



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
March 18, 2014 - 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 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. PROCLAMATIONS

- A. Americanism Day Proclamation
- B. National Flood Awareness Week Proclamation
 - i. City Flood Video
 - ii. Recognition of Judy and Seth Johnston

5. APPOINTMENTS

- A. Flood Task Force Appointments

6. 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!

7. APPROVAL OF AGENDA

8. CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of March 4, 2014
- B. Ordinance No. 589-14 – Changes to Evans Municipal Code Concerning City Animal Code (2nd Reading)

9. NEW BUSINESS

- A. Public Hearing – Resolution No. 09-2014 – Revoking a Use by Special Review to Allow Outdoor Storage at 4650 Industrial Parkway, Evans, Colorado (DeJohn Outdoor Storage)
- B. Resolution No. 12-2014 – A Resolution of the City Council of The City of Evans, Colorado, Authorizing the Acquisition of Certain Real Property for Recreation and Stormwater Control Purposes and Authorizing the City Manager to Negotiate the Acquisition of Said Property and Authorizing the Exercise of the City’s Power of Eminent Domain if Negotiations are Unsuccessful

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.”

PROCLAMATION

PROCLAIMING MARCH 23, 2014 AS "AMERICANISM DAY" IN THE CITY OF EVANS, COLORADO

WHEREAS, in this time and throughout our history, the American Republic has found strength in its citizens' loyalty to the great national principles and ideals upon which this country was founded; and

WHEREAS, everyday Americans at home and abroad bear witness to their national allegiance by extending deep devotion and sacrifice, some even at the cost of their lives; and

WHEREAS, the continuing threat of terrorism on this great Nation has only helped to unite and strengthen America, making Americans more determined, more generous, and proud to meet the challenges we face in defending our freedom; and

WHEREAS, all loyal citizens should stand up and be proud that we are Americans and should make it clearly known to all that our democracy will long endure; and

WHEREAS, it is fitting that we set aside one day in the year when every citizen may pause to reflect on his debt to the devotion of other Americans, and to bear witness in every appropriate way to his own Americanism.

NOW THEREFORE, I, Lyle Achziger, Mayor of the City of Evans do hereby proclaim March 23, 2014 as Americanism Day in the City of Evans.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Evans this 18th day of March, 2014.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

By _____
Mayor



City of
Evans, Colorado

Proclamation

WHEREAS, major flooding conditions can cause loss of human life and significant damage to public and private property, distribution of public services; and

WHEREAS, The City of Evans, Colorado, at least in part, exists within an identified floodplain; and

WHEREAS, the total damage to City of Evans public property from the September 2013 flooding is in excess of \$12,000,000; and

WHEREAS, we can reduce risk and help make our communities more damage resistant by providing information to residents and property owners about actions they can take to prepare for floods; and

WHEREAS, the key to understanding the dangers of flooding is through education, awareness, and preparedness; and

NOW, THEREFORE, I, Lyle Achziger, Mayor of the City of Evans, Colorado, do hereby recognize the week of March 16-22, 2014 as:

Flood Preparedness Week

in this great city. We encourage all residents living, working or traveling through flood-prone areas to join us in developing a flood preparedness plan for themselves, their families, their neighbors, and their friends.

ATTEST:

By _____
Raegan Robb, City Clerk

CITY OF EVANS:

By _____
Lyle Achziger, Mayor

COUNCIL COMMUNICATION

DATE: March 18, 2014

AGENDA ITEM: 5.A

SUBJECT: Appointment of Additional Evans Flood Recovery and Redevelopment Task Force Members

PRESENTED BY: Sheryl Trent, Economic Development Director

AGENDA ITEM DESCRIPTION:

The City of Evans has begun a program to transform the flooded area of east Evans, known as Historic Evans. This is a twelve to eighteen month project with a target of adopting a new Master Plan for that area in the spring of 2015. In November of 2013 the City Council approved Resolution No. 39 – 2013 which set forth the nature of the Task Force, their working goals and guidelines for the project.

Past experience with the use of a community task force, specifically the Fire District Task Force has provided great success in cooperation and collaboration for the betterment of the City of Evans. The same approach is to be used for the recovery and redevelopment of the flooded area of east Evans. The objectives of the Evans Flood Recovery and Redevelopment Task Force will be to:

1. Identify, gather and evaluate such data and information as are necessary and appropriate to draft a plan for flood recovery and redevelopment in the historic old town area.
2. Create and maintain a strong relationship with impacted stakeholders and insure that stakeholder voices are heard in the development of a flood recovery and redevelopment plan.
3. Assist staff in the recruitment, selection and evaluation of consultants as well as integration of consultant work into the final draft plan.
4. Focus on preventing similar flood damage to the historic old town area with the paramount goal of reducing the threat of flooding and related health and safety risks to residents and business.
5. Create a long-term vision of a vibrant and sustainable historic old town.
6. Communicate with the residents and businesses in the historic old town area, City Council, the Evans community in general and other stakeholders through state-of-the-art communications strategies.
7. Make recommendations to the City Council regarding the legal, financial, operational and organizational options for the draft plan.
8. Produce a proposed plan by mid-2015 for City Council consideration including changes to land use plans, the Evans Municipal Code and other regulatory plans and documents.

Staff has used several methods to gain interest in the Task Force. We have:

- 1) Mentioned it at every flood meeting
- 2) Posted the opening on our web page
- 3) Asked the Greeley Tribune to issue information
- 4) Requested the Evans Area Chamber of Commerce to release the information to their members; and
- 5) Requested the Greeley Area Chamber of Commerce to release the information to their members.

Since the January 7, 2014 appointment of 10 task force members, staff has collected more applications for interested individuals. Based on the applications received, staff is recommending the appointment of the following individuals to the task force. The individual's applications have been attached.

- Gail Ford – Long Time Evans Resident
- Eddie Maxwell – Evans/Greeley Resident, and local business owner

FINANCIAL SUMMARY:

While the Task Force as a body will not have a budget, the City's budget for the overall Master Planning process is attached for your review. The Council recently approved the administrative staff function that will support this Task Force and a grant application has been filed by DOLA.

Estimated costs and preliminary proposed budget

	2014	2015	Total
Staff (full time temporary admin assistant)	\$44,000	\$22,000	\$66,000
Consultant	\$200,000	\$50,000	\$250,000
Project support	\$5,000	\$2,000	\$7,000
River Corridor Study	\$40,000	0	\$40,000
Total	\$289,000	\$74,000	\$363,000

RECOMMENDATION:

Staff would recommend appointment of the members as listed.

SUGGESTED MOTIONS:

“Mr. Mayor, I move to appoint Gail Ford and Eddie Maxwell as the newest members of the Flood Recovery Task Force”

To: The Honorable Mayor and
City Council Members
1100 37th Street
Evans, CO 80620-2036

Appointment To
Evans Flood Recovery
Task Force

Name: Eddie Maxwell / Happy Life Gardens

Address: 2000 37th St.

Phone No.: (Home) _____ (Cell) 970-888-0107 (Work) 970-330-9530

How long have you resided in the City of Evans? 1 year (plus 3 yrs 2008-2011)

If you are not appointed to the Flood Recovery Task Force, would you consider appointment to another Board or Commission? Yes No If so, which one or ones?

Flood Recovery Taskforce

Water & Sewer Board

Planning Commission

Zoning Board of Appeals

Senior Advisory Board

Economic Development Advisory Council

Parks & Recreation Commission

Tell us briefly about yourself, why you are interested in being appointed to this vacancy, and what specific talents or expertise you would bring to the City Council if appointed?

I have been a resident of Northern Colorado my whole life and
have lived in the Evans/Greeley area for 8 years. My wife and
I purchased Happy Life Gardens last year. I feel that as a small
business owner in Evans I have a responsibility to the community to

assist in any way possible. I believe my experience in planning, organizing
and landscaping would prove useful to the Task Force. I appreciate your consideration.


Signature

3/5/14
Date

To: The Honorable Mayor and
City Council Members
1100 37th Street
Evans, CO 80620-2036

**Appointment To
Evans Flood Recovery
Task Force**

Name: Gail Ford

Address: 3927 Empire Street, Evans, CO 80620

Phone No.: (Home)_____ (Cell) 970-381-8827 (Work)_____

How long have you resided in the City of Evans? 64 years

If you are not appointed to the Flood Recovery Task Force, would you consider appointment to another Board or Commission? Yes No If so, which one or ones? No

Tell us briefly about yourself, why you are interested in being appointed to this vacancy, and what specific talents or expertise you would bring to the City Council if appointed?

My family has lived in Evans since the early 1900's. My Great-grandfather was the shoe maker in town and his wife cooked for the railroad men who worked here. His son, my Grandfather became the Town Clerk and his wife, my Grandmother took over the position after his death. He also started and Evans Fire Department and built the truck himself. Also he spearheaded the community's schools seeing to it that Evans had its own high school. My mother was the Evans Postmaster and my father a two term Major and a business owner and major developer in the area. I myself have owned businesses in Evans for many years.

I attended Evans High School graduating from Greeley West High School when our school was merged. I have a B.A. degree from the University of Northern Colorado and enjoy being creative and

business minded, serving in the past as a board member of the Evans Chamber of Commerce. I am concerned about the future of the east side of the City and the restoration after the September flood.

My biggest asset would be knowledge of the past floods and their aftermath and the desire to see the City of Evans and especially the east side to become a respected and forward thinking community with the betterment of its citizens in mind.

Signature:

A handwritten signature in cursive script, appearing to read "Gail Ford". The signature is written in black ink and is positioned to the right of the word "Signature:".

Date: March 3, 2014

COUNCIL COMMUNICATION

DATE: March 18, 2014

AGENDA ITEM: 8.A

SUBJECT: Approval of the Minutes of March 4, 2014 City Council Meeting

PRESENTED BY: City Clerk

AGENDA ITEM DESCRIPTION:

Approval of minutes.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

N/A

SUGGESTED MOTIONS:

"I move to approve the minutes as presented."

AGENDA
Regular Meeting
March 4, 2014 - 7:30 p.m.

CALL TO ORDER

The meeting was called to order at 7:30 p.m.

PLEDGE

ROLL CALL

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

Absent: Mayor Achziger, and Council Member Neibauer

APPOINTMENT

A. Flood Task Force Appointment

Mayor Pro-Tem Morris discussed the recommendation to add Jason Boren to the Flood Task Force. Mr. Boren was not present to receive his certificate.

Council Member Rudy made the motion, seconded by Council Member Schaffer, to appoint Jason Boren to the Evans Flood Task Force. The motion passed with all voting in favor thereof.

AUDIENCE PARTICIPATION

There was no audience participation.

APPROVAL OF AGENDA

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

CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of February 18, 2014
- B. Ordinance No.587-14 – Revoking Moratorium on Building in the Flood Affected Area (2nd Reading)
- C. Ordinance No.588-14 – Affirmation of Ordinances (2nd Reading)

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

NEW BUSINESS

- A. **Public Hearing – Resolution No.09-2014 – Revoking a Use by Special Review to Allow Outdoor Storage at 4650 Industrial Parkway, Evans, Colorado (DeJohn Outdoor Storage)**

At 7:36 p.m. Mayor Pro-Tem Morris opened the public hearing.

Zach Ratkai, Evans Building and Development Manager, addressed City Council and explained why the hearing for Resolution 09-2014 needed to be continued until the following City Council meeting on March 18, 2014.

Council Member Schaffer made the motion, seconded by Council Member Rudy, to continue the public hearing for Resolution 09-2014 until March 18, 2014. The motion passed with all voting in favor thereof.

B. Ordinance No. 589-14 – Changes to Evans Municipal Code Concerning City Animal Code (1st Reading)

Commander Jason Phipps, Evans Police Department, presented the Ordinance explaining that it was in response to recent cases in the City of Evans where dogs with no pre-existing tendency or disposition for biting were deemed to be a vicious animals, according to the current definition in City Code. He explained that an animal deemed vicious must be removed from the City or must be confined, leashed and muzzled, and owners are required to post a sign on their property and carry insurance.

The proposed definition provides that an animal which bites or attacks without provocation *may* be deemed to be vicious rather than mandating that result. A lesser animal bite may still be deemed to be a public nuisance under Section 6.04.140.

Mayor Pro-Tem Morris asked Commander Phipps if police officers receive training for handling vicious animals.

Commander Phipps explained that the Evans police officers do receive training on handling vicious animals.

Mayor-Pro Tem Morris explained his support for the change in City Code and asked for a motion on the Ordinance.

Council Member Rudy made the motion, seconded by Council Member Schaffer, to adopt Ordinance 589-14 on first reading. The motion passed with all voting in favor thereof.

C. Ordinance No. 590-14 – Regarding Whether Certain Amendments to the Home Rule Charter of the City of Evans, Colorado Should be Submitted to

the Registered Electors (1st Reading)

Raegan Robb, Evans City Clerk, explained that the Ordinance was being considered by City Council in order to delay the charter amendments adopted by 586-14. He explained that delaying the charter amendments to a subsequent election would fulfill the requirements under Section 1.14.030 of the Evans Municipal Code and allow the City Council to cancel the municipal election “if the only matter before the voters is the election of persons to office and if, at the close of business on the fortieth day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent.”

Council Member Schaffer made the motion, seconded by Council Member Brown, to adopt Ordinance 590-14. The motion passed with all voting in favor thereof.

D. Resolution No.10-2014 – Determining the Basis for Cancellation of the April 8, 2014 Election, and Declaring the Unopposed Candidates Elected

Raegan Robb, Evans City Clerk, explained that the Resolution was being considered by City Council to cancel the municipal election scheduled for April 8, 2014 and declare the unopposed candidates elected.

Mr. Robb discussed the election deadlines under Section 1.14.010 and Section 1.14.020 of the Evans Municipal Code and stated that there were no more candidates than City Council seats open for the April 8, 2014 election. Mr. Robb explained that Section 1.14.030 of the City Code allows the cancellation of the municipal election by Resolution.

Council Member Schaffer made the motion, seconded by Council Member Clark, to adopt Resolution 10-2014. The motion passed with all voting in favor thereof.

E. Resolution No.11-2014 – Supporting a Grant Application from the Great Outdoor Colorado Trust Fund

Sheryl Trent, Evans Community and Economic Development Director, addressed City Council and explained that the Resolution would authorize staff to submit a grant request for \$75,000 from Great Outdoors Colorado (GOCO) to conduct an update to the City’s current Parks Master Plan for a feasibility and planning study.

Ms. Trent discussed the need to revise the City’s Parks Master Plan due to the destruction to Riverside Park during the 2013 Evans Flood. She explained that the City intends to conduct a needs survey determine the wants and needs of the citizens for a park/recreational system. Once the needs are assessed for recreation in the

City, staff will determine if those needs can be met and where those components should be located.

Ms. Trent explained that the grant match was going to increase from \$10,000 to a \$25,000 match from the City, which will come from the City's Park Impact Fee Fund.

Council Member Schaffer asked about the need to increase the amount of match funding to \$25,000.

Ms. Trent explained that the match needed to be increased to strengthen the grant request.

Mayor Pro-Tem asked if the City's match funding would be reimburse by the Federal Emergency Management Agency (FEMA).

Ms. Trent explained that the match amount would not be reimbursable, but she and Brian Stone, City Recreation Director, discussed how the mitigation funds from FEMA are planned to be used for the City's property and equipment that were damaged by the flood.

Council Member Schaffer asked about the timeline for the feasibility study following the receipt of grant funds.

Ms. Trent and Mr. Stone discussed the timeline and need for the feasibility study, funded by the grant, to determine the future of parks and recreation in the City of Evans.

Council Member Brown made the motion, seconded by Council Member Schaffer, to adopt Resolution 11-2014, with the amended match funding from the City to \$25,000. The motion passed with all voting in favor thereof.

REPORTS

A. City Manager

Aden Hogan distributed the City Manager's Monitoring Report and discussed the upcoming plans for National Flood Preparedness Week, beginning March 16th, and mentioned all of the events that are planned for that week.

B. City Attorney

Nathan Krob, City Attorney, did not report on any issues.

AUDIENCE PARTICIPATION

There was no audience participation.

EXECUTIVE SESSION

- A. Conference with legal counsel to receive legal advice on specific legal questions pursuant to C.R.S. 24-6-402(4)(b).

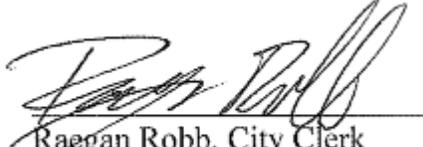
Council Member Rudy made the motion, seconded by Council Member Schaffer, to adjourn into Executive Session. The motion passed with all voting in favor thereof.

The Executive Session concluded at 8:49 p.m.

Nathan Krob, City Attorney, noted for the record that the contents of the Executive Session were subject to attorney-client privileges and within the scope of the state statutes cited.

ADJOURNMENT

The regular meeting adjourned at 8:50 p.m.


Raegan Robb, City Clerk

COUNCIL COMMUNICATION

DATE: March 18, 2014

AGENDA ITEM: 8.B

SUBJECT: Ordinance No.589-14 Concerning Changes to the Evans Municipal Code Concerning the Animal Code

PRESENTED BY: Rick Brandt, Evans Police Chief

AGENDA ITEM DESCRIPTION:

Evans Municipal Code Section 6.04.010(U) broadly defines public nuisances related to animals. Section 6.04.140, prohibiting such public nuisances, redefines the nuisances in a more limited manner than the definition contained in Section 6.04.010(U). To provide consistency in the definitions and to be able to capture all the circumstances referenced in Section 6.04.010(U), it is recommended that Section 6.04.140 be amended.

In addition, Evans Municipal Code Section 6.04.180 defines a vicious animal as an animal which, without provocation, bites or attacks a human being or a domestic animal. The definition is very broad and captures any circumstance in which a dog may bite or nick a human being or another animal. Once deemed to be a vicious animal, the animal must be removed from the City or must be confined, leashed and muzzled. The owner of the animal is required to post a sign and carry insurance.

There are circumstances wherein a domestic animal, which does not have a pre-existing propensity, tendency or disposition to act viciously, bites a human being or domestic animal in a manner that would not give rise to the strict requirements applicable to vicious animals. For example, an animal, in a playful minor, may puncture a person's skin and it would not necessarily be reasonable, by that fact alone, to require the animal to be removed from the City. The proposed amended definition provides that an animal which bites or attacks without provocation *may* be deemed to be vicious rather than mandating that result. A lesser animal bite may still be deemed to be a public nuisance under Section 6.04.140.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

Staff recommends that the City Council approve Ordinance No.589-14 concerning changes to the Evans Municipal Code to amend nuisance and animal prohibitions defined under Vicious Animal.

SUGGESTED MOTIONS:

"I move to approve Ordinance No.589-14 on second reading."

"I move to deny Ordinance No.589-14 on second reading."

6.04.010 Definitions.

Z. "Vicious animal" means:

1. Any animal that constitutes a threat to the well being or safety of human beings or other animals. Without limitation, an animal may be deemed to constitute a threat if such animal, without provocation, attacks or bites a human being or other animal; or
2. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
3. Any animal which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by Section 6.04.180(F) – (I); or
4. Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting.-

6.04.140 Nuisance animals designated.

A. ~~Public nuisances, as defined in Section 6.04.010(U), are prohibited. Any animal that menaces or attacks persons, vehicles or other animals, goes upon school premises without the permission of the person in charge thereof, damages, destroys or injures any shrubbery, plants, flowers, lawn, fence, or other property, either private or public, or is at large, is declared to be a public nuisance, and T~~the owner, ~~keeper, or harborer or possessor of,~~ any animal that causes a public nuisance shall be in violation of this Section and shall be deemed responsible for the actions of the animal.

B. Areas in which animals are kept shall be maintained in a manner which does not create odors, dust, noise or drainage offensive to the senses of smell, hearing, or sight, thereby constituting a hazard or nuisance to the use or enjoyment of adjoining properties.

6.04.180 Vicious animals.

A. ~~"Vicious animal" means:~~

1. ~~Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or~~
2. ~~Any animal which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance; or~~
3. ~~Any animal which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or~~
4. ~~Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting; or~~

~~B.~~ No person shall own, keep, harbor or possess any vicious animal in the city except as provided in F. through I. of this Section.

~~B.;~~ ~~provided, however, that a~~ An animal shall not be deemed to be a vicious animal because it has attacked or bitten any of the following persons:

1. Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept; or
2. Any person engaged in the unlawful entry into the animal owner's automobile or other vehicle wherein such animal is confined; or
3. Any person engaged in attempting to stop a fight between such animal and another animal; or
4. Any person engaged in attempting to aid such animal when it is injured.

C. For the purpose of this section, a person is lawfully upon the private property of such owner when he is on the property in the performance of any duty imposed upon him by the laws of this state or city, or the law or postal regulations of the United States, or when he is on such property at the invitation, expressed or implied, of the owner thereof.

D. It is the duty of the code enforcement officer, police officer, or other designated officer of the city, to investigate all complaints concerning vicious or dangerous animals. ~~After such investigation, the officer shall determine whether such animal is vicious or dangerous.~~

E. If the code enforcement officer, or any such police officer of the city, deems an animal to be vicious, he may issue a written warning to the owner of such animal, stating his determination that such animal is vicious, and shall request the owner to comply with requirements F. through

I. of this Section for vicious animals; and he may cause charges to be filed in municipal court against the owner, alleging the vicious propensities of such animal.

F. Confinement. The owner, keeper, harbinger or possessor of a vicious animal shall not suffer or permit the animal to go unconfined. Except as provided in G. of this Section, A vicious animal is "unconfined" if the animal is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the animal. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

G. Leash and Muzzle. The owner, keeper, harbinger or possessor of a vicious animal shall not suffer or permit the animal to go beyond the premises of the owner unless the animal is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any human or other animal.

H. Signs. The owner, keeper, harbinger or possessor of a vicious animal shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious animal on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

I. Insurance. Owners of a vicious animal must provide proof to the city clerk of public liability insurance in the amount of at least \$100,000.00, insuring the owner for any personal injuries inflicted by his or her vicious animal. (Ord. 703 88: Ord. 549 82: prior code §7.04.070)

6.04.010 Definitions.

Z. "Vicious animal" means:

1. Any animal that constitutes a threat to the well being or safety of human beings or other animals. Without limitation, an animal may be deemed to constitute a threat if such animal, without provocation, attacks or bites a human being or other animal; or
2. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
3. Any animal which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by Section 6.04.180(F) – (I); or
4. Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting.

6.04.140 Nuisance animals designated.

A. Public nuisances, as defined in Section 6.04.010(U), are prohibited. The owner, keeper, harbinger or possessor of any animal that causes a public nuisance shall be in violation of this Section and shall be deemed responsible for the actions of the animal.

B. Areas in which animals are kept shall be maintained in a manner which does not create odors, dust, noise or drainage offensive to the senses of smell, hearing, or sight, thereby constituting a hazard or nuisance to the use or enjoyment of adjoining properties.

6.04.180 Vicious animals.

A. No person shall own, keep, harbor or possess any vicious animal in the city except as provided in F. through I. of this Section.

B. An animal shall not be deemed to be a vicious animal because it has attacked or bitten any of the following persons:

1. Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept; or
2. Any person engaged in the unlawful entry into the animal owner's automobile or other vehicle wherein such animal is confined; or
3. Any person engaged in attempting to stop a fight between such animal and another animal; or
4. Any person engaged in attempting to aid such animal when it is injured.

C. For the purpose of this section, a person is lawfully upon the private property of such owner when he is on the property in the performance of any duty imposed upon him by the laws of this state or city, or the law or postal regulations of the United States, or when he is on such property at the invitation, expressed or implied, of the owner thereof.

D. It is the duty of the code enforcement officer, police officer, or other designated officer of the city, to investigate all complaints concerning vicious or dangerous animals.

E. If the code enforcement officer, or any such police officer of the city, deems an animal to be vicious, he may issue a written warning to the owner of such animal, stating his determination that such animal is vicious, and shall request the owner to comply with requirements F. through I. of this Section for vicious animals; and he may cause charges to be filed in municipal court against the owner, alleging the vicious propensities of such animal.

F. Confinement. The owner, keeper, harbinger or possessor of a vicious animal shall not suffer or permit the animal to go unconfined. Except as provided in G. of this Section, a vicious animal is "unconfined" if the animal is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the animal. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

G. Leash and Muzzle. The owner, keeper, harbinger or possessor of a vicious animal shall not suffer or permit the animal to go beyond the premises of the owner unless the animal is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any human or other animal.

H. Signs. The owner, keeper, harbinger or possessor of a vicious animal shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious animal on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

I. Insurance. Owners of a vicious animal must provide proof to the city clerk of public liability insurance in the amount of at least \$100,000.00, insuring the owner for any personal injuries inflicted by his or her vicious animal. (Ord. 703 88; Ord. 549 82; prior code §7.04.070)

CITY OF EVANS, COLORADO

ORDINANCE NO. 589-14

AN ORDINANCE AMENDING SECTIONS 6.04.010 PARAGRAPH Z, 6.04.140
PARAGRAPH A AND 6.04.180 OF THE EVANS MUNICIPAL CODE
CONCERNING ANIMAL NUISANCE AND VICIOUS ANIMAL

WHEREAS, Evans Municipal Code Section 6.04.010(U) broadly defines public nuisances related to animals; and

WHEREAS, Evans Municipal Code Section 6.04.140, prohibiting public nuisances related to animals, redefines such public nuisances in a more limited manner than the definition contained in Section 6.04.010(U); and

WHEREAS, Evans Municipal Code Section 6.04.180(A)(3) defines a vicious animal as an animal which, without provocation, bites or attacks a human being or a domestic animal; and

WHEREAS, Evans Municipal Code Section 6.04.180(B) provides that persons shall not own, keep, harbor or possess vicious animals in the City of Evans, and Sections 6.04.180(F) - (I) provide that vicious animals must be confined, leashed and muzzled and that the owners of such animals must post a sign and carry insurance; and

WHEREAS, the City of Evans recognizes that there are circumstances wherein a domestic animal, which does not have a pre-existing propensity, tendency or disposition to act viciously, bites a human being or domestic animal in a manner that would not give rise to the requirements contained in Evans Municipal Code Sections 6.04.180(B) or (F) – (I); and

WHEREAS, the City of Evans deems it proper to amend the Evans Municipal Code to provide consistency with respect to the definition of public nuisances related to animals and to provide discretion in determining whether an animal which bites or attacks a human being or domestic animal should be deemed to be a vicious animal; and

WHEREAS, it is in the best interest of the City of Evans to adopt the following amendments and revisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, AS FOLLOWS:

Section 1. Section 6.04.010 Paragraph A of the Evans Municipal Code shall be amended to read as follows:

Section 6.04.010 Definitions.

Z. “Vicious animal” means:

1. Any animal that constitutes a threat to the well being or safety of human beings or other animals. Without limitation, an animal may be deemed to constitute a threat if such animal, without provocation, attacks or bites a human being or domestic animal; or
2. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
3. Any animal which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by Section 6.04.180(F) – (I); or
4. Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting.

Section 2. Section 6.04.140 Paragraph A of the Evans Municipal Code shall be amended to read as follows:

Section 6.04.140 Nuisance Animals Designated.

A. Public nuisances, as defined in Section 6.04.010(U), are prohibited. The owner, keeper, harborer or possessor of any animal that causes a public nuisance shall be in violation of this Section and shall be deemed responsible for the actions of the animal.

Section 3. Section 6.04.180 of the Evans Municipal Code shall be amended to read as follows:

6.04.180 Vicious Animal.

- A. No person shall own, keep, harbor or possess any vicious animal in the city except as provided in (F) through (I) of this Section.
- B. An animal shall not be deemed to be a vicious animal because it has attacked or bitten any of the following persons:
 1. Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept; or
 2. Any person engaged in the unlawful entry into the animal owner's automobile or other vehicle wherein such animal is confined; or
 3. Any person engaged in attempting to stop a fight between such animal and another animal; or
 4. Any person engaged in attempting to aid such animal when it is injured.
- C. For the purpose of this section, a person is lawfully upon the private property of such owner when he is on the property in the performance of any duty imposed upon him by the laws of this state or city, or the law or postal regulations of the United States, or when he is on such property at the invitation, expressed or implied, of the owner thereof.
- D. It is the duty of the code enforcement officer, police officer, or other designated

officer of the city, to investigate all complaints concerning vicious or dangerous animals.
E. If the code enforcement officer, or any such police officer of the city, deems an animal to be vicious, he may issue a written warning to the owner of such animal, stating his determination that such animal is vicious, and shall request the owner to comply with requirements (F) through (I) of this Section for vicious animals; and he may cause charges to be filed in municipal court against the owner, alleging the vicious propensities of such animal.

F. Confinement. Except as provided in (G) of this Section, the owner, keeper, harbinger or possessor of a vicious animal shall not permit the animal to go unconfined. A vicious animal is "unconfined" if the animal is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the animal. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

G. Leash and Muzzle. The owner, keeper, harbinger or possessor of a vicious animal shall not permit the animal to go beyond the premises of the owner unless the animal is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any human or other animal.

H. Signs. The owner, keeper, harbinger or possessor of a vicious animal shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious animal on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

I. Insurance. Owners of a vicious animal must provide proof to the city clerk of public liability insurance in the amount of at least \$100,000.00, insuring the owner for any personal injuries inflicted or that may be inflicted by his or her vicious animal.

Section 4. Publication and Effective Date: This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 4th day of March, 2014.

CITY OF EVANS, COLORADO

By: _____
Mayor Pro-Tem

ATTEST:

City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 18th day of March, 2014.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

**CITY COUNCIL
INFORMATION SHEET**

AGENDA ITEM

DATE: March 18, 2014

AGENDA ITEM: 9.A

SUBJECT: Public Hearing – RESOLUTION NO. 09-2014 - REVOKING A USE BY SPECIAL REVIEW TO ALLOW OUTDOOR STORAGE AT 4650 INDUSTRIAL PARKWAY, EVANS, COLORADO (DEJOHN OUTDOOR STORAGE)

PRESENTED BY: Sheryl Trent, Economic Development Director

BACKGROUND INFORMATION		
Location:	4650 Industrial Parkway	
Applicants:	Gary DeJohn, Owner	
Existing Land Use:	Vacant Land, Illegal Storage	
Proposed Land Use:	Short Term Outdoor Storage	
Surrounding Land Use:	North	Industrial Building
	South	Brantner Road, Vacant Land, South Platte River
	East	Industrial
	West	Industrial
Existing Zoning:	Light Industrial (I-1)	
Proposed Zoning:	Same	
Surrounding Zoning:	North	I-1
	South	I-1
	East	I-1
	West	I-1
Future Land Use Designation:	Industrial Business Park, River Habitat	

PROJECT DESCRIPTION: The original request, as approved by the City Council, was a request from the landowner (Gary DeJohn), for a Use by Special Review (USR) for outdoor storage to exceed the allowed 10% in the City of Evans Municipal Code. The owner wanted to be approved for 30% of the land as outdoor storage. The owner is under a court agreement, as he has been notified and cited for illegal outdoor storage on the site (in excess of 10% and no primary use on the site). The executed agreement is attached as a part of this packet, and this USR was a requirement of the court in order to satisfy the agreement.

The Planning Commission held a hearing on October 10th and recommended denial of the request because it was unclear. The vote was three and one abstention. Please see the attached Planning Commission minutes for more detail. The City Council approved the USR with conditions as shown in the attached Resolution No. 40 – 2014.

The applicant has not complied with the court order to have the property fenced as of the November 18th date, which was chosen specifically to indicate to the City Council his willingness to comply with City code, regulations, and agreements. More than ninety (90) days after the approval from the City Council, the applicant has NOT complied with the conditions of the approved Use by Special Review, and continues to be in violation of the City Code and the approval from the City Council.

Staff remains concerned regarding his willingness and ability to comply with this approval and the codes as required.

The Planning Commission held a second hearing on the revocation on February xx, 2014 and recommended that the City Council revoke the USR. Please see the attached minutes.

RECOMMENDATION: Recommend **revocation of the USR** as the applicant has not met, and has not indicated he has any intention to meet, the criteria for the approval of the special use and the conditions and set forth by the Council.

ANALYSIS:

- 1. Background:** Mr. DeJohn owns several parcels of land in this area, some of which has structures on the land, most of which do not. The City sent a letter to Mr. DeJohn in November of 2012 indicated the allowed uses for industrial properties and outlining the outdoor storage codes. In summer of 2013 he was notified of the illegal storage on the site and summonsed into court. As a part of that court action, the attached agreement was signed and the USR approval in November of 2013 is a part of that agreement. Mr. DeJohn has not complied with the conditions in the USR approval, not with the court ordered agreement.
- 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.
Below are the applicable sections of City Code related to Outdoor Storage (Section 19.48.055) and Criteria for approval of a USR (Section 19.44.020), with staff comments in red.

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)

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 north. With heavy industrial use (50% outdoor storage) commercial uses to the north 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 heavy industrial use 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 I-1 zoning in the area is built out and meets the 10% standard. 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. As the pictures of the current site show, outdoor storage comprises around 50% + of the land at this time. The photos are indicative of what that land will look like in perpetuity if the USR is approved. 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 north. There is no way to mitigate the impact of the lack of compatibility – no fence can be constructed that is high enough, no landscaping can be installed on site that would screen the outdoor storage from the public right of way.

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 and proximity to the public right of way, the other land uses in the area, and Highway 85.**
6. The proposed land use shall not adversely affect traffic flow and parking in the neighborhood. **The outdoor storage use 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. **As mentioned prior in the report, 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. Currently the approval on 1470 42nd Street is for up to 50%, and that was allowed as it could be screened from 42nd Street and was a much smaller piece of land, and hence a much smaller impact on the neighborhood. That approval, 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.**

3. Issues:

The main concern with the application is the compliance with City Code and compatibility with adjacent light industrial zoning. Mr. DeJohn has not complied with the City Council's conditions in the USR approval, nor has he complied with the Court order. Neither the weather (which would have allowed a fence installation) nor the flood activities precluded compliance.

Additionally, 42nd 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 30% of the lot being used for outdoor storage the issue becomes even more important to the long term compatibility issues in the neighborhood. Many of the surrounding light industrial properties are developed with office structures and outdoor storage, and a negative effect on their property values should be taken into consideration when working with this request.

The precedent set by allowing a Use by Special Review for additional outdoor storage in this I-1 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 away from 42nd Street but on Industrial Parkway and Brantner Road, both of them arterial streets that lead to 49th Avenue. The surrounding properties are coming into compliance with the code with screening, replacement fencing, and other agreements.

Furthermore, this land is zoned I-1 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 I-1 (the lowest industrial zoning in our code). This land is visually adjacent to Highway 85, and also adjacent to other I-1 sites that are coming into compliance 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

With regard to the original approval, after reviewing the Gary DeJohn USR for outdoor storage that exceeds the 10% on property located at 4650 Industrial Parkway 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. Additionally, approval of this special use may be consistent with the 2010 Comprehensive Plan and with the surrounding land uses. The conditions are as follows:

- 1) The property owner will comply with the City of Evans Municipal Code and all lawful regulations related to the property; and
- 2) Outdoor storage shall be limited to an area no more than 30% of the property; and
- 3) Hazardous materials shall not be stored on the property; and
- 4) On or before November 18, 2013 the entire 30% outdoor storage area shall be properly fenced per the Evans Municipal Code with prior approval of the fencing and screening from City staff; and
- 5) If the property is ever subdivided, this approval for outdoor storage shall be limited to one parcel and shall not exceed the 30%.

However, due to the lack of compliance from the applicant, staff is recommending revocation.

STAFF RECOMMENDATION:

Staff recommends **revocation of the approved URS** because the applicant has failed to comply with those conditions, more than ninety (90) days after the approval by the City Council.

RECOMMENDED CITY COUNCIL MOTION:

“Mr. Mayor, on the issue of the Gary DeJohn Use by Special Review for outdoor storage, I move to approve Resolution No. 09-2014.”

“Mr. Mayor, on the issue of the Gary DeJohn Use by Special Review for outdoor storage, I move to deny Resolution No. 09-2014 because _____.”

Chapter 19.32

I-1 LIGHT INDUSTRIAL DISTRICT

Sections:

- 19.32.010 Intent.
- 19.32.020 Permitted uses.
- 19.32.030 Special uses.
- 19.32.030 Property development regulations.

19.32.010 Intent. It is the intent of the City of Evans, when establishing the I-1 district, to provide a district in which light industry and similar uses are located. These uses are to be low-impact and any environmental effects generated must be kept within the buildings where they are produced. Light industry consists of 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. (Ord. 005-00: Ord. 954-95)

19.32.020 Permitted use groups. Permitted use groups in the I-1 district shall be as follows:

- Recreational facilities, intensive;
 - Recreational facilities, outdoor extensive;
 - Recreational vehicle storage;
 - Retail uses, extensive;
 - Retail uses, intensive;
 - Repair shops;
 - Adult business, subject to licensing requirements;
 - Industrial uses facility;
 - Mini storage units;
 - Warehouse;
 - Manufacturing/assembly plant;
 - Flea market;
 - Kennel;
 - Parking lot, off-street;
 - Flammable liquids storage;
 - Mortuary or funeral home;
 - Public service facilities;
 - Accessory use;
 - Research laboratory;
 - Office and financial use;
 - Personal service establishment.
- (Ord. 338-05: Ord. 280-04: Ord. 233-03: Ord. 232-03: Ord. 229-03: Ord. 005-00)

19.32.030 Special uses. Uses permitted pursuant to the terms and conditions of a special use permit as required by Chapter 19.44 are as follows:

- Treatment of humans, restrained;
 - Crematoriums;
 - Recreational facilities, indoor;
 - Recreational vehicle (RV) park/campground;
 - Security residence;
 - Cemetery;
 - Car wash facilities;
 - Vocational schools.
- (Ord. 351-05: Ord. 280-04: Ord. 253-04: Ord. 229-03: Ord. 005-00)

19.32.040 Property development regulations. Please refer to Table 19-32 for the following requirements: setbacks, lot area, open space, and height regulations. (Ord. 005-00)

Table 19-32. Minimum lot requirements for the I-1 zone district					
FRONT	SIDE	STREET SIDE	REAR	LOT	HEIGHT
25'	30' from adjacent residentially zoned properties	25'	30' from adjacent residentially zoned properties	Maximum lot coverage 80%	In accordance with the IBC

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)

CITY OF EVANS, COLORADO

RESOLUTION NO. 40-2013

A RESOLUTION APPROVING A USE BY SPECIAL REVIEW FOR OUTDOOR STORAGE IN EXCESS OF 10% ON THE PROPERTY LOCATED AT 4650 INDUSTRIAL PARKWAY IN EVANS COLORADO – DEJOHN STORAGE

WHEREAS, the City of Evans has received a request from Gary DeJohn owner, for a Use by Special Review (USR) for outdoor storage; and

WHEREAS, this site location is zoned I-1, Light 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 10 percent of the area of any lot or parcel in the I-1 – Light Industrial – zoning district may be used for outdoor storage.", and

WHEREAS, the proposed use is intended to provide outdoor storage for Gary DeJohn; and

WHEREAS, Mr. DeJohn has been issued a violation notice, a citation, and a summons into municipal court, and the municipal court has issued approval of the conditions as attached in the Agreement dated July 18, 2013; and

WHEREAS, the Planning Commission conducted a public hearing and recommended denial of such request at its meeting on October 10, 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 10% of the property (up to 30%) on the site, with the following conditions:

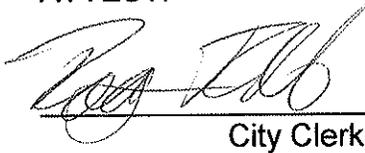
- 1) The property owner will comply with the City of Evans Municipal Code and all lawful regulations related to the property; and
- 2) Outdoor storage shall be limited to an area no more than 30% of the property; and
- 3) Hazardous materials shall not be stored on the property; and
- 4) Any outdoor storage on the site must be removed or fenced within 30 days of the date of passage of this resolution; and
- 5) If there is no outdoor storage as defined by the City of Evans Municipal Code, no fencing will be required; and
- 6) If there is any outdoor storage on the site, fencing must be installed prior to any

- outdoor storage; and
- 7) On or before July 1, 2014 the entire 30% outdoor storage area shall be properly fenced per the Evans Municipal Code; and
 - 8) If the property is ever subdivided, this approval for outdoor storage shall be limited to one parcel and shall not exceed the 30%.

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 19th day of November, 2013.

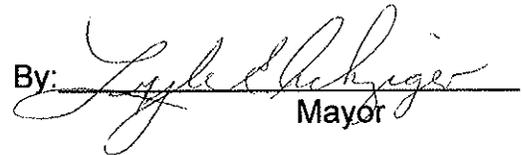
ATTEST:



City Clerk



CITY OF EVANS, COLORADO

By: 

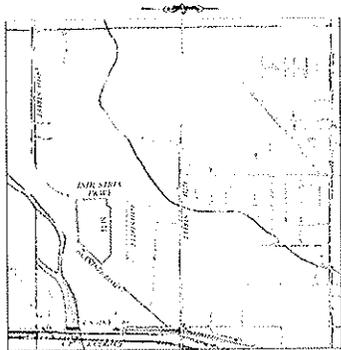
Mayor

EXHIBIT A

LOT 2 OF BLOCK 2 OF FIRST REPLAT OF EVANS INDUSTRIAL PARK,
 LOCATED IN THE PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH,
 RANGE 65 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO
 (COVER SHEET)

USE BY SPECIAL REVIEW

DEVELOPMENT STANDARDS



VEHICLE MAP
 1" = 1" 2000'

LEGAL DESCRIPTION
 Lot 2 of Block 2 of First Replat of Evans Industrial Park located at Section No. 30, Township 5 North, Range 65 West of the 6th Principal Meridian, City of Evans, County of Weld, State of Colorado.

PROPERTY OWNER'S CERTIFICATE
 I, the undersigned, being the owner of the building and structures located on the site hereon, do hereby certify that the same have been constructed in accordance with the applicable DEVELOPMENT STANDARDS and that the same are in compliance with the same. I understand my failure to comply with the DEVELOPMENT STANDARDS and/or any conditions shall result in the County initiating a compliance action against me.
 City of Evans

Name of City Clerk }
 Date of Certificate }
 Date of Survey }
 My commission expires }
 Witness my hand and Seal

DEPARTMENT OF PLANNING SERVICES ADMINISTRATIVE REVIEW CERTIFICATE
 This plan is accepted and stamped by the Department of Planning Services for filing

Name of Applicant }
 Date of Certificate }
 Date of Survey }
 My commission expires }
 Witness my hand and Seal

SURVEYOR'S STATEMENT
 I, Scott L. Gustafson, a registered professional land surveyor and registered engineer in the State of Colorado do hereby certify that the survey represented on this plan was made under my personal supervision and that I am a duly licensed and registered land surveyor in the State of Colorado and that I am duly licensed and registered as a professional engineer in the State of Colorado. This Survey and Report were prepared by me or under my direct supervision and I am a duly licensed and registered land surveyor in the State of Colorado and a duly licensed and registered professional engineer in the State of Colorado.
 Scott L. Gustafson
 Colorado Registered Professional Land Surveyor No. 37241
 and Registered Professional Engineer No. 10947, One State, 2011
 Date: 8/2/09

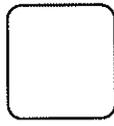
- NOTICES
- 1) All references to "code", "order", "map" and "recorder" numbers are public documents in the office of the Clerk and Recorder's Office of Weld County, State of Colorado unless stated otherwise.
 - 2) NOTICE: According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you first discovered such defect, or to the extent that you should have discovered such defect, within three years after you should have discovered such defect. Also Taylor & Duke, LLC and/or Scott L. Gustafson will not be liable for any damages or costs of this survey or any other survey conducted by me or under my direct supervision and I am a duly licensed and registered land surveyor in the State of Colorado and a duly licensed and registered professional engineer in the State of Colorado.
 - 3) The bearing of north-south line of corner of Lot 1, Block 2 (commencing with a public easement) is a 24' (feet) easement.
 - 4) All known easements and/or right-of-way are shown on this plan. The easements and/or right-of-way are shown as they appear on the ground and are shown for general information and are to be used only in this survey.
 - 5) Bench mark description is as shown on USGS datum (NAD 83) located in the northeast corner of the industrial tract. The elevation of said benchmark is 4951.29 feet.
 - 6) The legal locations are based on legal parcel surveys only and the locations representing herein are as shown on the legal survey.

SCALE: 1" = 20'
 SHEET 1 OF 2

USR
 (COVER SHEET)
 COUNTY OF WELD EVANS, COLORADO
 PT. OF THE SE. 1/4 OF SEC. 30, T. 5 N. R. 65 W.

REVISIONS			
No.	Date	Description	Appr.
1	7/24	First Review	M.T.
2	8/2	Second Review	M.T.

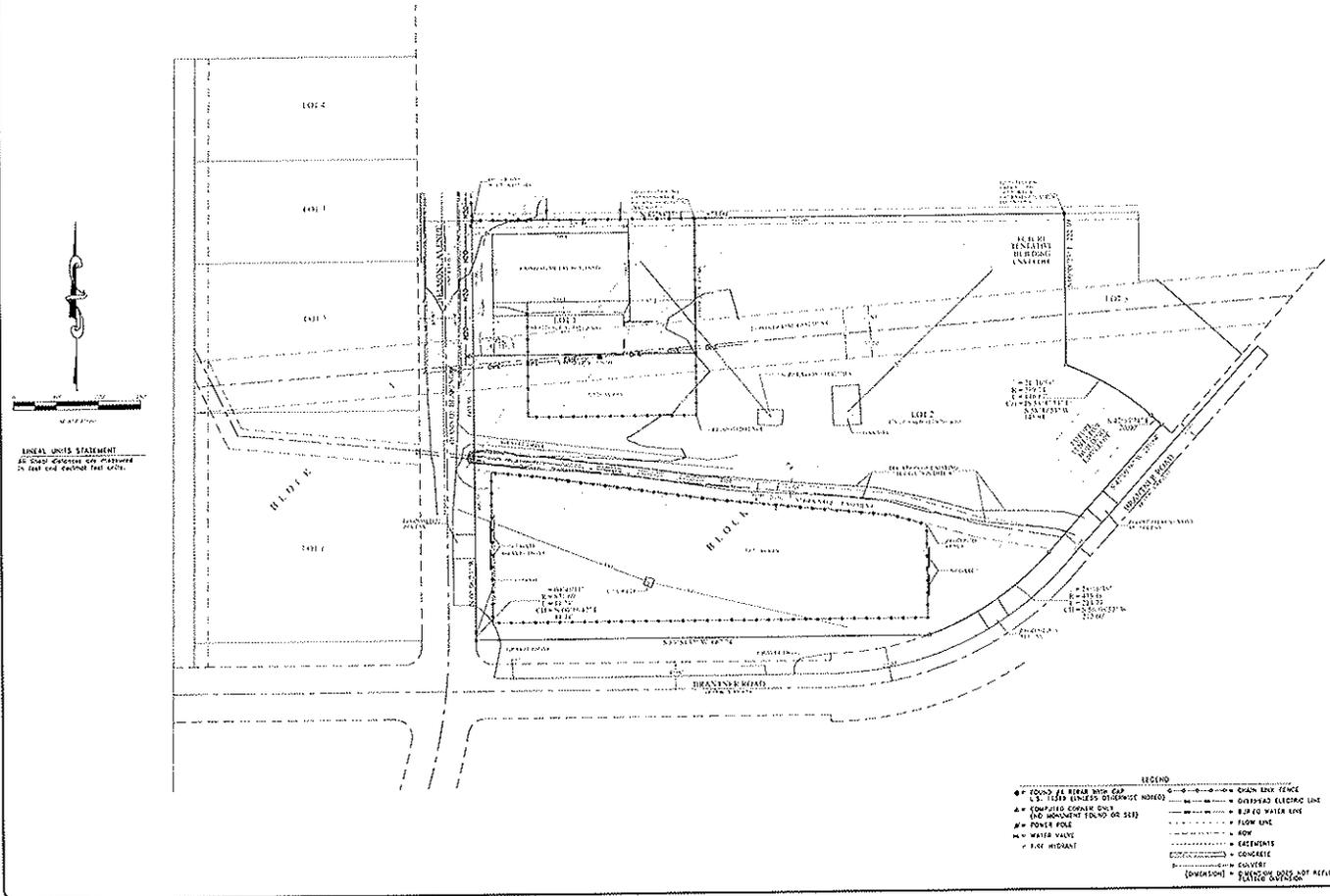
DESIGNED BY: _____
 DRAWN BY: S.D.
 CHECKED BY: M.T.
 DATE: _____ PROJECT NO.: _____
 AUG. 2009 2013-502



ALLES TAYLOR & DUKE, LLC
 3510 35th Ave., Unit 8
 Casper, Colorado 82402
 (970) 330-0308
 ENGINEERING & LAND SURVEYING SERVICES

USE BY SPECIAL REVIEW

LOT 2 OF BLOCK 2 OF FIRST REPLAT OF EVANS INDUSTRIAL PARK,
 LOCATED IN THE PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH,
 RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO



LINEAL PHOTO STATEMENT
 AS SHOWN ON PHOTO
 IN FOOT AND INCHES TO SCALE

- LEGEND**
- FOUND AT BEING BOND GAP
 - FOUND AT BEING BOND GAP
 - ▲ COMPASS CORNER BENT (NO MONUMENT FOUND OR SET)
 - ▲ POWER POLE
 - WATER VALVE
 - ▲ FIRE ALARMS
 - CHAIN LINK FENCE
 - OVERHEAD ELECTRIC LINE
 - 8" TO 16" WATER LINE
 - FLOW LINE
 - ROW
 - EASEMENTS
 - CONCRETE
 - SOLVENT
 - REFLECTOR

ALLES TAYLOR & DUKE, LLC
 ENGINEERING & LAND SURVEYING SERVICES
 1000 10TH AVENUE, SUITE 100
 EVANS, COLORADO 80020
 (970) 535-0308

DESIGNED BY	DATE	PROJECT NO.
DRAWN BY	DATE	PROJECT NO.
CHECKED BY	DATE	PROJECT NO.
APPROVED BY	DATE	PROJECT NO.

DATE	BY
11/17/20	J.T.

USR
 COUNTY OF WELD
 COUNTY OF WELD
 COUNTY OF WELD
 COUNTY OF WELD

SCALE: 1" = 30'
 SHEET NO. 1 OF 1

AGREEMENT RELATED TO USE OF SITE AND OUTDOOR STORAGE

THIS AGREEMENT, made and entered into this 18th day of July, 2013, by and between Gary DeJohn ("Property Owner") and the City of Evans, Colorado, by and through Sheryl Trent, the Community and Economic Development Director ("City"). Property Owner and City are collectively referred to herein as the Parties.

RECITALS

WHEREAS, Property Owner owns property located at 4650 Industrial Parkway, Evans, Colorado 80620 ("Property");

WHEREAS, the City issued Summons and Complaint No. 130006 ("Summons") to Property Owner related to code violations at the Property and otherwise;

WHEREAS, the Summons sets forth three alleged code violations: (1) 19.48.030 Accessory uses, structures, and buildings, (2) 19.48.000 Outdoor Storage – percentage of land, and (3) 3.04.500(a) Licensing obligations – license required;

WHEREAS, the Property is zoned I-1 for light industrial use;

WHEREAS, the Property Owner concedes that he violated certain provisions of the Evans Municipal Code;

WHEREAS, to avoid litigation, additional expenditures, and to further a cooperative relationship between the Parties henceforth, the Parties desire to settle the matters related to the Summons; and

WHEREAS, the Parties recognize and agree that this Agreement is conditioned upon the approval of City Council.

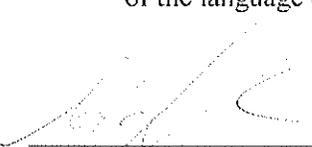
AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein expressed, it is agreed by and between the Parties hereto as follows:

1. Recitals. The above recitals are incorporated herein by reference and shall constitute material terms of this Agreement.
2. Accessory Uses, Structures, and Buildings. Property Owner agrees to comply with the Evans Municipal Code and with all lawful regulations related to the Property. When required by law, Property Owner shall obtain permits and the requisite approvals from Planning Commission or City Council for uses of the property and for structures and buildings on the Property. Property Owner shall not permit any unlawful use of, or structures and buildings on, the Property.
3. Outdoor Storage. Per Evans Municipal Code 19.48.055, no more than ten-percent (10%) of the area of any lot or parcel zoned as I-1 may be used for outdoor storage, except by approval of a Use by Special Review. Conditioned on the filing of a Use by Special Review, approval by City Council, and compliance with the terms and conditions contained in this Agreement, the Parties agree that Property Owner may exceed that percentage and that the outdoor storage agreement set forth herein shall remain in effect for a period of five-years from the date of City Council's approval.

Based on the foregoing, Property Owner agrees as follows:

- a. Outdoor storage on the Property shall be limited to an area not to exceed thirty-percent (30%) of the Property;
 - b. Hazardous materials shall not be stored in the outdoor storage area;
 - c. On or before July 25, 2013, Property Owner shall apply for a Use by Special Review, and seek approval from City Council pursuant to Chapter 19.44 of the Evans Municipal Code;
 - d. On or before November 18, 2013, per the requirements contained in the Evans Municipal Code, the entire outdoor storage area shall be properly fenced with approved material; and
 - e. If the Property is subdivided, the outdoor storage on the subdivided portions of the Property, shall be limited to an area not to exceed thirty-percent (30%).
4. Business License. Property Owner avers that he has applied for a business license, and that henceforth he shall apply for and renew business licenses as required by the Evans Municipal Code.
 5. City Council Approval. As set forth above, this Agreement is conditioned upon the approval of City Council. Staff agrees to recommend approval of this Agreement to City Council. Property Owner further recognizes that approval of the Use by Special Review, as referenced in Paragraph 3 above, is subject to City Council approval.
 6. Dismissal Without Prejudice. Upon approval of this Agreement by City Council, the City agrees to seek dismissal without prejudice of the Summons.
 7. Breach of Agreement. The Property Owner recognizes that, if he breaches any term of this Agreement or violates the Evans Municipal Code in any manner, the City may issue a new summons and complaint to Property Owner related to the violations set forth in the Summons and to any further and additional violations, and seek penalties as permitted by law.
 8. Amendment. This Agreement may not be amended or modified except by a subsequent written instrument signed by the Parties.
 9. Governing Law and Venue. The terms of this Agreement shall be governed by and construed in accordance with Colorado law.
 10. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties related to the subject matter herein and supersedes all prior agreements or understandings.
 11. Headings. The headings used herein are for convenience purposes only and shall not limit the meaning of the language contained herein.



Gary De John
Property Owner



Sheryl Trent
Community and Economic Development

USE BY SPECIAL REVIEW

LOT 2 OF BLOCK 2 OF FIRST REPLAT OF EVANS INDUSTRIAL PARK,
 LOCATED IN THE PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH,
 RANGE 65 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO
 (COVER SHEET)

DEVELOPMENT STANDARDS:

- The applicant shall comply with all applicable zoning and building requirements as set forth in Article 10 of the Weld County Code, as amended. (Department of Planning Services)
- The existing business on Lot 2 (Tax-Parcel 138-127) is subject to zoning and will remain average from the date of Development Standards as stated in 138-127 as been determined by the Department of Planning Services. If a substantial change has been determined a Site Plan Review application shall be applied for and approved prior to operation. (Department of Planning Services)
- No new building or structure shall be used, changed in use or type of occupancy, developed, erected, reconstructed, moved or structurally altered or operated until a Site Plan Review has been approved by the Department of Planning Services. (Department of Planning Services)
- The applicant shall comply with all applicable rules and regulations of the State and Federal agencies and the Weld County Code. (Department of Planning Services)
- The site shall maintain compliance of all laws with the Design Standards listed in Chapter 24, Article VII of the Weld County Code, if applicable. (Department of Planning Services)
- Any future structures or uses of the site must obtain the appropriate zoning and building permits. (Department of Planning Services)
- Building permits shall be obtained prior to the construction of any new building. A plan review is required for each building. Plans shall meet the requirements of a Colorado registered architect or engineer. Two complete sets of plans are required when applying for each permit. (Department of Building Inspection)
- Each new building will require an engineered foundation based on a site-specific geotechnical report or an open hole inspection performed by a Colorado registered engineer. Engineered foundations shall be designed by a Colorado registered engineer. (Department of Building Inspection)
- New buildings shall conform to the requirements of the various codes adopted at the time of permit application. (Department of Building Inspection)
- Activities such as permanent landscaping structures, hot tubs or other items are expressly prohibited in the septic absorption field site. (Department of Public Health and Environment)
- Effective January 1, 2002, Building Permits issued on the subject site will be required to adhere to the fee structure of the County Road Impact Program. (Ordinance 2002-11) (Department of Planning Services)
- Effective August 1, 2009, Building permits issued on the subject site will be required to adhere to the fee structure of the Traffic Expansion Impact Fee and the Stormwater/Debrisage Impact Fee. (Ordinance 2009-01 Section 5-3-40) (Department of Planning Services)
- A Weld County Septic Permit is required for any septic system and shall be installed according to the Weld County Individual Sewage Disposal Regulations. (Department of Public Health and Environment)
- Prior to the release of building permits, the lot owner shall verify with the nearest Town/City or Sanitation District to determine the location of the nearest sanitary sewer line. In accordance with Weld County Code if a sewer line exists with four hundred (400) feet of the property line and the sewer provider is willing to serve the proposed structure, a septic permit cannot be granted by the Weld County Department of Public Health and Environment. Evidence of such shall be submitted in writing to the Weld County Department of Planning Services. (Department of Public Health and Environment)
- Water service shall be obtained from an appropriately permitted well. (Department of Public Health and Environment)
- A stormwater discharge permit may be required for a development / reconstruction / construction site where a discharge or non-point-source land disturbance is greater than allowed or set aside in area. Contact the Water Quality Control Division of the Colorado Department of Public Health and Environment at www.cdphe.state.co.us/wqc for more information. (Department of Public Health and Environment)
- During development of the site, all land disturbances shall be conducted so that nuisance conditions are not created. If that condition creates nuisance conditions, at the request of Weld County Planning Services, Department of Public Health and Environment, a permit shall be submitted. (Department of Public Health and Environment)
- In accordance with the regulations of the Colorado Air Quality Control Commission any development that disturbs more than 10 acres of land must incorporate all suitable and practical methods that are economically and reasonably practicable to control dust emissions. (Department of Public Health and Environment)
- This application is proposing wells as its source of water. The applicant should be made aware that while they may be able to obtain a well permit from the Office of the State Engineer, Division of Water Resources, the quantity of water available for usage may be limited to domestic use, i.e. commercial use only. Also, the applicant should be made aware that groundwater may not meet all drinking water standards as defined by the Colorado Department of Public Health and Environment. We strongly encourage the applicant to test their drinking water prior to consumption and potentially test it year long. (Department of Public Health and Environment)
- The property owner shall allow any general use of the right of ingress or egress for the purpose of exploration, development, construction, construction, re-entry, production and maintenance operations associated with existing or future operations located on these lands. (Department of Planning Services)
- Permit from the Weld County Government shall be granted across with the property of any responsible party in order to ensure the activities carried out on the property comply with the Development Standards stated herein and all applicable Weld County regulations. (Department of Planning Services)
- The historical law systems and non-call amounts will be published on site in such a manner that it will reasonably preserve the natural character of the area and prevent arbitrary damage of the type generally prohibited to riparian sites on publicly managed, privately owned and/or riparian lands. (Department of Public Health and Environment)
- Pursuant to Chapter 24, Article I and II of the Weld County Code, if surface water exist on the property or become accumulated as a result of the proposed development, the applicant / landowner shall be responsible for controlling the surface water. (Department of Public Health and Environment)



VICINITY MAP
 1" = 2000'

LEGAL DESCRIPTION

Lot 2 of Block 2 of First Replat of Evans Industrial Park recorded at Reception No. 02299410 dated 7 August, 1992 in the office of the Weld County Clerk and Recorder, Being a part of the Southeast Quarter (SE. 1/4) of Section 30, Township 5 North, Range 65 West of the 6th Principal Meridian, City of Evans, County of Weld, State of Colorado.

PROPERTY OWNER'S CERTIFICATE:

I, the undersigned, certify that the uses, buildings and structures located on this Site Plan Review are designed and will be constructed and operated in accordance with the applicable DEVELOPMENT standards and district requirements for the I-3 Zone District as stated in the Weld County Zoning Ordinance and in accordance with any conditions imposed by the Board of County Commissioners at the time the property was zoned or rezoned. I understand my failure to comply with the DEVELOPMENT standards and/or any conditions could result in the County initiating a compliance action against me.

Gary DeJohn
 State of Colorado)
 County of Weld) ss.
 The foregoing certification was acknowledged before me this ____ day of _____, 2013.
 My commission expires _____
 Witness my hand and Seal.

Notary Public

DEPARTMENT OF PLANNING SERVICES ADMINISTRATIVE REVIEW CERTIFICATE:

This plat is accepted and approved by the Department of Planning Services for filing.
 Director, Department of Planning Services
 State of Colorado)
 County of Weld) ss.
 The foregoing certification was acknowledged before me this ____ day of _____, 2013.
 My commission expires _____
 Witness my hand and Seal.

Notary Public

SURVEYOR'S STATEMENT

I, Scott L. Ducommun, a registered professional land surveyor and professional engineer in the State of Colorado do hereby certify that the survey represented by this plat was made under my personal supervision, and that this plat is an accurate representation thereof. I further certify that the survey and this plat comply with all applicable rules, regulations and laws of the State of Colorado, State Board of Registration for Professional Engineers and Professional Land Surveyors, and Weld County.

Scott L. Ducommun
 Colorado Registered Professional Land Surveyor No. 37041
 For and on behalf of Alles, Taylor, and Duke, LLC.
 Job No. 2013-045
 Date: _____

NOTICES:

- All references to books, pages, maps and reception numbers are public documents on file at the Clerk and Recorders Office of Weld County, State of Colorado unless stated otherwise.
- NOTICE: According to Colorado law, you must commence any legal action based upon 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 (13-80-105 C.R.S.). Alles Taylor & Duke, LLC and/or Scott L. Ducommun will not be liable for more than the cost of this survey and then only to the Client specifically shown hereon or in our file by signed authorization. Acceptance and/or use of this instrument for any purpose constitutes agreement by the client to all terms stated hereon.
- The Bearing of NORTH 00°06'23" WEST between the Southwest point of curvature of Lot 2, Block 2 (monumented 60D nail) Northeast Corner of Lot 1, Block 2 (monumented with a plastic cap illegible on a #4 rebar) is assumed.
- All known easements and/or rights-of-way, have been shown on this plat. The easements and or rights-of-way which are shown hereon may not be complete, are based on general information, and are to be used only in this context.
- Bench mark designation is No. CB 49 RESET per NGS Datum (NAVD 88) locate at the Northeast corner of the intersection of State Highway 392 and The Greeley No. 2 Canal in the top of the East end of the North concrete headwall. The elevation of said Benchmark is 4751.29 feet.
- The septic locations are based on septic permit drawings only and the locations represented hereon are an estimate thereof.

ALLES TAYLOR & DUKE, LLC
 3610 35th Ave., Unit 6
 Evans, Colorado 80620
 (970) 330-0308
 ENGINEERING & LAND SURVEYING SERVICES

DESIGNED BY: _____
 DRAWN BY: S.L.D.
 CHECKED BY: M.T.
 DATE: _____
 PROJECT NO. _____
 AUG., 2013 2013-092

No.	Date	Revisions	Description	Approval
1	7/24		First Review.	M.T.
2	8/9		Second Review.	M.T.

No.	Date	Revisions	Description	Approval

USR
 (COVER SHEET)
 COUNTY OF WELD
 EVANS, COLORADO
 PT. OF THE SE. 1/4 OF SEC. 30, T. 5 N. R. 65 W.

SCALE: 1" = 20'
 SHEET 1 OF 2

EXHIBIT A

USE BY SPECIAL REVIEW

LOT 2 OF BLOCK 2 OF FIRST REPLAT OF EVANS INDUSTRIAL PARK,
 LOCATED IN THE PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH,
 RANGE 65 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO
 (COVER SHEET)

DEVELOPMENT STANDARDS:

- The existing business on Lot 2 (Tax-Parcel 138-127) is subject to zoning and all other applicable requirements as set forth in Article 10 of the Weld County Code, as amended. (Department of Planning Services)
- The building business on Lot 2 (Tax-Parcel 138-127) is subject to zoning and all other applicable requirements as set forth in Article 10 of the Weld County Code, as amended. (Department of Planning Services)
- The lot, building or structure shall be used, changed in use or type of occupancy, developed, erected, reconstructed, moved or structurally altered or operated until a Site Plan Review has been approved by the Department of Planning Services. (Department of Planning Services)
- The applicant shall comply with all applicable rules and regulations of the State and Federal agencies and the Weld County Code. (Department of Planning Services)
- The site shall maintain compliance of all zoning with the Design Standards listed in Chapter 24, Article VII of the Weld County Code, if applicable. (Department of Planning Services)
- Any future structures or uses of the site must obtain the appropriate zoning and building permits. (Department of Planning Services)
- Building permits shall be obtained prior to the construction of any new building. A plan review is required for each building. Plans shall meet the requirements of a Colorado registered architect or engineer. Two complete sets of plans are required when applying for each permit. (Department of Building Inspection)
- Each new building will require an engineered foundation based on a site-specific geotechnical report or an open hole inspection performed by a Colorado registered engineer. Engineered foundations shall be designed by a Colorado registered engineer. (Department of Building Inspection)
- New buildings shall conform to the requirements of the various codes adopted at the time of permit application. (Department of Building Inspection)
- Activities such as permanent landscaping structures, hot tubs or other items are expressly prohibited in the septic absorption field site. (Department of Public Health and Environment)
- Effective January 1, 2002, Building Permits issued on the subject site will be required to adhere to the fee structure of the County Road Impact Program. (Ordinance 2002-11) (Department of Planning Services)
- Effective August 1, 2009, Building permits issued on the subject site will be required to adhere to the fee structure of the Septic Expansion Impact Fee and the Stormwater/Debrisage Impact Fee. (Ordinance 2009-04 Section 5-9-40) (Department of Planning Services)
- A valid County Septic Permit is required for any septic system and shall be installed according to the Weld County individual Sewage Disposal Regulations. (Department of Public Health and Environment)
- Prior to the release of building permits, the lot owner shall verify with the nearest Town/City or Sanitation District to determine the location of the nearest sanitary sewer line. In accordance with Weld County Code, if a sewer line exists with four hundred (400) feet of the property line and the sewer provider is willing to serve the proposed structure, a septic permit cannot be granted by the Weld County Department of Public Health and Environment. Evidence of such shall be submitted in writing to the Weld County Department of Planning Services. (Department of Public Health and Environment)
- Water service shall be obtained from an appropriately permitted well. (Department of Public Health and Environment)
- A stormwater discharge permit may be required for a development / reconstruction / construction site where a discharge or non-point-source land disturbance is greater than allowed or not used in any way. Contact the Water Quality Control Division of the Colorado Department of Public Health and Environment at www.cdphe.state.co.us/wqc for more information. (Department of Public Health and Environment)
- During development of the site, all land disturbances shall be conducted so that nuisance conditions are not created. If that condition creates nuisance conditions, the request of Weld County Planning Services, Department of Public Health and Environment shall be submitted. (Department of Public Health and Environment)
- In accordance with the regulations of the Colorado Air Quality Control Commission any development that disturbs more than 10 acres of land must incorporate all available and practical methods that are technologically feasible and economically reasonable to control dust emissions. (Department of Public Health and Environment)
- This application is proposing wells as its source of water. The applicant should be made aware that while they may be able to obtain a well permit from the Office of the State Engineer, Division of Water Resources, the quantity of water available for usage may be limited to domestic use, i.e. commercial use only. Also, the applicant should be made aware that groundwater may not meet all drinking water standards as defined by the Colorado Department of Public Health and Environment. We strongly encourage the applicant to test their drinking water prior to installation and periodically test it over time. (Department of Public Health and Environment)
- The property owner shall allow any general water table of springs or seeps for the purposes of exploration, development, construction, construction, re-entry production and maintenance operations associated with existing or future operations located on these lands. (Department of Planning Services)
- Permittees from the Weld County Government shall be granted access onto the property of any responsible time in order to ensure the activities carried out on the property comply with the Development Standards stated herein and all applicable Weld County regulations. (Department of Planning Services)
- The historical law systems and non-call amounts will be maintained on site in such a manner that it will reasonably preserve the natural character of the area and prevent arbitrary damage of the type generally attributed to mineral title or valuable resources, structures, construction and/or proposed paving of water runoff. (Department of Public Works)
- Pursuant to Chapter 24, Article I and II of the Weld County Code, if surface water exist on the property or become accumulated as a result of the proposed development, the applicant / landowner shall be responsible for controlling the surface water. (Department of Public Works)



VICINITY MAP
 1" = 2000'

LEGAL DESCRIPTION

Lot 2 of Block 2 of First Replat of Evans Industrial Park recorded at Reception No. 02299410 dated 7 August, 1992 in the office of the Weld County Clerk and Recorder, Being a part of the Southeast Quarter (SE. 1/4) of Section 30, Township 5 North, Range 65 West of the 6th Principal Meridian, City of Evans, County of Weld, State of Colorado.

PROPERTY OWNER'S CERTIFICATE:

I, the undersigned, certify that the uses, buildings and structures located on this Site Plan Review are designed and will be constructed and operated in accordance with the applicable DEVELOPMENT standards and district requirements for the I-3 Zone District as stated in the Weld County Zoning Ordinance and in accordance with any conditions imposed by the Board of County Commissioners at the time the property was zoned or rezoned. I understand my failure to comply with the DEVELOPMENT standards and/or any conditions could result in the County initiating a compliance action against me.

Gary DeJohn
 State of Colorado)
 County of Weld) ss.
 The foregoing certification was acknowledged before me this ____ day of _____, 2013.
 My commission expires _____
 Witness my hand and Seal.

Notary Public

DEPARTMENT OF PLANNING SERVICES ADMINISTRATIVE REVIEW CERTIFICATE:

This plat is accepted and approved by the Department of Planning Services for filing.
 Director, Department of Planning Services
 State of Colorado)
 County of Weld) ss.
 The foregoing certification was acknowledged before me this ____ day of _____, 2013.
 My commission expires _____
 Witness my hand and Seal.

Notary Public

SURVEYOR'S STATEMENT

I, Scott L. Ducommun, a registered professional land surveyor and professional engineer in the State of Colorado do hereby certify that the survey represented by this plat was made under my personal supervision, and that this plat is an accurate representation thereof. I further certify that the survey and this plat comply with all applicable rules, regulations and laws of the State of Colorado, State Board of Registration for Professional Engineers and Professional Land Surveyors, and Weld County.

Scott L. Ducommun
 Colorado Registered Professional Land Surveyor No. 37041
 For and on behalf of Alles, Taylor, and Duke, LLC.
 Job No. 2013-045
 Date: _____

NOTICES:

- All references to books, pages, maps and reception numbers are public documents on file at the Clerk and Recorders Office of Weld County, State of Colorado unless stated otherwise.
- NOTICE: According to Colorado law, you must commence any legal action based upon 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 (13-80-105 C.R.S.). Alles Taylor & Duke, LLC and/or Scott L. Ducommun will not be liable for more than the cost of this survey and then only to the Client specifically shown hereon or in our file by signed authorization. Acceptance and/or use of this instrument for any purpose constitutes agreement by the client to all terms stated hereon.
- The Bearing of NORTH 00°06'23" WEST between the Southwest point of curvature of Lot 2, Block 2 (monumented 60D nail) Northeast Corner of Lot 1, Block 2 (monumented with a plastic cap illegible on a #4 rebar) is assumed.
- All known easements and/or rights-of-way, have been shown on this plat. The easements and or rights-of-way which are shown hereon may not be complete, are based on general information, and are to be used only in this context.
- Bench mark designation is No. CB 49 RESET per NGS Datum (NAVD 88) locate at the Northeast corner of the intersection of State Highway 392 and The Greeley No. 2 Canal in the top of the East end of the North concrete headwall. The elevation of said Benchmark is 4751.29 feet.
- The septic locations are based on septic permit drawings only and the locations represented hereon are an estimate thereof.

ALLES TAYLOR & DUKE, LLC
 3610 35th Ave., Unit 6
 Evans, Colorado 80620
 (970) 330-0308
 ENGINEERING & LAND SURVEYING SERVICES

DESIGNED BY: _____
 DRAWN BY: S.L.D.
 CHECKED BY: M.T.
 DATE: _____
 PROJECT NO. _____
 AUG., 2013 2013-092

REVISIONS	Description	Apprvl
No.	Date	M.T.
1	7/24	M.T.
2	8/9	M.T.

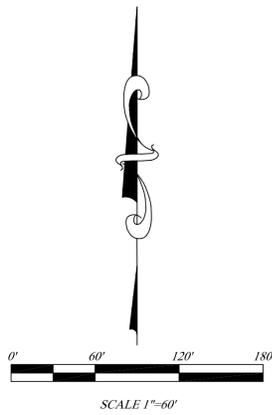
REVISIONS	Description	Apprvl
No.	Date	M.T.
1	7/24	M.T.
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USR
 (COVER SHEET)
 COUNTY OF WELD
 EVANS, COLORADO
 PT. OF THE SE. 1/4 OF SEC. 30, T. 5 N. R. 65 W.

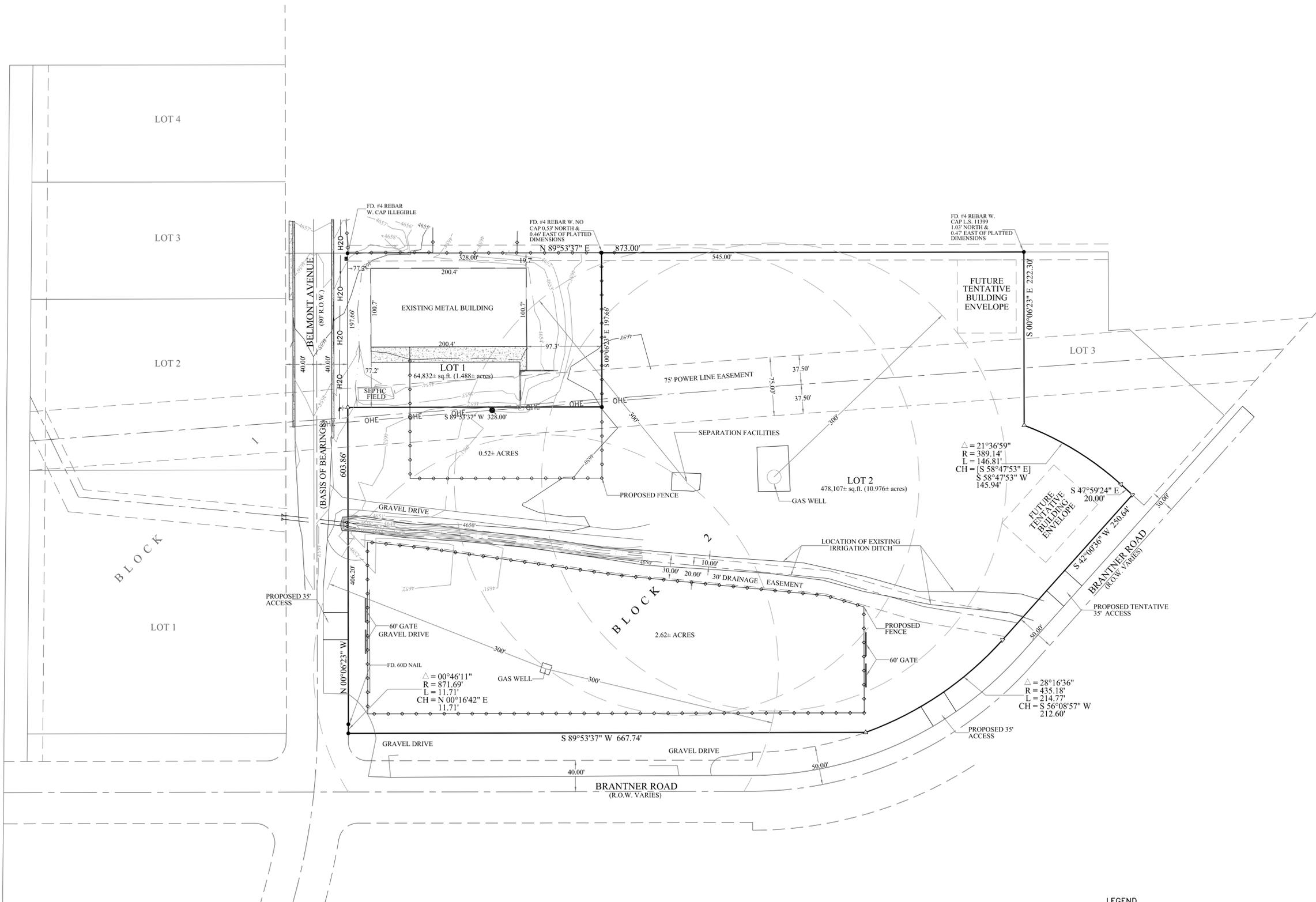
SCALE: 1" = 20'
 SHEET 1 OF 2

USE BY SPECIAL REVIEW

LOT 2 OF BLOCK 2 OF FIRST REPLAT OF EVANS INDUSTRIAL PARK,
 LOCATED IN THE PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH,
 RANGE 65 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO



LINEAL UNITS STATEMENT
 All lineal distances are measured in feet and decimal feet units.



LEGEND

● = FOUND #4 REBAR WITH CAP L.S. 11399 (UNLESS OTHERWISE NOTED)	○—○—○ = CHAIN LINK FENCE
△ = COMPUTED CORNER ONLY (NO MONUMENT FOUND OR SET)	—OHE—OHE— = OVERHEAD ELECTRIC LINE
⊕ = POWER POLE	—H2O—H2O— = BURIED WATER LINE
⊗ = WATER VALVE	— — — = FLOW LINE
◇ = FIRE HYDRANT	— — — = ROW
	— — — = EASEMENTS
	▭ = CONCRETE
	— — — = CULVERT
	[DIMENSION] = DIMENSION DOES NOT REFLECT PLATTED DIMENSION

ALLES TAYLOR & DUKE, LLC
 3610 35th Ave., Unit 6
 Evans, Colorado, 80620
 (970) 330-0308
 ENGINEERING & LAND SURVEYING SERVICES

DESIGNED BY: S.L.D.
 DRAWN BY: M.T.
 CHECKED BY: M.T.

DATE: AUG., 2013
 PROJECT NO.: 2013-092

No.	Date	Revisions	Apprv
1	7/24	Description First Review.	M.T.
2	8/9	Second Review.	M.T.

USR
 COUNTY OF WELD
 EVANS, COLORADO
 PT. OF THE SE. 1/4 OF SEC. 30, T. 5 N. R. 65 W.

SCALE: 1" = 60'
 SHEET 2 OF 2

USE BY SPECIAL REVIEW

LOT 2 OF BLOCK 2 OF FIRST REPLAT OF EVANS INDUSTRIAL PARK,
 LOCATED IN THE PART OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH,
 RANGE 65 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO
 (COVER SHEET)

DEVELOPMENT STANDARDS:

- The building footprint on Lot 2 (Parcel ID: 02299410) is subject to the same requirements as set forth in Article 10 of the City of Evans Zoning Ordinance. (Department of Planning Services)
- The building footprint on Lot 2 (Parcel ID: 02299410) is subject to the same requirements as set forth in the State of Colorado Development Standards as stated in 10A-1-101, as amended by the Department of Planning Services. If a substantial change from these standards is shown, then a Site Plan Review application shall be applied for and approved prior to operation. (Department of Planning Services)
- No new building or structure shall be used, changed in use or type of occupancy, developed, erected, reconstructed, moved or structurally altered or operated until a Site Plan Review has been approved by the Department of Planning Services. (Department of Planning Services)
- The applicant shall comply with all applicable rules and regulations of the State and Federal agencies and the Weld County Code. (Department of Planning Services)
- The site shall maintain compliance of all zoning with the Design Standards listed in Chapter 24, Article VII of the Weld County Code, if applicable. (Department of Planning Services)
- Any future structures or uses of the site must obtain the appropriate zoning and building permits. (Department of Planning Services)
- Building permits shall be obtained prior to the construction of any new building. A plan review is required for each building. Plans shall meet the requirements of a Colorado registered architect or engineer. Two complete sets of plans are required when applying for each permit. (Department of Building Inspection)
- Each new building will require an engineered foundation based on a site-specific geotechnical report or an open hole inspection performed by a Colorado registered engineer. Engineered foundations shall be designed by a Colorado registered engineer. (Department of Building Inspection)
- New buildings shall conform to the requirements of the various codes adopted at the time of permit application. (Department of Building Inspection)
- Activities such as permanent landscaping structures, hot tubs or other items are separately prohibited in the specific subdivision field site. (Department of Public Health and Environment)
- Effective January 1, 2002, Building Permits issued on the subject site will be required to adhere to the fee structure of the County Road Impact Program. (Ordinance 2002-11) (Department of Planning Services)
- Effective August 1, 2009, Building permits issued on the subject site will be required to adhere to the fee structure of the County Extension Impact Fee and the Stormwater/Debrisage Impact Fee. (Ordinance 2009-04 Section 1-3-40) (Department of Planning Services)
- A Weld County Septic Permit is required for any septic system and shall be installed according to the Weld County Individual Sewage Disposal Regulations. (Department of Public Health and Environment)
- Prior to the release of building permits, the lot owner shall verify with the nearest Town/City or Sanitation District to determine the location of the nearest sanitary sewer line. In accordance with Weld County Code 11-1-1, a sewer line shall be installed with four hundred (400) feet of the property line and the sewer provider is willing to serve the proposed structure. A septic permit cannot be granted by the Weld County Department of Public Health and Environment. Evidence of such shall be submitted in writing to the Weld County Department of Planning Services. (Department of Public Health and Environment)
- Water service shall be obtained from an appropriately permitted well. (Department of Public Health and Environment)
- A stormwater discharge permit may be required for a development / redevelopment / construction site where a discharge or non-point-source land disturbance is greater than or equal to one acre in size. Contact the Water Quality Control Division of the Colorado Department of Public Health and the Department of water@colorado.gov for consultation for more information. (Department of Public Health and Environment)
- During development of the site, all land disturbances shall be conducted so that surface conditions are not created. If such activities create surface conditions, at the request of Weld County Health Department, a siltation control plan must be submitted. (Department of Public Health and Environment)
- In accordance with the regulations of the Colorado Department of Public Health and Environment, Colorado Registered Professional Land Surveyors and Professional Engineers shall be required to provide a professional seal and signature on all plans submitted to the Department of Public Health and Environment. (Department of Public Health and Environment)
- This application is proposing wells as its source of water. The applicant should be made aware that while they may be able to obtain a well permit from the Office of the State Engineer, Division of Water Resources, the quantity of water available for usage may be limited to specific uses, i.e. commercial use only, etc. Also, the applicant should be made aware that groundwater may not meet all drinking water standards as defined by the State's Department of Public Health and Environment. We strongly encourage the applicant to test their existing water prior to abandonment and potentially test it over time. (Department of Public Health and Environment)
- The property owner shall view any mineral water the City of Evans or agree for the purposes of exploration, development, construction, construction, production, production and maintenance operations associated with existing or future operations located on these lands. (Department of Planning Services)
- Permits from the Weld County Government shall be granted except with the property of any responsible time in order to ensure the activities carried out on the property comply with the Development Standards stated herein and all applicable Weld County regulations. (Department of Planning Services)
- The historical tree patterns and amount quantity will be maintained on site in such a manner that it will reasonably preserve the natural character of the area and prevent any damage to the trees generally attributed to removal, such as visible irregular, depressions, scars, and/or significant peeling of outer bark. (Department of Public Health)
- Pursuant to Chapter 24, Article I and II of the Weld County Code, if surface water exist on the property or become accumulated as a result of the proposed development, the applicant / homeowner shall be responsible for controlling the surface waters. (Department of Public Health)



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 1" = 2000'

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 County of Weld) ss.
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Scott L. Ducommun
 Colorado Registered Professional Land Surveyor No. 37041
 For and on behalf of Alles, Taylor, and Duke, LLC.
 Job No. 2013-045
 Date: _____

FLOOD PLAIN NOTE:

Based on the U.S. Department of Housing and Urban Development, Federal Insurance Administration Flood Hazard Boundary Map, Community Number 080182 0001, ONLY PANEL PRINTED, Effective Date, April 2, 1979, this subject property is located in a special flood hazard (Flood Zone "A7") area according to the map. Furthermore, if the property resides in two or more zones, then the survey clearly displays the limits of each zone by graphically transposing each zone line from the map to the survey.

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ALLES TAYLOR & DUKE, LLC
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 ENGINEERING & LAND SURVEYING SERVICES

DESIGNED BY: _____
 DRAWN BY: S.L.D.
 CHECKED BY: M.T.
 DATE: _____
 PROJECT NO. _____
 OCT., 2013 2013-092

REVISIONS	Description	Apprvl
No.	Date	M.T.
1	7/24	M.T.
2	8/9	M.T.
3	8/21	M.T.
4	10/23	M.T.

REVISIONS	Description	Apprvl
No.	Date	M.T.
1	7/24	M.T.
2	8/9	M.T.
3	8/21	M.T.
4	10/23	M.T.

USR
 (COVER SHEET)
 COUNTY OF WELD
 EVANS, COLORADO
 PT. OF THE SE. 1/4 OF SEC. 30, T. 5 N. R. 65 W.

SCALE: 1" = 20'
 SHEET 1 OF 2



City of
Evans, Colorado

MINUTES
EVANS PLANNING COMMISSION
Regular Meeting
February 25, 2014 – 6:00 p.m.

CALL TO ORDER

Chairperson Brothe called the meeting to order at 6:00 p.m.

ROLL CALL

Present: Chairman Brothe, Commissioner Grigson, and Commissioner Eisele

Absent: Commissioner Phillips

APPROVAL OF MINUTES

Commissioner Eisele made a motion to adopt the February 11, 2014 meeting minutes. Upon a second by Commissioner Grigson, the motion was unanimously adopted.

APPROVAL OF AGENDA

Commissioner Eisele made a motion to approve the agenda. Upon a second by Commissioner Grigson, the motion was unanimously adopted.

The Agenda was approved unanimously with no changes.

AGENDA ITEMS

A. PUBLIC HEARING-Revocation of Use-By-Special Review Permit—4650 Industrial Parkway—Resolution xxx-14—A Resolution revoking a use by special review to allow outdoor storage at 4650 Industrial Parkway, Evans, Colorado (DeJohn Outdoor Storage)

Chairperson Brothe opened the public hearing and asked to hear from staff.

PRESENTED BY: Zach Ratkai, Community Development Manager

BACKGROUND INFORMATION		
Location:	4650 Industrial Parkway	
Applicants:	Gary DeJohn, Owner	
Existing Land Use:	Vacant Land, Illegal Storage	
Proposed Land Use:	Short Term Outdoor Storage	
Surrounding Land Use:	North	Industrial Building
	South	Brantner Road, Vacant Land, South Platte River
	East	Industrial
	West	Industrial
Existing Zoning:	Light Industrial (I-1)	
Proposed Zoning:	Same	
Surrounding Zoning:	North	I-1
	South	I-1
	East	I-1
	West	I-1
Future Land Use Designation:	Industrial Business Park, River Habitat	

PROJECT DESCRIPTION: The original request, as approved by the City Council, was a request from the landowner (Gary DeJohn), for a Use by Special Review (USR) for outdoor storage to exceed the allowed 10% in the City of Evans Municipal Code.

The owner wanted to be approved for 30% of the land as outdoor storage. The owner is under a court agreement, as he has been notified and cited for illegal outdoor storage on the site (in excess of 10% and no primary use on the site). The executed agreement is attached as a part of this packet, and this USR was a requirement of the court in order to satisfy the agreement.

The Planning Commission held a hearing on October 10th and recommended denial of the request because it was unclear. The vote was three and one abstention. Please see the attached Planning Commission minutes for more detail. The City Council approved the USR with conditions as shown in the attached Resolution No. 40 – 2014.

The applicant has not complied with the court order to have the property fenced as of the November 18th date, which was chosen specifically to indicate to the City Council his willingness to comply with City code, regulations, and agreements. More than ninety (90) days after the approval from the City Council, the applicant has NOT complied with the conditions of the approved Use by Special Review, and continues to be in violation of the City Code and the approval from the City Council.

Staff remains concerned regarding his willingness and ability to comply with this approval and the codes as required.

RECOMMENDATION: Recommend **revocation of the USR** as the applicant has not met, and has not indicated he has any intention to meet, the criteria for the approval of the special use and the conditions and set forth by the Council.

ANALYSIS:

1. **Background:** Mr. DeJohn owns several parcels of land in this area, some of which has structures on the land, most of which do not. The City sent a letter to Mr. DeJohn in November of 2012 indicated the allowed uses for industrial properties and outlining the outdoor storage codes. In summer of 2013 he was notified of the illegal storage on the site and summonsed into court. As a part of that court action, the attached agreement was signed and the USR approval in November of 2013 is a part of that agreement. Mr. DeJohn has not complied with the conditions in the USR approval, not with the court ordered agreement.
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 north. With heavy industrial use (50% outdoor storage) commercial uses to the north 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 heavy industrial use 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 I-1 zoning in the area is built out and meets the 10% standard. 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. As the pictures of the current site show, outdoor storage comprises around 50% + of the land at this time. The photos are indicative of what that land will look like in perpetuity if the USR is approved. 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 north. There is no way to mitigate the impact of the lack of compatibility – no fence can be constructed that is high enough, no landscaping can be installed on site that would screen the outdoor storage from the public right of way.
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 and proximity to the public right of way, the other land uses in the area, and Highway 85.

6. The proposed land use shall not adversely affect traffic flow and parking in the neighborhood. The outdoor storage use 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. As mentioned prior in the report, 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. Currently the approval on 1470 42nd Street is for up to 50%, and that was allowed as it could be screened from 42nd Street and was a much smaller piece of land, and hence a much smaller impact on the neighborhood. That approval, 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.

3. Issues:

The main concern with the application is the compliance with City Code and compatibility with adjacent light industrial zoning. Mr. DeJohn has not complied with the City Council's conditions in the USR approval, nor has he complied with the Court order. Neither the weather (which would have allowed a fence installation) nor the flood activities precluded compliance.

Additionally, 42nd 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 30% of the lot being used for outdoor storage the issue becomes even more important to the long term compatibility issues in the neighborhood. Many of the surrounding light industrial properties are developed with office structures and outdoor storage, and a negative effect on their property values should be taken into consideration when working with this request.

The precedent set by allowing a Use by Special Review for additional outdoor storage in this I-1 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 away from 42nd Street but on Industrial Parkway and Brantner Road, both of them arterial streets that lead to 49th Avenue. The surrounding properties are coming into compliance with the code with screening, replacement fencing, and other agreements.

Furthermore, this land is zoned I-1 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 I-1 (the lowest industrial zoning in our code). This land is visually adjacent to Highway 85, and also adjacent to other I-1 sites that are coming

into compliance 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

With regard to the original approval, after reviewing the Gary DeJohn USR for outdoor storage that exceeds the 10% on property located at 4650 Industrial Parkway 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. Additionally, approval of this special use may be consistent with the 2010 Comprehensive Plan and with the surrounding land uses. The conditions are as follows:

- 1) The property owner will comply with the City of Evans Municipal Code and all lawful regulations related to the property; and
- 2) Outdoor storage shall be limited to an area no more than 30% of the property; and
- 3) Hazardous materials shall not be stored on the property; and
- 4) On or before November 18, 2013 the entire 30% outdoor storage area shall be properly fenced per the Evans Municipal Code with prior approval of the fencing and screening from City staff; and
- 5) If the property is ever subdivided, this approval for outdoor storage shall be limited to one parcel and shall not exceed the 30%.

However, due to the lack of compliance from the applicant, staff is recommending revocation.

STAFF RECOMMENDATION:

Staff recommends **revocation of the approved USR** because the applicant has failed to comply with those conditions, more than ninety (90) days after the approval by the City Council.

RECOMMENDED CITY COUNCIL MOTION:

“Mr. Chairman, on the issue of the Gary DeJohn Use by Special Review for outdoor storage, I recommend approval of Resolution No. xx, 2014.”

“Mr. Chairman, on the issue of the Gary DeJohn Use by Special Review for outdoor storage, I move to recommend denial of Resolution No. xx, 2014 because _____.”

Chairman Brothe asked to hear from the applicant. The applicant was not present.

Chairman Brothe asked if there was any clarification of staff. There was none.

Commissioner Grigson asked what exactly will the revocation will do to the property.

Mr. Ratkai replied that the property owner would have to adhere to the current zoning and use. This resolution would go to Council for their approval.

Commissioner Eisele asked what the consequences would be including fines, etc.

Mr. Ratkai stated it would go to municipal court but can chose to go to district court if need to.

Commissioner Eisele asked how long this go could on for.

Mr. Ratkai replied that it could be a long time—a couple years. However, the Baker Hughes development is continuing and they are investing a lot into the property.

Commissioner Eisele asked if they own or lease.

Mr. Ratkai replied that Baker Hughes is the lease. The applicant will be informed.

Commissioner Eisele discussed with the group the concessions made. He concluded that it was very gracious. He asked Commissioner Grigson his opinion.

Commissioner Grigson stated he is in favor of the revocation.

Chairman Brothe closed the public hearing and asked for any discussion from the commission. Hearing none, he then proceeded to ask for a motion.

Commissioner Grigson made motion Seconded by Eisele on the issue of the Gary DeJohn Use by Special Review for outdoor storage for the recommendation of approval for Resolution No. xx, 2014.

Mr. Ratkai reported that this will be a continued as a public hearing from March 4th to the March 18th.

GENERAL DISCUSSION

Mr. Ratkai reported out the next meeting is March 11th at 6 pm. Work session items will be added per requested tonight. There more than likely there will be no items of vote.

Commissioner Eisele stated some of his observation on properties in the area south of 42nd needing attention for violations. He asked what is being done to get those cleaned up. Mr. Ratkai stated that with new staff on we will be able to get on these. More interest is popping up in the area as well which will create opportunities. He explained some examples of some of the current projects with a mix of office and outdoor storage.

ADJOURMENT:

Chairperson Brothe adjourned the meeting at 7:19 p.m.

CITY OF EVANS, COLORADO

RESOLUTION 09-2014

A RESOLUTION REVOKING A USE BY SPECIAL REVIEW TO ALLOW OUTDOOR STORAGE AT 4650 INDUSTRIAL PARKWAY, EVANS, COLORADO (DEJOHN OUTDOOR STORAGE)

WHEREAS, the City of Evans had approved by Resolution No. 40-2013 a request from Gary DeJohn, property owner, for a Use by Special Review (USR) for outdoor storage at 4650 Industrial Parkway; and

WHEREAS, the conditions for the continued approval of the USR have not been met, and

WHEREAS, the Planning Commission conducted a public hearing at its meeting on February 25, 2014, and recommended revocation of the USR, and

WHEREAS, the City Council has conducted a public hearing and carefully reviewed the evidence and finds that continuation of the URS does not meet the special permit criteria, and that it does not comply with the purpose of the zoning codes, and does not 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 the special permit granted by Resolution 40-2013 to allow outdoor storage at 4650 Industrial Parkway is revoked immediately.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 18th day of March, 2014.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

By: _____
Mayor

CITY COUNCIL COMMUNICATION

DATE: March 18, 2014

AGENDA ITEM: 9.B

SUBJECT: Resolution No. 12-2014 A Resolution Of The City Council Of The City Of Evans, Colorado, Authorizing The Acquisition Of Certain Real Property For Recreation And Stormwater Control Purposes And Authorizing The City Manager To Negotiate The Acquisition Of Said Property And Authorizing The Exercise Of The City's Power Of Eminent Domain If Negotiations Are Unsuccessful

PRESENTED BY: Sheryl Trent, Economic Development Director

PROJECT DESCRIPTION:

Summary: Staff has been working with two property owners to remove a public health and safety hazard from their property. Photos of this debris are attached, and resulted from the flooding in September, 2013. To date neither property owner has made efforts to remove the debris, despite repeated requests and, in one case, legal action. To be able to effect the removal of this debris prior to the warm weather creating additional problems, staff requests approval and execution of the appropriate attached resolution authorizing condemnation.

Background: The flood event in September of 2013 caused destruction of 208 manufactured homes in the Bella Vista and Eastwood Village manufactured housing parks. Each of those homes was declared destroyed and uninhabitable, and certificates of destruction issued to the home owners (in some cases the owner of the home is the owner of the park land). FEMA has paid Individual Assistance funds to each eligible home owner and tenant, and the City has sealed the area due to the hazards therein.

Attached are photos and documents, including a letter from Weld County Public Health, that state the public health and safety hazard posed by the debris. The City has worked closely with both land owners (Mr. Feehan from Bella Vista and Mr. Cowan from Eastwood Village) to resolve the issue, but no action has been taken by either owner to remove the clear public health and safety hazard. In order to address the public concerns of fire, air quality, mold, rot, feral animals, and other issues on the site, the City should condemn the property and remove the hazard itself.

Discussion: Staff has had numerous conversations and exchanged correspondence with the owners and it is possible that a settlement will be reached. However, in order to maintain the timeline necessary to protect the public, condemnation is necessary. Staff will continue negotiations to try and reach a mutually agreeable settlement while continuing condemnation procedures.

The owners and properties affected are as follows:

Bella Vista Mobile Home Park

Location: 333 37th ST Evans, CO 80620

Parcel #: 096120406003

Owner: Jim Feehan

CFO Advisory Group

PO Box 202319

Denver, CO 80220

720 201-5685

jim.feehan@cfoadvisorygroup.net

Eastwood Village Mobile Home Park

Location: 200 37th ST Evans, CO 80620

Parcel #: 096129102004

Owner: Keith Cowan

foxygramps29@comcast.net

303-466-8162

Fiscal Impact: For a parcel where condemnation does become necessary, the City will incur the cost of eminent domain proceedings which are estimated to be initially between \$1,600 and \$5,000 and will be paid from existing and available funding within the budget. Additionally the costs of an appraisal will be necessary which are estimated to be an additional \$5,000.

STAFF RECOMMENDATION:

Staff recommends approval and execution of the appropriate resolution authorizing condemnation.

SUGGESTED MOTIONS:

“Mr. Mayor, I move to approve Resolution No. 12-2014 authorizing the acquisition of the Bella Vista and Eastwood Village mobile home parks by voluntary negotiations or, if necessary, by condemnation.”

“Mr. Mayor, I move to deny Resolution No. 12-2014 authorizing the acquisition of the Bella Vista and Eastwood Village mobile home parks by voluntary negotiations or, if necessary, by condemnation.”



OFFICE OF THE BOARD OF COMMISSIONERS

Phone: 970-336-7204

Fax: 970-352-0242

1150 O Street

P.O. Box 758

Greeley, CO 80632

PRESS RELEASE

Date: 02/11/14

Contact: Jennifer Finch, 970-336-7203

Re: Manufactured Housing Park Issues in Evans

WELD COUNTY, EVANS BRING ATTENTION TO POTENTIAL HEALTH ISSUES IN FLOOD DAMAGED MOBILE HOME PARKS



A January 30th inspection of the Eastwood Village MHP by the Weld County Public Health team revealed debris and rubble throughout the park. Both parks face issues with trash, rotting food, household hazardous waste and other potential health hazards that will increase in severity if not addressed before warmer weather arrives.

WELD COUNTY, CO – One of the hardest hit communities from the September 2013 flood is warning of potential health-related issues if help isn't made available soon. More than 208 manufactured homes in the city of Evans were destroyed by the devastating flood. The city has had discussions with the landowners of the two housing parks regarding their responsibility to remove the debris from their property; however, the parks remain in the same state as they were immediately following the flood.

While residents in the parks were able to return to their damaged homes briefly to retrieve a few belongings, the majority of the contents of their homes still remain, including trash, food left in refrigerators, and household hazardous waste. In addition to those items, the presence of mold, and human sewage throughout the parks are also a huge concern for city and county officials.

As the result of complaints received by the City of Evans, the Weld County Department of Public Health (following inspections conducted at the parks in late January) sent letters to the two land owners warning that if removal of the debris remains unaddressed, residents near these parks will face increased risk of disease, offensive odors, as well as increased presence of rodents and other disease causing varmints.

A joint letter from Evans Mayor Lyle Achziger and the Weld County Board of Commissioners was also sent to Governor Hickenlooper and Executive Director of DOLA Reeves Brown, requesting a meeting to discuss the issues Evans is facing with regard to flood recovery. "The road to recovery is long, and while the issue of debris removal in the manufactured housing parks is a top priority, we know there are other issues that will need attention and assistance in the future," the joint letter states.

Evans has received bids for the debris removal which is estimated to cost approximately \$1 million – money the community does not have available. The city did apply for the Private Property Debris Removal Grant offered from FEMA but was denied; they are currently appealing that denial.



Left: An aerial view of the Eastwood Village manufactured home park taken September 18, 2013. (Image provided by the City of Evans.)

Right: On January 24, 2014, members of the Weld County Department of Health conducted the first of several inspections of the park, revealing little change from the condition the park was in immediately following the flood to now.



County inspection teams entered the Eastwood Village park on January 30, 2014, and found mold in homes (left) as well as trash and household hazardous waste throughout the neighborhood (right).



A letter from the Weld County Department of Health sent to the landowners of the parks warns of “...increased risk of disease, offensive odors, as well as increased presence of rodents and other disease causing varmints...” if the parks are not cleaned up.



DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

1555 North 17th Avenue
Greeley, CO 80631

www.weldhealth.org



Public Health
Prevent. Promote. Protect.

**Health Administration
Vital Records**
Tele: 970-304-6410
Fax: 970-304-6412

**Public Health &
Clinical Services**
Tele: 970-304-6420
Fax: 970-304-6416

**Environmental Health
Services**
Tele: 970-304-6415
Fax: 970-304-6411

**Communication,
Education & Planning**
Tele: 970-304-6470
Fax: 970-304-6452

**Emergency Preparedness
& Response**
Tele: 970-304-6420
Fax: 970-304-6469

Our vision: Together with the communities we serve, we are working to make Weld County the healthiest place to live, learn, work, and play.

February 5, 2014

Certified Letter No.: 7009 2250 0000 0100 8965

3610 Trinidad, LLC
Post Office Box 20319
Denver, Colorado 80220

Subject: Bella Vista Mobile Home Park, 3610 Trinidad Street, Evans, CO 80620

To Whom It May Concern:

In response to complaints expressed to the Weld County Department of Public Health and Environment (Department), I asked my staff to inspect and investigate conditions at the Bella Vista Mobile Home Park (BVMHP), located at 3610 Trinidad Street, Evans, Weld County. The Department has been informed that flood damaged homes and structures within the BVMHP are the source of odors and conditions which are impacting neighboring properties and local residents. I understand that the BVMHP was vacated as the result of flooding September 11-13, 2013. My staff observed the BVMHP on January 24 and January 30, 2014. An inspection of the BVMHP exterior was conducted on January 24, 2014, by Department staff only. An inspection of the interior of the Park was conducted with Evans Code Enforcement Officer, Kyle Fehr, on January 30, 2014. Access was granted by the BVMHP Manager, Dorothy Ross-Overhultz. The inspections have revealed the following conditions:

- Damaged homes and other structures that may contain hazardous materials, such as asbestos and household hazardous wastes.
- Piles of putrescible household trash and garbage, food stuffs, and vegetative debris.
- Piles of construction debris and other debris providing harborage and breeding grounds for animals, rodents and other disease causing varmints.
- Mold impacted household furnishings, carpeting, interior walls and other building materials that were soaked by the flood waters.

The conditions observed will evolve to be a public nuisance with the arrival of warmer weather if they are not adequately addressed. As the Weld County Public Health Director, and pursuant to sections 25-1-506 and 508, Colorado Revised Statutes, I am requesting that you abate the aforementioned conditions to prevent a nuisance condition from developing.



DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

1555 North 17th Avenue
Greeley, CO 80631

www.weldhealth.org



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Our vision: Together with the communities we serve, we are working to make Weld County the healthiest place to live, learn, work, and play

February 5, 2014

Certified Letter No. : 7009 2250 0000 0100 8972

EWV LLC
3240 Iris Ct
Wheat Ridge, CO 80099

Subject: Eastwood Village Mobile Home Park, 200 37th St, Evans, CO 80620

To Whom It May Concern:

In response to complaints expressed to the Weld County Department of Public Health and Environment (Department), I asked my staff to inspect and investigate conditions at the Eastwood Village Mobile Home Park (EVMHP), located at 200 37th Street, Evans, Weld County. The Department has been informed that flood damaged homes and structures within the EVMHP are the source of odors and conditions which are impacting neighboring properties and local residents. I understand that the EVMHP was vacated as the result of flooding September 11-13, 2013. My staff observed the EVMHP on January 24 and January 30, 2014. An inspection of the EVMHP exterior was conducted on January 24, 2014, by Department staff only. An inspection of the interior of the Park was conducted with Park Manager, Laurie Lechugo, on January 30, 2014. The inspections have revealed the following conditions:

- Damaged homes and other structures that may contain hazardous materials, such as asbestos and household hazardous wastes.
- Piles of putrescible household trash and garbage, food stuffs, and vegetative debris.
- Piles of construction debris and other debris providing harborage and breeding grounds for animals, rodents and other disease causing varminets.
- Mold impacted household furnishings, carpeting, interior walls and other building materials that were soaked by the flood waters.

The conditions observed will evolve to be a public nuisance with the arrival of warmer weather if they are not adequately addressed. As the Weld County Public Health Director, and pursuant to sections 25-1-506 and 508, Colorado Revised Statutes, I am requesting that you abate the aforementioned conditions to prevent a nuisance condition from developing.

CITY OF EVANS, COLORADO

RESOLUTION 12-2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY FOR RECREATION AND STORMWATER CONTROL PURPOSES AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE ACQUISITION OF SAID PROPERTY AND AUTHORIZING THE EXERCISE OF THE CITY'S POWER OF EMINENT DOMAIN IF NEGOTIATIONS ARE UNSUCCESSFUL.

WHEREAS, the City of Evans ("City") experienced extensive flooding during September, 2014, resulting in serious damage to public and private property; and

WHEREAS, the City Council has determined to undertake certain activities and improvements to alleviate flooding conditions in the City by removing obstacles and barriers to flood waters and to remove structures and other property in the area subject to flooding (the "Project"); and

WHEREAS, the proposed public use of the property will enhance redevelopment in the area by providing additional recreational opportunities including open space, trails, natural habitat, parking restrooms, water storage, water recreation, and low impact playgrounds; and

WHEREAS, the presence of public recreation facilities will not impair the purpose of preventing further flood related damage and is consistent with flood control improvements in the affected area; and

WHEREAS, uses for the properties are identified in Exhibit B ("Uses") and will meet all of the goals and objectives of the City's land use code; and

WHEREAS, the properties identified in Exhibit A ("Subject Properties") hereto is necessary to the Project; and

WHEREAS, the Project is necessary for the protection of the public safety, health and welfare.

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

Section 1. The City Council finds that it is necessary to acquire the Subject Properties for flood control and recreation purposes.

Section 2. The City Council authorizes the City Manager to negotiate the voluntary acquisition of the Subject Properties subject to approval of the City Council.

Section 3. The City Council authorizes the City Attorney to acquire the Subject Properties by eminent domain if voluntary negotiations are unsuccessful.

PASSED, APPROVED, AND ADOPTED at a regular meeting to the City Council of the City of Evans on this 18th day of March, 2014.

ATTEST

CITYOF EVANS, COLORADO

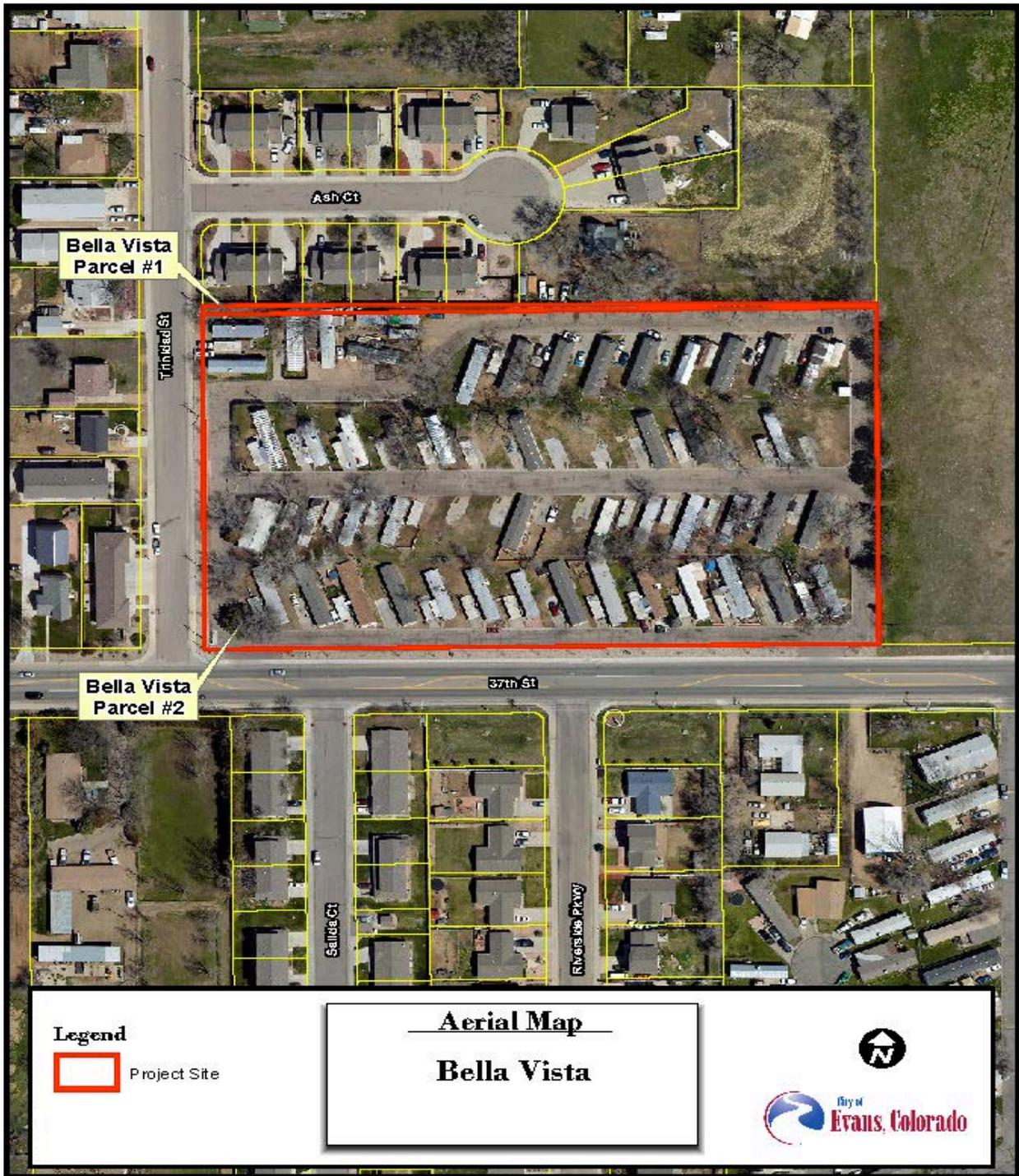
City Clerk

Lyle Achziger, Mayor

**EXHIBIT A
SUBJECT PROPERTIES**



EVS PT NE4 29-5-65 ALL BLKS 41-50-51 & PT BLKS 40-42-46-49 AND VACATED STREETS
 DESC AS BEG NE COR NE4 N89D52'W 1434.43'
 S00D07'W 40' S89D52'E 125' TO TPOB S89D52'E 692.23' S32D27'E 20.82' S01D52'E 466.91'
 N89D52'E 78.72' S00D14'W 535.71' S89D38'W
 378.55' S04D20'W 35.93' N86D14'W 231.83' N88D15'W 309.74' N00D07'E 860.21' S89D52'E 125'
 N00D07'E 175' TO POB (EASTWOOD VILLAGE MH PARK)



Bella Vista Parcel #1 (North):
 EVS HW OUTLOT A HEATHERWAY

Bella Vista Parcel #2 (South):
 EVS 13103 L43 THRU 47 SE4 20-5-65 ALSO THAT PT VAC E10' TRINIDAD ST ADJ TO ALSO
 PT W2 VAC TARRYAL ST ADJ L43-44 (ROYAL B
 MOBILE HOME PARK)

Exhibit B
Proposed Uses



Proposed Public Uses: View North-West including Eastwood Village and Bella Vista

Proposed Uses – Bella Vista



Proposed public uses at Riverside and 37th Street: View to North

Proposed Uses – Eastwood Village



Proposed public uses south of 37th Street: View to North

Exhibit B Proposed Uses



Proposed Public Uses: View North-West including Eastwood Village and Bella Vista

Proposed Uses – Bella Vista



Proposed public uses at Riverside and 37th Street: View to North



Proposed Uses – Eastwood Village



Proposed public uses south of 37th Street: View to North

City Council Calendar

March 2014 through April 2014

MARCH 2014

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					

APRIL 2014

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			

MARCH	Event	Location	Time
13	United Way of Weld County 2014 Celebration of Excellence	UNC Student Center Ballroom	11:30 AM - 1:30 PM
18	Flood Preparedness Breakfast	Evans City Complex-Cottonwood Ballroom	7:00 AM - 8:30 AM
18	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:30 PM
19	Flood Preparedness Public Event	Evans City Complex-Cottonwood Ballroom	7:00 PM - 8:30 PM
22	Flood Preparedness Fair	Evans City Complex	10:00 AM - 2:00 PM
23	Evans VFW Americanism Event	Evans VFW, 3501 State Street, Evans	Begins at 2:00 PM
27	Groundbreaking for Prairie Heights Middle School	65th Avenue and 37th Street	Begins at 11:30 AM

APRIL	Event	Location	Time
1	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:30 PM
3	NFRMPO April Meeting	Larimer County, 200 W. Oak, Fort Collins	6:00 PM - 8:30 PM
5	Library Topping-Out	Riverside Library	2:00 PM - 4:00 PM
8	Election Day Evans City Council	Evans City Complex	All Day
15	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:30 PM
18	Riverside Library Neighborhood Meeting	Evans City Complex	5:30 PM - 7:30 PM
26-27	City of Evans Spring Clean-up Days	3323 1st Ave, Evans	8:00 AM - 4:00 PM