



*If you would like to address City Council, please place your name on the sign-up sheet located at the back of the council room. You will be recognized to speak during the "audience participation" portion of the agenda.*

## AGENDA

Regular Meeting  
September 3, 2013 - 7:30 p.m.

City Council meeting packets are prepared several days prior to the meetings. This information is reviewed and studied by the Councilmembers, eliminating lengthy discussions to gain basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis. An informational packet is available for public inspection on our website at [www.cityofevans.org](http://www.cityofevans.org) and posted immediately on the bulletin board adjacent to the Council Chambers.

1. CALL TO ORDER

2. PLEDGE

3. ROLL CALL

Mayor:	Lyle Achziger
Mayor Pro-Tem:	John Morris
Council:	Laura Brown
	Mark Clark
	April Neibauer
	Brian Rudy
	Jay Schaffer

4. AUDIENCE PARTICIPATION

*The City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address City Council. Your comments will be limited to two (2) minutes. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the appropriate staff person for follow-up. Thank you!*

5. RECOGNITION

- A. Safety Event Presentation
- B. August Yard of the Month — Esequiel Garcia, 3720 Riverside Parkway

6. APPROVAL OF AGENDA

7. CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of August 20, 2013

8. Old Business

- A. Continuation Public Hearing—Resolution No. 29-2013 for USR Bell Supply

9. NEW BUSINESS

A. Request for Full-Time Position Increase

10. REPORTS

A. City Manager

B. City Attorney

11. AUDIENCE PARTICIPATION (general comments)

*Please review the Audience Participation section listed at the beginning of the agenda for procedures on addressing City Council.*

12. ADJOURNMENT

**CITY OF EVANS – MISSION STATEMENT**

**“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”**

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## COUNCIL COMMUNICATION

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**DATE:** September 3, 2013

**AGENDA ITEM:** 7.A

**SUBJECT:** Approval of Minutes

**PRESENTED BY:** Raegan Robb, City Clerk

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**AGENDA ITEM DESCRIPTION:**

Approval of the minutes of the Regular City Council meeting of August 20, 2013.

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**FINANCIAL SUMMARY:**

N/A

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**RECOMMENDATION:**

N/A

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**SUGGESTED MOTIONS:**

*"I move to approve the consent agenda and the minutes as presented."*

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**MINUTES**  
**EVANS CITY COUNCIL**  
Regular Meeting  
August 20, 2013 - 7:30 P.M.

**CALL TO ORDER**

Mayor Achziger called the meeting to order at 7:30 p.m.

**PLEDGE**

**ROLL CALL**

Present: Mayor Achziger, Mayor Pro-Tem Morris, Council Members Brown, Neibauer, Rudy, and Schaffer.

Absent: Council Member Clark

**AUDIENCE PARTICIPATION**

*The City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address City Council. Your comments will be limited to two (2) minutes. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the appropriate staff person for follow-up. Thank you!*

**APPROVAL OF AGENDA**

Council Member Schaffer made the motion, seconded by Council Member Rudy to approve the agenda. The motion passed with all voting in favor thereof.

**CONSENT AGENDA**

- A. Approval of Minutes of the Regular Meeting of August 5, 2013**
- B. Resolution No. 28-2013—Designation of Public Place for Postings in the City of Evans**
- C. Resolution No. 29-2013—Joint Use Agreement with District 6**

Mayor Rudy made the motion, seconded by Council Member Brown to adopt the consent agenda.

Council Member Schaffer explained that he was absent from the regular meeting on August 5, 2013 and recused himself from voting on the minutes of the August 5<sup>th</sup> meeting.

The motion passed with all voting in favor thereof.

## **NEW BUSINESS**

### **A. Public Hearing—Resolution No. 29-2013 for USR Bell Supply**

Zach Ratkai, City Building and Development Director, explained that the applicant has requested to postpone the public hearing until the next City Council meeting on September 3<sup>rd</sup>.

Mayor Pro-Tem Morris made the motion, seconded by Council Member Rudy, to continue the public hearing until September 3, 2013. The motion passed with all voting in favor thereof.

### **B. Resolution No. 30-2013 - Supporting The Grant Application For A Local Parks And Outdoor Recreation Planning Grant From The State Board Of The Great Outdoors Colorado For The South Platte River Corridor Master Plan**

Sheryl Trent, Community and Economic Development Director, explained that the Resolution allowed the City to request \$75,000 from Great Outdoors Colorado (GOCO) to create a Master Plan for the South Platte River in Evans. She explained that the City Council has already appropriated \$40,000 for the Master Plan project and that no additional financing would be needed by the City. She also stated that any contracts related to the project would be approved by City Council.

The Mayor discussed his support for the Master Plan for the South Platte River and asked about the timeline of completing the project.

Ms. Trent explained the timelines of the grant request and completing the project if the City receives funding from GOCO.

Mayor Pro-Tem Morris made the motion to approve Resolution 30-2013 concerning a matching grant for the South Platte River Corridor Trail Project in the amount of \$75,000. The motion passed with all voting in favor thereof.

### **C. Public Hearing—New Hotel/Restaurant Liquor License for Roma Restaurant**

The Mayor opened the public hearing at 7:41 p.m. and requested to hear from staff.

Raegan Robb, Evans City Clerk, presented the application for a new Hotel/Restaurant liquor license for TAA Inc., doing business as Roma Restaurant, located at 3625 23<sup>rd</sup> Avenue, Evans.

Mr. Robb explained that City Council would be acting as the Local Licensing Authority to deny or approve the request for a Hotel/Restaurant Liquor License. He also stated that this license was submitted for concurrent review with the City and the State, and explained that the City would not issue the liquor license until the premises are properly inspected and the

applicants receive a Certificate of Occupancy and City Business License. Mr. Robb summarized the preliminary findings from the report submitted to the applicant for the Hotel/Restaurant Liquor License, which covered the local and state requirements that were satisfied prior to the hearing. He concluded his presentation by requesting that City Council approved the application for a Hotel/Restaurant Liquor License.

The applicant, Chris Allison, 4916 3<sup>rd</sup> Street Road, Greeley, addressed City Council to request their support for the liquor license.

Mayor Achziger asked Mr. Allison about his timeline for completion and the businesses surrounding the location.

Mr. Allison, explained that he hopes to be open by mid-September and explained what other businesses would surround the location.

The Mayor discussed his support for the business to receive a liquor license.

Mayor Pro-Tem Morris asked Mr. Allison about his “TIPS” alcohol training and certifying his employees.

Mr. Allison explained that he has taken TIPS courses and tries to have his employees certified.

The Mayor closed the public hearing at 7:49 p.m.

Mayor Pro-Tem Morris discussed his support for the business.

The other Council Members discussed their support for the business to receive a liquor license.

Council Member Neibauer, made the motion, seconded by Council Member Brown, for the conditional approval of the Hotel/Restaurant Liquor License for TAA Inc., doing business as Roma Restaurant. The motion passed with all voting in favor thereof.

#### **D. Public Hearing—New Hotel/Restaurant Liquor License for Lit’l Bit Bar & Grill**

The Mayor opened the public hearing at 7:52.

Mr. Robb, presented the application for a new Hotel/Restaurant liquor license for Lit’l Bit Bar & Grill LLC, doing business as Lit’l Bit Bar & Grill, located at 3620 35<sup>th</sup> Avenue, Evans.

Mr. Robb explained that City Council would be acting as the Local Licensing Authority to deny or approve the request for a Hotel/Restaurant Liquor License. He also stated that this license was submitted for concurrent review with the City and the State, and explained that

the City would not issue the liquor license until the premises are properly inspected and the applicants receive a Certificate of Occupancy and City Business License. Mr. Robb summarized the preliminary findings from the report submitted to the applicant for the Hotel/Restaurant Liquor License, which covered the local and state requirements that were satisfied prior to the hearing. He concluded his presentation by requesting that City Council approved the application for a Hotel/Restaurant Liquor License.

Mayor Achziger asked the applicants if they wanted to speak on the liquor license application. The applicants, Debra Nelson, 555 E. 19<sup>th</sup> Street, Greeley, Barbara Solivais, 319 Ash Court, Evans, addressed City Council to discuss the plans for their business and the request for

Deb and Barb discussed their experience in the restaurant business, talked about their previous careers, and talked about the transition into the new restaurant space.

Mayor Achziger discussed his support for the business to receive a liquor license.

Mayor Pro-Tem Morris asked staff to if the business had received a building permit.

Mr. Robb clarified that the business had received a building permit and explained that the business was close to receiving its Certificate of Occupancy.

Council Member Schaffer discussed his association with Barb Solivais, which was determined not to be a conflict of interest. He voiced his support for the business and for the request for a liquor license.

At 8:03 p.m. Mayor Achziger closed the public hearing.

The Council Members discussed their support for the application.

Mayor Achziger asked the applicants about their timeline to open their business.

The applicants explained that they were planning on opening by September 14<sup>th</sup>.

Council Member Rudy made the motion, Seconded by Council Member Schaffer, to approve the conditional approval of the Hotel/Restaurant Liquor License for Lit'l Bit Bar & Grill, LLC, doing business as Lit'l Bit Bar & Grill. The motion passed with all voting in favor thereof.

## **REPORTS**

### **A. City Manager**

Aden Hogan, City Manager, distributed the City Manager's Monitoring Report and discussed the upcoming District 2 meeting hosted by the Colorado Municipal League in Estes Park, on

October 3<sup>rd</sup>. He also talked about the changing seasons and provided an update concerning the City's change to a ".gov" web domain. He also discussed the City Safety Event conducted on August 10<sup>th</sup> and thanked all of the staff involved in helping with the event.

Mayor Achziger also thanked staff for their help with the City Safety Event, specifically Officer Michael Yates.

## **B. City Attorney**

Scott Krob, discussed his review of the closing documents for the Riverside Library and Cultural Center. He also provided an update about his meetings with staff to educate him about the City's issues related to equivalent residential units (EQRs). Mr. Krob also discussed his work with City staff on an IGA between Evans Police Department and Weld County related to the use of SOTAR for tracking sex offenders in the City. He also mentioned an update he received from the Development Review Team.

## **AUDIENCE PARTICIPATION (general comments)**

There was no audience participation

## **EXECUTIVE SESSION**

### **A. For the purpose of discussing matters that may be subject to negotiations C.R.S. 24-6-402(4)(e).**

At 8:17 p.m. Council Member Schaffer made the motion, seconded by Mayor Pro-Tem, to go into Executive Session. The motion passed with all voting in favor thereof.

The Executive Session concluded at 9:01 p.m.

## **ADJOURNMENT**

The regular meeting adjourned at 9:02 p.m.

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## CITY COUNCIL COMMUNICATION

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**DATE:** September 3, 2013

**AGENDA ITEM:** 8.A

**SUBJECT:** Public Hearing – Resolution No 30-2013 - Use by Special Review for Outdoor Storage on property zoned I-2 – 4101 Carson Avenue in Evans Colorado – (Bell Oil Supply)

**PRESENTED BY:** N. Zach Ratkai, Building and Development Manager

BACKGROUND INFORMATION		
<b>Location:</b>	4101 Carson Avenue	
<b>Applicants:</b>	Todd Bloom, Tebo Development (representing Borchert Pointe, LLC, landowner)	
<b>Existing Land Use:</b>	Vacant	
<b>Proposed Land Use:</b>	Office/Warehouse with Storage Yard	
<b>Surrounding Land Use:</b>	<b>North</b>	Industrial (McJunkin Redman)
	<b>South</b>	Commercial (Vacant)
	<b>East</b>	Commercial (Vacant)
	<b>West</b>	Industrial (Non-conforming storage yard)
<b>Existing Zoning:</b>	Medium Industrial (I-2)	
<b>Proposed Zoning:</b>	Same	
<b>Surrounding Zoning:</b>	<b>North</b>	I-3
	<b>South</b>	C-3
	<b>East</b>	C-3
	<b>West</b>	I-3
<b>Future Land Use Designation:</b>	Industrial Business Park	

**PROJECT DESCRIPTION:** This is a request from the landowner (Borchert Pointe, LLC), for a Use by Special Review (USR) for outdoor storage to exceed the allowed 20% in the City of Evans Municipal Code. The owner originally requested to be approved to utilize up to 68% of

the site for outdoor storage, since the Planning Commission hearing on August 5<sup>th</sup>, the request has been changed to utilize up to 60% as outdoor storage.

**RECOMMENDATION:** Recommend **approval** with conditions in order to meet the criteria for the approval of the special use. The Planning Commission held a public hearing on August 5, 2013 and recommended approval with conditions. The condition to allow the outdoor storage standard to be exceeded for a five (5) year period with an automatic expiration at the end of the five (5) years. Staff is recommending some screening and landscaping as conditions of approval as well.

**ANALYSIS:**

1. **Background:** In the spring of 2013, Borchert Pointe, LLC (land owners) approached the city with the plan to construct an office/warehouse building to serve as the Evans base for Bell Supply. As part of this plan, a site plan was submitted and is currently under administrative review by staff. The zoning for the site limits allowed outdoor storage to 20% of the total site area. The site plan, and intentions for the property, show a storage yard. The applicant is requesting a Use by Special Review approval to allow outdoor storage in excess of that allowed in an I-2 zone – 20% is the allowed amount of outdoor storage, the request is for 68%.
2. **Section 19.04, 19.32, 19.44 and 19.48 of the Evans Municipal Code:** Section 19.48 of the Municipal Code addresses accessory uses and in particular outdoor storage. The proposed outdoor storage is over 20% of the property and therefore requires a USR approval in accordance with Section 19.44.

**19.48.055 Outdoor storage.**

Except by approval of a Use by Special Review, granted in accordance with Chapter 19.44 of the Municipal Code, outdoor storage shall only be allowed as an accessory use in the I – Industrial – zoning districts and only in accordance with the following limitations:

- A. No more than 10 percent of the area of any lot or parcel in the I-1 – Light Industrial – zoning district may be used for outdoor storage.
- B. No more than 20 percent of the area of any lot or parcel in the I-2 – Medium Industrial – zoning district may be used for outdoor storage.
- C. No more than 30 percent of the area of any lot or parcel in the I-3 – Heavy Industrial – zoning district may be used for outdoor storage.  
(Ord. 350-05; Ord. 272-04)

Below are the criteria for approval of a USR per Section **19.44.020**.

**Chapter 19.44**  
**Approval of Special Uses**

**19.44.020 Criteria for Use by Special Review.**

- A. All special uses are listed within each zoning district. If a use is proposed that is not defined within the Evans Municipal Code and does not reasonably fall within the

definition of any defined use in the Municipal Code, the property owner may apply for use by special review approval in accordance with this chapter.

**B.** Criteria. The following criteria shall be used to evaluate use by special review requests:

- 1. The proposed use is found to be unlikely to harm the health, safety, or welfare of the City or its residents.***

The use could certainly harm the welfare of the City and our residents by eliminating the compatibility with the commercially zoned properties to the south. With heavy industrial use (60% outdoor storage) commercial uses to the south would be limited, which affects the long term financial sustainability of the City.

- 2. The proposed use would benefit the City in terms of employment, tax revenue, or other similar effects, as compared to the absence of the proposed use.***

This type of storage allotment is associated typically with heavy industrial use and is best located in areas of I-3 zoning that are well removed from the public right of way and away from commercial uses. Even in the I-3 zone the code states 30% is the maximum for outdoor storage. In urban areas such as the City of Evans, uses such as outdoor storage should be limited (as the code intended) in order to fulfill the goals of the 2010 Comprehensive Plan and long range planning and sustainability issues.

- 3. The proposed use shall be consistent with the Evans Comprehensive Plan and shall be compatible with the surrounding area.***

The use is NOT consistent with the Evans Comprehensive Plan nor is it compatible with the surrounding area. Much of the surrounding area is developed as industrial, with similar office/warehouse/storage use. The proposal from the applicant is a request to meet a similar standard to existing conditions in the area; however many of these sites are out of compliance. The City is in the process of issuing notices of violation to the remaining land owners in violation of the outdoor storage code.

- 4. The location, size, design, and operating characteristics of the proposed use shall be compatible with the existing and proposed future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity. Reasonable conditions may be placed on uses by special review to protect the public health, safety, and welfare by mitigating impacts.***

The current and future land uses in that site are not compatible with outdoor storage of this intensity on this size of property. It will create a situation/condition that will negatively affect other property owners in the area, especially the commercial properties to the south. Additional screening throughout the perimeter and the requirement for a landscape bufferyard and a different kind of fencing will be required to mitigate impacts.

**5. *The site shall be physically suitable for the type and intensity of the proposed land use.***

The site is physically suitable for outdoor storage, except for the zoning, the compatibility with surrounding uses to the south (commercially zoned) and proximity to the public right of way.

**6. *The proposed land use shall not adversely affect traffic flow and parking in the neighborhood.***

The outdoor storage use proposed would not adversely affect traffic flow and parking in the area.

**7. *The location of other approved uses by special review in the neighborhood shall be determined, in order to avoid an over-concentration of such uses.***

The applicant has pointed out that in the area; there are storage yards in which outdoor covers a substantial area of the property. However, the sites referenced are out of compliance with the Municipal Code. Staff is currently issuing letters of violation in the area to other land owners that may not be aware of the code related to outdoor storage.

In consideration of surrounding uses, currently the approval on 1470 42<sup>nd</sup> Street is for up to 50%, and that was allowed as it could be screened from 42<sup>nd</sup> Street and was a much smaller piece of land, and hence a much smaller impact on the neighborhood. Most recently, 1461 43<sup>rd</sup> Street to the south of this property was approved to have 60% outdoor storage, with conditions placed on the property for the addition of substantial screening as well as a temporary, revocable time period during which excess storage would be allowed. Those approvals, which will stay for that legal description on that site, will remain in place and anything other would be an over concentration of the outdoor storage use in the area.

**Issues:**

The main concern with the application is the adjacency and compatibility with commercial and other industrial zoning. 42<sup>nd</sup> Street is a major thoroughfare for the City of Evans and therefore compatibility with existing industrial uses and future commercial uses is critical to the future development and sustainability of the City. With 60% of the lot being used for outdoor storage that issue becomes even more important to the long term compatibility issues in the neighborhood.

The precedent set by allowing a Use by Special Review for additional outdoor storage in this I-2 zone at this location could lead to other land owners requesting the same USR for the same reasons (business oriented). That would essentially mean the land in this area would exceed even the highest use allowed in the I-3 zone (currently 30%).

The land sits higher than the adjacent commercial lots along 42<sup>nd</sup> Street and no amount of screening allowed under the code would allow compatibility to exist with other uses in the area. There is no fence or landscaping allowed by the code that could be installed on site to improve

the compatibility for 42<sup>nd</sup> Street, the commercial properties to the north, and the Highway 85 corridor to the east.

Additionally, this land is zoned I-2 for a reason. The premise behind appropriate zoning includes the issues of land use. Zoning permits certain uses on land and usually move from the least intense uses to the most intense uses, protecting land and the public from more intense uses by placing that zoning away from areas of commercial, residential, or lower uses land zoning. The land uses should move from least significant impact to higher impact, especially along major arterials and areas of importance to the City.

Other land in the area is zoned either I-1 or C-3 (lowest industrial zoning in our code, highest commercial zoning in our code, which would be compatible uses). This land is visually adjacent to Highway 85, and also adjacent to other I-1 and C-3 sites that comply with the code.

Notice of this public hearing was provided in accordance with Chapter 19.64 and 18.28.125 of the Municipal Code.

### **FINDINGS OF FACT AND CONCLUSIONS**

After reviewing the Bell Supply USR for outdoor storage that exceeds the 20% and a security residence on property located at 4101 Carson Avenue, the following findings of fact and conclusions have been determined:

The review criteria in Sections 19.44 of the Evans Municipal Code **CAN** be appropriately and sufficiently met WITH CONDITIONS. With conditions, approval of this special use would be consistent with the 2010 Comprehensive Plan and with the surrounding land uses.

### **STAFF RECOMMENDATION:**

I recommend that the Planning Commission forward a recommendation of **approval with conditions** of the requested USR with the findings and conclusions listed above as well as the following conditions:

1. The approval for excess storage is for a period of five (5) years and will expire on August 20, 2018, this approval period is renewable at time of expiration. Said renewal is not automatic and must be initiated by the property owner at the time of expiration or if the nature of the land use warrants review of the USR conditions approved herein, and;
2. The approval is contingent upon a landscape buffer of fifteen (15) feet surrounding both the northern and southern sides of the subject property, and a twenty (20) foot landscape buffer on the rear of the property (review to be secured through the site plan process).
3. The approval is contingent upon in installation of a fully opaque, six (6) foot tall cedar privacy fence to screen the storage yard as shown on the preliminary site plan.

### **SUGGESTED MOTION:**

"I move to approve Resolution 30-2013 supporting the approval with conditions of the Bell Supply USR because it meets the criteria outlined in Sections 19.04, 19.32, 19.44 and Section 19.48 of the Municipal Code."

"I move to deny Resolution 30-2013 supporting the approval with conditions of the Bell Supply USR because it meets the criteria outlined in Sections 19.04, 19.32, 19.44 and Section 19.48 of the Municipal Code."

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**Land Use Application  
Use by Special Review**

Staff Use Only  
 Attach Receipt  
 Fee: \$205.00 includes public hearing  
 Intake Date: 5/15/2013

**All applications for a Use by Special Review shall comply with the requirements of Chapter 19.44 of the City of Evans Municipal Code and all applicable regulations, standards and plans.**

Project Name: TEBO PROJECT 1 Acres: 4.31 Current Zoning: I-2  
VACANT LAND, EVANS, CO  
 Property Address: BLOCK 3, COUNTRY MEADOWS SUBDIVISION, LOT 1

Proposed Use (brief description):

Land Owner Name: BORCHERT POINTE, LLC Telephone: (303)447-8326 Email: \_\_\_\_\_

Mailing Address: P.O. BOX T BOULDER, CO 80306

Applicant Name: \_\_\_\_\_ Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**SUBMITTAL CHECKLIST**

The following items will need to be submitted for review of a Use by Special Review 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
	Electronic copy of all required forms (see below)	
✓	Use by Special Review Fee of \$205.00 (check or credit card)	
✓	Legal description of the property	
✓	Letter indicating why the use should be allowed. (See Section 19.44.020 B 1-7 for necessary information)	
	A site plan or master plan drawing of the location and use	
	<b>Photos</b> of the site in question	
	<b>Photos</b> showing the proposed use (if appropriate)	
	An <b>aerial</b> map of the location	
✓	Any other documentation that would support the request	
✓	A list, in Excel format, of all land owners within 500' of the proposed use If above list is provided by the City, a \$25 fee will be added	
	An electronic copy of all submitted documents.	
	If a <u>mini storage unit</u> , all additional information required in 19.44	
	If a <u>car wash</u> , all additional information required in 19.44	
	If an <u>oil well</u> , please refer to 16.28 of the Evans Municipal Code for additional requirements and submit:	

	<i>A landscaping plan</i>	
	<i>A letter detailing the information in 16.28.070 including a full description of the intended use, site improvements, and characteristics of installation, operation, maintenance, site restoration, and abandonment;</i>	
	<i>Evidence of leasehold, resource ownership, or owner's authorization;</i>	
	<i>The name and address of each owner of an interest of record in the oil and gas leases under which such well is to be drilled, operated, maintained or abandoned;</i>	
	<i>The name and address of the person or firm in charge of the operation and maintenance of such well;</i>	
	<i>The name and address of the person or firm in charge of the work to be done under such permit;</i>	
	<i>A true and accurate listing of the names and addresses of the owners of all real estate situated within 500 feet of the proposed well, accessory equipment, and structure site, according to County Assessor records current at the time of the application;</i>	
	<i>Evidence of satisfaction of the bond requirement (see Sections 16.28.08 and 16.28.090);</i>	
	<i>Evidence of satisfaction of the insurance requirement (see Section 16.28.100);</i>	
	<i>Conceptual restoration plan (see Section 16.28.130)</i>	
	<i>Specification and graphic representation of the equipment to be used and the improvements to be made. Specific attention shall be given to the intended measures of noise mitigation and ensuring the public safety;</i>	
	<i>Certification that the owners of the leasehold interest and the persons in charge of the drilling, operation maintenance, or abandonment of such well are familiar with the ordinances of the City and will abide by the provisions thereof;</i>	
	<i>Waste and storage plan (see Section 16.28.140).</i>	

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


*5/15/13*  


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**Land Owner Signature** **Date**

*SAME*  


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**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:

Planning Commission Date:

City Council Date:

Additional Comments:

**Formal comments will be found in the L:drive under Community Development/USR/ (name of application)**

Chapter 19.44

APPROVAL OF SPECIAL USES

Sections:

- 19.44.010 Intent.
- 19.44.020 Criteria for Use by Special Review.
- 19.44.030 Procedure for Special Use Permit.
- 19.44.040 Business and Industrial Uses – Oil and Gas Well Locations – City Council  
Permission Prerequisite to Building Permit Issuance.
- 19.44.050 Expiration Date.
- 19.44.060 Fees.

19.44.010 Intent. The intent of this chapter is to require a public hearing for special land uses in order to determine if the use has the potential to adversely affect other land uses, transportation systems, public facilities, or the like, in the surrounding neighborhood thereby ensuring that uses by special review will not harm the health, safety, and welfare of the City and its residents. The City Council may disapprove any such request, or may impose such conditions and safeguards as may be required to maintain the intent of this zoning code. (Ord. 349-05: Ord. 331-05: Ord. 015-00: Ord. 1027-96)

19.44.020 Criteria for Use by Special Review.

A. All special uses are listed within each zoning district. If a use is proposed that is not defined within the Evans Municipal Code and does not reasonably fall within the definition of any defined use in the Municipal Code, the property owner may apply for use by special review approval in accordance with this chapter.

B. Criteria. The following criteria shall be used to evaluate use by special review requests:

1. The proposed use is found to be unlikely to harm the health, safety, or welfare of the City or its residents.
2. The proposed use would benefit the City in terms of employment, tax revenue, or other similar effects, as compared to the absence of the proposed use.
3. The proposed use shall be consistent with the Evans Comprehensive Plan and shall be compatible with the surrounding area.
4. The location, size, design, and operating characteristics of the proposed use shall be compatible with the existing and proposed future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity. Reasonable conditions may be placed on uses by special review to protect the public health, safety, and welfare by mitigating impacts.
5. The site shall be physically suitable for the type and intensity of the proposed land use.
6. The proposed land use shall not adversely affect traffic flow and parking in the neighborhood.
7. The location of other approved uses by special review in the neighborhood shall be determined, in order to avoid an over-concentration of such uses.
8. Mini-storage units shall also comply with the following standards:
  - a. Setbacks of buildings from all streets shall be a minimum of 25 feet.
  - b. A 10-foot-wide buffer area of natural growth, including trees and shrubs approved by the City, shall be installed and maintained along the entire length of any boundary of the development that is adjacent to a residentially zoned district, whether or not such boundary is separated by a street, alley, or easement or other right-of-way. Such buffer

- may, if required by the City, include a six-foot-high screen composed of natural or manmade materials.
- c. Landscaping plans must be presented with the application and must be approved by City Council at the Use by Special Review hearing. Such plans must show the proposed types and locations of all natural plantings, ground coverings, and screening, including the size and number of trees.
  - d. Architectural design plans and elevations must be presented with the application and must be approved by City Council at the Use by Special Review hearing. Architectural plans and elevations must indicate the size and locations of all structures including the proposed exterior design and wall and roof coverings of the buildings. Architectural plans will be examined to ensure that the proposed development's features such as height, length, facade, color, etc., are compatible with the surrounding area.
  - e. No changes shall be made to an approved plan which would alter the character of the building(s) or use of the property without prior approval of the City Council.
  - f. Special Permit. Special Permits for exceptions to the mini-storage requirements may be granted provided all of the following criteria are met:
    - i. Such use is found to be compatible with the surrounding area;
    - ii. Such use shall not adversely affect the surrounding area;
    - iii. Such use shall not adversely affect the future development of the area;
    - iv. Due to the proposed geographical location of such use or other physical situation of the land or building, practical difficulty or unnecessary hardship which has not been self imposed would deprive the owner/tenant of the property of the reasonable use of the site or portion of the site in question; and
    - v. The purpose and intent of this code is maintained.
  - g. Miscellaneous conditions within the "C" and "RC" zone districts:
    - i. Within the mini-storage facility premises, uses such as distribution centers, assembly or manufacturing, retail sales, or any use other than storage is prohibited, with the exception of the sale or rental of accessory items typically used for moving, including, but not limited to, boxes, hand-trucks, and moving vans.
    - ii. Fully screened, outdoor storage for recreational vehicles, boats, vacant trailers (excluding mobile homes), and similar items that are well maintained and in good condition may be approved as part of the mini-storage unit facility. Plans for such screening must have the approval of the City. The maximum area of such outdoor storage use shall not exceed 25 percent of the total site.
9. Car wash facilities. The Planning Commission and the City Council shall consider the following aspects of the proposed facility when reviewing a petition for a Use by Special Review for a car wash facility:
- a. Character of the area of the site, including proximity of residential property to the site and proximity of existing car wash facilities;
  - b. Hours of operation;
  - c. Presence or absence of a system for reclaiming and reusing water;
  - d. Building height, including whether the facility would have the capability to service commercial vehicles and/or recreational vehicles (RVs);
  - e. Site design, including orientation and distance of the wash bays to the nearest street;
  - f. Any other factor(s) which could serve to mitigate or aggravate the undesirable aspects of car wash facilities.

10. Oil and gas facilities. Oil and gas facilities shall only be installed, erected, and/or constructed in accordance with Chapter 16.28, Oil and Gas Exploration and Development. Landscaping plans must be presented with the application and must be approved by City Council at the Use by Special Review hearing. Such plans must show the proposed types and locations of all natural plantings, ground coverings, and screening, including the size and number of trees.  
(Ord. 446-08: Ord. 349-05: Ord. 331-05: Ord. 253-04: Ord. 015-00)

19.44.030 Procedure for Special Use Permits. The following procedure shall be followed by the applicant for a special use permit:

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 use should be permitted. The petition shall be signed by the owner of the property.

B. Review – Planning Department. The petition shall be reviewed by the Director of Public Works/Planning and the applicant shall be notified promptly of any deficiencies.

C. Administrative Report. Staff will prepare comments for use by the Planning Commission, addressing all aspects concerning the special permit, its conformance with the Evans Comprehensive Plan, sound land use planning practices, the standards contained in this chapter, and other such matters as the planning staff considers material to determination of the application.

D. Planning Commission Review. The Planning Commission shall give such weight as it deems appropriate to the testimony and comments offered by the public. The Planning Commission shall hold a public hearing and make a recommendation to City Council on the application.

E. City Council Review. After the Planning Commission makes a recommendation on the application, the City Council shall hold a public hearing and consider the application at a regular or special meeting within 30 days. The City Council shall approve, approve with conditions, or disapprove the special use request. Approval of the request shall be made by resolution, which shall be recorded at the office of the Weld County Clerk and Recorder. Approval and any conditions of approval shall “run with the land,” and shall apply to subsequent owners of the property, and shall not be transferable to any other property.

F. Notice. The public hearings before the Planning Commission and the City Council required by this chapter shall be held only after public notice has been given in accordance with Chapter 19.64 of the Evans Municipal Code.

G. Revocation of Special Permits. If, at any time, the owner or tenant of a property that has received a special use permit fails to comply with any condition of approval, or the application or testimony of an applicant is found to have been false or misleading, or the use differs from that which was approved, or the use causes legitimate complaints from others in the area of the use, the City Council may review the special use approval and may revoke such approval by resolution. (Ord. 349-05: Ord. 331-05: Ord. 015-00)

19.44.040 Business and Industrial Uses – Oil and Gas Well Locations – City Council Permission Prerequisite to Building Permit Issuance.

A. Notwithstanding any other provision in this zoning code, the City Council shall have the power to direct the location and regulate the use and construction of breweries, distilleries, livery stables, blacksmith shops, and foundries within the City limits.

B. Notwithstanding any other provision in this zoning code, the City Council shall have the power to direct the location and regulate the use and construction of slaughterhouses and byproducts plants, packing houses, renderies, tallow candleries, bone factories, soap factories, tanneries, dehydrating plants, and dairies within the City limits.

C. Notwithstanding any other provisions in this zoning code, the City Council shall have the power to prohibit any offensive or unwholesome business or establishment, and also to prohibit the carrying on of any business or establishment in any offensive and unwholesome manner, within the City limits.

D. Any business or establishment which can be or is classified as falling within those designated in subsections A through C of this section shall first obtain specific permission from the City Council through the special use process before a building permit may be issued.

E. No building permit shall be issued for any building not in compliance with setbacks from any oil or gas well or ancillary equipment, as established in Chapters 15.48 and 16.28, as amended.

F. No building permit shall be issued for any building not in compliance with setbacks from any abandoned oil or gas wells as established in Chapters 15.48 and 16.28, as amended, until and unless the applicant, by clear and convincing evidence, can demonstrate to the City Council that the well has been abandoned and plugged in accordance with all federal, state, and local laws and regulations and that the issuance of such permit will not endanger any person or property. The Council may require such independent tests and reports as it deems necessary prior to final consideration of such permit. If a permit is approved, the Council may impose such conditions as it deems necessary or advisable for the protection of persons and property. (Ord. 349-05: Ord. 331-05: Ord. 015-00)

#### 19.44.050 Expiration.

A. Unless otherwise stated in the approving resolution, all special permits not exercised within six months from the date of the resolution shall become null and void.

B. Approval of any special use that is discontinued for three or more consecutive months shall become null and void and such use shall not be allowed to recommence without again obtaining special use approval, unless otherwise stated in the approving resolution. (Ord. 349-05: Ord. 331-05: Ord. 015-00)

19.44.060 Fees. Each application for a special use permit 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. 349-05: Ord. 331-05: Ord. 015-00)



**4101 Carson Ave**

Evans  
Community  
Complex

**Legend**



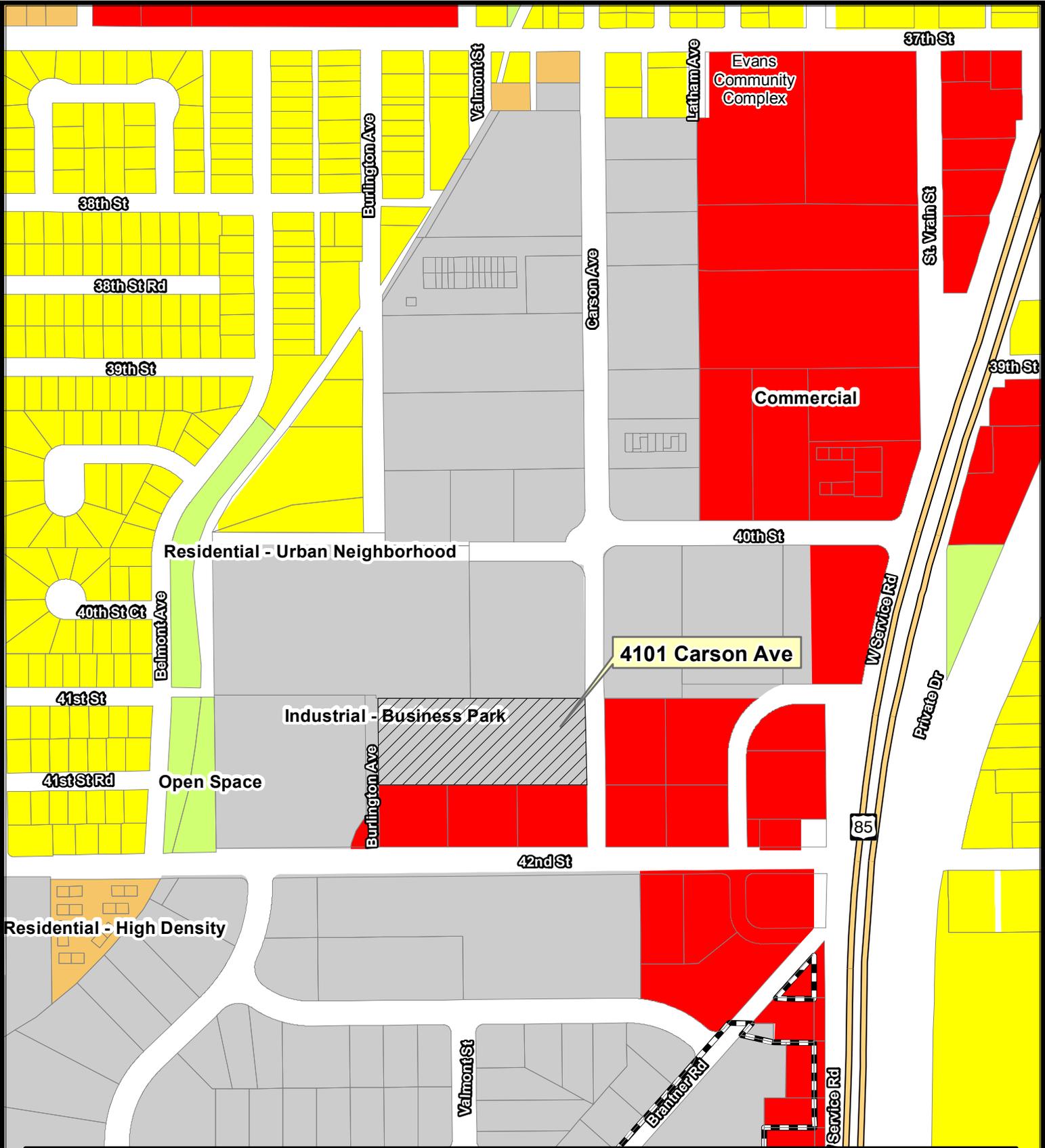
Evans  
City Limits



Project Site

Aerial Map  
**4101 Carson Avenue**





**Legend**



Evans  
City Limits

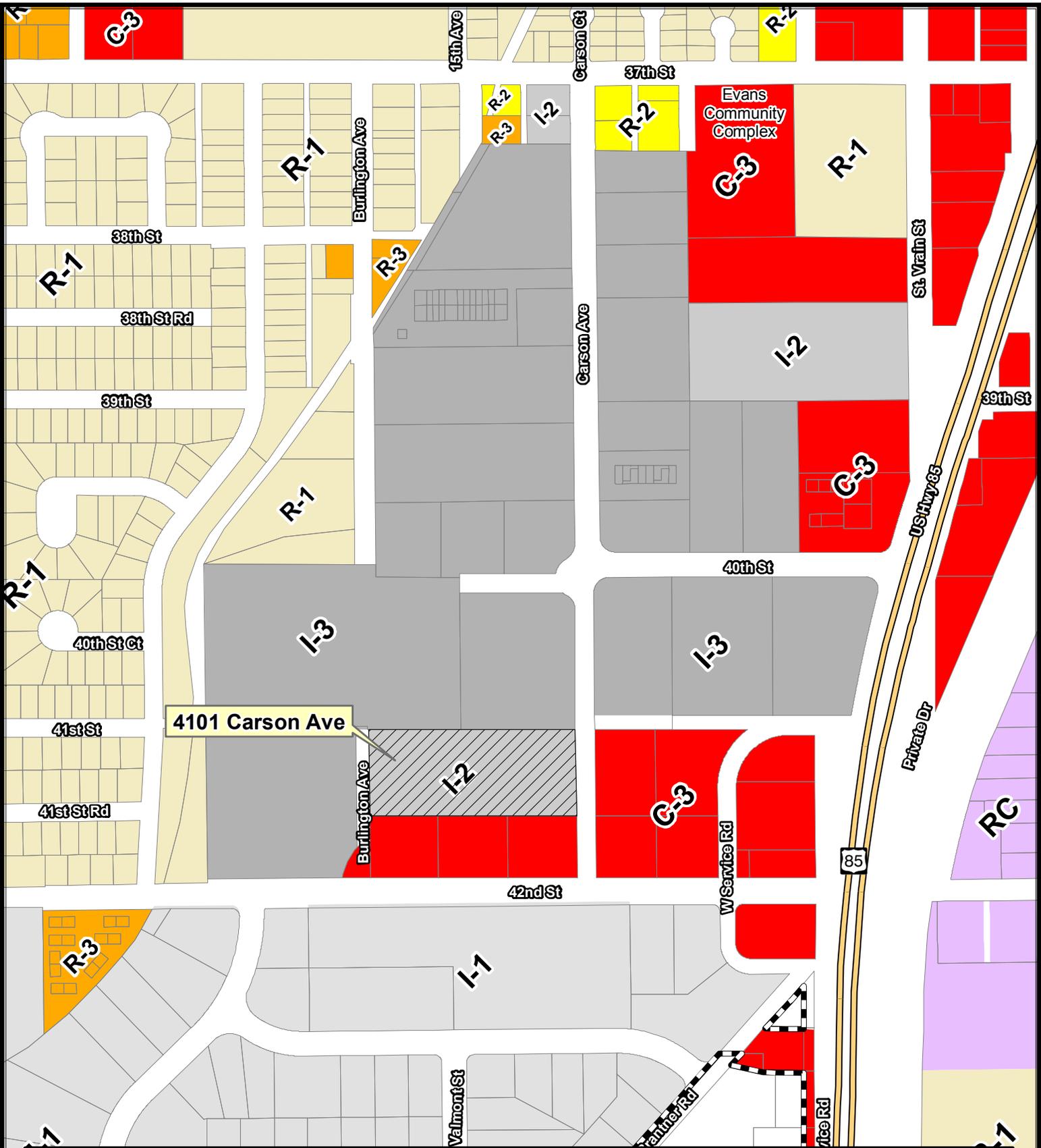


Project Site

**Future Land Use Map**

**4101 Carson Avenue**





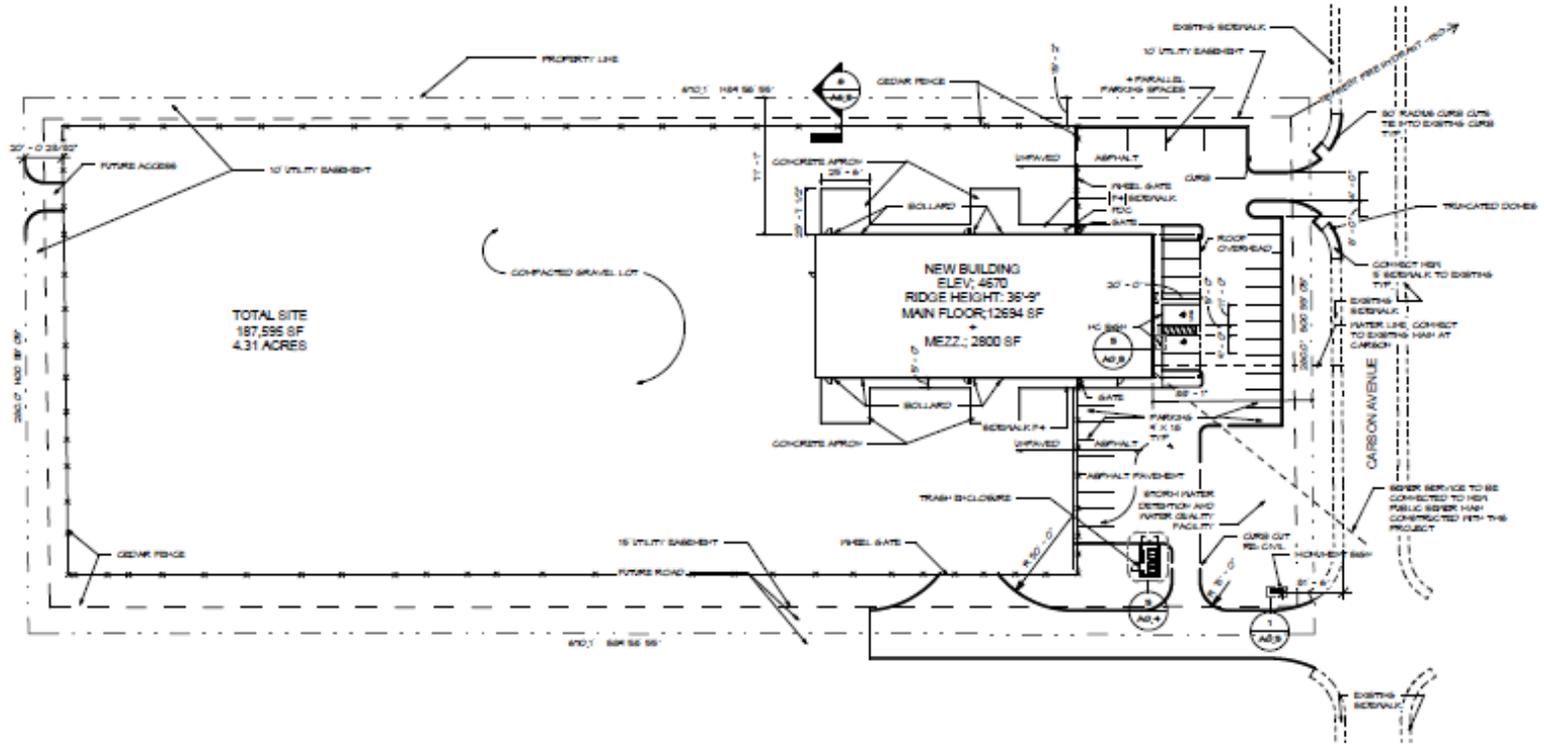
**Legend**

-  Evans City Limits
-  Project Site

Zoning Map

**4101 Carson Avenue**

**1 ARCHITECTURAL SITE PLAN**  
1" = 40'-0"

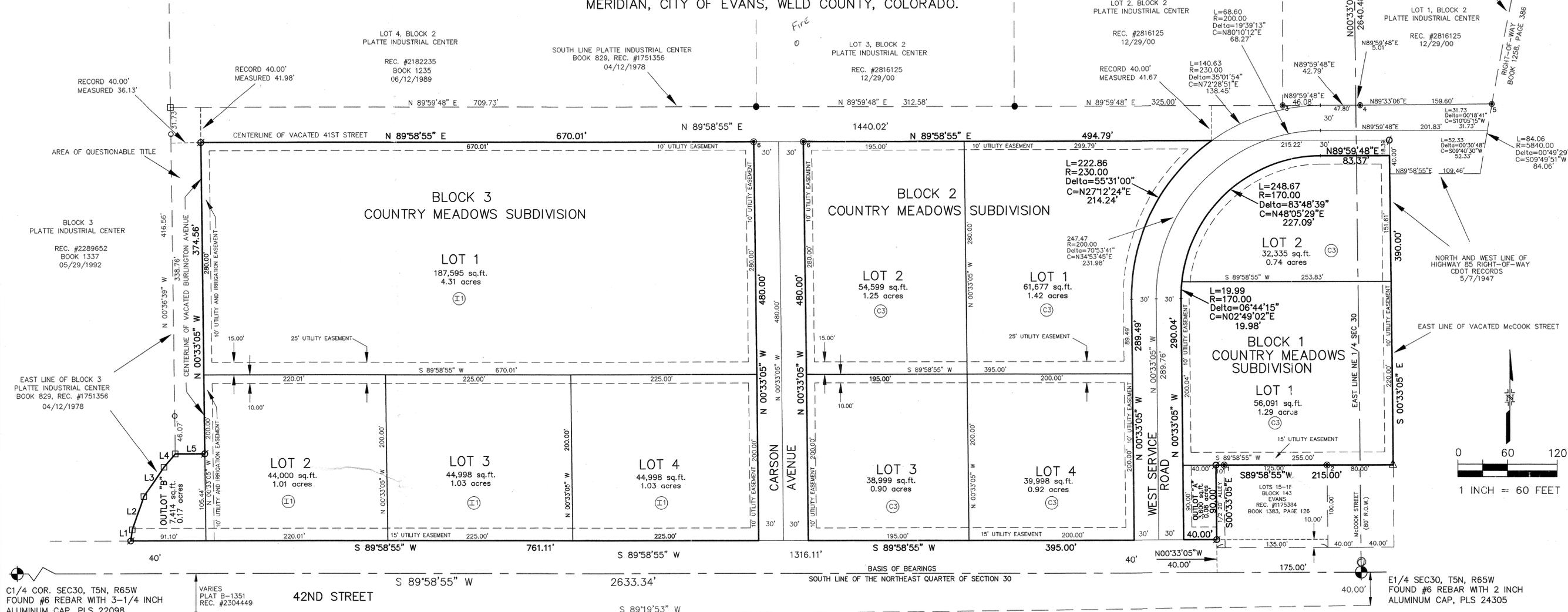
NOTE: THIS ARCHITECTURAL SITE PLAN IS FOR GENERAL ORIENTATION PURPOSES ONLY. SEE CIVIL AND LANDSCAPE DRAWINGS BY OTHERS FOR ADDITIONAL INFORMATION.





# ALTA/ACSM LAND TITLE SURVEY

A PORTION OF THE NORTHEAST QUARTER OF SECTION 30 AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF EVANS, WELD COUNTY, COLORADO.



- LEGEND:**
- INDICATES CONTROL CORNER FOUND AS DESCRIBED HEREON.
  - ⊙ INDICATES FOUND #4 REBAR WITH PLASTIC CAP, PLS 30126
  - ⊠ INDICATES FOUND CONCRETE NAIL AND 1 INCH BRASS DISK, PLS 30126
  - ⊡ INDICATES FOUND #4 REBAR WITH PLASTIC CAP, PLS 4845
  - INDICATES FOUND #4 REBAR WITH PLASTIC CAP, PLS 15308
  - INDICATES FOUND #4 REBAR WITH PLASTIC CAP, PLS 11399
  - INDICATES FOUND MONUMENT AS DESCRIBED HEREON
    - ① Found #3 rebar S07°07'25"E 1.32' from lot corner
    - ② Found #3 rebar S59°41'27"E 0.32' from lot corner
    - ③ Found #4 rebar
    - ④ Found #4 rebar with plastic cap, PLS 7242 N86°04'12"E 0.33' from angle point in property line
    - ⑤ Found #4 rebar with plastic cap, PLS 7242 N59°38'17"E 0.44' from lot corner
    - ⑥ Found #4 rebar with plastic cap, PLS 22098
  - ⊙ ZONED HIGH INTENSITY COMMERCIAL DISTRICT.
  - ⊙ ZONED LIGHT INDUSTRIAL DISTRICT.
- REC.# RECEPTION NUMBER

4. Line Table:
- |    |                   |         |
|----|-------------------|---------|
| L1 | N08°14'55"E       | 13.71'  |
|    | (REC. N08°14'55"E | 12.16') |
| L2 | N19°18'24"E       | 42.63'  |
| L3 | N34°15'00"E       | 43.61'  |
| L4 | N41°21'26"E       | 20.79'  |
| L5 | N89°58'55"E       | 35.74'  |
5. This site is in Zone C, areas of minimal flooding according to Flood Insurance Rate Map, Community Panel Number 080266 0638 C.
6. The property is in City of Evans Zone C-3, High Intensity Commercial District, and Zone I-1, Light Industrial District, as shown hereon.
7. Municipal Code Setback and Height restrictions for C-3 Zone District:
- |             |          |
|-------------|----------|
| Front       | 25 feet  |
| Side        | N/A      |
| Street Side | 25 feet  |
| Rear        | N/A      |
| Height      | UBC Code |
- Municipal Code Setback and Height restrictions for I-1 Zone District:
- |             |  |
|-------------|--|
| Front       | 25 feet  |
| Side        | 30 feet from adjacent residentially zoned properties |
| Street Side | 25 feet  |
| Rear        | 30 feet from adjacent residentially zoned properties |
| Height      | UBC Code   |
8. The property described in Schedule A contains 616,304 square feet or 14.15 acres.
9. Areas of concern:

**DESCRIPTION FROM SCHEDULE "A" OF WELD COUNTY TITLE INSURANCE COMPANY COMMITMENT LX68691**

Lots 1 and 2, Block 1, Lots 1 through 4, Block 2, Lots 1 through 4, Block 3, Outlots A and B, Country Meadows Subdivision, City of Evans, Weld County, Colorado.

**TITLE COMMITMENT NOTES:**

- Weld County Title Insurance Company Commitment LX68691 dated May 13, 2003 was relied upon for record data regarding rights-of-way, easements, and encumbrances in the preparation of this survey.
- The estate or interest in the land described or referred to in this commitment and covered herein is fee simple and title thereto at the effective date hereof vested in R.V. Borchert.
- Responses to Schedule "B" Exceptions
  - Items 1, 2, 4, 5, and 6 are not survey related and are not addressed.
  - The following items from Schedule "B" are shown and noted hereon to the best of my knowledge and belief.

Item 3: Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records.

ITEM 7: Rights of way and easements as now established and used, including but not limited to roads, ditches, pipe lines, power lines, telephone lines, and reservoirs.

ITEM 8: Oil and gas lease between TESA Co. and R.V. Borchert, recorded July 18, 1984 in Book 1037 as Reception No. 1974340, and any interests therein or rights thereunder.

Note: Extension of the above lease as claimed by Affidavit of Production pursuant to CRS 38-42-106, recorded November 2, 1984 in Book 1048 as Reception No. 1987365.

Extended lease that was to expire in the absence of drilling on 10/01/1984 on an additional 95 days.

ITEM 9: Terms, conditions and provisions of assigned Lease as disclosed by Owner's Affidavit by TESA Co., a partnership signed by R. Sam Oldenburg, Partner.

Revision to legal description used in lease agreement referred to in item 8.

ITEM 10: Terms, agreements, provisions, conditions and obligations as contained in Public Improvements Developer's Agreement for City of Evans recorded August 23, 2002 as Reception No. 2980982.

ITEM 11: Easements as shown on plat of subdivision.

- NOTES:**
- Basis of Bearings: The south line of the northeast quarter of Section 30 as, South 89°58'55" West according to the plat of Country Meadows Subdivision, between monuments shown hereon.
  - According to Colorado law you MUST commence any legal action based on any defect in this survey within THREE years after you first discovered such defect. In no event, may any action based upon any defect in this survey be commenced more than TEN years from the date of the certification shown hereon.
  - Conveyed by TESA CO., a Colorado partnership to R.V. Borchert by Warranty Deed dated February 1, 2002, and recorded in the office of the Weld County Clerk and Recorder on February 6, 2002 as reception #2922944.

I, Steven B. Varriano, being a registered professional land surveyor in the state of Colorado hereby certifies to R.V. Borchert, Stephen D. Tebo, and Weld County Title Insurance Company that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys", jointly established and adopted by ALTA, ACSM, and NSPS in 1989, and includes Items 1, 2, 3, 4, 5, and 15 of Table A thereof. Pursuant to the Accuracy Standards as adopted by the ALTA, NSPS, and ACSM and in effect on the date of this certification, the undersigned further certifies that the Positional Uncertainties resulting from the survey measurements made on the survey do not exceed the allowable Positional Tolerance. Furthermore, the undersigned certifies that he has surveyed the property herein described, and that this survey was made on the ground, showing all gaps, gores or overlaps of the property or on the property, as per the record description, and further, that there are no visible encroachments either way across property lines, or visible evidence of potential easements or rights-of-way, except as shown hereon.

Steven B. Varriano  
Professional Land Surveyor  
No. 30126  
01/16/03

CLIENT: R.V. BORCHERT

ALTA/ACSM LAND TITLE SURVEY

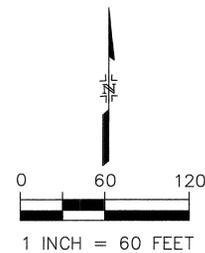
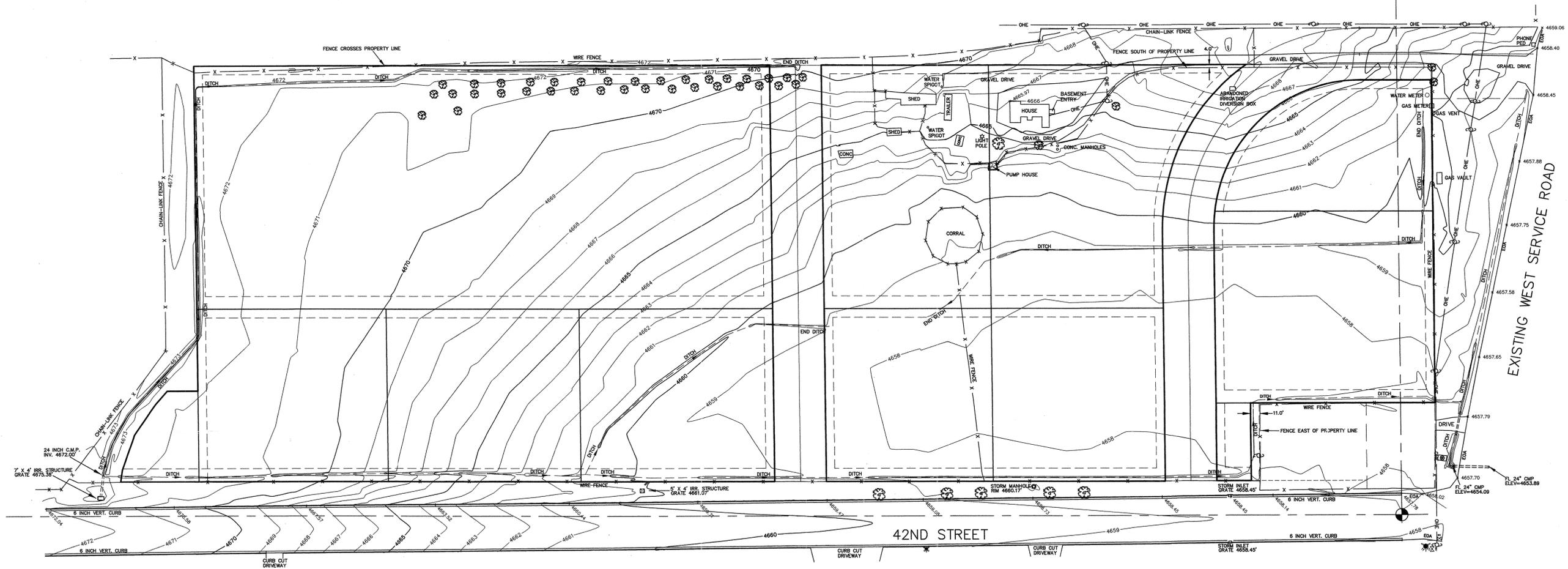
A PORTION OF THE NE1/4 SEC30 AND SW1/4 NW1/4 SEC29, T5N, R65W

DRAWN: SBV DATE: 6/01/03  
CHECKED: SBV DATE: 6/01/03  
REVISION: # DATE: 6/01/03  
JOB NO: 001081

2725 ROCKY MOUNTAIN AVE.  
SUITE 220  
LOVELAND, CO 80538  
(970) 613-1447 TEL  
(970) 613-1897 FAX

TAIT & ASSOCIATES INC.

1 OF 2



- LEGEND:**
- FIRE HYDRANT
  - LIGHT POLE
  - WATER VALVE
  - WATER MANHOLE
  - PHONE PEDESTAL
  - E.O.A. EDGE OF ASPHALT
  - OVERHEAD POWER AND PHONE LINES
  - POWER POLE
  - TREE

**NOTES:**

1. Spot elevations along curb and gutter are at flowline.
2. Bench Mark: NGS bench mark monument S 261 elevation 4653.00, NAVD 88. Found a 3-1/2" Brass Cap stamped USCGS B.M. S 261, located 88 feet south of 39th Street and 34 feet east of railroad tracks.
3. Subsurface utility location is not part of this survey.

NO.	DESCRIPTION	BY	DATE	CHK.

2725 ROCKY MOUNTAIN AVE.  
 SUITE 220  
 LOVELAND, CO 80538  
 (970) 613-1447 TEL  
 (970) 613-1897 FAX



TAIT & ASSOCIATES INC.

CLIENT: R.V. BORCHERT

CLIENT: R.V. BORCHERT

DRAWN: **BBY**  
 DATE: **6/10/08**  
 CHECKED: **BBY**  
 DATE: **6/10/08**  
 REVISION #:  
 DATE:  
 JOB NO.: **00088**

**ALTA/ACSM LAND TITLE SURVEY**  
 A PORTION OF THE NE1/4 SEC30 AND SW1/4 NW1/4 SEC29, T5N, R65W



City of  
**Evans, Colorado**

**MINUTES**  
**EVANS PLANNING COMMISSION**  
Regular Meeting  
August 5, 2013 – 6:00 p.m.

**CALL TO ORDER**

Chairperson Bisel called the meeting to order at 6:06 p.m.

**ROLL CALL**

Present:

Chairman Randall Bisel,  
Vice-Chairman Mark Brothe,  
Commissioner Robert S. Phillips III,  
Commissioner Jerry Numoto,  
Commissioner Conrad Grigson.

Absent: None

**APPROVAL OF MINUTES**

Commissioner Phillips motioned, seconded by Vice Chairman Brothe to approve the, May 9, 2013, Minutes as presented. Motion passed with all voting in favor thereof.

**APPROVAL OF AGENDA**

The Agenda was approved unanimously with no changes.

**AGENDA ITEMS**

- A. Public Hearing – Resolution No xx-2013 - Use by Special Review for Outdoor Storage on property zoned I-2 – 4101 Carson Avenue in Evans Colorado – (Bell Oil Supply)

**PRESENTED BY:** N. Zach Ratkai, Building and Development Manager

**ACTION:** Recommendation to City Council

**CITY COUNCIL DATE:** Tuesday, August 20, 2013

BACKGROUND INFORMATION		
<b>Location:</b>	4101 Carson Avenue	
<b>Applicants:</b>	Todd Bloom, Tebo Development	
<b>Existing Land Use:</b>	Vacant	
<b>Proposed Land Use:</b>	Office/Warehouse with Storage Yard	
<b>Surrounding Land Use:</b>	<b>North</b>	Industrial (McJunkin Redman)
	<b>South</b>	Commercial (Vacant)
	<b>East</b>	Commercial (Vacant)
	<b>West</b>	Industrial (Non-conforming storage yard)
<b>Existing Zoning:</b>	Medium Industrial (I-2)	
<b>Proposed Zoning:</b>	Same	
<b>Surrounding Zoning:</b>	<b>North</b>	I-3
	<b>South</b>	C-3
	<b>East</b>	C-3
	<b>West</b>	I-3
<b>Future Land Use Designation:</b>	Industrial Business Park	

**PROJECT DESCRIPTION:** This is a request from the landowner (Tebo Development), for a Use by Special Review (USR) for outdoor storage to exceed the allowed 20% in the City of Evans Municipal Code. The owner would like to be approved for 68% of the land as outdoor storage.

**RECOMMENDATION:** Recommend **approval** with conditions in order to meet the criteria for the approval of the special use. The Planning Commission held a public hearing on January 8, 2013 and recommended approval with conditions. The condition was for a two year period with an automatic expiration at the end of the two years. Staff is recommending some screening and landscaping as conditions of approval as well.

**ANALYSIS:**

1. **Background:** In the spring of 2013, Tebo Development (land owners) approached the city with the plan to construct an office/warehouse building to serve as the Evans base for Bell Oil Supply. As part of this plan, a site plan was submitted and is currently under administrative review by staff. The zoning for the site limits allowed outdoor storage to 20% of the total site area. The site plan, and intentions for the property, show a storage yard. He is requesting a Use by Special Review approval to allow outdoor storage in excess of that allowed in an I-2 zone – 20% is the allowed amount of outdoor storage, the request is for 68%.
2. **Section 19.04, 19.32 19.44 and 19.48 of the Evans Municipal Code:** Section 19.48 of the Municipal Code addresses accessory uses and in particular outdoor storage. The proposed outdoor storage is over 10% of the property and therefore requires a USR approval in accordance with Section 19.44.

**19.48.055 Outdoor storage.**

Except by approval of a Use by Special Review, granted in accordance with Chapter 19.44 of the Municipal Code, outdoor storage shall only be allowed as an accessory use in the I – Industrial – zoning districts and only in accordance with the following limitations:

A. No more than 10 percent of the area of any lot or parcel in the I-1 – Light Industrial – zoning district may be used for outdoor storage.

**B. No more than 20 percent of the area of any lot or parcel in the I-2 – Medium Industrial – zoning district may be used for outdoor storage.**

C. No more than 30 percent of the area of any lot or parcel in the I-3 – Heavy Industrial – zoning district may be used for outdoor storage.

(Ord. 350-05: Ord. 272-04)

Below are the criteria for approval of a USR per Section **19.44.020**.

**Chapter 19.44**

**Approval of Special Uses**

#### **19.44.020 Criteria for Use by Special Review.**

**A.** All special uses are listed within each zoning district. If a use is proposed that is not defined within the Evans Municipal Code and does not reasonably fall within the definition of any defined use in the Municipal Code, the property owner may apply for use by special review approval in accordance with this chapter.

**B.** Criteria. The following criteria shall be used to evaluate use by special review requests:

- 1. The proposed use is found to be unlikely to harm the health, safety, or welfare of the City or its residents.***

The use could certainly harm the welfare of the City and our residents by eliminating the compatibility with the commercially zoned properties to the south. With heavy industrial use (68% outdoor storage) commercial uses to the south would be limited, which affects the long term financial sustainability of the City.

- 2. The proposed use would benefit the City in terms of employment, tax revenue, or other similar effects, as compared to the absence of the proposed use.***

This type of storage allotment is associated typically with heavy industrial use and is best located in areas of I-3 zoning that are well removed from the public right of way and away from commercial uses. Even in the I-3 zone the code states 30% is the maximum for outdoor storage. In urban areas such as the City of Evans, uses such as outdoor storage should be limited (as the code intended) in order to fulfill the goals of the 2010 Comprehensive Plan and long range planning and sustainability issues.

- 3. The proposed use shall be consistent with the Evans Comprehensive Plan and shall be compatible with the surrounding area.***

The use is NOT consistent with the Evans Comprehensive Plan nor is it compatible with the surrounding area. Much of the surrounding area is developed as industrial, with similar office/warehouse/storage use. The proposal from the applicant is a request to meet a similar standard to existing conditions in the area; however many of these sites are out of compliance. The City is in the process of issuing notices of violation to the remaining land owners in violation of the outdoor storage code.

- 4. The location, size, design, and operating characteristics of the proposed use shall be compatible with the existing and proposed future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity. Reasonable conditions may be placed on uses by special review to protect the public health, safety, and welfare by mitigating impacts.***

The current and future land uses in that site are not compatible with outdoor storage of this intensity on this size of property. It will create a situation/condition that will negatively affect other property owners in the area, especially the commercial properties to the south. Additional screening throughout the perimeter and the requirement for a landscape bufferyard and a different kind of fencing will be required to mitigate impacts.

- 5. The site shall be physically suitable for the type and intensity of the proposed land use.***

The site is physically suitable for outdoor storage, except for the zoning, the compatibility with surrounding uses to the south (commercially zoned) and proximity to the public right of way.

- 6. The proposed land use shall not adversely affect traffic flow and parking in the neighborhood.***

The outdoor storage use proposed would not adversely affect traffic flow and parking in the area.

- 7. The location of other approved uses by special review in the neighborhood shall be determined, in order to avoid an over-concentration of such uses.***

The applicant has pointed out that in the area; there are storage yards in which outdoor covers a substantial area of the property. However, the sites referenced are out of compliance with the Municipal Code. Staff is currently issuing letters of violation in the area to other land owners that may not be aware of the code related to outdoor storage.

In consideration of surrounding uses, currently the approval on 1470 42<sup>nd</sup> Street is for up to 50%, and that was allowed as it could be screened from 42<sup>nd</sup> Street and was a much smaller piece of land, and hence a much smaller impact on the

neighborhood. Most recently, 1461 43<sup>rd</sup> Street to the south of this property was approved to have 60% outdoor storage, with conditions placed on the property for the addition of substantial screening as well as a temporary, revocable time period during which excess storage would be allowed. Those approvals, which will stay for that legal description on that site, will remain in place and anything other would be an over concentration of the outdoor storage use in the area.

**Issues:**

The main concern with the application is the adjacency and compatibility with commercial and other industrial zoning. 42<sup>nd</sup> Street is a major thoroughfare for the City of Evans and therefore compatibility with existing industrial uses and future commercial uses is critical to the future development and sustainability of the City. With 68% of the lot being used for outdoor storage that issue becomes even more important to the long term compatibility issues in the neighborhood.

The precedent set by allowing a Use by Special Review for additional outdoor storage in this I-2 zone at this location could lead to other land owners requesting the same USR for the same reasons (business oriented). That would essentially mean the land in this area would exceed even the highest use allowed in the I-3 zone (currently 30%).

The land sits higher than the adjacent commercial lots along 42<sup>nd</sup> Street and no amount of screening allowed under the code would allow compatibility to exist with other uses in the area. There is no fence or landscaping allowed by the code that could be installed on site to improve the compatibility for 42<sup>nd</sup> Street, the commercial properties to the north, and the Highway 85 corridor to the east.

Additionally, this land is zoned I-2 for a reason. The premise behind appropriate zoning includes the issues of land use. Zoning permits certain uses on land and usually move from the least intense uses to the most intense uses, protecting land and the public from more intense uses by placing that zoning away from areas of commercial, residential, or lower uses land zoning. The land uses should move from least significant impact to higher impact, especially along major arterials and areas of importance to the City.

Other land in the area is zoned either I-1 or C-3 (lowest industrial zoning in our code, highest commercial zoning in our code, which would be compatible uses). This land is visually adjacent to Highway 85, and also adjacent to other I-1 and C-3 sites that comply with the code.

Notice of this public hearing was provided in accordance with Chapter 19.64 and 18.28.125 of the Municipal Code.

## FINDINGS OF FACT AND CONCLUSIONS

After reviewing the Alpha and Omega USR for outdoor storage that exceeds the 10% and a security residence on property located at 1461 43<sup>rd</sup> Street the following findings of fact and conclusions have been determined:

The review criteria in Sections 19.44 of the Evans Municipal Code CAN be appropriately and sufficiently met WITH CONDITIONS. With conditions, approval of this special use would be consistent with the 2010 Comprehensive Plan nor with the surrounding land uses.

## STAFF RECOMMENDATION:

I recommend that the Planning Commission forward a recommendation of **approval with conditions** of the requested USR with the findings and conclusions listed above as well as the following conditions:

1. The approval for excess storage is for a period of five (5) years and will expire on August 20, 2018, this approval period is renewable at time of expiration, and;
2. The approval is contingent upon a landscape buffer of fifteen (15) feet surrounding both the northern and southern sides of the subject property, and a twenty (20) foot landscape buffer on the rear of the property (review to be secured through the site plan process).
3. The approval is contingent upon in installation of a fully opaque, six (6) foot tall cedar privacy fence to screen the storage yard as shown on the preliminary site plan.

Chairman Bisel opened the Public Hearing. Zach Ratkai, Building & Development Manager, presented the facts and findings and asked if there were questions of staff from the Commission. There were none.

Todd Bloom, Director of Development with Tebo Development on behalf of the applicant, approached the podium. Bell Supply is in the industrial plumbing industry. Mr. Bloom presented a landscape plan that would follow what the City is asking. They have signed a 15 year lease with their tenant. He wants condition #1 removed. Brothe is concerned about the cedar fence. Todd is thinking about other materials to use. Brothe said he would like to see a metal fence like others down in that area. Brothe wanted to know who was putting in the street next to the property. Mr. Bloom stated the developer would be putting in the street. Grigson asked about number of employees with Mr. Bloom responding 6 to 10 employees for the site. Phillips wanted to know where the semis would be accessing the property. Brothe asked about the building size, with Mr. Bloom responding 12500 sf. Phillips asked about the possibility of allowing the outdoor storage use for an unlimited time. Ratkai stated the 5 year limitation on the use was standard with other outdoor storage USR's in this area of the

city and that, since USR conditions run with the land, in 5 years the conditions of the USR can be revisited in order to see if the outdoor storage in excess of 20% is still feasible for the site. Bloom no one responded to the 500' mailing.

There were no further questions from the Planning Commission, Chairman Bisel then closed the public hearing.

Brothe said the City needs to leave the 5 year condition in place and he doesn't think they are using the right fencing material for the type of project. Bisel felt a hail storm would destroy the metal fence. Phillips said he thinks the 5 year condition should stay as well. Mark Brothe moved for the forward a recommendation of approval with conditions to the City Council. The motion received a 2<sup>nd</sup> from Robert Phillips. The motion passed unanimously.

The City Council hearing will be Tues, Aug 20 at 7:30pm.

**RECOMMENDED PLANNING COMMISSION MOTION:**

“Mr. Chairman, on the issue of the Bell Oil Supply Use by Special Review for outdoor storage, I move that the Planning Commission forward a recommendation of approval with conditions to the Evans City Council because it meets the criteria outlined in Sections 19.04, 19.32, 19.44 and Section 19.48 of the Municipal Code.”

“Mr. Chairman, on the issue of the Bell Oil Supply Use by Special Review for outdoor storage and a security residence, I move to recommend denial because it does not meet the criteria outlined in Sections 19.04, 19.32, 19.44 and Section 19.48 of the Municipal Code.”

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**AUDIENCE PARTICIPATION:**

There was not any audience participation.

**GENERAL DISCUSSION:**

**Ratkai gave general staff updates. He told of ST moving to ED and Zach over CD. Randy's last meeting. Conrad has BBQ planned Aug 22.**

**ADJOURMENT:**

Chairperson Bisel adjourned the meeting at 6:38 p.m.

CITY OF EVANS, COLORADO

RESOLUTION NO. 30-2013

A RESOLUTION APPROVING A USE BY SPECIAL REVIEW FOR OUTDOOR STORAGE IN EXCESS OF 20% ON THE PROPERTY LOCATED AT 4101 CARSON AVENUE IN EVANS COLORADO – BELL OIL SUPPLY

WHEREAS, the City of Evans has received a request from Bell Supply (Borchert Pointe, LLC) owner, for a Use by Special Review (USR) for outdoor storage; and

WHEREAS, this site location is zoned I-2, Medium Industrial; and

WHEREAS, Section 19.48.055. A of the City of Evans Municipal Code states: “Except by approval of a Use by Special Review, granted in accordance with Chapter 19.44 of the Municipal Code, outdoor storage shall only be allowed as an accessory use in the I – Industrial – zoning districts and only in accordance with the following limitations: A. No more than 20 percent of the area of any lot or parcel in the I-2 – Medium Industrial – zoning district may be used for outdoor storage.”, and

WHEREAS, the proposed use is intended to provide outdoor storage for an existing business for Bell Supply; and

WHEREAS, the Planning Commission conducted a public hearing and recommended approval with conditions of such request at its meeting on August 5, 2013; and

WHEREAS, the City Council conducted a public hearing and has carefully reviewed the request and finds that such use meets the special permit criteria, and that it complies with the purpose of the zoning codes, and otherwise promotes the health, safety, and welfare of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that a special permit is hereby granted to allow outdoor storage that exceeds 20% of the property on the site with the following conditions:

1. The approval for excess storage is for a period of five (5) years and will expire on August 20, 2018, this approval period is renewable at time of expiration. Said renewal is not automatic and must be initiated by the property owner at the time of expiration or if the nature of the land use warrants review of the USR conditions approved herein, and;
2. The approval is contingent upon a landscape buffer of fifteen (15) feet surrounding both the northern and southern sides of the subject property, and a twenty (20) foot landscape buffer on the rear of the property (review to be secured through the site plan process).
3. The approval is contingent upon in installation of a fully opaque, six (6) foot tall cedar privacy fence to screen the storage yard as shown on the preliminary site plan.

The site plan is shown on the attached Exhibit A:

PASSED, SIGNED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 20<sup>th</sup> day of August 2013.

ATTEST:

CITY OF EVANS, COLORADO

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor



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## COUNCIL COMMUNICATION

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**DATE:** September 3, 2013

**AGENDA ITEM:** 9.A

**SUBJECT:** Request for full time position increase

**PRESENTED BY:** Jessica Gonifas, CPA, Deputy City Manager

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### AGENDA ITEM DESCRIPTION:

#### ***Background on Information Technology (“IT”) staffing***

Historically, IT in the City has not had any dedicated staff with the exception of a contracted systems administrator who works for the City about one day per week. The previous City Clerk coordinated the IT efforts and provided some customer support. But, for the most part, IT has essentially been decentralized with the departments handling much of their own IT needs for both purchasing and support.

In 2012, the City developed a five year strategic plan for IT with the goal of providing a framework and set of strategies for the effective utilization and management of information technology throughout the City. One of the areas of focus in the study was staffing and a key recommendation was to create a centralized IT division lead by an IT Manager. This department is now located within Administrative Services and reports to the Deputy City Manager.

#### ***Current staffing situation***

Earlier this year, the management team recommended to the City Council that the IT Manager position be funded in 2013 as a temporary full time position authorized through the end of the current year. At that time, the team felt it was a conservative approach avoiding adding long term fixed costs. After approval by the City Council, staff first searched for a firm to provide this support. We were not able to find a third party that was able to commit this level of resources for a limited period of time. The next attempt to hire for the position was made through the City recruitment process as a direct hire by the City for the temporary position. The City did offer the position to the top candidate who rejected the offer due to not wanting to take a temporary assignment not knowing if it would be extended long term. Finally, an IT Manager was identified through an IT staffing agency. Although the manager worked for a couple of weeks, the fit and technical skill set was not what the City needed. The position is currently vacant. After much discussion, the management team felt the difficulty in hiring the right IT manager for the City was due to the temporary nature of the position and that it was unlikely a person at this level in an organization was going to leave their current long term position for a temporary position.

***Future staffing request***

As was presented in the budget work session on August 27<sup>th</sup>, staff is recommending to fund the IT manager position long term, starting in the 2014 budget.

***Current request***

Due to our difficulty in recruiting for the position as temporary and the fact that the position was going to be recommended as an addition in 2014, we are respectfully requesting you consider approving an increase in the full time equivalents for the long term recruitment of the IT Manager now, rather than waiting until 2014.

Section II.C.a. of the Financial Policies outlines that the City Council will approve: “The number of full time positions and dollar amount for total regular staff”. Hence the reason we are bringing this change forward for your consideration.

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**FINANCIAL SUMMARY:**

If the increase in full time positions is approved, an increase in funding for 2013 is not necessary as the position was previously funded through a budget revision.

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**RECOMMENDATION:**

Staff recommends approval of the request.

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**SUGGESTED MOTIONS:**

*“I move to approve the increase in full time positions in the City’s Information Technology Division by one.”*

*“I move to deny the request to increase the full time positions within the City’s Information Technology Division.”*

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## SEPTEMBER 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	1	2	3	4	5

## OCTOBER 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

## NOVEMBER 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

September	Event	Location	Time
3	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
5	<a href="#">NFRMPO September Meeting</a>	Johnstown	6:00 PM - 8:30 PM
7	<a href="#">EvansFest</a>	Riverside Park	8:00 AM - 2:00 PM
7	Council Photos	Council Chambers	4:30 PM - 6:00 PM
10	City Council Work Session: CIP & AMP Budgets	Evans City Complex	Begins at 6:00 PM
17	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM

October	Event	Location	Time
1	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
3	<a href="#">NFRMPO October Meeting</a>	Loveland Council Chambers 400 E. Third Street	6:00 PM - 8:30 PM
3	<a href="#">CML District 2 Event</a>	Estes Park	4:00 PM - 8:30 PM
15	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
17	Government Agencies Meeting	Aims Community College	Begins at 7:00 AM
26	<a href="#">Drug Take- Back &amp; Shred Event</a>	Evans Sams Club 3247 23rd Avenue	10:00 AM - 2:00 PM

November	Event	Location	Time
5	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
7	<a href="#">NFRMPO November Meeting</a>	Greeley Family Fun Plex 1501 65th Ave.	6:00 PM - 8:30 PM
11	Veterans Day	City Offices Closed	
19	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
28	Thanksgiving	City Offices Closed	