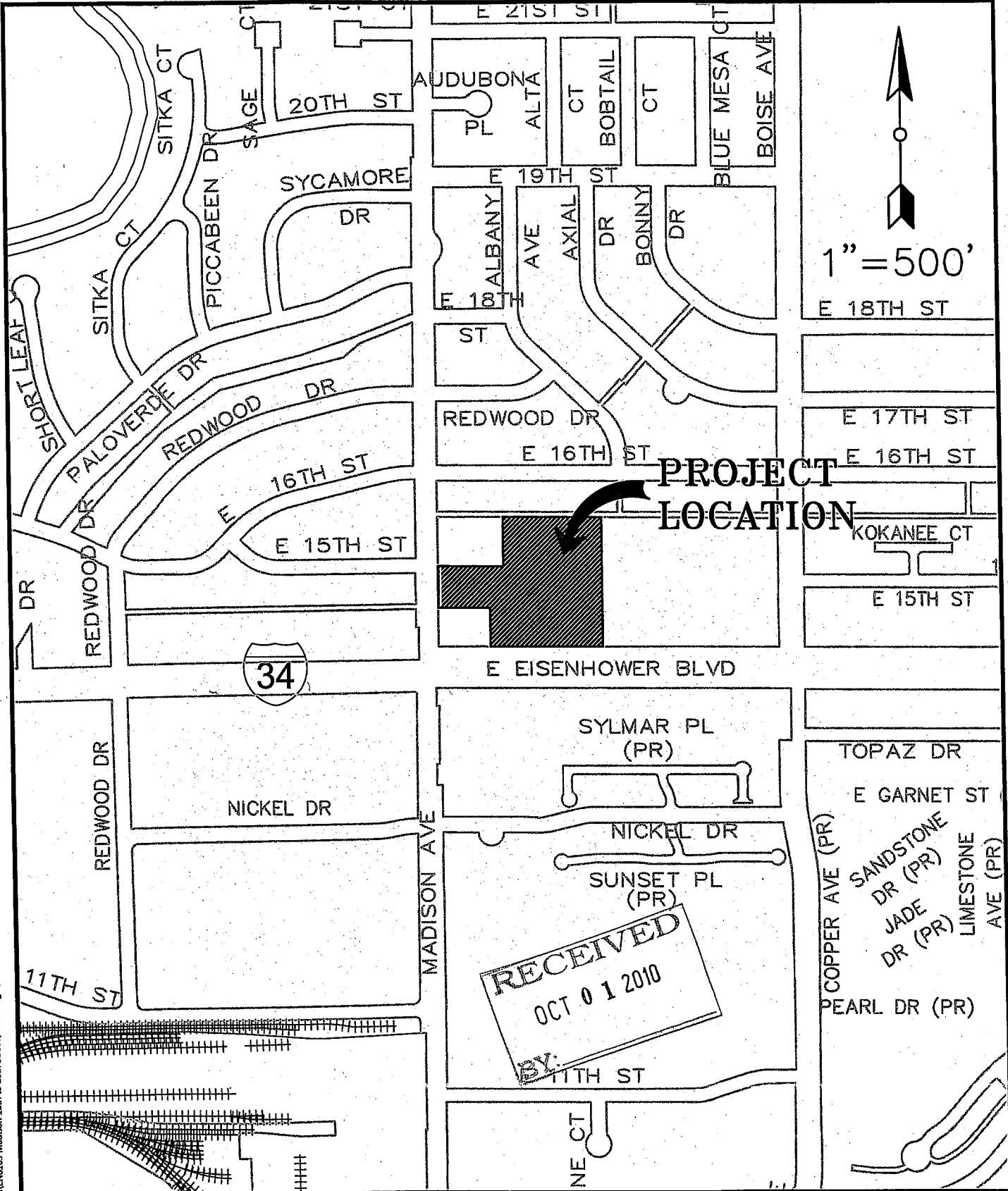
1. Prior to final approval of the vacation, the replacement easement shown on Attachment 3 shall be dedicated to the City and recording for the purposes of emergency access.

Water/Wastewater:

2. The public utility purposes of the easement shall not be vacated.

Power:

3. The public utility purposes of the easement shall not be vacated.



LOT 4, McKEE MEADOWS 6TH SUBDIVISION



CITY OF LOVELAND
PUBLIC WORKS
DEPARTMENT

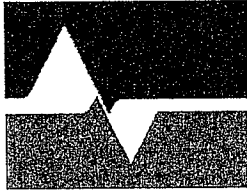
ACCESS EASEMENT
VACATION

APPROVED: ITK

CC
CD

ATTACHMENT 1

V:\Public Works\Civil Engineering\CPA\EN0109 Madison 11th to 16th Street\FOR Design\DESIGN CAD\Ae Esmt Vacation\SitePlan-Ace.dwg, 9/24/2010 3:42:06 PM

**CITY OF LOVELAND**

Public Works Engineering

410 East Fifth Street • Loveland CO 80537
(970) 962-2627 • FAX (970) 962-2908 • TDD (970) 962-2620
www.ci.loveland.co.us

September 22, 2010

Mr. Brian Burson
Senior City Planner
City Of Loveland
500 East 3rd Street
Loveland, CO 80537

RE: Access Easement Vacation Lot 4, McKee Meadows 6th Subdivision

Mr. Burson:

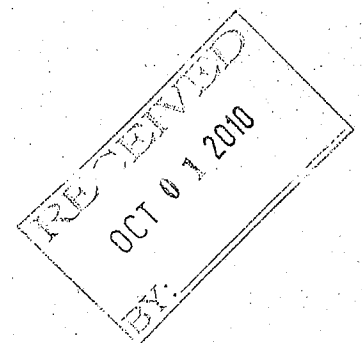
The City of Loveland, as representative of ACE Holdings LLC, is requesting the vacation of the 30-foot wide access easement across the western portion of Lot 4 of McKee Meadows 6th Subdivision. The request is to free lot 4 of a redundant access easement, which is being relocated to the newly constructed access point with the City's Madison Avenue Improvement project.

Attached is a map and metes and bounds showing and describing the land to be vacated and the new access to replace the access. It should be noted that this vacation is only for the access portion of the easement and that the utility portion of the 30-foot easement will remain in force. We are submitting this easement at this time without the official signatures from the owner. These signatures will be available prior to final consideration by the City council. The land and new access easement are being used under an Agreement for Possession and Use entered by the owner dated, May 14th, 2010.

Please feel free to call me with any questions.

Thanks,

Tom Knostman, P.E.
Project Manger
City of Loveland
(970) 962-2644



ATTACHMENT 2

PROPERTY DESCRIPTION

Exhibit A
(1 of 2)

A parcel of land being part of Lot 4, McKee Meadows 6th Subdivision, recorded May 23, 1995 as Reception No. 95029042 of the records of the Larimer County Clerk and Recorder, located in the Southwest Quarter (SW1/4) of Section Seven (7), Township Five North (T.5N.), Range Sixty-eight West (R.68 W.) of the Sixth Principal Meridian (6th P.M.), City of Loveland, County of Larimer, State of Colorado, and being more particularly described as follows:

COMMENCING at the Northeast corner of that parcel of land described in that Deed of Dedication, recorded January 22, 1997 as Reception No. 97004424 of the records of the Larimer County Clerk and Recorder and assuming the East line of that parcel of land described in said Deed of Dedication as bearing South 00°07'58" West, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, with all other bearings contained herein relative thereto:

THENCE South 00°07'58" West along the East line of that parcel of land described in said Deed of Dedication a distance of 73.47 feet to the Northerly line of an access easement, being Thirty (30) feet in width, as shown on the plat of said McKee Meadows 6th Subdivision, said point being the **POINT OF BEGINNING**;

THENCE South 89°40'03" East along the Northerly line of said access easement a distance of 285.66 feet:

THENCE South 00°19'57" West a distance of 30.00 feet to the Southerly line of said access easement:

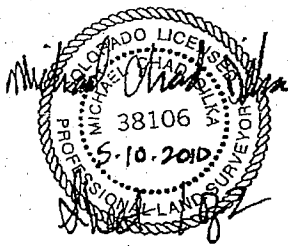
THENCE North 89°40'03" West along the Southerly line of said access easement a distance of 285.56 feet to the East line of that parcel of land described in said Deed of Dedication;

THENCE North 00°07'58" East along the East line of that parcel of land described in said Deed of Dedication a distance of 30.00 feet to the **POINT OF BEGINNING**.

Said parcel of land contains 8,568 sq. ft. or 0.197 acre, more or less (±), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYOR'S STATEMENT

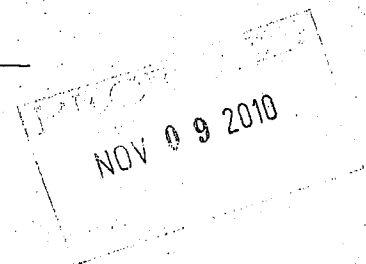
I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief and in my professional opinion.

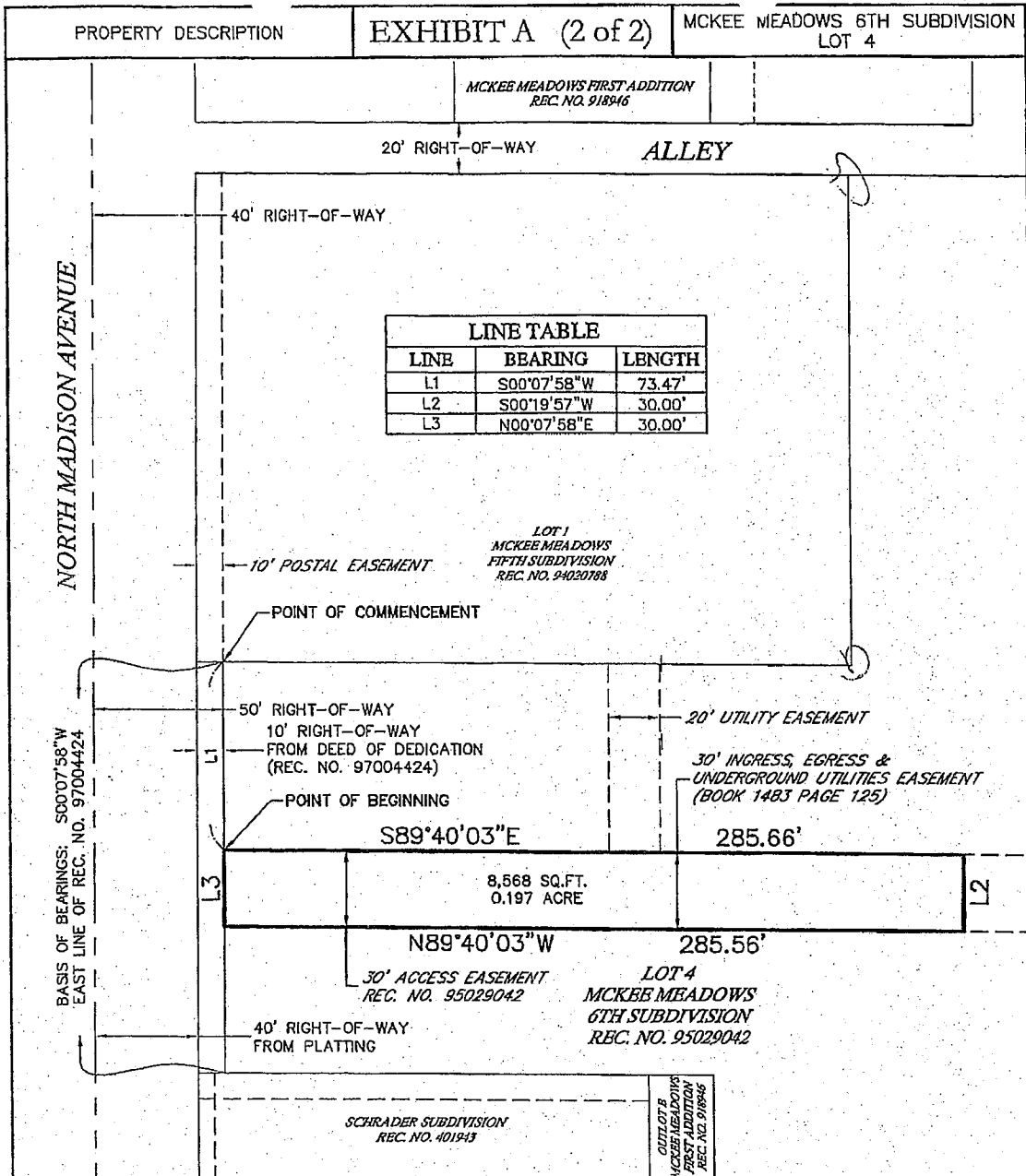


Michael Chad Dilka - on behalf of King Surveyors, Inc.
Colorado Licensed Professional Land Surveyor #38106

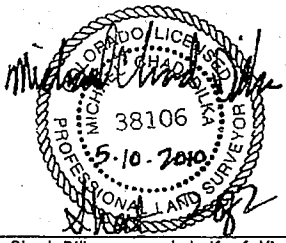
KING SURVEYORS, INC.
650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011

JN: 2009045

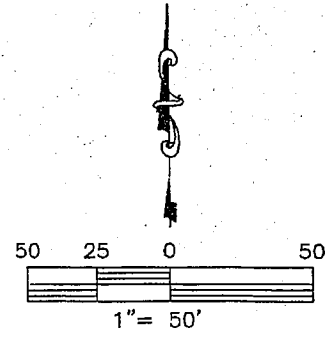




NOTE: This exhibit drawing is not intended to be a monumentalized land survey. Its sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.



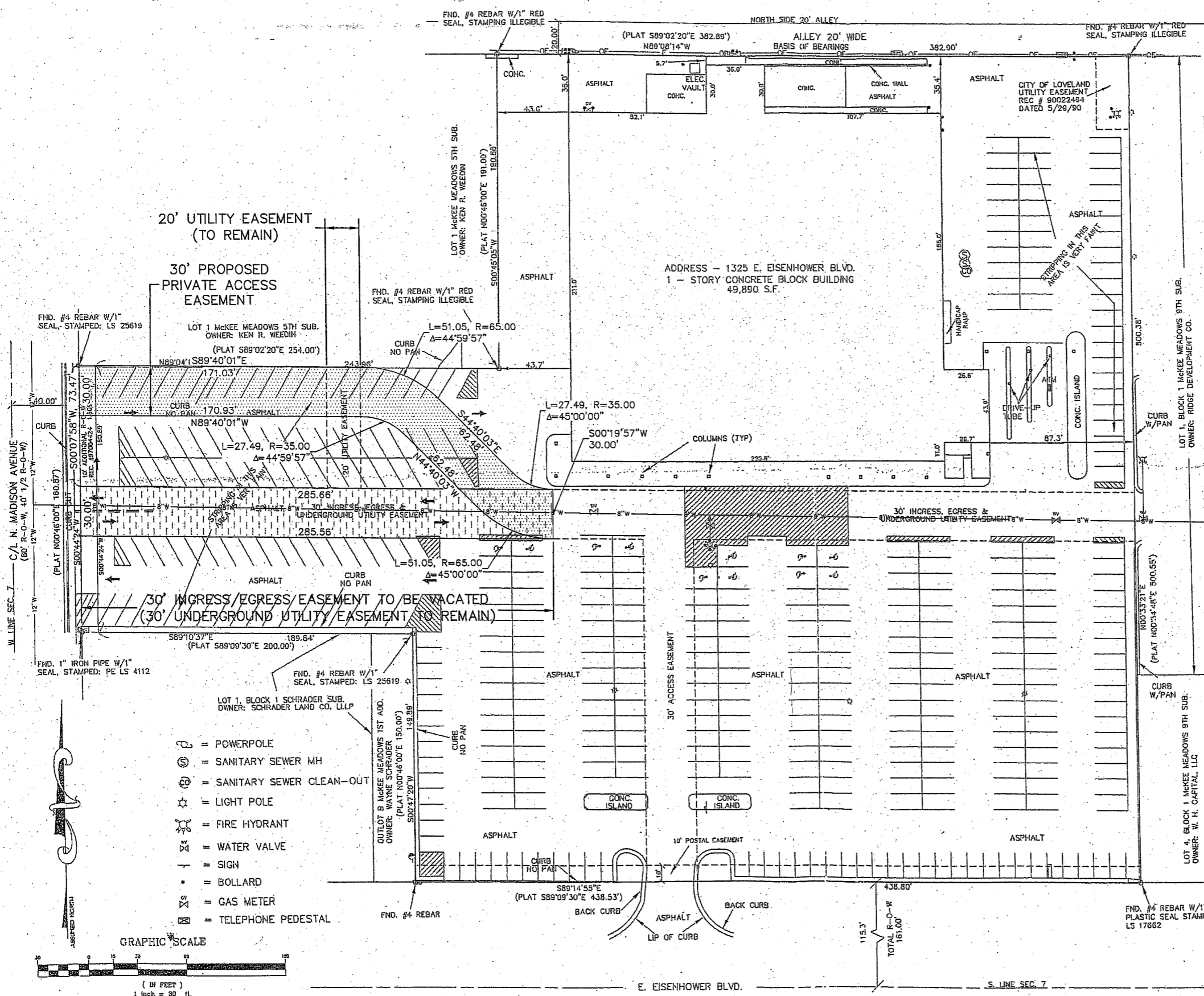
Michael Chad Dilka - on behalf of King Surveyors, Inc.
Colorado Licensed Professional Land Surveyor #38106



KING SURVEYORS, INC.
650 East Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
www.kingsurveyors.com

PROJECT NO: 2009045
DATE: 05/10/2010
CLIENT: INTERWEST CONSULTING GROUP
DWG: MCKEE MEADOWS 6TH SUB L4-VAC_R1
DRAWN: MCD CHECKED: MCD

Y:\Public Works\Civil\Engineering\CIP\EN0109 Madison 11th to 16th Street\FOR Design\DESIGN CAD\Ace Ermt Vacation\SitePlan-Ace.dwg, 9/3/2010 1:46:00 PM



Legal Description:
 Lot 4, McKee Meadows Sixth Subdivision, except that portion contained in Deed of Dedication to The City of Loveland recorded January 22, 1997 at Reception No. 97001424, City of Loveland, County of Larimer, State of Colorado. Said Lot 4 contains 5.198 acres more or less.

Legal Description provided by the client and describes the same property as the Title Commitment.

According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.

Basis of Bearing:
 Assumed the North line of Lot 4, McKee Meadows 6th Subdivision as having a measured bearing of N89°08'14"W (plotted bearing N89°02'20"W) said line being monumented as shown hereon.

NOTES:

- The locations of utilities as shown hereon are based on above-ground structures. Locations of underground utilities/structures may vary. Additional buried utilities/structures may be encountered. No excavations were made during the progress of this survey to locate buried utilities/structures. Before excavations are begun, contact the Utility Notification Center of Colorado at 1-800-922-1987 for verification of utility type and the field locations.
- FLOOD ZONE:** The subject property lies in Zone C (areas of minimal flooding) according to the F.E.M.A. Flood Insurance Rate Map, Community-Plan Number 880103 0010 D, Map revised March 23, 1995.
- Recorded and apparent rights-of-way and easements are shown per the recorded plats of McKee Meadows 5th & 6th Subdivisions to the City of Loveland, and the Title Commitment prepared by Transaction Title Insurance Company, Commitment No. 450766 C-2, dated December 15, 2003.

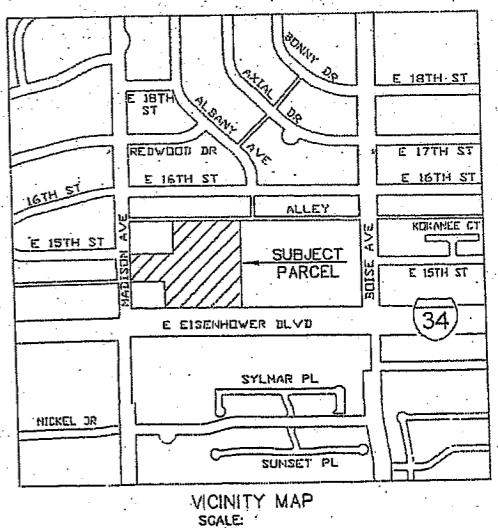
SCHEDULE B

- Terms, agreements, provisions, conditions and obligations as contained in Agreement as to Non-Exclusive Easement by and between Kenneth R. Weedin and Adcock Ltd., a Colorado Limited Partnership and Leveas Development Partnership, North Dakota General Partnership recorded September 29, 1993 at Reception No. 89044603.
- Terms, agreements, provisions, conditions, and obligations as contained in Memorandum of Lease Agreement and Option to Purchase by and between Leveas Development Partnership, LLP, a North Dakota Limited Liability Partnership and Albertson's Inc., a Delaware corporation recorded March 1, 2000 at Reception No. 200003333.
- Easements, notes, and rights-of-way as shown on the plats of McKee Meadows Fifth Subdivision and McKee Meadows Sixth Subdivision.
- Any and all existing leases and/or tenancies.
- Right of way, whether in fee or easement only, for utility systems, as granted to City of Loveland, Colorado by Leveas Development Partnership, recorded May 29, 1990 at Reception No. 90022494.


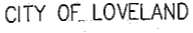
ZONING: The subject property is Zoned B - Developing Business, per the Zoning District Map of the City of Loveland, revised January, 2002. The following setbacks and height restrictions are set forth in the Loveland Municipal Code, Ch. 10.28.030 & Ch. 18.5.020:
 Minimum Yards:
 Front - 25'
 Side - 25'
 Rear - 15' Principal structure
 5' Detached necessary
 Building Height:
 Maximum building height - 40'
 Minimum necessary building height - 40'

The survey shown hereon was performed on the ground.

Permitting per Municipal Code 18.42.010 Retail business And Commercial uses:
 Required regular parking is 165 spaces, existing regular spaces is 385.
 Required Handicap parking is 3 spaces, existing Handicap spaces is 11.

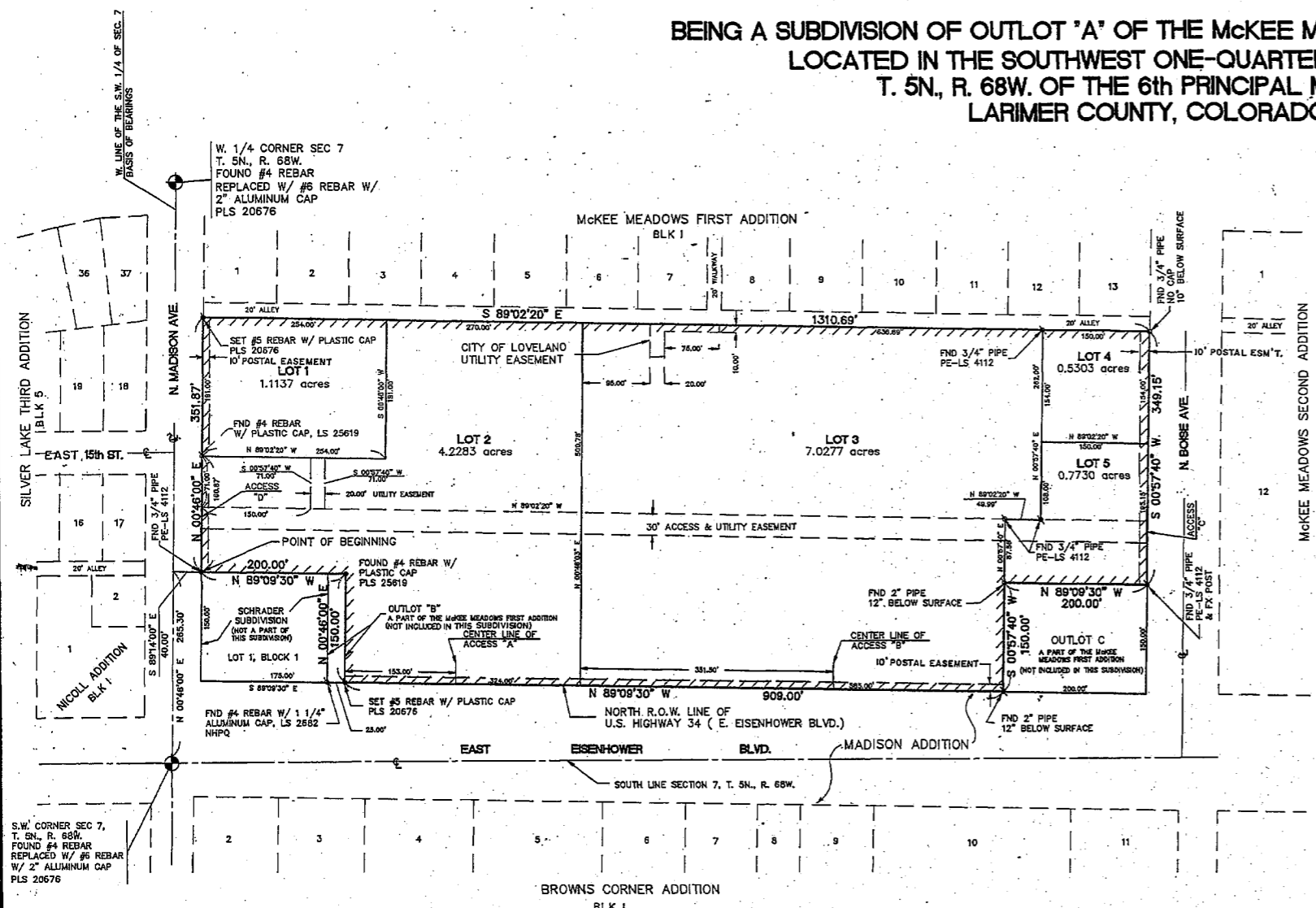


ATTACHMENT 4

Computer File Information Creation Date: 9/2/10 Initials: TK/SRA Last Modification Date: Initials: Full Path: Y:\Public Works\Civil\Engineering\CIP\EN0109 Madison 11th to 16th Street\FOR Design\DESIGN CAD\Ace Ermt Vacation\SitePlan-Ace.dwg Drawing File Name: SitePlan-Ace.dwg Acad Ver. C3D2011 Scale: 1"=30' Units: IMPERIAL		Sheet Revisions <table border="1"> <tr><td>R1</td><td></td></tr> <tr><td>R2</td><td></td></tr> <tr><td>R3</td><td></td></tr> <tr><td>R4</td><td></td></tr> <tr><td>R4</td><td></td></tr> </table>		R1		R2		R3		R4		R4		 CITY OF LOVELAND		PUBLIC WORKS ENGINEERING 410 East Fifth Street Loveland, Colorado 80537 Phone: (970) 962-2627 FAX: (970) 962-2908 www.ci.loveland.co.us/PublicWorks/PWMain/PWHomePage.htm		As Constructed No Revisions: Revised: Void:		SITE PLAN LOT 4 MCKEE MEADOWS 6TH SUBDIVISION		Project No. / Sub EN0109	
R1																							
R2																							
R3																							
R4																							
R4																							
						Sheet Subset: SITE Subset Sheets: 1 OF 1		Sheet Number 1															

McKEE MEADOWS FIFTH SUBDIVISION

BEING A SUBDIVISION OF OUTLOT 'A' OF THE McKEE MEADOWS FIRST ADDITION
LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 7,
T. 5N., R. 68W. OF THE 6th PRINCIPAL MERIDIAN,
LARIMER COUNTY, COLORADO



DEDICATION

"KNOWN ALL MEN BY THESE PRESENTS that we the undersigned, being all the owners and lienholders of the following described property, except any existing streets, roads or highways, located in Section 7, Township 5 North, Range 68 West of the 6th P.M., being more particularly described as follows:
Commencing at the Southwest corner of said Section 7;
Thence N 00°46'00" E along the West line of the Southwest One-quarter of said Section 7 a distance of 265.30 feet;
Thence S 89°14'00" E a distance of 40.00 feet to the TRUE POINT OF BEGINNING;
Thence N 00°46'00" E along the Easterly right-of-way line of Madison Avenue a distance 351.87 feet;
Thence S 89°02'20" E along the Northerly line of Outlet "A" of McKee Meadows First Addition a distance of 1310.69 feet;
Thence S 00°59'40" W along the Westerly right-of-way line of Boise Avenue a distance of 349.15 feet;
Thence N 89°09'30" W along the Northerly line of Outlet "C" of the McKee Meadows First Addition a distance of 200.00 feet;
Thence S 00°57'40" W along the Westerly line of said Outlet "C" a distance of 150.00 feet;
Thence N 89°09'30" W along the Northerly right-of-way line of U.S. Highway 34 a distance of 909.00 feet;
Thence N 00°46'00" E along the Easterly line of Outlet "B" of the McKee Meadows First Addition a distance of 150.00 feet;
Thence N 89°09'30" W along the Northerly lines of said Outlet "B" and the Schrader Subdivision a distance of 200.00 feet to the POINT OF BEGINNING. Containing 13.6730 acres, more or less,
do hereby subdivide the same into lots, blocks, recreation areas, passageways, streets, future streets, utility and other easements as shown on this map; and do hereby designate and dedicate all such recreation areas, parks, passageways, streets, future streets and easements, other than utility easements, to and for public use, all such utility easements to and for public use for the installation and maintenance of utility, irrigation and drainage facilities; and do hereby designate the same as McKEE MEADOWS FIFTH SUBDIVISION to the City of Loveland, Colorado. All expenses involving necessary improvements for a water system, sanitary sewer system, storm sewer system, curbs and gutters, sidewalks, street improvements, street signs, traffic control signs, alley grading and surfacing, gas service, electric service, grading and landscaping shall be paid by the Owner.

CERTIFICATION

"I, Michael J. DeDecker, being first duly sworn on his oath, deposes and says: that he is a registered land surveyor under the laws of the State of Colorado; that the survey of McKEE MEADOWS FIFTH SUBDIVISION to the City of Loveland Colorado was made by him or under his supervision; that the survey is accurately represented on this Map; and the statements contained thereon were read by him and the same are true of his own knowledge.

Michael J. DeDecker
Michael J. DeDecker

Kenneth R. Weedin
 Kenneth R. Weedin
 Norman K. Adcock, General Partner
 Adcock Ltd., A Colorado Limited Partnership by Norman K. Adcock, General Partner
 "STATE OF COLORADO, }
 COUNTY OF LARIMER, } ss.
 The foregoing instrument was acknowledged before me this 13th day of December, 1993 by Kenneth R. Weedin and Norman K. Adcock General Partner of Adcock Ltd., A Colorado Limited Partnership.
 Witness my hand and professional seal.
 My commission expires May 21, 1995
 Elizabeth C. Burns
 Notary Public
 Robert J. Leavers, Partner
 Leavers Development Partnership a North Dakota Limited Partnership
 "STATE OF North Dakota, }
 COUNTY OF Ramsey, } ss.
 The foregoing instrument was acknowledged before me this 20th day of December, 1993 by Robert J. Leavers as President and Partner as Secretary of Leavers Development Partnership a North Dakota Limited Partnership.
 Witness my hand and professional seal.
 My commission expires March 9, 1994
 Mary Brackman
 Notary Public
 Jerry B. Habibel, Pres. Larry A. Weibel, Sec.
 Green Ridge Builders Inc. a Colorado Corporation
 "STATE OF COLORADO, }
 COUNTY OF LARIMER, } ss.
 The foregoing instrument was acknowledged before me this 10th day of December, 1993 by Jerry B. Habibel as President and Larry A. Weibel as Green Ridge Builders Inc. a Colorado Corporation.
 Witness my hand and professional seal.
 My commission expires 10-2-94
 Margie Ferman
 Notary Public
 D.M. Keng, Jr. Executive VP.
 Equitable Savings and Loan Association
 "STATE OF COLORADO, }
 COUNTY OF LARIMER, } ss.
 The foregoing instrument was acknowledged before me this 14th day of December, 1993 by D.M. Keng, Jr. as Executive Vice President of Equitable Savings and Loan Association.
 Witness my hand and professional seal.
 My commission expires 8-25-97
 Thera G. Waldman
 Notary Public
 Sharon Offdecker
 Notary Public
 "STATE OF COLORADO, }
 COUNTY OF LARIMER, } ss.
 The foregoing instrument was acknowledged before me this 12th day of December, 1993 by Michael J. DeDecker as Surveyor of Key Bank of Colorado.
 Witness my hand and official seal.
 My commission expires 11-30-96
 Barbara J. Donnelly
 Notary Public

LEGEND:
 CONTROL CORNER FOUND AS DESCRIBED HEREON
 SET MONUMENT AS DESCRIBED HEREON
 MONUMENT FOUND AS DESCRIBED HEREON
 INDICATES ASSESSOR'S PARCEL NUMBER

SURVEY NOTES:
 1. The basis of bearings is N 00°46'00" E along the West line of the Southwest One-quarter of Section 7, between the monuments described hereon, and as shown on the final plat of the McKee Meadows First Addition.
 NOTICE: According to Colorado law, you MUST commence any legal action based on any defect in this survey within THREE years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than TEN years from the date of the certification shown hereon.

Approved this 17th day of February, 1994 by the City Planning Commission of the City of Loveland, Colorado.
 Approved this 5th day of February, 1994 by the City Engineer of the City of Loveland, Colorado.
 Approved this 31st day of January, 1994 by the Chief Planner of the City of Loveland, Colorado.
 This plat is approved and all public areas dedicated to the public use accepted this 10th day of January, 1994 by the City Council of the City of Loveland, Colorado.
 Ray Emerson Mayor
 Attest

DATE	REV.	RECORD OF ISSUE	BY	CK.	APP.	DESIGNED	RBT
12/14/93	1	GENERAL REVISIONS - PER REQUEST BY CITY	RBT	MJD	MJD	DRAWN	RBT
1/14/94	2	GENERAL REVISIONS - PER CITY COMMENTS				CHECKED	MJD/BMH
						APPROVED	MJD/BMH
						DATE	NOV. 4, 1993
						FIELD BOOK	
						SCALE	1"=100'

CDS Engineering Corporation

1714 Topaz Drive
LOVELAND, COLORADO 80537
(303) 667-8010

CLIENT: KENNETH R. WEEDIN and NORMAN K. ADCOCK
D/B/A McKEE MEADOWS SHOPPING CENTER

CDS ENGINEERING CORPORATION
Consulting Engineers and Professional Construction Managers
CIVIL, STRUCTURAL, ELECTRICAL, AND FOUNDATION ENGINEERS
DAMS AND RESERVOIRS, LAND AND MUNICIPAL PLANNING, LAND AND CONSTRUCTION SURVEYS
SOILS, CONCRETE, ASPHALT, TESTING, AND FIELD INSPECTION

PROJECT TITLE: McKEE MEADOWS FIFTH SUBDIVISION

SHEET TITLE: FINAL PLAT

McKEE MEADOWS SIXTH SUBDIVISION

A SUBDIVISION OF LOTS 2 AND 3 OF McKEE MEADOWS FIFTH SUBDIVISION
 LOCATED IN SECTION 7, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M.
 CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO

DEDICATION

"KNOWN ALL MEN BY THESE PRESENTS that we the undersigned, being all the owners and lienholders of the following described property, except any existing streets, roads or highways, located in Section 7, Township 5 North, Range 68 West of the 6th P.M., being more particularly described as follows:

Lots 2 and 3, McKee Meadows 5th Subdivision to the City of Loveland, Colorado. Containing 11.256 acres more or less.

Do hereby subdivide the same into lots, blocks, recreation areas, passageways, streets, future streets, utility and other easements as shown on this map; and do hereby designate and dedicate all such recreation areas, parks, passageways, streets, future streets and easements, other than utility easements, to and for public use, all such utility easements to and for public use for the installation and maintenance of utility, irrigation and drainage facilities; and do hereby designate the same as MCKEE MEADOWS 6TH SUBDIVISION, to the City of Loveland, Colorado. All expenses involving necessary improvements for a water system, sanitary sewer system, storm sewer system, curbs and gutters, sidewalks, street improvements, street signs, traffic control signs, alley grading and surfacing, gas service, electric service, grading and landscaping shall be paid by the owner.

OWNER: LEEVERS DEVELOPMENT PARTNERSHIP

John N. Leavers
 John N. Leavers
Robert J. Leavers
 Robert J. Leavers

State of NORTH DAKOTA)
 County of RAMSEY)SS

The foregoing instrument was acknowledged before me this 30th day of March 1995, by

Witness my hand and official seal.
 My commission expires 3-9-2000

Mary Bracken
 Notary Public
 Address: 1312 3rd Street
Devils Lake ND 58301

SURVEYOR'S CERTIFICATE

David M. Poeschl, being first duly sworn on his oath, deposes and says: that he is a registered land surveyor under the laws of the State of Colorado; that the survey of MCKEE MEADOWS SIXTH SUBDIVISION to the City of Loveland, Colorado, was made by him or under his supervision; that the survey is accurately represented on this map; and that the statements contained thereon were read by him and the same are true of his own knowledge.

David M. Poeschl
 David M. Poeschl, Colo. L.S. #17682
3-23-95

State of Colorado)
 County of Larimer)SS

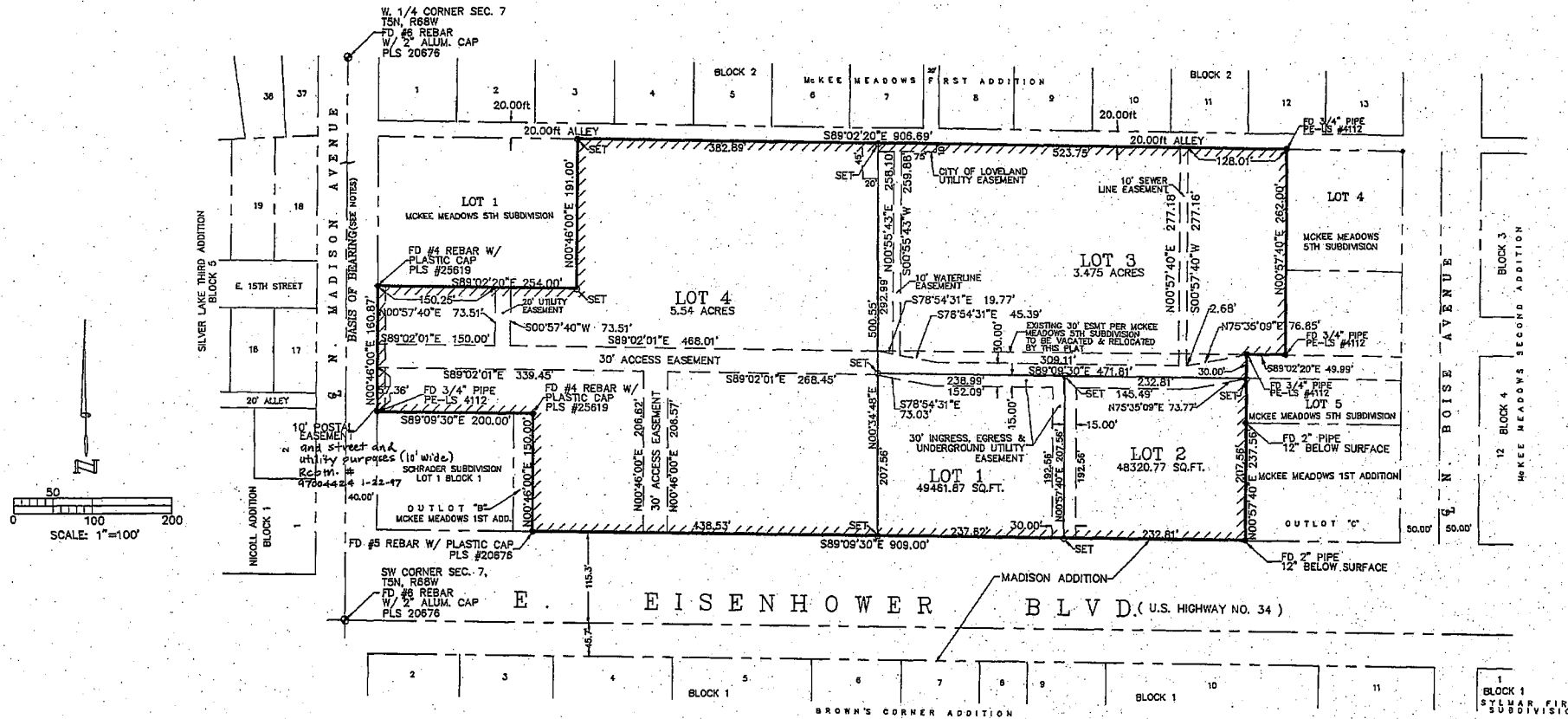
The foregoing instrument was acknowledged before me this 23 day of MARCH 1995, by

Witness my hand and official seal. My Commission expires Feb 15, 1999

Michael David Lang
 Notary Public
 Address: 1504 Dover Ave., So.



ATTACHMENT 6



Approved this 2nd day of MAY 1995, by the City Engineer of the City of Loveland, Colorado.
Thomas J. Latta
 City Engineer

This plat is approved and all public areas dedicated to the public are accepted this 11th day of April 1995, by the City Council of the City of Loveland, Colorado.
Lou Emerson
 Mayor
Robert J. Leavers
 Attest



- NOTE:
- SET=#4 REBAR 18" LONG WITH PLASTIC CAP LS #17662
 - PUBLIC IMPROVEMENTS SHALL BE DESIGNED AND APPROVED PRIOR TO THE DEVELOPMENT OF THIS SUBDIVISION.
 - THE BASIS OF BEARING IS N00°46'00"E ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 7(PER PLAT MCKEE MEADOWS FIFTH SUBDIVISION) AND IS MONUMENTED AS SHOWN.

Approved this 1st day of April 1995, by the Chief Planner of the City of Loveland, Colorado.
M. Latta
 Chief Planner

Approved this 21st day of April 1995, by the City Engineer of the City of Loveland, Colorado.
Chris
 Chairperson

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

NUMBER	REVISIONS	BY	DATE

Landstar Surveying, Inc.
 1327 North Lincoln Avenue, Loveland, Colorado 80537
 Ph(303)657-3294 Fax(303)667-7151

PROJECT NO: A7043 PRINT DATE: 03/30/95
 SCALE: 1"=100' DATE PREP: 12/21/94
 DESIGNER: CHECKED BY:
 DRAFTSMAN: RRB PREPARED:

FINAL PLAT OF
 MCKEE MEADOWS SIXTH SUBDIVISION

SHEET
 1
 1 SHEETS



CITY OF LOVELAND
CITY CLERKS OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2322 • FAX (970) 962-2901 • TDD (970) 962-2620

AGENDA ITEM: 9
MEETING DATE: 1/4/2011
TO: City Council
FROM: Terry Andrews, City Clerk
PRESENTER: Terry Andrews

TITLE:

A Resolution establishing the location for the posting of City of Loveland meeting notices

DESCRIPTION:

This is an administrative action. Approval of the Resolution will designate the bulletin board immediately adjacent to the Loveland City Council Chambers located at 500 East 3rd Street, City of Loveland, Colorado, as the location for the posting for all of the City of Loveland's written notices in the year 2011.

BUDGET IMPACT:

Yes No

SUMMARY:

C.R.S. Section 24-6-402(2)(c), requires City Council to designate a location for the posting for all of the City of Loveland's written notices. Due to its proximity to the City Clerk's Office and the Council Chambers, the bulletin board immediately adjacent to the Loveland City Council Chambers located at 500 East 3rd Street, City of Loveland, Colorado, has been used in preceding years and Staff is recommending the same location for 2011. Boards and Commission meeting notices would be posted at this location as well.

LIST OF ATTACHMENTS:

Resolution

RECOMMENDED CITY COUNCIL ACTION:

Approve Resolution #R-1-2011 as submitted.

REVIEWED BY CITY MANAGER:

RESOLUTION #R-1-2011

A RESOLUTION ESTABLISHING THE LOCATION FOR THE POSTING OF CITY OF LOVELAND NOTICES

WHEREAS, City Charter Section 4-4(b) requires that the notice of each regular and special City Council meeting shall be posted at least twenty-four hours in advance of the meeting; and

WHEREAS, under C.R.S. Section 24-6-402(2)(c) a local public body is deemed to have given full and timely notice of its meetings if the meeting notice is posted in a designated public place within the local public body’s boundaries no less than twenty-four hours prior to the holding of the meeting; and

WHEREAS, C.R.S. Section 24-6-402 (2)(c) further provides that the public place for posting such notice shall be designated annually by the local public body at its first regular meeting in each calendar year; and

WHEREAS, City Council meetings are held in the Council Chambers located at 500 E. 3rd St, immediately adjacent to the City Clerks Office.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, AS FOLLOWS:

Section 1. The City Council hereby designates the place for the posting of all meeting notices for the Loveland City Council and Loveland’s Boards and Commissions to be the bulletin board immediately adjacent to the Loveland City Council Chambers located at 500 East 3rd Street, City of Loveland, Colorado.

Section 2. This Resolution shall go into effect on the date of its adoption.


ADOPTED this 4th day of January, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney



CITY OF LOVELAND
FINANCE DEPARTMENT

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 10
MEETING DATE: 1/4/2011
TO: City Council
FROM: Bettie Greenberg, Finance
PRESENTER: Bettie Greenberg

TITLE: Authorize the City Manager to renew a contract with Pinnacol Assurance Company for workers' compensation coverage

DESCRIPTION:

This is an administrative action. The item for consideration would allow the City Manager to enter into a contract for \$1,015,000 with Pinnacol Assurance Company for Workers' Compensation coverage required by the State of Colorado. The contract stipulates that Pinnacol will provide workers' compensation insurance with a per claim deductible of \$200,000. The vendor will adjust workers' compensation claims in accordance with state law, pay claims and bill the City for the amount due under the deductible. They will provide loss control services to the City, including but not limited to industrial hygiene services, assistance with the development of training programs, resources and improvement of the City's safety programs.

BUDGET IMPACT:

Yes No

SUMMARY:

The \$1,015,000 is comprised of the 2011 premium to Pinnacol and the estimated claim payments that occur in 2011, which includes claim payments from prior years. The contract amount for 2010 was \$ 995,300. The total premium for 2011 was \$351,960 which consists of \$321,960 in premium (for claims that exceed the deductible and claims handling costs), \$30,000 loss fund deposit, non-subject premium of \$39,558 for firefighter cancer liability, terrorism and catastrophic loss coverage totaling \$9,662, and a \$165 policy fee. The cost for terrorism coverage is mandated by the federal government. The 2011 contact amount includes an estimated \$200,000 for 2010 claims outstanding and an estimated \$463,040 for 2011 claims. The City budgeted \$1,078,000 for workers' compensation in 2011 as there are still open claims with the City's prior workers' compensation insurer. We do not expect to exceed this amount. Staff will monitor the budget monthly and bring information back to council for an additional appropriation, if it appears that claims will exceed the current appropriation.

The rates are calculated based on claims experience and size of the organization. The deductible premium is based on total payroll and rates. In 2010, the total premium and loss fund deposit was \$387,454. The 2011 premium and deposit is \$35,494 less, which is approximately a 9% decrease over 2010. This decrease was due to several factors. First, there was a reduction in the payroll classification rates charged by Pinnacol. Additionally, the City's good claims history over the past few year resulted in a 13% credit. Finally, the City received a 5% credit for maintaining its workers' compensation cost containment certification from the State.

The City conducts a request for proposal every three to five years. The last request for proposal was in 2006 for the 2007 policy year.

LIST OF ATTACHMENTS:

PINNACOL ASSURANCE CONTRACT

RECOMMENDED CITY COUNCIL ACTION:

Authorize the City Manager to enter into a contract with Pinnacol Assurance Company for \$1,015,000 for workers' compensation coverage.

REVIEWED BY CITY MANAGER:

SERVICES CONTRACT

This Contract is entered into this ____ day of _____, 20____ by and between the **City of Loveland, Colorado** ("City") and **Pinnacol Assurance** ("Contractor").

Whereas, the parties desire to contract with one another to complete the following project: **Workers Compensation** .

Now, therefore, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. Services. The Contractor shall perform the services set forth in Exhibit A, attached hereto and incorporated herein by reference ("Services"). The Contractor represents that it has the authority, capacity, experience, and expertise to perform the Services in compliance with the provisions of this Contract and all applicable laws. The City reserves the right to remove any of the Services from Exhibit A upon written notice to Contractor. In the event of any conflict between this Contract and Exhibit A, the provisions of this Contract shall prevail.

2. Price. The City shall pay the Contractor a sum not to exceed **\$1,015,000**. The City shall make payment within thirty days of receipt and approval of monthly invoices, which shall identify the specific Services performed for which payment is requested.

3. Term. This Contract shall be effective from **January 1, 2011 through December 31, 2011**. This Contract may be extended or renewed by written agreement of the parties.

4. Appropriation. To the extent this Contract constitutes a multiple fiscal year debt or financial obligation of the City, it shall be subject to annual appropriation pursuant to the City of Loveland Municipal Charter Section 11-6 and Article X, Section 20 of the Colorado Constitution. The City shall have no obligation to continue this Contract in any fiscal year in which no such appropriation is made.

5. Independent Contractor. The parties agree that the Contractor is an independent contractor and is not an employee of the City. **The Contractor is not entitled to workers' compensation benefits from the City and is obligated to pay federal and state income tax on any money earned pursuant to this Contract.**

6. Insurance Requirements.

a. Policies. The Contractor and its subcontractors, if any, shall procure and keep in force during the duration of this Contract the following insurance policies and shall provide the City with a certificate of insurance evidencing upon execution of this Contract:

(i) Comprehensive general liability insurance insuring the Contractor and naming the City as an additional insured with minimum combined single

limits of \$1,000,000 each occurrence and \$1,000,000 aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.

(ii) Comprehensive automobile liability insurance insuring the Contractor and naming the City as an additional insured against any liability for personal injury, bodily injury, or death arising out of the use of motor vehicles and covering operations on or off the site of all motor vehicles controlled by the Contractor which are used in connection with this Contract, whether the motor vehicles are owned, non-owned, or hired, with a combined single limit of at least \$1,000,000.

(iii) Professional liability insurance insuring the Contractor against any professional liability with a limit of at least \$1,000,000 per claim and annual aggregate. *(Note: this policy shall only be required if the Contractor is an architect, engineer, surveyor, appraiser, physician, attorney, accountant, or other licensed professional.)*

(iv) Workers' compensation insurance and all other insurance required by any applicable law. *(Note: if under Colorado law the Contractor is not required to carry workers' compensation insurance, the Contractor shall execute a Certificate of Exemption and Waiver, attached hereto as Exhibit B and incorporated herein by reference.)*

b. Requirements. Required insurance policies shall be with companies qualified to do business in Colorado with a general policyholder's financial rating acceptable to the City. Said policies shall not be cancelable or subject to reduction in coverage limits or other modification except after thirty days prior written notice to the City. The Contractor shall identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal the Contractor changes to "occurrence," the Contractor shall carry a six-month tail. Comprehensive general and automobile policies shall be for the mutual and joint benefit and protection of the Contractor and the City. Such policies shall provide that the City, although named as an additional insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its officers, employees, and agents by reason of negligence of the Contractor, its officers, employees, agents, subcontractors, or business invitees. Such policies shall be written as primary policies not contributing to and not in excess of coverage the City may carry.

7. Indemnification. The Contractor agrees to indemnify and hold harmless the City, its officers, employees, and agents from and against all liability, claims, and demands on account of any injury, loss, or damage arising out of or connected with the Services, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other

fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom the Contractor is responsible. The Contractor shall investigate, handle, respond to, and defend against any such liability, claims, and demands, and shall bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage to the extent caused by the act, omission, or other fault of the City. This paragraph shall survive the termination or expiration of this Contract.

8. Governmental Immunity Act. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 *et seq.*

9. Compliance with Applicable Laws.

a. Generally. The Contractor shall comply with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the City. The Contractor shall solely be responsible for payment of all applicable taxes and for obtaining and keeping in force all applicable permits and approvals.

b. C.R.S. Article 17.5, Title 8. The Contractor hereby certifies that, as of the date of this Contract, it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and that the Contractor will participate in the e-verify program or Colorado Department of Labor and Employment ("Department") program as defined in C.R.S. § 8-17.5-101 in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. The Contractor certifies that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the e-verify program or the department program. The Contractor is prohibited from using either the e-verify program or the department program procedures to undertake pre-employment screening of job applicants while this Contract is being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall be required to: (i) notify the subcontractor and City within three days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (ii) terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Contractor shall comply with any reasonable request by the Department made in the course of an investigation that it is undertaking pursuant to the

authority established in C.R.S. Article 17.5, Title 8. If the Contractor violates this paragraph, the City may terminate this Contract for default in accordance with "Termination," below. If this Contract is so terminated, the Contractor shall be liable for actual and consequential damages to the City. (Note: this paragraph shall not apply to contracts: (i) for Services involving the delivery of a specific end product (other than reports that are merely incidental to the performance of said work); or (ii) for information technology services and/or products.)

c. C.R.S. § 24-76.5-103. If the Contractor is a natural person (i.e., not a corporation, partnership, or other legally-created entity), he/she must complete the affidavit attached hereto as Exhibit C and attach a photocopy of a valid form of identification. If the Contractor states that he/she is an alien lawfully present in the United States, the City will verify his/her lawful presence through the SAVE Program or successor program operated by the U.S. Department of Homeland Security. In the event the City determines that the Contractor is not lawfully present in the United States, the City shall terminate this Contract for default in accordance with "Termination," below.

10. Termination.

a. Without Cause. Either party may terminate this Contract without cause upon thirty days prior written notice to the other. The City shall be liable to pay the Contractor for Services performed as of the effective date of termination, but shall not be liable to the Contractor for anticipated profits.

b. For Default. Each and every term and condition hereof shall be deemed to be a material element of this Contract. In the event either party fails to perform according to the terms of this Contract, such party may be declared in default. If the defaulting party does not cure said breach within ten days of written notice thereof, the non-defaulting party may terminate this Contract immediately upon written notice of termination to the other. In the event of such termination by the City, the City shall be liable to pay the Contractor for Services performed as of the effective date of termination, but shall not be liable to Contractor for anticipated profits; provided, however, that the Contractor shall not be relieved of liability to the City for any damages sustained by the City by virtue of any default under this Contract, and the City may withhold payment to the Contractor for the purposes of setoff until such time as the exact amount of damages is determined.

11. Notices. Written notices shall be directed as follows and shall be deemed received when hand-delivered or emailed, or three days after being sent by certified mail, return receipt requested:

To the City:
Bettie Greenberg
City of Loveland
500 E. Third Street
Loveland, CO 80537
Email: greenb@ci.loveland.co.us

To the Contractor:
Pinnacol Assurance
7501 E. Lowry Blvd.
Denver, CO 80230
Email:

12. Special Provisions. Proof of insurance, etc. not required

13. Miscellaneous. This Contract contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties. In the event a court of competent jurisdiction holds any provision of this Contract invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Contract. The Contractor shall not assign this Contract without the City’s prior written consent. This Contract shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.

14. Electronic Signature. This Contract may be executed by electronic signature in accordance with C.R.S 24-71.3-101 *et seq.*

Signed by the parties on the date written above.

City of Loveland, Colorado

By: _____

Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

Contractor

By: _____

Title: _____

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____ by _____.

(Insert name of individual signing on behalf of the Contractor)

Notary's official signature

S E A L

Commission expiration date

EXHIBIT A – SERVICES

Provide workers' compensation insurance as agreed upon by the City and the Consultant. Adjust workers' compensation claims in accordance with state laws, pay claims, and bill the City for the premium in quarterly installments and monthly for applicable claims to be reimbursed under the City's deductible amount.

Consultant will provide loss control services to the City on an as needed basis, including but not limited to industrial hygiene, assistance with the development of training programs and training resources, and the development of safety programs.

EXHIBIT B – CERTIFICATE OF EXEMPTION AND WAIVER

DIRECTIONS:

- ✓ If the Contractor is NOT required under Colorado law to carry workers’ compensation insurance and DOES NOT carry it, this exhibit MUST be completed and attached to the Contract.
- ✓ If the Contractor IS required under Colorado law to carry workers’ compensation insurance and DOES carry it, this exhibit IS NOT REQUIRED and may be discarded.

The Contractor certifies to the City that it is not required to carry workers’ compensation insurance under the Colorado Workers’ Compensation Act. The Contractor acknowledges that it will be engaging in activities that may expose it to risk of bodily injury. The Contractor affirms that it is physically capable of performing the activities and that all necessary precautions to prevent injury to the Contractor and others will be taken. The Contractor shall not hold the City liable for any injuries that may arise during or resulting from the work performed under the Contract, and the Contractor shall defend, indemnify, and hold harmless the City from all such claims.

Contractor

By: _____

Title: _____

STATE OF _____)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
 20____ by _____.
 (Insert name of individual signing on behalf of the Contractor)

Notary’s official signature

S E A L

Commission expiration date

EXHIBIT C – AFFIDAVIT

DIRECTIONS:

- ✓ If the Contractor is an individual, this exhibit **MUST** be completed and attached to the Contract. A copy of a valid form of identification **MUST** be attached.
- ✓ If the Contractor is a corporation, partnership, or other legally-created entity, this exhibit **IS NOT REQUIRED** and may be discarded.

I swear or affirm under penalty of perjury under the laws of the State of Colorado that (check **one**):

_____ **I am a United States citizen.**
(Valid I.D. must be provided)

or

_____ **I am a legal permanent resident of the United States.**
(Alien registration number and valid I.D. must be provided)

or

_____ **I am lawfully present in the United States pursuant to federal law.**
(Alien registration number and valid I.D. must be provided)

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under C.R.S. § 18-8-503 and that it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature
C.R.S. 24-76.5-103
Date
Rev. 1-1-2010

Internal Use Only – Valid Forms of Identification
<ul style="list-style-type: none"> Current Colorado driver’s license, minor driver’s license, probationary driver’s license, commercial driver’s license, restricted driver’s license, or instruction permit. Current Colorado identification card. U.S. military card or dependent identification card. U.S. Coast Guard Merchant Mariner card. Native American tribal document. Original birth certificate from any state of the U.S. Certificate verifying naturalized status by U.S. with photo and raised seal. Certificate verifying U.S. citizenship by U.S. government (e.g., U.S. passport). Order of adoption by a U.S. court with seal of certification. Valid driver’s license from any state of the U.S. or the District of Columbia excluding AK, HI, IL, MD, MI, NE, NM, NC, OR, TN, TX, UT, VT and WI. Valid immigration documents demonstrating lawful presence (e.g., current foreign passport with current I-551 stamp or visa, current foreign passport with I-94, I-94 with asylum status, unexpired Resident Alien card, Permanent Resident card or Employment Authorization card).
<p><i>Note: If an individual has identification (excluding driver’s licenses) not included on this list, contact the Department Director. Also, a waiver may be available where no identification exists or can be obtained due to a medical condition, homelessness, or insufficient documentation to receive a Colorado driver’s license or identification card.</i></p>



CITY OF LOVELAND
WATER & POWER DEPARTMENT
200 North Wilson • Loveland, Colorado 80537
(970) 962-3000 • FAX (970) 962-3400 • TDD (970) 962-2620

AGENDA ITEM: 11
MEETING DATE: 1/4/2011
TO: City Council
FROM: Bob Miller, Power Division, Water & Power Department
PRESENTER: Bob Miller

TITLE:

A Resolution Approving the Grant of an Easement to Larimer County, Colorado for a Recreational Trail

DESCRIPTION:

This is an administrative action to grant an easement to Larimer County for the construction and maintenance of a recreational trail across property owned by the City of Loveland.

BUDGET IMPACT:

Yes No

SUMMARY:

Larimer County is in the process of constructing a recreational trail. County staff approached the Power Division with a request that the City of Loveland grant the County an easement in order to continue the trail and connect it with existing and proposed portions of the trail. The trail will be for non-motorized use only and will be located on the western-most portion of the City's property, which is the site of the City's Horseshoe Substation. The proposed trail will not negatively affect the Power Division's use of the property. Power Division staff and Parks & Recreation staff have reviewed this request and recommend that City Council approve the easement on the terms and conditions set forth therein.

LIST OF ATTACHMENTS:

Resolution
Grant of Easement for Recreational Trail (attached to the Resolution as Exhibit A)

RECOMMENDED CITY COUNCIL ACTION:

Adopt the attached Resolution

REVIEWED BY CITY MANAGER:

RESOLUTION #R-2-2011

A RESOLUTION APPROVING THE GRANT OF AN EASEMENT TO LARIMER COUNTY, COLORADO FOR A RECREATIONAL TRAIL

WHEREAS, the City of Loveland is the owner of certain real property located in Larimer County, Colorado (the "Property"); and

WHEREAS, Larimer County, Colorado ("Larimer County") desires to construct and maintain a recreational trail for non-motorized public use across portions of the Property and has requested an easement from the City authorizing said use; and

WHEREAS, the City desires to grant the easement to Larimer County on the terms and conditions set forth in the "Grant of Easement for Recreational Trail," attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the "Grant of Easement for Recreational Trail," attached hereto as Exhibit A and incorporated herein by reference (the "Easement"), is hereby approved.

Section 2. That the City Manager and the City Clerk are hereby authorized and directed to execute the Easement on behalf of the City.

Section 3. That the City Manager is hereby authorized, following consultation with the City Attorney, to approve changes to the form of the Easement, provided that such changes do not impair the intended purposes of this Resolution.

Section 4. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 4th day of January, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

Exhibit A to Resolution

GRANT OF EASEMENT FOR RECREATIONAL TRAIL

THIS GRANT OF EASEMENT is made this 5th day of January, 2011, by and between the CITY OF LOVELAND, COLORADO, a municipal corporation ("Grantor" or the "City"), and LARIMER COUNTY, COLORADO, a political subdivision of the State of Colorado ("Grantee" or "Larimer County").

WHEREAS, the City is the owner of certain real property located in Larimer County, Colorado (the "Property"); and

WHEREAS, Larimer County desires to construct and maintain a recreational trail for non-motorized public use across portions of the Property and desires to obtain an easement from the City authorizing such installation; and

WHEREAS, the City desires to convey the easement necessary to construct the recreational trail to Larimer County (the "Easement"), subject to the terms and conditions set forth herein.

NOW THEREFORE, for and in consideration of the recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor has this day bargained and sold, and by these presents does bargain, sell, convey, transfer, and deliver unto Grantee, its successors, and assigns an easement in, over, and across the real estate hereinafter described, including the perpetual right to enter upon said property to construct a trail for non-motorized public use across and through the lands hereinafter described and to repair, replace, relocate, inspect, and operate said trail; provided, however, that Grantee shall restore the ground surface to its prior condition after disturbing the same. The term "recreational trail" as used herein shall be broadly defined to include recreational trail infrastructure, and equipment and structures associated therewith (the "Infrastructure").

The Easement hereby granted, is situated in Larimer County, Colorado and is described as follows:

See document labeled Exhibit A, attached hereto and incorporated herein, for legal description and map.

TO HAVE AND HOLD said Easement unto Grantee, its successors, and assigns forever.

It is hereby mutually covenanted and agreed by and between the parties hereto as follows:

- (1) The foregoing grant of Easement is subject and subordinate to the prior and continuing right of the City to use the entire Easement for its own purposes, including the right to add, modify, reconstruct, remove, inspect, or replace any existing improvements located within the Easement, without any liability to Larimer County for the impact such actions may have on the Infrastructure or the rights granted herein.

(2) The City reserves the right to consent to other uses or to grant other rights, including easements, within the Easement, provided that such conveyances shall not unreasonably interfere with the Infrastructure herein authorized.

(3) Larimer County shall not begin construction of the Infrastructure until the City has received, reviewed, and approved the final plans and specifications, and an anticipated schedule for such installation. Subsequent to receipt of the approval from the City, Larimer County shall give the City two (2) weeks written notice prior to the commencement of construction. Larimer County shall instruct its contractor to stay clear of and protect all existing City facilities during construction. Specifically, and without limiting the foregoing, Larimer County shall not change the grade of the area located within five (5) feet of either side of the center line of the existing City underground distribution system without written permission of the City. Larimer County shall stop construction work if a City inspector requires such stoppage to protect City facilities. Any damage done to City facilities during the construction, operation, or maintenance of the Infrastructure shall be at the expense of Larimer County.

(4) Larimer County shall, except in an emergency, provide the City with three (3) working days written notice along with a description of the work to be performed prior to the commencement of any future work involving construction, maintenance, reconstruction, relocation, or removal of the Infrastructure within the Easement. Notwithstanding the foregoing, Larimer County shall provide four (4) weeks advanced written notice if the construction, maintenance, reconstruction, relocation, or removal of the Infrastructure within the Easement requires an outage of any transmission line that is located within or in close proximity to the Easement and any such work may only proceed upon the written approval of the City. Larimer County shall be required to stop any future work if a City inspector requires such stoppage to protect City facilities. In an emergency Larimer County shall provide notice to the City as soon as practical of any work required to be performed.

(5) Larimer County has been fully advised that the City's electrical facilities and conductors, which are on or may be installed in the future within the Easement, transmit, or may transmit, electrical energy of as much as 12,470 volts or more. Larimer County shall fully advise all of its employees, agents, and contractors who may enter upon the Easement property of the dangers involved and the precautions and safety measures to be taken.

(6) Larimer County shall provide and keep in full force and effect Workers' Compensation insurance pursuant to the laws of Colorado or any state having comity with Colorado on all employees entering upon the Easement property. Larimer County shall require any contractor or sub-contractor hired by Larimer County to provide and keep in full force and effect Workers' Compensation insurance pursuant to the laws of Colorado or any other state having comity with Colorado on any employees of said contractor or subcontractor entering upon the Easement property. Larimer County shall also keep in full force and effect liability and automobile insurance during the construction work.

(7) To the extent permitted by law, Larimer County shall at all times protect, indemnify, hold harmless, and defend the City, its officers, agents, or employees from any and all claims, actions, or damages whatsoever, to any person or persons and property including, but not limited to, employees of Larimer County or its contractors or subcontractors or their employees, arising as a result of the construction or maintenance of the Infrastructure. No term or condition of this

Agreement shall be construed or interpreted as a waiver, either express or implied, of the notice requirements, immunities, rights, benefits, defenses, limitations and protections available to County under the Colorado Governmental Immunity Act as currently written or hereafter amended

(8) It shall be the sole obligation of Larimer County to obtain any land use or other approvals authorizing construction and maintenance of the Infrastructure over the Easement property as it may need in addition to this Easement.

(9) Larimer County shall, at its sole expense, clear the Easement property of all construction debris and repair all fences or other facilities or appurtenances which may be affected by its construction.

(10) In the event any third party underground facilities are encountered during any work, due care shall be taken not to damage such facilities. In the event such facilities are damaged, such repairs as may be necessary shall be made at the sole expense of Larimer County.

Executed this 5th day of January, 2011.

ATTEST:

CITY OF LOVELAND, COLORADO

City Clerk

By: _____
William D. Cahill, City Manager

APPROVE AS TO FORM:

Assistant City Attorney

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing GRANT OF EASEMENT FOR RECREATIONAL TRAIL was acknowledged before me this 5th day of January, 2011 by William D. Cahill as City Manager and Teresa Andrews as City Clerk of the City of Loveland, Colorado.

Witness my hand and official seal.

Notary's official signature

Commission expiration date

THE FOREGOING GRANT OF EASEMENT FOR RECREATIONAL TRAIL IS HEREBY
ACKNOWLEDGED, AND ITS TERMS AND CONDITIONS ARE ACCEPTED, BY
LARIMER COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS OF
LARIMER COUNTY, COLORADO

By: _____
Chair

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing GRANT OF EASEMENT FOR RECREATIONAL TRAIL was
acknowledged before me this ____ day of January, 2011 by _____
as _____ of Larimer County, Colorado.

Witness my hand and official seal.

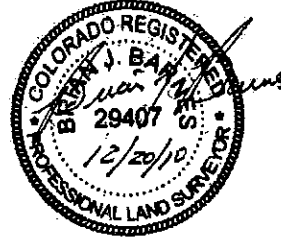
Notary's official signature

Commission expiration date

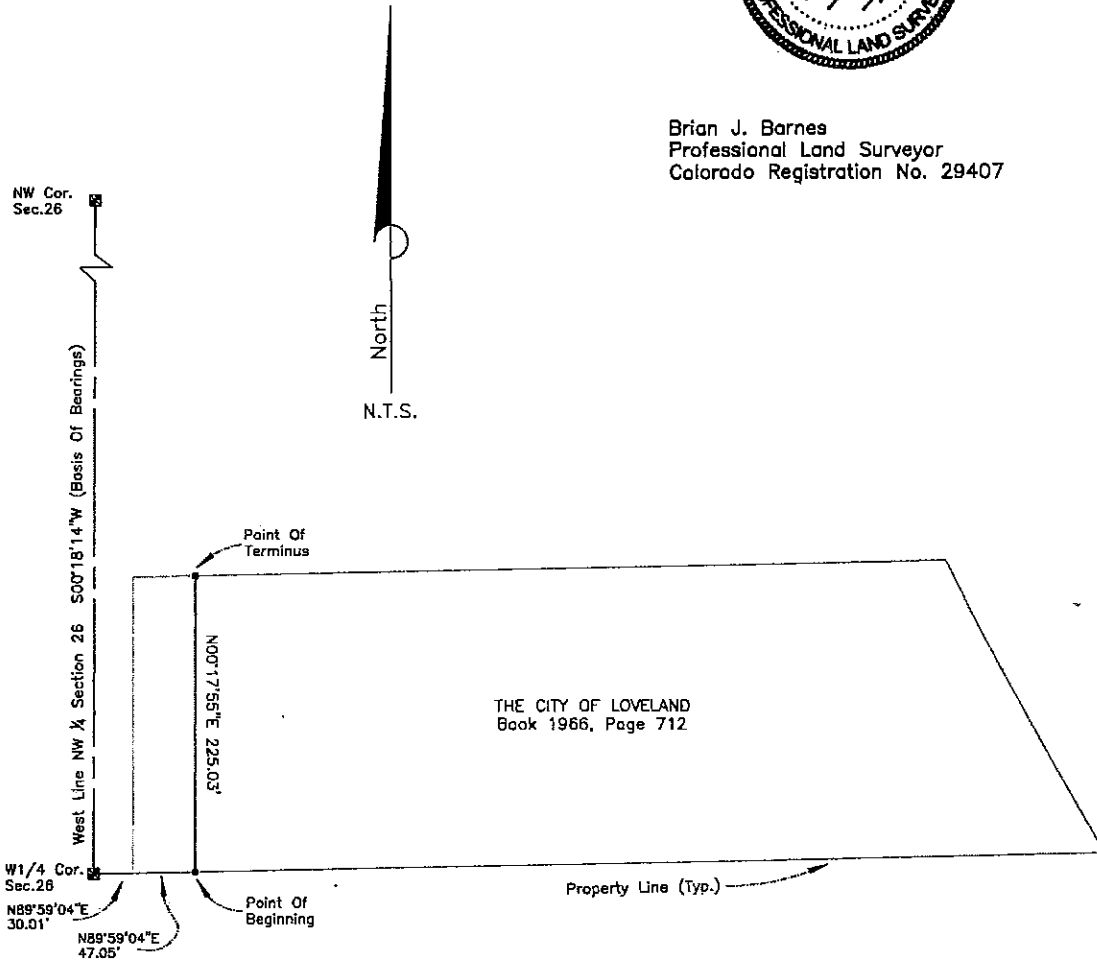
EXHIBIT A

Description of a permanent trail easement 30 feet in width located in the Northwest Quarter of Section 26, Township 6 North, Range 69 West of the Sixth Principal Meridian, Larimer County, Colorado, the centerline of said easement being more particularly described as follows:

Considering the West line of the Northwest Quarter of said Section 26 as bearing $S00^{\circ}18'14''W$ and with bearings contained herein relative thereto.
 Commencing at the West Quarter Corner of said Section 26, thence $N89^{\circ}59'04''E$, 30.01 feet to the Southwest corner of that certain tract of land as described in Book 1966, Page 712 (records of said county); thence along said South line $N89^{\circ}59'04''E$, 47.05 feet to the Point Of Beginning; thence departing said South line $N00^{\circ}17'55''E$, 225.03 feet more or less to a point on the North line of said tract of land; said point also being the Point Of Terminus. The sidelines of said Easement are prolonged or for-shortened as to terminate on the North and South lines of said tract of land.
 The above described parcel contains 0.16 acres more or less.



Brian J. Barnes
 Professional Land Surveyor
 Colorado Registration No. 29407





CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 12
MEETING DATE: 1/4/2011
TO: City Council
FROM: Greg George, Development Services Department
PRESENTER: Bethany Clark

TITLE:

A PUBLIC HEARING TO CONSIDER:

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR A STATE HISTORICAL GRANT FOR A STRUCTURAL ASSESSMENT OF THE ELKS LODGE BUILDING

DESCRIPTION:

This is an administrative action appropriating funds totaling \$14,000 for a Historic Structural Assessment of the Lovelander Hotel/Elks Lodge #1051 (103 E. 4th Street). Funding for the ordinance is from a State Historical Fund Grant. The City has no matching requirements but we will be required to manage the grant.

BUDGET IMPACT:

Yes No

Funding is from State grant funds. No City funds are required.

SUMMARY:

In September 2010, the City of Loveland applied for a Historic Structure Assessment grant from the State Historical Fund for the building in question. This monumental, 3-story building originally opened as the Lovelander Hotel in 1913 and represents a time of economic prosperity in Loveland. The Loveland Elks Lodge #1051 purchased the building in 1927 and it has continued to be an integral part of Loveland's downtown since then. The former Lovelander Hotel possesses a great deal of historical and architectural significance and this historic structural assessment will be the first step toward the preservation of this prominent, downtown building.

The Historic Structure Assessment will provide the Elks Lodge with the tools needed to seek further restoration grants from the State Historical Fund and/or other sources. With a structural assessment, they hope to gain an awareness of issues with the building, a sense of monetary commitment needed for repairs, and information necessary to make future restoration decisions.

The building is under consideration by Artspace as a potential location for their artist's housing project. This grant will help to inform that process.

Since the beginning of the Historic Preservation Program in 2003, the City has undertaken similar structural assessments for privately owned buildings, including the structural assessment of the Odd Fellows building. Upon acceptance of the grant, City staff will subcontract with an architect who will complete the structural assessment.

LIST OF ATTACHMENTS:

- A. Ordinance
-

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for Council action:

“Move to adopt on first reading AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR A STATE HISTORICAL GRANT FOR A STRUCTURAL ASSESSMENT OF THE ELKS LODGE BUILDING.”

REVIEWED BY CITY MANAGER:

FIRST READING January 4, 2011

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR A STATE HISTORICAL GRANT FOR A STRUCTURAL ASSESSMENT OF ELKS LODGE BUILDING

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That revenues in the amount of \$14,000 from a State Historical Grant in the General Fund 01 are available for appropriation. These revenues are appropriated for a structural assessment of the Elks Lodge Building. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund - Elks Lodge Historic Assessment**

Revenues		
001-1914-344-24-00	State Historical Grant	14,000
Total Revenue		14,000
 Appropriations		
001-1914-409-03-50	Professional Services	14,000
Total Appropriations		14,000

Section 2. That as provided in City Charter Section 11-5(d), this Ordinance shall be effective upon final adoption.

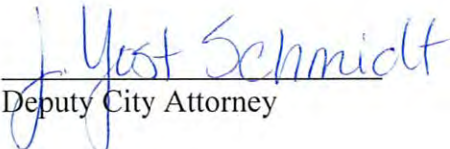
ADOPTED this ____ day of January, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 13
MEETING DATE: 1/4/2011
TO: City Council
FROM: Greg George, Development Services Department
PRESENTER: Bethany Clark

TITLE:
 A PUBLIC HEARING TO CONSIDER:

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR A STATE HISTORICAL GRANT AND CONTRIBUTIONS TO RESTORE THE ODD FELLOWS BUILDING.

DESCRIPTION:

This is an administrative action. The ordinance appropriates funds in the amount of \$98,880 from a State Historical Grant and contributions in the amount of \$20,460 from the Odd Fellows Lodge for the restoration of the Majestic Theater/Odd Fellows Lodge Building (319 E. 4th Street). The City has no matching requirements but we will be required to manage the grant.

BUDGET IMPACT:

Yes No

The funding is from sources outside the City so there is no impact to the City Budget.

SUMMARY:

In April 2010, the City of Loveland applied for an Exterior Rehabilitation and Restoration grant from the State Historical Fund for the building in question. The former Majestic Theater, built in 1919 and now owned by the International Order of Odd Fellows, is one of four three-story masonry buildings on downtown 4th Street. The Odd Fellows worked with the City to place this building on the Loveland Historic Register to facilitate their plans to preserve and restore the building. As a non-profit, the Odd Fellows are eligible for grant funding for building restoration.

This grant will address the first phase in the restoration of this historic theater. The project includes rehabilitation of the masonry on the street façade, rehabilitation of roof drainage, fire

escape rehabilitation, and restoration of the southeast entrance to begin the revitalization of the prominent street façade of the building.

Since the beginning of the Historic Preservation Program in 2003, the City has undertaken similar rehabilitation and restoration projects for privately owned buildings, including the Lincoln Hotel and the Timberlane Farm Granary. Upon acceptance of the grant, City staff will subcontract with SlaterPaul Architects to complete the architectural and engineering work necessary to move forward with the building restoration. Once construction documents and specifications for the restoration work are received, City staff will follow all required procedures regarding bidding of this project. Physical work is likely to begin in the spring of 2011.

LIST OF ATTACHMENTS:

- A. Ordinance

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for Council action:

“Move to adopt on first reading AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR A STATE HISTORICAL GRANT AND CONTRIBUTIONS TO RESTORE THE ODD FELLOWS BUILDING.”

REVIEWED BY CITY MANAGER:

FIRST READING January 4, 2011

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR A STATE HISTORICAL GRANT AND CONTRIBUTIONS TO RESTORE THE ODD FELLOWS BUILDING

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That revenues in the amount of \$98,880 from a State Historical Grant and \$20,460 from the Odd Fellows Lodge in the General Fund 01 are available for appropriation. These revenues are appropriated for the restoration of the Odd Fellows Building. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund -Odd Fellows Bulding Restoration**

Revenues		
001-1914-334-24-00 SP0703	State Historical Grant	98,880
001-1914-363-00-00 SP0703	Contributions	20,460
Total Revenue		119,340
 Appropriations		
001-1914-409-04-48 SP0703	Historic Preservation	119,340
Total Appropriations		119,340

Section 2. That as provided in City Charter Section 11-5(d), this Ordinance shall be effective upon final adoption.

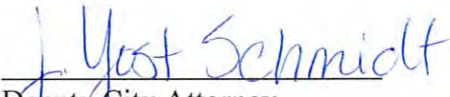
ADOPTED this ____ day of January, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 14
MEETING DATE: 1/4/2011
TO: City Council
FROM: Greg George, Development Services Department
PRESENTER: Bethany Clark

TITLE:

A PUBLIC HEARING TO CONSIDER:

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND URBAN RENEWAL AUTHORITY BUDGET FOR A FAÇADE GRANT TO THE ODD FELLOWS LODGE.

DESCRIPTION:

This is an administrative action. The City Council serves as the Commissioners of the Board of the Loveland Urban Renewal Authority. The ordinance appropriates funds totaling \$12,500 for a façade grant as part of the restoration of the Majestic Theater/Odd Fellows Lodge Building (319 E. 4th Street).

BUDGET IMPACT:

Yes No

Fund balance from the original seed money for the façade grants is available for appropriation.

SUMMARY:

On May 18, 2010, City Council, serving as the Board of Commissioners for the Loveland Urban Renewal Authority, unanimously approved the awarding of a façade mini-grant to the Independent Order of Odd Fellows through Resolution #R-19-2010. This façade grant was then used to leverage support for a competitive Exterior Rehabilitation and Restoration grant from the State Historical Fund for the building. The former Majestic Theater, built in 1919 and now owned by the Independent Order of Odd Fellows, is one of four three-story masonry buildings on downtown 4th Street. The Odd Fellows worked with the City to place this building on the Loveland Historic Register to facilitate their plans to preserve and restore the building. As a non-profit, the Odd Fellows are eligible for grant funding for building restoration.

This grant will address the first phase in the restoration of this historic theater. The project includes rehabilitation of the masonry on the street façade, rehabilitation of roof drainage, fire escape rehabilitation, and restoration of the southeast entrance to begin the revitalization of the prominent street façade of the building.

Since the beginning of the Historic Preservation Program in 2003, the City has undertaken similar rehabilitation and restoration projects for privately owned buildings, including the Lincoln Hotel and the Timberlane Farm Granary. Upon acceptance of the grant, City staff will subcontract with SlaterPaull Architects to complete the architectural and engineering work necessary to move forward with the building restoration. Once construction documents and specifications for the restoration work are received, City staff will follow all required procedures regarding bidding of this project. Physical work is likely to begin in the spring of 2011.

LIST OF ATTACHMENTS:

- A. Ordinance

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for Council action:

“Move to adopt on first reading AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND URBAN RENEWAL AUTHORITY BUDGET FOR A FAÇADE GRANT TO THE ODD FELLOWS LODGE.”

REVIEWED BY CITY MANAGER:

FIRST READING January 4, 2011
SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND URBAN RENEWAL AUTHORITY BUDGET FOR A FAÇADE GRANT TO THE ODD FELLOWS LODGE

WHEREAS, the City Council has reserved funds for Capital projects that could not be anticipated at the time adoption; and

WHEREAS, the City has these reserved funds on hand not appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That reserves in the amount of \$12,500 in the Loveland Urban Renewal Authority Fund 37 from the reaming balance of the Façade Grant Program are available for appropriation. These reserves are appropriated for a Façade Grant to the Odd Fellows Lodge. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
LURA -Odd Fellows Bulding Façade Grant**

Revenues			
Fund Balance			12,500
Total Revenue			12,500
Appropriations			
037-8004-409-04-02 SP0703	Façade Grant		12,500
Total Appropriations			12,500

Section 2. That as provided in City Charter Section 11-5(d), this Ordinance shall be effective upon final adoption.

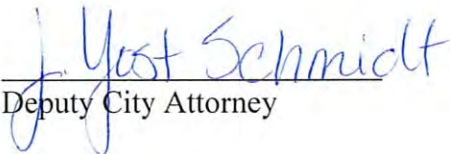
ADOPTED this ____ day of January, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



CITY OF LOVELAND
BUSINESS DEVELOPMENT OFFICE
 Civic Center • 500 East Third • Loveland, Colorado 80537
 (970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 15
MEETING DATE: 1/4/2011
TO: City Council
FROM: Betsey Hale, Business Development Manager
PRESENTER: Betsey Hale, Business Development Manager

TITLE:

A public hearing to consider an ordinance amending Chapter 2.60 of the Loveland Municipal Code to add Section 2.60.290 creating the Creative Sector Development Advisory Commission

DESCRIPTION:

This legislative action is a follow up from the December 7th City Council meeting at which the City Council approved the Intergovernmental Agreement with Aims Community College to establish the Office of Creative Sector Development. According to the Business Plan attached to the agreement the City Council must appoint an advisory commission. This is first reading of the amendment to the municipal code.

BUDGET IMPACT:

Yes No

SUMMARY:

The Office of Creative Sector Development (OCSD) is being established to assist in the retention, creation and attraction of jobs in the creative sector of Loveland. As outlined in the OCSD business plan, which was approved as part of the approval of the IGA with Aims Community College, the City Council must appoint a 7 member commission and two alternates. The City Council must amend the City Code to create this new commission. The commission will be in place until December 31, 2013 unless otherwise approved by City Council.

LIST OF ATTACHMENTS:

Ordinance amending Chapter 2.60 of the Loveland Municipal Code

RECOMMENDED CITY COUNCIL ACTION: Adopt the Ordinance on first reading

REVIEWED BY CITY MANAGER:

FIRST READING January 4, 2011

SECOND READING _____

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 2.60 OF THE LOVELAND
MUNICIPAL CODE TO ADD SECTION 2.60.290 CREATING THE
CREATIVE SECTOR DEVELOPMENT ADVISORY COMMISSION**

WHEREAS, by adoption of Resolution #R-74-2010 the City Council approved an Intergovernmental Agreement (the “IGA”) with Aims Community College (“Aims”) to establish the Office of Creative Sector Development (“OCSD”) to provide a central location for staff and volunteers to develop and implement creative sector related business retention and attraction strategies, provide training related to the business of the creative sector, facilitate networking for the promotion of creative sectors events, and sales of art or other creative sector products for the purpose of attracting new wealth, creative sector r elated businesses and organizations to Loveland; and

WHEREAS, the City and Aims anticipate that the OCSD will operate under the IGA on an annual basis for a pilot period of approximately three years ending on December 31, 2013; and

WHEREAS, the business plan for the Office of Creative Sector Development included in the IGA contemplates an advisory board to provide direction and guidance as well as assistance with fundraising and networking for financial sustainability; and

WHEREAS, City Council desires to create the Creative Sector Development Advisory Commission as an advisory body to Council for the foregoing purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That Chapter 2.60 of the Loveland Municipal Code is hereby amended by the addition of Section 2.60.290 to read as follows:

2.60.290 Creative Sector Development Advisory Commission.

A. There is established a creative sector development advisory commission consisting of seven members appointed by the city council. Members on the commission shall have a background in, experience in, or a commitment to the arts, arts education, or other creative sector fields, including but not limited to marketing, economic development and community development related to the creative sector. Each member of the commission shall be appointed for a three-year term. In addition to city council and staff liaisons as provided in

City Code section 2.60.030, a representative appointed by Aims Community College shall be a non-voting ex-officio member of the commission.

B. The purpose of the creative sector development advisory commission shall be to serve as an advisory body to the staff of the office of creative sector development and city council concerning the business plan and the vision, mission, goals and objectives of the office of creative sector development.

C. The office of creative sector development is intended to be pilot program operated and funded on an annual basis for a period of approximately three years ending December 31, 2013. The creative sector development advisory commission shall expire and this Section 2.60.290 shall be repealed on December 31, 2013 unless extended by ordinance of the city council.

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

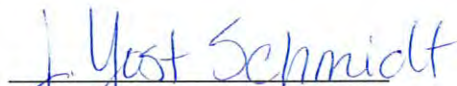
ADOPTED this _____ day of _____, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Deputy City Attorney



CITY OF LOVELAND
 DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 16
MEETING DATE: 1/4/2011
TO: City Council
FROM: Bob Paulsen, Current Planning Manager
PRESENTER: Troy Bliss

**TITLE: NAMAQUA HILLS CENTRAL SECOND SUBDIVISION, PRELIMINARY PLAT -
 APPEAL**

DESCRIPTION:

Quasi-Judicial action and public hearing to consider an appeal of the Planning Commission's decision on October 11, 2010, approving a preliminary subdivision plat known as the Namaqua Hills Central Second Subdivision. The plat contains approximately 49.4 acres. The western 27 acres of the site (zoned DR) are reserved for open space through a conservation easement; the eastern 22 acres (zoned R1) include thirty-eight (38) single family lots. The site is generally located west of North Wilson Avenue between future alignments of 29th and 22nd Streets, and north of the current terminus of Morning Drive. The appellant is Mike Thompson of 1713 Sunnyside Drive, Loveland, Colorado 80538.

BUDGET IMPACT:

Yes No

SUMMARY:

The preliminary plat proposes a 38-lot subdivision located immediately north of the existing Namaqua Hills neighborhood that is within Larimer County jurisdiction. The new development would be served by a northward extension of Morning Drive to 29th Street and the westward extension of 29th Street to Morning Drive. As proposed, Morning Drive would be a public street; the street would be gated at the northern and southern terminus of the subdivision. When this property was annexed in January of 2009, numerous Namaqua Hills residents expressed

concern that the northward extension of Morning Drive would ultimately result in significant traffic intrusion through their neighborhood. Due to these concerns, the City Council directed staff to work with the applicant to design a roadway system that would minimize traffic impact from the north onto the existing (County) portion of Morning Drive. The gated arrangement is designed to eliminate cut through traffic while providing two points of access for the residents, emergency vehicles and maintenance equipment. Another component of the design solution is opening the connection between Morning Drive and 22nd Street in order to provide a direct traffic connection to the east to Cascade Avenue, an existing 2 lane arterial. Cascade Avenue allows for vehicles to travel north to 22nd Street (and in the future to 50th Street) or south to the existing signalized intersection at Cascade / US 34. Presently, the 22nd Street/Morning Drive connection provides for emergency access only.

The appeal objects to the Planning Commission approval. The primary points of the appeal are as follows:

- more traffic will be put onto the existing portion of Morning Drive, posing a safety hazard
- the planned trail head at the south end of the development will create parking problems
- future contributions from the Namaqua Central Subdivision for a proportionate share of maintenance costs for the existing portion of Morning Drive would not be assured

Details of the appeal are specified in the attached letter (**see Attachment A**).

Chapter 16.16, Section 16.16.030.E.3 of the Loveland Municipal Code requires that upon receipt of an appeal to the Planning Commission's decision, City Council shall conduct a hearing to consider the merits of the appeal. A hearing was held by City Council on December 7, 2010 in which a determination was made that the appeal had sufficient merit to warrant further review by a vote of 5 to 4.

LIST OF ATTACHMENTS:

A. Memorandum

RECOMMENDED CITY COUNCIL ACTION:

Move to make the findings listed in Section V of the October 11, 2010 Planning Commission Staff Report and based on these findings uphold Planning Commission approval of the Namaqua Hills Central Second Subdivision Preliminary Plat, subject to all conditions as amended on the record.

REVIEWED BY CITY MANAGER:

MEMORANDUM

TO: City Council

FROM: Troy Bliss, Current Planning Division

DATE: January 4, 2011

SUBJECT: Namaqua Hills Central Second Subdivision - Appeal

I. EXHIBITS

1. Vicinity map
2. Letter from Thompson School District in response to appeal and prior letter from Larimer County relative to the West 22nd Street connection between Morning Drive and Cascade Avenue.
3. Appeal form and letter from Mr. Mike Thompson
4. October 11, 2010 Planning Commission Minutes
5. October 11, 2010 Planning Commission Staff Report including plat maps

II. APPEAL SUMMARY

An appeal of the October 11, 2010 Planning Commission approval of the 49-acre Namaqua Central Second Subdivision Preliminary Plat has been filed in timely fashion by Mr. Mike Thompson. Mr. Thompson is a resident of the existing Namaqua Hills neighborhood which is as Larimer County subdivision located immediately south of the development site. The primary points of the appeal are as follows:

- Due to the proposed development, more traffic will utilize the existing portion of Morning Drive, posing a safety hazard
- the planned trail head at the south end of the development will create parking problems along Morning Drive
- future contributions from the Namaqua Central Subdivision for a proportionate share of maintenance costs for the existing portion of Morning Drive would not be assured as the future HOA may become defunct or otherwise cease to exist. **(Refer to Exhibit 3.)**

On December 7, 2010, the City Council reviewed the merits of Mr. Thompson's appeal as pertinent to Chapter 16.16.030.E.3 of the Municipal Code. By vote of 5 to 4, a determination was made to hear the appeal at a full public hearing on January 4, 2010. At the January 4th public hearing, the City Council shall approve, approve with conditions or deny the preliminary plat.

III. PROJECT SUMMARY

The preliminary plat for the Namaqua Central Second Subdivision includes 49.4 acres. The western portion of the site consists of a 27-acre outlot, zoned Developing Resource (DR); this area rises steeply in elevation and is reserved as open space through a conservation easement in association with the Hogback Natural Area. With the new development, a trail will be extended through this area. The eastern 22 acres consists of a 38-lot, single family development that is zoned R1. Lots range in size from approximately 10,000 square feet to over 17,000 square feet; these lots are consistent in size with lots in abutting development sites. This density is in line with the Comprehensive Plan.

The project site is located immediately north of the existing Namaqua Hills neighborhood. This neighborhood is accessed from Eisenhower Boulevard by Morning Drive which connects northward to the northern edge of the neighborhood. Maintenance for this portion of Morning Drive provide by a General Improvement District (GID) administered through Larimer County. As proposed, the extension of Morning Drive would be a public street; the street would be gated at the northern and southern ends of the subdivision. Primary access to the site is designed to be from the extension of 29th Street to Morning Drive, providing connections to the east. The project design also includes a full connection between 22nd Street and Morning Drive, providing further connection to the east with Cascade Avenue, a two-lane arterial. Cascade allows for vehicles to travel north to 22nd Street (and in the future to 50th Street) or south to the signalized intersection at Eisenhower. At the present time, the 22nd Street – Morning Drive connection (located at the NW portion of Namaqua Hills) is only for emergency access. This access point would become fully operational with the new development.

When the subject property was annexed in January of 2009, numerous Namaqua Hills residents expressed concern that the northward extension of Morning Drive would ultimately result in significant traffic intrusion through their neighborhood. Morning Drive is not designed to current collector standards and residents raised concerns about vehicular and pedestrian safety resulting from increased traffic. Due to these concerns, the City Council directed staff to work with the applicant to design a roadway system that would minimize traffic impact from the north onto the existing (County) portion of Morning Drive. In combination with connections to 29th Street and 22nd Street, the gated arrangement is designed to minimize cut-through traffic onto the existing portion of Morning Drive.

A. Key Issues

As reflected in this appeal (see **Exhibit 3**), neighbors surrounding the Namaqua Hills Central Second Subdivision are concerned with the following issues:

- How future development of this site would contribute to the Namaqua Hills (the abutting Larimer County residential subdivision to the south) General Improvement District (GID) regarding the maintenance of Morning Drive.
- Increased traffic along Morning Drive and within the Namaqua Hills Subdivision to access the proposed subdivision.
- Concerns with having West 22nd Street opened to facilitate future development.
- Placement of the trail head resulting in increased traffic and parking along residential streets.

Staff review has given careful attention to each aspect of the proposed development that is governed by City codes and standards and the provisions of the approved Namaqua Hills Central Addition for the site. From a City staff standpoint, all standards, requirements, etc. have been resolved on the basis of applicable codes, standards, and recommended conditions. Considering that the appeal is predominantly focused around transportation issues, staff offers the following analysis:

- 1) Primary access to the site will be from the future West 29th Street/Morning Drive intersection to the north, and the connection of Morning Drive to the south. The project will be responsible for designing and constructing the connection of West 29th Street from Morning Drive to Cascade Avenue. Additionally, this project will be responsible for the opening of West 22nd Street between Morning Drive and Cascade Avenue to local traffic, which staff supports as this provides access to the safer and more efficient Cascade Avenue route.
- 2) The concept of a gated community arose from direction given by City Council at the annexation hearing in January, 2009. Upon hearing the traffic-related concerns of numerous Namaqua Hills Residents, Council directed staff to find a compromise solution to the concerns as the development of the Namaqua Hills Central property progressed.
- 3) Working with the developer, it was determined that the Gated Community concept would provide a good compromise solution that maintained street connectivity and emergency access, while also substantially reducing future traffic flow to Morning Drive when compared with the 128-lot development that had previously been approved for this property by Larimer County.
- 4) The Gated Community concept, including the proposed 22nd Street connection, was presented to approximately 25-30 Namaqua Hills residents at a neighborhood meeting held in Council Chambers on February 18, 2009. At the conclusion of that meeting there was general approval of the concept by the residents in attendance. While it was understood that several of the resident's opinions would remain unchanged, staff felt that there was a sufficient neighborhood support for the compromise solution to warrant moving the project forward to Planning Commission.

- 5) The applicant's traffic engineer, Matt Delich, P.E., has submitted a Traffic Impact Study (TIS) that indicates that the traffic associated with the proposed development will meet the City's standards (**see Attachment 2 in Exhibit 5**). The TIS projects an additional 16 vehicular trips (7 southbound, 9 northbound) on Morning Drive during the peak hour. Finally, the TIS projects that the majority of the additional trips on Morning drive south of 22nd Street would be eliminated by the proposed 22nd Street connection.

In conclusion, the development of the subject property pursuant to any of the uses permitted by right under the zoning district will not adversely impact any existing City infrastructure when typical roadway improvements are constructed. A positive determination of adequacy for transportation facilities for the proposed Preliminary Plat has been made under the provisions of paragraph ii, above.

B. Background

Namaqua Hills Central Background:

- Namaqua Hills Central was first approved for subdivision (prior to annexation) by Larimer County in 1979 and then recorded in March of 1980.
- The subdivision was annexed into the City with the Namaqua Hills Central Addition and the lots, tracts, and right-of-way came under City of Loveland jurisdiction in January of 2009. This included 128 single family lots distributed throughout the 49 acre site.
- The western portion of this site is considered the Hogback Natural Area by the City of Loveland's Natural Area Sites document. It has an overall habitat rating of 9 on a scale of 10. Prior to the annexation, a Conservation Easement was dedicated to the City and the Legacy Land Trust on the western 27 acres of the Namaqua Hills Central Addition that corresponds to the Hogback Natural Area. This Conservation Easement prevents any development except for the installation of a soft surfaced trail. The Namaqua Hills Central Addition zoned this 27-acre area DR – Developing Resource.
- The eastern portion of the Namaqua Hills Central Addition was zoned R1 - Developing Low Density Residential.
- Neighborhood concerns relative to those generally reflected in Section II of this memorandum were brought forward at the time of annexation. Upon approval of the annexation, City Council directed the neighborhood and applicant work out a solution in compliance with City standards that would address the issues relative to traffic impacts on the neighboring Namaqua Hills county subdivision and the fair share contribution towards maintenance of Morning Drive.
- Following annexation, an application to vacate the obsolete subdivision created through Larimer in 1979 was approved by the City removing all previous lots of record.

- The Namaqua Hills Central First Subdivision was approved in July of 2009 creating Tract A which corresponds to the R1 zoning and Outlot A which corresponds to the DR zoning established at the time of annexation.

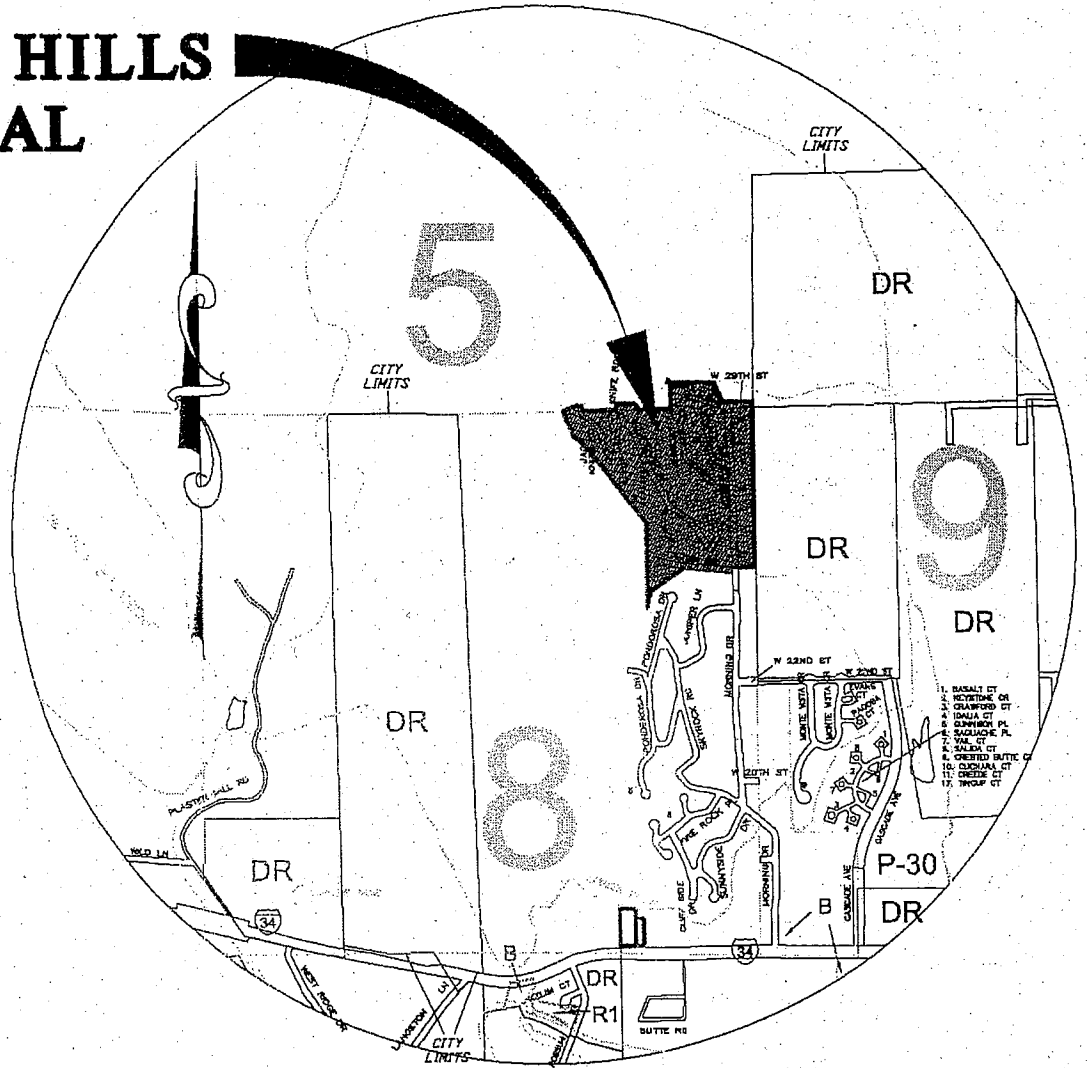
C. Planning Commission Action

The Planning Commission held a public hearing on the Namaqua Hills Central Second Subdivision Preliminary Plat request on October 11, 2010. The Planning Commission approved the proposal with the motion passing 4 -2 (see **Exhibit 4**).

IV. RECOMMENDATION

Move to make the findings listed in Section V of the October 11, 2010 Planning Commission Staff Report and based on these findings uphold Planning Commission approval of the Namaqua Hills Central Second Subdivision Preliminary Plat, subject to all conditions as amended on the record.

NAMAQUA HILLS CENTRAL



VICINITY MAP



December 16, 2010

Mr. Troy Bliss, Senior Planner
City of Loveland
500 East 3rd Street
Loveland, CO 80537

Dear Mr. Bliss,

As you are aware, the Thompson School District R2-J is in full support of the extension of West 22nd Street to its logical intersection with Morning Drive. The district has been working closely with City staff to achieve this goal for the previous two years. The district's Board of Education has formally indicated their intent to accept a 10-acre school site from Hunters Run West PUD with the understanding that this extension was going to occur. Extending West 22nd Street to Morning Drive is critical to district plans for safe transportation of students, either walking or bussed, to this future elementary school site.

Please address questions to Skip Armatoski, geographic information systems specialist, at 970.613.5017.

Sincerely,

Ronald G. Cabrera, Ph.D.
Superintendent of Schools



ENGINEERING DEPARTMENT

Post Office Box 1190
Fort Collins, Colorado 80522-1190

(970) 498-5700
FAX (970) 498-7986

September 7, 2007

David Klockeman, P.E.
Engineering Manager
City of Loveland
105 W 5th Street
Loveland, CO 80537

RE: Proposed change in use to the west end of 22nd Street from an emergency access to full access road.

Dear Dave,

Based on recent discussions within our department, we would like to modify some of our suggested requirements that were contained in my letter dated August 1, 2006 regarding the opening of 22nd Street between Morning Drive and Cascade Avenue.

When the City approved Vanguard-Famleco Seventh, the subdivision east of Namaqua Hills, the County was disappointed that the road connecting the two subdivisions was approved as only an emergency access. We understand that this decision was made primarily as a result of the opposition from the residents of Namaqua Hills, who did not want the vehicles from Vanguard-Famleco Seventh to use the roads within Namaqua Hills. However, it continues to be our opinion that opening this road to through traffic would be a considerable safety enhancement to the current situation that requires everyone in Namaqua Hills to exit onto Highway 34 at Morning Drive. Opening the road would allow people the option of either going to the intersection of Highway 34 and Cascade Ave, which will soon be signalized, or going east on 22nd Street to the signalized intersection at Wilson Ave.

Although it is still our opinion that the road improvements the County suggested in the letter dated August 1, 2006 would be beneficial to the operation of the road, it has become apparent that there is not a funding source available for all of these improvements. Therefore, given the circumstance, we would like to remove the requirement that the existing 20-21ft wide road be widened to a 24 foot wide road. We feel that the existing road will still function adequately at the current widths as long as the following improvements are made prior to the road being opened:

- The existing road needs to be redesigned so that there is a smoother transition at the point where the existing full access road ties in to the emergency access road. We would like to see the vertical curve be designed for a 25 mph design speed but are willing to look at something less if needed due to existing site constraints. In addition, a horizontal transition in accordance with our standards from the full width road section in Trimble Hills to the narrow road section in Namaqua Hills will be need to be constructed.
- As noted previously, the grade is rather steep where 22nd Street ties into Morning Drive. Although this is not ideal, there does not seem to be a simple fix to the vertical alignment and we still believe that the benefits of opening the road to through traffic outweigh the vertical design

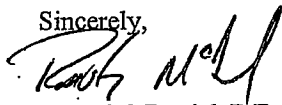
limitations. However, the sight distance at the Northeast and Southeast corners needs to be improved prior to opening the road by trimming and/or removing the existing vegetation.

- It is our recommendation that a stop sign be installed on the west bound leg of 22nd St where it intersects Morning Drive. We do not recommend the installation of additional stop signs on Morning Drive unless they are warranted sometime in the future.

As a side note, it is unlikely that the structural section of this road was designed to accommodate the traffic volumes that will occur once this road is open to traffic. With approximately 140 lots in Namaqua Hills, we expect quite a few vehicles will be using this new section of road. While we are not requiring an overlay at this time to increase the roadway structure, we will be recommending to the Namaqua Hills residents that they begin to plan for the maintenance and improvement costs that will likely be needed to maintain this section of road in the not to distant future.

If you have any questions, please give me a call at 498-5730.

Sincerely,



Rusty McDaniel, P.E.
Assistant County Engineer

APPEAL FORM

RECEIVED OCT 18 2010

I, Mike Thompson, hereby appeal the decision of the Planning Commission
issued on 10/11/2010 concerning the Namagus Central
Development Plan.

Mike Thompson
Appellant

10/18/2010
Date

Mike and Shari Thompson
1713 Sunnyside Dr
Loveland CO 80538

Erik and Karen Nagle
1801 Skyrock Rd
Loveland CO 80538

Jodi Radke
1709 Sunnyside Dr
Loveland CO 80538

November 10th, 2010

Mr. Troy Bliss
Senior Planner
Current Planning
Development Services
City of Loveland

Mr Bliss,

We are asking the Loveland City Council to hear an appeal of the decision made by the Loveland City Planning Commission on 10/11/2010 concerning the Namaqua Hills Central Second Subdivision: Preliminary Plat Application (Namaqua Central).

As some councilors and city staff will remember, our neighbors turned out on December 16th 2008 in large numbers to testify at the annexation hearings for the Namaqua Central property. Testimony continued until after 11pm. At the time, Council acknowledged that we had valid concerns over safety, traffic, and additional maintenance burden placed on GID #8. The following points were generally acknowledged:

- Although Morning Drive south of the proposed development is designated a collector street, it is not constructed to the standards associated with this designation.
- Additional traffic on Morning Drive would pose a safety hazard. The elevation profile of Morning drive is such that there are numerous blind spots. This hazard is compounded by the fact that there are no sidewalks; residents and non residents alike make extensive use of the road for walking, running, biking and skateboarding; and most residents must back directly from their driveways to Morning Drive.

However, in making its annexation decision in 2008, Council stated that these concerns were not pertinent to the annexation question, and needed to be addressed later. The informal instruction to the developer and city staff was "take care of these people" and "we will be watching."

Although the developer has gone to considerable lengths to modify their plan, key issues remain. Key issues which we believe the developer, based on comments made by their representative at the 10/11/2010 Planning Commission Meeting, would be willing to address. The alternative measures presented here address these issues and are largely cost neutral, preserve the nature of present

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neighborhoods, enhance the attractiveness of the new development, enhance connection between neighborhoods, and, in some cases, make for better emergency access. In short, everyone wins!

The developer and city staff have come up with a plan that has the following major features:

- Namaqua Central will be a gated community.
- Restrictive covenants in property deeds will discourage residents of Namaqua Central from entering or exiting development via south gate (separating Namaqua Central from existing neighborhood)
- Establishment of a recreational trail and trail head for public use in the new development, *but outside the south gate (i.e. on the existing neighborhood side)*.
- Road maintenance cost sharing between a future home owners association and Larimer County on behalf of GID #8.
- The opening of 22nd street. This was *a new part of the plan* as of the 10/11/2010 Planning Commission Meeting. It was not part of the original plan presented at the annexation hearing, nor was it part of the ones presented at subsequent hearings.

We have the following issues with the plan approved by the Planning Commission:

- The plan still puts additional traffic on Morning Drive, not only from residents of the new development, but also from the opening of 22nd street (which will increase cut through and joy riding traffic) and the new trail head. The traffic study presented by the developer didn't take into account these additional sources.
- We feel that restrictive covenants in the deeds of the Namaqua Central "encouraging" residents of that development to not use the south entrance would be all but worthless.
- The trail head will create parking problems for current residents. Although the plan calls for the creation of six parking spaces outside the south gate of the development there will be little to stop overflow traffic from parking along the existing Morning Drive. Many residents use Morning Drive for parking their family vehicles and they could be prevented from easy access to their property if trail users park along Morning Drive. Since this "overflow" parking would be outside the city, the city could not be called to enforce any parking limitations, and it is not clear if it would even be possible to establish "resident only" parking limitations. Although Morning Drive is a "public street", residents will never the less be adversely and unfairly impacted.
- It is not unheard of for home owners associations (HOAs) to go defunct or otherwise cease to exist. Who will be responsible for the contributions Namaqua Central's share of Morning Drive's maintenance if this should happen, and who will maintain the gates – vital for reducing cut through traffic – in this event?

We testified at the Planning Commission meeting on 10/11/2010 along with many of our neighbors. We proposed a different plan. The plan is presented below along with some modifications developed subsequent to the meeting.

- Make the gate at the south end of the development emergency use only. Use the same type of gate as would be used for a gated community, but only allow emergency vehicles access.
- Add traffic calming devices, such as "traffic humps", "chicanes", or "curb extensions" between the development and present neighborhood so that if the south gate were ever removed, or if that part of our plan is rejected, we would not be relying solely on restrictive covenants to discourage people in Namaqua Central from using the south entrance. As one elected city official observed at the December 16th 2008 annexation hearing, "there are many neighborhoods in Loveland where one can cut through, but they have been designed so no one would want to

do that.”

- Remove gate at the north end of the development to improve connectivity and emergency access to new development (i.e. It would no longer be a “gated community” in the common sense of the term).
- Move the trail head so that it is on the Namaqua Central side of the south gate, this, along with removal of the north gate will allow the trail head to be accessed without increasing traffic loads on Morning Drive, nor creating parking headaches for current residents.
- Leave 22nd street closed.

There will certainly be arguments against such a plan, as there was at the Planning Commission Meeting. Since the public hearing format at Planning Commission meetings only allows rebuttal by the applicant, we have summarized the arguments given against our plan during that meeting, and provided our responses, which we didn't have a chance to present at the hearing.

- Having emergency access only barriers runs counter to the city's goal of having connected neighborhoods.
 - While this is true, it should be pointed out that a gated community is only “connected” for the residents of that neighborhood. Thus it will be “connected” for 38 households, or approximately less than three tenths of a percent of all Loveland residents. By removing the north gate, our plan actually provides for better neighborhood connectivity.
- Emergency only access barriers can slow emergency response.
 - Again, while there may be truth to this statement, the delay is no less than due to that created by a gated community. Our plan calls for use of the exact style of gating used for gated communities. The only difference being that the mechanism to open the gate could only be activated by emergency services. In addition, under our plan, emergency access to Namaqua Central will be better as it will not have a north gate.
- Emergency only access barriers are expensive to maintain.
 - No more expensive than maintaining a gate in a gated community.
- Having 22nd street open serves current residents well, and increases safety.
 - Perhaps, but let's deal with this as a separate stand alone issue. With the emergency access only gate in place at the south of the new development, there is no reason to open 22nd street.
- Having 22nd street open will “bleed” traffic off of Morning Drive.
 - With our plan this is not necessary.

We appreciate your time, and that of the Loveland City Council in consideration of this matter.

Sincerely

Mike and Shari Thompson

Erik and Karen Nagle

Jodi Radke

1 not brought enough community events to the downtown area.
2

3 **Mr. Scholl** commented that the currently the downtown is failing. He emphasized that it cannot
4 remain as is and that it will either flourish or fail. He further stated the issue of holding large
5 events in the downtown area has to do more with problems with the current infrastructure and the
6 need to invest money in improving that infrastructure specifically power.
7

8 **Chairman Molloy** asked if the Vision Book called the downtown area "Historic Downtown"
9 and asked if it would be identified as historic.
10

11 **Mr. Scholl** stated that staff would soon be presenting changes to the BE Zone, including
12 amending certain guidelines. He stated one of the amendments would be to lower building
13 heights in the BE Zone for 4th Street.
14

15 After further discussion, Mr. Scholl stated that safeguards are in place which would prohibit
16 someone from buying up the historic properties in the downtown area and demolishing them.
17

18 **Vice Chair Ray** commented that he does not like the look of the final design (of the proposed
19 downtown projects) and felt there were conflicting feedback on what residents and business owners
20 in the area see for the Downtown. While acknowledging his difference of opinion, he thanked staff
21 for all their hard work and efforts.
22

23 **Mr. Scholl** concluded his presentation, stating that he believed the merchants were anxious and want
24 to see something happen.
25

26 **2. Namaqua Hills Central Second Subdivision: Preliminary Plat Application**

27 This is a public hearing to consider a Preliminary Plat for approximately 49.4 acres located to the
28 west of Wilson Avenue between the future alignments of 29th and 22nd streets, and north of the
29 current terminus of Morning Drive. The Preliminary Plat proposes the creation of 38 single family
30 lots and associated outlots and open space for detention purposes. The eastern portion of the
31 property is zoned R1 (22.7 acres); the western portion is zoned DR (26.7 acres known as Outlot A)
32 and is encumbered with conservation easement. The Planning Commission action is quasi-judicial
33 and is final barring appeal.
34
35
36

37 **Troy Bliss, Project Planner**, gave a staff report on the project. He stated that applicant had
38 significantly reduced the number of allowed dwelling units as a result of density conditions imposed
39 by the City Council at the time of annexation. Also, as a condition to the annexation, the applicant
40 was to propose a solution to reducing the amount of traffic on Morning Drive as verified through a
41 Traffic Impact Study. In describing the project location, he noted that the majority of surrounding
42 properties are undeveloped, he stated that due to the cost of the infrastructure needed for the

1 development of this project, it would be very expensive for the applicant to begin construction
2 anytime in the near future. The infrastructure needs are reason why a number of conditions are being
3 recommended from City staff. He concluded his remarks by indicating that staff is in support of the
4 application.
5

6 **Ken Merritt, Landmark Engineering**, representing the applicant, presented a description of the
7 project and described the factors that were taken into consideration in the design of the subdivision.
8 He spoke of the location of the proposed project and how the property fits with the City's
9 Comprehensive Plan. He clarified that the conservation easement is approximately 112 acres (when
10 combining two projects) and has been in place for the past two years. Mr. Merritt clarified that the
11 applicant is not extending the road west of the property. He clarified that the Annexation Agreement
12 describes what is allowed in the R1 Zoning District and also clarified that the density cannot exceed
13 more than 2 dwelling units per acre, emphasizing that the requested number of lots would only allow
14 for 1.7 dwelling units per acre. He spoke of the lot configurations, reporting that smaller lots would
15 be placed adjacent to Hunter's Run, mirroring the lot-sizes in Hunters Run.
16

17 **Mr. Merritt** stated that the following were key issues expressed by the neighbors:

- 18 • Extending Morning Drive North to 29th Street would create cut through traffic from future
19 developments to the north and east created by traffic wanting to go to Highway 34
- 20 • Who will pay for the maintenance of Morning Drive due to increased traffic
- 21 • Impact to the wildlife in the area
- 22 • Some residents had issues with opening 22nd Street making the existing Namaqua Hills
23 neighborhood not as secluded as it currently is.
- 24 • As a condition of the Trimble Hills PUD, Council has stated that 22nd Street could not be
25 opened
26

27 **Mr. Merritt** reported that there would be 38 single family lots on approximately 22 acres within a
28 gated community. He stated that the single family lots would range in size from approximately
29 10,000 square feet to over 17,000 square feet. He reported that creating a gated community would
30 help in mitigating the number of residents who would actually use Morning Drive. He clarified that
31 at the time of final plat the applicant would agree to contribute the amount of money equal to the
32 volume of traffic generated by the residents of Namaqua Hills Central for the maintenance of the
33 existing portion of Morning Drive through the County neighborhood. Mr. Merritt described how
34 much traffic there would be if the connection between 22nd Street and Morning Drive was fully
35 opened to traffic.
36

37 **Mr. Merritt** clarified that there would be an additional buffer between the lots furthest to the west
38 and the conservation easement and commented that the open space buffer would provide additional
39 access for pedestrians as well as wildlife.
40

41 **Mr. Merritt** clarified that the HOA would make their street maintenance contribution to Larimer
42 County who is the Administrator for GID #8. He further reported that at the time of Final Plat, the

1 applicant would have to apply for a restricted right-of-way permit before they could proceed; he
2 explained that a restricted right-of-way permit would be needed to allow installation of the access
3 gates.
4

5 Public Participation

6
7 **Mike Thompson, 1713 Sunnyside Drive**, spoke of why Morning Drive is not suitable for carrying
8 additional traffic and presented photographic slides of the numerous blind spots on Morning Drive.
9 He stated he did not believe people would use Cascade as an alternative to Morning Drive. He stated
10 that the trail is a great attribute but expressed concerns about parking. He suggested making the
11 access from the south, emergency access only and include a one-way gate into the development.
12

13 **Keith Olson, 2140 Morning Drive**, expressed concerns regarding the fair share contributions and
14 questioned what would happen to the contribution of road maintenance to the GID if the HOA
15 become insolvent. He spoke of his concerns regarding parking at the trailhead and people parking
16 along W. 22nd Street.
17

18 **Dr. Michael McKenna, 2100 Morning Drive**, stated he was under the belief that all issues relating
19 to Morning Drive had been resolved and that Morning Drive should be an emergency egress/ingress
20 only to allow for fire and police only. He expressed concerns regarding safety and commented that
21 all residents who live on Morning Drive back directly onto Morning Drive. He stated that a decision
22 to not open 22nd Street had been decided and questioned why the subject had again been raised. He
23 supported access to the trail and urged that the parking be located on the Namaqua Hills Central
24 property. He emphasized the need to keep Morning Drive closed to emergency access only at the
25 south of the development.
26

27 **Bill Moninger, 2201 Skyrock Road and President of GID #8**, stated that he appreciated the fair
28 share policy and would like to see it in writing. He questioned how road repairs and payments to
29 GID #8 would occur if the Namaqua Hills Central HOA were to become defunct. He further stated
30 that from a safety and convenience standpoint he would support opening up 22nd Street.
31

32 **Jon Zahourek, 1908 Morning Drive**, spoke in support of the community being gated. He
33 expressed his concerns regarding pedestrian safety on Morning Drive and suggested that some type
34 of traffic calming be done.
35

36 **Bret Nye, 1704 Fire Rock Drive**, questioned where the parking for the trail would be and if it was a
37 pedestrian only trail. He stated that he would not support placing houses on the hogback that would
38 be visible from the east or the west. He questioned the language of the Transportation Condition 11,
39 regarding the connection of 22nd Street with Trimble Hills as written in the staff report. He indicated
40 that he did not understand what was meant by the reference to Trimble Hills GDP.
41

1 **Cheryl Reneple, 2209 Morning Drive**, stated that her community could be destroyed if 22nd Street
2 were allowed to go through and expressed concerns regarding traffic counts. She asked if the City's
3 Comprehensive Plan addresses destruction of a community as a result of providing connectivity.
4

5 **Kevin Chandler, 2108 Skyrock Road**, stated that he opposed opening 22nd Street stating that it
6 would reroute additional traffic through Morning Drive. He showed an old graphic that was used
7 when the issue came up years ago (**Exhibit A** – Mr. Chandler took his Exhibit with him at the end of
8 the evening. If needed for the record he can be reached at (970) 663-1688). He stated that he
9 supported the project but opposed opening up 22nd Street.
10

11 **Jeannie Essling, 2108 Skyrock Road**, stated that she does not believe enough emphasis has been
12 placed on safety concerns on Morning Drive if 22nd Street were to be opened. She stated that she
13 has been in front of the Planning Commission and City Council on three separate occasions to
14 address the 22nd Street connection and questioned why the subject keeps coming up. She urged that
15 22nd Street be left as emergency access only.
16

17 **Sherrie Valentine, 2201 Morning Drive**, reported that the City has put up bollards on 22nd Street
18 and that there would not be any issues for emergency access vehicles. She thanked Mr. Merritt and
19 the developer for all the efforts put into the project stating it was a very nice project. She urged the
20 Commission to keep 22nd Street open only for emergency access. She questioned where the
21 compensation agreement is if the roads in GID #8 were to be used as she indicated that she had never
22 seen a copy. Ms. Valentine also stated that the language in the Annexation Agreement is not
23 enforceable. She further stated that the City Council told the GID #8 that a written agreement would
24 be worked out with the County and the Developer and stated that they have not seen any agreement.
25 She stated that the Annexation Agreement also states that the trail would be permanently maintained
26 by the HOA and questioned what happens if the HOA were to go defunct. She suggested that the
27 City maintain the trail and asked why the City would not be responsible for the trail maintenance.
28 She urged that the Commission only approve the application if there is only one access to the
29 development and stated that if the Commission can not approve it in that manner, then let City
30 Council decide.
31

32 **Felicia Horman, 2309 Ponderosa Drive**, thanked the applicant for their efforts. Spoke of access
33 issues and recommended that a condition be placed that says do not build the roads until ready for
34 development.
35

36 **Dick Lubinski, 2000 Skyrock Drive**, concurred with all comments by previous speakers. He
37 expressed concerns regarding additional traffic and noted that there is only one entry and egress into
38 the existing Namaqua Hills neighborhood. He stated his major concern was with safety and thanked
39 Landmark Engineering for doing such a great job.
40

1 **Jodi Radke, 1709 Sunnyside Drive**, expressed safety issues in the area and opposed opening 22nd
2 Street. She stated that she did not believe that the Developer had adequately addressed the impact to
3 the wildlife in the area.
4

5 **Ranee Zahourek, 1908 Morning Drive**, stated she is tired of having to defend the neighborhood.
6 She did not want anyone to gain access to Morning Drive from another neighborhood and supported
7 only allowing emergency access from 22nd Street.
8

9 **Julie Fay, 2101 Skyrock Road**, supported opening 22nd Street stating it would not be that great of
10 an impact on her.
11

12 **Applicant Responses**

13
14 **Mr. Merritt** responded to many questions regarding access on Morning Drive and opening 22nd
15 Street. He reported that the 2030 Transportation Master Plan identifies Morning Drive as a Collector
16 Street. He spoke of the various alternatives proposed and believed that gating the proposed
17 development would alleviate most of the concerns raised by the surrounding neighborhoods. He
18 stated that the roads in the Namaqua Central Second Subdivision would be owned and maintained by
19 the City. He clarified that roads built in County subdivisions are typically the responsibility of the
20 homeowners to maintain.
21

22 He responded to questions regarding how fees will be collected and paid for the shared access. He
23 stated that the only mechanism for collecting maintenance fees is to assess a HOA fee for the
24 residents of Namaqua Central and those fees would be given to Larimer County who is in charge of
25 administering the GID #8 fees. He further stated that until the subdivision is 80% full, the developer
26 is effectively the HOA and would be responsible for the payment of the fees. He also clarified that a
27 final plat could not be approved without an agreement with Larimer County.
28

29 **Mr. Merritt** stated that the trail is a condition of the Parks and Recreation Department and clarified
30 that there is no trailhead parking lot and that the trail is a pedestrian only hiking trail. He reported
31 that the applicant has designated a portion of the property to accommodate some on-street parking.
32 He stated that the applicant would support emergency vehicle access only at the southern entry to the
33 project.
34

35 **Mr. Merritt** reported that there has been a dedication of land for a school in the Trimble Hills
36 neighborhood and when the school is built, which might be 10-years away, there is an agreement that
37 there would be access on 22nd Street. He clarified it was always the intent that Morning Drive would
38 be a collector street.
39

40 **Mr. Merritt** stated that if there is a requirement for opening 22nd Street, he would have to have to
41 hold a public hearing with the City Council to have the condition on Trimble Hills General
42 Development Plan eliminated to allow public traffic.

1 Mr. Merritt stated that he believes that a gated community would adequately address traffic and
2 safety issues. He further commented that there would be some impact to the residents on Morning
3 Drive and that opening the access on 22nd Street is up to the discretion of the Planning Commission.
4 He commented that the line of demarcation between development and ridgeline was originally
5 further up the hill but it was lowered to create a larger buffer so that the ridgeline would not be
6 disturbed.

7
8 **Commissioner Questions**

9
10 **Jeff Bailey Transportation Development Review**, in response to a Commission question, stated
11 that City Council, at the time of annexation, directed staff to develop a compromise transportation
12 solution for the project. The compromise would include restricting full access on Morning Drive
13 through the existing County portion of the Namaqua Hills neighborhood from 29th Street to Highway
14 34. He stated that he did not believe that Morning Drive, with its existing design deficiencies, was a
15 good choice for a collector street, but the classification had originally been assigned years ago based
16 on the number of pending/approved dwellings proposed to access Morning Drive. He stated that
17 LCUASS requires two points of full-movement access to all proposed subdivisions. Under previous
18 standards, he noted that some developments had been approved with only one full movement and
19 one emergency access. He stated that such arrangements have become an ongoing maintenance issue
20 for the City, particularly with the placement and replacement of bollards. As an example, he stated
21 that people are currently using the 22nd Street emergency connection to Morning Drive and he
22 indicated that the traffic unit has replaced the safe hits (bollards) on numerous occasions since the
23 access was constructed.

24
25 **Mr. Bailey** commented that while the Transportation Development Review Division supports the
26 current compromise solution, they do not generally favor gated communities due to their restriction
27 of connectivity. He further stated that LCUASS requires proposed development connectivity to all
28 platted roadways, particularly those roadways terminated at property lines for the purpose of future
29 extension. He noted that Morning Drive through the existing Namaqua Hills development meet that
30 criteria. He clarified that 22nd Street was required by Council to be closed as a condition of the
31 approval of the adjacent Trimble Hills development due to concerns raised during public input by the
32 residents of Namaqua Hills.

33
34 **Commissioner Fancher** asked why are the county roads not up to LCUASS standards.

35
36 **Mr. Bailey** stated that he was not an expert in how Larimer County designs and maintains their
37 roads, but suggested that since the county has substantially more miles of roads to maintain, they do
38 what they can with the funds that are available to them. This means that they generally maintain
39 their arterial and collector streets with funds available and rely on local street maintenance to be
40 funded by the various GID's. Also, the design and construction of Morning Drive predated the
41 initial adoption of the LCUASS in 2001.

1 **Commissioner Ray** questioned whether it would be possible to remove the proposed gates at the
2 north entrance to the subdivision and have only the south access (Morning Drive) gated.

3
4 **Mr. Bailey** stated that if only the south access were gated, it would create a situation where
5 unfamiliar drivers might assume it was a through street and get trapped by a dead-end.

6
7 In response to a Commissioner's question on what would be required to make the portion of
8 Morning Drive from 22nd Street to the proposed south gate a city street, **Mr. Bailey** indicated that the
9 subject portion of Morning Drive would need to be brought up to current LCUASS design standards
10 before it would be recommended for adoption/. He clarified that based on a recommended condition
11 of approval; no construction traffic would be allowed on Morning Drive and noted that the City
12 would be enforcing that condition. He stated that he couldn't answer questions regarding what it
13 would take to bring county roads up to city standards without a detailed design study.

14
15 **Commissioner Fancher** asked why the Parks Department started the trail at the south end rather
16 than the north end.

17
18 **Mr. Bliss** responded to the question, explaining that the trail goes through both Dakota Ridge and
19 Namaqua Hills Central. He stated that there is already a walking trail on the site that represents the
20 approximate location of the future trail location; while this existing trail has been used over time, it
21 has not been maintained.

22
23 **Vice Chair Ray** inquired as to what is the number of additional trips on Morning Drive.

24
25 **Matt Delich, Delich Associates**, addressed a series of transportation questions. He reported that
26 when the development is completed it would generate an additional 150 trips per day and that would
27 not be enough trips to re-classify the street as a collector street. He also addressed questions about
28 the recreational trail, indicating that parks and recreation areas always generate traffic and explained
29 how he would determine how many trips would be added with the trail. He stated that opening 22nd
30 Street would not create additional traffic on Morning Drive but it would allow people access to a
31 signalized intersection. He concurred with Jeff Bailey stating that connectivity is very important and
32 he would not support emergency access at the south end only and that he also believed that 22nd
33 street should be opened.

34
35 **Romeo Gervais, Loveland Fire Department**, indicated that Fire would not support emergency
36 access only at the south end of the project site and spoke of maintenance and other issues relating to
37 emergency access facilities. He stated that emergency access streets tend to get overlooked and not
38 plowed and then the road conditions deteriorate or get blocked with rocks and debris.

39
40 **Mr. Gervais** clarified that the 2006 Fire Code has gotten away from emergency access only routes
41 which is why the dead end distances were increased to a 1,000 maximum without requiring a
42 secondary access. He stated that once the 1,000 feet has been reached, then Fire would call for two

1 access points. He stated that he personally does not favor gated communities and spoke of the
2 components that are used to access the gates in the communities.

3
4 **Commissioner Fancher** asked Mr. Gervais how important 22nd Street is to the project and asked if it
5 served as a secondary access for Namaqua Hills at this time.

6
7 **Mr. Gervais** stated that 22nd Street would not be constructed today as it currently exists. He stated
8 that it currently functions, but not in the preferred manner and that he would prefer the gated access
9 for the proposed subdivision along with the opening of 22nd Street.

10
11 **Vice Chair Ray** asked if not opening 22nd Street would create significantly more trips on Morning
12 Drive.

13
14 **Mr. Delich** stated if 22nd Street is not opened (and if Morning Drive were not gated at the southern
15 portion of the project site) then there would be an increase of traffic on Morning Drive of 150
16 vehicles daily, but if 22nd Street were to open there would only be 20 vehicles coming through on
17 Morning Drive, basically traveling to Estes Park.

18
19 **Commissioner Middleton** asked if the additional homes would put a burden on the Boosted
20 Pressure Zone 2 and if the developer were only paying for additional design fees or would he be
21 paying for the expansion of Boosted Pressure Zone 2.

22
23 **Melissa Morin, Water and Power Department**, she stated because the utility is an enterprise
24 department they make the developer pay their own way. She stated that the expansion of the Boosted
25 Pressure Zone 2 ("BPZ2") would be funded by the applicant who develops first. She reported that
26 the developer would be required to pay for the complete the design as well as building the station
27 which would include all the lines that lead up to the station. She commented that the Developer
28 could then put in for a reimbursement agreement to be reimbursed from other developers who come
29 later and would benefit from the Station.

30
31 **Commissioner Comments**

32
33 **Commissioner Fancher**, in reference to the decision to be made by the Planning Commission, stated
34 that this was a very difficult decision, but looking at the issue from a common sense, safety-oriented
35 point of view she supported opening 22nd Street. She further commented that she did not find a
36 compelling reason to close the south end of Morning Drive and supported staff's recommendation.

37
38 **Commissioner Leadbetter** stated that he was opposed to gated communities, commenting that the
39 issues are is only delayed by installing gates, and that at some point the gates will come down. He
40 stated that if the Master Plan requires connectivity then he would oppose the gates and he would not
41 support the application. He further stated that he believed there was another solution available.

1 **Commissioner Middleton** stated that if you're going to put in a neighborhood you have to bring it
2 up to LCUASS standards.

3
4 **Vice Chair Ray** stated that the applicant has given more concessions than he needed to. He
5 concurred with others stating he does not like gated communities. He stated that he would support
6 giving the applicant back the three lots taken previously for the trail parking.

7
8 **Commissioner Crescibene** stated that he did not believe that there would be an issue on Morning
9 Drive and he supported the staff's recommendation.

10
11 **Chair Molloy** commented that the original County plat had over 130 home sites—an amount which
12 was drastically reduced under the current proposal. He stated that he felt the applicant has given a lot
13 of concessions and stated that the Planning Commission has no control on whether 22nd Street should
14 be opened. He commented that he did not like gated communities either, however, he believed that
15 the proposed development looked outstanding and the gates would solve the traffic issue raised by
16 the surrounding neighborhoods.

17
18 *Commissioner Fancher made a motion to make the findings listed in Section V of the staff report*
19 *dated October 11, 2010 and approve the Preliminary Subdivision Plat for Namaqua Hills Central*
20 *Second Subdivision, subject to the conditions of approval in Section VI of said report, as amended*
21 *on the record. Upon a second by Commissioner Crescibene the motion was as follows: Yeas:*
22 *Commissioners Crescibene, Fancher, Ray and Molloy. Nays: Commissioners Middleton and*
23 *Leadbetter. The motion passed 4-2.*

24
25 **CONDITIONS**

26
27 The following conditions were adopted:

28
29 ***Current Planning***

30 1. Building/structural encroachments of any kind shall not be permissible within easements
31 established on any lot or outlot.

32
33 2. This subdivision will be subject to a development agreement which at the time of final
34 platting will be recorded in the real property records of Larimer County.

35
36 3. Unless otherwise approved by the City, all unsatisfied conditions of approval for the
37 Namaqua Hills Central First Subdivision shall continue to apply to this property.

38
39 4. All expenses involving necessary improvements for water system, sanitary sewer system,
40 storm sewer system, curbs and gutters, sidewalks, street improvements, street signs, traffic control
41 signs, alley grading and surfacing, gas service, electric system, grading and landscaping shall be paid
42 by the developer or their assigns.

1
2 ***Transportation Development Review***

3 5. Notwithstanding any information presented in the preliminary plat or accompanying
4 preliminary construction plan documents (text or graphical depictions), all public improvements
5 shall conform to the Larimer County Urban Area Street Standards, as amended, unless specific
6 variances are requested and approved in writing by the City.

7
8 6. The development shall be responsible for a portion of the future maintenance of the
9 applicable portions of Morning Drive that are in Larimer County right-of-way. Prior to approval of
10 the final plat for the subdivision, the developer shall provide to the City a copy of a written
11 agreement, acceptable to the City, between the developer and Larimer County pertaining to the
12 development's responsibility for a portion of the future maintenance of the section of Morning Drive
13 that is in Larimer County right-of-way.

14
15 7. No construction traffic for the development of this subdivision shall use Morning Drive
16 south of this property.

17
18 8. The following public improvements shall be designed and constructed by the developer
19 unless designed and constructed by others:

20 a. West 29th Street from the east property line to Cascade Avenue as shown on the approved
21 construction plans;

22 b. Cascade Avenue from West 29th Street south to the existing portion of Cascade Avenue at
23 West 22nd Street as shown on the approved construction plans;

24 c. A northbound left-turn lane at the intersection of Cascade Avenue and 29th Street;

25 d. The opening of the west end of 22nd Street to through traffic (between Morning Drive and
26 Cascade Avenue); including removal of the 6-inch vertical curbed grade break and replacing it
27 with a vertical curve with a 25 mph design speed per the approval of both the City and Larimer
28 County.

29
30 All improvements listed above shall be completed prior to the issuance of any building permits,
31 unless otherwise approved pursuant to the provisions in Section 16.40 of the Loveland Municipal
32 Code.

33
34 9. Prior to submittal of the final plat, the developer shall submit documentation satisfactory to
35 the City establishing the developer's unrestricted ability to acquire sufficient offsite public right-of-
36 way for the construction of the off-site portions of Cascade Avenue and West 29th Street.

37
38 10. Prior to approval of the final public improvement construction plans and/or the final plat, the
39 developer shall submit recorded deeds of dedication to the City for all offsite right-of-way required
40 for transportation facilities needed to meet City Standards.

41
42 11. Prior to approval of the final plat, the developer shall amend Engineering Condition number

1 14 on the Trimble Hills General Development Plan to allow for the opening of West 22nd Street to
2 public traffic, unless this condition has already been amended by others.
3

4 12. Prior to approval of the Final Plat the developer shall obtain a revocable right-of-way
5 obstruction permit from the City for the proposed gates in Morning Drive.
6

7 *Water Wastewater*

8 13. Unless constructed by others, the Developer shall obtain all necessary easements and shall
9 design and construct the following public improvements, prior to the issuance of any building
10 permits:
11

12 a. All portions of the water utility infrastructure system which is necessary to convey service and
13 looping requirements for water quality as illustrated in the Public Improvement Construction Plans
14 (PICPs) for Vanguard-Famleco 13th Subdivision, otherwise known as Hunters Run West Filing 1.
15

16 b. All portions of the water infrastructure system which is necessary to convey service and looping
17 requirements for water quality as well as all portions of the wastewater infrastructure system which is
18 necessary to convey service as illustrated in the Public Improvement Construction Plans (PICPs) for
19 Vanguard-Famleco 16th Subdivision, otherwise known as Hunters Run West Filing 2.
20

21 14. The entire development lies within the water Boosted Pressure Zone 2 (BPZ2) and in order to
22 provide water to the development the Developer shall participate with the City in the expansion of
23 the 29th Street Booster Station, unless designed and constructed by others. The Developer shall be
24 responsible for additional design fees required to finalize the pump station expansion design. The
25 Developer shall be responsible to bid the project with a minimum of three qualified bids. The
26 Developer may execute an Oversize Agreement pursuant to City policy if desired, in which the City
27 will reimburse the Developer a portion of the base bid. No building permits shall be issued for any
28 phase of the development within the BPZ2 region until pump station improvements have been
29 completed, activated, and accepted by the City.
30

31 15. Prior to approval of the Final Plat the City of Loveland 25 foot utility easement (Rec # 2008
32 005 2968) will need to be vacated via an ordinance by City Council.
33

34 *Fire*

35 16. All residential occupancies shall be provided with heat detectors in attached garages unless
36 protected with residential fire sprinklers.
37

38 17. Installation of defensible space in compliance with current Colorado State Forest Service
39 guidelines shall be required on all new construction.
40

41 18. All new structures shall have fire-resistive construction of one of the following types:

42 a. One-hour fire-resistive shell which shall provide not less than one-hour fire-resistive construction

1 at all exterior walls, EXCLUDING ALL OPENINGS AND DECKS.

2 b. Exterior siding materials shall have a flame-spread classification of Class III or better.

3
4 19. The final construction drawings shall indicate "Fire Lane - No Parking" signage in the cul-
5 de-sac bulb.

6
7 20. Prior to construction of this subdivision, 29th Street shall be constructed to an existing street.

8
9 ***Parks***

10 21. Prior to the issuance of any building permits within the subdivision, the Public Access
11 Pedestrian Trail shall be built by the developer and inspected by the Parks and Recreation
12 Department. The developer shall notify the Parks and Recreation Department at the start of public
13 improvement construction, requesting inspection and approval of the trail prior to the first building
14 permit being issued. This condition shall be included in the Development Agreement and on the
15 Final Public Improvement Construction Plans.

16 22. In conjunction with any final plat approval, the developer shall dedicate a public access
17 easement in the location of where the public access pedestrian trail would be constructed. The
18 location will be coordinated with the developer and the City during the final plat review process.

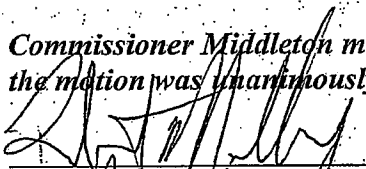
19
20 23. The developer and/or permanent Homeowners' Association (HOA) shall be required to
21 manage and maintain, in perpetuity, the Public Access Pedestrian Trail upon it being constructed
22 with the future development of the Namaqua Hills Central Second Subdivision. This condition shall
23 be included in the Development Agreement and on the Final Plat.

24
25 ***Stormwater***

26 24. The Namaqua Hills Central 2nd Subdivision shall not be constructed until after the
27 adjacent Hunters Run West Filing 2 Subdivision storm drainage infrastructure has been
28 constructed.

29
30 **ADJOURNMENT**

31
32 *Commissioner Middleton made a motion to adjourn. Upon a second by Commissioner Ray*
33 *the motion was unanimously adopted.*

34
35 
36 _____
37 Rob Molloy, Chair

38
39 
40 _____
41 Vicki Mesa, Secretary



**Development Services
Current Planning**

500 East Third Street, Suite 310 • Loveland, CO 80537
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
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**OCTOBER 11, 2010
PLANNING COMMISSION STAFF
REPORT**

Agenda #: Regular - Item #1
Title: Namaqua Hills Central
Second Subdivision
Applicant: Dakota Ridge, LLC
Request: Preliminary Subdivision Plat
Legal Description: Tract A and Outlot A of the
Namaqua Hills Central First
Subdivision
Location: West of Wilson Avenue
between future alignments of
29th and 22nd Streets, and
north of the current terminus
of Morning Drive.
Existing Zoning: R1 - Developing Low
Density Residential and DR
- Developing Resource
Staff Planner: Troy Bliss

Summary of Analysis

This is a public hearing to consider a Preliminary Subdivision Plat on approximately 49.4 acres. The proposed subdivision would create 38 single family lots along with associated outlots for open space and detention purposes within the R1 zoned portion. The remaining 26.7 acres zoned DR, known as Outlot A of the Namaqua Hills Central First Subdivision would be retained. No development is to occur on this property. Planning Commission action is quasi-judicial. Planning Commission action is final, but subject to appeal to City Council. Staff believes that all key issues have been resolved, based on City codes and standards.

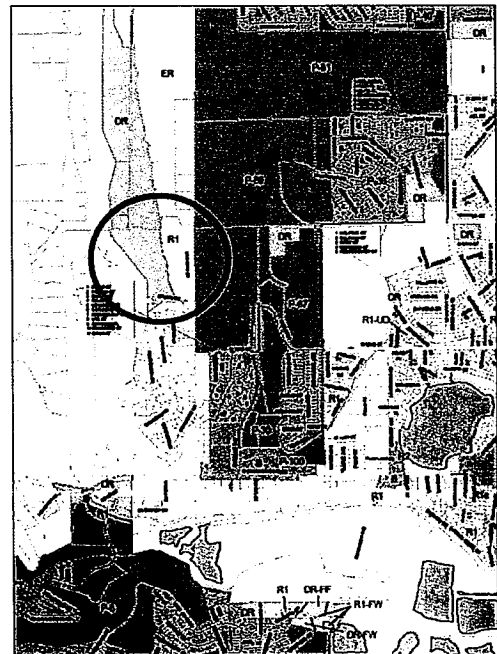
Staff Recommendation

APPROVAL of the Preliminary Subdivision Plat, subject to the Conditions of Approval listed in Section VI of the October 11, 2010 staff report, and subject to additional evidence presented at the public hearing.

Recommended Motion

"Move to make the findings listed in Section V of the staff report dated October 11, 2010 and approve the Preliminary Subdivision Plat for Namaqua Hills Central Second Subdivision, subject to the conditions of approval in Section VII of said report, as amended on the record".

Vicinity Map



I. PROJECT SUMMARY

A. Requested Action

This is a public hearing for consideration of a Preliminary Subdivision Plat w/ Preliminary Public Improvements Construction Plans (PICPs). The Planning Commission action on the applications are quasi-judicial, meaning that the Planning Commission must make a determination if the applications are consistent with adopted City codes, standards and policies for this type of development.

B. Project Background

Namaqua Hills Central Background:

- Namaqua Hills Central was first subdivided prior to annexation approved by Larimer County in 1979 and then recorded in March of 1980.
- The subdivision was annexed into the City with the Namaqua Hills Central Addition and the lots, tracts, and right-of-way came under City of Loveland jurisdiction in January of 2009.
- The western portion of this site is considered the Hogback Natural Area by the City of Loveland's Natural Area Sites document. It has an overall habitat rating of 9 on a scale of 10. Prior to the annexation, a Conservation Easement was dedicated to the City and the Legacy Land Trust on the western 27 acres of the Namaqua Hills Central Addition that corresponds to the Hogback Natural Area. This Conservation Easement prevents any development except for the installation of a soft surfaced trail. The Namaqua Hills Central Addition zoned this 27-acre area t DR – Developing Resource.
- The eastern portion of the Namaqua Hills Central Addition was zoned R1 - Developing Low Density Residential.
- Following annexation, an application to vacate the obsolete subdivision created through Larimer in 1979 was approved by the City removing all previous lots of record.
- The Namaqua Hills Central First Subdivision was approved in July of 2009 creating Tract A which corresponds to the R1 zoning and Outlot A which corresponds to the DR zoning established at the time of annexation.

C. General Description

This application proposes to plat the eastern portion of the 49.4 total acres for 38 single family lots along with associated outlots for open space and detention purposes, approximately 22 acres of the site. The City of Loveland's Comprehensive Land Use Plan designates the area covered by the Namaqua Hills Central First Filing as LDR – Low Density Residential and ER – Estate Residential. The annexation of Namaqua Hills Central contained a condition limiting the density of the developable portion of the site to

less than 2 dwelling units per acre with a total of 38 lots allowed, a density that is in line with the Comprehensive Plan.

The site is located west of Wilson Avenue and the future alignment of Cascade Avenue between future alignments of 29th and 22nd Streets, and north of the current terminus of Morning Drive.

The preliminary plat proposes:

- 38 single family lots on approximately 22 acres within a gated community;
- Single family lots range in size from approximately 10,000 square feet on up to over 17,000 square feet;
- Retaining Outlot A (approximately 27 acres) of the Namaqua Hills First Subdivision associated to a portion of the Hogback Natural Area;

The housing types around this site are traditional or estate single family units, with lot sizes consistent with the abutting existing neighborhoods.

D. Neighborhood response

A neighborhood meeting was held on February 18, 2009 at the Gertrude B. Scott Meeting Room of the Loveland Public Library. The attendance sheet indicates 15 persons attended the meeting. Concerns and questions that were raised at the meeting included the following:

- Concerns relative to how future development of this site would contribute to the Namaqua Hills (abutting Larimer County residential subdivision to the south) General Improvement District (GID) regarding the use of Morning Drive.
- Concerns relative to limiting or eliminating traffic along Morning Drive to access this subdivision. The introduction of a gated community for the Namaqua Hills Central Second Subdivision was generally a well received solution.
- Concerns with having West 22nd Street opened to facilitate future development for Namaqua Hills Central Second Subdivision.
- Gates, fencing, etc. coming into conflict with the wildlife.

In general, the proposal for Namaqua Hills Central Second Subdivision was well received by the neighbors in attendance. However, there are some that continue to express concerns specific to the items mentioned above.

E. Key Issues

Staff review has given careful attention to each aspect of the proposed development that is governed by City codes and standards and the provisions of the approved Namaqua Hills Central Addition for the site. From a City staff standpoint, all standards, requirements, etc. have been resolved on the basis of applicable codes, standards, and recommended conditions (Section VI). Section V of this staff report outlines City staff's justification.

II. ATTACHMENTS:

1. Vicinity Map
2. Excerpts of Traffic Impact Study prepared by Delich Assoc.
3. Namaqua Hills Central Second Subdivision Preliminary Plat
4. Namaqua Hills Central Second Subdivision Conceptual Housing and Gate Designs

III. SITE DATA

ACREAGE OF SITE (GROSS ACRES).....	49.409 AC
EXISTING ZONING	R1 AND DR
PROPOSED ZONING.....	NA
MASTER PLAN DESIGNATION	LDR/ER
EXISTING USE	VACANT/OPEN SPACE
PROPOSED USE.....	SINGLE FAMILY
.....	RESIDENTIAL/OPEN SPACE
NUMBER OF DWELLING UNITS PROPOSED	0 (UP TO 38 FUTURE DU'S)
GROSS DENSITY (DU/A)	1.3 DU/AC
EXISTING ADJACENT ZONING AND USE - NORTH.....	ER AND DR, DAKOTA RIDGE ADDITION (VACANT)
EXISTING ADJACENT ZONING AND USE - EAST	P-89 (HUNTER'S RUN WEST PUD), SINGLE FAMILY (VACANT)
EXISTING ADJACENT ZONING AND USE - SOUTH	UNINCORPORATED LARIMER COUNTY, NAMAQUA HILLS (EXISTING SINGLE FAMILY RESIDENCES)
EXISTING ADJACENT ZONING AND USE - WEST	UNINCORPORATED LARIMER COUNTY, OPEN SPACE
UTILITY SERVICE PROVIDER - SEWER	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - ELECTRIC.....	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - WATER.....	CITY OF LOVELAND

IV. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION

- A. **Notification:** An affidavit was received from Landmark Engineering, certifying that written notice was mailed to all owners of property within 1,000 feet of the site on September 24, 2010; and notices were posted in prominent locations on the perimeter of the project site at least 15 days prior to the date of the hearing. In addition, a notice was published in the Reporter Herald on September 25, 2010. All notices stated that the Planning Commission would hold a public hearing on October 11, 2010.

There are no severed mineral estates for the property. Therefore, no notice was required, and no element of mineral rights must be considered in the public hearing.

- B. Neighborhood Response:** A neighborhood meeting was held at 6:00 pm on February 18, 2009 in the Gertrude B. Scott Meeting Room of the Loveland Public Library. The attendance sheet for the meeting indicates that 15 persons attended the meeting, along with City staff and the Applicant. See information in Section I. above for concerns voiced at the meeting.

V. FINDINGS AND ANALYSIS

Findings A through D below are the required findings for the Namaqua Hills Central Second Subdivision Preliminary Plat.

A. City Utilities and Services

1. Loveland Municipal Code

a. Section 16.20.030:

(i) *The proposed public facilities and services are adequate, consistent with the City's utility planning, and capable of being provided in a timely and efficient manner*

(ii) *The subdivision complies with the water rights requirements in Title 19.*

(iii) *The subdivision has been reviewed in accordance with the Loveland Comprehensive Master Plan, including the Parks and Recreation Functional Master Plan, and other pertinent plans approved and adopted by the City, to insure that the subdivision is designed in accordance with good engineering practices and provides for safe and convenient movement.*

- c. **Section 16.24.012:** *Electric and water distribution system improvements, sewer collection improvements, storm drainage control facilities, and other improvements as required to be constructed with the subdivision have been designed in accordance with the City of Loveland "Storm Drainage Criteria Manual," 1986 Edition, as amended and the latest edition of the "Development Standards and Specifications Governing the Construction of Public Improvements."*

d. Section 16.24.090:

(i) *All new and replacement sanitary sewer and water supply systems have been designed to minimize or eliminate infiltration of floodwaters in the system.*

(ii) *The subdivision proposal has adequate drainage provided to reduce exposure to flood damage.*

(iii) *The subdivision proposal has public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.*

(iv) *The development proposal conforms to all federal, state, and local floodplain regulations*

(v) *When deemed necessary by the Director of Community Services or the Planning Commission for the health, safety, or welfare of the present or future population of the area or necessary to the conservation of water, drainage, and sanitary facilities, the subdivision of land within the flood fringe and floodway, or any stream, river, or drainage course has been prohibited.*

- e. **Section 16.24.140:** *All proposed utility facilities, including, but not limited to, gas, electric power, telephone, and CATV cables, are located underground. Where practical, existing utility facilities located above ground, except when located in a public right-of-way, are to be removed and placed underground.*
- f. **Chapter 16.41:** *A positive determination of adequacy, or a positive determination of adequacy with conditions, has been made in accordance with Section 16.41.100 for fire protection and emergency rescue services, Section 16.41.120 for water facilities and services, Section 16.41.130 for wastewater facilities and services, and Section 16.41.140 for storm drainage facilities.*

Fire Department:

- The furthest point within this development is approximately 2 ½ miles from the first due Engine Company (Station 2). In order to comply with the response distance requirements in the ACF ordinance, the first due Engine Company should be within 1 ½ miles of the furthest point within the development. Future preliminary development plan applications must comply with the requirements of the Adequate Community Facilities ordinance. This project shall comply with the interim standards in Table 2.3 of the ACF ordinance. The interim standards in Table 2.3 are designed to provide an increased level of individual structure fire protection where a project is outside the fire service areas.
- The proposed project is in low or moderate wildfire hazard areas in accordance with Larimer County regulations. Since this area is more susceptible to wildfires additional safety measures must be applied. The conditions on this project follow Larimer County requirements for structures built in wildfire hazard areas.
- **ACF ANALYSIS**
Fire This project complies with the Adequate Community Services ordinance outlined in the Loveland Municipal Code, Section 16.41.100.

Parks and Recreation Department:

- A large portion of the Namaqua Hills Central property has been identified as a natural area in the city's natural areas inventory, *Natural Areas Sites 2008*. Natural Area #74 – Hogback was rated 9 out of 10 for overall habitat quality. The majority of the Namaqua Hills Central 2nd Subdivision property zoned DR (Outlot A) consists of Natural Area #74. Outlot A is protected by a Conservation Easement co-held by the City of Loveland and Legacy Land Trust. The Conservation Easement permits the construction of a soft-surface foot trail for pedestrian use by the public on Outlot A, accessible from a public street or right-of-way in the Namaqua Hills Central

2nd Subdivision. The Annexation Agreement for the Namaqua Hills Central Addition requires the location of the trail and the connection to a public street or right-of-way to be shown on the Preliminary Plat for Namaqua Hills Central 2nd Subdivision. The Annexation Agreement also requires the public access pedestrian trail to be built by the developer of Namaqua Hills Central 2nd Subdivision.

Power Division:

- Most of the proposed annexation lies primarily in the certified service territory of Xcel Energy, and some of the proposed annexation may lie in the certified service territory of Poudre Valley REA. Upon completion of successful annexation to the City of Loveland, the City will provide electric service to any future development of the proposed annexation. The portion of the development located in REA territory will be subject to a five percent (5%) surcharge on electrical energy as defined in 40-915-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge applies to any subsequent subdivisions of property annexed after January 31, 1987 within REA Certified service territory and expires ten years after effective date of the annexation proposed development currently lies within the Poudre Valley REA certified service territory. A note to this effect must be included on the final plat.
- 200-amp three-phase underground power is available at the current west end of West 29th Street and the north end of Cascade Boulevard. Power will be extended onto the development site from one or all of these source locations at the developer's expense per City Municipal codes.
- ACF Analysis:
The existing electric facilities are adequate and available for extension to the projected uses. The proposed development meets the criteria for level of service as outlined in the ACF ordinance.

Storm Drainage Division:

- When final designed and built, the proposed development will not negatively impact City storm drainage utilities.
- When final designed and constructed, the proposed development will comply with the Adequate Community Services ordinance outlined in the Loveland Municipal Code, Section 16.41.140.
- No irrigation ditches traverse the site.
- No natural drainage courses/open channels traverse the site.

Waste Water Division:

- This development is situated within the City's current service area for both water and wastewater. The Department finds that the Development will be compliant to ACF for the following reasons:
 - The proposed development will not negatively impact City water and wastewater facilities. However to serve the development with water

and wastewater extensive off-site infrastructure will need to be constructed by the developer or by others to reach the site.

- The proposed public facilities and services are adequate and consistent with the City's utility planning and provides for efficient and cost-effective delivery of City water and wastewater service. Regarding water, the subject development is situated in a boosted water pressure zone. Typically, highest finished floor elevations below an elevation of approximately 5280 will be in the City's Master Plan boosted pressure zone #2 (BPZ2).
- The proposed facilities shown on the Preliminary PICPs have been designed pursuant to the City's Development Standards.
- The proposed facilities have been design to minimize flood damage and infiltration.

B. Transportation

1. **Section 16.20.030:** *The subdivision has been reviewed in accordance with the Loveland Transportation Master Plan to insure that the subdivision is designed in accordance with good engineering practices and provides for safe and convenient movement.*
2. **Section 16.24.015:** *Streets, street signs, highways, curb and gutter, traffic control devices, and other improvements as required to be constructed with the subdivision have been designed in accordance with the Larimer County Urban Area Street Standards, as amended.*
3. **Section 16.24.040:**
 - a. *Streets have been designed to have a logical relationship to topography and to the location of existing or platted streets in adjacent properties. Certain proposed streets, as determined by the City engineer, have been extended to the boundary of the subdivision to provide for traffic circulation within the vicinity*
 - b. *As required by the Director, perpetual unobstructed pedestrian easements at least 20 feet in width have been provided within the subdivision to facilitate pedestrian access from roads to schools, parks, playgrounds, or other community or commercial services. Such easements shall generally not follow road rights-of-way.*
4. **Section 16.41.110:** *A positive determination of adequacy, or a positive determination of adequacy with conditions, has been made for transportation facilities in accordance with Chapter 16.41 of the Loveland Municipal Code.*

Transportation Engineering Division:

Transportation Engineering: Staff believes that this finding can be met, due to the following:

- 1) A Traffic Impact Study has been submitted with the Namaqua Hills Central Second Subdivision Preliminary Plat application which demonstrates that the transportation system, incorporating the required roadway improvements, can adequately serve the land uses proposed.

2) Primary access to the site will be from the future 29th Street and Morning Drive intersection to the north and the connection of Morning Drive to the south. The project will be responsible for designing and constructing the connection of 29th Street from Morning Drive to Cascade Avenue. Additionally, this project will be responsible for the opening of W. 22nd Street between Morning Drive and Cascade Avenue to local traffic.

3) The applicant's traffic engineer, Matt Delich, P.E., has submitted a Traffic Impact Study (TIS) that indicates that the traffic associated with the proposed development will meet the City's standards. The proposed Namaqua Hills Central Second Subdivision is estimated to generate approximately 370 daily trips, 28 weekday AM peak hour trips, and 38 weekday PM peak hour trips. Excerpts from the Traffic Impact Study are included in **Attachment 2**.

In conclusion, the development of the subject property pursuant to any of the uses permitted by right under the zoning district will not adversely impact any existing City infrastructure when typical roadway improvements are constructed. A positive determination of adequacy for transportation facilities for the proposed Preliminary Plat has been made under the provisions of paragraph ii, above.

C. Land Use

1. Loveland Comprehensive Master Plan

a. Section 4.1 -Growth Management Plan

(iii) *Whether the preliminary plat discourages leapfrog, scattered-site, and flagpole development.*

(iv) *Whether the preliminary plat encourages infill development.*

(vi) *Whether the preliminary plat is contiguous to other land that is already receiving public services.*

(vii) *Whether the preliminary plat is at least 1/6 contiguous with existing development, as defined in Section 4.1 GM:3(D-1) of the Comprehensive Master Plan.*

Current Planning Division: These findings can be met. This preliminary plat does not encourage leapfrog development as it is surrounded by land currently within the City limits of Loveland. It encourages infill development by readying for development on land that exists as somewhat of a "hole" of undeveloped land in this portion of Loveland. This preliminary plat is contiguous to land already receiving City services and is at least 1/6 contiguous with existing development.

2. **Section 16.20.030:** *The subdivision does not create, or mitigates to the extent possible, negative impacts on the surrounding property.*

Current Planning Division: This finding can be met. This subdivision will not create negative impacts on surrounding properties.

3. **Section 16.20.030:** *The subdivision provides desirable settings for buildings, protects views, and affords privacy, protect from noise and traffic, and uses resources such as energy and water in keeping with responsible resource stewardship.*

Current Planning Division: This finding can be met. This preliminary plat proposes 38 single family lots along the foothills. In conjunction with the preliminary plat, the applicant provided an exhibit (**Attachment 4**) to help illustrate how with future single family development the subdivision will comply with this finding.

4. **Section 16.20.030:** *The lots and tracts are laid out to allow efficient use of the property to be platted.*

Current Planning Division: This finding can be met. The Lots and Outlots are laid out in such a manner as to allow for efficient use of the property. Future development of this property will rely upon other developments to occur and off-site improvements to be made.

6. **Section 16.24.120:**
 - a. *Street trees are located in compliance with the City's Site Development Performance Standards and guidelines, unless waived by the Director.*
 - b. *The subdivision plat includes open space fields in compliance with the requirements set forth in Section 16.24.150, unless waived by the Planning Commission. The open space play fields are designed with respect to size, dimension, topography, and general character to be suitable for outdoor play activities*

Current Planning Division: These findings can be met. The landscaping proposed as part of this preliminary plat complies with the City's Site Development Performance Standards and Guidelines (SDPSG).

D. Environmental Impacts:

Section 16.20.030: *The subdivision preserves natural features and environmentally sensitive areas to the extent possible.*

Current Planning Division: This finding can be met; the environmentally sensitive area which exists (Outlot A) on the site will not be disturbed with future development and will continue to be preserved as open space.

VI. RECOMMENDED CONDITIONS

The following conditions are recommended by City staff:

Current Planning

1. Building/structural encroachments of any kind shall not be permissible within easements established on any lot or outlot.
2. This subdivision will be subject to a development agreement which at the time of final platting will be recorded in the real property records of Larimer County.
3. Unless otherwise approved by the City, all unsatisfied conditions of approval for the Namaqua Hills Central First Subdivision shall continue to apply to this property.
4. All expenses involving necessary improvements for water system, sanitary sewer system, storm sewer system, curbs and gutters, sidewalks, street improvements, street signs, traffic control signs, alley grading and surfacing, gas service, electric system, grading and landscaping shall be paid by the developer or their assigns.

Transportation Development Review

5. Notwithstanding any information presented in the preliminary plat or accompanying preliminary construction plan documents (text or graphical depictions), all public improvements shall conform to the Larimer County Urban Area Street Standards, as amended, unless specific variances are requested and approved in writing by the City.
6. The development shall be responsible for a portion of the future maintenance of the applicable portions of Morning Drive that are in Larimer County right-of-way. Prior to approval of the final plat for the subdivision, the developer shall provide to the City a copy of a written agreement between the developer and Larimer County pertaining to the development's responsibility for a portion of the future maintenance of the section of Morning Drive that is in Larimer County right-of-way.
7. No construction traffic for the development of this subdivision shall use Morning Drive south of this property.
8. The following public improvements shall be designed and constructed by the developer unless designed and constructed by others:
 - a. West 29th Street from the east property line to Cascade Avenue as shown on the approved construction plans;
 - b. Cascade Avenue from West 29th Street south to the existing portion of Cascade Avenue at West 22nd Street as shown on the approved construction plans;
 - c. A northbound left-turn lane at the intersection of Cascade Avenue and 29th Street;
 - d. The opening of the west end of 22nd Street to through traffic (between Morning Drive and Cascade Avenue); including removal of the 6-inch vertical curbed grade break and replacing it with a vertical curve with a 25 mph design speed per the approval of both the City and Larimer County.

All improvements listed above shall be completed prior to the issuance of any building permits, unless otherwise approved pursuant to the provisions in Section 16.40 of the Loveland Municipal Code.

9. Prior to submittal of the final plat, the developer shall submit documentation satisfactory to the City establishing the developer's unrestricted ability to acquire sufficient offsite public right-of-way for the construction of the off-site portions of Cascade Avenue and West 29th Street.
10. Prior to approval of the final public improvement construction plans and/or the final plat, the developer shall submit recorded deeds of dedication to the City for all offsite right-of-way required for transportation facilities needed to meet City Standards.
11. Prior to approval of the final plat, the developer shall amend Engineering Condition number 14 on the Trimble Hills General Development Plan to allow for the opening of West 22nd Street to public traffic, unless this condition has already been amended by others.
12. Prior to approval of the Final Plat the developer shall obtain a revocable right-of-way obstruction permit from the City for the proposed gates in Morning Drive.

Water Wastewater

13. Unless constructed by others, the Developer shall obtain all necessary easements and shall design and construct the following public improvements, prior to the issuance of any building permits:
 - a. All portions of the water utility infrastructure system which is necessary to convey service and looping requirements for water quality as illustrated in the Public Improvement Construction Plans (PICPs) for Vanguard-Famleco 13th Subdivision, otherwise known as Hunters Run West Filing 1.
 - b. All portions of the water infrastructure system which is necessary to convey service and looping requirements for water quality as well as all portions of the wastewater infrastructure system which is necessary to convey service as illustrated in the Public Improvement Construction Plans (PICPs) for Vanguard-Famleco 16th Subdivision, otherwise known as Hunters Run West Filing 2.
14. The entire development lies within the water Boosted Pressure Zone 2 (BPZ2) and in order to provide water to the development the Developer shall participate with the City in the expansion of the 29th Street Booster Station, unless designed and constructed by others. The Developer shall be responsible for additional design fees required to finalize the pump station expansion design. The Developer shall be responsible to bid the project with a minimum of three qualified bids. The Developer may execute an Oversize Agreement pursuant to City policy if desired, in which the City will reimburse the Developer a portion of the base bid. No building permits shall be issued for any phase of the development within the BPZ2 region until pump station improvements have been completed, activated, and accepted by the City.
15. Prior to approval of the Final Plat the City of Loveland 25 foot utility easement (Rec # 2008 005 2968) will need to be vacated via an ordinance by City Council.

Fire

16. All residential occupancies shall be provided with heat detectors in attached garages unless protected with residential fire sprinklers.
17. Installation of defensible space in compliance with current Colorado State Forest Service guidelines shall be required on all new construction.
18. All new structures shall have fire-resistive construction of one of the following types:
 - a. One-hour fire-resistive shell which shall provide not less than one-hour fire-resistive construction at all exterior walls, EXCLUDING ALL OPENINGS AND DECKS.
 - b. Exterior siding materials shall have a flame-spread classification of Class III or better.
19. The final construction drawings shall indicate “Fire Lane – No Parking” signage in the cul-de-sac bulb.
20. Prior to construction of this subdivision, 29th Street shall be constructed to an existing street.

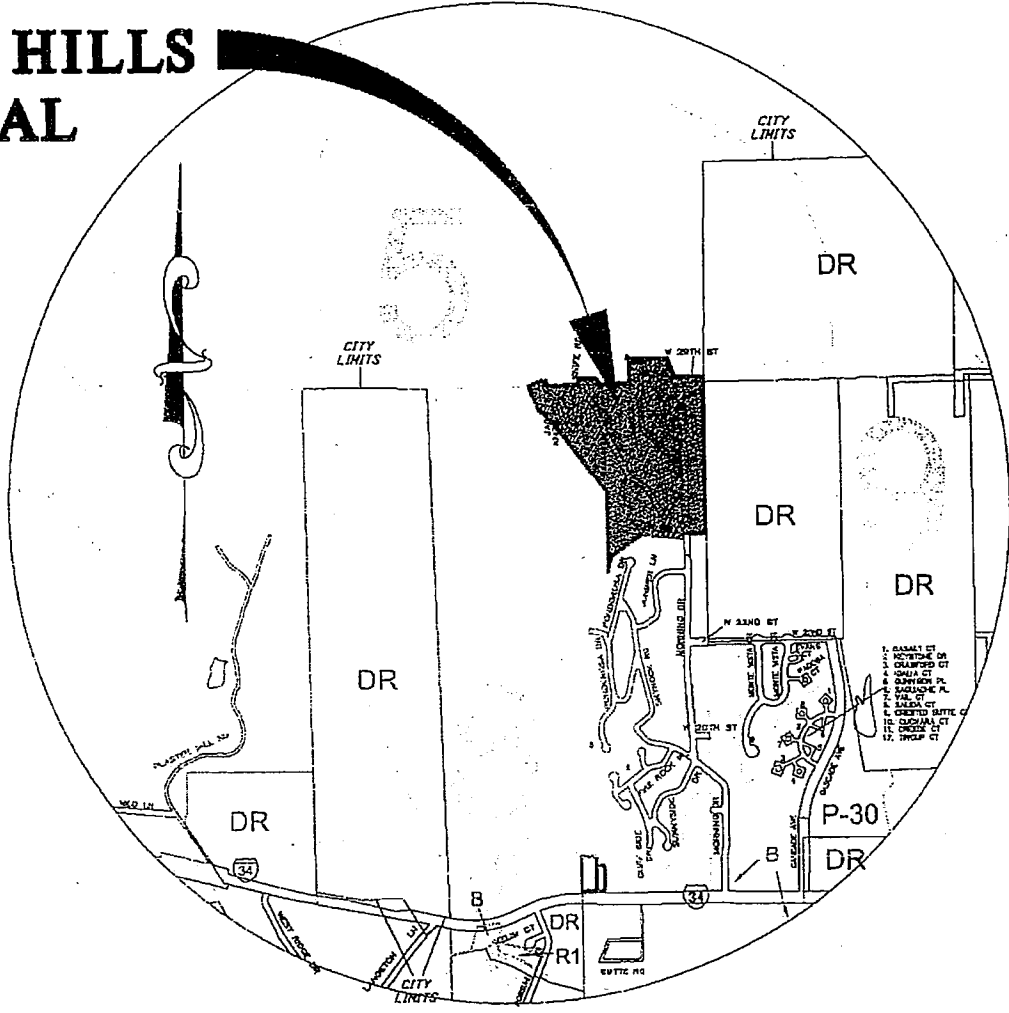
Parks

21. Prior to the issuance of any building permits within the subdivision, the Public Access Pedestrian Trail shall be built by the developer and inspected by the Parks and Recreation Department. The developer shall notify the Parks and Recreation Department at the start of public improvement construction, requesting inspection and approval of the trail prior to the first building permit being issued. This condition shall be included in the Development Agreement and on the Final Public Improvement Construction Plans.
22. In conjunction with any final plat approval, the developer shall dedicate a public access easement in the location of where the public access pedestrian trail would be constructed. The location will be coordinated with the developer and the City during the final plat review process.
23. The developer and/or permanent Homeowners’ Association (HOA) shall be required to manage and maintain, in perpetuity, the Public Access Pedestrian Trail upon it being constructed with the future development of the Namaqua Hills Central Second Subdivision. This condition shall be included in the Development Agreement and on the Final Plat.

Stormwater

24. The Namaqua Hills Central 2nd Subdivision shall not be constructed until after the adjacent Hunters Run West Filing 2 Subdivision storm drainage infrastructure has been constructed.

**NAMAQUA HILLS
CENTRAL**



VICINITY MAP

NAMAQUA HILLS CENTRAL, SECOND SUBDIVISION
TRAFFIC IMPACT STUDY

LOVELAND, COLORADO

DECEMBER 2009

Prepared for:

Landmark Engineering
3521 West Eisenhower Boulevard
Loveland, CO 80537

Prepared by:

DELICH ASSOCIATES
2272 Glen Haven Drive
Loveland, CO 80538
Phone: 970-669-2061
FAX: 970-669-5034



ATTACHMENT 2

III. PROPOSED DEVELOPMENT

The Namaqua Hills Central, Second Subdivision is a proposed residential development with 38 dwelling units. Figure 4 shows the site plan for the Namaqua Hills Central, Second Subdivision development. The north and south access to the site (Morning Drive extended) will be controlled by gates that the residents will use to access the site. This was done to prevent "cut-through" traffic on Morning Drive. Since Morning Drive will not be available to the public as a through street, the classification of Morning Drive, from the Morning/Skyrock-Sunnyside intersection to 29th Street, was evaluated with regard to reclassification as a local street. The project is expected to be built in the next 3-4 years following approval by the City of Loveland. The short range future was determined to be the year 2013. The long range future is the year 2030.

Trip Generation

Trip generation is important in considering the impact of a development such as this upon the existing and proposed street system. Trip generation information contained in Trip Generation, 8th Edition, ITE was used to estimate trips that would be generated by the proposed use at this site. A trip is defined as a one-way vehicle movement from origin to destination. The Namaqua Hills Central, Second Subdivision is proposed to be 38 single family dwelling units. Table 2 shows the expected trip generation on a daily and peak hour basis. The trip generation of the Namaqua Hills Central, Second Subdivision resulted in 370 daily trip ends, 28 morning peak hour trip ends, and 38 afternoon peak hour trip ends.

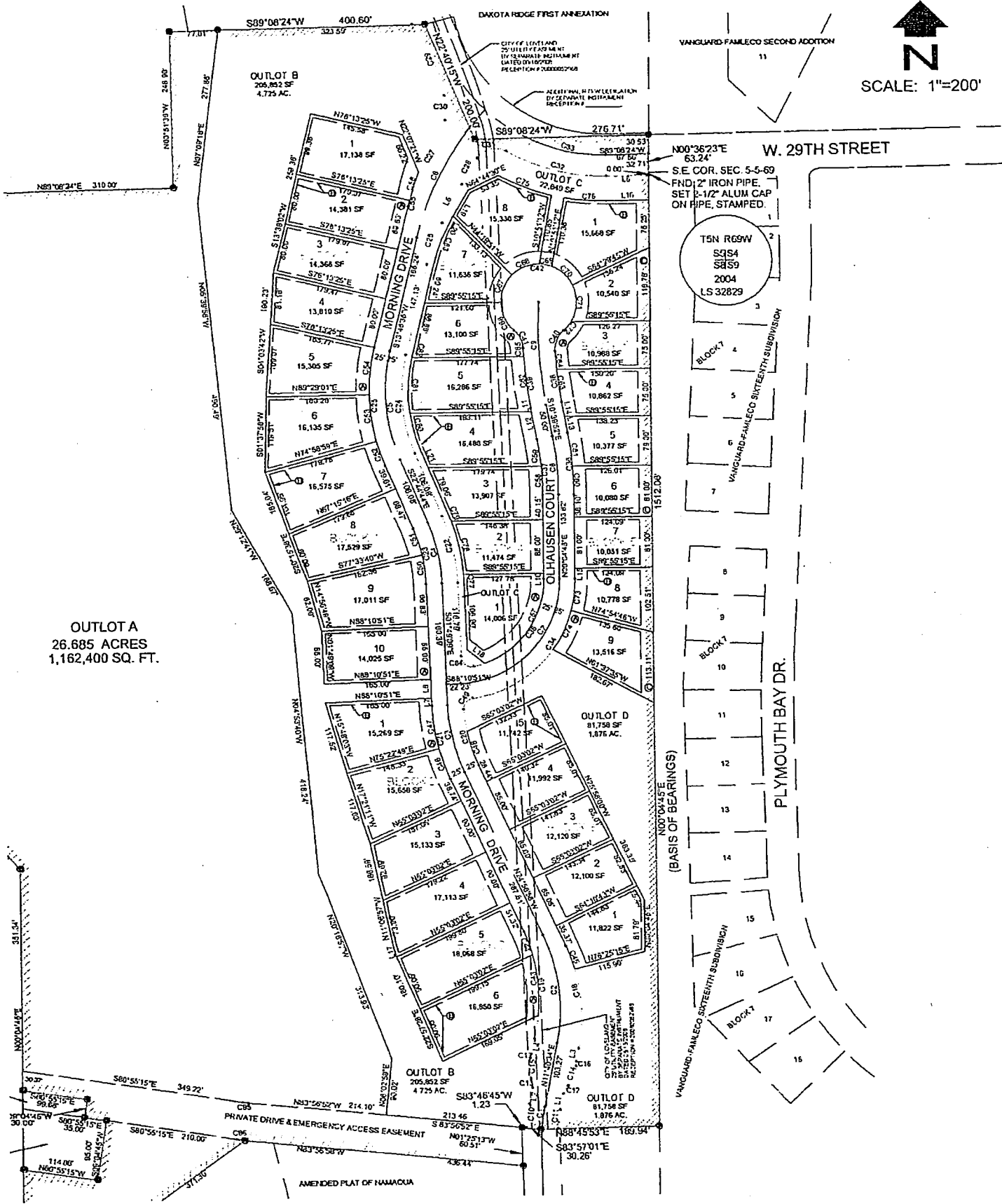
Code	Use	Size	AWDTE		AM Peak Hour				PM Peak Hour			
			Rate	Trips	Rate	In	Rate	Out	Rate	In	Rate	Out
210	Single Family	38 D.U.	9.57	370	0.19	7	0.56	21	0.64	24	0.37	14

Trip Distribution

Trip distribution is a function of the origin and destination of site users and the available roadway system. Trip distribution for the Namaqua Hills Central, Second Subdivision development was estimated using knowledge of the existing and planned street system, development trends in the area, and engineering judgment. The trip distribution was agreed to in the scoping meeting. Figure 5 shows the trip distribution for the Namaqua Hills Central, Second Subdivision development.

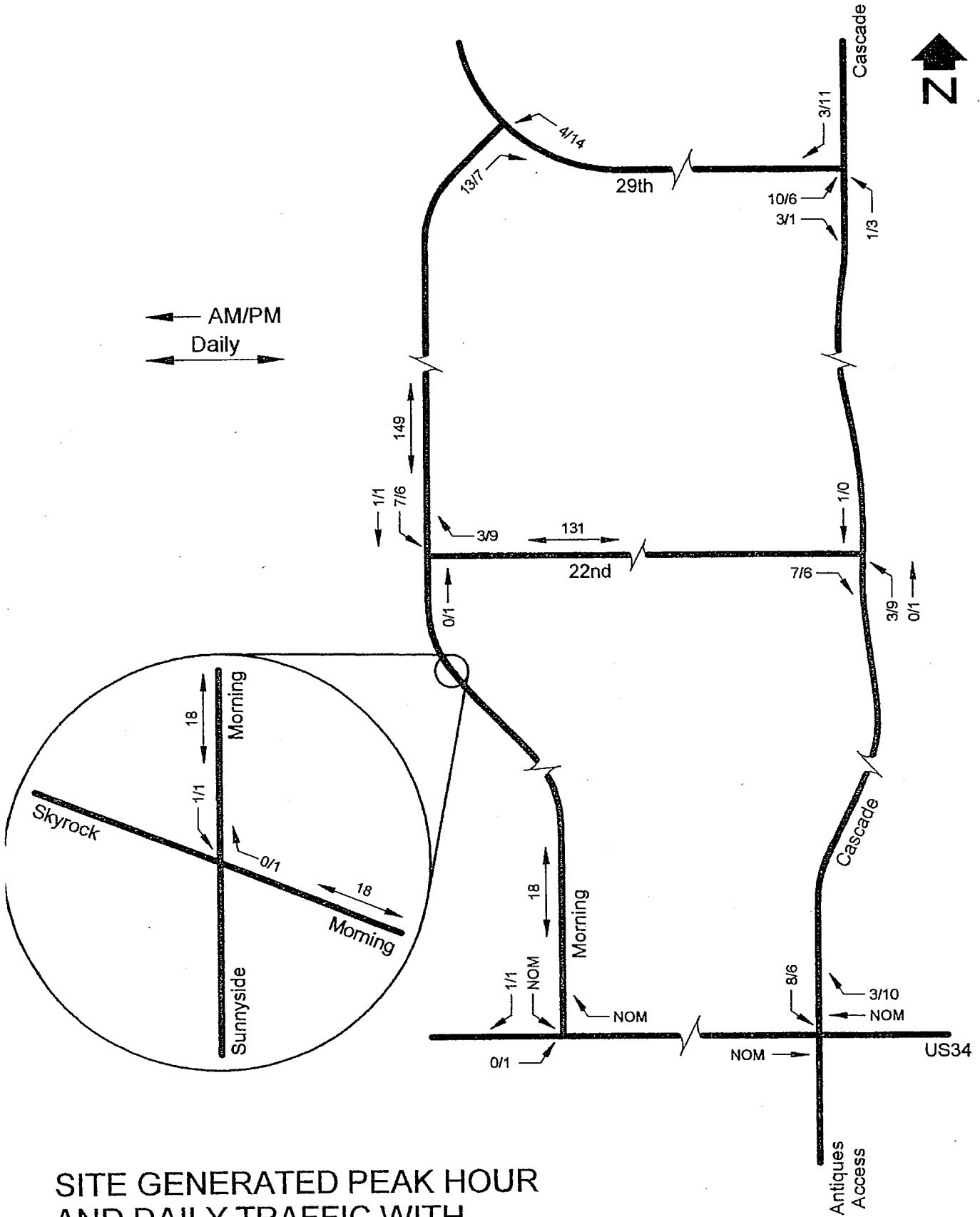


SCALE: 1"=200'



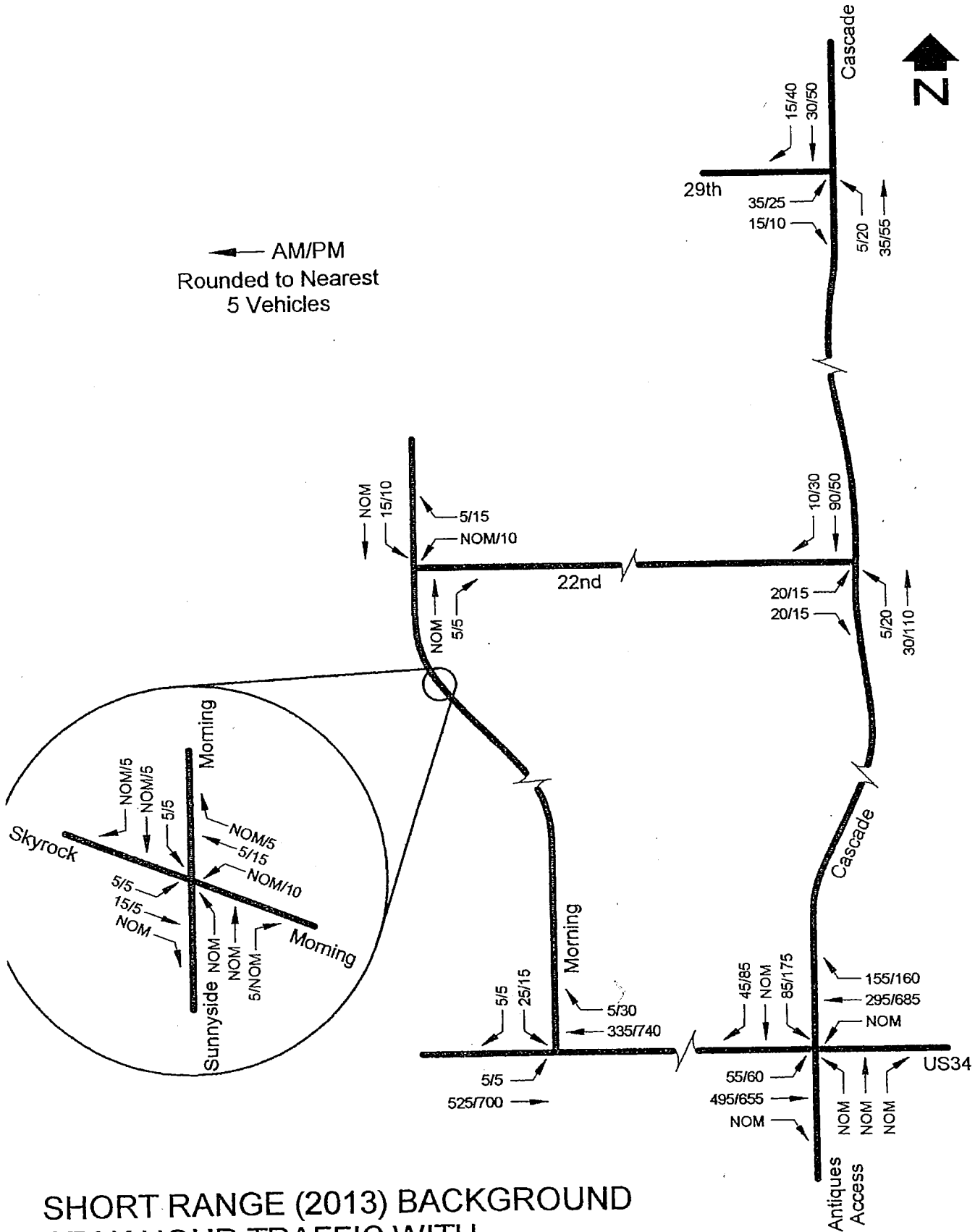
SITE PLAN

Figure 4



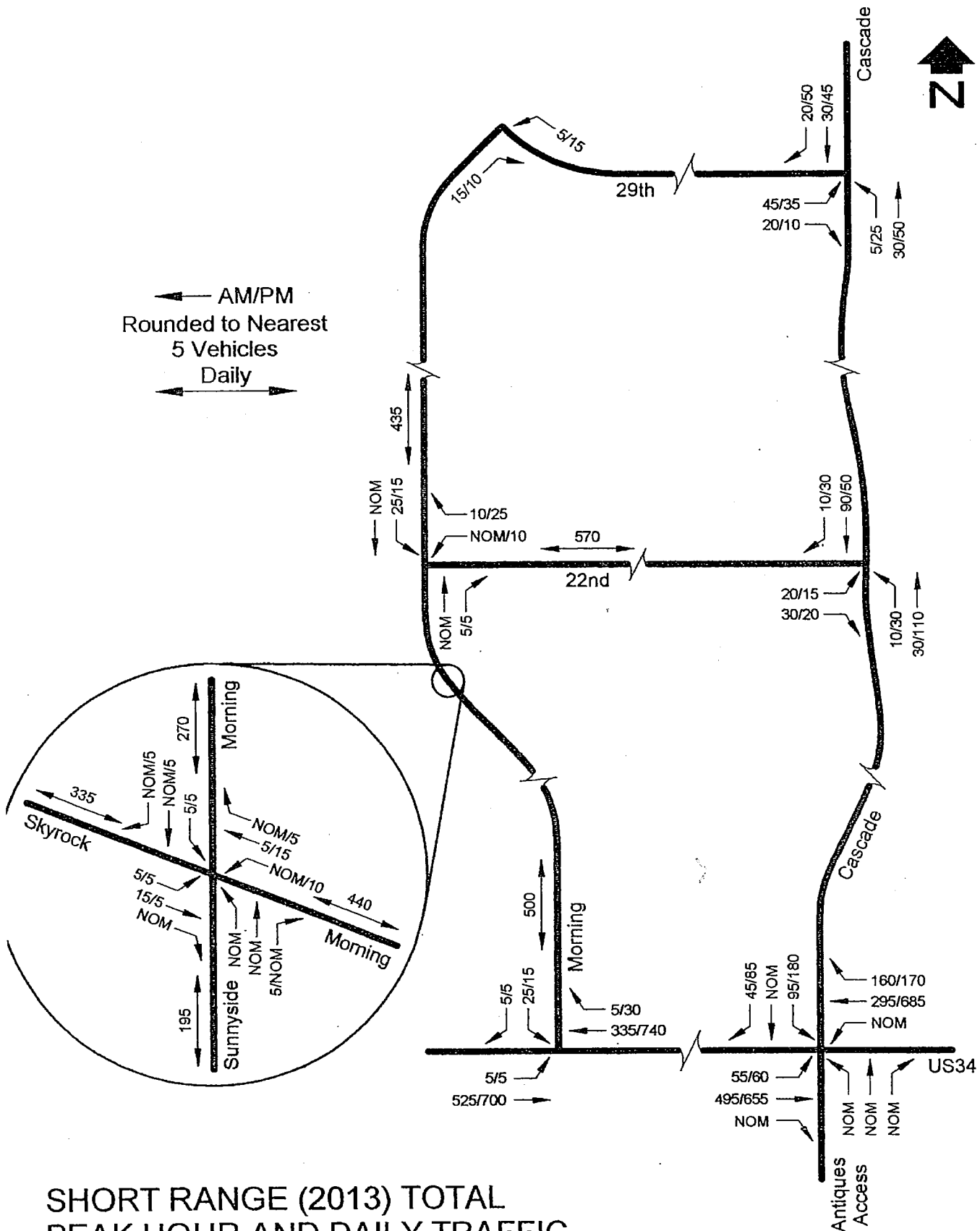
SITE GENERATED PEAK HOUR AND DAILY TRAFFIC WITH 22nd STREET CONNECTION

Figure 7



SHORT RANGE (2013) BACKGROUND
 PEAK HOUR TRAFFIC WITH
 22nd STREET CONNECTION

Figure 9



SHORT RANGE (2013) TOTAL
 PEAK HOUR AND DAILY TRAFFIC
 WITH 22nd STREET CONNECTION

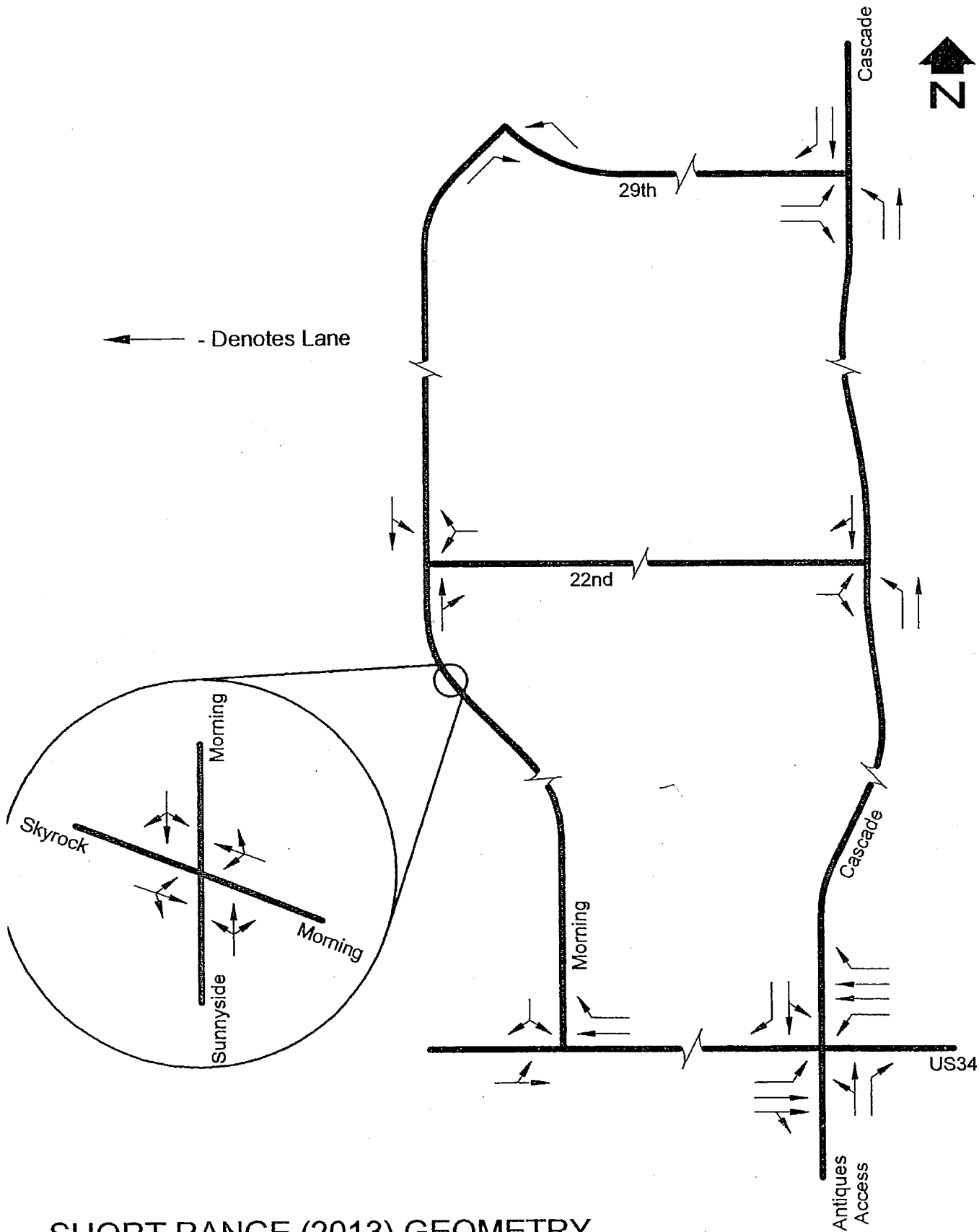
Figure 12

TABLE 4
Street Traffic Volume Summary Table with the 22nd Street Connection

Street Segment	Direction	Existing Traffic Volume (AM/PM)	Date Existing Volume Taken	Regional Growth and Traffic from Build-out of Other Proposed Development* (AM/PM)	Site Generated Traffic (2013) (AM/PM)	Total Traffic (2013) (AM/PM)	ACF Traffic Threshold	ACF Compliance (AM/PM)
1 US34 east of Cascade Avenue	EB	518/740	11/09	580/830	8/6	590/835	1980	Y/Y
	WB	378/768	11/09	450/845	3/10	455/855	1980	Y/Y
2 US34 west of Morning Drive	EB	475/630	11/09	530/705	0/1	530/705	840	Y/Y
	WB	294/671	11/09	340/745	1/1	340/745	840	Y/Y
3 Cascade Avenue north of US34	NB	108/93	11/09	210/220	3/10	215/230	965	Y/Y
	SB	36/126	11/09	130/260	8/6	140/265	965	Y/Y
4 Cascade Avenue north of 29 th Street	NB	N/A	N/A	70/80	10/6	75/85	965	Y/Y
	SB	N/A	N/A	45/90	3/11	50/95	965	Y/Y
5 Morning Drive north of US34	NB	8/46	11/09	10/35	0/1	10/35	265/60 (1)	Y/Y
	SB	39/26	11/09	30/20	1/1	30/20	265/60 (1)	Y/Y
6 Morning Drive north of Skyrock Road	NB	5/12	11/09	5/10	0/1	5/10	265/60 (1)	Y/Y
	SB	16/9	11/09	5/15	1/1	5/15	265/60 (1)	Y/Y
7 Morning Drive south of 29 th Street	NB	N/A	N/A	N/A	13/7	15/10	335/60 (1)	Y/Y
	SB	N/A	N/A	N/A	4/14	5/15	335/60 (1)	Y/Y
8 22 nd Street west of Cascade Avenue	EB	19/15	11/09	40/30	7/6	45/30	60	Y/Y
	WB	6/20	11/09	15/50	3/9	20/55	60	Y/Y
9 29 th Street west of Cascade Avenue	EB	N/A	N/A	50/35	13/7	65/45	365	Y/Y
	WB	N/A	N/A	20/60	4/14	25/75	365	Y/Y
Approved developments, not yet built:								
Hunters Run West, Esian Park, Lee Farm								
Total traffic is rounded to the nearest 5 vehicles.								
* (1) Minor Collector/Local								
Notes/Comments								

TABLE 9
Short Range (2013) Total Peak Hour Operation
With the 22nd Street Connection

Intersection	Movement	Level of Service	
		AM	PM
US34/Cascade (signal)	EB LT	A	A
	EB T/RT	A	A
	EB APPROACH	A	A
	WB LT	A	A
	WB T	A	B
	WB RT	A	A
	WB APPROACH	A	B
	NB LT/T	D	C
	NB RT	D	C
	NB APPROACH	D	C
	SB LT/T	D	D
	SB RT	D	C
	SB APPROACH	D	D
OVERALL	A	B	
US34/Morning (stop sign)	SB LT/RT	C	D
	EB LT/T	A	A
	OVERALL	A	A
Cascade/22 nd (stop sign)	EB LT/RT	B	B
	NB LT	A	A
	OVERALL	A	A
Cascade/29 th (stop sign)	EB LT	B	B
	EB RT	A	A
	EB APPROACH	B	B
	NB LT	A	A
	OVERALL	A	A
Morning/22 nd (stop sign)	WB LT/RT	A	A
	SB LT/T	A	A
	OVERALL	A	A
Morning/Skyrock-Sunnyside (stop sign)	NB LT/T/RT	A	A
	SB LT/T/RT	A	A
	EB LT/T/RT	A	A
	WB LT/T/RT	A	A
	OVERALL	A	A



SHORT RANGE (2013) GEOMETRY
WITH 22nd STREET CONNECTION

Figure 14

IV. CONCLUSIONS AND RECOMMENDATIONS

This study assessed the transportation impacts associated with the development of the Namaqua Hills Central, Second Subdivision in Loveland, Colorado. This study analyzed the transportation impacts in the short range (2013) future and long range (2030) future. As a result of these analyses, the following is concluded:

- The development of the Namaqua Hills Central, Second Subdivision project is feasible from a traffic engineering standpoint. The project will generate approximately 370 daily trip ends, 28 morning peak hour trip ends, and 38 afternoon peak hour trip ends.
- Current operation at the key intersections is acceptable based on the City of Loveland evaluation criteria.
- Peak hour signal warrants are not expected to be met at any of the stop sign controlled intersections.
- Using the short range (2013) background traffic, the key intersections will operate at acceptable levels of service with and without 22nd Street open between Cascade Avenue and Morning Drive.
- Given the development of the Namaqua Hills Central, Second Subdivision in the short range (2013) future, all the key intersections will operate acceptably with and without 22nd Street open between Cascade Avenue and Morning Drive.
- The forecasted traffic volumes meet the Adequate Community Facilities ordinance with regard to traffic, with Morning Drive as a local street north of Skyrock Road.
- Morning Drive may be classified as a local street, from the Morning/Skyrock-Sunnyside intersection to 29th Street with and without 22nd Street open between Cascade Avenue and Morning Drive. It is suggested that the City consider classifying Morning Drive as a local street north of US34, in consideration of long range analyses in this TIS.
- In the long range (2030) future, all of the key intersections will operate acceptably.
- It is recommended that the City of Loveland consider opening the 22nd Street connection by or before the future elementary school is built. Twenty-second Street, between Morning Drive and Cascade Avenue, is shown on the Loveland 2030 Street Plan.
- Sidewalks will be incorporated into the street system within Namaqua Hills Central, Second Subdivision.

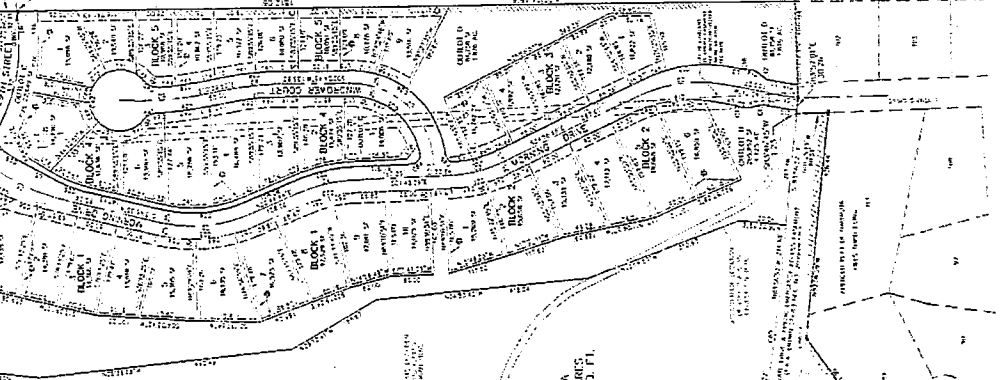
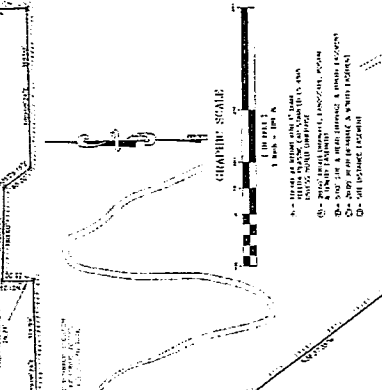
NAMAQUA HILLS CENTRAL SECOND SUBDIVISION

BEING A SUBDIVISION OF NAMAQUA HILLS CENTRAL FIRST SUBDIVISION TO THE CITY OF LOVELAND SITUATE IN THE EAST HALF OF SECTIONS 5 & 8, TOWNSHIP 5 NORTH, RANGE 69 WEST, OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO.

BLK	ACRES	AREA	PERCENT
1	1.00	1.00	100.00
2	1.00	1.00	100.00
3	1.00	1.00	100.00
4	1.00	1.00	100.00
5	1.00	1.00	100.00
6	1.00	1.00	100.00
7	1.00	1.00	100.00
8	1.00	1.00	100.00
9	1.00	1.00	100.00
10	1.00	1.00	100.00
11	1.00	1.00	100.00
12	1.00	1.00	100.00
13	1.00	1.00	100.00
14	1.00	1.00	100.00
15	1.00	1.00	100.00
16	1.00	1.00	100.00
17	1.00	1.00	100.00
18	1.00	1.00	100.00
19	1.00	1.00	100.00
20	1.00	1.00	100.00
21	1.00	1.00	100.00
22	1.00	1.00	100.00
23	1.00	1.00	100.00
24	1.00	1.00	100.00
25	1.00	1.00	100.00
26	1.00	1.00	100.00
27	1.00	1.00	100.00
28	1.00	1.00	100.00
29	1.00	1.00	100.00
30	1.00	1.00	100.00
31	1.00	1.00	100.00
32	1.00	1.00	100.00
33	1.00	1.00	100.00
34	1.00	1.00	100.00
35	1.00	1.00	100.00
36	1.00	1.00	100.00
37	1.00	1.00	100.00
38	1.00	1.00	100.00
39	1.00	1.00	100.00
40	1.00	1.00	100.00
41	1.00	1.00	100.00
42	1.00	1.00	100.00
43	1.00	1.00	100.00
44	1.00	1.00	100.00
45	1.00	1.00	100.00
46	1.00	1.00	100.00
47	1.00	1.00	100.00
48	1.00	1.00	100.00
49	1.00	1.00	100.00
50	1.00	1.00	100.00
51	1.00	1.00	100.00
52	1.00	1.00	100.00
53	1.00	1.00	100.00
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62	1.00	1.00	100.00
63	1.00	1.00	100.00
64	1.00	1.00	100.00
65	1.00	1.00	100.00
66	1.00	1.00	100.00
67	1.00	1.00	100.00
68	1.00	1.00	100.00
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THESE ARE THE ONLY INTERESTS IN THE LANDS DESCRIBED IN THIS SUBDIVISION PLAN WHICH ARE NOT RESERVED BY THE CITY OF LOVELAND, COLORADO, OR BY ANY OTHER PARTY. THE CITY OF LOVELAND, COLORADO, IS THE OWNER OF ALL THE LANDS DESCRIBED IN THIS SUBDIVISION PLAN WHICH ARE RESERVED BY IT.

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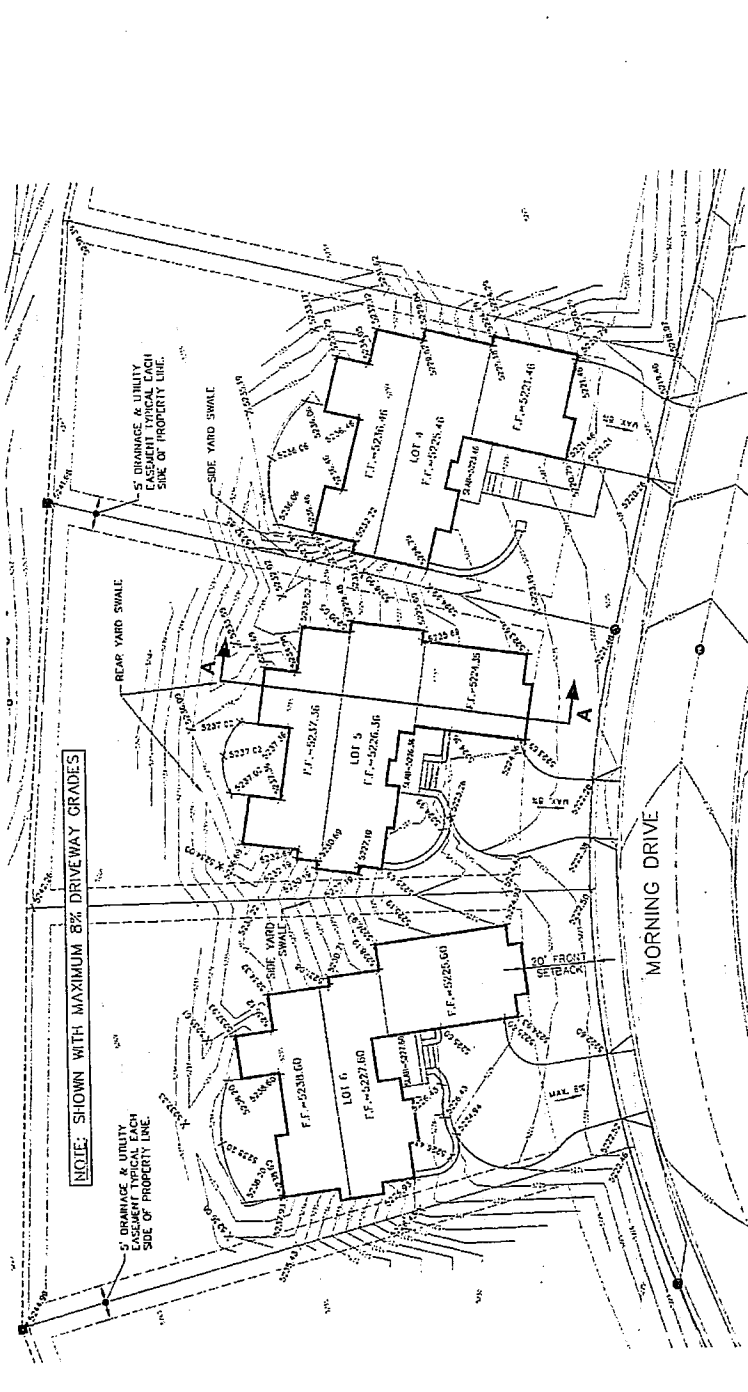
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PRELIMINARY PLAT
NAMAQUA HILLS CENTRAL SECOND SUBD.

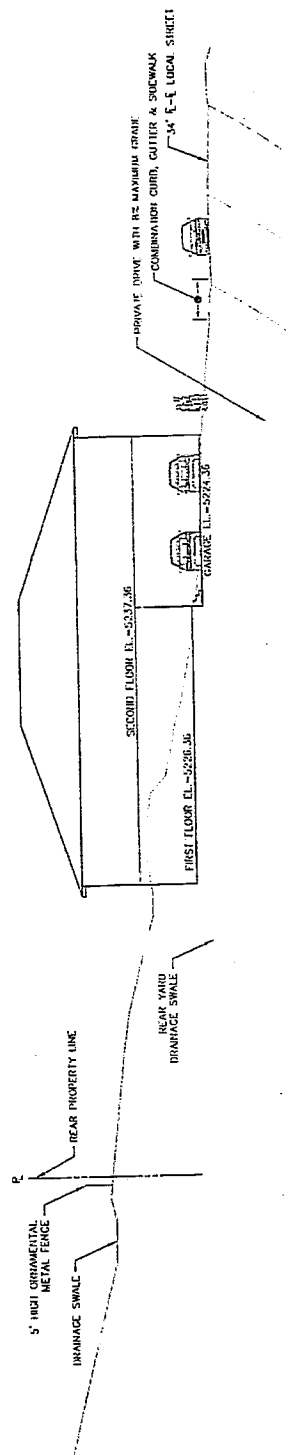
LANDMARK ENGINEERING
 ENGINEERS SURVEYORS ARCHITECTS
 1000 W. 10TH AVENUE, SUITE 100
 DENVER, CO 80202
 PHONE: 724-1100
 FAX: 724-1101

NAMAQUA CENTRAL, LLC
 1000 W. 10TH AVENUE, SUITE 100
 DENVER, CO 80202
 PHONE: 724-1100
 FAX: 724-1101

<p>LANDSCAPE ARCHITECT 4500 West 12th Street, Suite 100 Lakewood, Colorado 80226 PHONE: 303.440.1234 FAX: 303.440.1235 WWW: www.landscapemasters.com</p>		<p>DATE: 04/20/10 DRAWN: JRM CHECKED: JRM APPROVED: JRM</p>	<p>NAMAOUA CENTRAL LLC PROJECT: NAMAOUA F LLS CENTRAL AND SUBDIVISION PROTOTYPICAL RESIDENTIAL LOT GRADING</p>
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PROTOTYPICAL RESIDENTIAL LOT GRADING
 SCALE: 1"=10'



SECTION A-A
 SCALE: 1"=10'

CS1
DATE: 01/09/03
SCALE: 1/8" = 1'-0"

NAMAGUA CENTRAL LLC
NAMAGUA HILLS CENTRAL AND SUBDIVISION
GATED ENTRANCES

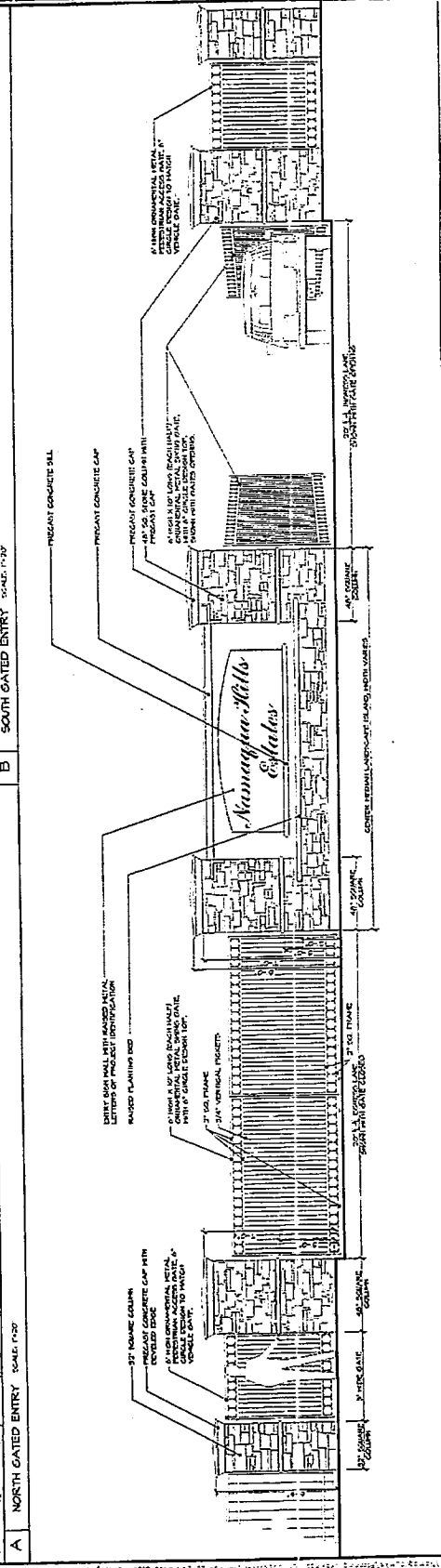
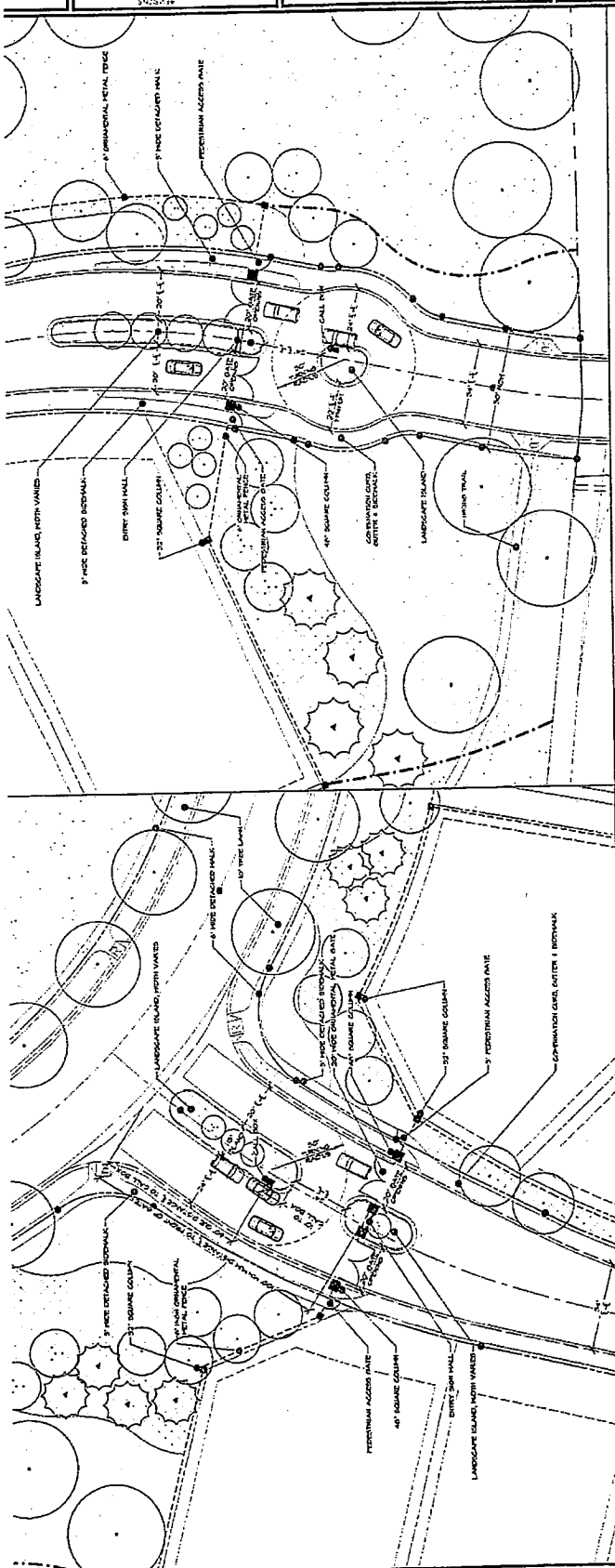
ENGINEERING
1500 PINE BLVD., SUITE 100
HOUSTON, TEXAS 77056
PHONE: 281-412-1000
FAX: 281-412-1001
WWW.LANDMARKS.COM

DATE	01/09/03
SCALE	1/8" = 1'-0"
PROJECT	NAMAGUA HILLS CENTRAL AND SUBDIVISION
CLIENT	NAMAGUA CENTRAL LLC
DESIGNER	LANDMARKS ENGINEERING
CHECKER	LANDMARKS ENGINEERING
APPROVER	LANDMARKS ENGINEERING
DATE	01/09/03

B SOUTH GATED ENTRY SCALE: 1/8" = 1'-0"

A NORTH GATED ENTRY SCALE: 1/8" = 1'-0"

C NORTH & SOUTH ENTRANCE GATES & SIGN WALL ELEVATION (VIEW FROM OUTSIDE OF ENTRY) 1/4" = 1'-0" SCALE

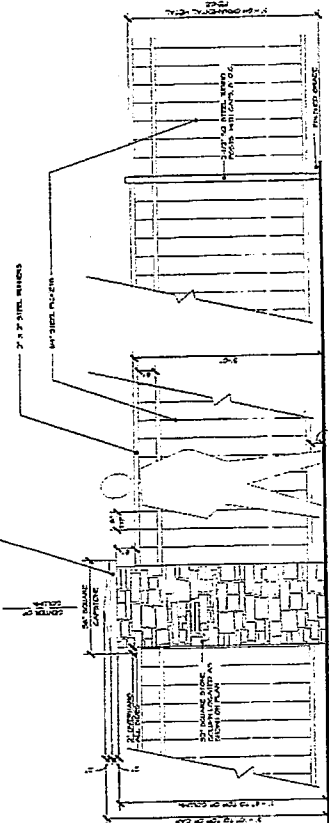
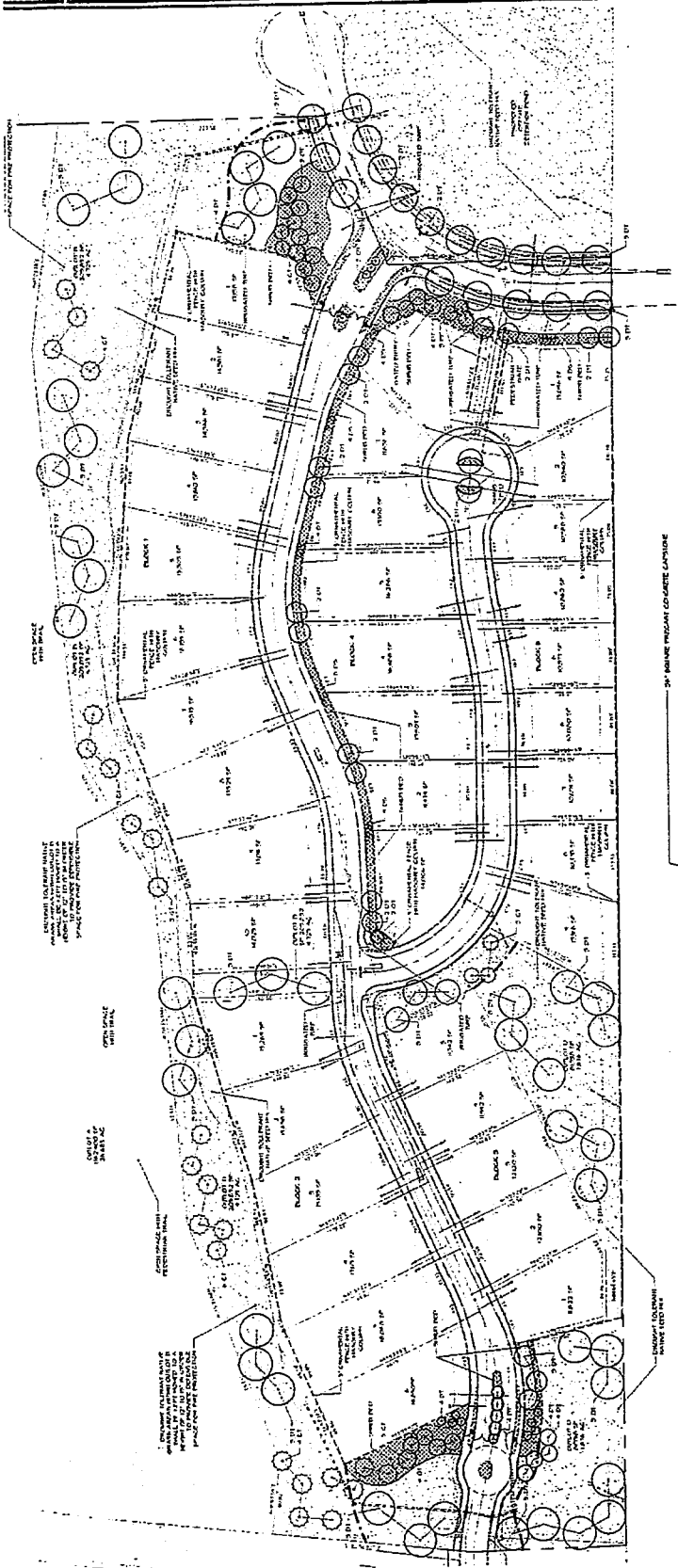
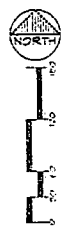


EST 1517

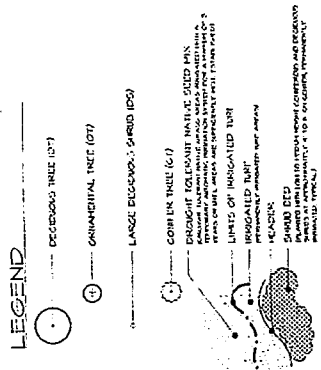
LANDSCAPE PLAN

NAMAQUA HILLS CENTRAL AND SUBDIVISION

LANDSCAPE PLAN
 ENGINEERING
 LANDSCAPE ARCHITECTURE



TYPICAL ORNAMENTAL METAL FENCE WITH MASONRY COLUMNS





CITY OF LOVELAND
FINANCE DEPARTMENT

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 17
MEETING DATE: 1/4/2011
TO: City Council
FROM: Renee Wheeler, Assistant City Manager/Finance Director
PRESENTER: Renee Wheeler

TITLE:
November 2010 Financial Report

DESCRIPTION:

This is an information only item. No action is required. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the eleven months ending November 30, 2010. Citywide Revenue (excluding internal transfers) of \$168,740,505 is 100.5% of year to date (YTD) budget. Sales tax, the City's single largest source of revenue, is 104.4% of the YTD budget. City wide total expenditures, \$162,619,056 (excluding internal transfers) are 85.5% of YTD budget. The City's health claims paid year to date is \$6,122,318 or 88.3% of YTD budget.

BUDGET IMPACT:

Yes No

SUMMARY:

The Snapshot Report is submitted for Council review and includes the reporting of the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the eleven months ending November 30, 2010. Citywide Revenue (excluding internal transfers) of \$168,740,505 is 100.5% of year to date (YTD) budget or \$826,844 over the budget. Sales Tax collections year to date are 104.4% of the YTD budget or \$1,160,492 over budget. Building Material Use Tax is 133.7% of YTD budget, or \$297,302 over budget. The year to date Sales and Use Tax collections were 105.1% of YTD budget or \$1,499,537 over YTD budget. When the combined sales and use tax for the current year are compared to 2009 the same period last year, they are higher by 3.86% or \$1,142,761.

City wide total expenditures of \$162,619,056 (excluding internal transfers) are 85.5% of the YTD budget or \$27,604,822 under the budget, primarily due to the construction timing of capital projects (57.1% YTD budget).

The City's health claims paid year-to-date is \$6,122,318 or 88.3% of budget. Compared to 2009 for the same period, claims paid in 2010 increased \$140,827 or 2.4%. The City's cash and reserve balance year-to-date was \$191,717,777.

LIST OF ATTACHMENTS:

Snapshot report for November 2010

RECOMMENDED CITY COUNCIL ACTION:

No action is required

REVIEWED BY CITY MANAGER:

Snap Shot

Monthly Financial Report

November 2010

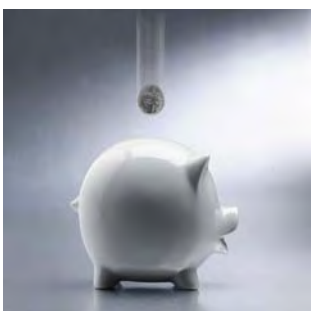
Inside this edition

Citywide Revenues & Expenditures	2
General Fund Revenues & Expenditures	4
Tax Totals & Comparison	6
Sales Tax SIC & Geo Codes	8
Health Care Claims	9
Activity Measures	10
Cash & Reserves	11
Capital Projects	12



A Snapshot In Time

- Citywide Revenue, excluding transfers between funds, \$168.7 million. (100.5% of Year-To-Date Budget, 0.5% above projections)
- Sales & Use Tax Collection, \$30.8 million. (105.1% of Year-To-Date Budget, 5.1% above projections)
- Citywide Expenditures, excluding transfers between funds, \$162.6 million. (85.5% of Year-To-Date Budget, 14.5% below projections)
- Citywide Year-To-Date Revenues exceed Year-To-Date Expenditures by \$6.1 million.
- General Fund Revenue, excluding transfers between funds, \$56.6 million. (104.4% of Year-To-Date Budget, 4.4% above projections)
- General Fund Expenditures, excluding transfers between funds, \$52.5 million (95.4% of Year-To-Date Budget, 4.6% below projections)
- General Fund Revenues exceed Expenditures by \$2.1 million.
- Health Claims, \$6.1 million. (88.3% of Year-To-Date Budget, 11.7% below projections)
- Cash & Reserves Year-To-Date Balance, \$191.7 million, \$142.6 million or 74.4% of these funds are restricted or reserved primarily for future capital projects.



The Sales Tax Basics

	Sales Tax	Motor Vehicle Use Tax	Building Materials Use Tax	Combined
November YTD				
Budget 2010	\$ 26,584,820	\$ 1,803,590	\$ 881,377	\$ 29,269,787
Actual 2010	\$ 27,745,312	\$ 1,845,333	\$ 1,178,679	\$ 30,769,324
% of Budget	104.4%	102.3%	133.7%	105.1%
Actual 2009	\$ 26,756,980	\$ 1,815,081	\$ 1,054,502	\$ 29,626,563
Change from prior year	3.7%	1.7%	11.8%	3.9%



Budget Constraint Strategies

During the development of the 2010 budget sales and use tax projections were reduced significantly to reflect activity in 2009. This reduction set the parameters for resources available in the General Fund and it was reduced to approximately the 2007 level. Expenditures were reduced by \$6.2 million, including the elimination of 25 General Fund positions as well as another 7 positions in other operational funds within the City. Employees will not receive merit raises in 2010 and will experience 4 furlough days throughout the year. Capital projections with operations impacts were delayed in the Capital Improvement Program and the Street Rehabilitation Program was reduced by \$600,000.

Citywide Revenues & Expenditures

Monthly Financial Report

Combined Statement of Revenues and Expenditures NOVEMBER 2010

REVENUE	Current Month	YTD Actual	YTD Revised Budget **	% of Budget
General Governmental				
1 General Fund	\$ 4,225,131	\$ 56,599,266	\$ 54,213,240	104.4%
2 Special Revenue	62,513	808,190	955,520	84.6%
3 Other Entities	(619,881)	15,042,197	14,801,202	101.6%
4 Internal Service	1,634,087	14,541,374	14,217,977	102.3%
5 <i>Subtotal General Govt Operations</i>	\$ 5,301,849	\$ 86,991,027	\$ 84,187,939	103.3%
6 Capital Projects	635,535	10,102,698	12,529,659	80.6%
Enterprise Fund				
7 Water & Power	4,961,359	58,600,645	57,255,223	102.3%
8 Stormwater	363,594	3,843,277	3,965,643	96.9%
9 Golf	78,858	3,505,449	4,123,331	85.0%
10 Solid Waste	478,883	5,697,408	5,851,866	97.4%
11 <i>Subtotal Enterprise</i>	\$ 5,882,694	\$ 71,646,779	\$ 71,196,063	100.6%
12 Total Revenue	\$ 11,820,079	\$ 168,740,505	\$ 167,913,661	100.5%
<i>Prior Year External Revenue</i>		158,439,656		
<i>Increase (-Decrease) From Prior Year</i>		6.5%		
13 Internal Transfers	1,760,242	15,530,229	22,013,252	70.5%
14 Grand Total Revenues	\$ 13,580,320	\$ 184,270,734	\$ 189,926,913	97.0%

EXPENDITURES

General Governmental				
15 General Fund	\$ 5,822,095	\$ 51,287,015	\$ 52,835,590	97.1%
16 Special Revenue	77,224	312,056	511,361	61.0%
17 Other Entities	147,038	13,390,796	13,369,044	100.2%
18 Internal Services	947,130	11,652,334	13,473,176	86.5%
19 <i>Subtotal General Gov't Operations</i>	\$ 6,993,487	\$ 76,642,202	\$ 80,189,171	95.6%
20 Capital	3,657,596	32,053,919	56,183,564	57.1%
Enterprise Fund				
21 Water & Power	4,405,948	45,698,950	45,228,408	101.0%
22 Stormwater	224,752	1,714,419	1,781,041	96.3%
23 Golf	457,643	2,851,192	2,861,715	99.6%
24 Solid Waste	363,059	3,658,375	3,979,978	91.9%
25 <i>Subtotal Enterprise</i>	\$ 5,451,401	\$ 53,922,935	\$ 53,851,142	100.1%
26 Total Expenditures	\$ 16,102,484	\$ 162,619,056	\$ 190,223,877	85.5%
<i>Prior Year External Expenditures</i>		147,736,993		
<i>Increase (-Decrease) From Prior Year</i>		10.1%		
27 Internal Transfers	1,760,242	15,530,229	22,013,252	70.5%
28 Grand Total Expenditures	\$ 17,862,725	\$ 178,149,285	\$ 212,237,129	83.9%

** Based on seasonality of receipts and expenditures since 1995.

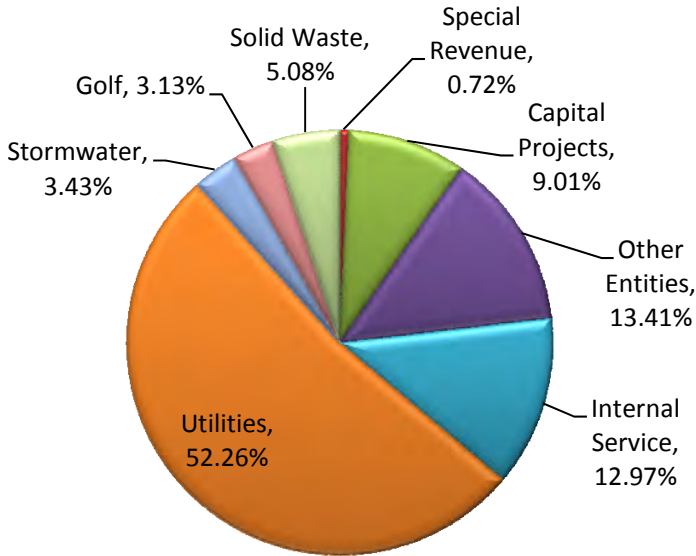
Special Revenue Funds: Community Development Block Grant, Cemetery, Local Improvement District, Lodging Tax, Affordable Housing, Seizure & Forfeitures.

Other Entities Fund: Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority.

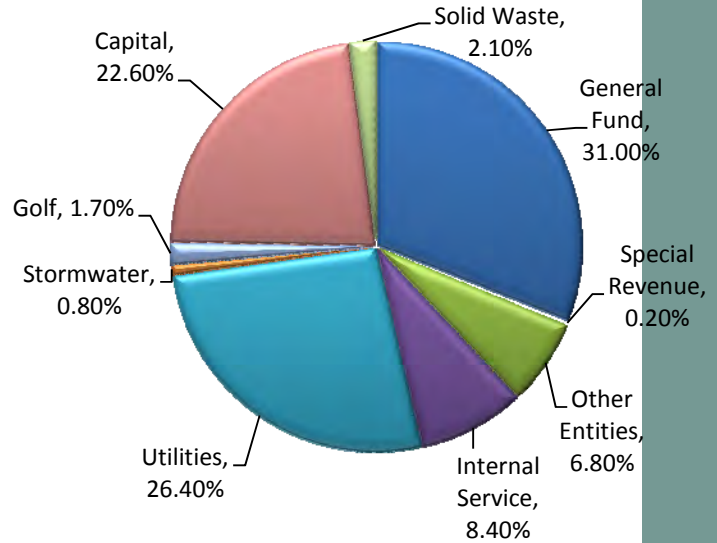
General Government Capital Projects Fund: Capital Expansion Fee Funds, Park Improvement, Conservation Trust, Open Space, Art In Public Places.

Internal Service Funds: Risk/Insurance, Fleet, Employee Benefits.

YTD Operating Revenues of \$168.74 Million



YTD Operating Expenditures of \$162.62 Million



Revenues exceed expenditures YTD by \$6,121,449 (Line #14 less Line #28)

Special Revenues (Lines #2 & #16) are under budget due to timing of Community Development Block Grants.

Golf revenue and expenditures (Lines #9 & #23) are under budget due to lower sales of golf rounds, and golf course reductions in staffing and other expenses.

Internal Transfers (Lines #13 & #27) are under budget due to timing of capital projects expenditures.

Special Revenue (Line #16) is under budget due to timing of Community Development Block Grants.

Internal Services (Line #18) is under budget due to timing of health claims, inventory purchases and payments for property, liability, and workers' compensation.

Capital expenditures (Line #20) is under budget due to timing of project expenditures.

Solid Waste (Line #24) is under budget due to timing in spending their supplies and purchased services budget.

YTD Operating Revenue & Expenditures By Comparison, Excluding Transfers



General Fund Revenues & Expenditures

Monthly Financial Report

General Fund Revenue & Expenditures NOVEMBER 2010

	NOVEMBER		YTD Revised	% of
REVENUE	2010	YTD Actual	Budget	Budget
1 Taxes				
2 Property Tax	63,346	7,623,826	7,630,880	99.9%
3 Sales Tax	2,422,352	27,745,312	26,584,820	104.4%
4 Building Use Tax	76,444	1,178,680	881,377	133.7%
5 Auto Use Tax	191,753	1,845,333	1,803,590	102.3%
6 Other Taxes	270,660	3,122,006	2,349,258	132.9%
7 Intergovernmental	400,652	5,169,827	5,801,702	89.1%
8 License & Permits				
9 Building Permits	100,171	990,067	614,163	161.2%
10 Other Permits	48,016	348,766	227,629	153.2%
11 Charges For Services	165,171	2,760,611	2,868,057	96.3%
12 Fines & Forfeitures	105,306	949,472	887,755	107.0%
13 Interest Income	44,694	543,503	477,290	113.9%
14 Miscellaneous	336,566	4,321,865	4,086,719	105.8%
15 Subtotal	\$ 4,225,131	\$ 56,599,266	\$ 54,213,240	104.4%
16 Internal Transfers	180,282	1,894,558	1,888,913	100.3%
17 Total Revenue	\$ 4,405,413	\$ 58,493,824	\$ 56,102,153	104.3%
EXPENDITURES				
18 Legislative	\$ 8,673	\$ 95,483	\$ 113,700	84.0%
19 Executive & Legal	170,973	1,534,452	1,439,680	106.6%
20 Comm. & Bus. Relations	65,752	503,954	590,984	85.3%
21 Cultural Services	107,795	1,029,221	1,018,114	101.1%
22 Development Services	459,095	2,923,041	3,585,342	81.5%
23 Finance	221,958	1,536,689	1,691,989	90.8%
24 Fire & Rescue	901,183	6,957,067	7,054,780	98.6%
25 Human Resources	92,482	800,980	936,511	85.5%
26 Information Technology	308,894	2,723,738	2,945,522	92.5%
27 Library	242,441	2,043,780	2,099,685	97.3%
28 Parks & Recreation	961,262	6,612,608	7,279,328	90.8%
29 Police	1,701,254	14,409,771	14,284,853	100.9%
30 Public Works	918,773	9,649,317	9,820,571	98.3%
31 Non-Departmental	34,288	1,707,015	2,178,823	78.3%
32 Subtotal Operating	\$ 6,194,824	\$ 52,527,117	\$ 55,039,882	95.4%
33 Internal Transfers	480,991	3,906,271	4,913,606	79.5%
34 Total Expenditures	\$ 6,675,815	\$ 56,433,389	\$ 59,953,488	94.1%

Building Use Tax and Building Permits (Lines #4 & #9) are over budget due to a large multi-family project.

Other Taxes (Line #6) are over budget due to higher collections for road & bridge tax, Alcoholic Beverage, Gas Franchise, and Sales & Use tax audits.

Intergovernmental (Line #7) is under budget due to slower spending on various federal grants, traffic signal maintenance, and dispatch services that are on a reimbursement basis.

Other Permits (Line #10) is over budget primarily due to contractor license fees, R2J Fee in Lieu of Land pass-through, street cut, and fire permit/inspection fees.

Fines & Forfeitures (Line #12) is over budget due to increased court fees collected.

Interest Income (Line #13) is over budget due to gains on sale of investments.

Miscellaneous (Line #14) is over budget due to rental income, recoveries for property damage, sale of equipment, and donations for cultural services.

Legislative (Line #18) is under budget due to timing on spending their purchased services budget.

Executive & Legal (Line #19) is over budget due to transition compensation benefits.

Comm. & Bus. Relations (Line #20) is under budget due to timing in spending their supplies and purchased services budget.

Development Services (Line #22) is under budget due to timing in spending their professional services budget, and non-profit grants.

Finance (Line #23) is under budget primarily due to savings in their supplies and professional services budget.

Human Resources (Line #25) is under budget due to timing in spending their supplies and purchased services budget.

Information Technology (Line #26) is under budget due to timing in spending their capital budget.

Parks & Recreation (Line #28) is under budget due to timing in spending their supplies budget and capital expenditures for the rec center and parks grounds.

Non-Departmental (Line #31) is under budget due to economic incentive agreements not given.

Internal Transfers (Line #33) are under budget due to timing of capital projects expenditures. Transfers are made monthly based on actual project costs.

Revenues exceed expenditures by \$2,060,436. (Line #17 less Line #34)

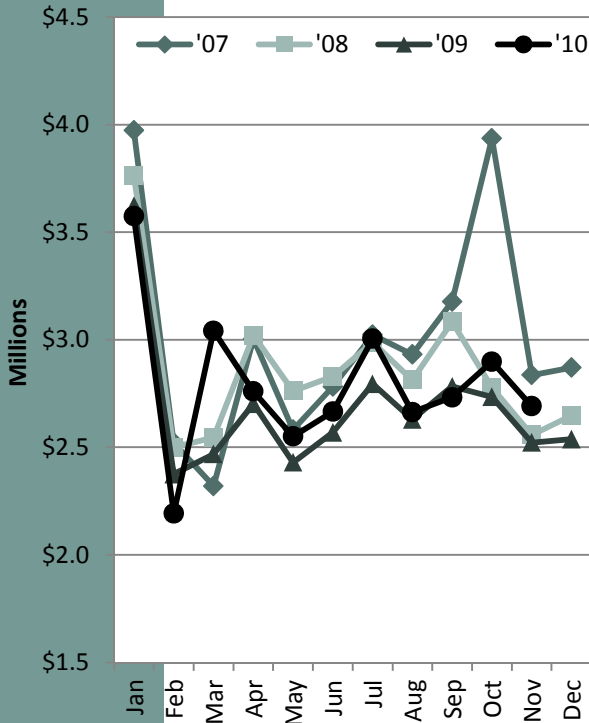
General Fund Operating Revenue & Expenditures By Comparison, Excluding Transfers



Tax Totals & Comparisons

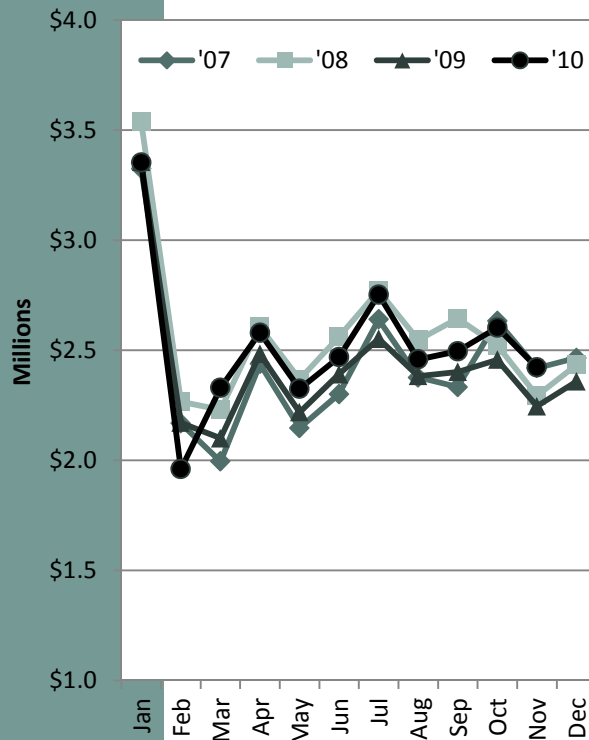
Monthly Financial Report

Sales & Use Tax



	'07	'08	'09	'10	2010 Budget	+ / - Budget
Jan	\$ 3,972,513	\$ 3,763,212	\$ 3,622,251	\$ 3,573,972	\$ 3,525,075	1.4%
Feb	\$ 2,520,486	\$ 2,499,464	\$ 2,374,608	\$ 2,191,609	\$ 2,344,853	-6.5%
Mar	\$ 2,319,579	\$ 2,544,688	\$ 2,468,095	\$ 3,041,068	\$ 2,315,268	31.3%
Apr	\$ 3,003,780	\$ 3,020,580	\$ 2,701,737	\$ 2,759,556	\$ 2,677,590	3.1%
May	\$ 2,581,830	\$ 2,761,197	\$ 2,428,860	\$ 2,550,227	\$ 2,441,619	4.4%
Jun	\$ 2,781,786	\$ 2,829,423	\$ 2,569,125	\$ 2,665,632	\$ 2,568,891	3.8%
Jul	\$ 3,022,815	\$ 2,987,495	\$ 2,794,222	\$ 3,004,324	\$ 2,871,989	4.6%
Aug	\$ 2,931,667	\$ 2,811,579	\$ 2,628,842	\$ 2,662,932	\$ 2,630,843	1.2%
Sep	\$ 3,176,883	\$ 3,082,644	\$ 2,782,768	\$ 2,732,087	\$ 2,666,640	2.5%
Oct	\$ 3,936,330	\$ 2,776,559	\$ 2,733,964	\$ 2,897,370	\$ 2,746,350	5.5%
Nov	\$ 2,835,420	\$ 2,557,802	\$ 2,522,092	\$ 2,690,549	\$ 2,480,669	8.5%
Dec	\$ 2,869,916	\$ 2,646,945	\$ 2,537,802		\$ 2,733,803	
	\$ 35,953,006	\$ 34,281,588	\$ 32,164,365	\$ 30,769,324	\$ 32,003,590	
YTD	\$ 33,083,090	\$ 31,634,643	\$ 29,626,563	\$ 30,769,324	\$ 29,269,787	5.1%

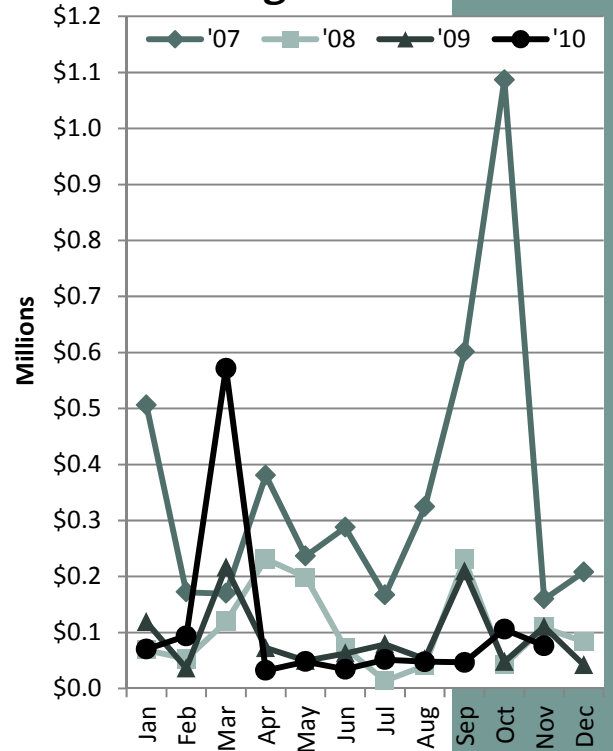
Retail Sales Tax



	'07	'08	'09	'10	2010 Budget	+ / - Budget
Jan	\$ 3,324,067	\$ 3,538,021	\$ 3,354,704	\$ 3,352,821	\$ 3,323,120	0.9%
Feb	\$ 2,167,873	\$ 2,266,805	\$ 2,170,562	\$ 1,959,729	\$ 2,127,950	-7.9%
Mar	\$ 1,994,635	\$ 2,229,963	\$ 2,100,216	\$ 2,328,701	\$ 2,069,650	12.5%
Apr	\$ 2,437,958	\$ 2,605,919	\$ 2,482,752	\$ 2,579,918	\$ 2,419,450	6.6%
May	\$ 2,146,685	\$ 2,367,597	\$ 2,218,482	\$ 2,324,395	\$ 2,186,250	6.3%
Jun	\$ 2,300,533	\$ 2,560,453	\$ 2,390,535	\$ 2,468,207	\$ 2,332,000	5.8%
Jul	\$ 2,640,223	\$ 2,770,864	\$ 2,552,195	\$ 2,752,870	\$ 2,623,500	4.9%
Aug	\$ 2,376,534	\$ 2,546,052	\$ 2,383,119	\$ 2,458,382	\$ 2,361,150	4.1%
Sep	\$ 2,332,844	\$ 2,644,113	\$ 2,401,596	\$ 2,495,338	\$ 2,390,300	4.4%
Oct	\$ 2,632,667	\$ 2,521,253	\$ 2,457,158	\$ 2,602,599	\$ 2,477,750	5.0%
Nov	\$ 2,419,051	\$ 2,294,503	\$ 2,245,659	\$ 2,422,352	\$ 2,273,700	6.5%
Dec	\$ 2,464,559	\$ 2,432,635	\$ 2,358,273		\$ 2,565,200	
	\$ 29,237,629	\$ 30,778,179	\$ 29,115,253	\$ 27,745,312	\$ 29,150,020	
YTD	\$ 26,773,070	\$ 28,345,544	\$ 26,756,980	\$ 27,745,312	\$ 26,584,820	4.4%

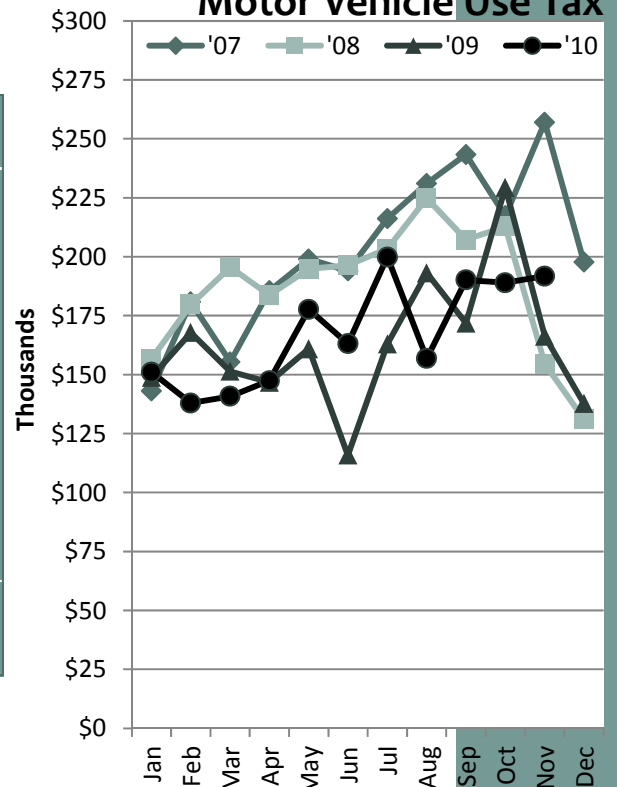
	'07	'08	'09	'10	2010 Budget	+ / - Budget
Jan	\$ 505,441	\$ 68,522	\$ 118,719	\$ 70,117	\$ 68,015	3.1%
Feb	\$ 171,835	\$ 52,986	\$ 36,254	\$ 93,928	\$ 63,293	48.4%
Mar	\$ 169,579	\$ 119,149	\$ 216,500	\$ 571,599	\$ 78,408	629.0%
Apr	\$ 380,285	\$ 230,954	\$ 72,251	\$ 32,260	\$ 101,080	-68.1%
May	\$ 236,140	\$ 198,765	\$ 49,434	\$ 48,145	\$ 88,799	-45.8%
Jun	\$ 287,300	\$ 72,544	\$ 62,723	\$ 34,349	\$ 68,961	-50.2%
Jul	\$ 166,446	\$ 13,276	\$ 79,061	\$ 51,657	\$ 74,629	-30.8%
Aug	\$ 324,125	\$ 40,683	\$ 52,578	\$ 47,716	\$ 77,463	-38.4%
Sep	\$ 600,704	\$ 231,321	\$ 209,338	\$ 46,646	\$ 99,190	-53.0%
Oct	\$ 1,086,325	\$ 42,561	\$ 47,437	\$ 105,818	\$ 86,910	21.8%
Nov	\$ 159,382	\$ 108,737	\$ 110,207	\$ 76,444	\$ 74,629	2.4%
Dec	\$ 207,723	\$ 83,315	\$ 41,844		\$ 63,293	
	\$ 4,295,285	\$ 1,262,815	\$ 1,096,346	\$ 1,178,679	\$ 944,670	
YTD	\$ 4,087,562	\$ 1,179,499	\$ 1,054,502	\$ 1,178,679	\$ 881,377	33.7%

Building Material Use Tax



	'07	'08	'09	'10	2010 Budget	+ / - Budget
Jan	\$ 143,005	\$ 156,669	\$ 148,828	\$ 151,034	\$ 133,940	12.8%
Feb	\$ 180,778	\$ 179,673	\$ 167,793	\$ 137,951	\$ 153,610	-10.2%
Mar	\$ 155,365	\$ 195,576	\$ 151,378	\$ 140,768	\$ 167,210	-15.8%
Apr	\$ 185,537	\$ 183,707	\$ 146,734	\$ 147,378	\$ 157,060	-6.2%
May	\$ 199,005	\$ 194,835	\$ 160,943	\$ 177,687	\$ 166,570	6.7%
Jun	\$ 193,953	\$ 196,426	\$ 115,867	\$ 163,076	\$ 167,930	-2.9%
Jul	\$ 216,146	\$ 203,356	\$ 162,966	\$ 199,797	\$ 173,860	14.9%
Aug	\$ 231,008	\$ 224,843	\$ 193,144	\$ 156,834	\$ 192,230	-18.4%
Sep	\$ 243,336	\$ 207,209	\$ 171,833	\$ 190,102	\$ 177,150	7.3%
Oct	\$ 217,338	\$ 212,745	\$ 229,369	\$ 188,953	\$ 181,690	4.0%
Nov	\$ 256,987	\$ 154,561	\$ 166,225	\$ 191,753	\$ 132,340	44.9%
Dec	\$ 197,634	\$ 130,995	\$ 137,685		\$ 105,310	
	\$ 2,420,092	\$ 2,240,595	\$ 1,952,766	\$ 1,845,333	\$ 1,908,900	
YTD	\$ 2,222,458	\$ 2,109,600	\$ 1,815,081	\$ 1,845,333	\$ 1,803,590	2.3%

Motor Vehicle Use Tax



Sales Tax Collections

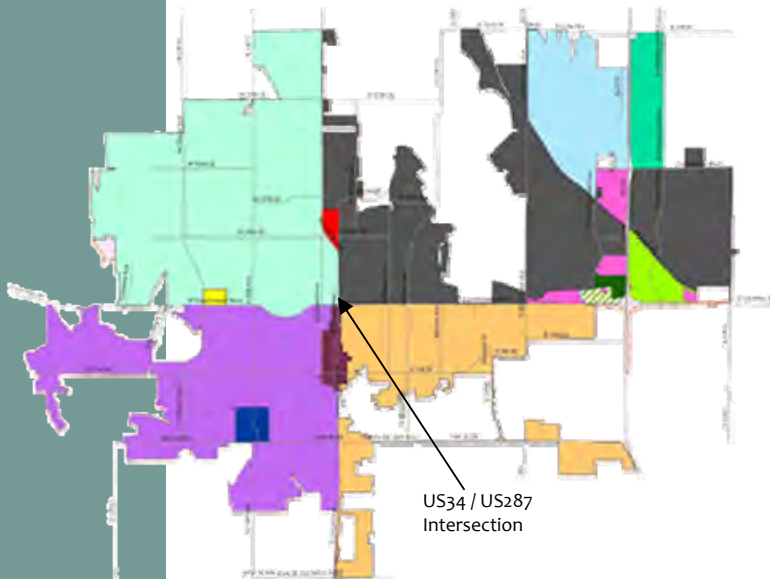
Monthly Financial Report

Collections By Standard Industrial Classification Code

Description	YTD 2010	YTD 2009	\$ Change	% Change	% of Total	Cumulative %
1 Department Stores & General Merchandise	\$ 6,636,940	\$ 6,878,933	\$ (241,993)	-3.5%	23.9%	23.9%
2 Restaurants & Bars	3,266,952	3,117,937	149,015	4.8%	11.8%	35.7%
3 Grocery Stores & Specialty Foods	2,845,571	2,765,859	79,712	2.9%	10.3%	46.0%
4 Clothing & Clothing Accessories Stores	1,909,631	1,908,527	1,104	0.1%	6.9%	52.8%
5 Building Material & Lawn & Garden Supplies	1,864,205	1,818,403	45,803	2.5%	6.7%	59.6%
6 Motor Vehicle Dealers, Auto Parts & Leasing	1,660,933	1,586,413	74,521	4.7%	6.0%	65.5%
7 Utilities	1,500,392	1,366,120	134,272	9.8%	5.4%	70.9%
8 Sporting Goods, Hobby, Book & Music Stores	1,314,103	1,310,675	3,428	0.3%	4.7%	75.7%
9 Broadcasting & Telecommunications	1,189,759	1,174,757	15,002	1.3%	4.3%	80.0%
0 Used Merchandise Stores	759,036	673,409	85,626	12.7%	2.7%	82.7%
1 Beer, Wine & Liquor Stores	628,518	615,243	13,275	2.2%	2.3%	85.0%
2 Electronics & Appliance Stores	579,264	521,217	58,047	11.1%	2.1%	87.1%
3 Hotels, Motels & Other Accommodations	569,899	404,214	165,686	41.0%	2.1%	89.1%
4 Health & Personal Care Stores	449,704	463,457	(13,753)	-3.0%	1.6%	90.7%
5 Consumer Goods & Commercial Equipment	420,052	404,352	15,700	3.9%	1.5%	92.2%
6 Electronic Shopping & Mail-Order Houses	352,168	146,919	205,249	139.7%	1.3%	93.5%
7 Furniture & Home Furnishing Stores	348,880	289,831	59,049	20.4%	1.3%	94.8%
8 Office Supplies, Stationery & Gift Stores	298,794	304,977	(6,184)	-2.0%	1.1%	95.9%
9 Gasoline Stations with Convenience Stores	220,362	197,871	22,491	11.4%	0.8%	96.6%
0 All Other Categories	930,148	807,867	122,281	15.1%	3.4%	100.0%
	\$ 27,745,311	\$ 26,756,980	\$ 988,331	3.7%	100.0%	

Year-to-date Sales Tax revenue continue to improve and are currently up 3.7%. Month-to-month sales tax revenue increased 7.9% in November. Through 11 months of reporting, 10 of the 14 geographical areas are now showing year-to-date increases over last year and 3 of the remaining areas are showing strong improvement. The Downtown area has suffered the loss of several businesses this year and sales are beginning to reflect those losses. With the strength of the hotels at the Ranch, this area continues to post the largest increases year-to-date. The South West Loveland area improved by 13.2% due to new businesses and improved compliance. The Electronic Shopping & Mail-Order Houses sector tops the business categories with year-to-date increases of 139.7% and the largest dollar increase of all sectors due to aggressive licensing of online businesses with Nexus. The Hotels, Motels & Other Accommodations sector is holding onto a 41.0% increase year-to-date based on an increase in business travel to the area.

The year-to-date audit revenue is \$731,207 and \$454,685 has been collected in Lodging Tax.



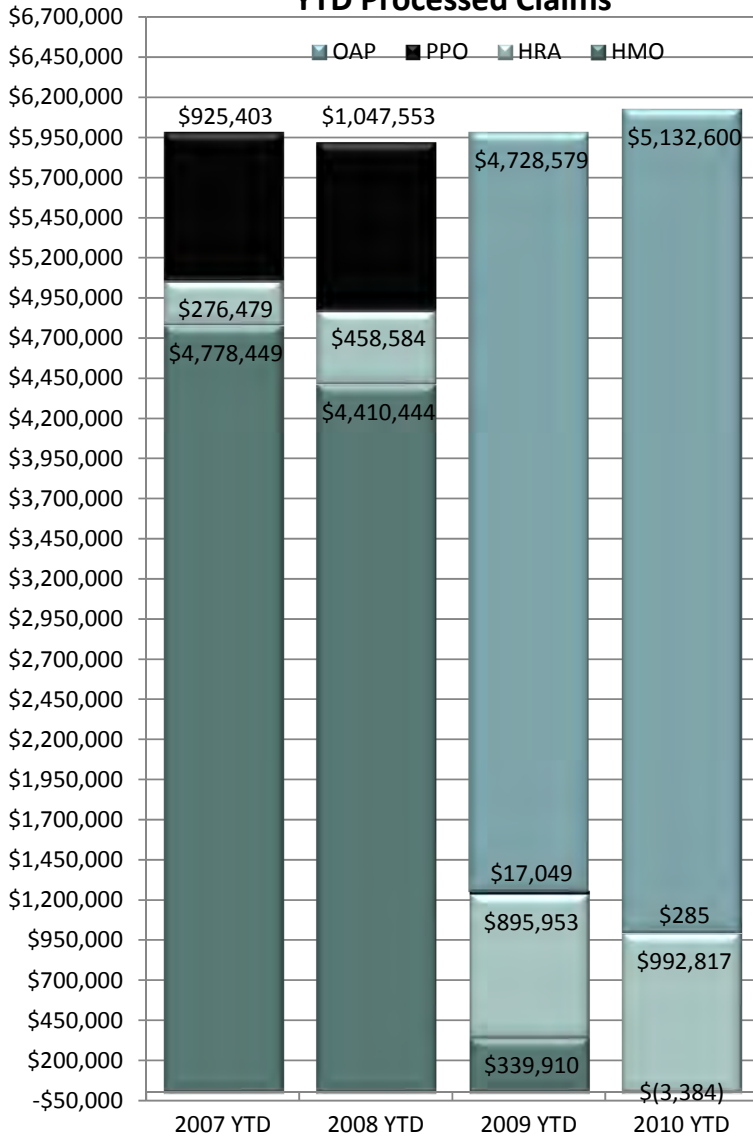
Collections By Geographical Code

Geographical Area	YTD 2010	YTD 2009	% Change
North West Loveland	\$3,369,542	\$3,487,582	-3.4%
South West Loveland	\$961,180	\$848,781	13.2%
North East Loveland	\$1,787,786	\$1,655,765	8.0%
South East Loveland	\$7,055,156	\$6,918,784	2.0%
Orchards Shopping Center	\$1,734,004	\$1,779,857	-2.6%
Columbine Shopping Center	\$554,085	\$542,999	2.0%
Downtown	\$938,008	\$966,707	-3.0%
Centerra	\$2,504,508	\$2,395,274	4.6%
Promenade Shops	\$2,020,177	\$1,890,515	6.9%
Outlet Mall	\$1,051,438	\$1,101,668	-4.6%
Thompson Valley Shopping Center	\$1,302,259	\$1,250,068	4.2%
The Ranch	\$512,965	\$343,846	49.2%
Airport	\$302,157	\$300,918	0.4%
All Other Areas	\$3,652,046	\$3,274,215	11.5%
	\$27,745,312	\$26,756,980	3.7%

Health Care Claims

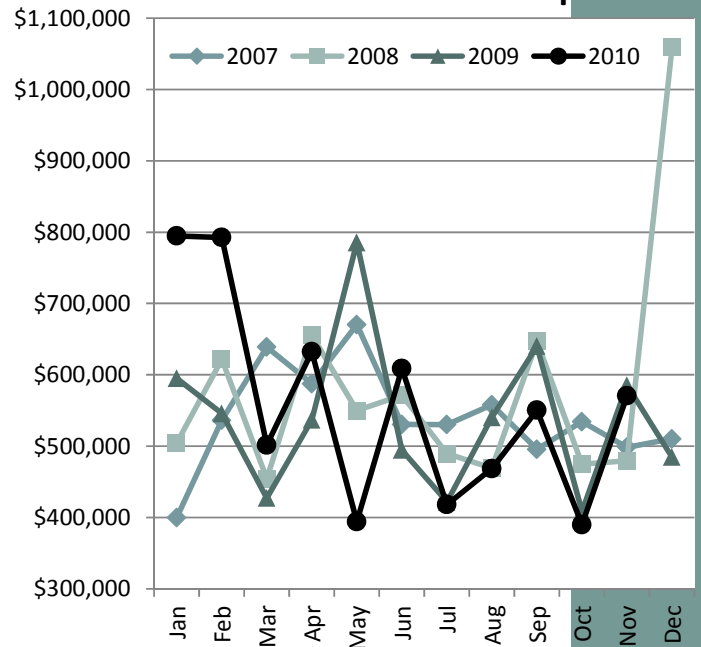
November 2010

YTD Processed Claims



There are currently 32 claims over \$25,000. Four claims have reached stop loss.

Total Incurred Claims Comparison



Cash Basis for Claims Paid

		HMO	OAP	HRA	PPO	Total	Budget	\$ Over / (Under) Budget	% Over / (Under) Budget
2010	November	\$ 80	\$ 448,838	\$ 101,497	\$ -	\$ 550,415	\$ 630,045	\$ (79,630)	-12.6%
	YTD	\$ (3,384)	\$ 5,132,600	\$ 992,817	\$ 285	\$ 6,122,318	\$ 6,930,495	\$ (808,177)	-11.7%
2009	November	\$ 9,822	\$ 527,521	\$ 48,498	\$ (318)	\$ 585,523	\$ 608,250	\$ (22,727)	-3.7%
	YTD	\$ 339,910	\$ 4,728,579	\$ 895,953	\$ 17,049	\$ 5,981,491	\$ 6,690,750	\$ (709,259)	-10.6%
Change	November	\$ (9,742)	\$ (78,683)	\$ 52,999	\$ 318	\$ (35,108)			
	% Nov	-99.2%	-14.9%	109.3%	0.0%	-6.0%			
	YTD	\$ (343,294)	\$ 404,021	\$ 96,864	\$ (16,764)	\$ 140,827			
	% YTD	-101.0%	8.5%	10.8%	-98.3%	2.4%			

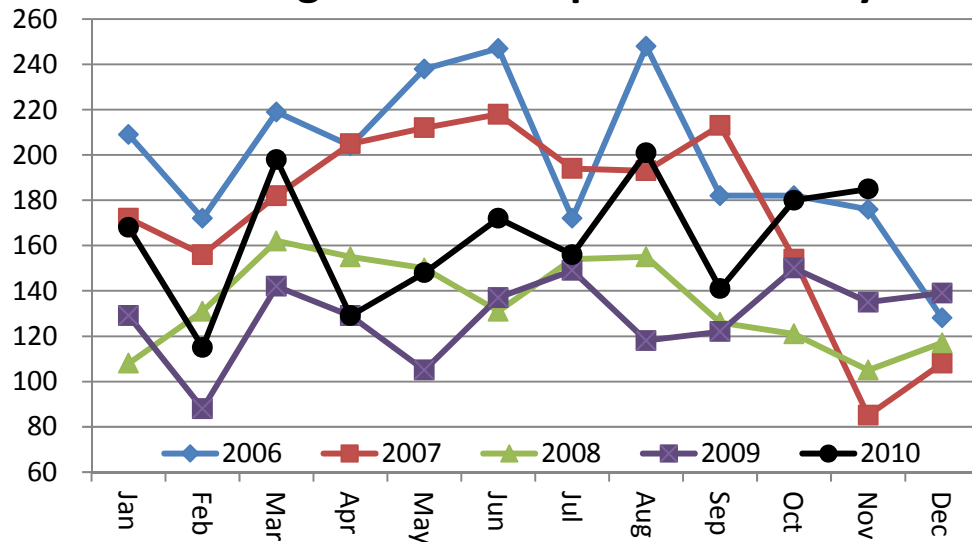
Activity Measures

Monthly Financial Report

Activity Measures

Measures	Nov 08	Nov 09	Nov 10	2008 YTD	2009 YTD	2010 YTD
# of Building Permits	105	135	185	1,498	1,404	3,586
Building Permit Valuations	\$ 7,241,834	\$10,158,765	\$ 7,299,999	\$ 121,546,190	\$ 76,064,576	\$ 221,461,782
# of Certified Occupancies	25	16	29	400	203	352
Net # of Sales Tax Licenses	25	15	9	297	145	224
New Residential Electric Meter Sets	14	12	21	259	108	530
# of Utility Bills Sent	33,704	34,855	35,149	362,454	373,365	770,542
Rounds of Golf	5,844	4,547	3,923	131,046	126,509	233,720
Health Claim Costs/Emp.	\$ 803	\$ 951	\$ 927	\$ 9,392	\$ 9,824	\$ 19,873
# of Vacant Positions	13	6	5			
# of Frozen Vacant Positions	NA	12	16			
# of Eliminated Positions	NA	36	42			
KWH Demand (kH)	88,566	89,374	99,057	1,098,146	1,088,994	2,279,744
KWH Purchased (kwh)	55,959,877	53,910,792	57,308,177	663,437,565	614,995,001	1,282,038,744
Gallons of Water Sold	183,300,284	154,758,330	195,082,515	3,637,315,661	3,076,695,727	6,855,133,192
# of Workers' Comp Claims	6	10	8	107	119	228
\$ of Workers' Comp Claims Paid	\$ 19,849	\$ 37,658	\$ 192,695	\$ 256,277	\$ 285,592	\$ 1,618,180
# of Open Claims Current Year	NA	NA	16			
# of Total Open Claims	NA	NA	20			
\$ of Total Open Claims	NA	\$ 556,849	\$ 172,112			
# of Hotel Rooms	NA	NA	1,117			
\$ of Lodging Tax Collected	NA	NA	\$ 42,693	NA	NA	\$ 454,685

Building Permit Comparison History



Cash & Reserves

November 2010

Cash & Reserves

Total Cash & Reserves = \$191.7 million, of which \$142.6 million is restricted or reserved, or 74.4%, leaving \$49.1 million unrestricted.

Statement of Cash November 2010			
	Beginning	YTD Activity	Ending
Restricted			
1 Capital Expansion Fees	\$ 44,091,355	\$ (6,986,892)	\$ 37,104,463
2 Other Special Revenue Funds	18,683,834	1,534,753	20,218,587
3 Capital Projects	2,268,881	(1,166,383)	1,102,499
4 Debt Reserves-Golf	223,500	(223,500)	-
5 Water SIF	4,888,187	432,848	5,321,034
6 Windy Gap	5,181,105	(612,280)	4,568,825
7 Raw Water	22,431,382	464,390	22,895,772
8 Wastewater SIF	3,499,926	567,064	4,066,989
9 Storm Drainage SIF	1,184,952	164,552	1,349,504
10 Power SIF	6,170,614	(500,408)	5,670,206
11 Cemetery	2,296,821	127,887	2,424,707
12 Other Entities	2,094,786	1,557,288	3,652,074
13 Total Restricted	\$ 113,015,343	\$ (4,640,682)	\$ 108,374,661
Reserve Balance Amounts			
14 General Fund			
15 Operating/Emergency ***	1,731,040	-	1,731,040
16 Council Contingency	100,000	(100,000)	-
17 Council Capital Reserve ***	3,994,901	(1,298,581)	2,696,320
18 Liability	125,000	-	125,000
19 Equipment Replacement	150,000	(150,000)	-
20 Police Communication Console Replacement	408,000	104,000	512,000
21 Library Reserve	157,484	3,492	160,976
22 Library Building Reserve	-	16,750	16,750
23 Telephone Switch Reserve	-	261,460	261,460
24 Excess TABOR	7,442,966	(1,425,777)	6,017,189
25 Water	759,229	4,787	764,016
26 Wastewater	1,044,335	(263,662)	780,673
27 Storm Water	402,608	34,081	436,689
28 Power	2,327,365	280,533	2,607,898
29 Golf	239,090	4,546	243,635
30 Insurance Reserves	4,013,094	590,389	4,603,484
31 Employee Benefits	6,075,362	1,068,356	7,143,718
32 Fleet Replacement	5,960,114	148,131	6,108,245
33 Total Reserves	\$ 34,930,588	\$ (721,495)	\$ 34,209,094
34 Total Restricted/Reserved	\$ 147,945,931	\$ (5,362,177)	\$ 142,583,754
Unrestricted			
35 General	10,846,574	4,754,236	15,600,810
36 Airport	340,564	668,265	1,008,829
37 Internal Service - VM	151	82,871	83,022
38 Golf	350,228	544,131	894,358
39 Water	4,302,300	27,124	4,329,424
40 Wastewater	5,917,896	1,108,160	7,026,057
41 Power	13,188,404	1,589,684	14,778,088
42 Stormwater	2,281,443	193,128	2,474,571
43 Solid Waste	2,736,333	202,530	2,938,863
44 Total Unrestricted	\$ 39,963,894	\$ 9,170,129	\$ 49,134,023
45 Total Cash	\$ 187,909,825	\$ 3,807,952	\$ 191,717,777

*Operating/Emergency: TABOR Amendment requirement for 3% of operating expenditures excluding transfers and debt.

**Other Entities Fund: Special Improvement District #1, Airport, General Improvement District #1, Loveland Urban Renewal Authority, Loveland/Larimer Building Authority

***Contributions made at year end.

(Lines #15-24) - Changes in reserves based on 2010 Budget.

(Line #17) Council Capital Reserve: \$604,106 LHS Pool
\$397,190 Downtown Infrastructure
\$42,700 Milner Swartz
\$59,790 Juniper Place
\$14,860 Putlack
\$179,935 Interfund Loan Payment

(Line #24) Excess TABOR—Main projects are the intersection at Madison Avenue (\$1,223,771) and Boyd Lake at US34 (\$63,642).



Prepared by:
Finance Department

WEBSITE: WWW.CITYOFLOVELAND.ORG

Citywide Capital Projects Over \$500,000

Project Title	2010 Budget	2010 Expenditures	Remaining 2010 Budget	% of 2010 Budget (Exp/Bud)	Budget Book Page #
Water Capital					
Raw Water Capital					
Purchase Colorado Big Thompson Water	986,706	863,900	122,806	87.55%	C-101
Wastewater Utility Capital					
Project C Pre-Digestion Solids Thickening	575,247	267,851	307,396	46.56%	
Power Capital					
Pole Replacement Program	550,000	74,619	475,381	13.57%	C-54
Sub-To-Sub Tie Between Horseshoe & East Substations	576,000	584,828	(8,828)	101.53%	C-51
Sub-To-Sub Tie Between Airports & East Substations	1,300,000	18,628	1,281,372	1.43%	C-51
Relocate Lines For Road Work Along Madison Ave	675,000	466,637	208,363	69.13%	C-58
1st & Wilson to Namaqua Road (PIF)	597,300	205,618	391,682	34.42%	
East Substation Upgrade	3,600,000	1,531,325	2,068,675	42.54%	
Streets Transportation Program					
Taft/Eisenhower	770,000	27,589	742,411	3.58%	C-42
Boyd Lake Ave - Kauffman Property	1,365,900	599,828	766,072	43.91%	C-42
US34 @ Madison Preliminary Design	3,836,000	3,058,432	777,568	79.73%	C-42
I-25/Crossroads Interchange	4,163,430	3,632,831	530,600	87.26%	
2010 Street Rehabilitation	3,095,410	3,059,269	36,141	98.83%	C-41
Stormwater					
Washington Avenue Outfall Phase 4	3,491,756	196,100	3,295,656	5.62%	
Guiliano Regional Detention Pond	500,000	-	500,000	0.00%	
All Other					
Library Expansion	9,606,500	727,288	8,879,212	7.57%	C-33
Recreation Trail	2,439,370	67,661	2,371,709	2.77%	C-6
Open Land Acquisition	1,160,000	-	1,160,000	0.00%	C-6
Civic Center Parking	1,054,000	316,243	737,757	30.00%	C-6
Chilson Recreation Center Expansion/Renovation	6,970,710	6,771,660	199,050	97.14%	
Total Capital Projects Over \$500,000	\$ 47,313,329	\$ 22,470,306	\$ 24,843,023		

City of Loveland
500 East 3rd Street
Loveland, CO 80537

For more information regarding this report contact:
Renee Wheeler, Assistant City Manager
970.962.2704 or wheeler@ci.loveland.co.us





CITY OF LOVELAND
CITY MANAGER'S OFFICE

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(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 18
MEETING DATE: 1/4/2011
TO: City Council
FROM: Alan Krcmarik, Executive Fiscal Advisor
PRESENTER: Alan Krcmarik

TITLE: INVESTMENT REPORT FOR NOVEMBER 2010

DESCRIPTION:

This is an information only item. No Council action is required. The budget estimate for investment earnings for 2010 is \$4,195,750. For the year to date, the amount posted to the investment account is \$3,635,373 including realized gains. The actual year-to-date earnings are *lower* than the year-to-date budget projection by \$210,727. Based on November's monthly statement, the estimated annualized yield is about 1.9%, about 1/10th of a percent lower than last month. Due to the record setting fall in interest rates since the budget estimates were done in August 2009, the portfolio will not reach the budget projection.

BUDGET IMPACT: Investment earnings provide revenue to the City's various funds.

Yes No

SUMMARY:

At the end of November, the City's total portfolio had an estimated market value of \$192.3 million, about \$3.4 million less than a month ago. Of this amount, USBank held (including accrued interest) \$185.3 million in trust accounts; other funds are held in local government investment pools, in operating accounts at WellsFargo Bank, and a few miscellaneous accounts. Based on the monthly report from the trustee, USBank, the estimated annualized yield on securities held at the end of November was 1.9%, slightly lower than the prior month. Investments are held in US Treasury Notes, highly-rated US Agency Bonds, highly-rated corporate bonds, money market accounts, and local government investment pools. The City's investment strategy emphasizes safety of principal, then sufficient liquidity to meet cash needs, and finally, return on investment. Each percent of earnings on the portfolio equates to \$1.92 million annually. Each basis point would be about \$19,200, annually.

LIST OF ATTACHMENTS: Investment Focus November 2010

RECOMMENDED CITY COUNCIL ACTION: For Council's information; questions welcomed.

REVIEWED BY CITY MANAGER:

Loveland Municipal Building

Investment Focus

Monthly Investment Report

November 2010

What's in here?

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Focal Points

- * For 2010, there are two targets for the portfolio: 1) the interest rate target is 2.75%; 2) the budget = \$4,195,750
- * The net change in market value, including unrealized gains = \$3,575,254; interest received on trust accounts = \$3,426,779
- * City investments are in high quality, low risk securities, consistent with state law and the adopted investment policy.
- * Active management adds value, \$897,491 in realized gains. Each 1% of the total portfolio amounts to about \$1.92 million.

Colorado adds jobs, but unemployment also rises

Colorado has notched its first 3 months of consecutive job growth since 2007. But more hiring has attracted even more job-seekers back to the market, nudging Colorado's unemployment rate up in November. The Dept. of Labor and Employment Office said Friday the state's unemployment rate has risen to 8.6 %. That's two-tenths of a percentage point higher than the October rate.

Source: The Denver Post, December 17, 2010.

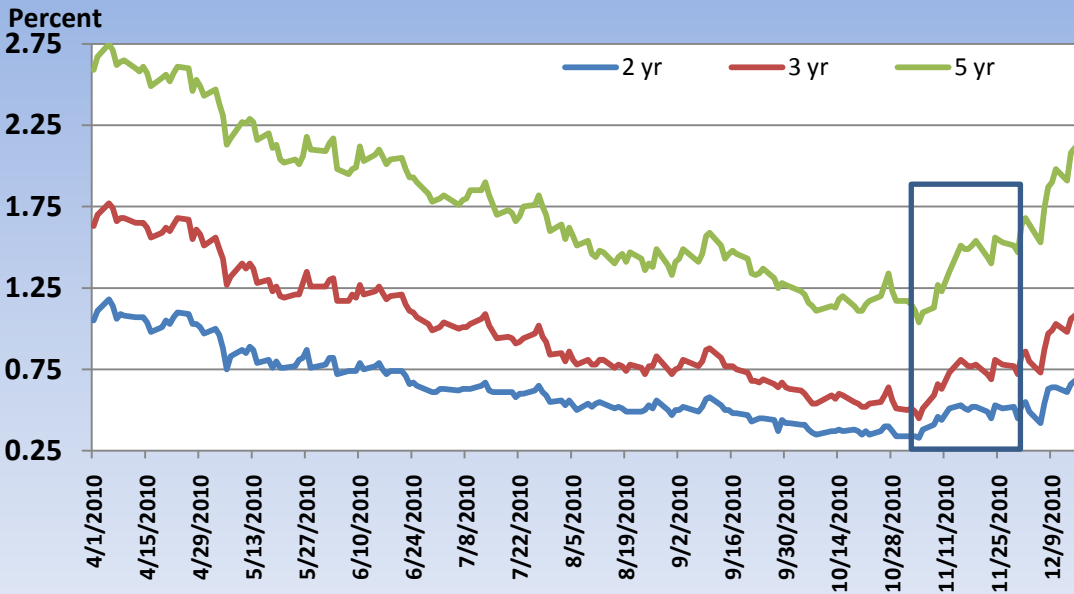
Type of Investment	Purchase Price	Market Price	Unrealized Gain or Loss
Checking Accounts	\$ 6,692,687	\$ 6,692,687	--
Investment Pools	270,191	270,191	--
Money Markets	<u>23,355,139</u>	<u>23,355,139</u>	--
Subtotal	\$ 30,337,385	\$ 30,337,385	--
Notes and Bonds	<u>162,624,789</u>	<u>161,972,236</u>	(\$ 652,553)
Total Portfolio	\$ 192,962,173	\$ 192,309,620	(\$ 652,553)
Data Sources	(Morgan Stanley)	(US Bank)	

City of Loveland
500 East 3rd Street
Loveland, CO 80537



Monthly Investment Report

Interest rate trends / industrial capacity



Rate trends reversed in November. Prices on bonds have fallen and rates have risen since reaching record lows for the 2-, 3- and 5-year Treasury notes.

This makes prior investments worth less – a shift of \$760,000 -- making reinvestment yields much higher.

Capacity Utilization



The U.S. used only slightly more of its productive capacity last month. The share of industrial capacity in use at factories, utilities and mines in the U.S. climbed to 75.2% in November from 74.9% in October. This is the highest level in two years. But it is still well below the 81.3% it averaged the year before the recession.

Big Picture The industrial production data have sprung back since the start of the economic recovery and look to be on stable footing. However, the recession resulted in such a severe downturn in manufacturing and production that the industry will need many more months if not years of continued accelerated growth before reaching more normal levels.

Sources: [Wall Street Journal](#), 12/16/2010 and [Briefing.com](#) accessed 12/15/2010

Cash Position Summary

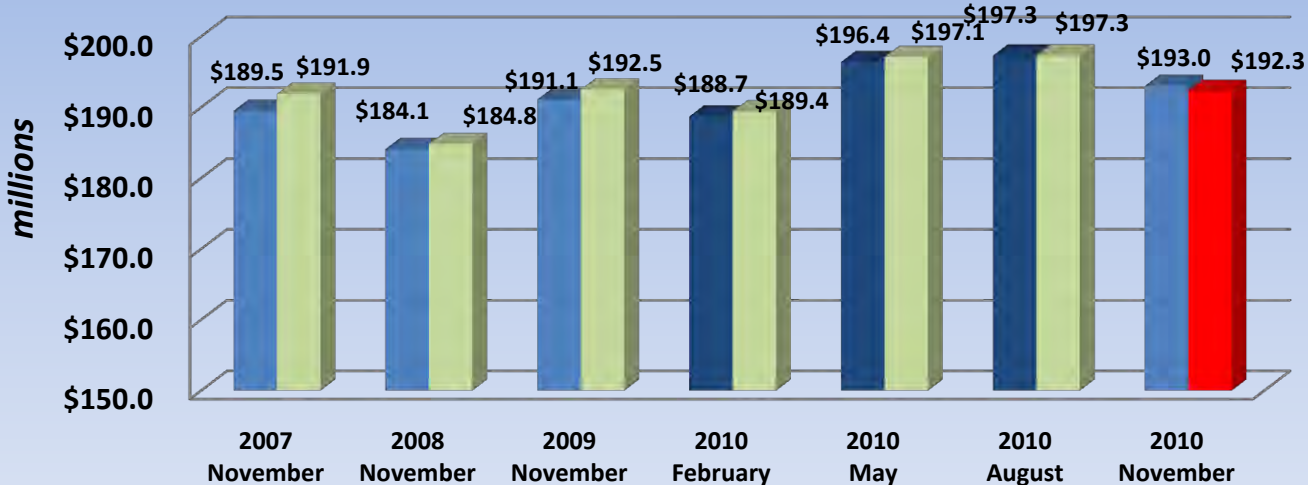
Cash & Reserves (unaudited)

	2010 Beginning	YTD Activity	Month End Total	
Restricted Reserves				
1	Capital Expansion Fees	\$ 44,091,355	\$ (6,986,892)	\$ 37,104,463
2	Water System Impact Fees	4,888,187	432,848	5,321,034
3	Raw Water Revenue – Windy Gap	27,612,486	(147,890)	27,464,596
4	Wastewater System Imp. Fees	3,499,926	567,064	4,066,989
5	Storm Drain System Imp. Fees	1,184,952	164,552	1,349,504
6	Power Plant Investment Fees	6,170,614	(500,408)	5,670,206
7	Cemetery Perpetual Care	2,296,821	127,887	2,424,707
8	Other Restricted	23,271,002	1,702,158	24,973,160
9	Total Restricted	\$ 113,015,343	\$ (4,640,682)	\$ 108,374,661
Reserve Balance Amounts				
10	General Fund	\$ 14,109,391	\$ (2,588,014)	\$ 11,676,377
11	Enterprise Funds	4,772,627	60,284	4,832,911
12	Internal Service Funds	16,048,571	1,806,876	17,855,447
13	Total Reserves	\$ 34,930,588	\$ (721,495)	\$ 34,209,094
14	Total Restricted and Reserved	\$ 147,945,931	\$ (5,362,177)	\$ 142,583,754
Unrestricted				
15	General Fund	\$ 10,846,574	\$ 4,754,236	\$ 15,600,810
16	Airport	340,564	668,265	1,008,829
17	Internal Service – Vehicle Maint	151	82,871	83,022
18	Enterprise Funds	28,776,604	3,664,758	32,441,362
19	Total Unrestricted	\$ 39,963,893	\$ 9,170,129	\$ 49,134,023
20	TOTAL CASH	\$ 187,909,825	\$ 3,807,952	\$ 191,717,777

Monthly Investment Report

Portfolio Size / Types of Investments

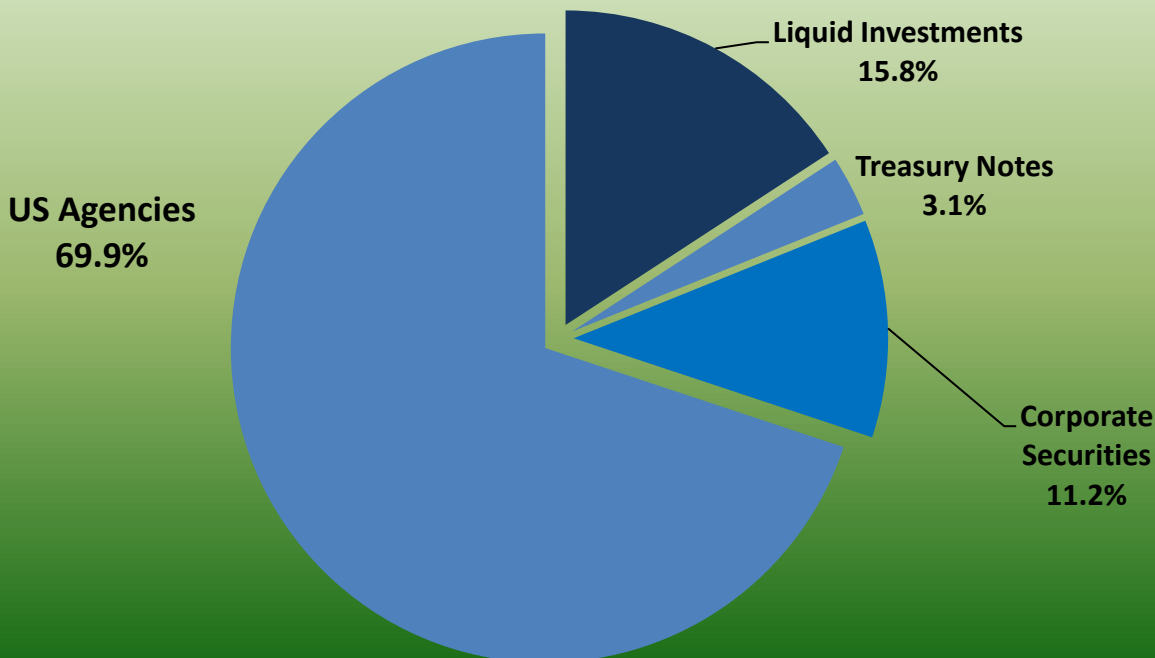
Portfolio Size since November 2007



Blue bars show Purchase value, red and green bars show market value, red = loss and green = gain

Portfolio by Type of Investment

November 2010 – Value of \$191.7 million

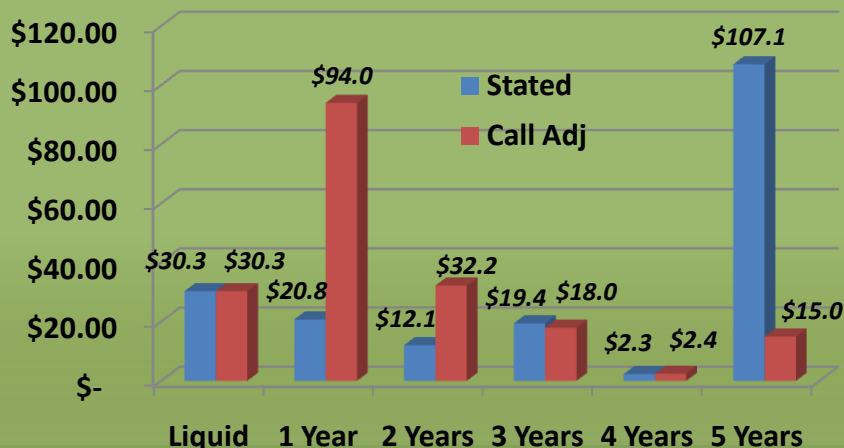


Transactions / Portfolio by Maturity

	Maturity Date	Face Value	Purchase \$	Stated Rate
<u>Purchases</u>				
FED Agric Mort Corp	11/02/15	\$ 5,000,000	\$ 5,000,000.00	1.800%
FED Home Loan Bank	12/11/15	5,000,000	5,000,000.00	1.375%
FED Home Loan Bank	10/26/15	5,000,000	5,020,000.00	1.700%
Principal Life	03/01/12	<u>3,000,000</u>	3,041,400.00	
		\$ 18,000,000		
<u>Matured</u> none this month				
<u>Called</u>				
			<u>Call Value \$</u>	
FED Home Loan Bank	09/08/15	\$ 5,000,000	\$ 5,000,000.00	1.000%
FED Home Loan Bank	09/01/15	5,000,000	5,000,000.00	2.000%
FED Home Loan Bank	05/19/15	10,000,000	10,000,000.00	2.000%
FED Nat'l Mort Assn	08/10/15	<u>\$ 5,000,000</u>	5,000,000.00	2.300%
		\$ 25,000,000		
<u>Sales</u>				
			<u>\$ Gain on Sale</u>	
FED Nat'l Mort Assn	07/15/15	\$ 5,000,000	\$ 41,493.16	2.300%

Portfolio by Maturity Term

(in millions - Total = \$191.7 as of end of November 2010)



The target rate for 2010 is 2.75%. Rates have been far below this level, so the interest rate target level will not be reached.

To support earnings, several bonds have been sold for gains. Realized gains now exceed \$856,000.

The blue bars show the stated term. Red bars show the calls given the recent interest rate trends. Most of the five year bonds will be called early.



Future Scan

- ❖ The Federal Open Market Committee last met on December 14, 2010; they again decided to hold the federal funds target interest rate at 0 to 25 basis points. 25 basis points is 0.25%. Their official press release stated, *“Although the Committee anticipates a gradual return to higher levels of resource utilization in a context of price stability, progress toward its objectives has been disappointingly slow.”* *“Translation: we have no idea why our policy is not working, and we don’t know what to do about it. Monetary policy works with long and variable lags, so we won’t say that our policy isn’t working. It’s just slow in taking effect.”* David Merkel of Gurufocus.com accessed 12/20/2010.
- ❖ Stocks markets have been volatile in recent months. Stocks swooned in August and rallied in September, October, and November to their highest levels of the year. Strength in the stock market has continued into early December,
- ❖ Some economic indicators show improvement, yet nearly all economists focus on the lack of job creation leading to slow recovery; foreclosures and resetting adjustable rate mortgages threaten the banks stability. Difficulties in European countries’ debt management highlighted the last two weeks of October and continue into December.
- ❖ Loveland’s labor market **contracted** in November with 353 less jobs when compared to October. Compared to the revised estimate for October 2009, there are 54 fewer jobs for city residents. In November, the national unemployment rate was 9.8%, the State of Colorado was 8.6%, Larimer County was 7.1%, Fort Collins was 8.1% and Loveland was 6.2%. Of Colorado cities, only Lafayette and Parker were lower at 5.5% and 5.1%.
- ❖ Average interest rates in November rose by 32.4 percent (basis the two-year treasury). With the higher rates, the City’s unrealized gain position switched to an unrealized loss position. The upside is that the City can now invest in securities that pay higher rates. With just one month to go, the budget projection will not be reached.

[For more information regarding this report, please contact:](#)

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