

AGENDA

Zoning Board of Appeals Regular Meeting
September 4, 2014 – 6:00 p.m.
Evans Community Complex – 1100 37th Street

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

1) CALL TO ORDER

2) ROLL CALL:

Chairman: Marty Schanwolf
Vice-Chairman: Steve Bernardo
Board Members: Billy Castillo
John Clark
Michael Buck

3) APPROVAL OF MINUTES

a. Minutes of October 10, 2013

4) APPROVAL OF THE AGENDA

5) AGENDA ITEMS:

a. Varco – US 85 Variance.

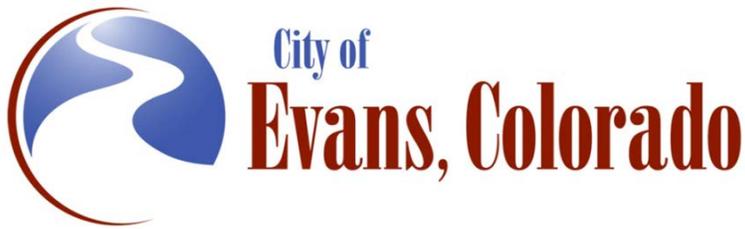
6) AUDIENCE PARTICIPATION:

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

7) GENERAL DISCUSSION:

a. Staff Report and Updates

8) ADJOURNMENT



ZONING BOARD OF APPEALS COMMUNICATION

DATE: September 4, 2014

AGENDA ITEM: Country Meadows Sub. Lots 1 & 2 Rezoning (File #14-ZA-02)

STAFF CONTACT: Zach Ratkai, Community Development Manager

ACTION: Consideration by Planning Commission

CITY COUNCIL: September 16, 2014

BACKGROUND INFORMATION		
Location:	On the north Side of 42 nd Street between Carson Avenue and US Highway 85. (See Attached Map)	
Applicant:	Tebo Properties (James Dixon. Representing) Borchert Point LLC	
Existing Land Use:	Undeveloped Land	
Proposed Land Use:	A variance request to Chapter 19.62 Highway 85 Overlay District Design Standards (Evans Municipal Code)	
Surrounding Land Use:	North	Platte Industrial Center
	South	Country Meadows Subdivision, Undeveloped Lots
	East	Country Meadows Subdivision, Undeveloped Lots
	West	Bell Supply (Similar to the proposed use.)
Existing Zoning:	C-3 Commercial	
Surrounding Zoning:	North	I-3 Industrial
	South	C-3 Commercial
	East	C-3 Commercial
	West	I-2 Industrial
Future Land Use Designation:	Commercial Uses under the recommendations of the Highway 85 Overlay District Master Plan	

PROJECT DESCRIPTION:

1. The applicant seeks approval for a variance to the outdoor storage prohibition found in Chapter 19.62 (Highway 85 Overlay District Design Standards) of the Evans Municipal Code, which applies to any lot located within the Overlay District boundary.
 2. The site is located on the north Side of 42nd Street, between Carson Avenue and US Highway 85 and both lots are undeveloped. In addition, Lot 1 is located within the US Highway 85 Overlay District boundary, while Lot 2 outside of the District, directly east of Lot 1. To develop the site as proposed, the applicant would have to combine the lots via the amended plat. Once combined the lots would total approximately 2.67 acres in size, and typically the higher zoning of the two original lots applies to the new combined lot. In this case, the requirements of the US Highway 85 Overlay District would apply.
 3. As a final note, the applicant included a site plan with the project materials. This plan is conceptual in nature and Staff has not reviewed it for compliance with the applicable site plan requirements in the Municipal Code. Approval of the rezoning or variance should not be considered to include approval of a site plan, as that is a separate process. Ultimately the applicant would like to construct a 16,000 sf building on the site that would be leased to a client in the energy industry. That client requires an area for outdoor storage as well, which prompted the variance request. Please note, the allowed amount of outdoor storage in the I-3 Industrial Zone District is also the highest permitted under the Industrial Zoning, so the variance request to that standard is not minimal in nature.
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1. ANALYSIS / ISSUES:

The request for variance is subject to the requirements found in the “US Highway 85 Overlay District Master Plan”. The supporting regulations are found in Chapter 19.62 (US 85 Overlay District Design Standards) and in Chapter 19.58 (Variances) of the Evans Municipal Code. Staff’s assessment of each plan and the Code requirements are addressed below:

1. Chapter 19.62 (US Highway Overlay District Design Standards):

19.62.050 Nonpermitted uses and restrictions.

A. The uses allowed within the district are intended to be of a nature that is retail, personal service and office. Where industrial uses are allowed within the district, they shall be of a low-impact, light industrial nature and any environmental effects generated shall be kept within the buildings where they are produced. As stated in Chapter 19.32 of this Title, light industry consists of, but is not limited to, scientific research; limited manufacturing; compounding, assembly, processing or treatment of products; food and beverage processing; and similar limited industrial uses in which the environmental effects of the operation are confined within the principal buildings.

B. Regardless of the uses allowed by a property's underlying zoning, the following uses or use groups are not permitted within the district:

18. Outdoor storage.

As stated above, outdoor storage is expressly prohibited on lands that lie within the boundaries of the Hwy 85 zoning district. With upcoming changes to the Highway 85 zoning districts, this area will be outlined for regional commercial uses, which is contrary to the intent of the property owner.

19.62.060 Uses allowed with special use permit.

A. If a property's underlying zoning allows any of the following uses or use groups, such uses shall only be allowed within the district by special use permit approved in accordance with Chapter 19.44 of this Title:

1. Industrial uses facility.

According to the uses outlined in the underlying C-3 zoning district, industrial uses facility is not a defined use. Therefore, in order to meet this requirement, rezoning of the property would have to be granted.

In light of the above, the property owners seek to apply for a variance to the prohibition of outdoor storage in order to pave the way for greater success in a subsequent rezoning application. The following outlines the criterion within the Evans Municipal Code upon which the Zoning Board of Appeals must base their recommendation to the Evans City Council:

Chapter 19.58 (Variances):

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

1. Approval of the variance would not jeopardize the health, safety or welfare of any person;
2. Denial of the variance would result in a practical difficulty and unnecessary hardship to the applicant;
3. Such practical difficulty and unnecessary hardship are due to an irregular, narrow or steep lot or other physical situation or condition of the building or land;
4. Such practical difficulty and unnecessary hardship have not been unreasonably self-imposed by the applicant.

19.58.040 Procedure for variance requests.

A. Petition. A petition in the form prescribed by the City shall be filed with the City Clerk and shall be accompanied by a letter explaining why the variance should be granted. Additional supporting evidence such as letters of support from surrounding property owners, photographs and maps may be submitted and may be required by the City.

B. The Board shall hold a public hearing and make a recommendation to the City Council.

C. The Board may recommend approval or denial of a variance as requested, or may recommend approval of a variance differing from the request. The Board may recommend conditions be placed on the approval of a variance.

D. After the Board makes a recommendation on the request, the City Council shall hold a public hearing and make the final decision to grant the requested variance, grant a variance differing from the request or deny the variance. The City Council may place conditions on such approval. Approval shall be made by resolution.

REFERRAL AGENCY COMMENTS:

Planning Staff referred this request to several City offices for comment. The standards applied by the City Engineer and those recommended by the Fire District would apply at the time the site plan review, and thus are not addressed in this report. The City’s Economic Development Director reviewed the request and provided input on the anticipated impacts from reducing commercial areas while increasing residential development. Having participated in development of the 2010 Comprehensive Plan, she supports the conclusions outlined in this report.

FINDINGS OF FACT AND CONCLUSIONS:

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

Staff finds no conflict with this criterion as it relates to the request of the applicant.

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

This land was zoned Commercial and part of it placed within the Evans Urban Renewal and Highway 85 overlay district as directed by long range planning policies and the 2010 Evans Comprehensive Plan. As a part of the long range planning policies in this area, outdoor storage, as it has little relation to the regional commercial intent of this area, was expressly prohibited by City Council through approval and repeated revision of Chapter 19.62 of the Evans Municipal Code. The request of the applicant is purely a desire for a particular land use not in conformance with the underlying zoning of property. For this property, there exists numerous non-industrial uses that can be constructed with full compliance with the underlying zoning code. There also exists numerous lands within Evans upon which such a similar use can be built; therefore, the denial of the variance application will not result in practical difficulty for the applicant.

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

The basis of the request of the applicant was not initiated due to shape of lot or topography of land. Therefore staff finds that this criterion cannot be met as the property does not exhibit any irregular shape, size or topography that would adversely affect the requested use.

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

Staff finds that no undue or non-self imposed hardship exists with this request. There exists a myriad of other, allowable uses for the property and zoning district, thus providing numerous options to the land owner for improvement, leasing and sustainability of uses in this area.

The Country Meadows Sub. Lots 1 & 2 Variance cannot appropriately and sufficiently meet the Review Criteria found in Section 19.58 of the Evans Municipal Code. The Evans Municipal Code expressly dictates that **all** criteria above be met and satisfied for the Zoning Board and City Council to favorably recommend approval of the variance.

STAFF RECOMMENDATION:

Staff recommends denial of the Country Meadows Sub. Lots 1 & 2 variance requesting the allowance of outdoor storage as part of an industrial use facility as this request cannot appropriately and sufficiently meet the Review Criteria found in Section 19.58.080 of the Evans Municipal Code.

RECOMMENDED ZBA MOTION:

*“Mr. Chairman, on the issue of the Country Meadows Sub. Lots 1 & 2 Variance for the allowance of a future industrial use with outdoor storage, I move that the Zoning Board of Appeals forward a recommendation of **denial** to the Evans City Council as the request cannot meet all the criteria outlined in 19.58 of the Evans Municipal Code.*

Attachments:

Public Hearing Notice
Vicinity Map
Zoning Map
County Meadows Subdivision Rezoning and Variance Application Materials
Evans Renewal Agency Comments
Hwy 85 Future Land Use Map
Highway 85 Traffic Pattern Map
19.30 – C-3 Commercial Zoning District Standards
19.58 – Variances
19.62 – US 85 Overlay District Design Standards Code

**CITY OF EVANS
NOTICE OF PUBLIC HEARING**

NOTICE is hereby given, pursuant to the Evans Municipal Code, the Evans Zoning Board of Appeals will hold a Public Hearing on September 4, 2014, commencing at 6:00 pm, and the Evans City Council will hold a Public Hearing on September 16, 2014, commencing at 7:30 pm, both meetings to be held at the City Hall Council Chambers, 1100 37th Street, Evans, Colorado, at which time and place they will consider and recommend to the Evans City Council a variance to the zoning code for accessory garage sizing.

The project is known as the Varco/Country Meadows Variance for property located at approximately 4100 Carson Avenue in Evans (across from the new Bell Supply Building)

All persons in any manner interested in this matter may be present and may be heard.

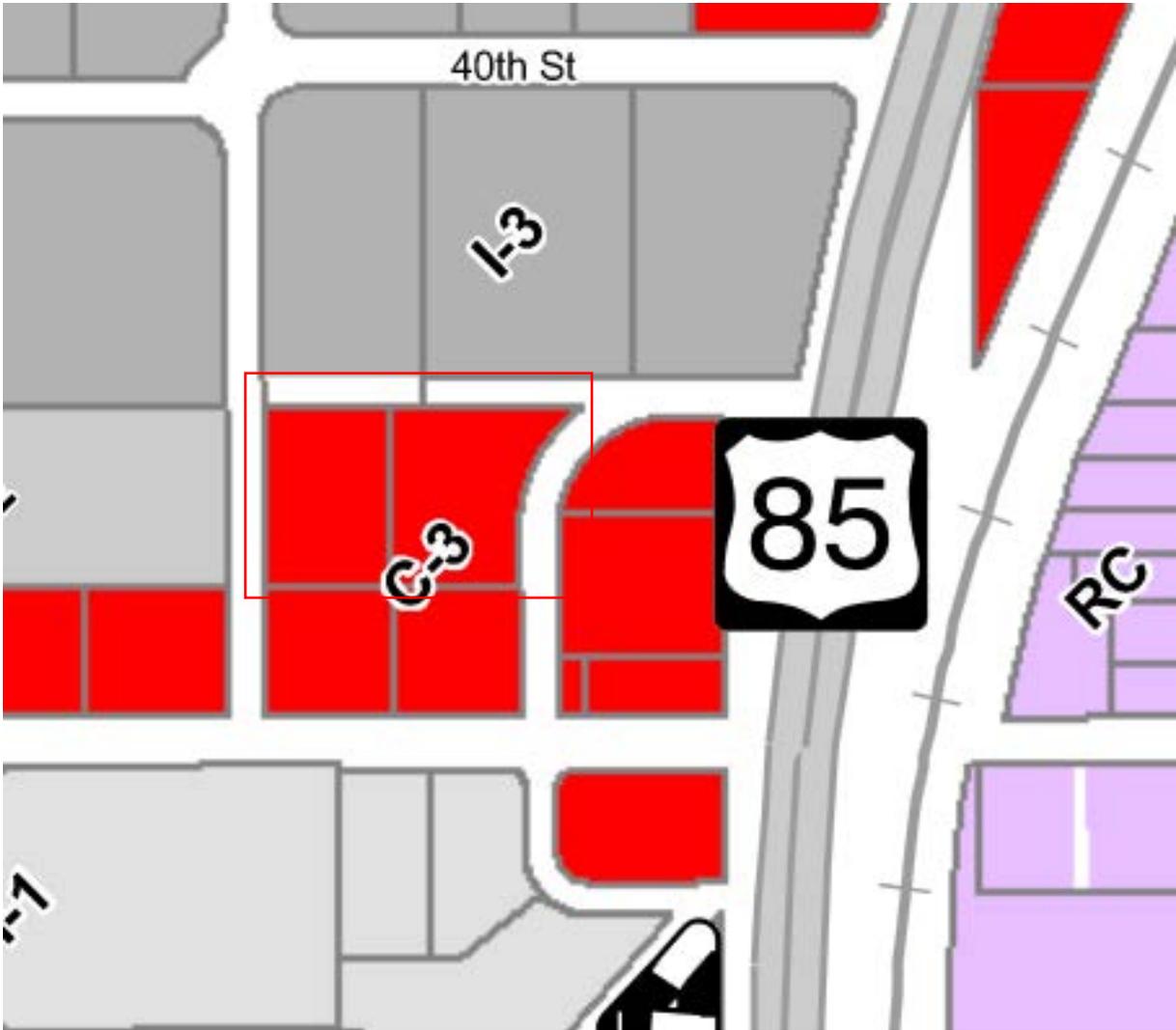
Be it also known that additional information may be obtained from the Evans Community Development Department, 1100 37th Street, Evans, Colorado, between the hours of 8:00 am and 5:00 pm, Monday through Friday, or by phone at (970) 475-1112.

[Please publish in the Greeley Tribune as soon as possible.]

Vicinity Map



Zoning Map





**Land Use Application
Variance**

Staff Use Only
 Attach Receipt
 Fee: \$500.00 includes public hearing
 \$25 for 500' list if needed
 Intake Date:

All applications for a Variance shall comply with the requirements of Chapter 19.58 of the City of Evans Municipal Code and all applicable regulations, standards and plans. Please allow for a 60 day approval period following a complete and accepted submittal. This includes two (2) public hearings and meetings with the Planning Commission and City Council.

Project Name: National Oil Well Varco New Building Acres:2.63 Current Zoning: C-3

Property Address: TBD, Current residential structure is 4101 West Service Road

Proposed Variance (brief description, please list the code section that will be varied by this request):

Variance to Hwy 85 Overlay District and c-3 zoning to allow outdoor storage use in connection with the construction of a new approx. 16,000 square feet building.

Land Owner Name: Borchert Pointe LLC (James Dixon) Telephone: 303-447-8326
 Email: Jdixon@teboproperties.com

Mailing Address: PO Box T, Boulder CO 80306

Applicant Name: James Dixon Telephone: 303-447-8326 Email: Jdixon@Teboproperties.com

Mailing Address: PO Box T, Boulder CO 80306

SUBMITTAL CHECKLIST

**The following items will need to be submitted for review of a Variance Application.
 It is recommended that the applicant speak with a City representative prior to submittal of the application.**

Applicant Initials	Submittal Documents Required to be Accepted for Review by City	City Staff Initial if Complete
Emailed	Electronic copy of all required forms (see below)	
	Variance Fee of \$500.00 Plus Actual Costs (check or credit card)	
	500' list Fee of \$25 (if needed)	
jd	Letter indicating why the use should be allowed. (See Section 19.58.040 A for necessary information, need to address criteria in 19.58.030)	
jd	Letters of support from surrounding or affected neighbors	

jd	A site plan or master plan drawing of the location and use	
jd	Photos of the site in question	
jd	Photos showing the proposed use (if appropriate)	
jd	An aerial map of the location	
jd	Any other documentation that would support the request	
jd	A list, in Excel format, of all land owners within 500' of the proposed use	
jd	Legal description of property	
	Other documents (please list):	
jd	If a minor variance (as defined in Section 19.58) a letter from EVERY surrounding land owner, as identified by the aerial map, approving the minor variance	

I certify that to the best of my knowledge this Variance Application meets all of the criteria listed above and all the appropriate documentation has been submitted as requested:


6/5/14

Land Owner Signature **Date**


6/5/14

Applicant Signature **Date**

For City Staff Use Only

Date Submitted:

Date Reviewed: Reviewer Name: _____

Corrections Needed? Yes No

Date Returned as Incomplete to Applicant and Owner:

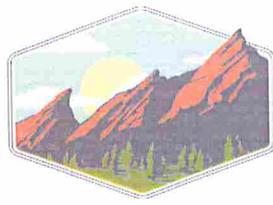
Date Accepted as Complete:

ZBA Date:

City Council Date:

Additional Comments:

Note to Staff: Formal comments will be found in the L:drive under Community Development/Variance/ (name of application)



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June 4, 2013

Land Use application (Variance to US 85 Overlay District and rezoning to allow outdoor storage)

Mr. Sean Wheeler, City Planner

Mr. Zach Radkai, Community Development Manager

Re: Rezoning and request for variance to Hwy 85 Overlay district

Mr. Wheeler and Mr. Ratkai and City of Evans Planning Staff,

I would like to thank you in advance for your consideration of this request. As you know, Borchert Pointe LLC owns several properties in this area, but I am particularly referring to two lots know as Lot 1 and Lot 2, Block 2 of the Country Meadows subdivision. Together the two lots have a total size of 2.67 acres. Please refer to Exhibit A for a visual representation of these lots. Currently the site sits in between Carson Avenue and what would be the future West Service Road extension. As I understand this site, it is currently zoned C-3 high density commercial. In addition, Lot 2 falls within the newly implemented Hwy 85 overlay district, however Lot 1 is not within the overlay district. I have included in exhibit A a photo of the current zoning as well as the zoning of surrounding properties. I am formally requesting that both lots be rezoned to I-3, with a variance to Hwy 85 overlay district to allow outdoor storage, with certain conditions that satisfy the City of Evans intent of the district.

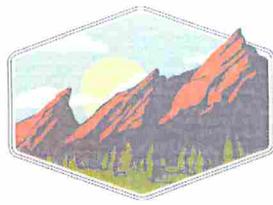
The project I am hopeful to move forward with would be the construction of an approximate 16,000 SF building with additional outdoor storage to facilitate National OilWell Varco. National OilWell Varco is a worldwide provider of customer-focused solutions for the energy industry. The building would house their staff and the products which they would provide to other companies doing business in Evans and the greater Weld county area. The negotiations with National OilWell Varco are complete and the lease for the new facility is fully signed. The only contingency of the lease is the appropriate approval from the City of Evans and we are ready to move forward.

As discussed with the City of Evans staff, I was asked to draft this letter to layout my case for allowing this building to go forward and I believe I have established just cause for my requests in the following 3 main points. Of course, the following 3 points do not take into consideration the benefits which the City will realize in keeping National OilWell as an employer located within the city as well as the many other benefits which come with new construction going on within the borders of a city.

1. Borchert Pointe LLC is owned by Tebo Development Company. Tebo is a large commercial property owner based in Boulder, CO. The portfolio consists of hundreds of properties and approximately 600 tenants with a unique focus on retail properties. Our focus on retail properties allows us to have a full understanding of what sites work as a retail site and which do not. This site in particular does not make sense as a

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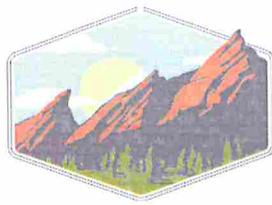
retail site or office. I understand that in an ideal world the City of Evans would love to realize the revenue generated from the retail sales taxes generated from a retail use or the larger volume of employees working in an office building, however there is a low likelihood that these two particular lots would become viable locations for a retail establishment or office use. It sits too far off of the intersection to have the visibility needed to function for a retailer and the surrounding uses currently in place do not and will not support an office building. In addition if Borchert Pointe, believed moving forward with the project for National Oilwell Varco would cause the lots directly to the south, east and west of this project, which are also owned by Borchert Pointe LLC, to be less desirable for retail uses we would not consider this project. We feel as if this project will not detract from our plans for future development to the other lots in the area and actually feel as if this will be a catalysis for future retail development. Not allowing this project to move forward will present an undue hardship on Borchert Pointe LLC by limiting these two lots to uses for which there will not be reasonable demand, thereby forcing the lots to remain vacant and undeveloped for many years to come . These two lots are most viable being used for the use proposed herein. As shown in the attached list of property owners within 500' of the site, Borchert Pointe is the largest property owned in the area and if we were not confident that this project would be a success while still maintaining and increasing the viability of our remaining property I would not be writing this letter to you.

2. Borchert Pointe LLC is currently under construction of another similar facility across Carson Ave. for a company called Bell Supply. This project is very similar to what we are proposing for National OilWell Varco except that it has a larger outdoor storage component then we will have on this site. The Bell Supply Project is approximately 60' to the west of Lot 1 and further engraves the precedent that this site is an area in the City of Evans that can meet the current market demands of the region. Bell Supply is not the only facility in the immediate area for which has the outdoor storage component as a part of its facility. As you will notice in exhibit B, the surrounding area has a large number of tenants occupying property while having large outdoor storage components, in many cases much larger then we are proposing. The Proposed use will be a compliment to the surrounding area and is similar to many (all) of the properties in the surrounding area.

3. Borchert Pointe LLC is ready to engage City Staff to make this project an asset to our tenant, the City of Evans as well as the surrounding community. I understand the intent of the Hwy 85 overlay district is to establish consistent development standards for new development within its boundaries. I have provided a preliminary site plan with this submittal package which shows the new facility with the main facade of the facility facing towards the east. I am willing to work with the architect and the City of Evans to ensure that the city is comfortable and impressed with the visual aesthetics of the new facility. Since this facility may have visibility from Hwy 85, we can work together to develop a architectural program that makes this building an impressive

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site for vehicles traveling on the highway. You will notice that the site plan also allows for large vehicles coming in for delivery and pickup into the site off of Carson Ave. to the east. This limits the exposure of the vehicles from being seen from Hwy 85. In addition with a full solid surface fence and a substantial landscape buffer with a mixture of trees and shrubs will create a visually appealing and vibrant site which will not detract but substantially add to the southern edge of Evans.

Lastly, you will notice that I have included a simple email from Mr. Clyde Lane. Mr. Lane is the Owner and Manager of Hillside Rental LLC which is adjacent to the proposed project. As you see in the email Mr. Lane supports our project, including the outdoor storage component. Since Borchert Pointe LLC and Mr. Lane are both in support of this project this represent an absolute 100% of adjacent properties in support of the project going forward.

In conclusion, I respectfully ask that the City of Evans consider our proposal to move forward with this great new project for National OilWell Varco. We are open to the staffs ideas and thoughts on how we can complete this project while addressing the goals of everyone involved. We are excited to move forward with not only this project, but the completion of the balance of the lots we own in the Country Meadows Subdivision. I believe we can complete this project which will meet the needs of our tenant while surpassing my understanding of the intentions of the Highway 85 overlay district. I look forward to hearing your positive feedback and comments to this. Should you have any questions or concerns my contact info is provided below.

Respectfully Submitted,



James Dixon

Director of Development

Tebo Development and Borchert Pointe LLC

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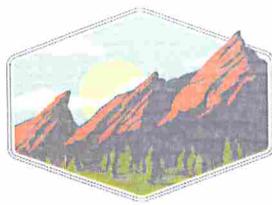
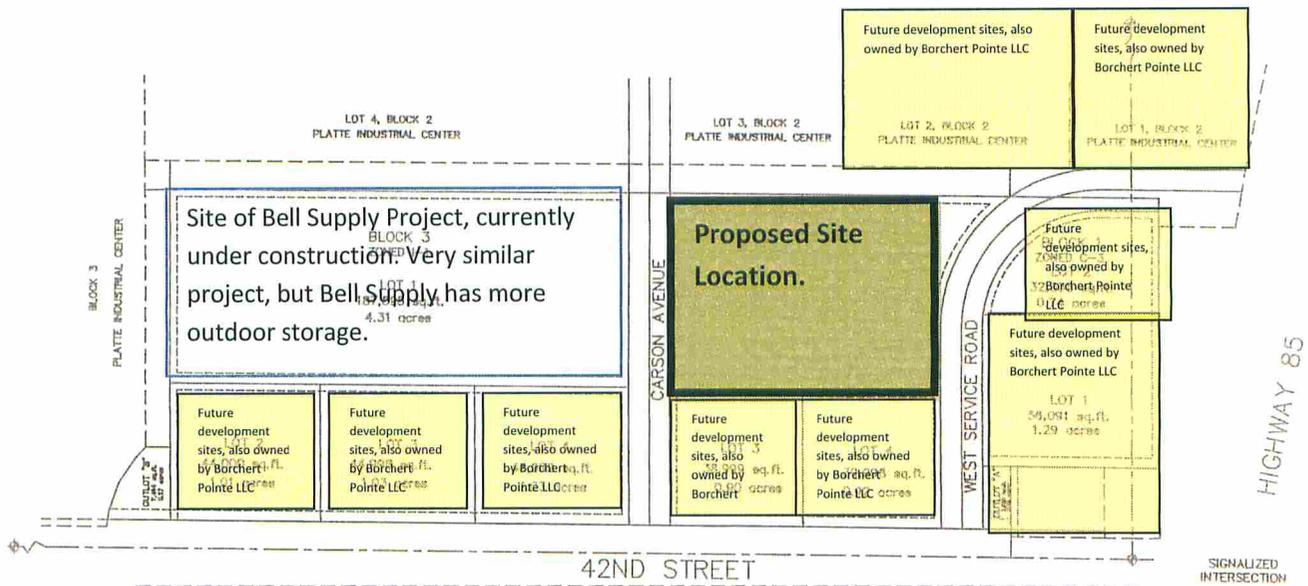
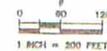


Exhibit A

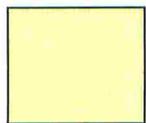


LOT LAYOUT PLAN COUNTRY MEADOWS SUBDIVISION

PROPERTY ZONING AND LOT LINES CAN BE MODIFIED OR COMBINED TO SUIT SPECIFIC TENANT REQUIREMENTS



Greeley/ Evans Commercial Center



---Represents Sites owned by Borchert Pointe LLC which are more viable Retail/Office uses



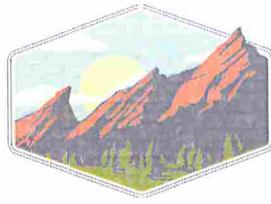
---Represents the proposed project site



---Represents the current Bell Supply Project. A project which is more intense in outdoor storage than the proposed project.

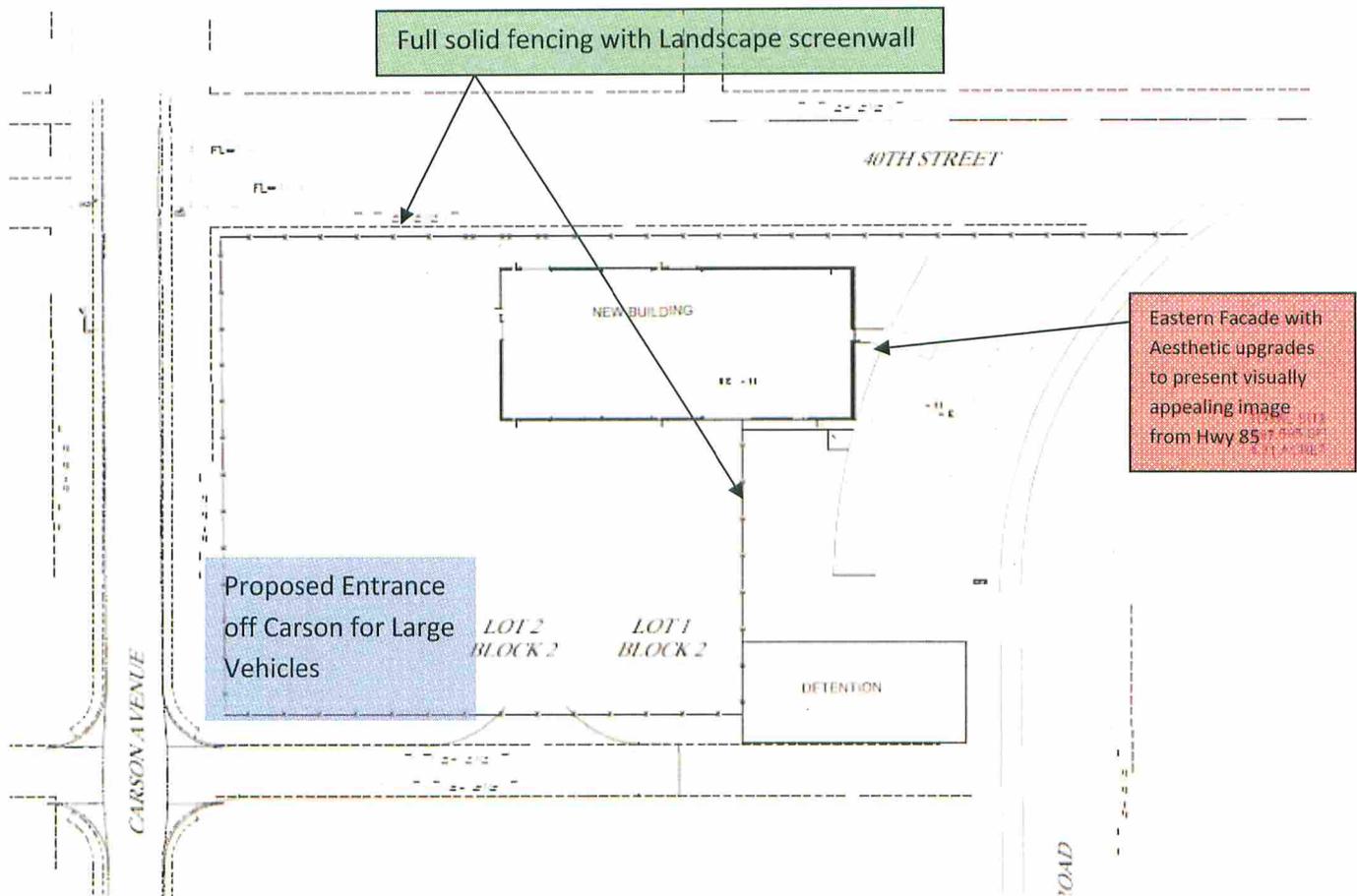
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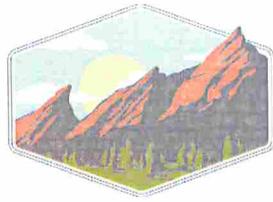
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Proposed Possible Site Plan



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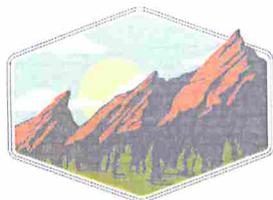
Land Owners Buffer Report

Owners within 500' of the proposed Project

Account	Parcel	Owner	Mailing Address
R6781133	96130412001	Alpha & Omega Storage LLC	18999 County Road 39 LA Salle CO 806459308
R6778617	96130108005	Borchert Pointe LLC	PO Box T 1590 Broadway Boulder CO 803026217
R1739502	96130125001	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R1739702	96130125003	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R6780981	96130125006	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R1739802	96130126001	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R1739902	96133012002	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R1740002	96130126003	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R1740102	96130126004	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R1740202	96130127001	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R1740402	96130127003	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R1740502	96130127004	Borchert Pointe LLC	C/O Stephen D Tebo PO Box T Boulder CO 803061966
R6777142	96130197002	Doud Land Company LLC	25528 Genesee Trail Rd Golden CO 804019366
R6778616	96130108004	Evans City Of	1100 37th ST Evan CO 806202036
R4357506	96130410001	Greene Gayle F	PO Box 1247 Fort Morgan CO 807011247
R4357406	96130410002	Greene Gayle F	PO Box 1247 Fort Morgan CO 807011247
R2568003	96130129001	LANE CLYDE V	1310 40th St Evans CO 806202517
R2448403	96130408003	LUNDVALL ELMER CO	PO BOX 632 Greeley CO 80632032
R2448203	96130408001	SANDHU & NIJJAR LLC	1100 42nd St Evans CO 806202517
R7194398	96130113001	Tebo Partnership LLLP	PO Box T Boulder CO 803061966
R2568103	96130129002	Tebo Partnership LLLP	PO Box T Boulder CO 803061966

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PROPERTIES

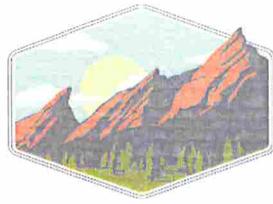
EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

Block 2, Lot 1 and Lot 2 Country Meadows Subdivision, City of Evans, Weld County Colorado.

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Boulder, CO 80306
Phone: 303-447-8326
Fax: 303-447-0206

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jdixon@tebo.biz
www.teboproperties.com



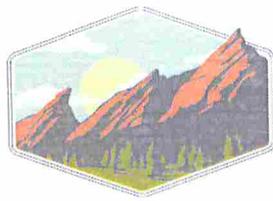
TEBO
PROPERTIES

Photos Of Current Site



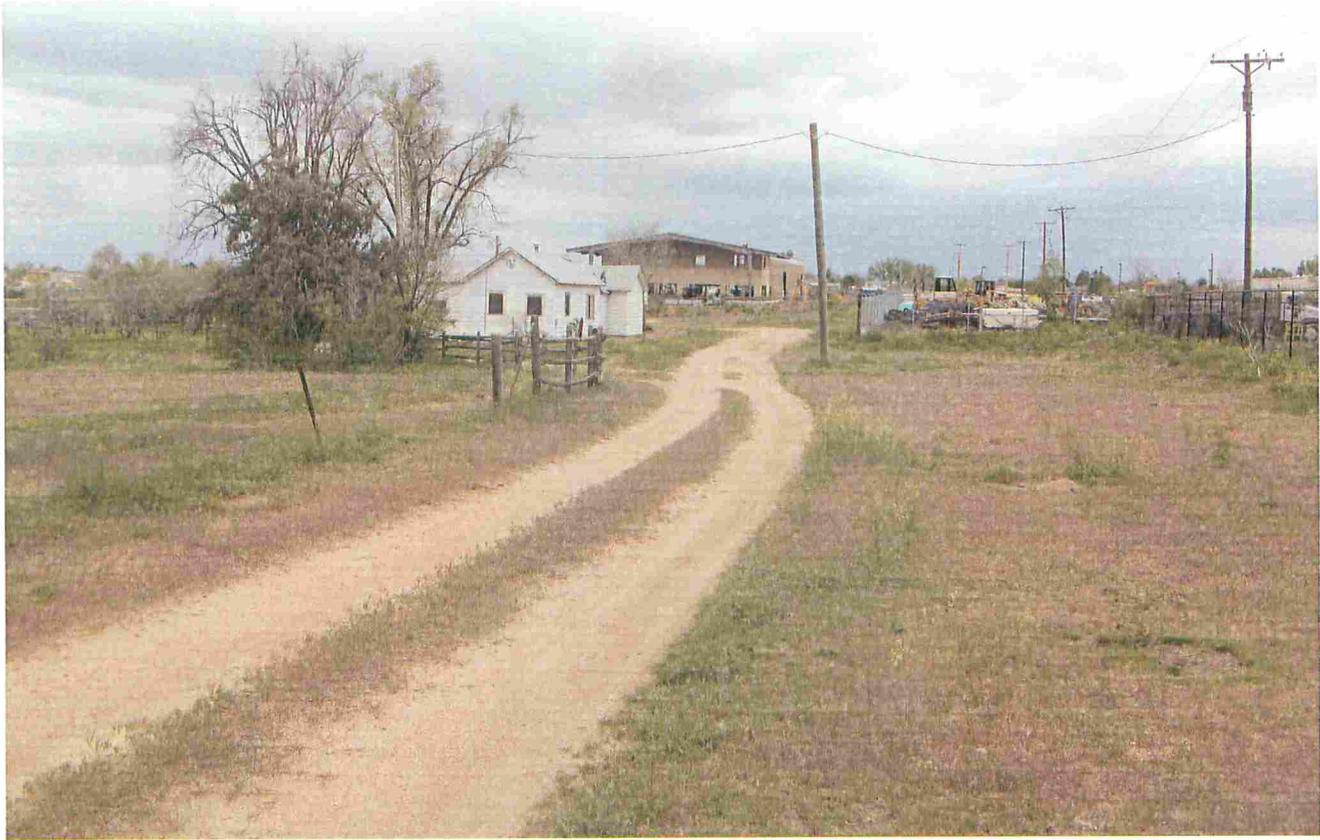
Mailing Address:
PO Box T
Boulder, CO 80306
Phone: 303-447-8326
Fax: 303-447-0206

Street Address:
3111 28th Street
Boulder, CO 80301
jdixon@tebo.biz
www.teboproperties.com



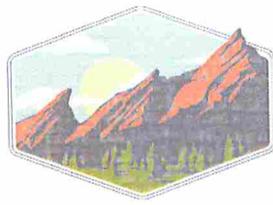
TEBO
P R O P E R T I E S

Photo Of Current Site



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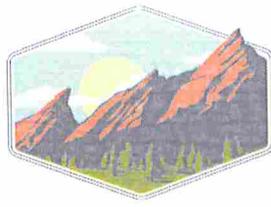
TEBO
P R O P E R T I E S

Photo of Current Site



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TEBO

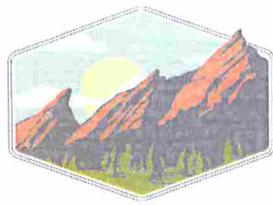
PROPERTIES

Aerial of Site



Mailing Address:
PO Box T
Boulder, CO 80306
Phone: 303-447-8326
Fax: 303-447-0206

Street Address:
3111 28th Street
Boulder, CO 80301
jdixon@tebo.biz
www.teboproperties.com



TEBO
PROPERTIES

Letter of Support

Tebo Leasing Associate

From: clyde lane
Sent: Thursday, June 06, 2014 11:15 AM
To: leasing@teboproperties.com
Subject: Hillside Rental, LLC

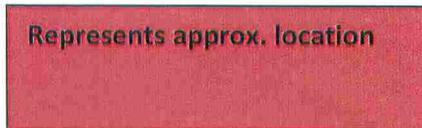
I, Clyde Lane, owner of Hillside Rental, LLC support a building with outdoor storage to the south of my business.

Clyde Lane
Owner / Manager
Hillside Rental, LLC
1310 40th Street
Evans, Colorado 80620
(970)353-9890, (970)353-7455 Fax

Mailing Address:
PO Box T
Boulder, CO 80306
Phone: 303-447-8326
Fax: 303-447-0206

Street Address:
3111 28th Street
Boulder, CO 80301
jdixon@tebo.biz
www.teboproperties.com

Photos showing surrounding outdoor storage use.





City of
Evans, Colorado

Evans Redevelopment Agency

1100 37th Street

Evans, Colorado 80620

August 15, 2014

City of Evans
Zoning Board of Appeals
1100 37th Street
Evans, Colorado 80620

Re: Varco Variance Request

Dear Board Members;

Thank you for the opportunity to comment on this variance request. As you know, the Evans Redevelopment Agency (ERA) is a separate legal agency from the City of Evans and is focused on economic development, redevelopment, and the removal of blight in our two urban renewal areas. The Highway 85 Corridor is the main focus of the City of Evans and the ERA for economic development now and in the future. As a note, the second urban renewal area is Historic Evans, which is undergoing the first Master Plan effort this year.

The Evans Redevelopment Agency is **opposed** to this request for a variance and rezoning for five main reasons:

- 1) This use is not compatible with the long range vision for the Highway 85 Corridor
- 2) The 2014 Highway 85 Corridor Master Plan specifically prohibits this type of use
- 3) The Urban Renewal Area plan specifically indicates this use is not part of the area plan
- 4) The long term financial stability of the City is negatively affected by the approval of the variance and rezoning
- 5) This request is in direct conflict with the policy direction of the City Council and Planning Commission

Overview of Corridor

The immense importance of the Highway 85 Corridor cannot be overstated for the long term future of the City of Evans. The corridor is our main entrance into Evans, and is a major transportation corridor between Colorado and Wyoming – the highest traffic counts in the City occur within this corridor. When residents and visitors travel to our through Evans, their main perception of our City comes from this Corridor. Highway 85 has been a focus for our City Council for over sixteen years with significant

investments in long range planning, zoning, and redevelopment. The stated points for the purpose of adopting standards specific to the Corridor are to:

- Improve the appearance and coordinate land uses within the US 85 Overlay District
- Provide additional development standards for the US 85 Overlay District
- Create a positive financially sustainable economic zone
- Establish a unique identity for the City of Evans
- Improve economic vitality within the US 85 Overlay District
- Maximize long-term property values and community benefits
- Minimize the impact of nonresidential development on residential areas
- Improve safety for automobiles, bicycles, and pedestrians
- Encourage the creation of sidewalks and trails within the US 85 Overlay District
- Encourage and increase development opportunities within the US 85 Overlay District
- Facilitate the opportunities for undergrounding of overhead utilities in the US 85 Overlay District

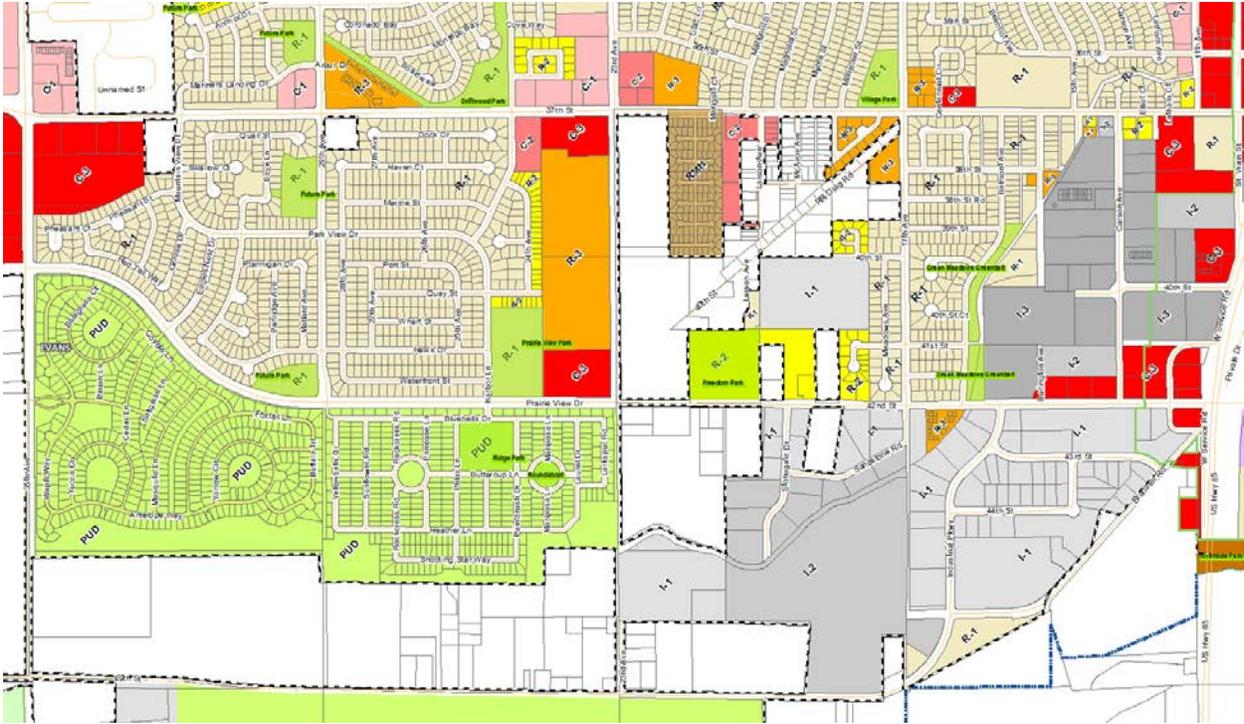
History of Planning Efforts

In 1999, over sixteen years ago, the City started planning for the future of the Corridor by partnering with the Colorado Department of Transportation (CDOT) on an access control plan. In 2002 the first Highway 85 Master Plan was adopted, followed shortly in 2004 by a new code section, 19.62, that determined higher development standards for the Corridor and began the rezoning of the Corridor to commercial. In 2009 the Urban Renewal Area was adopted and the ERA formed, and additional changes were made to 19.62 in 2010.

In 2014, the updated Highway 85 Corridor Master Plan was adopted and you can read the plan here: http://www.evanscolorado.gov/sites/default/files/fileattachments/us_85_overlay_district_master_plan_2014_02_25_reduced.pdf . That Master Plan created updated zoning for the Corridor, adding more definition to allowed uses and desired outcomes. The adoption of that plan has led directly to the adoption of revised standards for Section 19.62, adoption of new zones that directly affect this property, and more definitions within the code regard allowed and prohibited uses. The process started on August 19th and will be completed on September 2nd, with some additional work on the Zoning Map and Future Land Use Map going through October of this year.

Long Range Vision and Plan

The vision of the City Council for the Highway 85 Corridor is clearly that of a main entrance to Evans that conveys a positive, urban, retail image – the phrase used is “urban rustic” for our commercial development in that Corridor. A plan was adopted in August for the 31st Street intersection and Highway 85 that encompasses all four corners, and we believe that is the catalyst for retail development along the Corridor. The City has made a significant investment in the Corridor to drive redevelopment away from industrial uses and to commercial uses. It is clear that with every plan and code adopted by the City that industrial uses are not a part of the long term vision for the Corridor.



42nd Street, along with 37th and 31st Street, are the three main entrances to Evans along the Highway 85 Corridor. Residents and visitors traveling north and south on Highway 85 must use one of those three exits to access commercial shopping, residential neighborhoods, and recreational opportunities on the west side of Highway 85. The significance and impact of industrial development on a major commercial corner AND one of the main entrances to Evans would be very detrimental to the long range planning efforts, compatibility issues, and the image of Evans as a desirable place to live, work and shop.

Highway 85 Corridor Master Plan

With regard to the proposed uses on the site, the applicant is correct that those uses would require a rezone to I-3 (heavy industrial) to be able to utilize the outdoor storage as requested.

Prohibited Use

From 19.62

D. Regardless of the uses allowed by a property’s underlying zoning, the following uses or use groups are not permitted within the US 85 Overlay District.

- Auction yard
- Adult business
- Assembly uses
- Car ports
- Car wash facilities (a single bay, enclosed with doors, passenger vehicle car wash is allowed)
- Confinement of Animals
- Cemetery
- Commercial Mobile Radio Service (CMRS) facility (freestanding)
- Crematorium
- Flea markets

- Industrial Uses
- Kennel
- Livestock trailer washout
- Motor Vehicle, recreational vehicle, boat, or utility vehicle; private sales of
- Natural resource extraction and treatment
- Oil and gas, related uses (as outlined in 19.62.050 (B))
- Outdoor storage
- Outdoor sales lot containing large motorized equipment, Oil & Gas related equipment, equipment parts (US Highway Retail & Commercial Auto zone district exempt for auto sales lots)
- Pawn broker
- Parking lot, off-street (not allowed as a primary use)
- Recycling facility
- Recreational vehicle (RV) park/campground
- Recreational vehicle storage
- Salvage yard
- Treatment of humans, restrained
- Truck vehicle or other commercial vehicle parking as a 24/7 business operation

With reference to Oil and Gas, Related Uses, the code states:

B. Oil and Gas related uses may be permitted as a conditional use. The duration of each use will be limited to a five (5) year period. The Oil and Gas related uses permitted in the US 85 Overlay District will be limited to support services and offices. Storage of equipment will not be permitted.

Outdoor storage has been a prohibited use in the Highway 85 Corridor for many years (regardless of underlying zoning). The applicant knew of that prohibition when a lease was signed with the tenant (it was written in the code). The City prohibits outdoor storage in the Highway 85 Corridor because of the following issues:

- Outdoor storage is primarily an industrial use, and the Corridor is a designated commercial corridor through codes, regulations, specific zoning and long range planning
- Industrial uses are in direct conflict with commercial uses: traffic patterns are different, vehicle types are different, hours of operation are different, noise and dust are different, and codes related to landscaping, buffering and screening are different
- The visual impact of outdoor storage negatively affects retail commercial uses. While the applicant has stated they do not feel this is the case, land use planning would substantiate the opinion of the City and ERA.

Zoning

The zoning for the property is Highway 85 High Retail & Commercial, which is defined in the Master Plan as:

High Retail Commercial

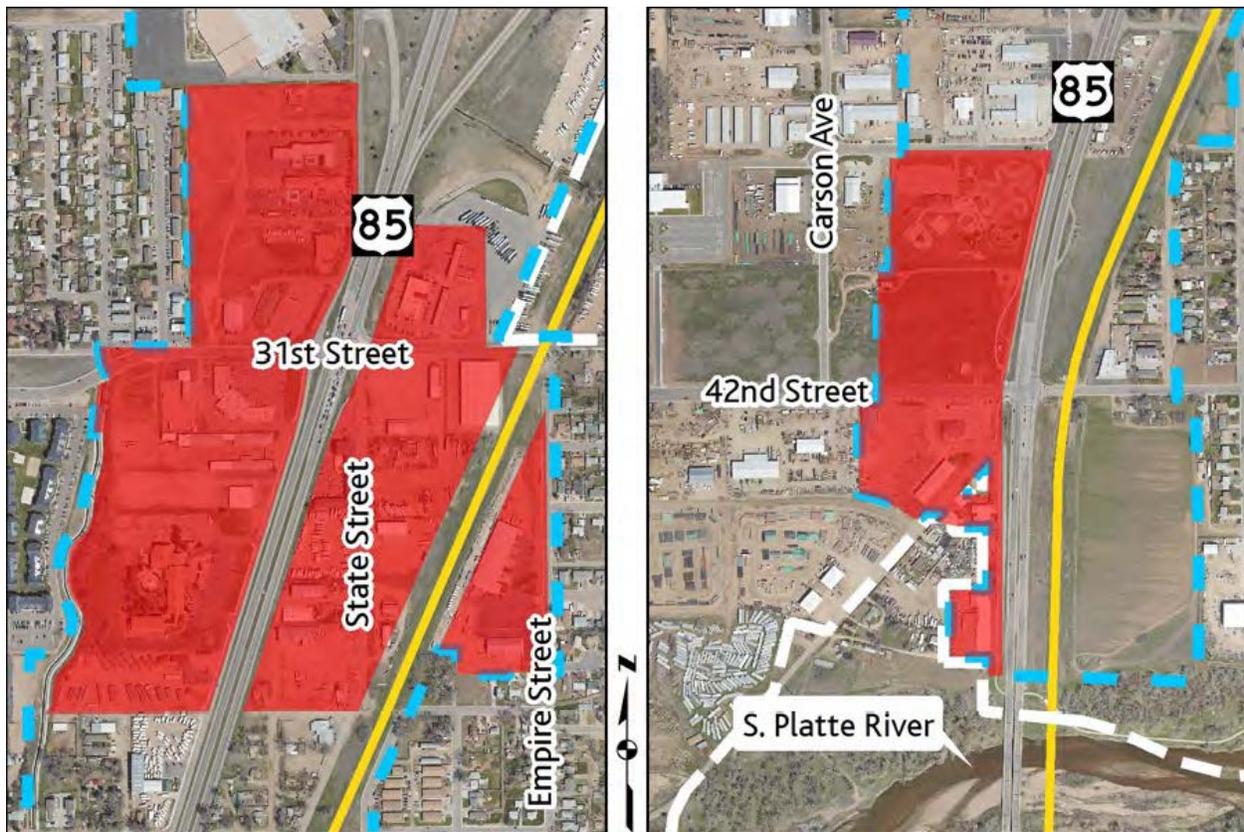
The High Retail Commercial category envisions traditional retail center land uses. This category is characterized by one or two anchor stores with other smaller supporting retail uses. These types of centers and uses typically offer a wide variety of goods and:

- ◆ Can be located in areas with large lots that can accommodate large building footprints
- ◆ Will be mostly located in the northern part of the US Highway 85 Overlay District as well as a smaller area in the southern portion of the plan
- ◆ Will be designed to be buffered from surrounding neighborhoods as best as possible, and try to keep traffic generated by these retail uses along the main two roadway corridors

Section 19.15, added to the Municipal Code as a result of this Master Plan, defines this zone as:

(85-RC-R) Highway 85 Retail & Commercial – Regional Corridor District

It is the intent of the City, when establishing the US 85 Retail & Commercial High Intensity District, to create a strongly anchored vibrant commercial district that will provide services for both local residents and US Highway 85 commuters. Development will be subject to Chapter 19.62 - US Highway 85 Overlay District Design Standards and offer large scale retail opportunities along with pedestrian oriented experiences that accommodate the surrounding land uses.



Urban Renewal Area Plan

A full copy of the Highway 85 Urban Renewal Plan can be found on the City website at www.evanscolorado.gov, and was adopted in January of 2013. It states, in part:

This Plan is an important tool to address the problems confronting the Plan Area. The Plan is intended to achieve the goals for the area previously outlined in the 2010 Evans Comprehensive Plan and the US 85 Corridor Master Plan through a project or projects. The vision for the future

Highway 85 Corridor is for a mix of vibrant retail employment uses reflecting the goals of the US 85 Corridor Master Plan.

The industrial use as contemplated, described and requested by the applicant is in direct conflict with this plan as adopted.

Long term financial sustainability

The City is highly dependent on retail sales tax to serve our residents. All of our roads, streets, parks, recreation amenities and administrative services are funded by sales tax as the majority of that revenue. Industrial uses have great potential in many areas of the City to bring jobs to Evans, and in some cases retail sales tax as well (through the sales of parts). Additionally, the employees often buy gas and food in Evans, or might shop at Sam's Club. However, land uses last for 30 – 50 years. The City MUST have the correct mix of residential, commercial, and industrial – in the right places – for us to be able to sustain the financial needs of **all** our residents. Simply put, we cannot replace commercial with industrial and survive financially. That is why the Highway 85 Corridor has such a strong emphasis on commercial retail uses, with appropriate architectural design and layout, with traffic patterns and pedestrian movements to match.

Policy Direction from Council and Planning Commission

This variance and the request for rezoning would violate and negate all that we have worked for over the past sixteen years. All the planning and design of the Corridor, all of the demographic work to determine the best location for commercial retail, all of the future planning for retail development driving an increased tax base.....all of the policy direction from the City Council and Planning Commission would all be in direct contrast to this request.

Additional Comments to Address Applicant Information

Visual Impact

As you can see from the photo, which was taken from the east side of Highway 85 looking at the proposed development, the site will clearly be VERY visible from Highway 85 (the red roofed building is the referenced Bell Oil in the applicant's information). From purely a visual impact, it is critical that the

retail nature of the corridor be preserved and the aesthetics that will foster high quality development standards be adhered to as we move into the future. While the applicant states that the development will be "too far off" the intersection to have an impact the photo would indicate otherwise.



Spot Zoning

The request for a rezone would be spot zoning in the Corridor – this property was zoned C-3 prior to the Master Plan zoning which amended that zoning to be Highway 85 Retail Commercial. Spot zoning has long been regarded as poor planning and an unapproved policy by City Council.

Summary

In closing, the Evans Redevelopment Area opposes the approval of a variance and a rezone of the land to allow industrial uses including outdoor storage. It is expressly prohibited by codes and plans that were updated less than thirty (30) days ago by the City Council, and clearly not compatible with the long range plans and vision for the area. The zoning on the land is clear and recently adopted, and does not contemplate any use other than commercial.

Thank you again for an opportunity to address the Zoning Board of Appeals. I would be happy to answer any questions – please email me at strent@evanscolorado.gov or call me at (970) 475-1112.

Sincerely,

Sheryl Trent
Executive Director

Attachments:
Highway 85 Corridor/URA Map



**Parcel Map
Highway 85
Urban Renewal Area**

Legend

- Highway 85 URA Boundaries
- Parcels within the Highway 85 URA Boundaries and ID Number
- Parcels
- Evans City Limits

1:3,600
1 inch = 300 feet

0 100 200 400 600 800 1,000
Feet



DISCLAIMER: This map was designed and intended for City of Evans use only. It is not guaranteed to be error free. This map is based on the best information available on the date shown on this map. The City of Evans makes no warranties or guarantees, either expressed or implied, as to the completeness, accuracy, or timeliness of the map, or any other information appearing thereon. Any reproduction or use of this map, in whole or in part, is prohibited without the express written authorization by the City of Evans.

FUTURE LAND USE CLASSIFICATIONS

HIGH RETAIL COMMERCIAL

The High Retail Commercial category envisions traditional retail center land uses. This category is characterized by one or two anchor stores with other smaller supporting retail uses. These types of centers and uses typically offer a wide variety of goods and:

- Can be located in areas with large lots that can accommodate large building footprints
- Will be mostly located in the northern part of the US Highway 85 Overlay District as well as a smaller area in the southern portion of the plan
- Will be designed to be buffered from surrounding neighborhoods as best as possible, and try to keep traffic generated by these retail uses along the main two roadway corridors





Right-In/Right-Out will be maintained

Carson Avenue

42nd Street

S. Platte River



Network

Evans City Park

Pueblo Street

Riverside Park

40th Street

Idaho Street
Denver Street
Central Street
Boulder Street

85

Park 'n' Ride

Potential Park Land

LEGEND

(All proposals are conceptual and subject to final engineering)

Frontage Road Closure

Potential Access Easement

Improved Public Road

Pedestrian Network

Railroad

Possible Road Access Closure

Proposed Roundabout Location

Proposed US Highway 85 Pedestrian Bridge

Existing Traffic Signal

Existing Railroad Crossing



CHAPTER 19.30

C-3 High Intensity Commercial District

19.30.010 Intent.

It is the intent of the City, when establishing the C-3 zone district, to provide an area for serving the daily needs of the total community. (Ord. 005-00; Ord. 1027-96)

19.30.020 Permitted use groups.

Permitted use groups in the C-3 district shall be as follows:

Recreational facilities, indoor
Recreational facilities, intensive
Recreational facilities, outdoor extensive
Day care center
Retail uses, extensive
Retail uses, intensive
Personal service establishments
Office and financial uses
School
Adult business, subject to licensing requirements
Long-term care facilities
Nightclub, bar, tavern
Commercial residence
Theater

Permitted use groups in the C-3 district continued:

Kennel
Mortuary or funeral home
Hospital
Parking lot, off-street
Public service facilities
Accessory use
Research laboratory

(Ord. 338-05; Ord. 233-03; Ord. 232-03; Ord. 005-00)

19.30.030 Special uses.

Uses permitted pursuant to the terms and conditions of a special use permit as required by Chapter 19.44 of this Title are as follows:

Mini storage units
Recreational vehicle (RV) park/campground
Recreational vehicle storage
Repair shops
Community facilities
Multifamily residential
Cemetery
Car wash facilities
Vocational school
Security residence

(Ord. 348-05; Ord. 253-04; Ord. 229-03; Ord. 005-00)

19.30.040 Property development regulations.

Please refer to Table 19-30 below for the following requirements: setbacks, lot area, open space and height regulations.

**Table 19-30
Minimum Lot Requirements for the C-3 Zone District**

<i>Front</i>	<i>Side</i>	<i>Side street</i>	<i>Rear</i>	<i>Lot</i>	<i>Open space</i>	<i>Height</i>
25'	In accordance with the IBC	25'	In accordance with the IBC	Maximum lot coverage 80%	N/A	In accordance with the IBC

(Ord. 005-00)

CHAPTER 19.58

Variances

19.58.010 Intent.

The intent of this Chapter is to provide standards for variances and to detail the responsibilities and authority of the Zoning Board of Appeals. (Ord. 332-05; Ord. 015-00)

19.58.020 Duties of the Zoning Board of Appeals.

A. The Zoning Board of Appeals (hereinafter "the Board") shall make recommendations to City Council on applications for variances from the dimensional or numerical requirements or limitations of Titles 12, 15, 19 and other regulations of this Code, as specified in such sections of this Code.

B. The Board shall also make recommendations to City Council on applications for appeals of staff decisions, which shall be processed the same as variance requests.

C. Such recommendations and applications shall be in accordance with this Chapter. (Ord. 332-05)

19.58.030 Criteria for variances.

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

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

19.58.040 Procedure for variance requests.

A. Petition. A petition in the form prescribed by the City shall be filed with the City Clerk and shall be accompanied by a letter explaining why the variance should be granted. Additional supporting evidence such as letters of support from surrounding property owners, photographs and maps may be submitted and may be required by the City.

B. The Board shall hold a public hearing and make a recommendation to the City Council.

C. The Board may recommend approval or denial of a variance as requested, or may recommend approval of a variance differing from the request. The Board may recommend conditions be placed on the approval of a variance.

D. After the Board makes a recommendation on the request, the City Council shall hold a public hearing and make the final decision to grant the requested variance, grant a variance differing from the request or deny the variance. The City Council may place conditions on such approval. Approval shall be made by resolution.

E. Notification of the public hearings shall be given in accordance with Chapter 19.64 of this Title. (Ord. 332-05)

19.58.050 Regulations not eligible for variances.

The Board shall not consider applications for variances from Chapter 19.08, Annexation, or Chapter 19.40, PUD planned unit development. Under no circumstances shall the Board consider a variance to allow a use not expressly permissible under the terms of this Title. (Ord. 332-05)

19.58.060 Minor variances.

The Director of Public Works/Planning shall have the authority to approve minor variances, subject to the following limitations:

A. Such authority shall only be to allow up to a ten percent (10%) reduction of required yard setbacks, required number of parking spaces, or a ten percent (10%) increase in the maximum height of structures including principal structures, accessory structures and fences, and to the maximum size of accessory structures.

B. The applicant, in addition to the other items required by this Chapter, shall provide letters from the owners of property adjacent to the property for which the request is made, stating they have no objection to the minor variance being granted, or other evidence to that effect satisfactory to the Director of Public Works/Planning. For the purpose of this Section, property directly across the street from the subject property shall be considered adjacent. If the applicant is unable to provide such letters, staff shall notify such owners of the request and allow them ten (10) days to object to its approval.

C. If the Director of Public Works decides not to approve the minor variance, the request shall be processed according to Section 19.58.040 if requested by the applicant. (Ord. 332-05)

19.58.070 Expiration.

Unless otherwise stated in the approving resolution, all variance approvals not exercised within six (6) months from the date of the approving resolution shall become null and void. (Ord. 332-05)

19.58.080 Fees.

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

CHAPTER 19.62

US 85 Overlay District Design Standards

19.62.010 General.

The provisions of this Chapter apply to all lands, primary uses, accessory uses and structures within the US 85 overlay district ("district") as defined herein. If any provisions of this Chapter conflict with other provisions of this Code, the provisions of this Chapter shall apply. (Ord. 560-13 §1)

19.62.020 Intent of US 85 Overlay District.

The intent of the US 85 overlay district is to implement the principles and recommendations of the US 85 Corridor Mater Plan, adopted by Resolution 111-02 on December 17, 2002, through establishing consistent development standards for new development, redevelopment and renovation along US 85 in the City. The standards contained herein are intended to ensure that development along the US 85 Corridor ("the corridor") meets certain minimum criteria in order to:

- A. Improve the appearance and coordinate land uses along the US 85 Corridor.
- B. Create a financially sustainable economic zone.
- C. Establish a unique identity for the City.
- D. Improve economic vitality along the US 85 Corridor.
- E. Maximize long-term property values and community benefits.
- F. Minimize the impact of nonresidential development on residential areas.
- G. Improve safety for automobiles, bicycles and pedestrians.
- H. Encourage the development of sidewalks and trails along West Service Road (WSR) and throughout the corridor.
- I. Encourage in-fill development and redevelopment to increase densities within the corridor.
- J. Facilitate the undergrounding of overhead utilities in the corridor.

(Ord. 560-13 §1)

19.62.030 Definitions.

Note: additional definitions in relation to land use and development can be found in Chapter 19.04 of this Title. In case a definition is duplicated elsewhere in this Code, the definition below shall supersede. The following words and phrases shall, for the purpose of this Chapter, be defined as follows:

Accent lighting shall mean directional lighting to emphasize a particular object.

Animals, confined shall mean the commercial raising of animals such as, but not limited to, horses, cattle, sheep, goats, swine, turkeys and chickens, the commercial production of milk, commercial pen feeding operations (feed lots), riding stables with arenas and similar activities.

Articulation shall mean the manner in which contiguous shapes are joined or formed to clarify or emphasize certain elements of the structure.

Articulation, horizontal shall mean a method of breaking up the vertical appearance of a structure through varying horizontal planes.

Articulation, vertical shall mean a method of breaking up the horizontal appearance of a structure through varying vertical planes.

Auction yard shall mean a property on which merchandise or other property is sold by auction.

Awning shall mean a roof-like cover of canvas, metal or other material extending in front of and over a door, window or deck to provide protection from weather.

Belt course shall mean a horizontal course of brick, stone or similar material, flush with or projecting beyond the face of a building.

Building height shall mean the height as measured from the average surrounding grade of the footprint of a building to the midpoint of a pitched roof or highest point of a flat roof.

Building scale shall mean the size and proportion of a building relative to surrounding buildings and environs, adjacent streets and pedestrians.

Canopy, gas station shall mean a structural protective cover, not enclosed on any side, for a gasoline or fuel service dispensing or similar service area.

Canopy, tree shall mean the more or less continuous cover of branches and foliage formed collectively by the crown of one (1) or more trees.

Car wash facilities shall mean a principal or accessory use for the purpose of washing vehicles and with the capacity to wash more than one (1) vehicle at a time, or with the capacity to wash a commercial semi-truck.

Cemetery shall mean land used for the burial and memorializing of the dead and dedicated for cemetery purposes, including columbariums, mausoleums and pet cemeteries.

Clustered; clustered development shall mean a development technique which concentrates buildings on a portion of a site, so that the remaining land may be used for common area or open space.

Colonnade shall mean a series of regularly spaced columns, usually supporting one side of a roof structure.

Cornice shall mean a continuous, molded projection that crowns a wall or other construction.

Crematorium shall mean a place for the cremation of human or animal remains.

Dead-end driveways shall mean a driveway having only one (1) outlet and no area at the closed end for vehicles to turn around.

Dead-end parking lots shall mean a parking lot having only one (1) outlet and no area at the closed end for vehicles to turn around.

Dead-end sidewalks shall mean a sidewalk that terminates abruptly with no connection to another sidewalk or pedestrian walkway.

Development/redevelopment shall mean any man-made change to improved or unimproved real property including, but not limited to, grading, paving, mining, excavation, construction, substantial improvement to an existing structure, or addition of a new structure.

Electronic message center shall mean a variable message sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include displays using incandescent lamps, LEDs or LCDs.

Environmental effect shall mean the presence of any chemical, biological or physical contaminant or substance in the outdoor atmosphere, ground or water that is or may be potentially harmful to the health, safety or welfare of human, animal or plant life, or that interferes with the use and enjoyment of any nearby property.

Fixture, lighting shall mean a complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

Flea market shall mean a business operation or bazaar consisting of more than one (1) independent vendor who is allocated space and does business on the premises and is not in charge of the premises, and where goods and/or services are offered for sale or exchange at retail to the general public, either indoors or outside or both, including but not limited to antiques, curios, new and used merchandise, equipment, appliances and other goods and wares (excluding yard sales, auctions, pawnbrokers and retail business establishments and the like) where sales are made to the general public by the individual vendor who leases space where such sales are made.

Hospital shall mean a state or federal certified facility providing health service primarily for in-patients and medical or surgical care of the human sick and injured, including as an integral part, such related facilities as laboratories, out-patient services, rehabilitation and recovery services, training facilities, central service facilities and staff offices.

Human scale shall mean the proportion of a building element or space relative to average human size.

Impervious surface shall mean any surface made of asphalt, concrete, brick, pavers, stone or similar material which does not readily absorb water.

Industrial uses facility shall mean any establishment for wholesale, commercial service and storage of goods and materials, such as warehouses, commercial laundries and dry-cleaning plants, bottling works, builders' supply yards, printing and publishing plants, tire vulcanizing shops, automobile and truck body work and establishments of a similar nature.

Industrial uses, heavy shall mean any establishment for manufacturing/assembly plant, natural resource extraction and treatment, used auto parts, quarry and gravel pits, asphalt plants, large-scale

industry, incinerators and other similar operations which so create nuisances and hazardous effects beyond their premises.

Internal circulation shall mean a continuous network of sidewalks, pathways and driveways within a site or within multiple sites.

Junk shall mean garbage and all other waste matter or discarded or unused material such as, but not limited to, salvage materials, scrap metal, scrap materials, bottles, tin cans, paper, boxes, crates, rags, used lumber and building materials; manufactured goods, appliances, fixtures, furniture, machinery, motor vehicles or other such items which have been abandoned, demolished or dismantled, or are in such a condition as to be unusable for their original use, but may be used again in present or different form for a new use; discarded or inoperable vehicles, machinery parts and tires; and other items commonly considered to be refuse, rubbish or junk.

Kennel shall mean any property used for commercial purposes, on which four (4) or more pet animals, at least four (4) months of age, are kept for training, boarding or breeding, whether in special structures, runs or not.

Livestock trailer washout shall mean a property where trailers used for hauling livestock are washed.

Living plant material shall include, but is not limited to, deciduous and coniferous trees, shrubs, vines, perennial plants, cacti, succulents, sod and native and ornamental grasses. Also includes annual plants provided new plants are planted each year.

Manufacturing/assembly plant shall mean establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembly of component parts, the creation of products, the blending of materials and other similar uses.

Massing shall mean the relationship between various masses or volumes of a building or structure.

Molding shall mean any of various long, narrow, ornamental surfaces with uniform cross sections.

Motor vehicle, recreational vehicle, boat or utility vehicle, private sales of shall mean the display or attempting action to sell such items that are not owned or titled by the property owner upon which property they may be allowed to be parked.

Multi-planed shall mean having more than one (1) plane visible from each side of a building.

Natural resource extraction and treatment shall mean gravel pits, quarries, gas refineries or any other process of altering or storing a natural resource or removing natural resources from the ground.

Outdoor sales lot shall mean an uncovered, paved area of a lot or parcel used primarily for the constant display of goods for sale, such as automobile sales lots, landscaping and nursery retailers and construction materials sales lots. Outdoor sales lots do not include salvage yards or outdoor flea markets.

Outdoor storage shall mean the placement or deposit of any equipment, furniture, machine, material, merchandise or supplies in an outside location or outside an enclosed structure, except objects that are customarily placed outside and clearly incidental and commonly associated with the permitted use.

Pawnbroker shall mean an establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

Pedestrian connection shall mean a clearly defined pedestrian walkway between a sidewalk or parking area and the building entrance.

Pedestrian court shall mean an open space, generally open to the public, surrounded by buildings or walls on at least three (3) sides and improved with an impervious surface.

Pedestrian plaza shall mean an open space, generally open to the public, usually surrounded by buildings and/or streets and improved with an impervious surface.

Reasonably feasible shall mean capable of being accomplished or brought about without undue burden or hardship, whether financial or otherwise.

Recessed window or door shall mean a door or window which exterior plane is offset from the exterior wall by at least twelve (12) inches inward.

Recreational vehicle (RV) shall mean a transportable structure that is primarily designed for seasonal recreational/vacation purposes for recreational, camping and travel use, including but not limited to boats, travel trailers, campers, snowmobiles, motorcycles, self-propelled motor homes and similar vehicles/units.

Recreational vehicle (RV) park/campground shall mean any parcel of land upon which two (2) or more recreational vehicles or camp sites are located, established or maintained for occupancy or living quarters. Such parcel being commercial in nature must comply with all the state and local regulations related to licensing, site design/layout, life safety and health issues. This use does not include the storage of travel trailers, recreational vehicles, boats, snowmobiles, motorcycles or similar vehicles/units.

Recreational vehicle storage shall mean the renting of space in an unroofed area for simultaneous commercial placement/storing of two (2) or more recreational vehicles, including but not limited to boats, travel trailers, campers, snowmobiles, motorcycles and similar vehicles/units. This use does not include the storage of these vehicles/units at private residences, provided such vehicles/units stored at residences are owned or leased by persons residing at the residence.

Recycling center shall mean a use involving the collection and processing of recyclable materials for shipment or reuse. Processing includes baling, compacting, flattening, grinding, crushing, mechanical sorting, shredding, melting, cleaning and remanufacturing.

Roof, flat shall mean a roof having a slope of less than 1:12, with one (1) being the rise and twelve (12) being the run.

Roof, pitched shall mean a roof having a pitch of at least 1:12, with one (1) being the rise and twelve (12) being the run.

Roof plane shall mean the portion of a roof, whether flat or pitched, by which a straight line would pass through continuously.

Roofline shall mean the profile of or silhouette made by a roof or series of roofs.

Salvage yard shall mean an industrial use for collecting, storing and/or selling scrap metal or discarded material or for collecting, dismantling, storing, salvaging or demolishing vehicles, machinery or other material and including the sale of such materials or parts.

Shared driveway shall mean a driveway that serves two (2) or more lots in order to reduce the number of access points onto a public roadway.

Shared parking shall mean the development and use of parking areas on two (2) or more separate properties for joint use by the businesses or residents on those properties.

Substantial improvement shall mean any change to an existing improvement that causes the size, height or area to increase by fifty percent (50%) or more, or which costs fifty percent (50%) or more of the market value of the improvement prior to the change.

Wall, parapet shall mean an exterior wall that rises above the roof on all sides of a building, usually to screen mechanical or other equipment.

Wall, partial parapet shall mean an exterior wall that rises above the roof on one (1) or more, but not all, sides of a building, usually to screen mechanical or other equipment. (Ord. 560-13 §1)

19.62.040 Boundaries and affected property.

The boundaries of the US 85 overlay district are shown on the official district map. The official district map is kept on file in the office of the City Clerk. The boundary is also shown on the official zoning map of the City. The standards of this Chapter shall apply to all new development and redevelopment occurring within the district, and shall also be taken into consideration when reviewing new development adjacent to the district. If any parcel is partially within the district, these standards shall apply to the entire parcel. (Ord. 560-13 §1)

19.62.050 Nonpermitted uses and restrictions.

A. The uses allowed within the district are intended to be of a nature that is retail, personal service and office. Where industrial uses are allowed within the district, they shall be of a low-impact, light industrial nature and any environmental effects generated shall be kept within the buildings where they are produced. As stated in Chapter 19.32 of this Title, light industry consists of, but is not limited to, scientific research; limited manufacturing; compounding, assembly, processing or treatment of products; food and beverage processing; and similar limited industrial uses in which the environmental effects of the operation are confined within the principal buildings.

B. Regardless of the uses allowed by a property's underlying zoning, the following uses or use groups are not permitted within the district:

1. Adult business.
2. Nightclubs, bar, tavern.

3. Confinement of animals.
4. Cemetery.
5. Crematorium.
6. CMRS towers (freestanding).
7. Flea markets.
8. Heavy industrial uses.
9. Salvage yard.
10. Natural resource extraction and treatment.
11. Recreational vehicle (RV) park/campground.
12. Livestock trailer washout.
13. Recycling facility.
14. Recreational vehicle storage.
15. Truck vehicle or other commercial vehicle parking.
16. Auction yard.
17. Treatment of humans, restrained.
18. Outdoor storage.
19. Outdoor sales lot.
20. Pawnbroker.
21. Parking lot, off-street (not allowed as a primary use).
22. Car wash facilities (a single bay, enclosed with doors, passenger vehicle car wash is allowed).
23. Kennel.
24. Motor vehicle, recreational vehicle, boat or utility vehicle, private sales of.

C. Hours. Any manufacturing or industrial uses that are located on property adjacent to residentially zoned and used property shall not be open for business between the hours of 10:00 p.m. and 6:00 a.m. This provision shall not apply to legally existing businesses that regularly operated between 10:00 p.m. and 6:00 a.m. on the effective date of the adoption of this Chapter. (Ord. 560-13 §1)

19.62.060 Uses allowed with special use permit.

A. If a property's underlying zoning allows any of the following uses or use groups, such uses shall only be allowed within the district by special use permit approved in accordance with Chapter 19.44 of this Title:

1. Industrial uses facility.
2. Manufacturing/assembly plant.
3. Hospital.

B. Special use permits shall only be issued in the district if the City Council finds that the proposed use is consistent with the purpose and intent of this Chapter. (Ord. 560-13 §1)

19.62.070 Existing uses and structures.

A. Existing uses and structures in the district that were conforming prior to the effective date of the ordinance adopting this Chapter, but that do not meet one (1) or more standards of this Chapter, will be considered legal nonconforming in accordance with Chapter 19.56 of this Title.

B. Existing uses and structures that were conforming prior to the effective date of the ordinance adopting this Chapter, but that require a special use permit under the provisions of this Chapter, will be considered to have special use approval.

C. New standards effective upon adoption of this ordinance shall apply to all applications for building permits and land use approvals applied for on or after the effective date of this ordinance, except as may otherwise be provided for under the provisions of this Chapter.

D. Existing uses and structures in the district shall conform to all design standards included in this Chapter, except as provided below, within one hundred twenty (120) days of adoption of the ordinance within this Chapter. If a landowner is provided notice of noncompliance from the City, the landowner shall have sixty (60) days to come into compliance.

1. Existing uses and structures shall be subject to all design standards provided within this Chapter, including color standards and sign standards, with the exception of any standard related to setbacks, landscaping, parking lot and access drives and architectural design. (Ord. 560-13 §1)

19.62.080 Design review process.

All new development and redevelopment within the US 85 Overlay District will be reviewed administratively for compliance with the district design standards, as provided herein, prior to issuance of a building permit or approval of any land use application, such as a site plan or similar plan. Administrative decisions are written by the City Manager. Any appeals to administrative decisions shall be to the Planning Commission and the City Council. (See Subsection 19.62.220.C). (Ord. 560-13 §1)

19.62.090 Site planning and urban design.

A. The purpose of site planning is to consider site characteristics, such as sunlight, weather, drainage, traffic patterns and orientation of the building to roadways and other structures, when developing a parcel of land. Urban design is the method of combining planning, architecture and

landscaping to create attractive and functional urban areas. Conscientious site planning and urban design carefully integrate and organize structures and related improvements to provide a pleasant experience for the users. All new development and redevelopment shall be reviewed within a site-specific context, as well as within the context of the entire district.

B. Urban design principles of integrating architectural style, overall layout of structures, vehicular and pedestrian circulation and connectivity and functional landscaping shall be considered for all new development and redevelopment. When reasonably feasible, new structures shall be sited in a manner that will complement adjacent, conforming structures. Sites shall be developed in a coordinated manner to avoid random, confusing development. When possible, new structures shall be clustered, sited or oriented to create, or allow future opportunity to create, pedestrian plazas, shared driveways and shared parking to lessen pedestrian-vehicle conflicts and better coordinated access and development. (Ord. 560-13 §1)

19.62.100 Setbacks, street frontages and height.

A. In order to create continuity along the West Service Road (WSR), the elevation nearest WSR for principal structures on properties adjacent to WSR shall be built as closely as reasonably feasible to the minimum setback closest to WSR.

B. Any new or substantially improved principal structure adjacent to US 85 or WSR shall either be oriented with its major entry toward US 85 or have architectural features that simulate a front façade facing US 85. When possible, the majority of parking should be located at the rear and/or sides of the building with landscaped pedestrian connections to the front of the building. Detached accessory structures, such as sheds and workshops, and accessory uses shall not be permitted between the principal structure and any property line abutting US 85 or WSR. This Section shall not apply to fences, patios or structures of a similar nature.

C. The maximum height of any new structure in the District shall not exceed thirty-five (35) feet or two (2) stories, whichever is less. Notwithstanding the height limitation, at the discretion of the City Council and Planning Commission, in cases where architectural design exceeds the minimum standards set forth herein an urban design principles have been demonstrated, the height limitation may be waived. (Ord. 560-13 §1)

19.62.110 Access, circulation and parking.

A. Vehicular access shall be paved (no gravel or dirt) and separated from pedestrian and bicycle access to the greatest extent possible to reduce pedestrian-vehicle conflicts. Internal circulation, including pedestrian and vehicular, shall be continuous and shall avoid creating dead-end parking lots, dead-end driveways or dead-end sidewalks.

B. Parking areas shall be paved (no gravel or dirt) and broken up through the use of landscaping and building layout to avoid large expanses of parking stalls. Parking lots are required to be landscaped according to Chapter 19.47 of this Title and according to the landscaping requirements in this Chapter.

C. Adjacent developments which incorporate shared driveways and parking areas shall be allowed up to a twenty percent (20%) reduction in the required number of parking spaces, in accordance with the following requirements:

1. Such shared parking shall not be farther than five hundred (500) feet from the entrance of any building for which it counts as required parking.

2. There shall be a recorded easement for cross-access and parking on each of the lots that share parking.

3. Parking required for residential buildings shall not be allowed to count as shared parking.

D. Bicycle parking shall be required on all properties in accordance with the following provisions:

1. The required number of bicycle parking spaces shall be five percent (5%) of the required number of automobile parking spaces. Notwithstanding the foregoing, not less than one (1) or more than twenty (20) bicycle spaces shall be required.

2. Bicycle parking shall be located as near as practical to building entrances without obstructing pedestrian or vehicular traffic or causing damage to nearby landscaping.

3. Bicycle parking shall be provided with a permanent structure of heavy gauge tubular steel, or similar material, with angle bars attached to concrete or asphalt pavement. Such structures shall be designed to allow the frame and both wheels of bicycles to be securely locked to the structure. The design of any bicycle parking structure shall be substantially similar to the approved City corridor bicycle parking structure. The schematic of this structure shall be on file with the office of the City Manager or designee.

E. Pedestrian circulation.

1. Detached sidewalks shall be required according to the City of Evans Street Specifications. Certain special cases apply to US 85 and WSR:

a. Along frontages on US 85, detached sidewalks shall be designed with an eight-foot-wide landscape strip adjacent to the street curb, a ten-foot-wide sidewalk and a six-foot-wide landscape strip.

b. Along frontage on WSR, detached sidewalks shall be designed with a five-foot-wide landscape strip adjacent to the street curb, a ten-foot-wide sidewalk and a five-foot-wide landscape strip.

2. Internal sidewalks shall be required as specified:

a. Between the front doors of primary buildings;

b. From buildings to all on-site facilities, such as parking areas, bicycle facilities and open space;

c. To provide direct access from all buildings on the site to existing or planned public sidewalks, adjacent multi-use trails and greenways.

3. Required sidewalk dimensions.

a. Internal sidewalks must be hard surfaced, and a minimum of five (5) feet in width.

b. When adjacent to perpendicular, head-in or diagonal parking, a pedestrian walk must be increased in width to a minimum of seven (7) feet when parking is located on one (1) side, and a minimum of nine (9) feet when parking is located on both sides.

F. Carports are not allowed. (Ord. 560-13 §1)

19.62.120 Service and loading areas.

All service areas and loading areas shall be screened and separated from parking areas using architectural features, constructed of the same materials and colors as the adjacent, conforming structure, and landscaping. No service or loading areas may be located in the required front setback or adjacent to or along WSR or US 85. Service areas are to be located in a side or rear yard and screened from view from public rights-of-way. (Ord. 560-13 §1)

19.62.130 Telecommunications equipment and utilities.

A. All telecommunications equipment shall comply with Chapter 19.42 of this Title.

B. All utility lines shall be installed underground. Existing overhead utility lines shall be relocated underground, whenever feasible.

C. Freestanding CMRS towers and not allowed. CMRS facilities may be mounted on a building or structure provided that the equipment does not extend higher than the roof of the building. Building mounted CMRS facilities must be appropriately colored so as to blend in with the building or structure. (Ord. 560-13 §1)

19.62.140 Buffers and transition areas.

In order to lessen the impact of nonresidential development upon residential areas, nonresidential development must meet the following provisions: Landscaped buffer areas shall be provided pursuant to Chapter 19.47 and the landscaping requirements of this Chapter, except that greater bufferyards and/or screening may be required at the discretion of the City during the processing of a development application. (Ord. 560-13 §1)

19.62.150 Fences and walls.

A. All fences and walls shall conform to the standards provided in Chapter 19.48 of this Title in addition to the requirements of this Section.

B. Materials and colors. All new fences and walls in the US 85 overlay district shall be constructed of durable materials that will retain their appearance over time. The materials and colors chosen should be the same as or similar to new or existing, conforming structures on adjacent lots and must comply with the approved color palette designated in Paragraph 19.62.170.A.4. below.

1. Appropriate materials include:

- a. Brick.
- b. Stone.
- c. Stucco.
- d. Tinted, textured masonry block/architectural block.
- e. Wrought iron or decorative aluminum (with architectural pillars/columns).

2. Fencing not visible from US 85 and the WSR may be constructed of the following materials:

- a. Brick.
- b. Stone.
- c. Stucco.
- d. Tinted, textured masonry block/architectural block.
- e. Wrought iron or decorative aluminum (with or without architectural pillars/columns).
- f. Decorative vinyl.
- g. Decorative pressure-treated or hardwood.

3. Inappropriate materials in any location include:

- a. Chain link of any kind.
- b. Barbed wire. (Ord. 560-13 §1)

19.62.160 Landscape standards.

A. In addition to the requirements of Chapter 19.47 of the Municipal Code, required landscaped areas shall contain at least fifty percent (50%) living plant material, as defined by this Chapter, as measured within five (5) years of planting. The following regulations will apply to all development plans within the Highway 85 overlay district. Deciduous tree canopies shall not count toward the fifty percent (50%) requirement.

B. All landscape plans and installations are required to include xeriscaping designs.

C. Sections 19.47.040 through 19.47.170 of this Title shall be applied to the Highway 85 overlay district.

D. Front lot landscaping.

1. In general, street frontages of all site plans and similar plans shall include landscaped buffers in accordance with Paragraph 19.62.110.E.1., including required detached sidewalks.

2. Front lot landscaping, street frontage landscaping.

a. Five (5) shrubs shall be provided for every thirty-five (35) lineal feet of frontage along Highway 85.

b. One (1) tree and five (5) shrubs shall be provided for every thirty-five (35) lineal feet of frontage along WSR.

3. Front lot landscaping, behind sidewalks.

a. In addition to street frontage landscaping, additional landscaping shall be provided behind sidewalks along Highway 85 and WSR.

b. Front landscaping areas behind sidewalks shall include one (1) tree and five (5) shrubs for every thirty-five (35) lineal feet of street frontage along Highway 85 and WSR.

c. Notwithstanding the requirements for landscaped buffers above, in no event shall the average front lot depth be less than ten (10) feet in width.

E. Parking lot landscaping. Parking lot landscaping shall meet the requirements of Section 19.47.200 of this Title, notwithstanding the plant material requirements of this Chapter.

F. Interior lot landscaping standards.

1. In general, all development areas of land that have not been disturbed during construction shall be preserved for nonpublic active and passive recreation areas and landscaping.

2. Revegetation. All areas disturbed during construction shall be revegetated to meet the landscaping requirements of this Chapter.

G. Plant material requirements.

1. Landscaping for all development shall include a wide variety of plant materials that will provide visual interest during all seasons. Landscaping should consist of a mixture of trees, shrubs and native grasses. Selection of plant materials shall be based on the City's list of approved plant types.

2. Requirement for drought tolerant or drought resistant landscaping and plant species. At least fifty percent (50%) of all annuals and trees, and one hundred percent (100%) of shrubs, perennials, groundcovers and ornamental grasses used to landscape shall be selected from the City's xeriscape list of plants.

3. Trees shall be located to avoid significant interference with overhead or underground utilities and with vehicular and pedestrian movement. A tree canopy may project over a right-of-way or easement, road or sidewalk.

4. Plant materials shall not project over sidewalks, paths or trails below a height of eight (8) feet.

H. Amenities. All garbage receptacles, benches and bus shelters provided shall be of a design approved by the City Manager or designee and shall be reviewed in conjunction with a site plan and/or landscape plan. (Ord. 560-13 §1)

19.62.170 Architectural design standards.

A. The following minimum architectural design standards apply to each elevation of all new development and redevelopment in the corridor, unless otherwise noted. These minimum standards are intended to achieve consistent and quality developments that will retain their appearance and value over time.

1. Building design and character.

a. Height, massing, building scale. The height and scale of any new building shall be compatible with surrounding, conforming structures. Whenever possible, individual structures shall be clustered to create plazas and pedestrian courts, and shared driveways and/or parking shall be incorporated to lessen pedestrian-vehicle conflicts.

b. Human scale. The design of buildings shall reflect the relationship between the size of the building and human beings. Human-scale design shall be incorporated through the use of horizontal articulation, belt courses, cornices, recessed windows or doors, awnings, roof overhangs, moldings, fixtures, colonnades or other architectural feature. In order to avoid blank walls at the ground floor levels, windows, trellises, articulation, arcades, change in materials or other architectural features shall be utilized. These features shall be incorporated into each elevation and in no instance shall a plane of building be the same for more than thirty (30) feet.

c. Complementary architecture. All accessory structures, including but not limited to gas station canopies, warehouses or clubhouses, shall utilize design, colors and materials similar to or complementary to the principal structure on the lot.

2. Roofs.

a. Form. The roofline of pitched and flat roofs shall not run in a continuous plane for more than fifty (50) feet without offsetting or jogging the roof plane through the use of multi-planed roofs. For buildings with flat roofs or parapet walls, in addition to multi-planed roofs, vertical articulation shall be incorporated into the exterior wall design. Partial parapet walls and mansard roofs are not permitted. Roofs shall be constructed to prevent mechanical and other rooftop equipment from being visible from any nearby right-of-way.

b. Materials. New buildings shall be constructed with appropriate roof material.

(1) Appropriate roofing materials include:

- i. Asphalt or fiberglass shingle.
- ii. Clay or concrete tile.
- iii. Slate.
- iv. Metal shake or shingle (nonreflective).
- v. Standing seam with integrated color.

(2) Inappropriate materials include:

- i. Reflective materials (copper may be considered).
- ii. Tar and gravel (built-up).
- iii. Corrugated metal.

c. Colors allowed: See required color palette in this Chapter (Paragraph 19.62.170.A.4.).

3. Elevations.

a. Building materials. New buildings shall be constructed of appropriate, durable materials that will retain their appearance over time. Combinations of materials and textures are encouraged.

(1) Appropriate exterior materials include:

- i. Brick.
- ii. Stucco.
- iii. Stone.
- iv. Tinted, textured masonry block/architectural block.
- v. Glass block.
- vi. Hardboard siding/simulated wood products.

(2) Steel architectural panels will be allowed in industrial areas only and only up to fifty percent (50%) of the area of each elevation.

(3) Tilt-up concrete panels may be used, at the discretion of the City, in conjunction with other acceptable materials.

(4) Inappropriate materials include:

- i. Plywood.
- ii. Reflective metal siding.
- iii. Vinyl siding.
- iv. Nontextured cinder block/concrete masonry units (CMU).

b. Change in plane. All newly developed and redeveloped structures shall contain a change of plane equal to at least ten percent (10%) of the area of the wall for walls greater than one thousand (1,000) square feet in wall area and/or every thirty (30) feet.

c. Building colors. Building color requirements contained herein shall apply to all primary and accessory structures, whether newly constructed or renovated. Approval of a permit shall be required prior to repainting existing buildings within the district in order to ensure compliance with these provisions. Samples of proposed materials and colors shall be provided upon request of the City.

d. Windows and doors. If all windows and doors on an elevation are recessed or protruding by at least one (1) foot, those windows and doors shall count toward the required change in wall plane. At least twenty-five percent (25%) of the area of any wall visible from a public right-of-way shall contain windows and/or doors. Overhead doors shall not be placed facing any public right-of-way unless significant screening and landscaping diffuses the door. Each window not recessed or otherwise architecturally enhanced (such as with decorative molding, sills, mullions, arches or cornices; window boxes; awnings; multi-paned windows; or bay windows) shall have at least three-inch-wide exterior trim, constructed of acceptable

building material, around the window. Windows shall not be blocked by anything interior or exterior to the window such as plywood, shelving, storage, boxes. Windows are to be used for the purpose of viewing into the business from the exterior and allowing natural light to pass into the structure.

4. Acceptable colors. Acceptable colors include subtle warm and cool colors, earth-tone colors and neutral colors. Reflective, neon, primary (red, blue, yellow) and secondary (purple, green, orange) colors shall not be permitted, except for trim and accent by approval of the City. The intent is not to discourage color variety, but to avoid colors that are primarily used to attract attention. Colors shall be chosen from the Benjamin Moore "Historical Colors" color palette, or an approved equivalent color of the same hue, saturation and brightness. The City maintains samples of the color palette for viewing. Buildings shall incorporate three (3) or more acceptable colors. (Ord. 560-13 §1)

19.62.180 Lighting.

A. Lighting is required for the security of on-site areas, such as parking, loading, plazas and sidewalks in accordance with the following provisions:

1. All new freestanding fixtures located in the right-of-way shall be either the City's Standard Ornamental Arterial Lighting Fixture or Standard Ornamental Local Lighting Fixture. Standard Ornamental Lighting Fixtures are strongly encouraged for on-site parking areas and on-site sidewalks; however, full cutoff fixtures may be used in on-site areas with prior written approval from the City.

2. Internal or on-site parking areas, sidewalks, trails, pathways, pedestrian courts and plazas shall have sufficient lighting to ensure adequate visibility for pedestrians.

3. All wall-mounted fixtures shall be shielded and directed downward and inward so as to reduce glare onto neighboring properties and rights-of-way.

4. The maximum height of any fixture shall be twenty-five (25) feet.

5. Interior lighting in parking garages shall be shielded to minimize nighttime glare on adjacent properties and rights-of-ways.

6. Upward accent lighting for landscaping is permitted, as long as the light source is directed inward and away from adjacent sidewalks, plazas, parking lots, neighboring properties and rights-of-way.

7. Where vehicle headlights would likely shine onto residentially zoned and used property, driveways and parking areas for more than two (2) vehicles shall be screened from adjacent residentially zoned and used property by a solid fence, wall, solid evergreen hedge or landscaped berm with vegetation that will mature to at least five (5) feet in height.

8. Glare diagrams and/or lighting plans may be required at the discretion of the City.

B. Canopies. For any canopies and similar structures, lighting shall not cause glare onto adjacent rights-of-way or properties. All fixtures shall be mounted underneath the canopy and fully recessed with flat lenses that are flush with the underneath surface of the canopy. Light fixtures shall not be mounted on the top or sides of the canopy.

C. All on-site lighting fixtures shall be maintained so as to be functioning properly at all times.

D. When more than twenty-five percent (25%) of nonconforming light fixtures are not functioning or are dilapidated, all fixtures on the lot shall be replaced with Arterial or Local Standard Ornamental Light Fixtures or other acceptable light fixtures. (Ord. 560-13 §1)

19.62.190 Signage.

All signs in the corridor shall comply with the provisions of Chapter 19.45 of this Title. Additional regulations outlined below shall also apply.

A. Allowed signs.

1. Monument signs.
2. Freestanding signs.
3. Wall signs.
4. Projecting signs.
5. Electronic message center (EMC) signs (allowed on monument and freestanding signs only).
6. Window signs (see Section 19.62.190.E, below).

B. Prohibited signs.

1. Pennants, streamers, lighter-than-air objects and wind signs.
2. Signs with light bulbs that have intermittent, flashing, rotating, scintillating, blinking or strobe illumination.
3. Off-premises advertising.
4. Roof signs.
5. Search lights.
6. Signs painted on fences.
7. Portable signs.
8. Wheeled advertising devices.
9. Any sign within a site triangle.

C. General sign regulations.

1. No business is allowed more than three (3) signs per street frontage, and no business is allowed more than a total of five (5) signs. The following number of each type of sign is allowed for any one (1) use provided the total number of signs does not exceed five (5):

- a. No more than two (2) wall signs per business.
 - b. No more than one (1) projecting sign per business.
 - c. No more than one (1) freestanding sign per street frontage.
2. Signs may be illuminated indirectly by white light only.
3. Monument signs.
- a. No monument signs are allowed if a freestanding sign is proposed.
 - b. Monument bases shall be constructed of brick, stone, wood or metal material consistent and compatible with an exterior material and color of the principal building.
 - c. Monument signs on adjacent lots or the same lot shall be separated by a minimum one hundred (100) feet as measured by a straight line between signs.
 - d. Monument signs may be used by a single user or multiple users on the same property.
4. Freestanding signs.
- a. Freestanding signs on adjacent lots or on the same lot shall be separated by a minimum one hundred (100) feet as measured by a straight line between signs.
 - b. Freestanding signs shall be set back from the nearest principal building on the same lot or parcel at least the height of the sign.
 - c. Freestanding signs may be used by a single user or multiple users on the same property.
5. Electronic message center (EMC).
- a. The text display of each message shall not change more frequently than once per eight (8) seconds. Each message shall transition to the next message instantaneously.
 - b. Brightness.
 - (1) The maximum brightness for daytime hours is six thousand five hundred (6,500) candela (or nits) per square meter.
 - (2) The maximum brightness for nighttime hours (dusk to 6:00 a.m.) is two thousand (2,000) candela (or nits) per square meter.
 - c. EMC signs may be placed only on monument or wall signs.

D. Sign dimensions and setback requirements.

	<i>Monument signs</i>	<i>Freestanding signs</i>	<i>Wall signs</i>	<i>Projecting signs</i>
Minimum setback from right-of-way	1'	25'	N/A	Not into right-of-way

Maximum height	10'	25'	Not to exceed the roof line of the structure	Not the exceed the roof line of the structure
Maximum size	100 sq. ft.*	50 sq. ft	See below	See below
Maximum number of signs	2/property	1/property	2	2
Sign located in landscape area	Yes	Yes	N/A	Yes (over)

* Monument sign maximum size applies to single of multi-tenant signs.

1. Total sign area.

a. Each business is allowed a minimum of one hundred (100) square feet of sign area for wall and projecting signs, regardless of lot frontage.

b. For each lineal foot of building frontage on the two (2) most prominent streets, each business is allowed an additional square foot of sign area which may be applied to all sign types.

c. The maximum allowable wall and projecting sign area for each business is three hundred (300) square feet.

E. Sign plans for window signs.

1. Window signs shall only be allowed and permitted through the approval of a sign plan specific to window signs for each specific property.

2. Administrative approval of a sign plan for window signs shall be by the City Manager or designee. (Ord. 560-13 §1)

19.62.200 Maintenance standards.

All structures, related improvements and landscaping shall be properly maintained. All property shall be kept orderly and free of junk. (Ord. 560-13 §1)

19.62.210 Variance.

A. Application for variance or modification of these regulations shall be submitted to the Planning Commission. Such application shall include a statement setting forth the nature and extent of the requested variances or modifications, together with evidence supporting the need for such variance.

B. Where the Planning Commission and the City Council find that extraordinary hardships may result from strict compliance with these regulations, they may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variance is based on a finding that unusual topography or other exceptional conditions not caused by the applicant make such variance necessary, and that the granting thereof will not have the effect of nullifying the intent and purpose of these regulations.

C. In granting variances and modifications, the Planning Commission and the City Council may require such conditions as will, in their judgment, secure substantially the objectives of the requirements and standards so varied and modified.

D. Application for variance or modification to landscape requirements in this Chapter and signage placement requirements of this Chapter shall be submitted to the City Manager or designee, with an administrative decision to be rendered from said office. (Ord. 560-13 §1)

19.62.220 Administration and enforcement.

A. The City Manager or designee is authorized and directed to administer and enforce all of the provisions of this Chapter.

B. Any violation of these overlay district design standards, including without limitation, construction of any new structure or related improvement without first obtaining overlay district design review approval, or filing false or misleading information on a design review application, shall be a violation of this Code, and shall be subject to all the enforcement provisions of those regulations. Without limiting the generality of the previous sentence, these design standards may be enforced by withholding building permits or certificates of occupancy, suspending or revoking building permits previously granted, or issuing stop-work orders effective until violations of these standards have been corrected.

C. Permits required. A building permit shall be required for any installation or renovation of any sign, fence, wall or building including painting. A fence permit is required for all new fences and walls in the US 85 overlay district. Existing fences and walls adjacent to or facing US 85 or WSR that become dilapidated and need at least twenty-five percent (25%) of the structure repaired or replaced as determined by the City shall require a fence permit and shall be brought into conformance with the provisions of this Chapter.

D. Appeals. Any decision of the City Manager or designee may be appealed to the Planning Commission. The Planning Commission shall hear the appeal and make a recommendation to the City Council. (Ord. 560-13 §1)

19.62.230 Violation – penalty.

A. Any person who violates any of the provisions of this Chapter is guilty of a violation of the Municipal Code and shall be punished as provided in Section 1.16.010 of this Code.

B. In the event a property owner fails to comply with the provisions of this Chapter, the City may perform the required action and invoice the property owner responsible, plus a ten percent (10%) fee for inspection and other administrative costs. The City shall first give written notice to the property owner of the required action and allow at least fourteen (14) days to comply. In the event a property owner fails to pay an invoice from the City for such costs and fees within thirty (30) days of receipt, the City may file a lien on the property with the County Treasurer's office to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with an additional ten percent (10%) penalty to defray the cost of collection. Such lien shall have priority over other liens except general property taxes and prior assessments. Nothing in this Section shall preclude or prevent the City from punishing violations of this Code in accordance with Section 1.16.010. (Ord. 560-13 §1)