



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  
July 1, 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](http://www.cityofevans.org) and posted immediately on the bulletin board adjacent to the Council Chambers.

1. CALL TO ORDER

2. PLEDGE

3. ROLL CALL

Mayor:	John Morris
Mayor Pro-Tem:	Jay Schaffer
Council:	Laura Brown
	Mark Clark
	Sherri Finn
	Lance Homann
	Brian Rudy

4. AUDIENCE PARTICIPATION

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

5. APPROVAL OF AGENDA

6. CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of June 16, 2014
- B. Ordinance 594-14 Amending Chapter 13.06 to Extend the Obligation to Provide a Non-Potable Water System to all New Developments (2<sup>nd</sup> Reading)

7. NEW BUSINESS

- A. Public Hearing - PUD Amendment-Cave Creek
- B. Public Hearing - Use by Special Review-Bonanza Creek Communications Tower
- C. Public Hearing - Use by Special Review-Sorin Wells
- D. Public Hearing - Zoning Amendment-Driftwood Plaza
- E. Ordinance 596-14 an Ordinance Amending Section 16.040.170 Regarding the Variance Process for Floodplain Permit Applications to Make Such Process Consistent with Other Variance Processes (1<sup>st</sup> Reading)
- F. Resolution 19-2014 Adjustment of Sewer Rates and System Development Charges for the Evans Wastewater Utility Enterprise
- G. Resolution 20-2014 Supporting a Grant Application from the State Board of The Great Outdoors Colorado

8. REPORTS

- A. City Manager
- B. City Attorney

9. AUDIENCE PARTICIPATION (general comments)

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

10. EXECUTIVE SESSION

- A. For a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b)
- B. For the purpose of discussing matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under Section C.R.S. 24-6-402(4)(e).

11. ADJOURNMENT

**CITY OF EVANS – MISSION STATEMENT**

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

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## COUNCIL COMMUNICATION

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**DATE:** July 1, 2014  
**AGENDA ITEM:** 6.A  
**SUBJECT:** Approval of the Minutes of June 16<sup>th</sup> City Council Meeting  
**PRESENTED BY:** City Clerk

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**AGENDA ITEM DESCRIPTION:**

Approval of minutes.

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**FINANCIAL SUMMARY:**

N/A

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**RECOMMENDATION:**

N/A

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**SUGGESTED MOTIONS:**

*"I move to approve the minutes as presented."*

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**Minutes**  
Regular Meeting  
June 16, 2014

**CALL TO ORDER**

Mayor Morris called the meeting to order at 7:38 p.m.

**PLEDGE**

**ROLL CALL**

Present: Mayor Morris, Council Members Brown, Clark, Finn, Homann, and Rudy

Absent: Mayor Pro-Tem Schaffer

**PROCLAMATION**

**A. Greeley Stampede Proclamation**

Mayor Morris read the Proclamation regarding the Greeley Stampede and presented it to Jessica Gonifas, Deputy City Manager.

**RECOGNITION**

**A. JUNE YARD OF THE MONTH—Mr. & Mrs. Quiroz, 3312 Collins Street**

Mayor Morris and Kyle Fehr, City Code Enforcement Officer, presented a Yard of the Month sign and gift certificate to Mrs. Quiroz for being the June Yard of the Month recipient.

**AUDIENCE PARTICIPATION**

Fred Neal, from 1614 38<sup>th</sup> Street in Evans, addressed to City Council with concerns about the process for citizens to be selected to City Boards and Commissions. He provided the example of applying for the Flood Recovery Task Force where City staff reviewed and selected the Task Force Members without input from City Council. He also talked about the importance of having a variety of viewpoints on the City's Board and Commission.

**APPROVAL OF AGENDA**

Raegan Robb, Evans City Clerk, discussed a couple changes to the agenda. Mr. Robb explained that the executive session was no longer needed for that evening and an issue concerning the Tuscany subdivision needed to be added to the agenda.

Council Member Clark made the motion, seconded by Council Member Rudy, to adopt the agenda, as amended. The motion passed with all voting in favor thereof.

### **CONSENT AGENDA**

#### **A. Approval of Minutes of the Special Meeting of June 3, 2014**

#### **B. Approval of Minutes of the Regular Meeting of June 3, 2014**

Council Member Homann recused himself from voting on the Consent Agenda since he was absent from the June 3<sup>rd</sup> meetings.

Council Member Clark 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. Ordinance 594-14 Amending Chapter 13.06 to Extend the Obligation to Provide a Non-Potable Water System to all New Developments (1<sup>st</sup> Reading)**

Scott Krob, City Attorney, discussed the need for Ordinance 594-14 which requires new commercial, industrial, or other non-residential developments to have non-potable water systems available to prevent using more costly treated water to satisfy their irrigation needs. Mr. Krob explained that the cost of installing non-potable systems is generally paid by developers and would help reduce the amount of treated water supplied by the City of Greeley.

Mayor Morris discussed his support for the Ordinance and talked about the importance for the City to reduce its treated water demand.

Council Member Clark made the motion, seconded by Council Member Rudy to adopt Ordinance 594-14 on first reading.

The motion passed with all voting in favor thereof.

#### **B. Ordinance No. 595-14 – Approving Charter Amendments for the 2014 General Election, scheduled for November 4, 2014 (1<sup>st</sup> Reading)**

Mr. Robb, presented Ordinance 595-14 to the City Council Members, which would refer four charter amendments for consideration by the City voters at the November General Election concerning the following sections of the Home Rule Charter:

- Section 3.4, Clarifying the terms of City Council members;
- Section 4.3 the Residency Requirement for the City Manager;

- Section 7.10, Maximum Penalties for the Violation of City Ordinances; and
- Chapter 12 concerning the Membership of the Planning Commission and the Zoning Board of Appeals

Mr. Robb explained that the comments received from the June 3<sup>rd</sup> work session were incorporated into the draft Ordinance. He also stated that, should the Ordinance be adopted, the City will enter into an IGA with Weld County to coordinate during the General Election on Tuesday, November 4, 2014 at a cost of \$1.00 per voter.

Mayor Morris summarized the progress of the charter amendments, which were recommended by the City Charter Committee.

Council Member Clark made the motion, seconded by Council Member Rudy, to adopt Ordinance 595-14 on first reading.

The motion passed with all voting in favor thereof.

**C. Resolution 17-2014 Amending, Reaffirming and Renewing Resolution No. 33-2012 Approving a Water Depot as a Use By Special Review and Approving a Carriage Agreement and Certain Agreements, Easements, and Deeds in Connection with such Water Depot**

Fred Starr, City Public Works Director, talked about the need for the Resolution to revise the agreement between the City and Front Range Oil and Gas Water Services (FROGS) reached under Resolution 33-2012. Mr. Starr explained that the property is located within the Riverside Park Planned Unit Development (PUD) Zoning District, which does not permit the property to be used as a water depot. However, the applicant was approved for a Use by Special Review (USR) to permit the proposed use for a term of five years through the adoption of Resolution 33-2012.

Mr. Staff explained that the City Council granted the USR with a series of conditions, including: “the approval of the USR will be contingent upon final approval of a PUD amendment. If the PUD Amendment is withdrawn or not approved within one year of this USR approval, this USR will be considered denied and enforcement action will begin.”

Mr. Starr stated that this condition should be eliminated since the property owner does not have any other development plans for the property except for the Water Depot, which is currently controlled for the next five years under the conditions of the USR.

Mayor Morris clarified that the FROGS development was the same property of the Ishiguro Water Depot.

Mr. Starr explained that this project was also known as the Ishiguro Water Depot and

clarified the exact location of the property.

Mayor Morris asked about the five year expiration of the USR and when a PUD would need to be submitted by the applicants.

Mr. Starr explained that the applicant would have to submit for a PUD within five years from the adoption of Resolution 17-2014.

Mayor Morris explained his support for the Resolution.

Council Member Clark made the motion, seconded by Council Member Rudy, to adopt Resolution 17-2014.

The motion passed with all voting in favor thereof.

**D. Resolution No. 18-2014 - Approving an Intergovernmental Agreement for Design Services between the City of Greeley and the City of Evans**

Mr. Starr explained Resolution 18-2014 which adopts an intergovernmental agreement (IGA) between the City of Evans and the City of Greeley to complete the design for the widening of 65<sup>th</sup> Avenue between the US 34 Bypass and 37<sup>th</sup> Street. He stated that the 65<sup>th</sup> Avenue corridor is identified in both communities' traffic master plans as being a "Major Arterial".

Mr. Starr explained that, according to the IGA, Evans will reimburse Greeley for design costs associated with the section of 65<sup>th</sup> Avenue contained within the Evans city limits—from 37<sup>th</sup> Street to a location just north of the bridge crossing the Ashcroft Draw. According to the IGA, the City of Greeley will be responsible for the project management, and Evans staff will take part in the review processes.

Mr. Starr explained that the City of Evans would pay 25 percent of the total design estimate or an estimated \$47,250.00, according to the IGA.

Council Member Clark asked about the width of the project.

Mr. Starr explained that the project would widen 37<sup>th</sup> to the US 34 Bypass.

Mayor Morris discussed his conversations with the City of Greeley concerning this project and explained his support for the IGA.

Council Member Clark made the motion, seconded by Council Member Rudy, to adopt Resolution 18-2014.

The motion passed with all voting in favor thereof.

## **E. Tuscany Subdivision Agreement**

Mr. Starr addressed City Council and explained why the agreement for the Tuscany subdivision, which was originally approved on May 6, 2014, needed to be reconsidered by the City Council. Mr. Starr explained some recent issues with new developers and investors of Tuscany LLC who wanted some changes to the original agreement.

Mr. Starr stated that the City will collect fees from the developers for non-potable water systems for future development in the subdivision, but Tuscany LLC will not be obligated to fund the non-potable water infrastructure in the developed tracts of the subdivision. He talked about some of the issues surrounding tract-O of the subdivision and discussed the requirement in the agreement for Tuscany LLC to work with the owners of tract-O for the installation of a non-potable water system.

Council Member Clark clarified that the revised agreement allows the new investment group to negotiate with owner of tract-O concerning access and the installation of a non-potable water system.

Mr. Starr provided some history about tract-O and explained that both groups were amenable to the installation of a non-potable water system in tract-O.

Mayor Morris, asked what would happen if the two parties do not agree.

Mr. Starr explained that tract-O would not be developed if the parties cannot reach an agreement, but future residential and commercial property in Tuscany would still be built-out with non-potable water infrastructure.

Mayor Morris asked what was required in the agreement for tract-O.

Mr. Starr explained that the agreement requires the parties to negotiate the development of tract-O.

Mayor Morris expressed concerns about the owners of tract-O not being able to agree to the installation of a non-potable system.

Mr. Starr and Scott Krob, City Attorney, discussed the requirements to amend the agreement if tract-O owners do not agree to the installation of a non-potable system.

Mayor Morris clarified that the City would not need to develop retention ponds in the subdivision.

Fred explained that the City would not need to develop retention ponds in the subdivision.

The City Council Members discussed potential changes to the agreement before it was adopted.

Aden Hogan, City Manager, discussed the benefits of the agreement and talked about the history of tract-O.

Discussion ensued concerning the agreement.

Mayor Morris discussed his support for the agreement.

Council Member Clark made the motion, seconded by Council Member Homann, to approve the Tuscany Agreement.

The motion passed with all voting in favor thereof.

## **REPORTS**

### **A. City Manager**

Mr. Hogan, referred to the City Council Members to the Monitoring report which highlighted the some of the ongoing projects for economic development and the public works department.

Mr. Hogan also thanked the Council Members and staff for understanding the need for his time away from his position in order to improve his health.

### **B. City Attorney**

Mr. Krob explained that the majority of his time in the month of June has been spent addressing the following issues: Tuscany Sub-division, Prairie Heights, the 35<sup>th</sup> Avenue project, and the Fallis Investigation.

## **AUDIENCE PARTICIPATION**

Mr. Fred Neal addressed City Council to discuss the importance of infrastructure improvements, like the non-potable water system for the Tuscany subdivision, to reduce the amount of treated water used in Evans in order to remain under the water supply limit imposed by Greeley. He warned against City Council approving developments unless non-potable water systems would be installed prior to development. He also talked about his experience on the water audit committee and the importance of developing the City's non-potable water system over the City's Waste Water Treatment needs.

## **ADJOURNMENT**

The meeting adjourned at 8:23 p.m.

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## COUNCIL COMMUNICATION

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**DATE:** July 1, 2014

**AGENDA ITEM:** 6.B

**SUBJECT:** ORDINANCE 594-14 AN ORDINANCE AMENDING CHAPTER 13.06 TO EXTEND THE OBLIGATION TO PROVIDE A NON-POTABLE WATER SYSTEM TO ALL NEW DEVELOPMENTS.

**PRESENTED BY:** Fred Starr, Director of Public Works  
Scott Krob, City Attorney

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### AGENDA ITEM DESCRIPTION:

The City's regulations governing non-potable dual water systems are set forth in Chapter 13.06 of the municipal code. Currently, the obligation to provide a non-potable water system applies only to new residential developments. As a result, new commercial, industrial or other non-residential developments would not be required to have non-potable water available, and would use more costly treated water to satisfy their irrigation needs. To further the City's efforts to reduce its treated water demand, Staff has requested that the obligation to provide a non-potable system be extended to apply to all new developments, non-residential as well as residential, so all irrigation in new developments will use non-potable, rather treated water. The service fees for using non-potable water are less than those for treated water, resulting in a savings to the water user, once the non-potable system is in place. The proposed ordinance implements this change.

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### FINANCIAL SUMMARY:

The cost of installing the non-potable system is generally borne by the developer. Accordingly, the change should not have a negative financial impact on the City. By reducing the treated water demand, the City may experience a financial benefit if it is able to stay under the cap imposed by Greeley in supplying Evans with treated water.

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### RECOMMENDATION:

Staff recommends adoption of the ordinance.

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### SUGGESTED MOTIONS:

"I move to approve Ordinance No. 594-14."

"I move to deny Ordinance No. 594-14."

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**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 594-14**

**AN ORDINANCE AMENDING CHAPTER 13.06 TO EXTEND THE OBLIGATION TO PROVIDE A NON-POTABLE WATER SYSTEM TO ALL NEW DEVELOPMENTS**

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, the City Council has previously enacted Chapter 13.06 of the Evans Municipal Code obligating all new residential developments, subject to certain exceptions, to provide a non-potable water system for irrigation purposes within the development, and

**WHEREAS**, the City Council has determined that it is in the interest of the health, safety and welfare of the public that new non-residential, as well as new residential developments provide non-potable water systems water systems for irrigation purposes within the development.

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

1. Chapter 13.06 is hereby amended by adding the underlined language and deleting the stricken through language, to read as follows:

**CHAPTER 13.06**

**Non-Potable/Dual Water Systems**

**13.06.010 Non-potable/dual water systems required.**

A. Mandatory construction of non-potable/dual water systems for irrigation. ~~Commencing upon the adoption of the ordinance codified herein, a~~ All new residential development within those areas of the Urban Growth Boundary of the City, designated by the City Council as suitable for the construction of non-potable/dual water systems, shall be required, as part of any subdivision process, to construct a non-potable/dual water system for irrigation of all ~~residential~~ lots and common areas within the subdivision. Likewise, proponents of all new ~~residential~~ development shall provide for adequate non-potable water rights dedication in amounts sufficient in both quantities and quality to operate said system so the system will provide an assured and sufficient amount of water to adequately irrigate all ~~residential~~ lots and common areas.

B. Definitions:

1. The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

- a. The singular number includes the plural and the plural the singular;
- b. The present tense includes the past and future tenses, and the future the present;
- c. The word *shall* is mandatory, while the word *may* is permissive;
- d. The masculine gender includes the feminine and neuter.

2. The following words and terms, wherever they occur in this Chapter, shall be construed and defined as follows:

*Non-potable irrigation* means a secondary water system within a subdivision or within a project that includes a dual water system designed solely for outdoor landscape irrigation and not for human or animal consumption or play.

~~*Residential Development*~~ means any number of lots for construction of any number of dwelling units, including but not limited to single-family and two-family dwellings, multi-family dwellings, factory built homes and manufactured homes, as well as commercial, industrial, or other types of structures and improvements.

C. Dedication of non-potable/dual water systems to the public. As a condition of subdivision approval of any ~~residential~~ development wherein a non-potable/dual water system shall be required, such system shall be operated, repaired and maintained by the City following the completion of the specified warranty period. The City may provide for credits as may be appropriate for the construction of such system, including reduced raw water dedication requirements reflective of the existence of a non-potable/dual water system, as well as reduced water plant investment fees likewise reflective of the existence of the non-potable/dual water system. All non-potable water resources designated for use within the proposed subdivision for the operation of the non-potable/dual water system shall be available both physically and legally in perpetuity, thereby assuring to the City that adequate water resources will be available to the City for the operation of the non-potable/dual water system. Therefore, the public improvements developer's agreement must provide for the transfer of such water resources, as well as the water acquisition and distribution system, to the City upon completion of said improvements and completion of the warranty period. The adequacy and reliability of the non-potable water resources shall be determined by the City in its sole discretion.

D. Annexation. The construction of a non-potable/dual water system at the time of development shall be a condition of annexation when annexation is proposed for ~~residential~~ development in an area designated as requiring the construction of non-potable/dual water systems.

E. Feasibility review and determination. In the event it can be established to the satisfaction of the City Council that construction of a non-potable/dual water system as part of new ~~residential~~ development in an area designated as requiring the construction of non-potable/dual water systems is not economically feasible and would prove to be an undue hardship, the City Council may relieve the developer from the operation of the ordinance codified herein. Any such determination by the City Council shall be conditioned upon compliance with the following conditions:

1. The developer shall submit an application seeking relief from the operation of the ordinance codified herein on a form prescribed by the City and containing such information and supporting documentation as may be required by the City.

2. The developer shall submit an analysis of the economic feasibility of the proposed non-potable/dual water system using a standardized cost benefit analysis approved by the City.

3. The developer may submit such additional information and documentation as may be deemed relevant in support of its proposition that the construction of a non-potable system is not economically feasible and would work an undue hardship, including but not limited to information concerning the availability and cost of raw water and issues of engineering relating to the delivery of raw water to the system in question.

4. Upon receipt of the aforesaid application, cost benefit analysis and additional information and documentation, the Director of Public Works may, in his or her or her sole discretion, employ such engineers, financial analysts and such other experts as may be necessary to review and evaluate the data provided and to submit an independent analysis of the developer's application for relief from the operation of the ordinance codified herein. The reasonable and necessary expenses incurred by the City shall be paid by the developer and shall be advanced by the developer as a condition of this process.

5. Upon the completion of the independent analysis as aforesaid, the Director of Public Works, upon notice to the developer, shall schedule a hearing before the City Council. At the time of the hearing, the developer and the City staff shall each be afforded a full opportunity to present all relevant evidence in the form of testimony and exhibits, including a recommendation from the Water and Sewer Board.

F. Regulations. The Director of Public Works is hereby authorized to develop regulations for the construction and operation of non-potable/dual water systems. Such regulations shall include, but shall not be limited to, location of and specifications for transmission lines, valves, connections, pumps, structures and storage requirements for non-potable water. (Ord. 288-04)

2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

3. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

**INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

**ATTEST:**

**CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor

**PASSED AND ADOPTED ON A SECOND READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2014.**

**ATTEST:**

**CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor

CITY OF EVANS, COLORADO

ORDINANCE 594-14

AN ORDINANCE AMENDING CHAPTER 13.06 TO EXTEND THE OBLIGATION TO  
PROVIDE A NON-POTABLE WATER SYSTEM  
TO ALL NEW DEVELOPMENTS

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, the City Council has previously enacted Chapter 13.06 of the Evans Municipal Code obligating all new residential developments, subject to certain exceptions, to provide a non-potable water system for irrigation purposes within the development, and

**WHEREAS**, the City Council has determined that it is in the interest of the health, safety and welfare of the public that new non-residential, as well as new residential developments provide non-potable water systems water systems for irrigation purposes within the development.

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

1. Chapter 13.06 is hereby amended by adding the underlined language and deleting the stricken through language, to read as follows:

**CHAPTER 13.06**

**Non-Potable/Dual Water Systems**

**13.06.010 Non-potable/dual water systems required.**

A. Mandatory construction of non-potable/dual water systems for irrigation. All new development within those areas of the Urban Growth Boundary of the City, designated by the City Council as suitable for the construction of non-potable/dual water systems, shall be required, as part of any subdivision process, to construct a non-potable/dual water system for irrigation of all lots and common areas within the subdivision. Likewise, proponents of all new development shall provide for adequate non-potable water rights dedication in amounts sufficient in both quantities and quality to operate said system so the system will provide an assured and sufficient amount of water to adequately irrigate all lots and common areas.

B. Definitions:

1. The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

a. The singular number includes the plural and the plural the singular;

b. The present tense includes the past and future tenses, and the future the present;

c. The word *shall* is mandatory, while the word *may* is permissive;

d. The masculine gender includes the feminine and neuter.

2. The following words and terms, wherever they occur in this Chapter, shall be construed and defined as follows:

*Non-potable irrigation* means a secondary water system within a subdivision or within a project that includes a dual water system designed solely for outdoor landscape irrigation and not for human or animal consumption or play.

*Development* means any number of lots for construction of any number of dwelling units, including but not limited to single-family and two-family dwellings, multi-family dwellings, factory built homes and manufactured homes, as well as commercial, industrial, or other types of structures and improvements.

C. Dedication of non-potable/dual water systems to the public. As a condition of subdivision approval of any development wherein a non-potable/dual water system shall be required, such system shall be operated, repaired and maintained by the City following the completion of the specified warranty period. The City may provide for credits as may be appropriate for the construction of such system, including reduced raw water dedication requirements reflective of the existence of a non-potable/dual water system, as well as reduced water plant investment fees likewise reflective of the existence of the non-potable/dual water system. All non-potable water resources designated for use within the proposed subdivision for the operation of the non-potable/dual water system shall be available both physically and legally in perpetuity, thereby assuring to the City that adequate water resources will be available to the City for the operation of the non-potable/dual water system. Therefore, the public improvements developer's agreement must provide for the transfer of such water resources, as well as the water acquisition and distribution system, to the City upon completion of said improvements and completion of the warranty period. The adequacy and reliability of the non-potable water resources shall be determined by the City in its sole discretion.

D. Annexation. The construction of a non-potable/dual water system at the time of development shall be a condition of annexation when annexation is proposed for development in an area designated as requiring the construction of non-potable/dual water systems.

E. Feasibility review and determination. In the event it can be established to the satisfaction of the City Council that construction of a non-potable/dual water system as part of new development in an area designated as requiring the construction of non-potable/dual water systems is not economically feasible and would prove to be an undue hardship, the City Council may relieve the developer from the operation of the ordinance codified herein. Any such determination by the City Council shall be conditioned upon compliance with the following conditions:

1. The developer shall submit an application seeking relief from the operation of the ordinance codified herein on a form prescribed by the City and containing such information and supporting documentation as may be required by the City.

2. The developer shall submit an analysis of the economic feasibility of the proposed non-potable/dual water system using a standardized cost benefit analysis approved by the City.

3. The developer may submit such additional information and documentation as may be deemed relevant in support of its proposition that the construction of a non-potable system is not economically feasible and would work an undue hardship, including but not limited to information concerning the availability and cost of raw water and issues of engineering relating to the delivery of raw water to the system in question.

4. Upon receipt of the aforesaid application, cost benefit analysis and additional information and documentation, the Director of Public Works may, in his or her or her sole discretion, employ such engineers, financial analysts and such other experts as may be necessary to review and evaluate the data provided and to submit an independent analysis of the developer's application for relief from the operation of the ordinance codified herein. The reasonable and necessary expenses incurred by the City shall be paid by the developer and shall be advanced by the developer as a condition of this process.

5. Upon the completion of the independent analysis as aforesaid, the Director of Public Works, upon notice to the developer, shall schedule a hearing before the City Council. At the time of the hearing, the developer and the City staff shall each be afforded a full opportunity to present all relevant evidence in the form of testimony and exhibits, including a recommendation from the Water and Sewer Board.

F. Regulations. The Director of Public Works is hereby authorized to develop regulations for the construction and operation of non-potable/dual water systems. Such regulations shall include, but shall not be limited to, location of and specifications for transmission lines, valves, connections, pumps, structures and storage requirements for non-potable water. (Ord. 288-04)

2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

3. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 16<sup>th</sup> DAY OF JUNE, 2014.

**ATTEST:**

**CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor

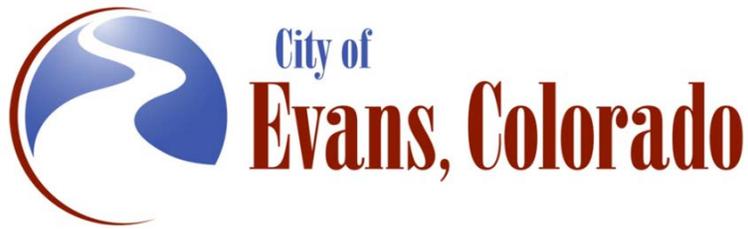
PASSED AND ADOPTED ON A SECOND READING THIS 1<sup>st</sup> DAY OF JUNE, 2014.

**ATTEST:**

**CITY OF EVANS, COLORADO**

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Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor




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**CITY COUNCIL COMMUNICATION**

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**DATE:** July 1, 2014

**AGENDA ITEM:** 7.A

**SUBJECT:** Cave Creek Planned Unit Development (PUD) Amendment

**STAFF CONTACT:** Sean Wheeler, City Planner

**ACTION:** Consideration by City Council

**APPROVED BY:** Zach Ratkai, Building and Development Manager

**PLANNING COMMISSION:** June 10, 2014

BACKGROUND INFORMATION		
<b>Location:</b>	3400 Sagebrush Blvd. (See Attached Map)	
<b>Applicant:</b>	Sun Cave Creek LLC	
<b>Existing Land Use:</b>	Residential Planned Unit Development (PUD)	
<b>Proposed Land Use:</b>	Modified PUD Approval Requirements	
<b>Surrounding Land Use:</b>	<b>North</b>	Prairie View Drive
	<b>South</b>	St. Louis Western Colony (Weld County, Undeveloped)
	<b>East</b>	Ridge at Prairie View PUD (Single Family Homes, Platted but not Built)
	<b>West</b>	Existing Cave Creek PUD 1 <sup>st</sup> and 2 <sup>nd</sup> Filings
<b>Existing Zoning:</b>	PUD	
<b>Proposed Zoning:</b>	Amended PUD	
<b>Surrounding Zoning:</b>	<b>North</b>	R-1 Residential
	<b>South</b>	Weld County
	<b>East</b>	PUD
	<b>West</b>	PUD
<b>Future Land Use Designation:</b>	PUD	

## **PROJECT DESCRIPTION:**

The applicant seeks approval to amend the existing zoning for the Cave Creek Planned Unit Development (PUD) by lifting a restriction on the age of replacement homes allowed in the subdivision. The original approval documents for Cave Creek state that replacement homes are allowed *only* if they are four years old or newer. However, in 2011 and 2012 the City Council granted temporary waivers from this requirement. The current request seeks to make this waiver permanent. The applicant has had two successful years of complying with the requirements for the waivers, and they anticipate maintaining the quality of homes brought into Cave Creek, by enforcing all of the other standards in place for the PUD. The only request for this application is to remove the age restriction, and no other changes are proposed. For historic reference, the City approved the Cave Creek PUD in 1998 for a total of 449 lots on 128 acres. Since that time, two of the three phases are now in place and development of the third and construction of the final phase is anticipated to start soon.

## **PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission considered the request on June 10, 2014 and the Commissioners recommended conditional approval of the request, modifying the recommendation by Staff. Staff recommended removing the restriction permanently, and the Planning Commission voted to extend the waiver for 5 years. Please note, two Planning Commissioners recused themselves from voting based on conflicts of interest. The remaining 3 Commissioners all voted in favor of extending the waiver for 5 years, rather than lifting the requirement.

## **ZONING AMENDMENTS (CHAPTER 19.60, MUNICIPAL CODE)**

**1. ANALYSIS / ISSUES:** Chapter 19.60 of the Municipal Code outlines the requirements for amending the zoning map. Under this Section, changes to zoning must be compatible with the goals and objectives outlined in the “2010 City of Evans Comprehensive Plan”. Staff’s assessment and recommendations of this application are based on this requirement as further described below:

**A. 2010 City of Evans Comprehensive Plan:** Through a collaborative effort between the public, the Elected Officials and Staff, the City updated its Comprehensive Plan in 2010 as a way to guide development in Evans. Chapter 3 of the Plan recommends that the City encourage a variety of housing options in development to address different needs of residents. Specifically:

**1) Development and the Comprehensive Plan:** The Cave Creek neighborhood was established in 1998 and the subdivision maintains a unique character with its housing styles and layout. As noted the City granted a waiver for two consecutive years and there have been no issues or concerns with the homes brought into the community during that time. With the application of all other requirements in the PUD approvals that will still be in place, this approach has proven successful. Staff anticipates it will continue to be successful based on this two year period, and would add that maintaining the quality of homes in the development also benefits the applicant along with other home owners.

**2) Housing Standards:** Any request to modify PUD approvals should also consider the interests of existing homeowners, who purchased lots with an anticipation that controls in place would maintain the character of the neighborhood and protect their investment. The project materials include a detailed specifications checklist for homes allowed in the development. The applicant provided photographs of various units on site to illustrate the level of quality they seek in homes, in order to preserve the overall style of housing in the neighborhood. Based on the past two years performance and consideration of these other factors, Staff's assessment is that the request is consistent with intent behind the original approval of the PUD and the recommendations of the Comprehensive Plan.

**REVIEWING AGENCY COMMENTS:**

Planning Staff referred this request to several City offices for comment. None of the reviewing offices objected to approval of the request. Issues such as impacts on public improvements are not a concern as the City reviewed the design of streets and sidewalks previously. Approval of this request will not have an impact on City Engineering standards. Approval will also not impact standards for emergency service providers. Fire protection is not a concern because the application of the other standards for this PUD would eliminate the possibility of dangerous or dilapidated units being moved on site, along with other State and Federal prohibitions that apply. These homes are also subject to building code requirements.

**CRITERIA FOR APPROVAL OF ZONING AMENDMENTS:**

Chapter 19 in the Municipal Code provides the review criteria by which the City can approve requests to change zoning. Section 19.60.080 contains the standard for rezoning requests. It states:

Zoning amendments shall be approved only if the proposed zoning is in substantial conformance with the 2010 City of Evans Comprehensive Plan, or there exists substantial reasoning for amending the Comprehensive Plan.

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**FINDINGS OF FACT AND CONCLUSIONS:**

On consideration of the Zoning Amendment request and the information contained in this report, Staff makes the following Findings of Fact;

The Cave Creek PUD Zoning Amendment can appropriately and sufficiently meet the Review Criteria found in Section 19.60.080 of the Evans Municipal Code.

**PLANNING COMMISSION AND STAFF RECOMMENDATIONS:**

The Planning Commission recommends approval of a continued waiver from the restriction that homes brought to the site be four years old or newer for additional 5-years, for the Cave Creek PUD.

Staff recommends approval of the request to amend the Cave Creek PUD to permanently remove the restriction that homes brought to the site be four years old or newer, based on the findings and conclusions outlined in this report.

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**Attachments:** Vicinity Map; Zoning Map; Cave Creek PUD Amendment Application 2014

## Minutes

### Planning and Zoning Commission Regular Meeting

June 10, 2014

### Regular Meeting

#### REGULAR MEETING

1) CALL TO ORDER

Meeting was called to order at 6:27 p.m. by Chairman Brothe on 6/10/14.

2) ROLL CALL:

Chairman: Mark Brothe - present  
Commissioners: Deborah Linn - present  
Julie Lowe - present  
Robert S. Phillips, III - present  
Laura Speer - present

3) APPROVAL OF MINUTES

Minutes of February 25, 2014

Only one commissioner was present at the meeting therefore, minutes can't be approved. No motions were made at the meeting. At this time only minutes could be accepted.

Commissioner Phillips made the motion, seconded by Commissioner Speer to accept the minutes of February 25, 2014. The motion passed with all voting in favor thereof.

4) APPROVAL OF THE AGENDA

Commissioner Linn made the motion, seconded by Commissioner Phillips, to approve the agenda as presented. The motion passed with all voting in favor thereof.

5) AGENDA ITEMS:

**A. PUD AMENDMENT - Cave Creek**

Chairman Brothe opened the Public Hearing at 6:30 p.m.  
Commissioner Linn and Lowe recused themselves.

**PROJECT DESCRIPTION:** The applicant seeks approval to amend the existing zoning for the Cave Creek Planned Unit Development (PUD) by lifting a restriction on the age of replacement homes in the subdivision. The original approval documents for Cave Creek (from 1998) state that replacement homes are allowed *only* if they are four years old or newer. However, in 2011 and 2012 the City Council granted temporary waivers from this requirement. The current request seeks to make this waiver permanent. The applicant

has had two successful years of complying with the requirements for the waivers, and they anticipate maintaining the quality of homes brought into Cave Creek by meeting all other standards for the PUD. The only request made for this application is to remove only the age restriction, and the applicant has not proposed any other changes to the Cave Creek PUD. For historic reference, the City approved the original Cave Creek PUD in 1998 to develop a total of 449 lots on 128 acres. Since that time, two of the three phases are now in place and development of the third and final phase is anticipated to start soon.

**STAFF RECOMMENDATION:** Staff recommends the Planning Commission forward a recommendation of approval to the Evans City Council for the request to amend the Cave Creek PUD Zoning, by removal of the requirement that replacement homes can must be four years of newer. Staffs assessment is that this change is consistent with the goals and objectives outlined in the City of Evans 2010 Comprehensive Plan based on the findings and conclusions outlined in this report.

**APPLICANT'S POSITION:**

Tom Carpenter owns and operates Sun Communities for Cave Creek 3400 Sagebrush Boulevard, Evans, CO, 80620 and Tom resides in Westminster. Cave Creek works well on the city side as far as operations with applications and inspections. On our side we are able to have an additional tool to maintain occupancy in the community without affecting the esthetics.

**AUDIENCE PARTICIPATION IN SUPPORT OF THE ISSUE:**

None at this time

**AUDIENCE PARTICIPATION IN OPPOSITION OF THE ISSUE:**

Nick Francis, 6600 20<sup>th</sup> Street #12, Greeley, CO 80634 is the owner of the adjacent property east of Cave Creek. He has owned the property about 10-12 years and is opposed to changes to the PUD. Mr. Francis believes that the PUD would make a drastic change to the community by lowering the standard and downgrading the neighborhood.

Sharon Olivo, 3010 Hawk Drive, Evans, CO, 80620 is concerned of why would you spend the money to make Cave Creek a nice community and then turn around and lower the standards to bring in older mobile homes. Her experience of older mobile homes is a lot of the time they become rentals and more undesirable people move into them.

**APPLICANT REBUTTAL:**

There are two items Mr. Carpenter can respond to. First, it's not a price point issue it would be homes that brokers and dealers bring in under trade-in situations or home owners bringing their homes from other communities. Secondly, it wouldn't

lower the esthetics of the community because of the checklist and guide lines established. City council has agreed to those standards and homes have come into Cave Creek under those guidelines. The screening process along with background checks is consistent. An older home or lower quality home won't meet the compliance of the checklist and will stay in check with the esthetics of the community.

**OPPOSITION REBUTTAL:**

Mark LeClere, 4219 Larkspur Road, Evans, CO, 80620 is a Cave Creek resident and is worried about an older home lower the value of the current homes in Cave Creek.

Chairman Brothe closed audience participation at 6:51 p.m.

**Chairman Brothe asked the Commission if there are any questions that need clarified that were brought up during the Public Hearing.**

Commissioner Phillips brought up how old of a home would you bring in? The applicant answered, once in the community it stays in the community. Currently they have some 1994 homes. Commissioner Phillips asked again, how old of a home would come in. The applicant answered, typically, not any older than 1994.

Commissioner Speer asked, "What's the reasoning for bringing in the older homes?" The applicant answered, that inventory is short. Mr. Carpenter also advised that there was a community that shut down in Ft. Collins and those people needed to relocate and the PUD wouldn't allow them to relocate to the Cave Creek Community.

Chairman Brothe asked about renting the current homes. The applicant answered, that the owner has to be on the lease, as well as the occupant and they have to be screening like the owner. Cave creek has some rentals as a lease to purchase option.

Commissioner Speer asked, "Did the city council allow older homes to come in under the agreement with Cave Creek?" The applicant answered, that the standards on the agreement are more strict then what the PUD entails.

**Chairman Brothe asked for any Planning Commission discussion or clarification from the staff.**

Commissioner Phillips advised that he had no problem with the PUD but wants to limit the age of the homes to 5 years instead of an unlimited time frame.

Chairman Brothe asked staff, "What is the recourse if the time frame is unlimited and it becomes out of hand?" Mr. Wheeler answered, the city has the ability to assess the PUD and enforce the standards.

Chairman Brothe closed the Public Hearing at 7:21 p.m.

Commissioner Phillips moved to recommend approval of the request to amend the Cave Creek PUD by requiring that all replacement homes be five years old or newer, as being in the best interest of the citizens of the City of Evans. All other conditions of approval continue to apply, seconded by Commissioner Speer to recommend approval. Motion passed with all voting in favor thereof.

Mr. Ratkai advised that this item would be heard at the July 1<sup>st</sup> City Council Meeting.

#### **B. Use by Special Review - Bonanza Creek Communications Tower**

Chairman Brothe opened the Public Hearing at 7:03 p.m.

**PROJECT DESCRIPTION:** The applicant seeks Use by Special Review (USR) approval to construct a 68-foot communications tower on their property at 4301 Industrial Parkway in the Evans Industrial Park. Bonanza Creek Energy will use the tower to improve communications with their field operations as a replacement for ground line connections lost in the 2013 flood. Bonanza Creek will be the sole user, and this tower will not provide commercial mobile radio services (cellular service) to the public. Please note, at the applicant's request Staff approved a site plan to construct a 40-foot tower at the site, which is allowed administratively under the Municipal Code. If the USR is approved, the applicant will add the height extension at that time.

**STAFF RECOMMENDATION:** Staff recommends that the Planning Commission forward a recommendation of approval to the Evans City Council of the requested Bonanza Creek Communications Tower Use by Special Review, based on the findings and conclusions outlined in this report.

#### **APPLICANT'S POSITION:**

Pam Hora, who is a planner with Tetra Tech, 1900 South Sunset Street Suite #1-F, Longmont, 80501, went over the background on Bonanza Creek as a Denver-based oil extraction company. Their new office is located at 4301 Industrial Parkway in Evans. The new tower is a way to safely and efficiently operate their business. The tower allows them to pull data from well sites and allow for traffic control. Pam went over the site plan and where the tower would be located. A picture of the tower was shown that is 68 feet and of a lattice style. To be a good neighbor, they sent out a letter to their neighbors that are within 500 feet surrounding the tower. There were two neighbors that replied with concerns. The first neighbor, Lynn Clark with Bill to Write Signs and wanted to know if the tower would interfere with Wi-Fi and cellular services which Pam advised it would not. The other neighbor, Kelvin Curst with Fresno Valves and Castings asked if there would be guide wires

that would support the tower and Pam advised there would be no guide wires in place. Both of them got the information that they need and had no further concerns at the time.

**AUDIENCE PARTICIPATION IN SUPPORT OF THE ISSUE:**

None

**AUDIENCE PARTICIPATION IN OPPOSITION OF THE ISSUE:**

None

**APPLICANT REBUTTAL:**

None

**OPPOSITION REBUTTAL:**

None

Chairman Brothe closed audience participation at 7:21 p.m.

**Chairman Brothe asked Commission if there are any questions that need clarified that were brought up during the Public Hearing.**

Commissioner Speer stated that in their original application they had requested up to a 100 feet and wanted to know if this would be applicable in the future. The applicant answered not at this time. If need be they would come and amend the USR.

Commissioner Speer asked about the wind speed that the tower can withstand? The applicant answered as a category 3 tornado.

Chairman Brothe wanted clarification if they had any plans about renting out space on the tower for other's use. Martin Lowmen, Bonanza Creek Automation Manager, answered that they approached Anadarko to rent space on their tower and they advised they have some antennas that would interfere with their communications. At this time, there would be no Wi-Fi or cellular services on the tower, only one licensed frequency that Bonanza Creeks owns now. It would be a sole use only.

**Chairman Brothe asked for any Planning Commission discussion or clarification from the staff.**

None

Chairman Brothe closed the Public Hearing at 7:21 p.m.

Commissioner Lowe moved to recommend approval of the Bonanza Creek

Communications Tower Use by Special Review as being in the best interest of the citizens of the City of Evans, seconded by Commissioner Phillips to recommend approval.

The motion passed with a vote of 4-1 with the following Commissioner Lowe, Commissioner Speer, Chairman Brothe, and Commissioner Phillips in favor of and Commissioner Linn opposing.

### **C. Use by Special Review - Sorin Wells**

Chairman Brothe opened the Public Hearing at 7:24 p.m.

- 1.** The applicant seeks Use by Special Review approval to install oil and gas drilling equipment on undeveloped agricultural land northwest of CR# 394 and east of CR# 33½. Completion of the project will include the installation of seven wellheads, two associated tank batteries for temporary storage and other site improvements related to extraction uses. The applicant will also install fencing and signage in compliance with State permit requirements for safety and site identification purposes. Access to the site will be via a semi-improved road connecting to CR# 395, and will be designed to accommodate both production company truck traffic and emergency vehicles. The project description indicates that approximately five acres of land are required for this use.
- 2.** Well depths are anticipated to be from approximately 6,967 feet to 7,172 feet. The project description states that no seismic operations are planned for this site. Given the nature of the use, it is not possible to determine how long the wells will be in production. For that reason the applicant has requested an open-ended length of the Special Review approval, discussed further below in this report and supported by Staff. Once production ceases, the applicant will cap the wells and reclaim the site in compliance with Colorado Oil and Gas Conservation Commission (COGCC) requirements.
- 3.** The project materials are attached to this report and show the proposed locations of the wells and tank batteries, along with descriptions of the types of equipment required in these operations. Also included are a full description of the use and the applicant's assessment of potential concerns / impacts. Staff's assessment of the request is outlined below in this report.

**STAFF RECOMMENDATION:** Staff recommends that the Planning Commission forward a recommendation of approval to the Evans City Council of the requested USR, subject to the conditions of approval as recommended and based on the findings and conclusions outlined in this report.

Commissioner Lowe asked the Planning Commission if she should recuse herself as her son-in-law is a current employee of PDC. The Planning Commission had no objections.

**APPLICANT'S POSITION:**

Josh Wagner, Regional Land Man of PDC, 1775 Sherman Street, Denver, CO 80203. PDC has brought experts for the hearing to answer questions on each issue. Mr. Wagner clarified that there are 7 horizontal wells, where the access road is off WCR 394 and the sound wall. They will be drilling from north to south. One of the primary reasons for this location is the lease hold (economics) and the geology (up slope).

Steve Trippit, Asset Director DJ Basin of PDC, 1775 Sherman Street, Denver, CO 80203, went over the background of PDC and the DJ basin particularly the Wattenberg field. PDC is an active participant in Weld County and locally within Evans and other surrounding communities. They support several functions such as the Greeley Stampede, Weld County Fair, Evans Fest, and Kersey Days. PDC is a good neighbor and they have a responsibility to the community. Mr. Trippit provided a history on active wells and drilling permits within the State of Colorado. Colorado has the strictest guidelines for oil and gas in the country. PDC abides and follows the guidelines that are imposed all the way from federal to municipal.

Adele Hanigan, Vice President of Environmental Health and Safety of PDC, as well as a licensed professional engineer and environmental engineering.

A lot of people believe that the oil and gas is not well regulated. PDC is regulated by several organizations. The first being the Colorado Oil and Gas Conservation Commission which is the primary agency for establishing the state's standards and enforcing them. In addition, is the air and water quality regulations set by the Colorado Department of Public Health and Environment specifically for oil and gas. Colorado Department of Wildlife regulates wildlife tasks and concerns. Other entities would be the municipalities and Weld County who have their own regulations.

There are a lot of inconveniences when it comes to oil and gas production. Specifically the noise, after a baseline evaluation PDC can provide sound walls to deflect the noise. There are lighting issues as the drilling is a twenty four hour, 7 days a week operation. The lighting protects the workers onsite. PDC will use downward lighting to minimize the lighting. There are dust and smells associated with the production as it is an industrial activity. The sound walls should help to minimize the dust and smell. There is a traffic pattern and vendors have to follow it. The district manager will ensure that the vendors follow the rules or PDC will no longer contract with them.

PDC has a leak detection program as well as an air quality program with inferred cameras. In addition are storage tank emissions. Stringent and emergency response plans are in place. In a case of an emergency or catastrophe a company by the name of Well World responds. There are 2 rules that require PDC to do baseline sampling and monitoring. The rule that applies to this location is Rule 318 and the baseline testing has already been completed. After the wells are completed another baseline sampling will be done as well as another between 6 to 72 months after the project is completed. Well owners are also given this information and may also utilize Weld County Health Department for independent sampling of their wells.

Jason Miller, District Operations Manager for Evans, 3801 Carson Avenue, Evans, CO 80620 presented the geography of the well heads and project area. He showed on a map where the sound wall will be installed which is along the north side of the Godfrey ditch. After completion a chain link fence will be installed. They plan to take care of the dust by watering down the roads. PDC also has a land staff that reaches out to the land owners and advises them to call with any problems they encounter. Mr. Miller showed a picture of an engineered sound wall to deflect noise and light. He also covered the life cycle of a well which included 4 stages: site preparation, drilling & hauling, hydraulic fracturing, and production & reclamation. PDC is looking to move in between July & August if approved and the drilling rig will be there until the end of the year. The traffic should end by April 2015. They also have to notify home and land owners that are within 1000 feet 30 days prior to moving in the drilling rig.

**AUDIENCE PARTICIPATION IN SUPPORT OF THE ISSUE:**

Glenn Werning, 23822 WCR 33.25, LaSalle CO, 80645 is representing the Godfrey ditch and is on the Godfrey ditch board. The board is working with PDC and has no objections to the project. The board made a contract to allow for crossing of the ditch and having the sound walls on the north side of the ditch. He also commented that WCR 394 is not a county road that it's a city road.

Mark Goldstein is representing Sorin Natural Resource Partners L.P., headquartered in Houston, Texas, who is the property owner. He is speaking in full support of the project and PDC has been great to work. PDC has very comprehensive plans including mitigation. Sorin has numerous properties in Weld County and Evans and PDC sets the bar for being great neighbors.

**AUDIENCE PARTICIPATION IN OPPOSITION OF THE ISSUE:**

Kathy Werning, 23822 WCR 33.25, LaSalle, CO 80645 advised she and her husband own the property adjacent to the proposed well site. There is a three foot wall for a duck pond that is clearly in the way of the drilling site and the drilling site will have to be moved 100 to 200 feet from the wall which puts the drilling site closer to

homes. The tank batteries and wells are in line with the duck ponds which makes the area very congested and puts the tank batteries right on their property line. Her concerns are the tank site and the loading facility being right on her property line. Mrs. Werning had the understanding that there were 100 acres on that parcel for Sorin and Mr. Goldstein stated it was 500 acres. Mrs. Werning's feeling is that Sorin is maximizing their benefit at the expense of all the property owners. Another question she would like answered, is if the facility sight will be elevated or down in a hole due to the duck pond walls. The proposed facility will be placed north and south which would block the natural flow of the water causing problems upstream. The two elevated facilities and honey comb wall for the duck ponds is creating a barrier across the floodplain. She is asking that the west facility be placed in the center of Sorin's property and that the length of the facility lie east and west to not block the flow of water, that the truck operations not be done during the hours of 10 pm and 5 am, if the roads during the operation could be maintained as they are falling apart and that weeds be controlled on the property. Mrs. Werning wanted clarification if the duck pond walls are in compliance with regulations.

Mario Martinez, 16711 WCR 394, LaSalle, CO, 80645, lives to the south and in the middle of the project. Mr. Martinez's objection is that Sorin has a large property and has chosen to do this project right next to the property owners of WCR 394. He is requesting a decent buffer and to consider who they are affected.

Gloria Maestes, 16950 WCR 394, LaSalle, CO, 80645, has spoken with PDC and she has concerns about the traffic safety. There is no shoulder on the sides of WCR 394 and is heavily traveled and not built for the traffic flow. There are school buses, oil trucks, cattle trucks, etc., and is concerned about accidents and slowing down the traffic flow. Along with the safety is the discomfort of the environment especially with truck traffic, as it vibrates her house and shakes items off shelves. She is also concerned about potential flooding as they are still recovering from the recent flood.

Glen Werning, 23822 WCR 33.25, LaSalle CO, 80645, had some concerns with the traffic and flooding as well. Mr. Werning invited the Planning Commission to come out and look at the property to see what the concerns of the property owners are.

**APPLICANT REBUTTAL:**

PDC wants to thank all the land owners for their comments. Mrs. Hanigan pointed out that oil drilling can be a nuisance. Mrs. Maestes pointed out that there is a lot going on with the operation. PDC tries to be a good neighbor and respond to their concerns. In response to the concern of duck ponds, is that PDC has an agreement with Sorin to stay outside of the duck ponds and have set up mitigation measures. PDC has been looking at the property since 2012 and has looked at the access from a number of angles to make sure the rigs and trucks have room to make safe turns.

PDC made an agreement with the Luther Lane Company to access their property for the access road. PDC has also looked at access through the Platte River Bottom, LLC but that company has gone bankrupt and PDC has attempted to contact them for the last year and half. It's something that PDC is still pursuing. The access road they have chosen is the best option for now and they still continue to look for other alternatives. They understand that the flood affected a lot of people and property. This is a 100 year flood zone and PDC contracted out to Colorado Civil group to obtain a floodplain permit. PDC advised that they have anchors on the tank batteries for future problems. PDC would like to drill somewhere else but it's the most suitable area to drill. They have worked with the adjacent property owners to accommodate their needs and they have phone numbers for PDC to call with complaints.

Mr. Goldstein wanted to clarify that Sorin does not own the mineral resources. Sorin is planning to deal with the weeds. Some of the ponds will be impacted but PDC will fill those pads after drilling. Sorin also wanted to clarify that the recharge facilities is not part of the hearing and they are not related to the drilling project. The well heads are located on the north side of the PDC lease hold. Sorin would rather not have the wells go in as it impacts the development of their property but the reality is that the wells are going to go in and PDC has been very good on mitigating and solutions to make it better for the six to nine months of drilling.

**OPPOSITION REBUTTAL:**

None

Chairman Brothe closed audience participation at 8:45 p.m.

**Chairman Brothe asked Commission if there are any questions that need clarified that were brought up during the Public Hearing.**

Commissioner Speer wanted clarification if this was for one well head. Mr. Wheeler confirmed it was seven well heads and two tank batteries. They are in two clusters with three well heads in one and four well heads in the other.

Commissioner Speer also wanted clarification if staff had cleared up the issue with the bond. Mr. Wheeler advised that yes we had and we needed proof of a certain amount of bonding. PDC is providing a blanket bond that exceeds the amount required.

Commissioner Speer wanted clarification with regards to the ditch water, "Is PDC intending to use the ditch water instead of trucking it in?" Mr. Wheeler is not sure on that question. Mr. Wagner responded that they will not be using the ditch water. PDC is working with Sorin to drill a water well so that they can pump the water.

Commissioner Linn wanted clarification on the placement of the well heads, "How many other options to do you have to move them within the Sorin Property?" Mr. Wagner responded that there are two options within the east half in section two. The first one is the southeast corner and drill from south to north or north of that to drill to the south. PDC has worked with Sorin to stay out of the current use of their property. The other factor is working with another party that is to be determined and if we can use their leasehold. PDC looked at the south but geology is not great and the other reason is that the surface owner to the south has sub service irrigation and it would destroy the owner's life style of farming which would cost thousands of dollars. This is the best option for PDC and the landowner to develop the east leasehold.

Commissioner Lowe asked, "Is there a reason for north and south drilling (in relation to flooding) as opposed to east and west?" Mr. Miller responded that the north and south orientation would affect the flow of the water but due to the magnitude of the flood it shouldn't be an issue especially when the water level is that high it isn't going to matter which way it flows. Mr. Wagner responded that they are conforming to what the landowner's use is already and that the north and south orientation is safer for operations and the flow of the traffic.

Commissioner Speer commented on how the flood affected her and understands the concerns and wants to know if there are procedures in place if another flood occurs. Mr. Miller responded that all the new development has automation set up where they can remotely monitor the flows and pressures of the wells and have the ability to shut them down if necessary.

Chairman Brothe had remembered someone mentioned a water pipeline coming in, "Is that an agreement?" Mr. Goldstein responded Sorin created a substitute water plan that has been approved from the State Engineer's Office. Sorin has water rights and the intent is to drill a water well before operations take place. Chairman Brothe wanted clarification if it was a done deal. Mr. Goldstein advised that it was a done deal. Mr. Wagner added that it is their intent to use the well water to save about 3500 water trucks from coming in. Chairman Brothe also wanted clarification if the wells would be drilled at the same time. Mr. Wagner responded that the wells will be drilled back to back.

Commissioner Speer wanted clarification of who is responsible for the road damage to WCR 394. Mr. Ratkai wanted clarification as to the damage of the road currently or after the project completion. Commissioner Speer rephrased her question, "With all the truck traffic are they leaving a deteriorated road for the residents?" Mr. Ratkai referred the question to Mr. Wheeler. Mr. Wheeler referred to the engineering department about the potential road impact and they didn't raise any

concerns about the road or traffic impact. Mr. Wheeler also stated that he is not an expert and is relying on the engineer's expertise. Jeff Dillingham with Northwest Lineman Services, who is an agent for PDC, spoke with the home owners about the concerns for maintaining the road. He would like some clarification on who is responsible for the road. Mr. Ratkai responded that the WCR 394 is within the city limits of Evans. Chairman Brothe asked, "If WCR 394 was within the city limits up to Hwy 85?" Mr. Ratkai responded that it stops at WCR 35. Mr. Wagner asked to address the Planning Commission and stated that PDC would not be opposed to incurring the costs of fixing WCR 394 during operations and after project completion of the road that is annexed.

**Chairman Brothe asked for any Planning Commission discussion.**

Commissioner Linn has concerns about a comment made early that regardless of what they say that the project is going in. Personally that it didn't sit well with her. She agrees it's too close to the properties and can't believe that there isn't another solution somewhere else on the property that's not so close to the property owners.

Commissioner Speer can understand the concerns as she has had two wells near her property as well.

Commissioner Phillips advised that it sounds like PDC has the right to operate a business.

Commissioner Linn commented that it still doesn't make it right.

Commissioner Lowe is concerned that the wells are pushed up next to the property line. However, she agrees that it's their property though.

Commissioner Phillips addressed the staff and needed clarification of "Why did all the property owners come tonight with their concerns? Were they not talked to and how come they didn't have a concise understanding of the solutions before coming tonight to the hearing." Mr. Wheeler can't speak on why they didn't have an understanding before coming to the hearing but he advised that the property owners were notified. Mr. Wheeler and the staff had discussions with the applicant in regards to the duck ponds and the placement of the well heads. The applicant advised that they were permitted by the state to place the well heads in this particular area and to move them they would have to start over with the permit process again. There is a definite relationship with the placement of the duck ponds and they were approved by the city with a logo from the engineering department of Ducks Unlimited. However, if the ponds are augmentation ponds, that is not related and is of a different use. In relation to PDC the surface owner

told PDC where the wells could be placed. Mr. Wheeler had several conversations with PDC and the location of the well heads which raised a lot of concerns which was covered in Mr. Wheeler's staff report. PDC advised that they have contacted the land owners and had made prior contact before the hearing.

Mr. Ratkai clarified that the post card notices were to meet the city requirements of notifying the property owners but can't advise on any prior notice.

Chairman Brothe commented that being a mechanic for many years you have a certain reputation to overcome. Not all businesses operate the same. You do have to overcome that reputation. Everything that comes with this type of operation is what you are going to get. I think that's where we are at this time.

Chairman Brothe closed the Public Hearing at 9:08 p.m.

Commissioner Linn moved to recommend denial of the Use by Special Review request for the Sorin Natural Resources site for drilling of oil and gas because it is not in the best interest of the citizens of the City of Evans.

There was no discussion.

There was no second made therefore, the motion died.

Commissioner Phillips moved to recommend approval of the Use by Special Review request for the Sorin Natural Resources site for drilling of oil and gas, along with approval of the appeals to Section 16.28.080 (Bonding) and Section 19.44.020B, 10 (Landscaping) of the Evans Municipal Code with the conditions of approval as recommended, as being in the best interest of the citizens of the City of Evans, seconded by Commissioner Lowe to recommend approval. The motion passed with a vote of 4-1 with the following Commissioner Lowe, Commissioner Speer, Chairman Brothe, and Commissioner Phillips in favor of and Commissioner Linn opposing.

Recess was called at 9:13 pm

Back in session at 9:20 pm

#### **D. Zoning Amendment - Driftwood Plaza**

Chairman Brothe opened the Public Hearing at 9:20 p.m.

**Project Description:** The applicant seeks approval to rezone Lots 1 and 2 of the Driftwood Plaza Commercial Planned Unit Development (PUD) from C1-Commercial to R2-Residential. Both lots are currently undeveloped. The site is located on the

north side of 37<sup>th</sup> Street, immediately east of the intersection of 37<sup>th</sup> Street and Harbor Lane. Surrounding uses include a mix of commercial and residential projects on both developed and undeveloped lots. If approved the applicant intends to purchase the site, combine the lots and submit a plan to place residential duplex units on the property.

**Staff Recommendation:** Staff recommends the Planning Commission forward a recommendation to deny the request to the City Council, to rezone the Driftwood Plaza Commercial PUD from C-3 Commercial to R-2 Residential, for non-compliance with the goals and objectives outlined in the City of Evans 2010 Comprehensive Plan.

**APPLICANT'S POSITION:**

Ron Randel, Commercial Real Estate Broker with Wheeler Real Estate Group, 28 Alles Drive, Greeley, CO 80634, wanted to address what Mr. Wheeler advised in his staff report. Mr. Randel was involved with the Sam's acquisition which has increased the sales tax. He was also involved with the commercial project of Union Colony Elementary School. Mr. Randel commented that the commercial businesses are still recovering from the 2008 recession and that shopping by internet has increased. Mr. Wheeler advised in his report that their request is not compatible with the 2010 Comprehensive Plan. Mr. Randel advised that so much has changed since the 2010 comprehensive plan and he thinks that it needs to be reviewed again that retail is not what it used to be. Right now people need places to live and rent. You can't create more commercial uses unless you have more residences. Mr. Wheeler reported that the new middle school will bring in more retail along 37<sup>th</sup> Street as citizens will be utilizing 37<sup>th</sup> Street to get to the new middle school. Mr. Randel commented that the school is four and half miles away and there are three commercial corners before reaching the area of his proposed project. The staff recommended the idea of residential over commercial. Mr. Randel advised that idea was utilized in the Cottonwood area in Greeley and has not done well. He believes that we need to get people here to live first and then focus on the retail side. Mr. Randel conducted a one mile radius study of the surrounding area and 62% of the commercial lots are vacant without including the Greeley Mall. Mr. Randel concluded that instead of leaving the lots vacant, why not bring in more residences along with commercial.

Dale Bohner, 118 N 51<sup>st</sup> Avenue, Greeley, CO 80634 of Landing Development and they are the group that brought in McDonalds, Community Bank, and Sam's Club. Mr. Bohner spoke about all the vacant commercial property and that there is a need for more residences. The internet has really taken down the need for box store shopping and a lot of businesses are downsizing. He advised that it's not good for people to come into the city and see all the commercial vacant lots.

Bill Sheel, 27 Dos Rios, Greeley, CO 80634, is the potential buyer of the proposed area. He built the Cottages at the Landings which are north of the proposed area and he rents those properties to a lot of retired citizens who have more disposable income who will usually shop locally. Mr. Sheel wants to build duplexes like the Cottages at the Landings on this property. He builds residences and makes them look good along with great landscaping and it's well maintained.

Nick Frances, 6600 W. 20<sup>th</sup> Street #12, Greeley, CO is a partner with Dale Boehner, commented that Bill Sheel is an exceptional landlord. Nick and Dale have sat on this property for 14 years and they have exhausted every avenue to develop the property. Building residences will bring the city permit fees and bring in more people to shop retail locally. As the city moves to the west all the commercial will move west.

Nonie Sheel, 27 Dos Rios, Greeley, CO 80634 cares about Evans and how it looks. People buy on the internet and from the big retail centers. The parcel that they are looking at is not big enough for commercial. She is in favor of the residential over commercial recommended by the staff but she doesn't believe the parcel is big enough.

**AUDIENCE PARTICIPATION IN SUPPORT OF THE ISSUE:**

Cheryl Grant, 2405 Dock Drive, Evans, CO 80620, her backyard is at the corner of Harbor Lane and 37<sup>th</sup> Street. She is in favor of the zoning of R-2 and would prefer to not have commercial lights shining in her back door. She would prefer to not have commercial across the street.

Steve Grant, 2405 Dock Drive, Evans, CO 80620 has been watching the traffic flow over the last 11 years it would better suited for a natural traffic flow in a residential area as opposed to a commercial cut that could potentially hinder the flow of traffic on 37<sup>th</sup> Street. He noted that Sam's club changed things along with shifting dynamics. There are vacant lots near Sam's for commercial use. This area is more residential than commercial with a lot of kids in the area especially with Driftwood Park being across the street. He concluded that the parcel would be better served as residential.

**AUDIENCE PARTICIPATION IN OPPOSITION OF THE ISSUE:**

None

**APPLICANT REBUTTAL:**

None

**OPPOSITION REBUTTAL:**

None

Chairman Brothe closed audience participation at 10:01 p.m.

**Chairman Brothe asked Commission if there are any questions that need clarified that were brought up during the Public Hearing.**

Commissioner Linn had a question for staff. "What is the ratio of residential lots to commercial lots?" Mr. Wheeler answered we don't have the answer but advised that there are a number of undeveloped residential lots and that it was mentioned earlier in the evening with the third phase of Cave Creek and two phases of development in Tuscany. Mr. Ratkai advised Commissioner Linn that we would look up that ratio and get back to her on that.

Chairman Brothe closed the Public Hearing at 10:03 p.m.

**Chairman Brothe asked for any Planning Commission discussion.**

Chairman Brothe is not too concerned with the comprehensive plan but as the use as a buffer with a busy residential area. If it does become residential it may become a buffer for the residential area behind it. He commented that he is up in the air about it. There is no residential zoning to the south and he understands that people don't want to sell their property. For him it's very hard to determine the future. The internet has changed things but there are some businesses that can't be replaced.

Commissioner Linn commented look how far we have come in 30 years with computers. The reasoning behind her question about the ratio is to see what we have and if we need to even it out or not.

Commissioner Speer has lived in the Greeley area all her life and has had her business in Evans for 20 years and she has seen things grow and become stagnant. She appreciates the staff at Evans and for putting together the 2010 plan, but people are looking for affordable housing. Looking at the plan there would be homes for 20 families and on average each family spends about \$6,000 a year on groceries alone but also purchases fuel and other commodities. She is for to changing this over to residential. She realizes that this wouldn't bring in sales tax but it would be beneficial still without it. She has driven by the landings and it is very nice and well-kept and it wouldn't be an unattractive eye sore. There are a lot of other places that commercial seeking people would look before this property. She is leaning towards changing it.

Commissioner Speer moved to recommend approval of the request to re-zone the Driftwood Plaza PUD from C-3 Commercial to R-2 Residential as being in the best interest of the citizens of the City of Evans, seconded by Commissioner Lowe to recommend approval.

Mr. Ratkai called for a roll call vote.

Commissioner Lowe nay  
Commissioner Speer yay  
Chairman Brothe nay  
Commissioner Linn yay  
Commissioner Phillips nay

Mr. Ratkai advised that the motion was defeated with a vote of 3-2 with the following Commissioner Lowe, Chairman Brothe, and Commissioner Phillips opposing and Commissioner Linn and Commissioner Speer in favor of.

Commissioner Lowe moved to recommend denial of the request to re-zone the Driftwood Plaza PUD from C-3 Commercial to R-2 Residential as provided herein because it is not in the best interest of the citizens of the City of Evans, seconded by Commissioner Phillips to recommend denial.

Mr. Ratkai called for a roll call vote.

Commissioner Phillips yay  
Chairman Brothe yay  
Commissioner Linn yay  
Commissioner Speer nay  
Commissioner Lowe yay

Mr. Ratkai advised that the motion was in favor of with a vote of 4-1 with the following Commissioners Phillips, Chairman Brothe, Commissioner Linn, Commissioner Lowe in favor of and opposing Commissioner Speer.

6) AUDIENCE PARTICIPATION:

None

7) STAFF UPDATE

All public hearings tonight will be heard on July 1, 2014 at 7:30 p.m. in the city council chambers in front of City Council. You may attend but are not required to attend. All your testimonies and actions have been placed in the meeting minutes along with the staff reports for the city council meeting.

The next meeting will be held on the fourth Tuesday on July 24, 2014 at 6 p.m.

Planning Commission did well tonight with four hearings. There are no public hearings on the horizon for the July 24<sup>th</sup> meeting so we will take the opportunity to do more training.

ZBA is still an active board and we have four members. We have some variances that may be coming their way.

Chairman Brothe thanked the staff for the long meeting.

Phillips would like an updated city council contact list with phone numbers and email contacts.

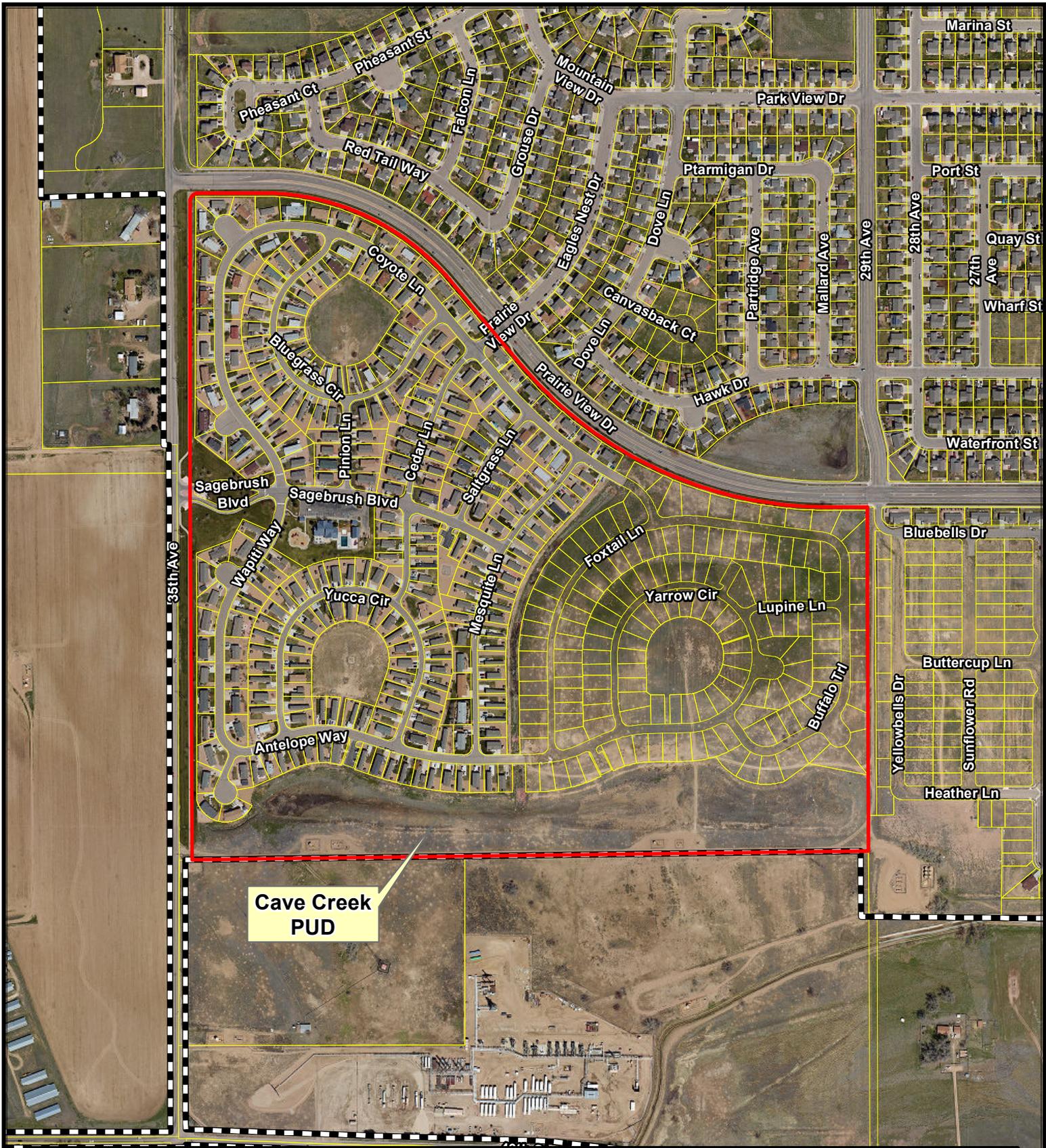
8) GENERAL DISCUSSION

None

9) ADJOURNMENT

The meeting ended at 10:20 p.m.

DRAFT



Cave Creek  
PUD

**Legend**



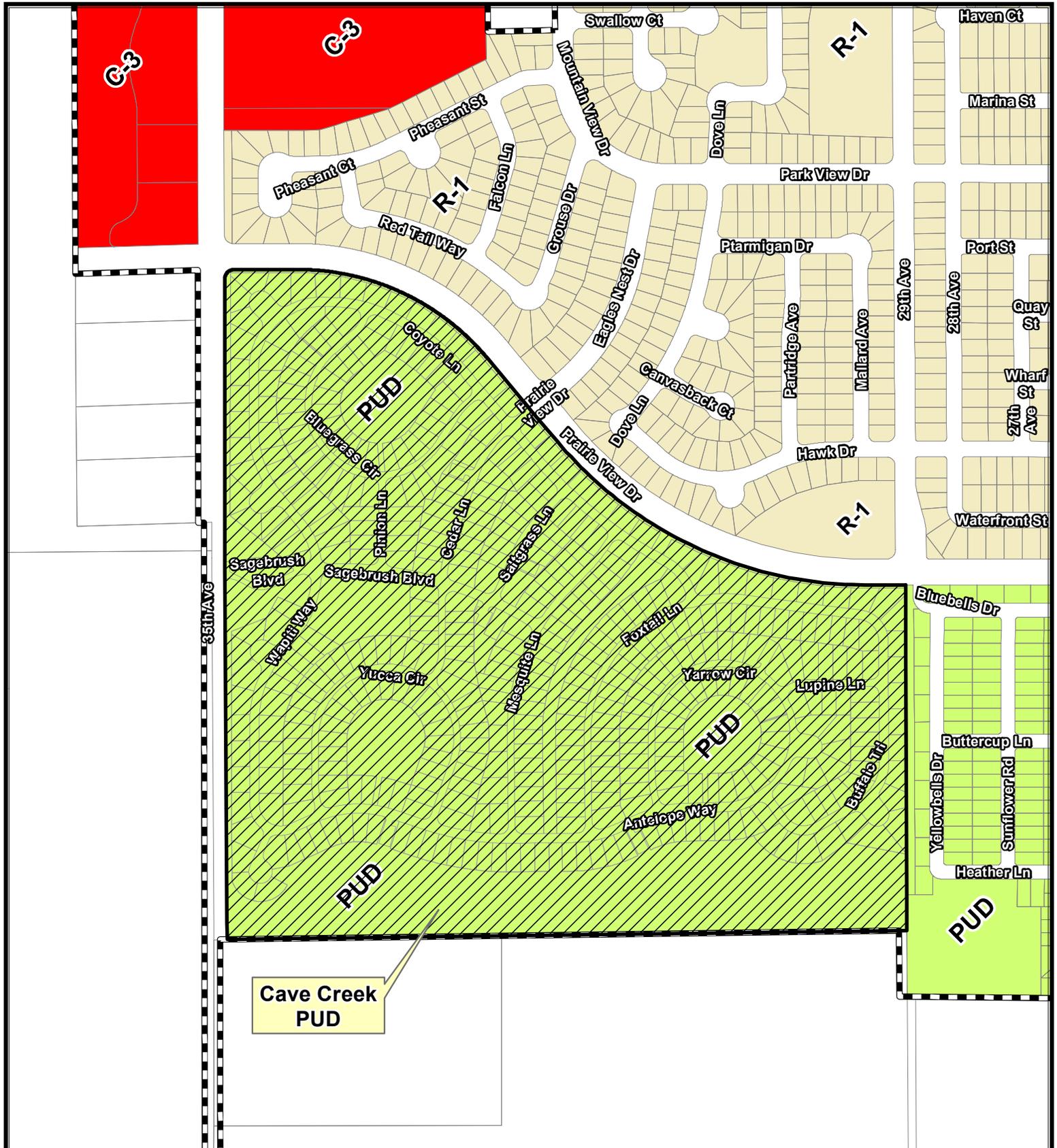
Evans  
City Limits



Project Site

**Aerial Map**  
**Cave Creek**  
**PUD Amendment**  
**3400 Sagebrush Blvd**





Cave Creek PUD

**Legend**



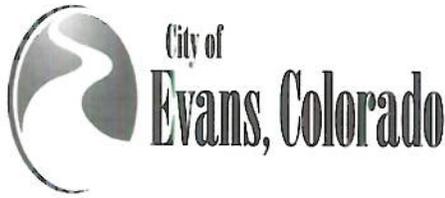
Evans City Limits



Project Site

**Zoning Map**  
**Cave Creek**  
**PUD Amendment**  
**3400 Sagebrush Blvd**





Staff Use Only
Fee Paid: _____
\$155 for submittal
\$50 for public hearing
\$25 for 500' list
Intake Date: _____

**PUD Amendment Application**

Land Owner Name: Sun Cave Creek LLC Telephone: (248) 208-2500 Email: tcarpenter@suncommunities.com

Address: 27777 Franklin Rd. Suite 200 Southfield, MI 48034

Applicant Name: Cave Creek Telephone: (970) 330-1700 Email: jlowe@suncommunities.com

Address: 3400 Sagebrush Blvd. Evans, CO 80620

Property Address: 3400 Sagebrush Blvd. Evans CO 80620

Project Name: Cave Creek Acres: 122.78 Zoning: PUD

All PUD Amendments shall comply with the requirements of Chapter 18.28 of the City of Evans Municipal Code and all applicable regulations and standards in the municipal code.

**SUBMITTAL CHECKLIST:**

The following items are needed for a complete submittal and staff review of this Application.

Applicant Initial as Submitted	Submittal Requirements	City Staff Initial as Complete
	Letter of Intent (See Section 18.28.110 H for Standards/Requirements)	
	PUD Amendment Fee Paid (\$155)	
	Public Hearing Fee Paid (\$50)	
	Initial Review Meeting Held with City staff on:	
	Escrow Agreement Signed and Fee Paid	
	Copy of complete original PUD Plan and any amendments to date	
	Conceptual Plan	
	Legal description of property	
	If any of the following are requested to be amended, or were not included with the original PUD approval, also include:	
	A survey plat showing the outer boundaries of the area and showing elevation contours at two-foot intervals	
	A site plan showing the location of all buildings, signs, streets, lanes, parking areas, landscaping, parks, open areas, recreational facilities and all other improvements; the site plan shall show the dimensions of all structures, streets, parking areas, and recreational facilities, and shall show the distances between structures and boundary lines	
	Preliminary drawings of all buildings, with elevations	
	A preliminary engineering plan for streets, sidewalks, lanes, utility lines and drainage facilities	
	An indication of the location, height and size of proposed signs, lighting and advertising devices	

	A narrative statement of how each building and structure will be used, the volume of business expected to be conducted at any commercial or industrial establishment, the hours of business of those establishments, the number of employees expected to work in any commercial or industrial establishment, the number of dwellings units in each building, and all other information calculated to disclose, to the extent possible, the uses to which the area will be put and the impact of those uses on the area and on land adjoining the area	
	A statement of how the co-owned area will be managed, used and maintained, and including a projected budget for a reasonable period of time for the operation and maintenance of such areas	
	If land is to be dedicated, a legal description of that land and a site map showing the location of that dedicated land	
	A preliminary development schedule	
	Traffic study as required by the City	
	Evidence of current ownership, acceptable to the City Attorney, such as a copy of an updated title policy or commitment, current within thirty (30) days.	
	A list of all landowners and mailing addresses for properties located within 500' of the planned development (if provided by the City, \$25 fee)	
	Property posted with land use proposal sign (provided by the City, placed by applicant)	
	Easement holders notified – provide copy of letters	
	An electronic copy of all submitted documents	
	Other:	

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

\_\_\_\_\_  
**Owner Signature** **Date**

\_\_\_\_\_  
**Applicant Signature** **Date**

For City Staff Use Only	
Date Submitted:	
Date Reviewed:	Reviewer Name: _____
Corrections Needed? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Date Returned as Incomplete to Applicant and Owner:	
Date Accepted as Complete:	

Planning Commission Public Hearing Date  
City Council Public Hearing Date

Date mylars submitted to City for signature:

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



3400 Sagebrush Blvd. Evans, CO 80620 • Tel: 970.330.1700 • Fax: 970.330.1710  
Email: [jlowe@suncommunities.com](mailto:jlowe@suncommunities.com)

## LETTER OF INTENT

### PUD AMENDMENT APPLICATION

The PUD currently in place for Cave Creek states..."Only new homes and replacement homes not be (sic) more than 4 years old of the manufactured date shall be installed in the community"<sup>1</sup> as written.

We are requesting an amendment to the PUD to replace the above language with the following:

**"New homes and replacement homes to be installed in the community shall meet all PUD requirements as regards structure, esthetics and standards as detailed in the PUD."**

The installation standards, as well as structural and esthetic restrictions, remain unaffected by the requested amendment. The PUD Checklist<sup>2</sup> will continue to be utilized as replacement homes are brought into the community.

Consideration and approval is requested from the City of Evans Planning Commission in anticipation of our presentation to the City Council for review and action.

**Respectfully Submitted**

**Julie Lowe**  
**Community Manager, Cave Creek MHC**

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<sup>1</sup> "Exhibit A", Cave Creek P.U.D. Plan Page 1 (attached)

<sup>2</sup> PUD Checklist (attached)

①



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3 of 12 R 61.00 D 0.00 JA Suki Tsukamoto

**“EXHIBIT A”  
CAVE CREEK P.U.D. PLAN**

Site Plan.

The site consists of approximately 122.97 acres comprising 449 lots. The road area comprises 16.53 acres, the lot areas consist of 76 acres, and there are 27.61 acres of open area. The gross density of the project is 3.74 lots per acre. The typical lot size is 55' x 110'. Minimum Lot Area: 6,000 square feet, Minimum size homes permitted: 16' wide, 924 square feet (single-section home); 24' wide, 1,120 square feet (double-section home). Only new homes and replacement homes not be more than 4 years old of the manufactured date shall be installed in the community.

Details addressing spacing between structures shall be included with the site plan. Separation between structures shall be as follows:

Homes placed end-to-end shall have a minimum of 20' rear yard separation.

Homes placed side-by-side shall have a minimum of 10' side yard separation.

Homes shall be set back at least 24' from the flowline provided carports are not located within the front yard setback.

Carports shall maintain a 10' separation from adjacent structures.

One storage shed may be placed on each home site to address storage of residentially permitted uses. One attached or detached garage may be permitted in accordance with applicable building permits.

A separate site plan labeling street names, addresses, and mailbox locations shall be submitted and approved by the City of Evans.

Street Improvements.

*Public Streets:* All public streets shall be designed and improved in accordance with the City of Evans standards. 35th Avenue and Prairie View Drive shall be designated as arterial streets, and a plat officially dedicating Prairie View Drive (42nd Street) shall be recorded with the Weld County Clerk and Recorder to incorporate Prairie View Drive's new configuration. Prairie View Drive (42nd Street) shall be improved to include two lanes of paved roadway, vertical curb, gutter and sidewalk on one side only. Some widening shall be included with the improvements along 35th Avenue. Also, the developer and the city shall enter into a public improvements developer's agreement.

2

## PUD Home Specifications Checklist

All homes moving into Cave Creek must meet or exceed the following specifications before COO, and must continue to meet or exceed these specifications at all times:

- \_\_\_\_\_ The exterior siding material is of wood or vinyl siding or stucco or material equivalent in appearance, or siding that is similar appearance and meets green building standards such as recycled concrete or metal.
- \_\_\_\_\_ The address side of the home has a window or a door.
- \_\_\_\_\_ All standard size, non-frosted, non-bay, and/or non-decorative windows must have shutters or 3" to 6" painted trim.
- \_\_\_\_\_ Skirting material of vinyl, stucco, or material similar in appearance to stucco, in good repair that is compatible with the home, must be installed to provide access to water and sanitary sewer lines, and be vented in compliance with the manufacture's installation instructions and warranty requirements.
- \_\_\_\_\_ Steps have treated wood, platform (minimum 4X4 landing), hand rails for steps on exposed sides and if enclosed to be with vertical wood, vinyl, lattice, or skirting to match the home.
- \_\_\_\_\_ Minimum roof pitch 3:12 (one foot rise for each three feet of horizontal run) or roof pitches that are designed for "green" building measures such as water collection or growing of gardens.
- \_\_\_\_\_ Three or more compatible or complementary colors on exterior of home which includes the door, shutters, skirting/foundation and trim. No bright, neon, or fluorescent colors and no stripes, dots or artwork on sides of home.
- \_\_\_\_\_ Roof material is asphalt shingles or colored, non-galvanized standing seam material.
- \_\_\_\_\_ The exterior of the home is free of any obvious deterioration or signs of lack of maintenance; for example, any missing or broken shutters or trim, damaged roofing or siding, faded or peeling paint, or similar damage or deterioration.
- \_\_\_\_\_ Each home shall have street address clearly marked and at least two inches in height, on the front left end of the home as viewed from the street. These numbers must conform to any and all standards applicable to local emergency service providers and must be at least six feet above ground level.
- \_\_\_\_\_ All hitches must be removed.

- \_\_\_\_\_ 16' wide, 924 square feet (single-section home) 24' wide, 1,120 square feet (double-section home).
- \_\_\_\_\_ Homes placed end-to-end shall have a minimum of 20' rear yard separation.
- \_\_\_\_\_ Homes placed side-by-side shall have a minimum of 10' side yard separation.
- \_\_\_\_\_ Homes shall be set back at least 24' from the flowline provided carports are not located within the front yard setback.
- \_\_\_\_\_ Carports shall maintain a 10' separation from adjacent structures.
- \_\_\_\_\_ One storage shed for residential uses.
- \_\_\_\_\_ One attached or detached garage per building code standards.
- \_\_\_\_\_ All lots will have a minimum of three off-street parking spaces
- \_\_\_\_\_ The bottom edge of the house's siding is no more than sixteen inches (16") above the finished grade
- \_\_\_\_\_ (2 ½" caliper) deciduous tree to be located in such a manner that would not obstruct homes from moving on and off the lots, within the front yard setback
- \_\_\_\_\_ Sod in place. As per City of Evans Municipal Code Chapter 18.33, Page 3, Item 5, *"As an option, front yards may be xeriscaped with a variety of low-water plants, such as native grasses and low-water shrubs and trees, to be reviewed on a case-by-case basis. Irrigation for xeriscaped front yards is required, and no more than 30 percent of the front yard shall contain non-living groundcover."*

**Violation-Penalty. Failure to comply or maintain compliance will constitute a violation and subject Owner, Lessee, and Management to fines and penalties as may be imposed by the Evans Municipal Court pursuant to Sections 18.48.010 and 1.16.010 of the Evans Municipal Code.**

\_\_\_\_\_ **Sun Communities Representative**

\_\_\_\_\_ **Date**

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**City of Evans**

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**Date**

---

**Home Site #**

---

**Home Site Address**

537

CITY OF EVANS, COLORADO

ORDINANCE NO. 1129-98

AN ORDINANCE APPROVING A P.U.D. PLAN FOR THE SOUTHERN PORTION OF THE ANDERSON PROPERTY TO BE KNOWN AS THE CAVE CREEK P.U.D. PLAN MORE SPECIFICALLY LOCATED IN THE WEST HALF OF SECTION 25, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO

WHEREAS, pursuant to Section 18.28.110 of the Evans Municipal Code, a request for approval of a P.U.D. Plan has been submitted, and

WHEREAS, the Planning and Zoning Commission has recommended approval of such P.U.D. Plan, and

WHEREAS, the City Council, after considering the Planning and Zoning Commission's recommendation, reviewing the file herein, and conducting a hearing concerning the requested P.U.D. Plan finds as follows:

1. The requested P.U.D. Plan will promote the public interest, will achieve the basic objectives of Chapter 18.28 of the Evans Municipal Code, and will not injure the legitimate concerns of the citizens of the City in general, and the persons living and working in the surrounding neighborhood in particular.

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

Section 1. Site Plan Approval. The site plan entitled "Cave Creek", drawn by Alley & Associates as Job No. 80308 and the Landscape Plan, drawn by Rocky Mountain Consultants as Job No. 80-3563.003, listed as "Exhibits B", incorporated herein by reference, are hereby approved and future development of that portion of the subject property which falls within the P.U.D. zoning shall be in accordance with such site plan.

The P.U.D. plan, that includes the southern portion of the Anderson Property described as follows is hereby approved:

Commencing at the Northwest corner of Section 25, Township 5 North, Range 66 West, of the 6th Principal Meridian

Thence South along the westerly line of Section 25 South 00°07'01" East 1341.75 feet to the true point of beginning; thence North 89°52'47" East, 330.08 feet to a point on a curve to the right with a central angle of 51°33'58" radius of 1000.00 feet and an arc length of 900.00 feet, thence South 38°33'15" East, 351.09 feet to a point on a curve to the left with a central angle of 51°44'40" radius 1500.00 feet, arc length 1354.67 feet, thence North 89°42'05" East, 157.71 feet to center quarter corner of Section 25, thence South 00°18'41" East 1379.55 feet along the quarter section line, thence South 89°15'18" West 2674.18 feet to the west line of Section 25, thence North 00°06'24" West, 1419.72 feet to the west quarter corner of Section 25, thence North 00°07'01" West 75.80 feet to the east quarter corner of Section 26, thence North 00°07'01" West 75.80 feet to the east quarter corner of Section 26, thence North 00°07'01" East, 1133.67 feet to the True Point of Beginning. Said parcel contains 122.97 acres ±.

Section 2. Conditions. The owner of the land lease community shall comply with the conditions and development standards as shown on the attached "Exhibit A".

Section 3. Documents to be recorded. The City Clerk is hereby authorized and directed to, upon final passage of this ordinance, file a copy of the ordinance along with a copy of the plans with the Weld County Clerk and Recorder.

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 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 3rd day of November, 1998.



CITY OF EVANS, COLORADO

By: *Mike Cooper*  
Mayor

PASSED, APPROVED AND ADOPTED ON SECOND READING this 17th day of November, 1998.



CITY OF EVANS, COLORADO

By: *Mike Cooper*  
Mayor



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2661537 12/18/1998 03:18P Weld County CO  
3 of 12 R 61.00 D 0.00 JA Suki Tsukamoto

"EXHIBIT A"  
CAVE CREEK P.U.D. PLAN

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One storage shed may be placed on each home site to address storage of residentially permitted uses. One attached or detached garage may be permitted in accordance with applicable building permits.

A separate site plan labeling street names, addresses, and mailbox locations shall be submitted and approved by the City of Evans.

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**Private Streets:** All private collector streets throughout the development shall be constructed of asphaltic concrete surfacing with concrete curb and gutter at a width of thirty-four feet (34') flowline to flowline, with a combination valley pan/sidewalk along one side of the collector streets. All private local streets throughout the development shall be twenty-four feet (24') flowline to flowline.

Access.

The primary access shown on the plans will be from 35th Avenue. The 35th Avenue entrance is a boulevard/median island entrance with 20' roadways entering and exiting the project.

The secondary access will be off Prairie View Drive as shown on the plans and shall line up with the entrance to the proposed development to the north.

Sidewalk Improvements.

The owner of the land lease community will construct a detached/meandering 8' wide, 4" thick concrete walkway along both Prairie View Drive between 35th Avenue and the east end of the project and 35th Avenue between Prairie View Drive and the southern end of the project. The collector streets shall provide a combination valley pan/sidewalk for access throughout the community and to the playground facilities. On-street parking will not be permitted on local and collector streets throughout the development.

Off-Street Parking Areas & Visitor Parking.

All lots will have a minimum of three off-street parking spaces and six (6) supplemental or "Visitor Parking" areas, as shown on the site plan details. The supplemental parking areas shall have a minimum of six (6) paved parking spaces and one handicap space per parking lot. Within the visitor parking areas, any type of storage (recreational vehicles, boats, trailers, campers, and similar vehicles) is prohibited. Long term parking of automobiles and motorcycles within the visitor parking areas is prohibited. The owner of the land lease community shall be responsible for enforcement of the regulations governing the visitor parking areas.

Also, the Central Facility Building will have additional parking for twenty vehicles. The individual lot parking spaces will be constructed of concrete and the Central Facility and various supplemental parking areas will be constructed of asphaltic concrete.

Fence Type, Location and Installation Procedure.

No fencing is proposed for the perimeter of Cave Creek. A landscaped berm with trees will serve as a perimeter buffer along 35th Avenue and Prairie View Drive. The perimeter buffers shall be in accordance with the attached landscape plan. Solid fencing, consistent with the architectural style of the central facility and entry features, will be installed to screen loading and service areas as necessary for the central facility.

Dwelling Unit Construction.

All manufactured homes shall be partially or entirely manufactured in a factory; have brick, wood, vinyl or cosmetically equivalent exterior siding and a pitched roof; and are certified pursuant to the latest revisions of the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. 5401 et seq. as amended.

Considering the need for positive drainage all manufactured homes shall be ground set in such a manner that the bottom edge of the house's siding is no more than sixteen inches (16") above the finished grade. All homes shall be installed in accordance with the installation guidelines for manufactured housing (ICBO), as adopted by the City of Evans.

Perimeter enclosures must be designed and installed in accordance with the Uniform Building Code, as adopted by the City of Evans. Exterior treatments of perimeter enclosures must be stucco or similar type finishes.

Phasing.

Development of the project shall be in accordance with the attached approved phasing site plan referred to as "Exhibit C".

Lighting.

Street lights shall be installed in accordance with the attached street lighting plan referred to as "Exhibit B".

Signage.

All signage for the land lease community shall meet with the approval of the Planning Commission and the City Council.

  
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Landscaping/parks.

Landscaping layout shall conform to that illustrated in the attached Cave Creek PUD plan. All common landscaped areas (central facility, drainage areas, entry features, perimeter landscaping, tot lots) will be owned and maintained by the owner of the land lease community. Landscaping within individual home sites will be maintained by the individual homeowners consistent with leasing requirements set forth by the owners of the land lease community. Each homeowner will be provided with a large (2 1/2" caliper) deciduous tree to be located in such a manner that would not obstruct homes from moving on and off the lots, within the front yard setback. In addition, each home site will be sodded within season, upon completion of the installation of the home. Drainage areas, tank batteries, and well-head (radii) circles will be maintained with dryland grass and kept as native as possible.

A berm shall be installed at the southern boundary of the property to act as a buffer between the community and the industrial activities to the south. A playground shall be included within the open space for the Central facility, and another area on the eastern portion of the property shall be designated as a park and must include playground equipment. The landscaping and park plans including a plant materials list shall be approved by the Parks and Recreation Director.

All landscaped areas shall be maintained in a clean and orderly fashion.

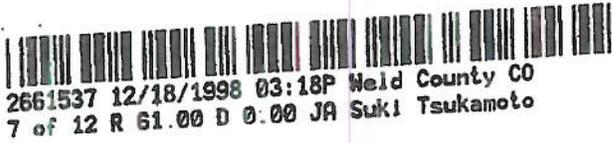
Maintenance.

The owner of the land lease community, successors and assigns will own and operate the proposed development and will be responsible for all upkeep and maintenance for areas within the development boundaries. Maintenance adjoining public rights-of-way shall be in accordance with the City of Evans standard procedures.

The City of Evans assumes no responsibility in regard to maintaining or upkeep of the lands or utilities within the P.U.D. Development, including water, sewer and storm sewer systems, sidewalks, roadways and irrigation systems. The City of Evans reserves the right to inspect such system at anytime to ascertain compliance with such standards and applicable health codes and regulations.

Recreation Facilities.

The Central Facility will consist of a building of approximately 2,500 square feet which will contain a Great Room to be used for banquets, community meetings as well as an



office for the project. The area will be landscaped with recreational facilities in the form of swings, slides, teeter-totters and a fire ring for community picnics.

With the start of constructing phase 2, or within 2 years of starting the construction of phase one, which ever occurs first, the property owners of the land lease community must begin construction of the central facility building. The central facility building must be completed within 1 year of issuance of a building permit.

Tot lots shall be constructed concurrently with each phase of the project, as shown on the approved landscape plan labeled "Exhibit B".

Drainage.

The storm drainage system will also be privately built and maintained. The storm drainage system must be designed and installed in accordance with the City of Evans Comprehensive Drainage Study.

The storm drainage system shall be designed by a Professional Engineer registered in the State of Colorado and installed in accordance with such plans as approved by the City of Evans and must be maintained as per the City of Evans standards. The City of Evans reserves the right to inspect such system at any time to ascertain compliance with such standards and applicable health codes and regulations.

Utilities.

*I. Potable Water System*

The water system shall be designed by a Professional Engineer registered in the State of Colorado and installed in accordance with such plans as approved by the City of Evans and must be maintained as per the City of Evans standards. The City of Evans reserves the right to inspect such system at any time to ascertain compliance with such standards and applicable health codes and regulations.

*II. Sanitary Sewer System*

The sanitary sewer system shall be designed by a Professional Engineer registered in the State of Colorado and installed in accordance with such plans as approved by the City of Evans and must be maintained as per the City of Evans standards. The City of Evans reserves the right to inspect such system at any time to ascertain compliance with such standards and applicable health codes and regulations.

III. Other utilities

Electric, Gas, Cable T.V., Telephone, and similar utilities shall be installed in accordance with applicable standards and regulations.

Occupancy.

- 1) Building permit issuance shall be in accordance with the standard operational procedures of the city.
- 2) No occupancy certificates will be issued until the subject building site is completed and accepted by the city.

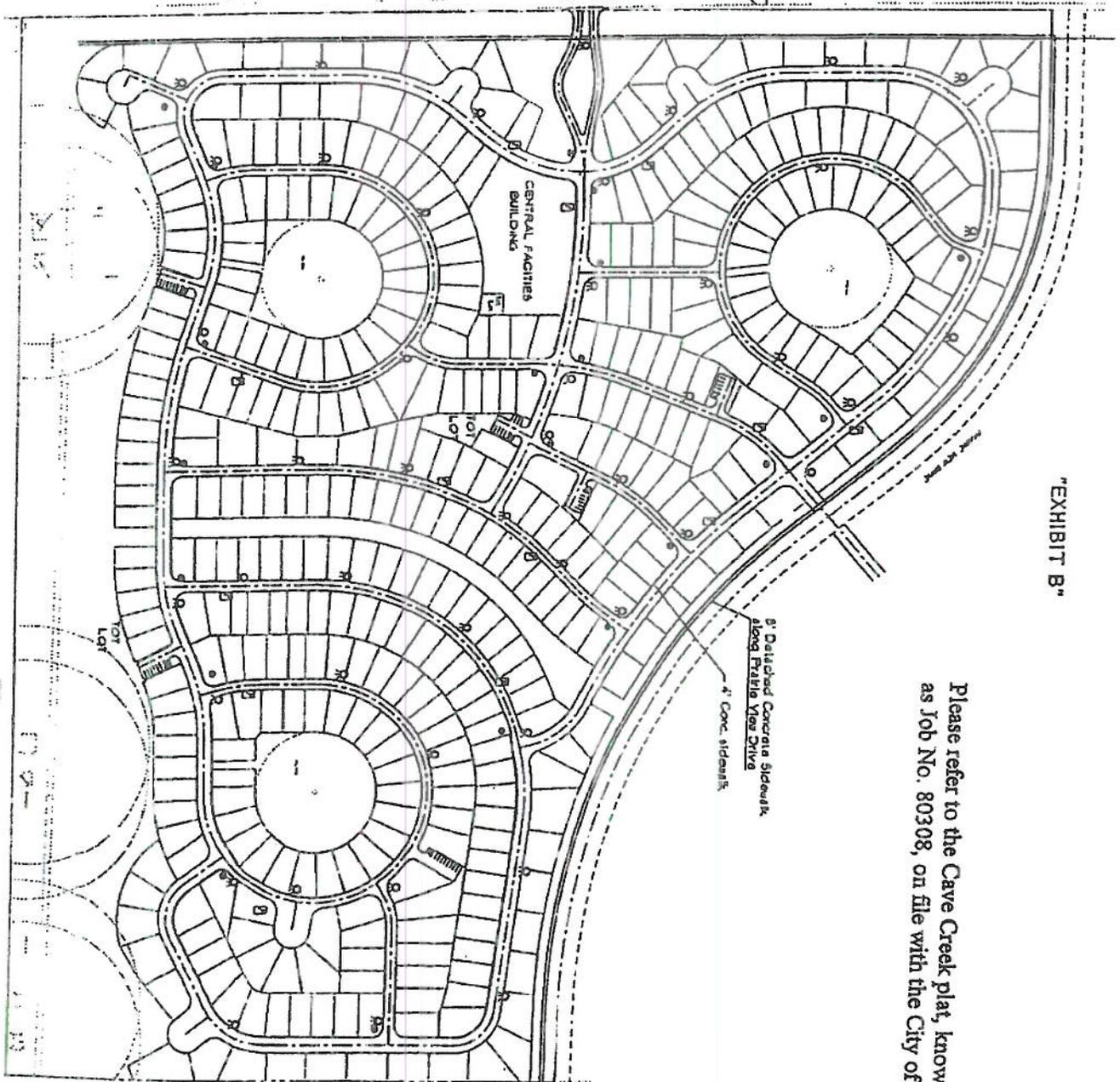
  
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8' Detached Concrete Sidewalk  
Along 35th Avenue

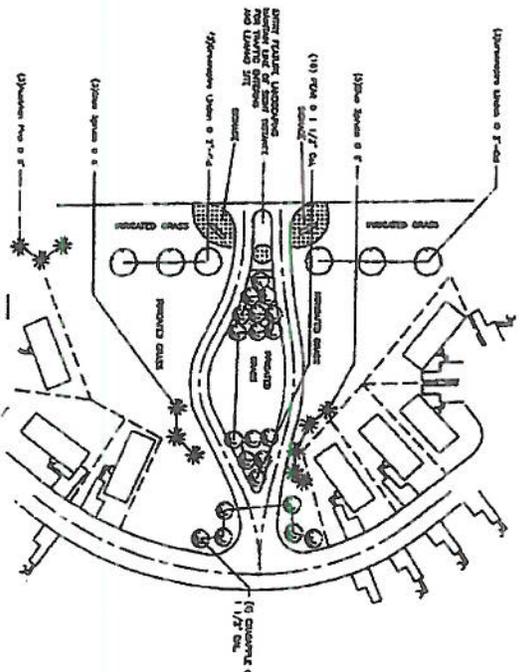
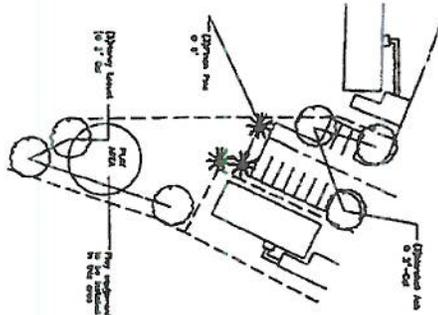
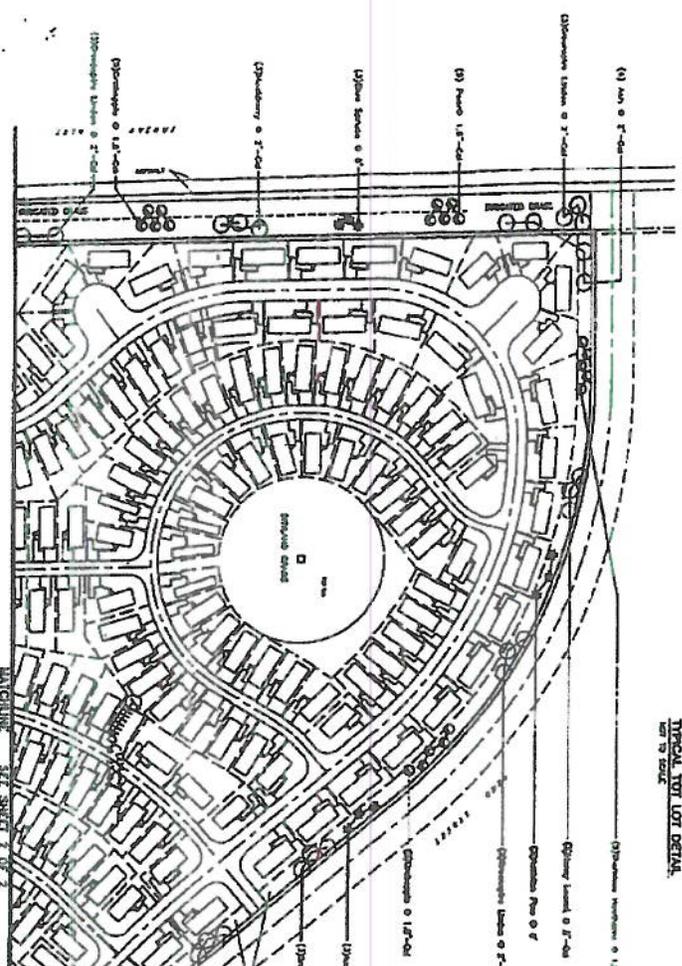
35TH AVENUE



"EXHIBIT B"

Please refer to the Cave Creek plat, known  
as Job No. 80308, on file with the City of Evans.

- LANDSCAPE NOTES**
1. All landscaping shall be installed and maintained in accordance with the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98.
  2. The landscape plan shall be installed and maintained in accordance with the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98.
  3. The landscape plan shall be installed and maintained in accordance with the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98.
  4. The landscape plan shall be installed and maintained in accordance with the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98.
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  15. The landscape plan shall be installed and maintained in accordance with the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98, and the City of Cave Creek, Arizona, Ordinance 1129-98.



**SPECIAL NOTE:**  
THE LANDSCAPE PLAN SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH THE CITY OF CAVE CREEK, ARIZONA, ORDINANCE 1129-98, AND THE CITY OF CAVE CREEK, ARIZONA, ORDINANCE 1129-98, AND THE CITY OF CAVE CREEK, ARIZONA, ORDINANCE 1129-98.



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Ord. 1129-98

LANDSCAPE PLAN  
CAVE CREEK

SUN  
SUN LANDSCAPE ARCHITECTURE INC.

LANDSCAPE ARCHITECTURE  
LANDSCAPE ARCHITECTURE

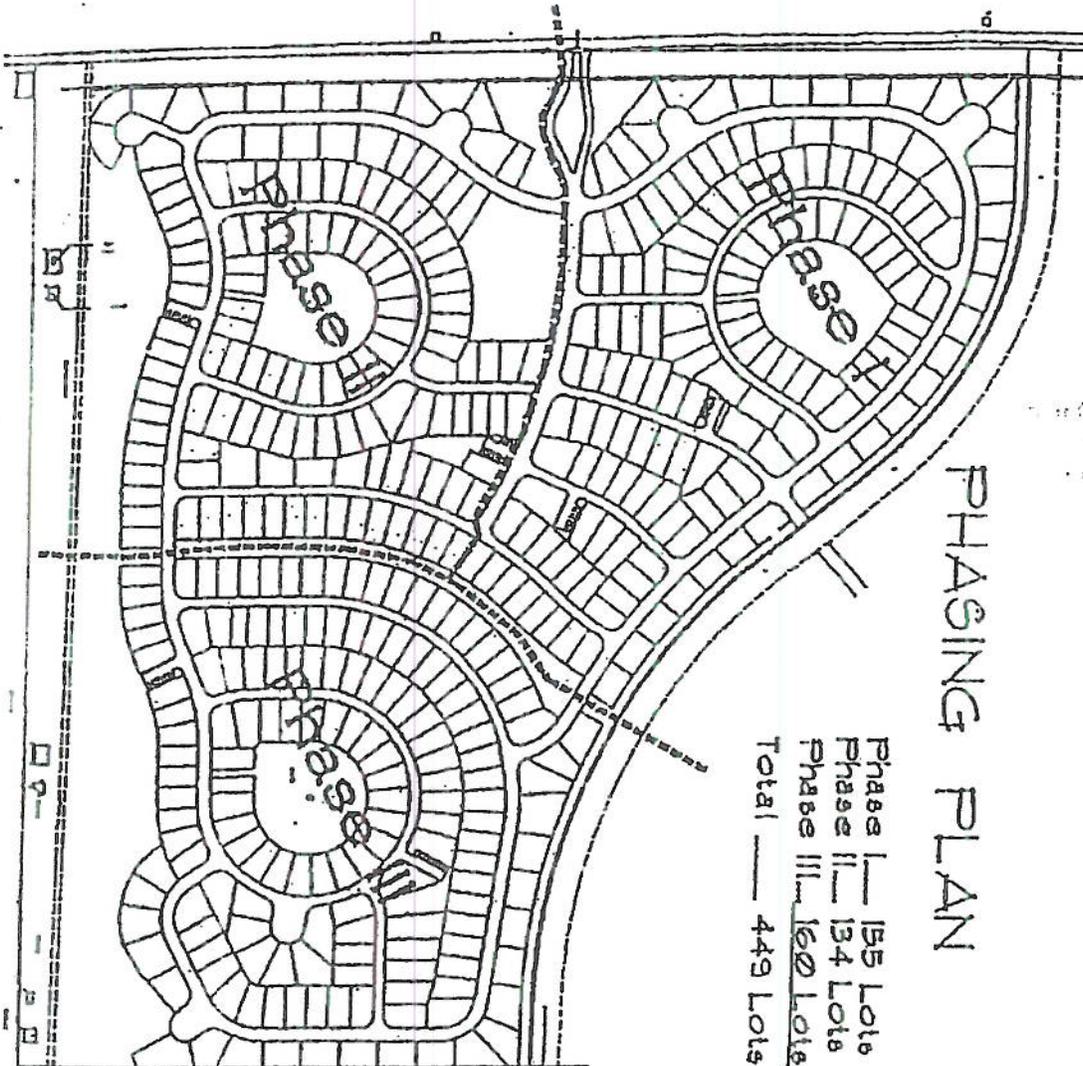
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CHECKED BY: [Name]

RMC  
ROCKY MOUNTAIN CONSULTANTS INC.





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# PHASING PLAN

"EXHIBIT C"

Phase I	155 Lots
Phase II	134 Lots
Phase III	160 Lots
Total	449 Lots



3400 Sagebrush Blvd. Evans, CO 80620 • Tel: 970.330.1700 • Fax: 970.330.1710  
Email: [jlowe@suncommunities.com](mailto:jlowe@suncommunities.com)

**CONCEPTUAL PLAN**

**PUD AMENDMENT APPLICATION**

**The Conceptual Plan submitted at the time of the PUD Application remains in place and there is no need to recreate the plan since this Amendment Application addresses only the issue of “4 year old replacement homes” and does not supersede nor modify the Conceptual Plan submitted as part of the original PUD Application process.**

**Respectfully Submitted,**

**Julie Lowe  
Community Manager, Cave Creek MHC**

EXHIBIT A

LEGAL DESCRIPTION

A tract of land located in the West Half of Section 25, Township 5 North, Range 66 West of the 6<sup>th</sup> P.M., described as follows:

Commencing at the Northwest Corner of said Section 25; thence South 00°07'01" East, 1371.74 feet along the West line of the Northwest Quarter of said Section 25 to the True Point of Beginning; thence North 89°52'59" East, 330.00 feet to a point of curve to the right; thence Southeasterly, 874.78 feet along the arc of said curve to a point tangent, said arc having a radius of 1000.00 feet, a central angle of 50°07'16" and being subtended by a chord that bears South 65°03'23" East, 847.15 feet;

Thence South 39°59'45" East, 419.64 feet to a point of curve to the left; thence Southeasterly, 1305.92 feet along the arc of said curve to a point tangent and to the South line of the Northwest Quarter of said Section 25, said arc having a radius of 1500.00 feet, a central angle of 49°52'57" and being subtended by a chord that bears South 64°56'14" East, 1265.07 feet; thence South 89°52'42" East, 157.71 feet along the South line of the Northwest Quarter of said Section 25 to the Southeast Corner thereof; thence South 00°18'34" East, 1379.32 feet along the East line of the Southwest Quarter of said Section 25 to a point 4000.00 feet Southerly of the North Quarter of said Section 25; Thence South 89°15'28" West, 2674.20 feet to a point on the West line of the Southwest Quarter of said Section 25 which bears Southerly 4000.00 feet from the Northwest Corner of said Section 25;

Thence North 00°06'06" West, 1419.61 feet along the West line of the Southwest Quarter of said Section 25 to the West Quarter of said Section 25;

thence North 00°07'01" West, 1208.65 feet along the West line of the Northwest Quarter of said Section 25 to the True Point of Beginning.

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Email: [jlowe@suncommunities.com](mailto:jlowe@suncommunities.com)

### **SUPPORTIVE NARRATIVE**

### **PUD AMENDMENT APPLICATION**

In June of 2011, the City Council granted Cave Creek a 1 year exception to the age restriction imposed upon replacement homes into the community. In December 2012, The City Council granted a 1 year exception to the age restriction imposed upon replacement homes into the community and to be reviewed and determine whether to continue with the approval or to revert to former language. The PUD places a 4 year restriction from the manufactured date on replacement homes. In the 2011/12 period, Cave Creek brought in 3 replacement homes... Lot #211<sup>1</sup>, Lot #234<sup>2</sup>, and Lot #253<sup>3</sup>. All homes brought into Cave Creek in the 2013 period were new homes. As demonstrated by the examples, the age of the home has little bearing upon the finished installation. Homes installed in our community, whether new or replacement, all must meet our strict guidelines regarding structure, esthetics and standards.

As an additional argument supporting our request, I have attached examples of 25 year-old homes located in one of our communities in Ocala, Florida<sup>4</sup>. Once again, the age of the home has no relevance to the maintenance or appearance of the finished installation.

Sun Communities has over 35 years of experience in managing Manufactured Housing Communities and, as demonstrated by the attachments, it may be a fair assumption that our standards are equal to, if not more stringent, than those of our PUD.

We request that our application for a PUD Amendment be reviewed, discussed and granted.

Respectfully Submitted,

Julie Lowe  
Community Manager, Cave Creek MHC

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<sup>1</sup> Lot #211 Example

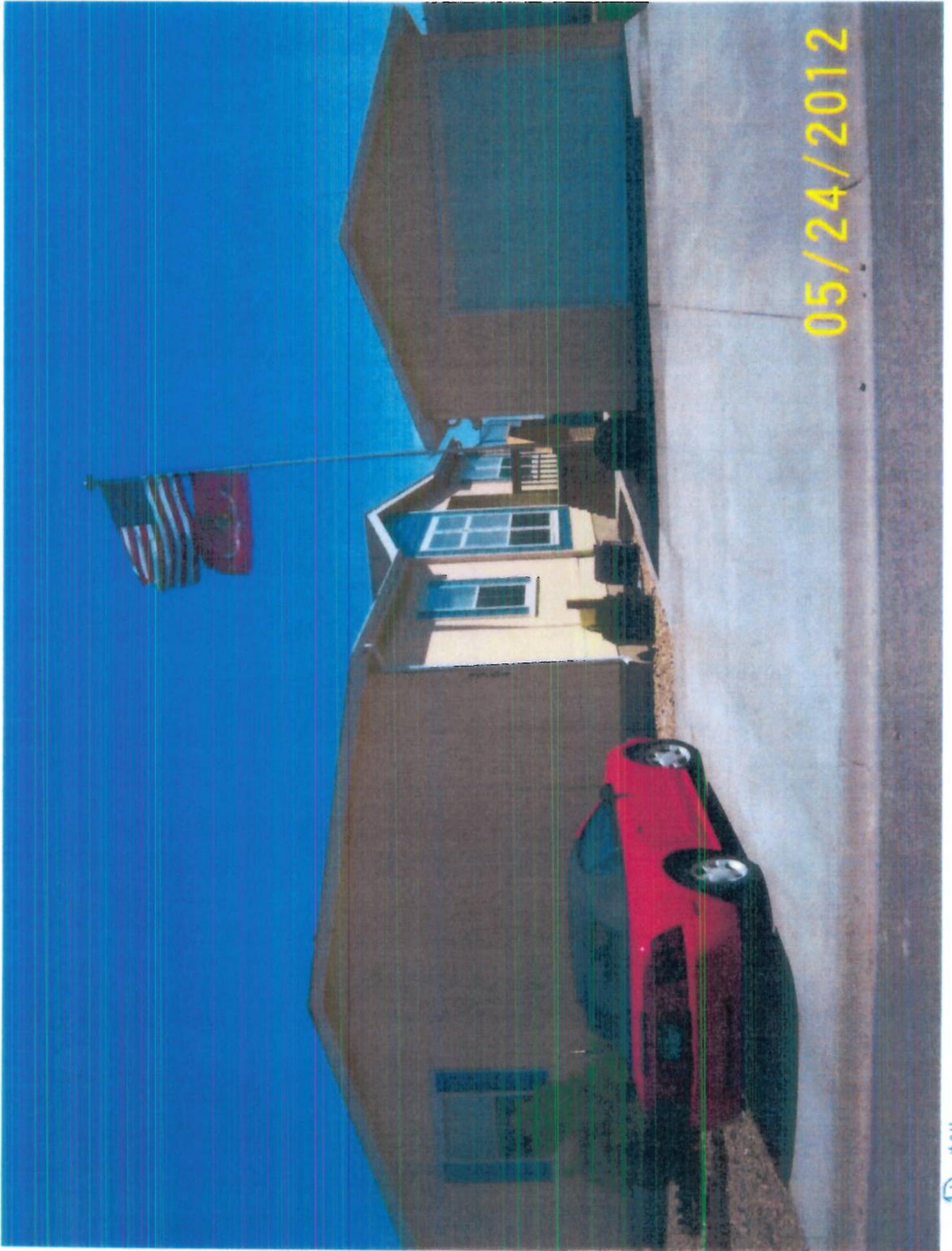
<sup>2</sup> Lot #234 Example

<sup>3</sup> Lot #253 Example

<sup>4</sup> Ocala, Florida Examples



① - #211



05/24/2012

① #211



118 0



② # 234

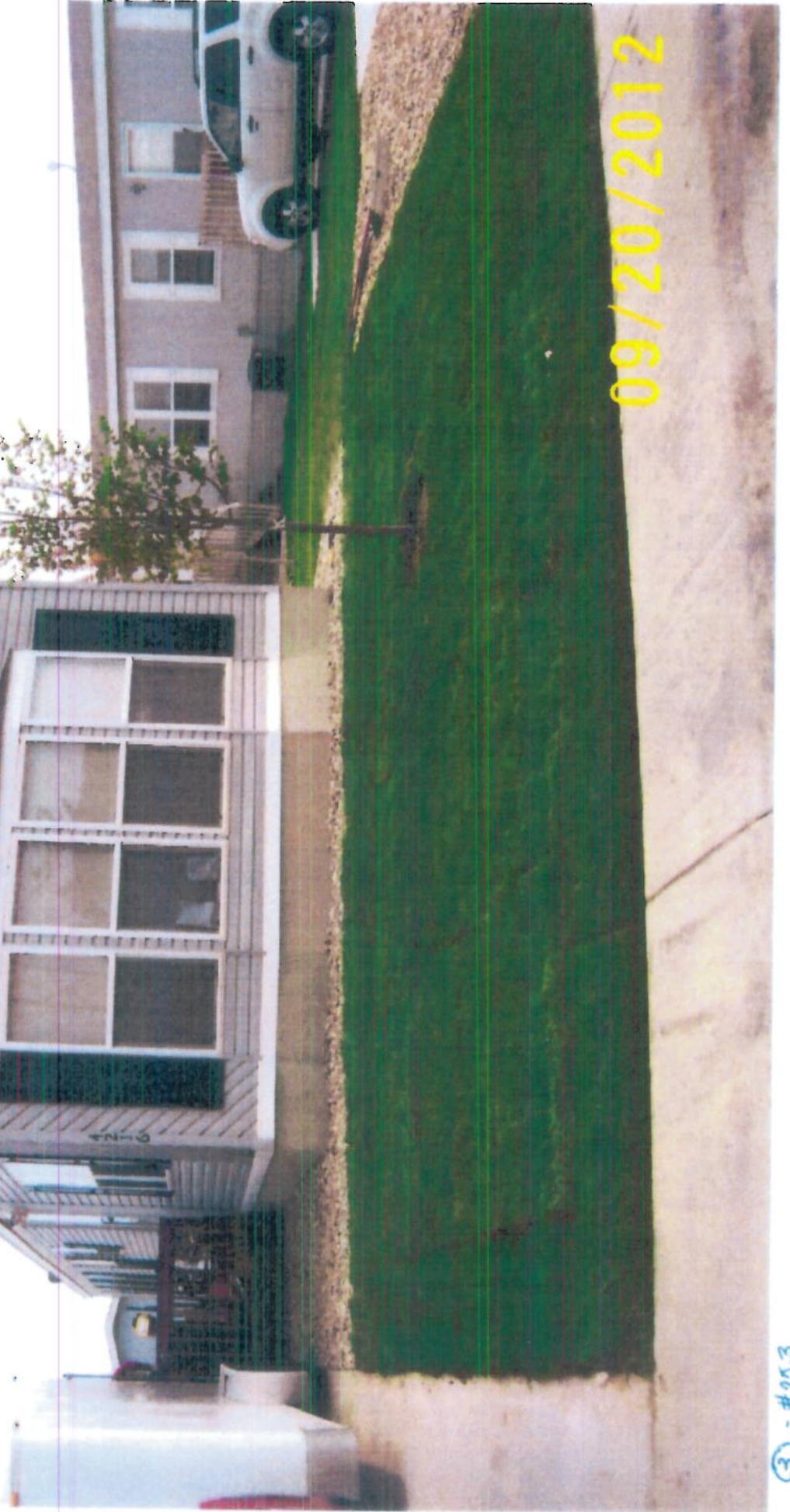


① - #234



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② - #234



09/20/2012

③ - #253

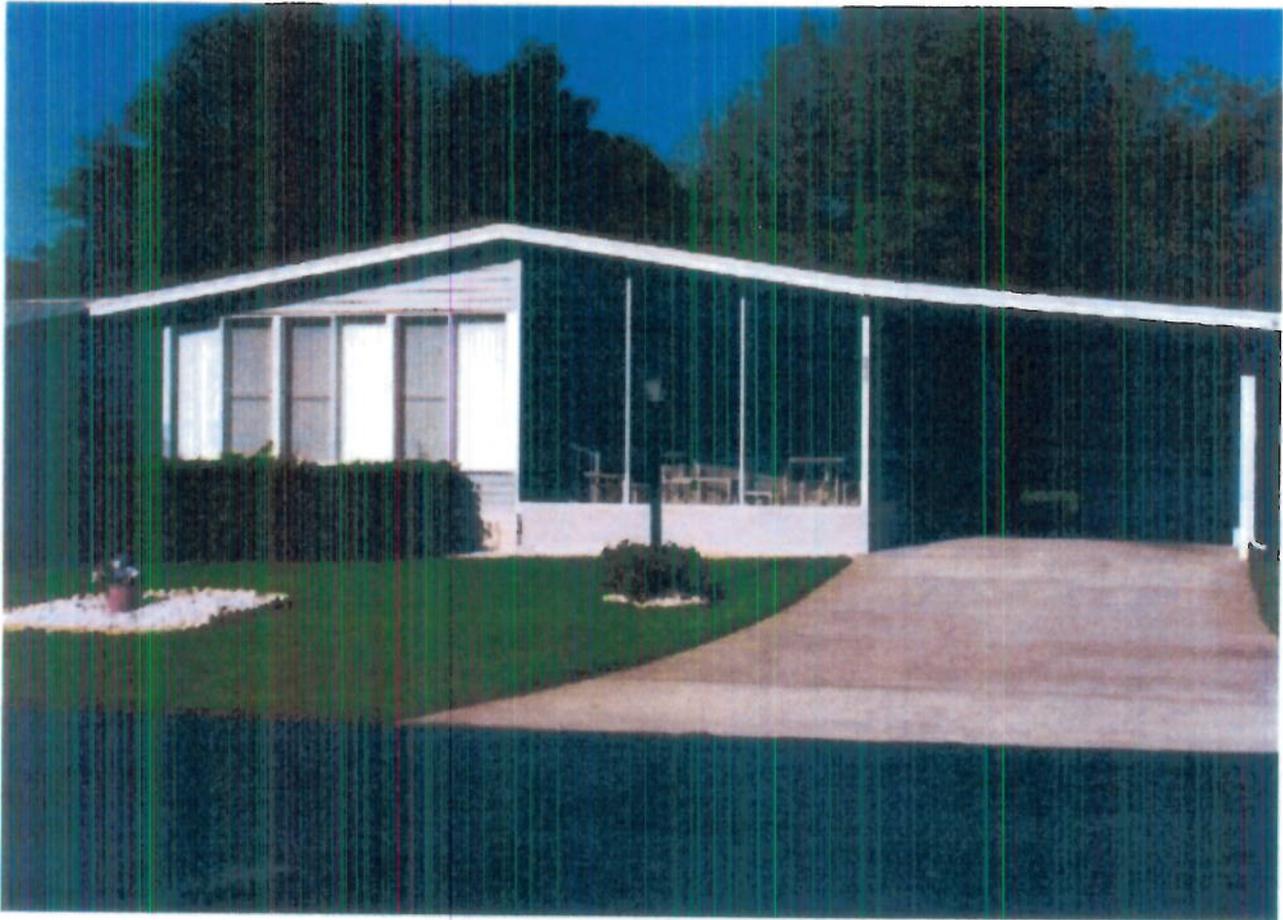


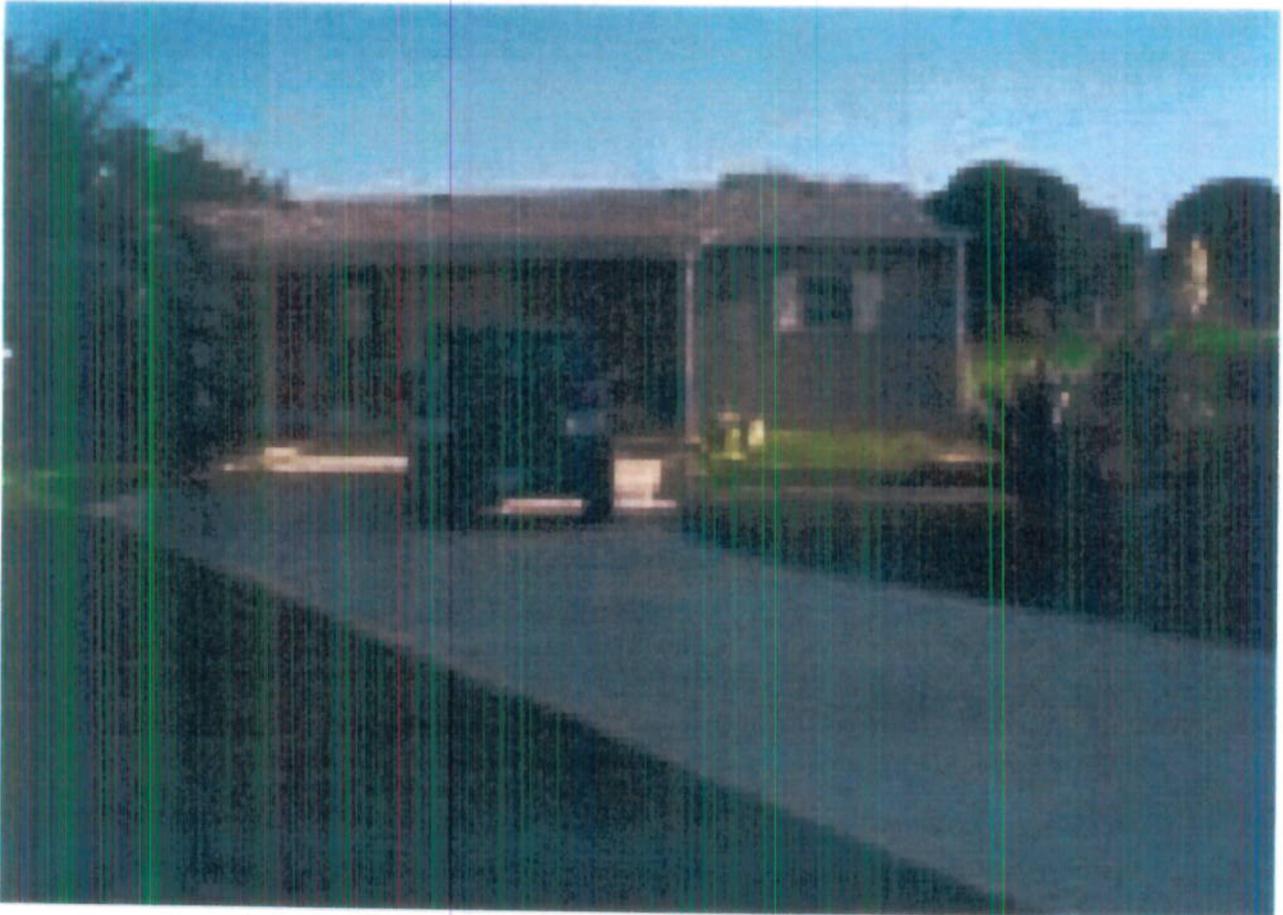
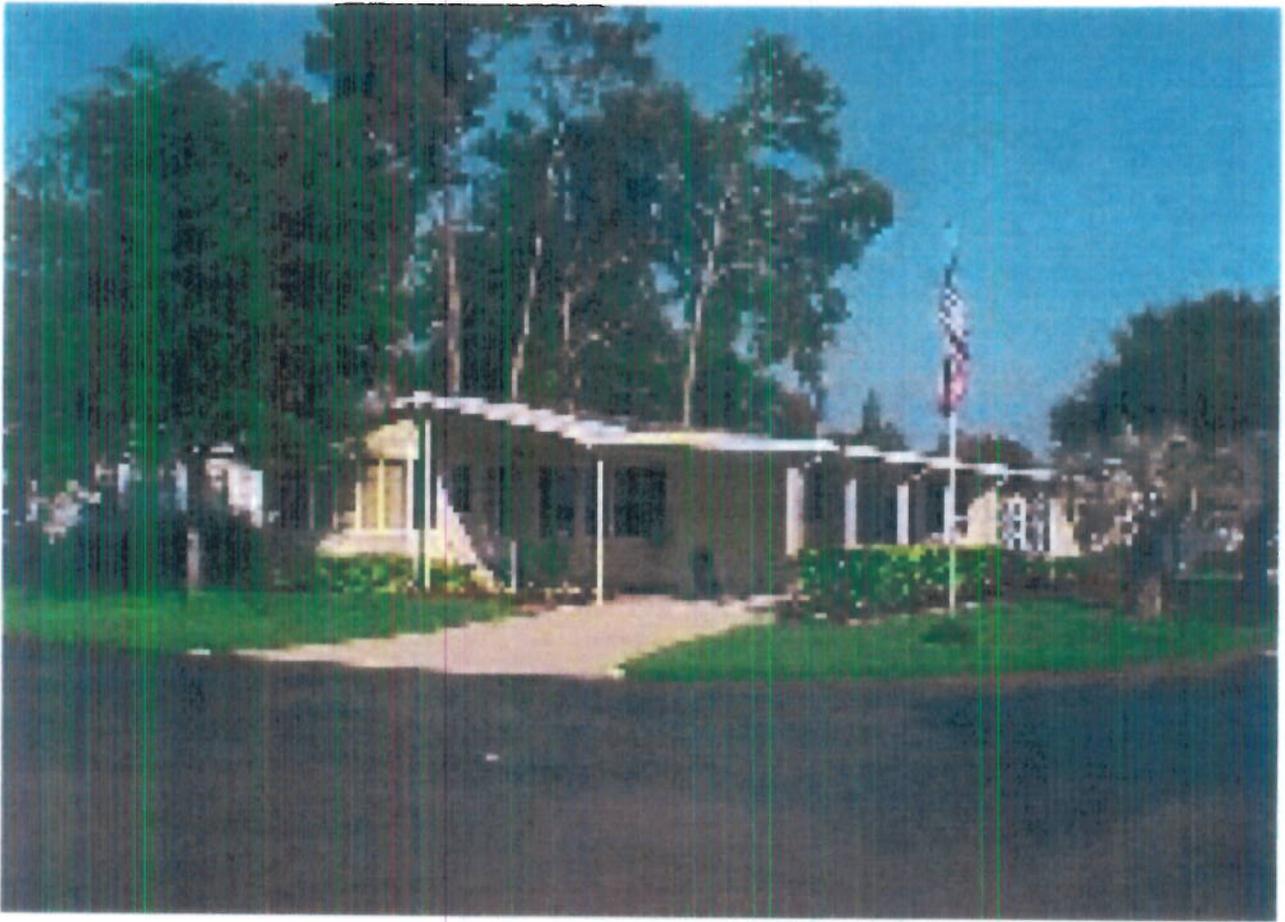
③ - #253



09/20/2012

③ - # 253









3400 Sagebrush Blvd. Evans, CO 80620 • Tel: 970.330.1700 • Fax: 970.330.1710  
Email: [jlowe@suncommunities.com](mailto:jlowe@suncommunities.com)

## **ARCHITECTURAL PLAN**

### **PUD AMENDMENT APPLICATION**

The Architectural Plan submitted at the time of the PUD Application remains in place and there is no need to recreate the plan since this Amendment Application addresses only the issue of “4 year old replacement homes” and does not supersede nor modify the Architectural Plan submitted as part of the original PUD Application process.

As noted in the attached PUD Checklist, xeriscaping is an allowable option to sod, as long as the 70/30 percent restrictions are maintained. In 2012, there were 20 lots identified that were in non-compliance with the 70/30 requirement. Those were addressed (please refer to Addendum A attached to this application) and as new homes are brought in or replacement homes are relocated into our community, the 70/30 requirement remains in force.

Replacement Homes are required to comply with our “PUD Checklist”<sup>1</sup>, which is attached, as regards architectural standards.

Respectfully Submitted,

Julie Lowe  
Community Manager, Cave Creek MHC

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<sup>1</sup> PUD Replacement Home Checklist

## PUD Home Specifications Checklist

All homes moving into Cave Creek must meet or exceed the following specifications before COO, and must continue to meet or exceed these specifications at all times:

- \_\_\_\_\_ The exterior siding material is of wood or vinyl siding or stucco or material equivalent in appearance, or siding that is similar appearance and meets green building standards such as recycled concrete or metal.
- \_\_\_\_\_ The address side of the home has a window or a door.
- \_\_\_\_\_ All standard size, non-frosted, non-bay, and/or non-decorative windows must have shutters or 3" to 6" painted trim.
- \_\_\_\_\_ Skirting material of vinyl, stucco, or material similar in appearance to stucco, in good repair that is compatible with the home, must be installed to provide access to water and sanitary sewer lines, and be vented in compliance with the manufacture's installation instructions and warranty requirements.
- \_\_\_\_\_ Steps have treated wood, platform (minimum 4X4 landing), hand rails for steps on exposed sides and if enclosed to be with vertical wood, vinyl, lattice, or skirting to match the home.
- \_\_\_\_\_ Minimum roof pitch 3:12 (one foot rise for each three feet of horizontal run) or roof pitches that are designed for "green" building measures such as water collection or growing of gardens.
- \_\_\_\_\_ Three or more compatible or complementary colors on exterior of home which includes the door, shutters, skirting/foundation and trim. No bright, neon, or fluorescent colors and no stripes, dots or artwork on sides of home.
- \_\_\_\_\_ Roof material is asphalt shingles or colored, non-galvanized standing seam material.
- \_\_\_\_\_ The exterior of the home is free of any obvious deterioration or signs of lack of maintenance; for example, any missing or broken shutters or trim, damaged roofing or siding, faded or peeling paint, or similar damage or deterioration.
- \_\_\_\_\_ Each home shall have street address clearly marked and at least two inches in height, on the front left end of the home as viewed from the street. These numbers must conform to any and all standards applicable to local emergency service providers and must be at least six feet above ground level.
- \_\_\_\_\_ All hitchers must be removed.

- \_\_\_\_\_ 16' wide, 924 square feet (single-section home) 24' wide, 1,120 square feet (double-section home).
- \_\_\_\_\_ Homes placed end-to-end shall have a minimum of 20' rear yard separation.
- \_\_\_\_\_ Homes placed side-by-side shall have a minimum of 10' side yard separation.
- \_\_\_\_\_ Homes shall be set back at least 24' from the flowline provided carports are not located within the front yard setback.
- \_\_\_\_\_ Carports shall maintain a 10' separation from adjacent structures.
- \_\_\_\_\_ One storage shed for residential uses.
- \_\_\_\_\_ One attached or detached garage per building code standards.
- \_\_\_\_\_ All lots will have a minimum of three off-street parking spaces
- \_\_\_\_\_ The bottom edge of the house's siding is no more than sixteen inches (16") above the finished grade
- \_\_\_\_\_ (2 ½" caliper) deciduous tree to be located in such a manner that would not obstruct homes from moving on and off the lots, within the front yard setback
- \_\_\_\_\_ Sod in place. As per City of Evans Municipal Code Chapter 18.33, Page 3, Item 5, *"As an option, front yards may be xeriscaped with a variety of low-water plants, such as native grasses and low-water shrubs and trees, to be reviewed on a case-by-case basis. Irrigation for xeriscaped front yards is required, and no more than 30 percent of the front yard shall contain non-living groundcover."*

**Violation--Penalty. Failure to comply or maintain compliance will constitute a violation and subject Owner, Lessee, and Management to fines and penalties as may be imposed by the Evans Municipal Court pursuant to Sections 18.48.010 and 1.16.010 of the Evans Municipal Code.**

\_\_\_\_\_ **Sun Communities Representative**

\_\_\_\_\_ **Date**

**City of Evans**

**Date**

**Home Site #**

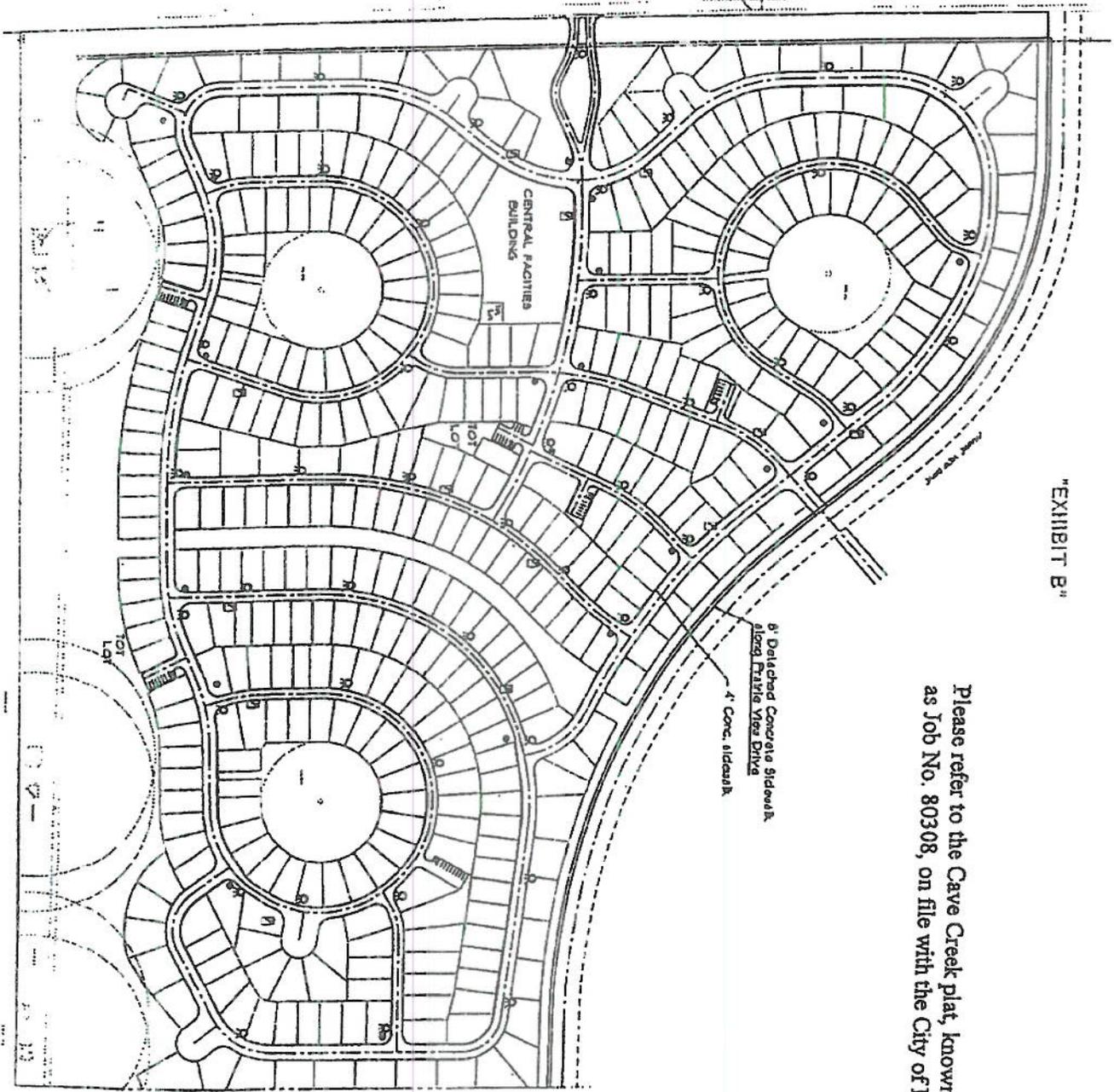
**Home Site Address**

Site Plan/Landscape Plan

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8' Detached Concrete Sidewalk  
Along 35th Avenue

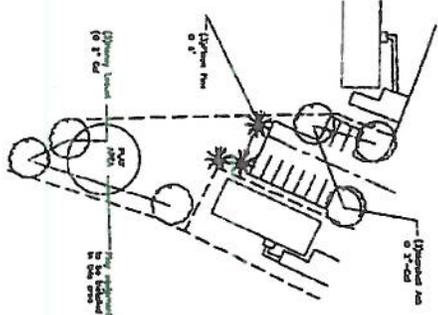
35th AVENUE



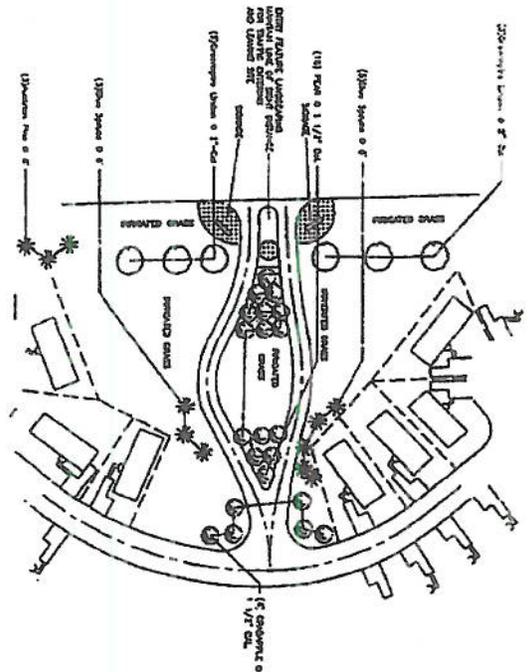
"EXHIBIT B"

Please refer to the Cave Creek plat, known as Job No. 80308, on file with the City of Evans.

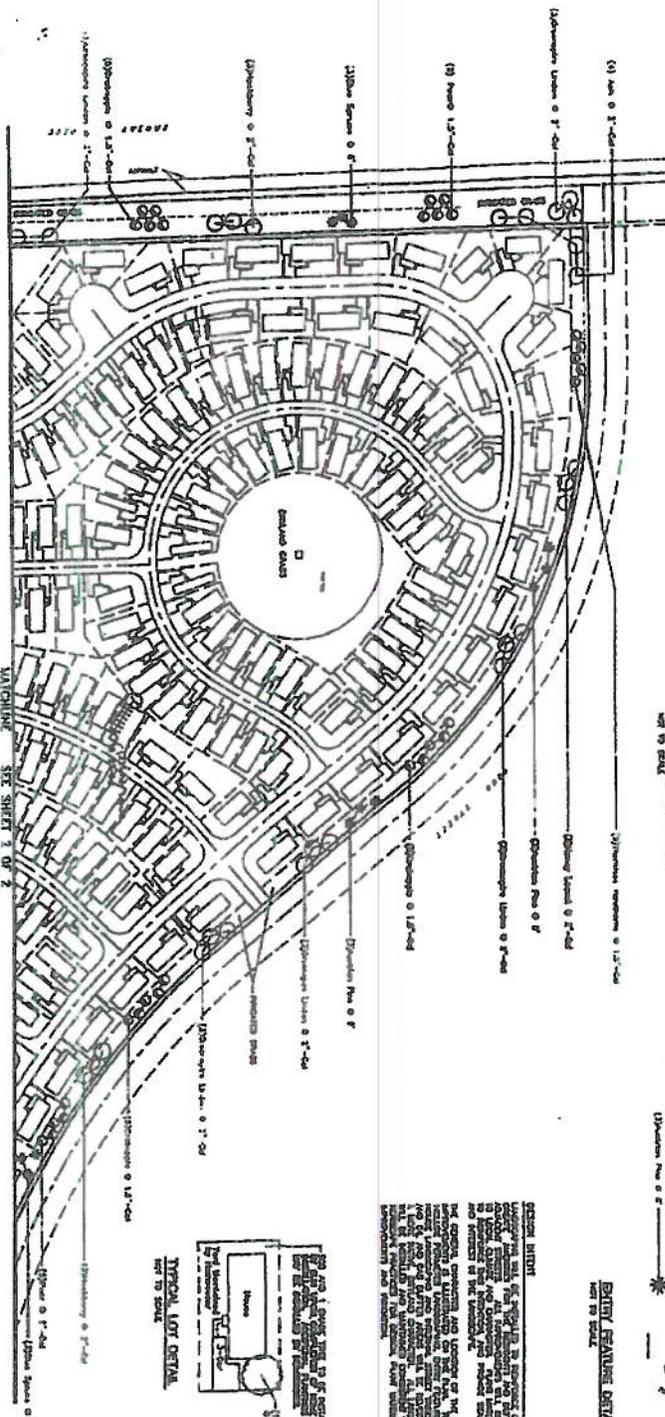
- LANDSCAPE NOTES**
1. All landscaping and site work shall be completed by the date of final construction.
  2. All plants shall be installed and watered by the contractor.
  3. All plants shall be installed in accordance with the specifications and schedule of values.
  4. All plants shall be installed in accordance with the specifications and schedule of values.
  5. All plants shall be installed in accordance with the specifications and schedule of values.
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  17. All plants shall be installed in accordance with the specifications and schedule of values.
  18. All plants shall be installed in accordance with the specifications and schedule of values.



TYPICAL LOT DETAIL  
NOT TO SCALE



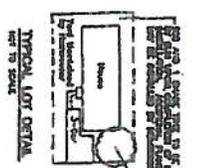
ENTRY FEATURE DETAIL  
NOT TO SCALE



LANDSCAPE PLAN  
NOT TO SCALE

**GENERAL NOTES**

1. All plants shall be installed in accordance with the specifications and schedule of values.
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19. All plants shall be installed in accordance with the specifications and schedule of values.
20. All plants shall be installed in accordance with the specifications and schedule of values.



TYPICAL LOT DETAIL  
NOT TO SCALE

- LEGEND**
- 1. 10" Diameter Tree
  - 2. 12" Diameter Tree
  - 3. 14" Diameter Tree
  - 4. 16" Diameter Tree
  - 5. 18" Diameter Tree
  - 6. 20" Diameter Tree
  - 7. 22" Diameter Tree
  - 8. 24" Diameter Tree
  - 9. 26" Diameter Tree
  - 10. 28" Diameter Tree
  - 11. 30" Diameter Tree
  - 12. 32" Diameter Tree
  - 13. 34" Diameter Tree
  - 14. 36" Diameter Tree
  - 15. 38" Diameter Tree
  - 16. 40" Diameter Tree
  - 17. 42" Diameter Tree
  - 18. 44" Diameter Tree
  - 19. 46" Diameter Tree
  - 20. 48" Diameter Tree
  - 21. 50" Diameter Tree
  - 22. 52" Diameter Tree
  - 23. 54" Diameter Tree
  - 24. 56" Diameter Tree
  - 25. 58" Diameter Tree
  - 26. 60" Diameter Tree
  - 27. 62" Diameter Tree
  - 28. 64" Diameter Tree
  - 29. 66" Diameter Tree
  - 30. 68" Diameter Tree
  - 31. 70" Diameter Tree
  - 32. 72" Diameter Tree
  - 33. 74" Diameter Tree
  - 34. 76" Diameter Tree
  - 35. 78" Diameter Tree
  - 36. 80" Diameter Tree
  - 37. 82" Diameter Tree
  - 38. 84" Diameter Tree
  - 39. 86" Diameter Tree
  - 40. 88" Diameter Tree
  - 41. 90" Diameter Tree
  - 42. 92" Diameter Tree
  - 43. 94" Diameter Tree
  - 44. 96" Diameter Tree
  - 45. 98" Diameter Tree
  - 46. 100" Diameter Tree

2661537 12/16/1998 03:18P Weld County CO  
10 of 12 R 61.00 D 0.00 JR Suki Tsukamoto

LANDSCAPE PLAN  
SUN  
RMC  
ROCKY MOUNTAIN CONSULTING INC.



295

20-

**SPECIAL WARRANTY DEED**

The Grantor **SUN COMMUNITIES OPERATING LIMITED PARTNERSHIP, a Michigan limited partnership**

whose address is **31700 Middlebelt Road, Suite 145, Farmington Hills, Michigan 48334**

Sells and Conveys to **TRIDENT-CAVE CREEK, L.L.C., a Michigan limited liability company**

whose address is **3400 East Lafayette, Detroit, MI 48207**

all of Grantor's right, title and interest in the premises situated in the City of Evans, Weld County, Colorado, described as follows:

See Exhibit "A" attached hereto and made a part hereof,

together with all and singular tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining (collectively, the "Property"), for the consideration of \$ 2,733,409.58, the receipt and sufficiency of which are hereby acknowledged, subject to easements, building and use restrictions, rights of way and other matters shown on Exhibit "B" attached hereto and made a part hereof.

TO HAVE AND TO HOLD, subject as aforesaid, this Property unto Grantee, its successors and assigns in fee simple forever. Grantor warrants, covenants, promises and agrees that as of the date hereof it has not done or suffered to be done anything whereby the Property is, or may be, in any manner encumbered or charged, except as set forth in Exhibit B attached hereto and Grantor agrees to defend such title to the Property against all persons claiming lawfully by, through or under Grantor, but not otherwise.

Dated this 17<sup>th</sup> day of OCTOBER, 2000, effective as of October 17 2000.

WITNESSES:

GRANTOR:

[Signature]  
Print Name Robert L. Zabinski

**SUN COMMUNITIES OPERATING LIMITED PARTNERSHIP, a Michigan limited partnership**

By: Sun Communities, Inc., a Maryland corporation  
Its: General Partner

[Signature]  
Print Name John Mickel

By: [Signature]  
Jeffrey P. Jorissen  
Its: Chief Financial Officer

[Notary on following page]

2904295 11/02/2008 08:27P JA Suld Teukamoto  
1 of 4 R 20.00 B 773.34 Weld County CO

Go 40043A00

STATE OF MICHIGAN )  
COUNTY OF WAYNE )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of October, 2000, by Jeffrey P. Jorissen, Chief Financial Officer of Sun Communities, Inc., a Maryland corporation, general partner of SUN COMMUNITIES OPERATING LIMITED PARTNERSHIP, a Michigan limited partnership, on behalf of said partnership.

Karen E. Malnar  
Notary Public, \_\_\_\_\_ County \_\_\_\_\_  
My Commission Expires: KAREN E. MALNAR  
Notary Public, Wayne County, MI  
My Commission Expires Nov. 24, 2002

Drafted by:  
John R. Nickel, Esq.  
Jaffe, Raitt, Heuar & Weiss,  
Professional Corporation  
One Woodward Avenue - Suite 2400  
Detroit, Michigan 48226

Send subsequent tax bills to: \_\_\_\_\_  
When recorded return to: \_\_\_\_\_  
Grantee \_\_\_\_\_  
Grantee \_\_\_\_\_

Tax Parcel Number: \_\_\_\_\_  
Recording Fee: \$ \_\_\_\_\_  
Transfer Tax: \$ \_\_\_\_\_

2804295 11/02/2000 03:27P JA Saki Tsukamoto  
2 of 4 R 20.00 D 773.34 Weld County CO

**EXHIBIT A**

**LEGAL DESCRIPTION**

A tract of land located in the West Half of Section 25, Township 5 North, Range 66 West of the 6<sup>th</sup> P.M., described as follows:

Commencing at the Northwest Corner of said Section 25; thence South 00°07'01" East, 1371.74 feet along the West line of the Northwest Quarter of said Section 25 to the True Point of Beginning; thence North 89°52'59" East, 330.00 feet to a point of curve to the right; thence Southeasterly, 874.78 feet along the arc of said curve to a point tangent, said arc having a radius of 1000.00 feet, a central angle of 50°07'16" and being subtended by a chord that bears South 65°03'23" East, 847.15 feet;

Thence South 39°59'45" East, 419.64 feet to a point of curve to the left; thence Southeasterly, 1305.92 feet along the arc of said curve to a point tangent and to the South line of the Northwest Quarter of said Section 25, said arc having a radius of 1500.00 feet, a central angle of 49°52'57" and being subtended by a chord that bears South 64°56'14" East, 1265.07 feet; thence South 89°52'42" East, 157.71 feet along the South line of the Northwest Quarter of said Section 25 to the Southeast Corner thereof; thence South 00°18'34" East, 1379.32 feet along the East line of the Southwest Quarter of said Section 25 to a point 4000.00 feet Southerly of the North Quarter of said Section 25; Thence South 89°15'28" West, 2674.20 feet to a point on the West line of the Southwest Quarter of said Section 25 which bears Southerly 4000.00 feet from the Northwest Corner of said Section 25;

Thence North 00°06'06" West, 1419.61 feet along the West line of the Southwest Quarter of said Section 25 to the West Quarter of said Section 25;

thence North 00°07'01" West, 1208.65 feet along the West line of the Northwest Quarter of said Section 25 to the True Point of Beginning.

2884295 11/02/2009 08:27P JA Suki Toukamolo  
3 of 4 R 20.00 D 779.34 Weld County CO

**EXHIBIT "B"**

1 100000 100000 100000 100000 100000 100000 100000 100000 100000 100000  
2004295 11/02/2000 03:27P JA Sald Tsukamoto  
4 of 4 R 20.00 D 773.24 Weld County CO

07:7053.01



3400 Sagebrush Blvd. Evans, CO 80620 • Tel: 970.330.1700 • Fax: 970.330.1710  
jlowe@suncommunities.com

January 23, 2014

Atmos Energy  
P.O. Box 790311  
St. Louis, MO 63179-0311

To whom it may concern:

Please be advised that Cave Creek is applying for a PUD Amendment regarding the age of replacement homes brought into our community. If you would like to provide any input, please attend the Evans Planning Commission Meeting on March 11<sup>th</sup>, 2014.

Respectfully,

Julie Lowe  
Community Manager  
Cave Creek



3400 Sagebrush Blvd. Evans, CO 80620 • Tel: 970.330.1700 • Fax: 970.330.1710  
jlowe@suncommunities.com

January 23, 2014

Xcel Energy  
Public Service Company of Colorado  
P.O. Box 840  
Denver, CO 80201

To whom it may concern:

Please be advised that Cave Creek is applying for a PUD Amendment regarding the age of replacement homes brought into our community. If you would like to provide any input, please attend the Evans Planning Commission Meeting on March 11<sup>th</sup>, 2014.

Respectfully,

Julie Lowe  
Community Manager  
Cave Creek



3400 Sagebrush Blvd. Evans, CO 80620 • Tel: 970.330.1700 • Fax: 970.330.1710  
jlowe@suncommunities.com

January 23, 2014

Centurylink  
1919 65<sup>th</sup> Ave  
Greeley, CO 80634

To whom it may concern:

Please be advised that Cave Creek is applying for a PUD Amendment regarding the age of replacement homes brought into our community. If you would like to provide any input, please attend the Evans Planning Commission Meeting on March 11<sup>th</sup>, 2014.

Respectfully,

Julie Lowe  
Community Manager  
Cave Creek



3400 Sagebrush Blvd. Evans, CO 80620 • Tel: 970.330.1700 • Fax: 970.330.1710  
jlowe@suncommunities.com

January 23, 2014

Anadarko Petroleum  
Kerr-McGee  
4000 Burlington Ave.  
Evans, CO 80620

To whom it may concern:

Please be advised that Cave Creek is applying for a PUD Amendment regarding the age of replacement homes brought into our community. If you would like to provide any input, please attend the Evans Planning Commission Meeting on March 11<sup>th</sup>, 2014.

Respectfully,

Julie Lowe  
Community Manager  
Cave Creek



3400 Sagebrush Blvd. Evans, CO 80620 • Tel: 970.330.1700 • Fax: 970.330.1710  
jlowe@suncommunities.com

January 23, 2014

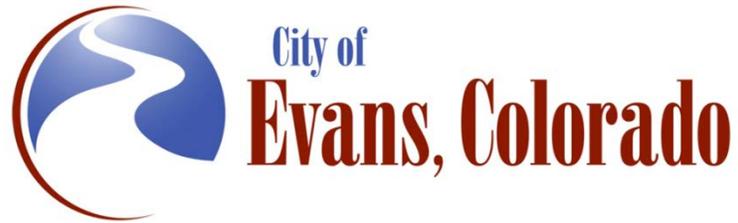
Comcast  
Corporate Office  
1500 Market St.  
Philadelphia, PA 19102

To whom it may concern:

Please be advised that Cave Creek is applying for a PUD Amendment regarding the age of replacement homes brought into our community. If you would like to provide any input, please attend the Evans Planning Commission Meeting on March 11<sup>th</sup>, 2014.

Respectfully,

Julie Lowe  
Community Manager  
Cave Creek



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**CITY COUNCIL COMMUNICATION**

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**DATE:** July 1, 2014

**AGENDA ITEM:** 7.B

**SUBJECT:** Bonanza Creek Communications Tower Use by Special Review

**STAFF CONTACT:** Sean Wheeler, City Planner

**ACTION:** Consideration by City Council

**APPROVED BY:** Zach Ratkai, Building and Development Manager

**PLANNING COMMISSION:** June 10, 2014

<b>BACKGROUND INFORMATION</b>		
<b>Location:</b>		4301 Industrial Parkway (See Attached Map)
<b>Applicant:</b>		Bonanza Creek Energy LLC (Applicant / Owner) Tetra Tech, Pam Hora (Consultant)
<b>Existing Land Use:</b>		Professional Offices
<b>Proposed Land Use:</b>		Use by Special Review Approval to construct a 68-foot communications tower at their business site.
<b>Surrounding Land Use:</b>	<b>North</b>	Residential / Industrial
	<b>South</b>	Industrial
	<b>East</b>	Industrial
	<b>West</b>	Residential / Industrial
<b>Existing Zoning:</b>		I-1 (Industrial)
<b>Proposed Zoning:</b>		I-1 (Industrial)
<b>Surrounding Zoning:</b>	<b>North</b>	R-3 (Residential), I-1 (Industrial)
	<b>South</b>	I-1 (Industrial)
	<b>East</b>	I-1 (Industrial)
	<b>West</b>	R-3 (Residential), I-1 (Industrial)
<b>Future Land Use Designation:</b>		I-1 (Industrial)

**PROJECT DESCRIPTION:**

The applicant seeks Use by Special Review (USR) approval to construct a 68-foot communications tower on their property at 4301 Industrial Parkway in the Evans Industrial Park. Bonanza Creek Energy will use the tower to improve communications with their field operations as a replacement for ground-line connections lost in the 2013 flood. Bonanza Creek will be the sole user and this tower will not provide commercial mobile radio services (cellular service) to the public. Please note, at the applicant’s request Staff approved a site plan to construct a 40-foot tower at the site, which is allowed administratively under the Municipal Code. If the USR is approved, the applicant will add the height extension at that time.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission considered the request on June 10, 2014 and recommend approval of the Bonanza Creek Communications Tower Use by Special Review by a vote of 4 in favor , 1 opposed.

**APPROVAL OF SPECIAL USES (CHAPTER 19.44, MUNICIPAL CODE)**

**1. Analysis / Issues:** The Municipal Code classifies certain types of development as requiring “Use by Special Review” approval. This is done to allow consideration of potential impacts on other land

uses, etc. in the surrounding neighborhood. Staff's focus is on this concern along with issues that have the potential to harm the health, safety and welfare of the City and its residents. Staff analysis of this project included:

**A. Site Plan Review / Safety:** The applicant provided a site plan (attached to this report) showing the placement of the tower on the lot. One key question for approval of any tower application is this. If it should fall, will it be placed far enough back from property lines so as not to hit structures on adjoining lots? As shown on the site plan, the proposed placement of this tower is set back sufficiently so that should it fall it will not land on the adjoining lots. Construction of the tower is also subject to building code and permit requirements, along with tested industry standards for these uses. While the applicant is in the process of constructing a 40-foot tower, the design of these structures allows for safely adding more sections to increase the height to the approved level. Thus the placement of the tower on site at 68-feet satisfies setback requirements. Its construction under the building code requirements satisfies any safety concerns related to this use.

**B. Landscaping:** Staff did not require a landscape plan for this request because of several factors. First, the site has existing landscaping from the original site plan approval for the business. Also, landscaping is typically used to visually buffer or screen uses from adjoining properties. With a 68-foot tower, the idea is not practical and landscaping would not be effective for several years, if at all. In addition, the tower is located next to the applicant's office building in an industrial area. The structure and tower are similar to existing uses elsewhere, and compatible with the surrounding industrial park. Based on these factors, Staff does not recommend requiring the applicant to provide additional landscaping.

**C. Special Review Use Time Limit:** Staff does not recommend setting a term limit for the life of this Use by Special Review. Such limits typically apply to uses where the visual impact could change over time (such as at a gravel pit site) or the surrounding uses change through increased development. This use will not change visually once the tower is in place, and the business is located in an established industrial park so increased development is not a concern. For those reasons, Staff supports an open-ended approval of the USR, and approval of the tower as being tied to the site and not the business. Essentially, should the applicant decide to change locations, there is no compelling reason to not allow another business to use the tower in the same capacity as Bonanza Creek Energy would use it. If a future owner were to change the approved use of this tower, the City would have legal avenues available to address that, as it would be outside of the scope of this approval.

#### **REVIEWING AGENCY COMMENTS:**

Planning Staff referred this request to several City offices for comment. The comments provided from the City Engineer, the Fire District and the Economic Development Director did not raise objections to approval of this request.

#### **SECTION 19.44.020B (REVIEW CRITERIA):**

For reference, Staff's review and recommendations are based on the compliance with the below Criteria for Use by Special Review found in Section 19.44.020B of the Municipal Code. The individual requirements are shown in bold, with Staff's assessment immediately following each:

**1. The proposed use is found to be unlikely to harm the health, safety or welfare of the City or its residents.** Based on the information provided by the applicant, Staff's assessment is that the use

satisfies this requirement of the Evans Municipal Code.

**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.** Based on the information provided by the applicant, Staff's assessment is that the use satisfies this requirement of the Evans Municipal Code.

**3. The proposed use shall be consistent with the Evans Comprehensive Plan and shall be compatible with the surrounding area.** Based on the information provided by the applicant, Staff's assessment is that the use satisfies the requirements of both the "2010 Comprehensive Plan" and this section of the Municipal 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.** Staff's assessment is that the proposed use satisfies this requirement for compatibility and will not have any negative impacts on surrounding properties.

**5. The site shall be physically suitable for the type and intensity of the proposed land use.** Staff review of the project did not reveal any concerns with regard to this standard, and the project satisfies this standard.

**6. The proposed land use shall not adversely affect traffic flow and parking in the neighborhood.** There are no anticipated conflicts with this standard based on the application materials and the comments provided by the City Engineer.

**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.** Staff review of the project did not reveal any concerns with regard to this standard, and the project satisfies this approval criteria.

**8. 9. and 10.** (Not applicable as they apply to Mini-Storage Uses, Car Wash facilities, and Oil and Gas Well facilities.)

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**FINDINGS OF FACT AND CONCLUSIONS:**

On consideration of the Use by Special Review request and the information contained in this report, Staff makes the following Findings of Fact;

The Bonanza Creek Communications Tower Use by Special Review can appropriately and sufficiently meet the Review Criteria in Section 19.44 of the Evans Municipal Code. Additionally, approval of this Use by Special Review is consistent with the requirements of the 2010 Evans Comprehensive Plan and it will be compatible with the surrounding land uses.

**PLANNING COMMISSION AND STAFF RECOMMENDATION:**

The Planning Commission supports approval of the request as also recommended by Staff of the Bonanza Creek Communications Tower Use by Special Review, based on the findings and conclusions outlined in this report.

**RECOMMENDED CITY COUNCIL MOTION:**

“Mr. Mayor, on the issue of the Bonanza Creek Communications Tower Use by Special Review, I move that the City Council approve the application as having met the criteria outlined in Chapter 19.44.020B of the Municipal Code.”

“Mr. Mayor, on the issue of the Bonanza Creek Communications Tower Use by Special Review, I move that the City Council deny the request as having failed to meet the criteria outlined in Chapter 19.58 of the Municipal Code.”

---

**Attachments:**

Vicinity Map  
Zoning Map  
Bonanza Creek Cover Sheet  
Bonanza Creek Proposed Use Letter  
Bonanza Creek Site Photos  
Bonanza Creek Site Plan  
Bonanza Creek Tower Example Photo



**4301  
Industrial  
Parkway**

**Legend**



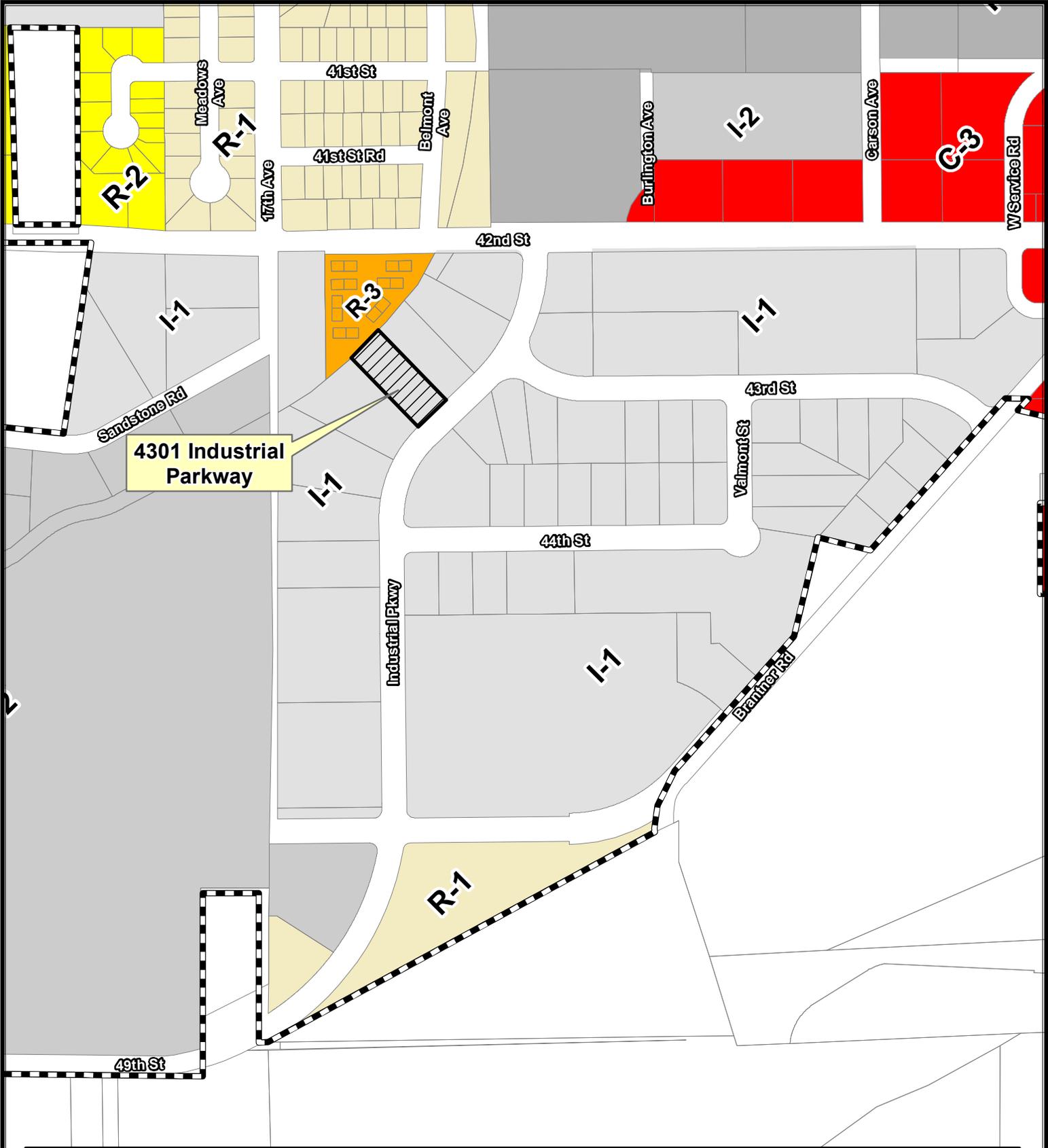
Evans  
City Limits



Project Site

**Aerial Map**  
**USR - Bonanza Creek**  
**Communications Tower**  
**4301 Industrial Parkway**





**4301 Industrial Parkway**

**Legend**

-  Evans City Limits
-  Project Site

**Zoning Map**  
**USR - Bonanza Creek**  
**Communications Tower**  
**4301 Industrial Parkway**





Bonanza Creek Energy plans to construct a 60' tall communications tower at 4301 Industrial Parkway in Evans, CO. The tower that they would like to construct will look similar to the tower pictured here.

**Bonanza Creek Energy Communications Tower  
Use By Special Review Application Packet  
March 28, 2014**

Attached are the following Use by Special Review application submittal documents:

- Land Use Application Use by Special Review form
- Pre-Planning Land Use Application Response (as proof of Pre Application Submittal Meeting)
- Electronic copy of application materials saved on a CD
- Use by Special Review Fee: \$350 (\$150 deposit to be applied to this application)
- Legal description of the property
- Letter indicating why the use should be allowed
- Site plan drawing of the location and use
- Photos of the site where the tower will be located
- Photo of what the proposed tower will look like
- Aerial map of the location of Bonanza Creek Energy's property where the tower will be located
- Excel format list of all land owners within 500' of Bonanza Creek Energy's property



**TETRA TECH**

March 28, 2014

Mr. Sean Wheeler  
City Planner  
City of Evans  
1100 37<sup>th</sup> Street  
Evans, CO 80620

**RE: Justification for Bonanza Creek Energy Communications Tower**

Dear Mr. Wheeler:

Bonanza Creek Energy Operating Company, LLC (Bonanza Creek) is requesting approval of a USR application to allow for the construction of a communications tower on their property located at 4301 Industrial Parkway in Evans (Lot 1, Block 1, Evans Industrial Park Third Replat). Bonanza Creek needs to construct a 60' tall tower to meet their current needs; however, they are seeking approval of a tower that could be up to 100' tall. This additional height is requested in case future site conditions change that require them to build their tower taller in order for their system to function properly. According to the Evan's Municipal Code, 40' tall towers are considered a use by right; anything taller must be approved as a Use by Special Review.

Below is an explanation of how the request for a 100' tall tower addresses the Criteria for a Use by Special Review.

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

*The proposed tower is located on Bonanza Creek Energy's property in an industrial zone district (I-1). Communications towers are not likely to harm the health, safety, or welfare of the City or its residents. There are a couple of common safety related issues associated with a tower; one is preventing damage to other people's properties if the tower fell over and the other is taking steps to prevent people from climbing the tower. This is how those concerns are being addressed:*

- *The tower and its foundation will be designed by engineers to address concerns related to making sure it is built in a manner that will prevent it from falling over. However, if something catastrophic were to happen and it were to fall over, the tower is proposed to be placed on Bonanza Creek's lot more than 100' away from all property lines so that if it fell, it would fall within the boundaries of their lot.*
- *The area where the tower will be located is fenced in. There is a gate into the area that is closed and locked at night and on the weekends to prevent people from climbing the tower.*

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.

*Bonanza Creek is an active supporter of community efforts in Weld County. In 2013 Bonanza Creek moved their field office from Kersey to the Town of Evans. The majority of*



*Bonanza Creek's employees live in or around the Evans area and their new location has proven to be attractive for the acquisition of local talent as their company continues to grow. As of January 1, 2014, Bonanza Creek added over 25 new employees based out of their Evans location and they anticipate that number will grow to around 40 new hires by mid-year. Bonanza Creek is thankful to be part of the growing community in Evans and is excited about its future there.*

*The proposed tower is located on the same lot as Bonanza Creek Energy's new office. The new tower is required so that Bonanza Creek can continue to safely and efficiently operate their business out of the Evans office. The tower will be used to pull data from Bonanza Creek's well sites to the Evans office where their staff can monitor, track and control what is happening in the field. Originally, Bonanza Creek Energy had planned to utilize a T1 line through Evans for these communications; however, the T1 line was destroyed in the September 2013 flood and so an alternative solution is required. Permitting this tower will allow Bonanza Creek Energy to continue to efficiently operate their business within the City of Evans.*

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

*A communications tower is a piece of equipment that is considered compatible in an industrial area because it is allowed as a use by right when it is 40' tall or shorter. In order for the tower to function properly, Bonanza Creek just needs the tower to be 60' tall which is why a use by special review approval is required. An allowance to construct a tower up to 100' tall is being requested to allow for flexibility should site conditions change in the future that would require Bonanza Creek to construct a taller tower.*

*Bonanza Creek Energy needs the communications tower to continue operating their thriving business within the City of Evans' industrial business park. Goal 3 of the Comprehensive Plan addresses Economic Development Opportunities. It is important for Evans to support businesses like Bonanza Creek in their community because they provide employment opportunities within the City limits so that people can both live and work within the City. In addition, whenever possible, Bonanza Creek supports local businesses in Evans in order to further support the economic vitality of the community in which they are located.*

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

*The tower is proposed to be located in an industrial park. It will not generate noise, traffic or any other conditions or situations that would be considered objectionable in an industrial park area. As explained above, a communications tower is a piece of equipment that is allowed as a use by right in the industrial zone areas when it is 40' tall or shorter. In order for the tower to function properly, Bonanza Creek just needs the tower to be 60' tall which is why a use by special review approval is required (as explained previously we are requesting approval of a tower up to 100' tall in case the additional height is needed in the future).*



*Bonanza Creek Energy is being pro-active regarding any potential concerns from neighbors and has notified all property owners within 500' about the application. Neighbors were asked to contact Pam Hora at Tetra Tech if there were any questions or concerns so that Bonanza Creek can try to resolve any concerns they may have. Tetra Tech will keep the City Staff advised of any input received.*

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

*The proposed site for the tower is on Bonanza Creek Energy's existing property which has adequate space and is the best location for the tower to be able to meet the needs of their business operations.*

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

*The tower will not generate traffic or impact parking in the neighborhood. The reason Bonanza Creek needs the tower is so that they can retrieve data from their well sites via radio signal; this prevents the need for Bonanza Creek to employ people to drive out to the well sites on a daily basis to do the monitoring in person. Therefore, having a radio communications system in place, which this tower will support, prevents a lot of additional traffic that would otherwise be generated not just in Evans, but in Weld County where the well sites are located.*

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

*Anadarko has a communications tower within the City of Evans, north of the proposed site. Bonanza Creek Energy contacted Anadarko to find out if they might be able to lease space on this existing tower to prevent the need for building their own tower. Unfortunately, it was determined that it would not work for Bonanza Creek to co-locate on Anadarko's tower because Bonanza Creek's radio frequencies would interfere with Anadarko's frequencies.*

Bonanza Creek Energy's request to permit a communications tower up to 100' tall is clearly justified within the I-1 zone in Evans. Thank you for your consideration. Please contact me at 720-864-4507 or [pam.hora@tetrattech.com](mailto:pam.hora@tetrattech.com) if you have any questions or need additional information related to the application.

Sincerely,

TETRA TECH

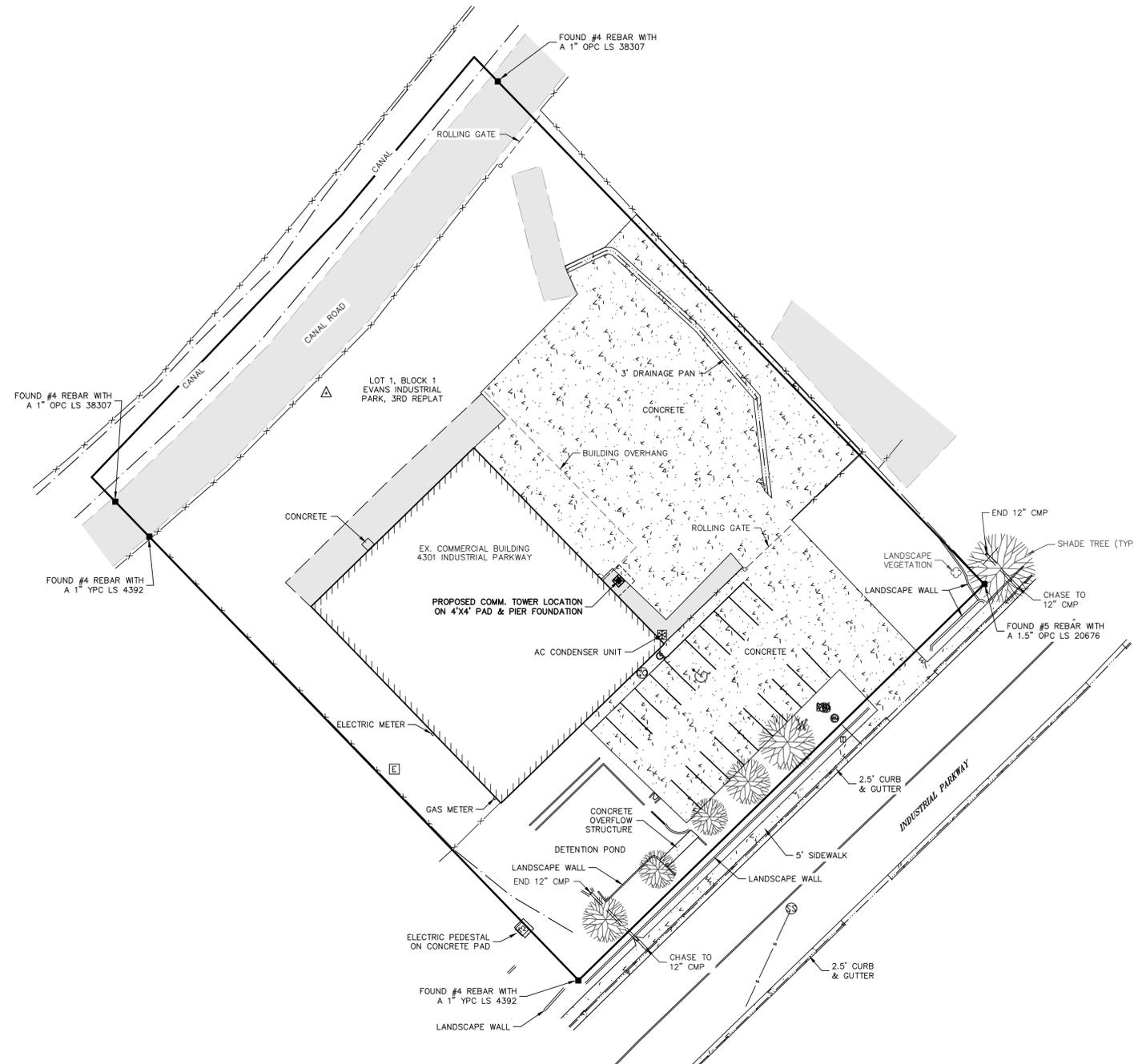
A handwritten signature in blue ink that reads "Pamela Franch Hora".

Pamela Franch Hora, AICP  
Senior Planner

cc: Martin Lohmann, Bonanza Creek Energy

# SITE PLAN

LOT 1, BLOCK 1, EVANS INDUSTRIAL PARK THIRD REPLAT,  
 LOCATED IN THE SOUTHEAST QUARTER OF SECTION 30,  
 TOWNSHIP 5 NORTH, RANGE 65 WEST OF THE 6TH P.M.,  
 CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO



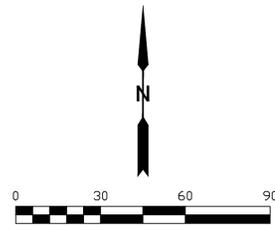
## LEGEND

- BOUNDARY
- - - FENCE
- W WATERLINE
- S SANITARY SEWER
- FLOWLINE
- CONCRETE
- ASPHALT
- FOUND PIN
- △ CONTROL PIN
- ⊕ SANITARY SEWER MANHOLE
- ⊕ WATER METER
- ⊕ IRRIGATION VALVE
- ⊕ TELEPHONE PEDESTAL
- ⊕ ELECTRIC PEDESTAL
- W WOOD POST
- CC CURB CUT
- ♿ HANDICAP PARKING
- DECIDUOUS TREE
- ⊕ CLEAN OUT
- ⊕ VALVE BOX

**HORIZONTAL DATUM:**  
 COLORADO STATE PLANE COORDINATES NAD 83(2007) DATUM.

**NOTE:**

- THIS DRAWING IS AT MODIFIED STATE PLANE. TO REDUCE TO STATE PLANE COORDINATES, SCALE AT 0.999735370 (1.00026470) ABOUT THE ORIGIN 0,0.
- ALL PROPERTY PINS, INTERSECTION MONUMENTS, AND SECTION CORNERS DISTURBED DURING CONSTRUCTION MUST BE REFERENCED AND REPLACED UNDER THE SUPERVISION OF A LICENSED SURVEYOR.
- THIS AUTOCAD DRAWING CONTAINS INFORMATION THAT IS NOT VISIBLE ON THE PLOTTED COPY. TO OBTAIN ALL THE INFORMATION THAT IS AVAILABLE IN THIS DRAWING, ALL THE AUTOCAD LAYERS MUST BE TURNED ON AND THAWED.
- THE SIZE, TYPE AND LOCATION OF ALL KNOWN UNDERGROUND UTILITIES ARE APPROXIMATE WHEN SHOWN ON THESE DRAWINGS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THE EXISTENCE OF ALL UNDERGROUND UTILITIES IN THE AREA OF THE WORK BEFORE COMMENCING NEW CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING ALL UNDERGROUND UTILITIES AND SHALL BE RESPONSIBLE FOR ALL UNKNOWN UNDERGROUND UTILITIES.
- ALL PROJECT CONTROL LISTED HEREON IS PROVIDED AS A COURTESY. IT IS THE RESPONSIBILITY OF THE RECIPIENT TO VERIFY THE ACCURACY OF THE COORDINATES AND ELEVATIONS SHOWN PRIOR TO USING THEM FOR ANY PURPOSES.



	Lat40, Inc. Professional Land Surveyors 1635 Foxtrail Drive, Suite 325 Loveland, CO 80538 O: 970-776-3321	DATE: 5/21/2013	FILE NAME: 2013061SITE	DRAWN BY: JSA	CHECKED BY:	SCALE: 1"=30'	PROJECT #: 2013061
	REVISIONS: ADDED COMM. TOWER, REV LOT DESC.	DATE: 3-19-14	EVANS OFFICE SITE PLAN		BONANZA CREEK ENERGY CO 4301 INDUSTRIAL PARKWAY EVANS, COLORADO		<b>1</b> SHEET 1 OF 1

Bonanza Creek Energy  
Communications Tower  
Site Photos



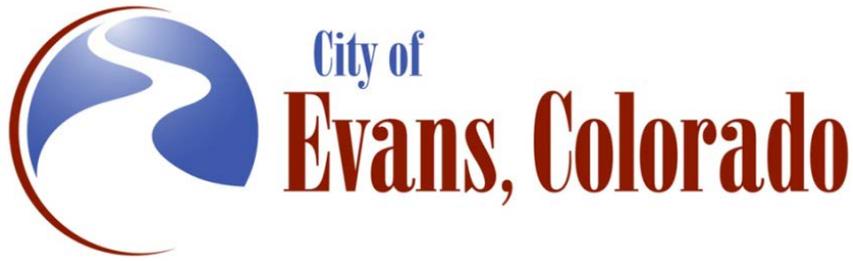
Taken from Industrial Parkway looking west into site toward proposed location of the tower (behind fence).



Taken from Bonanza Creek parking lot looking toward proposed tower location (where the two white truck are parked).



The above two photos were taken of the area on the property where the tower is proposed to be installed. In the photo on the left, the tower will be located outside of the building's overhang area near where the beds of the two white trucks are located in this photo. The photo on the right is looking toward the building – the tower will be located to the left of the white post near where the white truck is currently parked.



**CITY COUNCIL COMMUNICATION**

**DATE:** July 1, 2014

**AGENDA ITEM:** 7.C

**SUBJECT:** Sorin Natural Resources Oil & Gas Site, Use by Special Review Appeal to 16.28.080 (Bonding) of the Municipal Code Appeal to 19.44.020B, 10 (Landscaping) of the Municipal Code

**STAFF CONTACT:** Sean Wheeler, City Planner

**ACTION:** Consideration by City Council

**APPROVED BY:** Zach Ratkai, Building and Development Manager

**PLANNING COMMISSION:** June 10, 2014

BACKGROUND INFORMATION		
<b>Location:</b>	Off the north side of CR# 394, East of CR# 33 ¼ (See Attached Map)	
<b>Applicant:</b>	PDC Energy Inc.	
<b>Existing Land Use:</b>	Undeveloped Agricultural	
<b>Proposed Land Use:</b>	Oil & Gas Extraction	
<b>Surrounding Land Uses:</b>	<b>North</b>	Undeveloped Agricultural
	<b>South</b>	Rural Residential, Weld County
	<b>East</b>	Undeveloped Agricultural
	<b>West</b>	Undeveloped Agricultural, Rural Residential, Weld County

BACKGROUND INFORMATION CONTINUED		
<b>Existing Zoning:</b>		PUD
<b>Proposed Zoning:</b>		PUD
<b>Surrounding Zoning:</b>	<b>North</b>	PUD
	<b>South</b>	PUD & Weld County Rural Residential Lots
	<b>East</b>	PUD
	<b>West</b>	PUD
<b>Future Land Use Designation:</b>		PUD (Undetermined)

**PROJECT DESCRIPTION:**

1. The applicant seeks Use by Special Review approval to install oil and gas drilling equipment on undeveloped agricultural land northwest of CR# 394 and east of CR# 33¼. Completion of the project will include the installation of seven wellheads, two associated tank batteries for temporary storage and other site improvements related to extraction uses. The applicant will also install fencing and signage in compliance with State permit requirements for safety and site identification purposes. Access to the site will be via a semi-improved road connecting to CR# 395, and will be designed to accommodate both production company truck traffic and emergency vehicles. The project description indicates that approximately five acres of land are required for this use. The application also includes two appeals to bonding and landscaping requirements, discussed below in this report.

2. Well depths are anticipated to be from approximately 6,967 feet to 7,172 feet. The project description states that no seismic operations are planned for this site. Given the nature of the use, it is not possible to determine how long the wells will be in production. For that reason the applicant has requested an open-ended length of the Special Review approval, discussed further below in this report and supported by Staff. Once production ceases, the applicant will cap the wells and reclaim the site in compliance with Colorado Oil and Gas Conservation Commission (COGCC) requirements.

3. The project materials are attached to this report and show the proposed locations of the wells and tank batteries, along with descriptions of the types of equipment required in these operations. Also included are a full description of the use and the applicant’s assessment of the potential concerns / impacts associated with oil and gas facilities. Staff’s assessment of the request is outlined below in this report.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission considered the request on June 10, 2014 and the Commissioners recommended approval with a vote of 4 in favor and 1 opposed. Discussion focused on impacts to surrounding property owners regarding access and road impacts; placement of the facilities; and limitations where equipment will be located because of surface owner requirements.

## **APPROVAL OF SPECIAL USES (CHAPTER 19.44, MUNICIPAL CODE)**

**1. Analysis / Issues:** The Municipal Code classifies certain uses as requiring “Use by Special Review” approval. This is done to allow consideration of potential impacts on adjoining properties, transportation systems, public facilities, etc. in the surrounding neighborhood. Staff’s focus is on these concerns and issues with the potential to harm the health, safety and welfare of the City and its residents. Meetings with the applicant proved successful and productive in resolving concerns raised by Staff in the preliminary review. Staff analysis of this project included:

**A. Bonding:** Section 16.28.080 of the Municipal Code requires that oil and gas site operators provide bonding in the amount of \$100,000 per well head for this use. Such bonds provide funds for clean-up operations with site related accidents or hazardous material spills. PDC has formally requested an appeal to this requirement based on several factors, and their letter is attached to this report. PDC indicates they carry valid insurance coverage that exceeds the City’s bond requirements to cover damages, accidents, catastrophes, etc. related to the use. The attached graphic illustration from PDC shows their coverage amounts. In addition to the above, PDC has a Blanket Bond that complies with COGCC regulations to provide additional monetary coverage if required. The Municipal Code does provide an option for applicants to offer alternatives to coverage, as described in Subsection 16.28.090 (Blanket Bond) that states:

**Subsection 16.28.080:** An operator may file with the planning director a blanket bond designed to cover all drilling operations within the City. At no time shall the amount of such blanket bond be less than one hundred thousand dollars (\$100,000.00) times the number of wells being drilled.

Staff’s assessment is that the bonding provided by the applicant satisfies the intent and requirements of the Municipal Code. With this concern resolved, Staff supports approval of the appeal. Staff is recommending a condition of approval that the applicant notify the City of any reduction in or changes to bonding and insurance coverage for this use.

**B. Insurance:** Section 16.28.080 of the Municipal Code stipulates that oil and gas well operators carry insurance to provide protection for the City. It states:

**Subsection 16.28.100:** Every operator shall also submit a copy of a policy of insurance in the amount of one million dollars (\$1,000,000.00) insuring the applicant and the City against all claims or causes of action made against either or both applicant and City for damages to persons or property arising out of the drilling, maintenance, production and other work done with respect to such proposed oil or gas well. Such policies shall be written by a company authorized to do business in the State.

The applicants have agreed to obtain the insurance required. The policy is to be renewed annually until operations cease and the wells capped. Compliance with this requirement is noted as a condition of approval.

**C. Battery & Wellhead Placement / Setbacks:** The placement of well heads and tank batteries generated a considerable level of discussion between Staff and the applicant. This request complies with setback requirements in the Municipal Code, because the Evans code does not stipulate that oil and gas well elements meet setbacks from property lines. Setbacks for these facilities are based on a distance from structures, regardless of where they are located. One key issue for Staff, however, is that setbacks cross property lines to the residences south of this use thus potentially limiting those property owners from building on their property if the wells are approved. The applicant's advised Staff that under State regulations, proposed structures can encroach on well heads and tank batteries too. With this site there is an existing irrigation ditch easement that also provides a constraint on the surrounding uses, and ponds being constructed by the surface owner created an additional factor limiting the placement of the wells. Staff notified surrounding property owners about this request, but has not received any verbal or written objections to approval at the writing of this report. They will be notified of the public hearings however, and may wish to comment at that time. Given these factors, Staff concludes there are remedies available to adjacent property owners, should they wish to construct outbuildings within the setback line.

**D. Special Review Permit Life:** Initially, Staff's assessment was that special review uses should not be "open-ended". The reasoning for limits on special review uses is that the visual impact often changes as the use progresses, such as in the case of a gravel pit with extraction activities become increasingly more noticeable. Thus a periodic reconsideration of the use is appropriate as the surrounding area can change, such as with encroaching residential development. However, unlike a gravel pit where the impacts are far more visible, oil and gas wells are fairly low-impact uses visually and static once they are in place. For that reason the applicant requested that this approval run with the life of the well. Staff supports the request because of the nature of this use, advising the applicant that we would recommend a condition of approval where encroaching development could trigger a landscape screening requirement. Future residential development is not anticipated near this site in the short term, however the municipal boundaries of Evans have expanded greatly in the previous 20 year period with residential development in rural areas. For that reason, the condition of approval allows for future re-consideration for landscape screening should a tangible need arise.

**E. Traffic Impacts:** The applicant provided a traffic narrative for Staff consideration. The City Engineer reviewed the narrative and found it acceptable for this use. One concern raised by property owners in the area was in regard to truck traffic and noise at night. Staff considered a limitation on truck traffic from 10 pm to 6 am, however according to the applicant the tanks can fill at any time depending on a variety of factors, and that limiting the hours trucks can visit the site is not practical or safe. The applicant will mitigate construction traffic noise during drilling operations with the use of sound barriers. Once the wells are in place these sites are not known to generate equipment noise, but trucks must visit the site to empty the storage tanks of oil and water when the tanks are full.

❖ Please note, the applicant agreed to participate in a shared maintenance of the road in the public meeting with the Planning Commission. At the writing of this report, Staff does not yet have a draft agreement but can provide an update at the public hearing. In addition, a condition of approval is included to address this issue.

## **F. Site Screening / Lighting / Signs:**

1) **Landscape Screening / Low Profile Tank Batteries:** Staff does not recommend a requirement for landscape screening at this time, based on the location of the site and the number of other wells in place in the area. If development encroaches to within 500 feet of the site, screening can be provided at that time by the operator. Staff added a condition of approval to accomplish this requirement. A condition to use low-profile storage tanks etc. is also not recommended as that would require almost double the number of tanks and greatly increase the footprint of facilities at the site. In addition, the applicant advised Staff that a reduction in the number of tanks is possible as production of the well decreases after operations begin. For those reasons, Staff does not recommend requiring additional landscaping or fencing for screening purposes or the use of low-profile equipment. An appeal to the landscaping requirement is part of this request, and is supported by Staff.

2) **Lighting / Signs:** The rural location increases the potential impact from site lighting on neighboring property owners. The applicant has agreed to use down-directed lighting at the site. In addition, the applicant has proposed a sign in compliance with State requirements. Staff reviewed the plan and has no additional recommendations signs on site beyond what the applicant proposes.

**G. Godfrey Ditch Company:** Planning Staff forwarded a copy of the application to representatives of the Godfrey Ditch Company for review and comment. The Ditch Company has been in contact with the applicant and formalized an agreement for crossing the ditch. They did not provide formal comments to Staff regarding the use, or object to allowing the use beyond the concerns about crossing the ditch. Formalization of this agreement will occur between the applicant and the Godfrey Ditch Company.

## **H. REVIEWING AGENCY COMMENTS:**

Planning Staff referred this request to several City offices for comment. The standards applied by the City Engineer are addressed in this report above. The Fire District did not raise objections to approval of this request and the design safety features of these uses are covered under State requirements. Please note, the access road will be constructed at a size to accommodate emergency service vehicle access.

## **SECTION 19.44.020B (REVIEW CRITERIA):**

For reference, Staff's review and recommendations are based on the compliance with the Criteria for Use by Special Review found in Section 19.44.020B of the Municipal Code. The individual requirements are shown below in bold, with Staff's assessment immediately following each:

**1. The proposed use is found to be unlikely to harm the health, safety, or welfare of the City or its residents.** Based on the information provided by the applicant, Staff's assessment is that the use satisfies this requirement of the Evans Municipal Code.

**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.** Based on the information provided by the applicant, Staff's assessment is that the use satisfies this requirement of the Evans Municipal Code.

**3. The proposed use shall be consistent with the Evans Comprehensive Plan and shall be compatible with the surrounding area.** Based on the information provided by the applicant, Staff's assessment is that the use satisfies the requirements of both the 2010 Comprehensive Plan and this section of the Municipal 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.** Several elements of the proposal related to this standard are addressed by recommended conditions of approval and representations by the applicant. Staff's assessment is that the use can satisfy this requirement of the Evans Municipal Code, if the applicant agrees to the conditions of approval as recommended.

**5. The site shall be physically suitable for the type and intensity of the proposed land use.** Staff review of the project did not reveal any concerns with regard to this standard, and the project satisfies this approval criteria.

**6. The proposed land use shall not adversely affect traffic flow and parking in the neighborhood.** There are no anticipated conflicts with this standard based on the application materials and the comments provided by the City Engineer.

**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.** There are numerous such uses like this near the site. However, based on the size and impact from this use, Staff's assessment is that it meets this standard.

**8. and 9.** (Not applicable as they apply to Mini-Storage and Car Wash facilities.)

**10. 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.** The applicant has appealed the requirement to provide landscaping or screening for this use. Based on the location, along with the recommended condition of approval below, Staff supports the appeal to this standard.

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

On consideration of the Use by Special Review request and the information contained in this report, Staff makes the following Findings of Fact;

The Sorin Natural Resources Oil & Gas Use by Special Review can appropriately and sufficiently meet the Review Criteria in Section 19.44 of the Evans Municipal Code. Additionally, approval of this Use by Special Review is consistent with the requirements of the 2010 Evans Comprehensive Plan, and will be compatible with the surrounding land uses, subject to the recommended Conditions of Approval as follows:

1. Operation of the Sorin Natural Resources Oil and Gas Site shall be as specified by the representations of the applicant and in the information contained in file ##14-USR-01; and
2. The property owner will comply with the City of Evans Municipal Code and all lawful regulations related to the property; and
3. Should development of land occur 500 Feet or less from the oil well heads or tank batteries the applicant shall provide landscape screening that may include plant materials, berms and other features such as fencing, or a combination of these elements at the applicant's expense and subject to the requirements of the Municipal Code in effect at that time. Compliance with this requirement shall be met no later than one year after approval adjoining development;
4. Within 30 days of approval by the City Council, PDC Energy will provide a road maintenance agreement for review and approval by the Public Works Director and the City Attorney, to mitigate impacts of site related traffic on the public road. PCD Energy will provide full payment for the costs related to the agreement via a mechanism agreed on by PDC Energy and the City, Attorney within 90 days of approval of the Use by Special Review by the City Council.

## **PLANNING COMMISSION AND STAFF RECOMMENDATION:**

The Planning Commission supports the Staff recommendation of approval of the Sorin Natural Resources Oil & Gas Site, Use by Special Review; the Appeal to 16.28.080 (Bonding); and, the Appeal to 19.44.020B, 10 (Landscaping) as described, subject to the conditions of approval as recommended and based on the findings and conclusions outlined in this report.

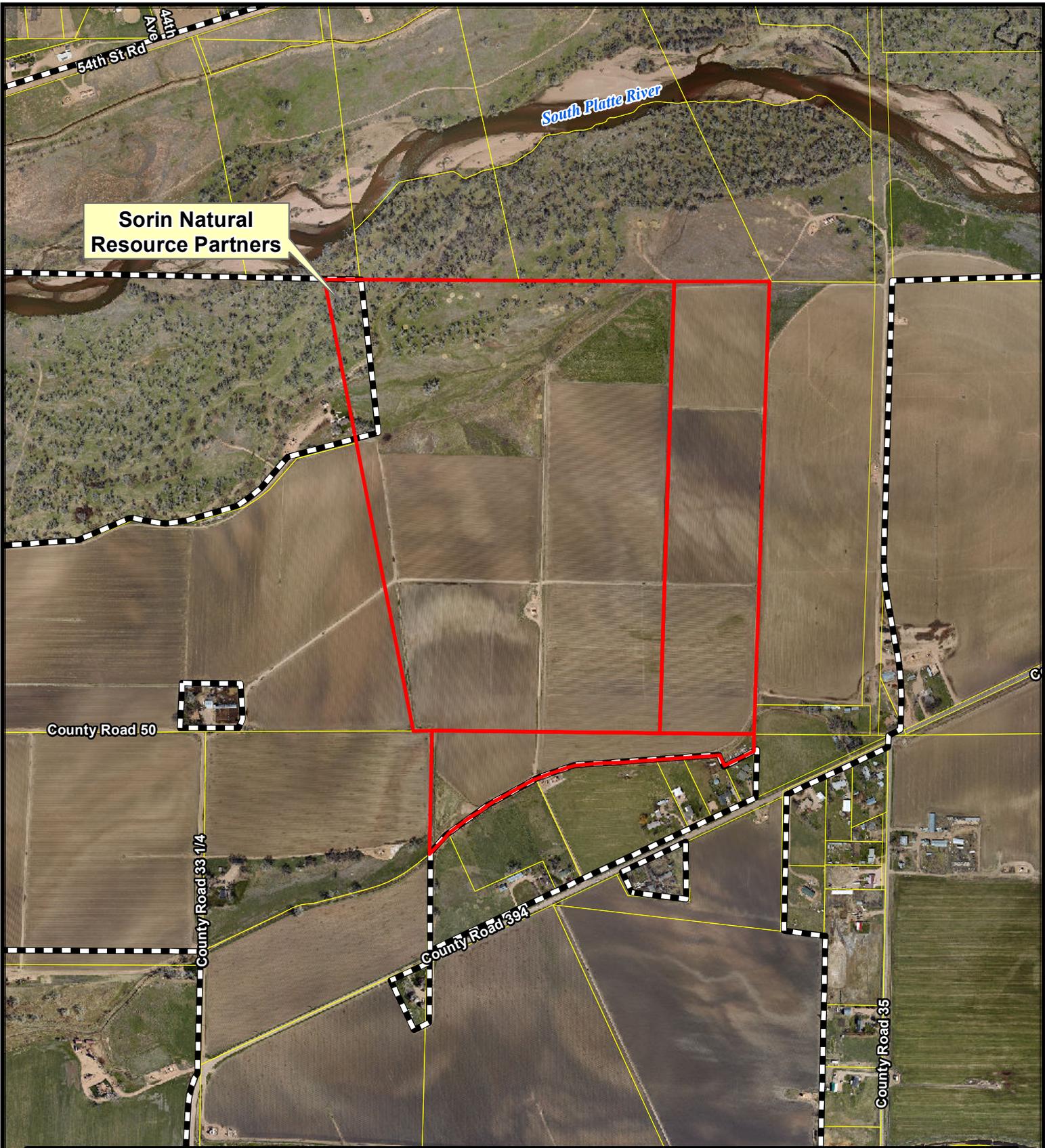
## **RECOMMENDED CITY COUNCIL MOTION:**

“Mr. Mayor, on the issue of the Sorin Natural Resources Oil & Gas Site, Use by Special Review and the appeals to Section 16.28.080 (Bonding) and Section 19.44.020B,10 (Landscaping), I move that the City Council approve the application as having met the criteria outlined in Chapter 19.44 of the Municipal Code.”

“Mr. Mayor, on the issue of the Sorin Natural Resources Oil & Gas Site, Use by Special Review and the appeals to Section 16.28.080 (Bonding) and Section 19.44.020B,10 (Landscaping), I move that the City Council deny the request as having failed to meet the criteria outlined in Chapter 19.44 of the Municipal Code.”

**Attachments:**

Bonding Requirements  
Duck Ponds Plan  
Godfrey Ditch Agreement  
Insurance Graphic  
Sound Mitigation Graphic  
Traffic Narrative  
Vicinity Map  
Well Pads Graphic  
Zoning Map



Sorin Natural Resource Partners

County Road 50

County Road 33 1/4

County Road 394

County Road 35

**Legend**



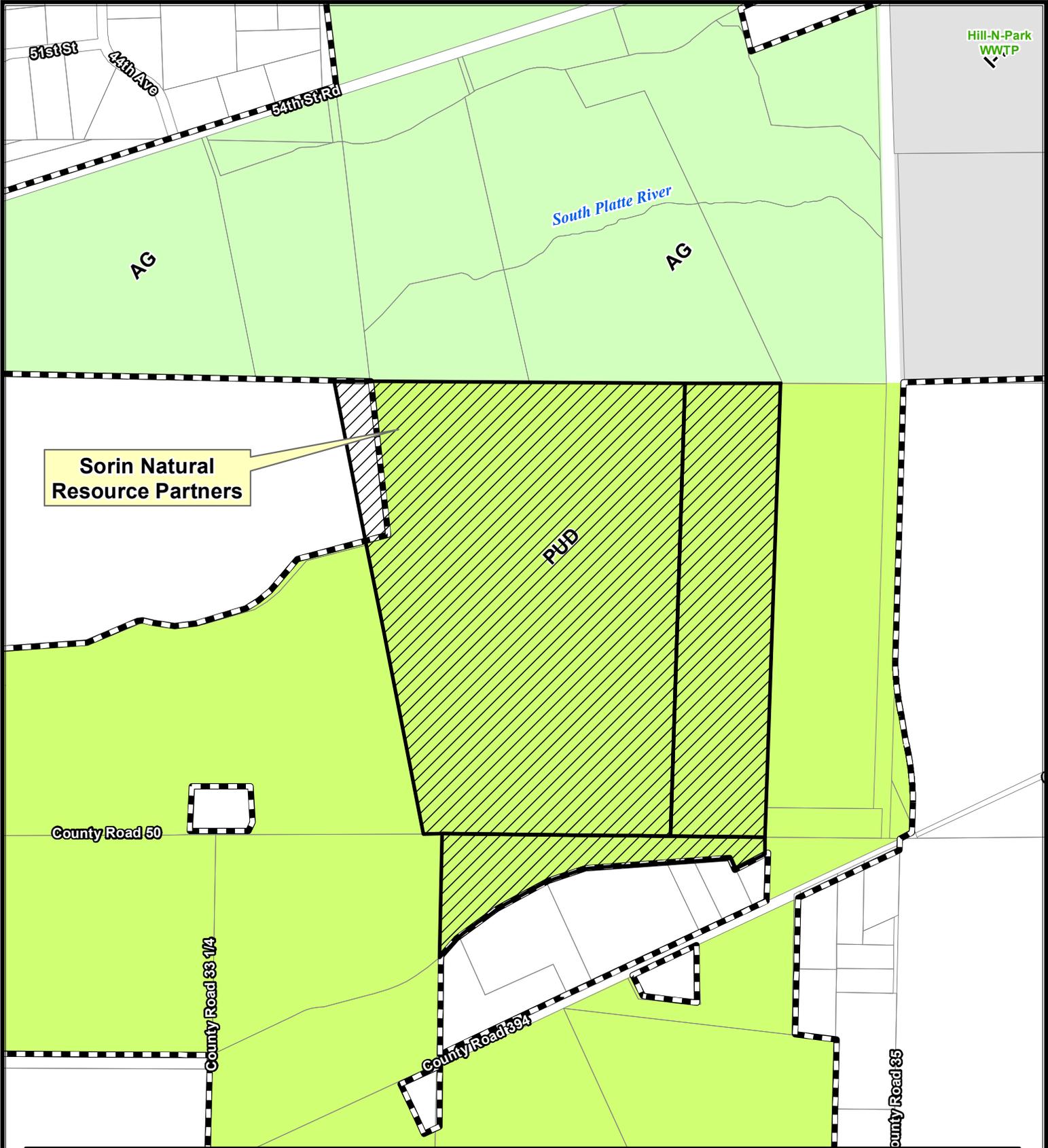
Evans City Limits



Project Site

**Aerial Map**  
**USR -**  
**Sorin Natural Resources**  
**Oil & Gas Site**





**Legend**



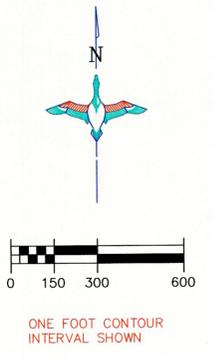
Evans  
City Limits



Project Site

**Zoning Map**  
**USR -**  
**Sorin Natural Resources**  
**Oil & Gas Site**





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BEFORE THE START OF CONSTRUCTION, THE OWNER OF ANY UTILITIES INVOLVED MUST BE NOTIFIED. THE EXCAVATOR/CONTRACTOR IS RESPONSIBLE FOR GIVING THIS NOTICE BY CALLING "UTILITY NOTIFICATION CENTER OF COLORADO" AT 811. A 72 HOUR NOTIFICATION AND FULL DESCRIPTION OF LOCATION IS REQUIRED.

**PRELIMINARY NOT FOR CONSTRUCTION**

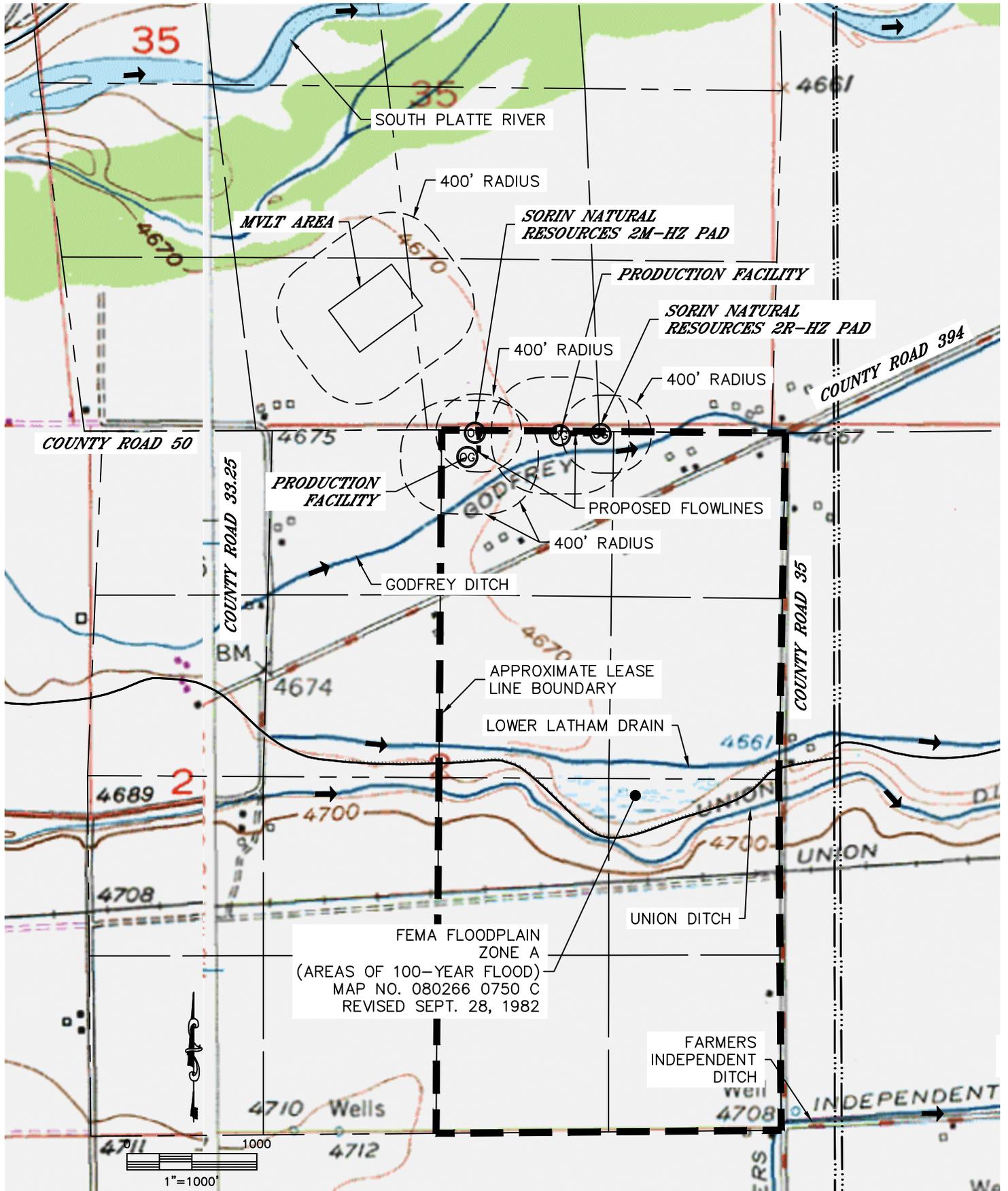
<b>DUCKS UNLIMITED INC.</b> <small>GREAT PLAINS REGIONAL OFFICE</small>	PROJECT NO. CO-241-1	DESIGNED BY: KJW
	RUMSEY FARM ENHANCEMENTS PROJECT OVERVIEW & SURVEY CONTROL	DRAWN BY: KJW
DATE: 10/01/2012	SHEET NO. 1 OF 1	SURVEYED BY: KJW
APPROVED BY:	APPROVED BY:	CHECKED BY: KJW



# VICINITY MAP

Sorin Natural Resources 2R & 2M-HZ PAD

SECTION: 2  
TOWNSHIP: 4N  
RANGE: 66W



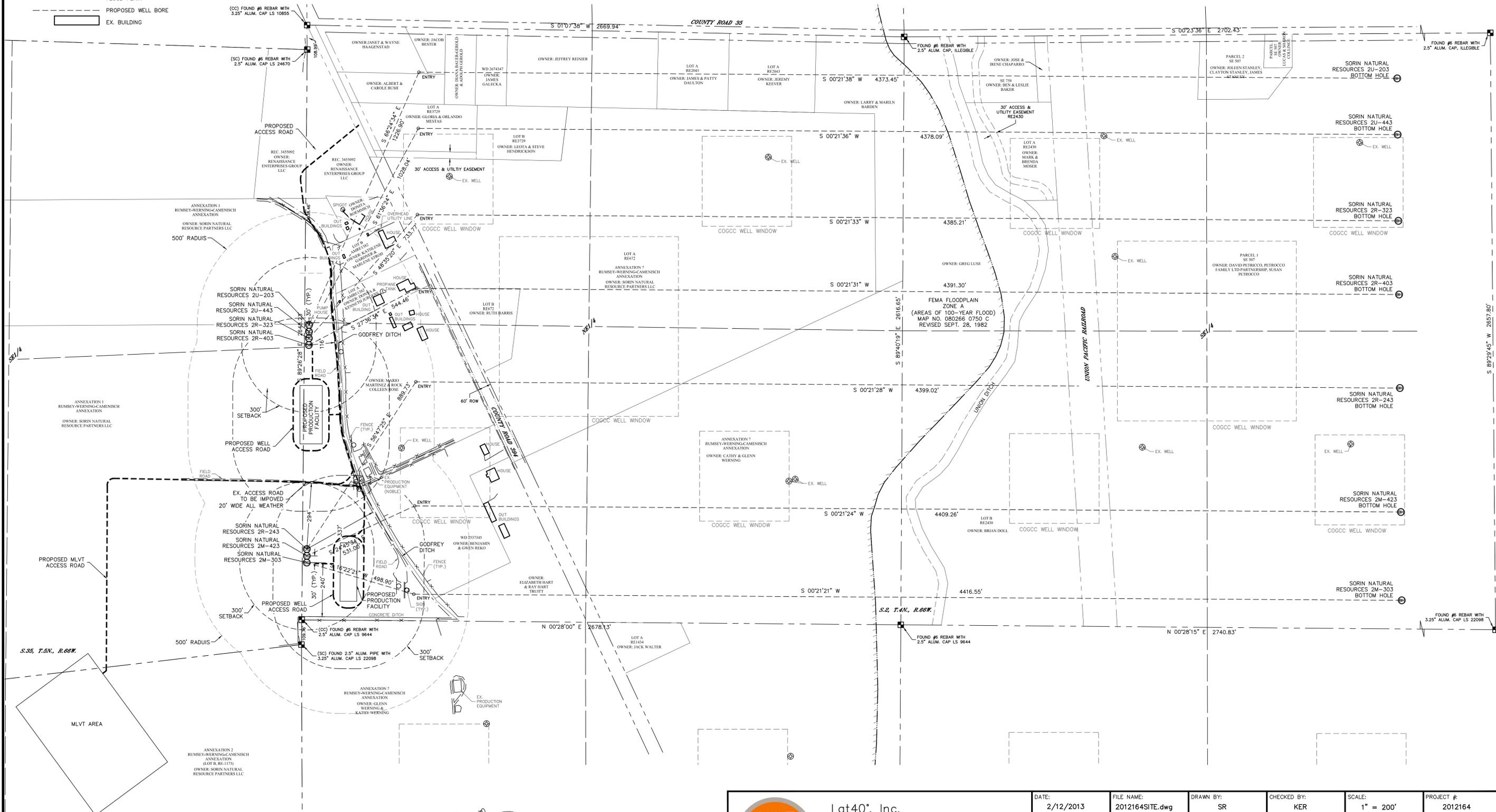
➔ DIRECTION OF FLOW

LEGEND

- SECTION LINE
- - - SECTION LINE FRACTIONAL
- PROPERTY LINE
- - - RIGHT-OF-WAY LINE
- - - EASEMENT LINE
- OHU — OVERHEAD UTILITY
- - - FENCE
- - - EDGE OF GRAVEL
- FLOWLINE
- - - FLOOD PLAIN
- - - PROPOSED WELL BORE
- EX. BUILDING
- ALIQUOT MONUMENT AS DESCRIBED
- ⊙ SPIGOT
- ⊕ GAS LINE MARKER
- ⊙ SIGN
- ⊙ DECIDUOUS TREE
- ⊙ EX. O&G WELL
- ⊙ PROPOSED O&G WELL
- ⊙ PROPOSED O&G BOTTOM HOLE

# USE BY SPECIAL REVIEW (USR) MASTER SITE PLAN

That part of Annexation No. 1 of Rumsey-Werning-Camenisch Annexations 1-13 to the City of Evans  
Situate in the Northeast Quarter (NE1/4) of Section 2, Township 4 North, Range 66 West and the Southeast Quarter (SE1/4) of  
Section 35, Township 5 North, Range 66 West of the 6th P.M., City of Evans, County of Weld, State of Colorado  
(Sorin Natural Resources 2R & 2M-HZ Pads)





**Lat40, Inc.**  
Professional Land Surveyors  
1635 Foxtrail Drive, Suite 325  
Loveland, CO 80538  
O: 970-776-3321

DATE:	2/12/2013	FILE NAME:	2012164SITE.dwg	DRAWN BY:	SR	CHECKED BY:	KER	SCALE:	1" = 200'	PROJECT #:	2012164
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CHANGE WELL NAMES	11/19/13		BTB								
ADD MLVT AREA	2/5/14		SR								
PER CITY COMMENTS	3/24/14		SR								
REVISE PF	6/30/14		SR								

**USR – MASTER SITE PLAN**  
FOR  
**PDC ENERGY**  
1775 SHERMAN ST  
DENVER, CO

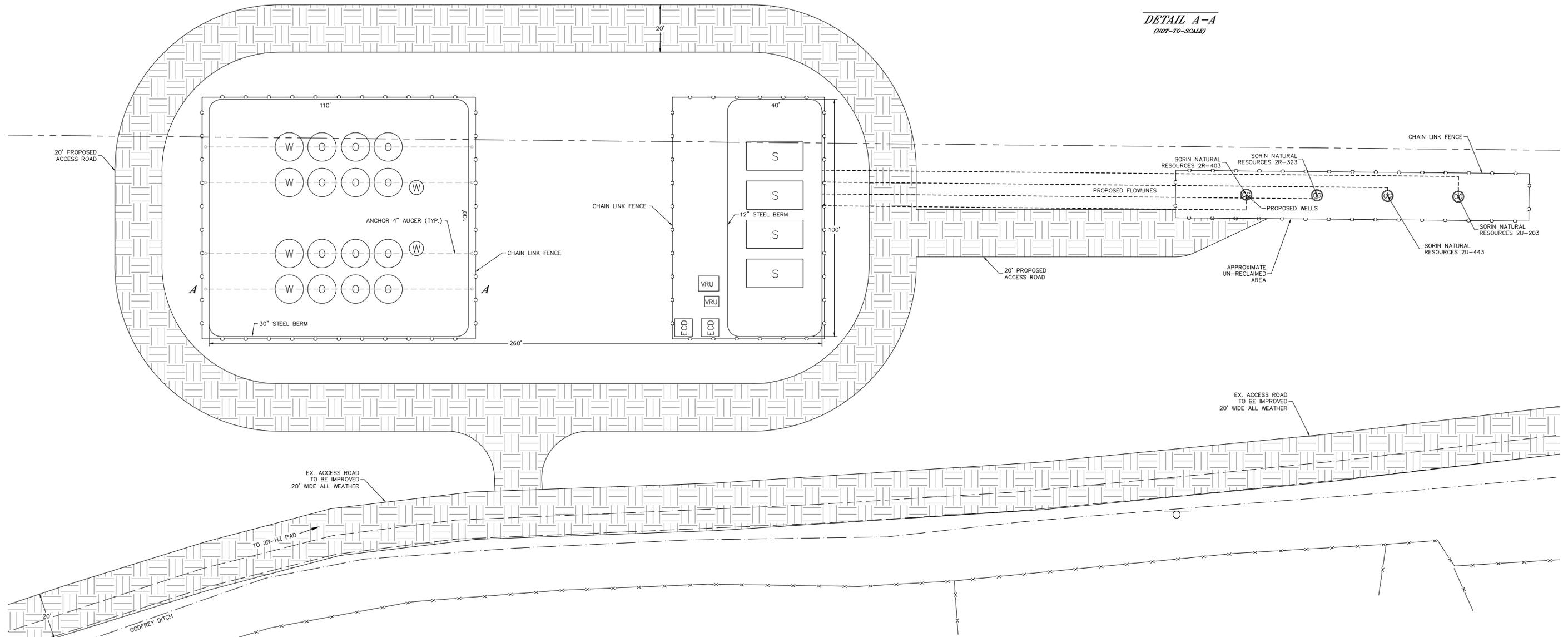
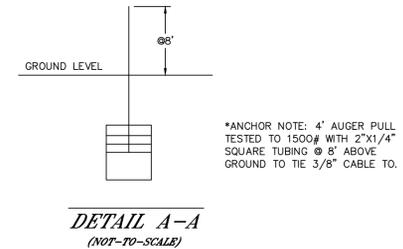
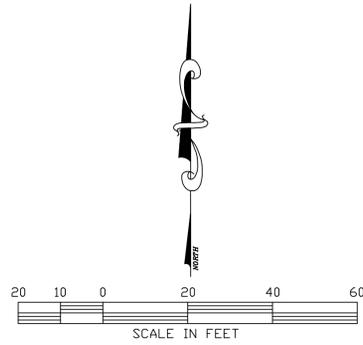
1

SHEET 1 OF 3

# USE BY SPECIAL REVIEW (USR) LANDSCAPE PLAN

That part of Annexation No. 1 of Rumsey-Werning-Camenisch Annexations 1-13 to the City of Evans Situate in the Northeast Quarter (NE1/4) of Section 2, Township 4 North, Range 66 West and the Southeast Quarter (SE1/4) of Section 35, Township 5 North, Range 66 West of the 6th P.M., City of Evans, County of Weld, State of Colorado (Sorin Natural Resources 2R-HZ Pad)

NOTE:  
1. PDC ENERGY INC. SHALL NOT BE RESPONSIBLE FOR THE PURCHASE, INSTALLATION, OR MAINTENANCE OF THE LANDSCAPE PLANTINGS. LANDSCAPE PLANTINGS SHALL BE PURCHASED, INSTALLED AND MAINTAINED BY THE LAND OWNER. ALL LANDSCAPING PLANTINGS SHALL BE INSTALLED AND MAINTAINED IN A MANNER CONSISTENT WITH C.R.S. 24-65.5-103.5(1), TO THE EXTENT THAT LANDSCAPE PLANTINGS ARE NOT CONSISTENT WITH SAID STATUTE, SURFACE OWNER SHALL WORK WITH PDC ENERGY, INC. OR ITS SUCCESSOR THERE TO, TO OBTAIN AN AGREEMENT OF WHICH SHALL NOT BE UNREASONABLY WITHHELD.  
2. LANDSCAPING SHALL BE INSTALLED AT SUCH A TIME AS THE SURFACE OF THE PROPERTY IS DEVELOPED AT THE EXPENSE OF THE DEVELOPER.



## LEGEND

—x—x—	FENCE	●	DECIDUOUS TREE
---	EDGE OF GRAVEL	S	SEPARATOR
---	TOP DITCH	ECD	EMISSIONS CONTROL DEVICE
---	PROPOSED FLOWLINES	VRU	VAPOR RECOVERY UNIT
---	PROPOSED WELL ACCESS ROAD	O	OIL TANK
		W	WATER TANK
		○	SIGN



Lat40°, Inc.  
Professional Land Surveyors  
1635 Foxtrail Drive, Suite 325  
Loveland, CO 80538  
O: 970-776-3321

DATE: 2/12/2013	FILE NAME: 2012164SITE.dwg	DRAWN BY: SR	CHECKED BY: KER	SCALE: 1" = 20'	PROJECT #: 2012164
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ACCESS		10/25/13 SR			
CHANGE WELL NAMES		11/19/13 BTB			
PER CITY COMMENTS		3/24/14 SR			
REVISE PF		6/30/14 SR			

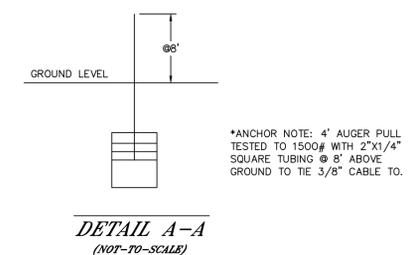
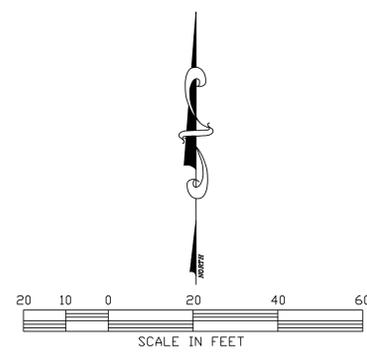
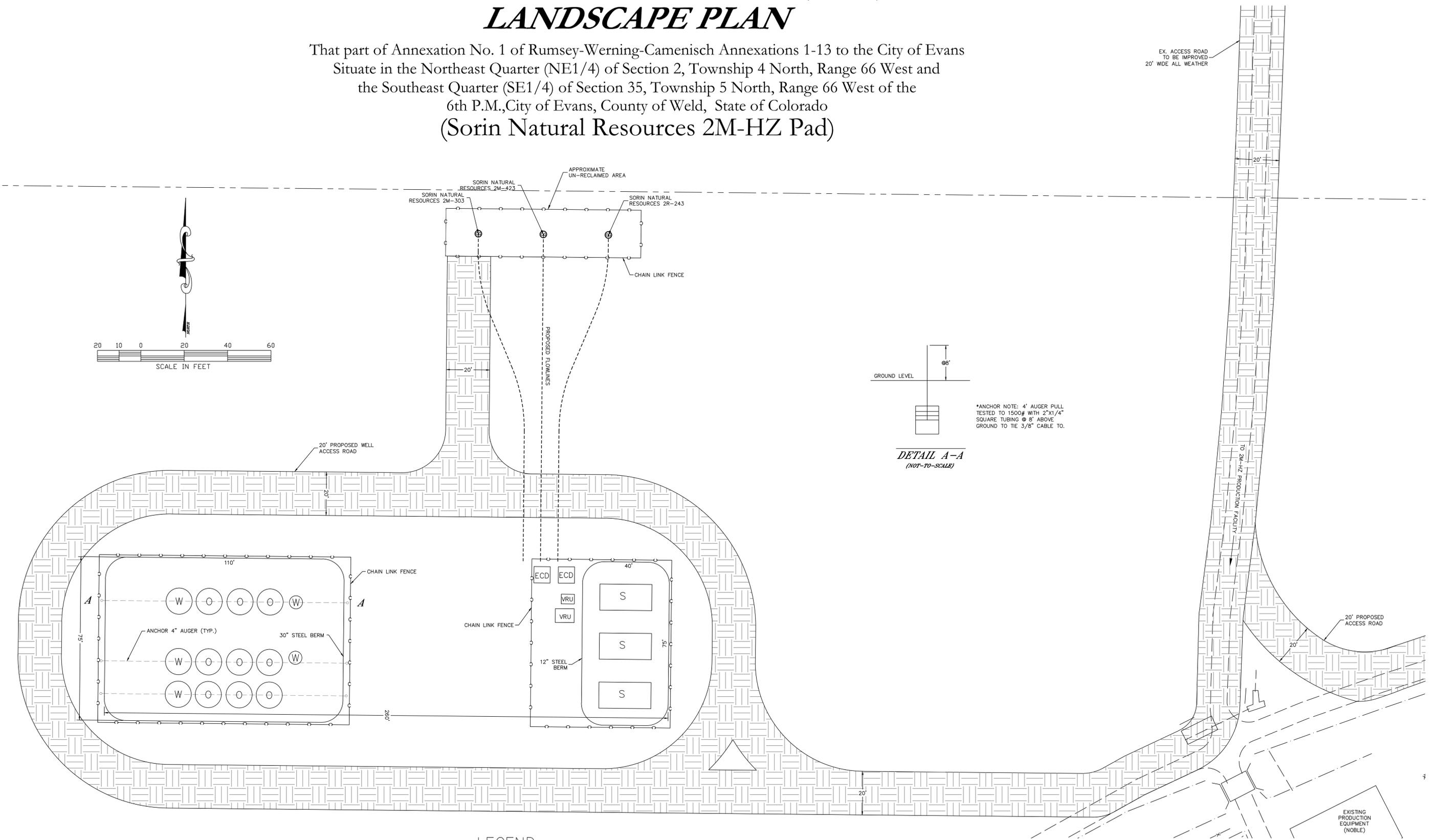
USR - LANDSCAPING PLAN  
FOR  
PDC ENERGY  
1775 SHERMAN ST  
DENVER, CO

2

SHEET 2 OF 3

# USE BY SPECIAL REVIEW (USR) LANDSCAPE PLAN

That part of Annexation No. 1 of Rumsey-Werning-Camenisch Annexations 1-13 to the City of Evans  
Situate in the Northeast Quarter (NE1/4) of Section 2, Township 4 North, Range 66 West and  
the Southeast Quarter (SE1/4) of Section 35, Township 5 North, Range 66 West of the  
6th P.M., City of Evans, County of Weld, State of Colorado  
(Sorin Natural Resources 2M-HZ Pad)



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2. LANDSCAPING SHALL BE INSTALLED AT SUCH A TIME AS THE SURFACE OF THE PROPERTY IS DEVELOPED AT THE EXPENSE OF THE DEVELOPER.

LEGEND	
	FENCE
	EDGE OF GRAVEL
	TOP DITCH
	PROPOSED FLOWLINES
	PROPOSED WELL ACCESS ROAD
	DECIDUOUS TREE
	SEPARATOR
	EMISSIONS CONTROL DEVICE
	VAPOR RECOVERY UNIT
	OIL TANK
	WATER TANK
	SIGN

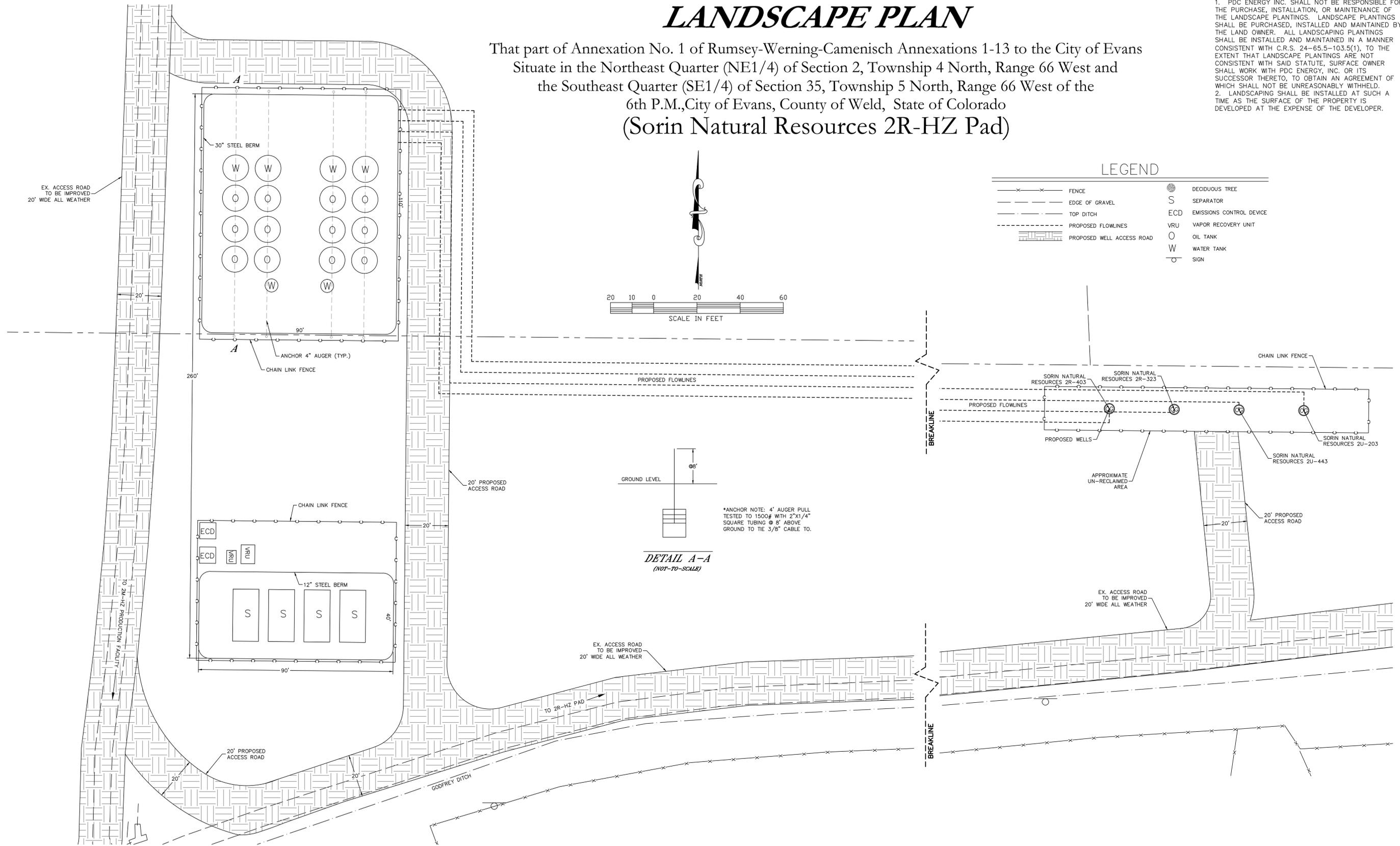
**Lat40°, Inc.**  
Professional Land Surveyors  
1635 Foxtrail Drive, Suite 325  
Loveland, CO 80538  
O: 970-776-3321

DATE: 2/12/2013	FILE NAME: 2012164SITE.dwg	DRAWN BY: SR	CHECKED BY: KER	SCALE: 1" = 20'	PROJECT #: 2012164									
<b>REVISIONS:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>ACCESS</td><td>2/26/13 SR</td></tr> <tr><td>ACCESS &amp; PF</td><td>3/22/13 SR</td></tr> <tr><td>CHANGE WELL NAMES</td><td>11/19/13 BTB</td></tr> <tr><td>PER CITY COMMENTS</td><td>3/24/14 SR</td></tr> <tr><td>REVISE PF</td><td>6/30/14</td></tr> </table>		ACCESS	2/26/13 SR	ACCESS & PF	3/22/13 SR	CHANGE WELL NAMES	11/19/13 BTB	PER CITY COMMENTS	3/24/14 SR	REVISE PF	6/30/14	<b>USR - LANDSCAPING PLAN</b> FOR <b>PDC ENERGY</b> 1775 SHERMAN ST DENVER, CO		<div style="font-size: 2em; font-weight: bold; margin: 0;">3</div> SHEET 3 OF 3
ACCESS	2/26/13 SR													
ACCESS & PF	3/22/13 SR													
CHANGE WELL NAMES	11/19/13 BTB													
PER CITY COMMENTS	3/24/14 SR													
REVISE PF	6/30/14													

# USE BY SPECIAL REVIEW (USR) LANDSCAPE PLAN

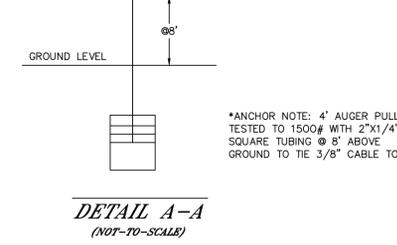
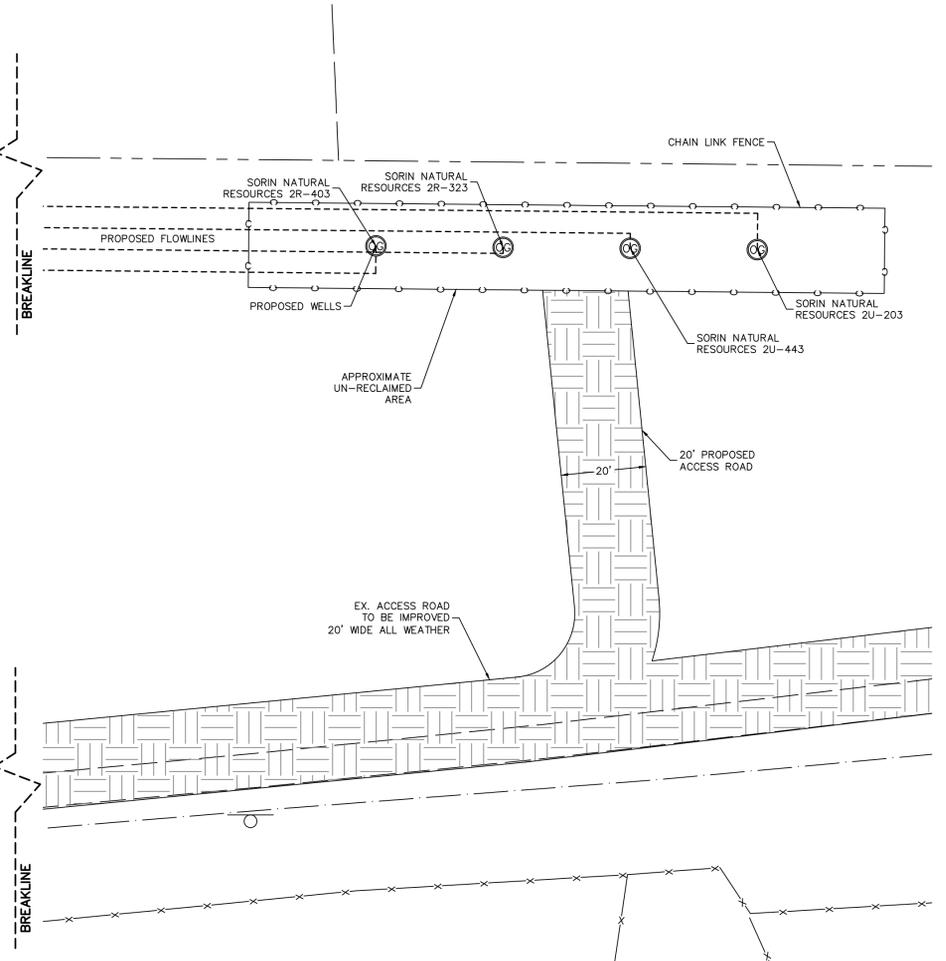
That part of Annexation No. 1 of Rumsey-Werning-Camenisch Annexations 1-13 to the City of Evans Situate in the Northeast Quarter (NE1/4) of Section 2, Township 4 North, Range 66 West and the Southeast Quarter (SE1/4) of Section 35, Township 5 North, Range 66 West of the 6th P.M., City of Evans, County of Weld, State of Colorado  
(Sorin Natural Resources 2R-HZ Pad)

**NOTE:**  
1. PDC ENERGY INC. SHALL NOT BE RESPONSIBLE FOR THE PURCHASE, INSTALLATION, OR MAINTENANCE OF THE LANDSCAPE PLANTINGS. LANDSCAPE PLANTINGS SHALL BE PURCHASED, INSTALLED AND MAINTAINED BY THE LAND OWNER. ALL LANDSCAPING PLANTINGS SHALL BE INSTALLED AND MAINTAINED IN A MANNER CONSISTENT WITH C.R.S. 24-65.5-103.5(1), TO THE EXTENT THAT LANDSCAPE PLANTINGS ARE NOT CONSISTENT WITH SAID STATUTE, SURFACE OWNER SHALL WORK WITH PDC ENERGY, INC. OR ITS SUCCESSOR THERETO, TO OBTAIN AN AGREEMENT OF WHICH SHALL NOT BE UNREASONABLY WITHHELD.  
2. LANDSCAPING SHALL BE INSTALLED AT SUCH A TIME AS THE SURFACE OF THE PROPERTY IS DEVELOPED AT THE EXPENSE OF THE DEVELOPER.



### LEGEND

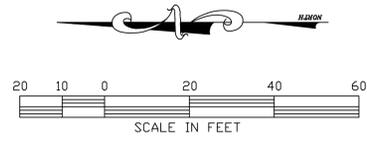
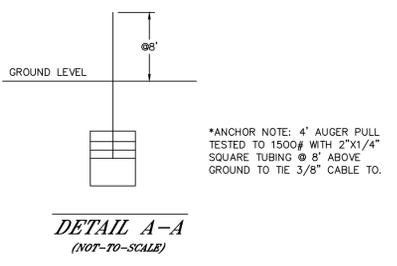
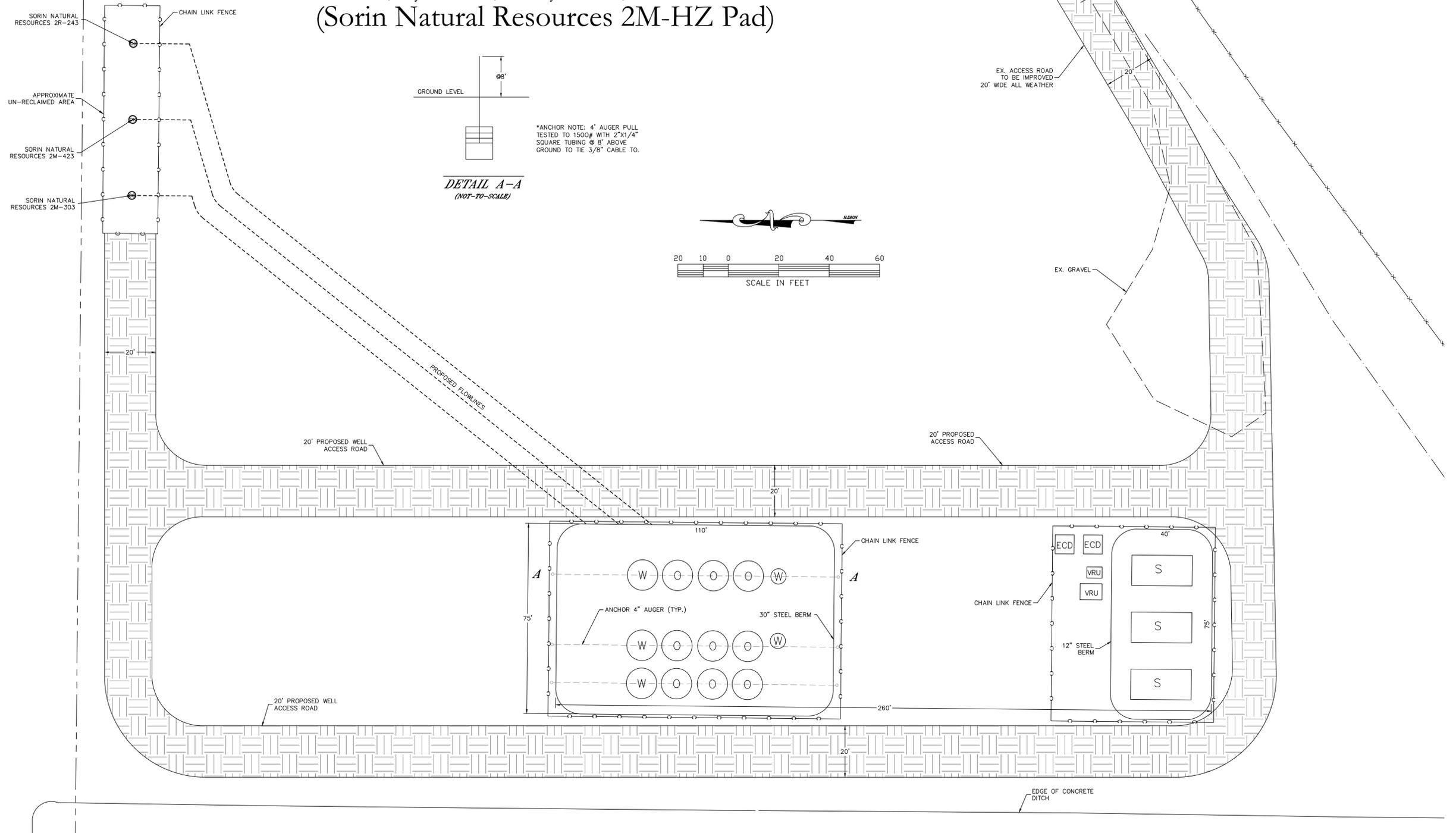
- x—x— FENCE
- - - - - EDGE OF GRAVEL
- - - - - TOP DITCH
- - - - - PROPOSED FLOWLINES
- ▬▬▬▬▬ PROPOSED WELL ACCESS ROAD
- DECIDUOUS TREE
- S SEPARATOR
- ECD EMISSIONS CONTROL DEVICE
- VRU VAPOR RECOVERY UNIT
- O OIL TANK
- W WATER TANK
- SIGN



	Lat40°, Inc. Professional Land Surveyors 1635 Foxtrail Drive, Suite 325 Loveland, CO 80538 O: 970-776-3321		DATE: 2/12/2013 REVISIONS: ACCESS, ACCESS & PF, ACCESS, CHANGE WELL NAMES, PER CITY COMMENTS	FILE NAME: 2012164SITE.dwg DATE: 2/26/13 SR, 3/22/13 SR, 10/25/13 SR, 11/19/13 BTB, 3/24/14 SR	DRAWN BY: SR CHECKED BY: KER SCALE: 1" = 20' PROJECT #: 2012164	USR - LANDSCAPING PLAN FOR PDC ENERGY 1775 SHERMAN ST DENVER, CO	<h1 style="font-size: 48px; margin: 0;">2</h1> SHEET 2 OF 3

# USE BY SPECIAL REVIEW (USR) LANDSCAPE PLAN

That part of Annexation No. 1 of Rumsey-Werning-Camenisch Annexations 1-13 to the City of Evans Situate in the Northeast Quarter (NE1/4) of Section 2, Township 4 North, Range 66 West and the Southeast Quarter (SE1/4) of Section 35, Township 5 North, Range 66 West of the 6th P.M., City of Evans, County of Weld, State of Colorado  
(Sorin Natural Resources 2M-HZ Pad)



**NOTE:**  
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LEGEND			
—x—x—	FENCE	●	DECIDUOUS TREE
- - - - -	EDGE OF GRAVEL	S	SEPARATOR
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- - - - -	PROPOSED WELL ACCESS ROAD	O	OIL TANK
		W	WATER TANK
		○	SIGN

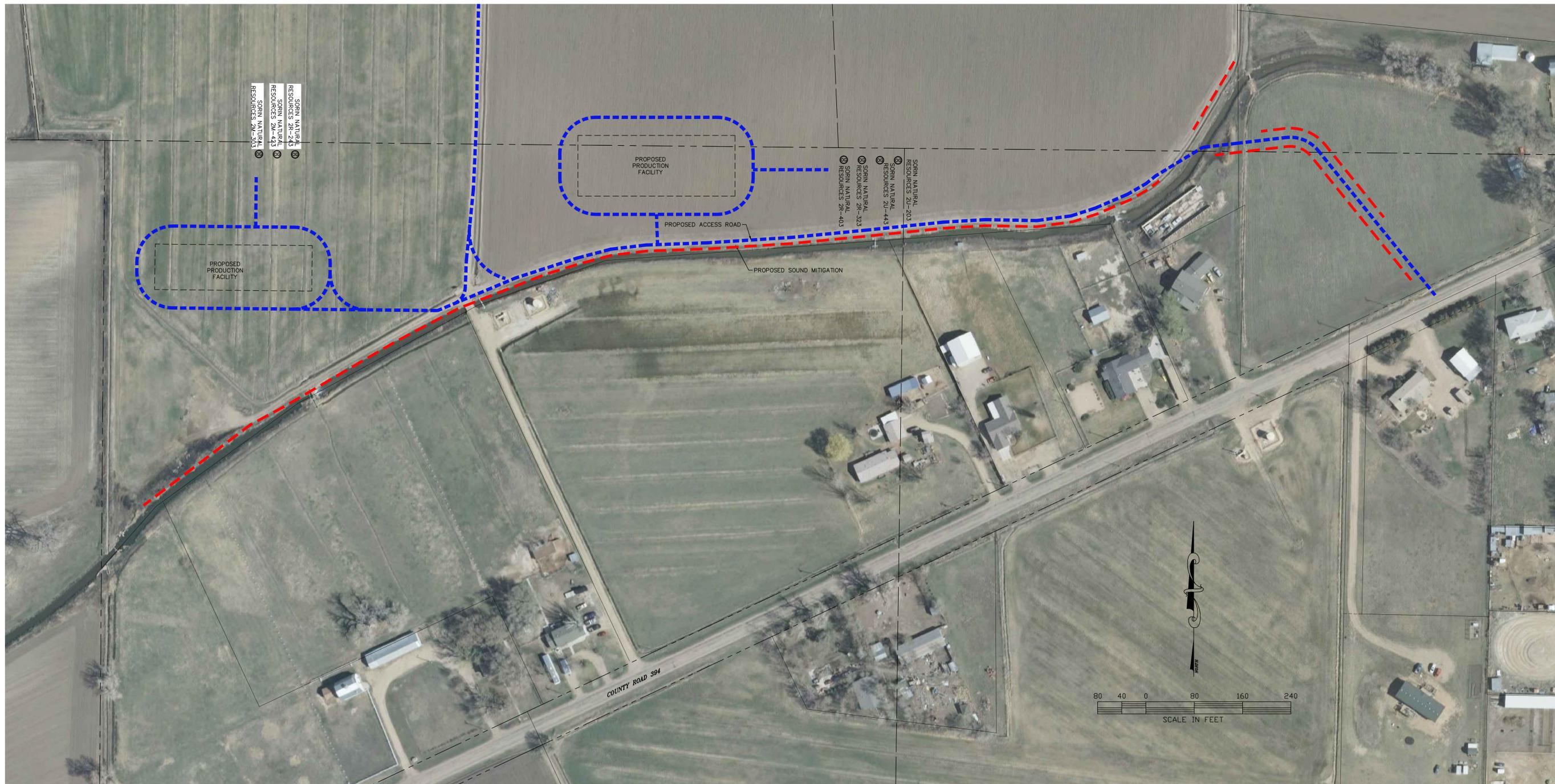
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DATE: 2/12/2013	FILE NAME: 2012164SITE.dwg	DRAWN BY: SR	CHECKED BY: KER	SCALE: 1" = 20'	PROJECT #: 2012164
<b>REVISIONS:</b> ACCESS ACCESS & PF CHANGE WELL NAMES PER CITY COMMENTS		<b>DATE:</b> 2/26/13 SR 3/22/13 SR 11/19/13 BTB 3/24/14 SR		<b>USR – LANDSCAPING PLAN</b> FOR <b>PDC ENERGY</b> 1775 SHERMAN ST DENVER, CO	
<div style="font-size: 2em; font-weight: bold; display: inline-block;">3</div>					SHEET 3 OF 3

# *USE BY SPECIAL REVIEW (USR)*

## *SOUND MITIGATION PLAN*

(Sorin Natural Resources 2R & 2M-HZ Pads)



### LEGEND

- - - - - PROPOSED ACCESS ROAD
- - - - - PROPOSED SOUND MITIGATION



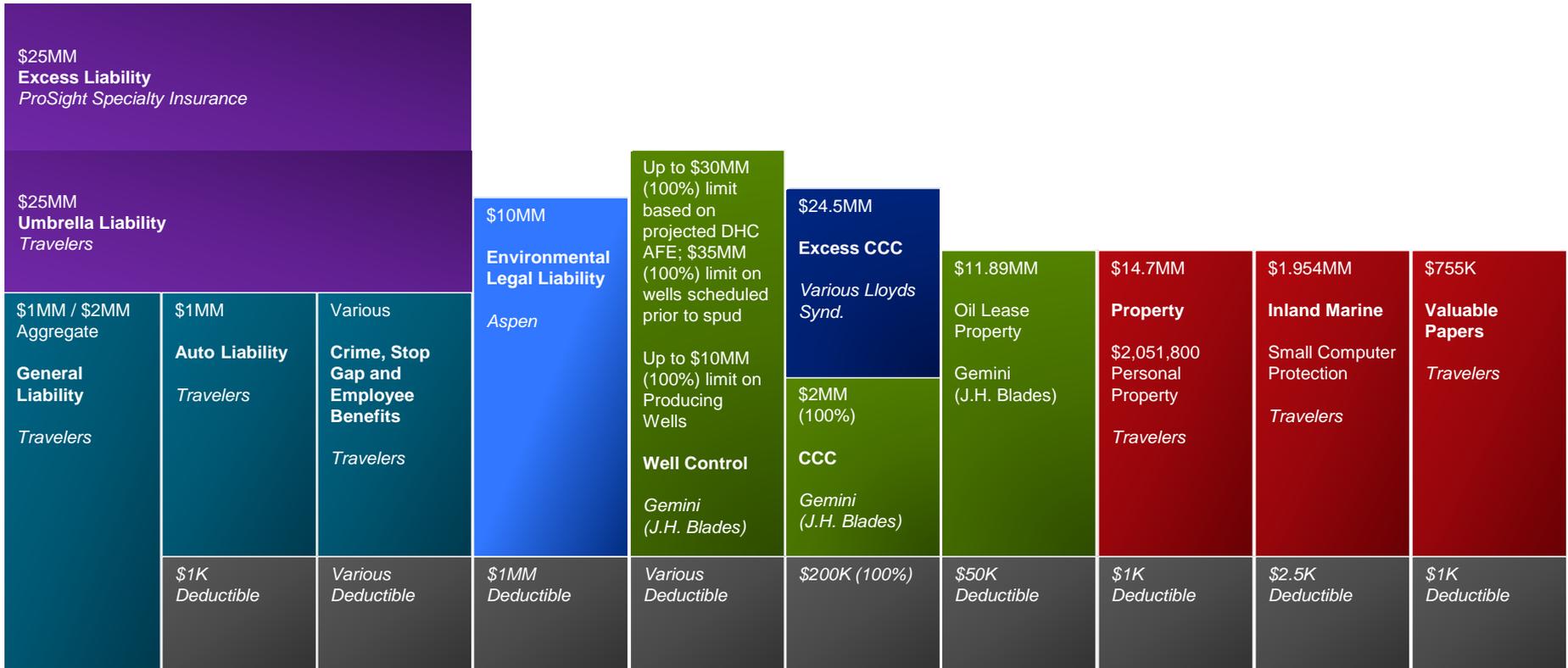
Lat40, Inc.  
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1635 Foxtrail Drive, Suite 325  
Loveland, CO 80538  
O: 970-776-3321

DATE: 3/21/2014	FILE NAME: 2012164SITE.dwg	DRAWN BY: SR	CHECKED BY: BTB	SCALE: 1" = 80'	PROJECT #: 2012164
REVISIONS:		DATE: 6/30/14			
REVISE PF					
USR – SOUND MIDIGATION PLAN FOR PDC ENERGY 1775 SHERMAN ST DENVER, CO					<b>1</b> SHEET 1 OF 1

# PDC Energy



## Insurance Program Limits Graphic at 8/1/2013



This insurance document is furnished to you as a matter of information for your convenience. It only summarizes the listed policy(ies) and is not intended to reflect all the terms and conditions or exclusions of such policy(ies). Moreover, the information contained in this document reflects coverage as of the date of this summary as shown below of the policy(ies) and does not include subsequent changes. This document is not an insurance policy and does not amend, alter or extend the coverage afforded by the listed policy(ies). The insurance afforded by the listed policy(ies) is subject to all the terms, exclusions and conditions of such policy(ies).



May 14, 2014

Sean M. Wheeler  
Community Development  
100 37th Street  
Evans, Colorado 80620-2036

RE: Sorin Wells Use by Special Review, Bonding Requirements

Dear Mr. Wheeler,

This letter is in response to your request of certain bonding requirements for approval of the Sorin USR, more specifically described in City of Evans 2<sup>nd</sup> Review Letter dated April 9<sup>th</sup>, 2014. Please see PDC's remarks listed below:

*Evans Planning Staff:*

2. *Bonding / Insurance:*

***Staff Comments:*** *Staff provided the specific amount's required for these found in Section 16.28.080 of the Municipal Code. An applicant can either comply with these requirements or request an appeal. In addition, the insurance certificate provided for the current review expires in August 2014. The question is how does that offer insurance protection during operation of the site beyond that date? Also, compliance with the Colorado Oil & Gas Conservation Commission requirements do not equate to compliance with City standards, thus the reason for our review. In addition, bonding that protects and provides financial assurance to the surface owner, doesn't necessarily address potential impacts to neighboring property owners, which is the larger issue of concern for Staff. Concerning the blanket bond, the Municipal Code allows for their use in Section 16.28.090 (Blanket bond). That Section states: "in lieu of the requirements provided in Section 16.28.080 an operator may file with the planning director a blanket bond designed to cover all drilling operations within the City. At no time shall the amount of such blanket bond be less than one hundred thousand dollars (\$100,000.00) times the number of wells being drilled. Additionally, an operator may file with the planning director a blanket bond for all wells completed and in operation within the City. The amount of the operation blanket bond shall be two hundred thousand dollars (\$200,000.00) for all such wells within the City limits." Please note that the bond provided for the current review does not meet these standards.*

**PDC Response:** PDC hereby appeals Evans Planning Staff's bonding requirements specifically relating to Evans Municipal Code *Section 16.28.080*. PDC will carry valid insurance coverage which greatly exceeds the above bond requirements. PDC's insurance would cover damages, accidents, catastrophes, etc. in the amounts listed on the enclosed Insurance Limits Graphic for the life of the Sorin Wells. In addition to the above, PDC has a valid blanket bond with the Colorado Oil & Gas Conservation Commission ("COGCC") which complies with COGCC rules and regulations

PDC appreciates Evans Planning Staff for their review and consideration of the Sorin USR. PDC's initial commencement date of construction of the Sorin Wells has recently changed from September to late July/beginning of August, 2014. Please do not hesitate to contact the undersigned at 303-831-3966 for any comments or questions you may have regarding this matter.

Sincerely,

**PDC ENERGY, INC.**

A handwritten signature in blue ink, appearing to read "Josh", is positioned above the typed name.

Josh B. Wagner  
Regional Landman, RPL  
[Josh.Wagner@pdce.com](mailto:Josh.Wagner@pdce.com)



May 5, 2014

Sean M. Wheeler  
Community Development  
100 37th Street  
Evans, Colorado 80620-2036

RE: Sorin Wells Use by Special Review, Traffic Narrative

Dear Mr. Wheeler,

This letter is in response to your request of a Sorin USRTraffic Narrative, more specifically described in City of Evans 2<sup>nd</sup> Review Letter dated April 9<sup>th</sup>, 2014. Please see PDC's remarks listed below:

*Evans Planning Staff:*

*5. Traffic Impacts:*

*Staff Comments: The City Engineer has requested PDC provide a traffic narrative for this use in lieu of a traffic study, based on the estimated vehicle counts. With regard to limiting hours of commercial vehicle traffic to the site, Staff will continue to seek input from others about impacts. Given the noise mitigation measures proposed, this may not be as large a concern for neighboring property owners as initially thought. If their concerns are addressed with these measures, there would not be a need for limiting hours commercial vehicles could visit the site by condition of approval.*

PDC Response:

Traffic Narrative:

PDC will utilize an access road off of WCR 394 across Weld County Parcel No. 105702000051 to access the Sorin USR location on Weld County Parcel No. 105702000056 for drilling and completion operations and maintenance equipment. The access road will be properly constructed and maintained to accommodate for local emergency vehicle access. Approximately 1,000 trucks will be needed for drilling and completions during a ~6-8 month timeframe (500 loads for sand, 50 loads of shale for drilling, 105 loads of liquids, etc.). Of the 1,000 trucks needed, 70% of the trucks will be utilized for completion operations during a 30 day period. In addition, PDC is planning to use water for completion operations on location (by way of a pumping from a water well). This method of using water on location removes over 3,500 trucks off the road which would have been used for completion operations. Lastly, PDC is planning to

use a blanket wall along the access road to minimize the impact and mitigate for dust, lighting, sound and aesthetics.

PDC appreciates Evans Planning Staff for their 2nd review and consideration of the Sorin USR. PDC's initial commencement date of construction of the Sorin Wells has recently changed from September to late July/beginning of August, 2014. With this recent change in mind, PDC respectfully requests Evans Planning Staff begin the USR Town Hall Meeting process and set a date for said Town Hall Meeting. Please do not hesitate to contact the undersigned at 303-831-3966 for any comments or questions you may have regarding this matter.

Sincerely,

**PDC ENERGY, INC.**

A handwritten signature in blue ink, appearing to read "Josh", with a long, sweeping horizontal line extending to the right.

Josh B. Wagner  
Regional Landman, RPL  
[Josh.Wagner@pdce.com](mailto:Josh.Wagner@pdce.com)

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## **LICENSE AGREEMENT**

1. **PARTIES.** The parties to this License Agreement are The Godfrey Ditch Company ("Licensor"), a Colorado Corporation, whose legal address is 23892 WCR 35 LaSalle, Colorado 80645, and PDC Energy, Inc. ("Licensee") whose legal address is 1775 Sherman Street, Suite 3000, Denver, Colorado 80203. The Licensor and Licensee are jointly referred to as the "Parties".

2. **RECITALS.** The Licensor is the owner of an easement or right-of-way for water supply and deliveries (the "Godfrey Ditch"). Licensee desires to obtain the permission of the Licensor to cross over the Godfrey Ditch with its access road, utilize various methods of sound mitigation, including but not limited to, a blanket wall, corn stalk bales, etc., in the right-of-way, and install a culvert ("Licensed Facility") to support traffic related to oil and gas drilling and completion operations, at a location in the N/2NE/4 of Section 2, Township 4 North, Range 66 West, 6<sup>th</sup> P.M., Weld County, Colorado, more particularly shown on **EXHIBIT A**.

3. **GRANT OF RIGHT OF CONSTRUCTION.** NOW, THEREFORE, in consideration for the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Licensor hereby grants Licensee, the authorization to construct, operate, maintain, repair, inspect, and replace the Licensed Facility, in, on, under, or along the Godfrey Ditch, subject to the terms, conditions, covenants and agreements set forth in this License Agreement, and pursuant to the plans and specifications approved by the Licensor and attached hereto as **EXHIBIT A**. The Licensor's review of the plans and specifications is solely for its own benefit and creates no obligation or acceptance of responsibility on or by the Licensor.

3.1 If the Licensee's construction interrupts the Licensor's water supply for any reason, or for any day or any part of any day, the licensee shall pay as liquidated damages one thousand dollars (\$1000.00) per day for each day that the Licensor has a request for water from a shareholder or shareholder(s) and cannot deliver water to that shareholder or to those shareholders as a result of the Licensed Facility.

4. **CONSTRUCTION STANDARDS.** The Licensed Facility constructed or installed by Licensee as described in **EXHIBIT A** shall be constructed and installed in a good and workmanlike manner in accordance with the designs, specifications, and requirements set forth in **EXHIBIT A**, and the following:

4.1 All structures shall be constructed at no cost to the Licensor. Nothing herein shall obligate the Licensor to incur expenses as part of the Licensed Facility.

4.2 Where compacting of earth materials is required around the structures, the materials shall be compacted to standards required by Licensor and as specified in **EXHIBIT A**.

4.3 Except as modified by **EXHIBIT A**, all portions of Godfrey Ditch, including, but not limited to the bottom, sides, and banks, which are disturbed by the process of Licensee's construction shall be restored to their original condition and all other facilities appurtenant to the Godfrey Ditch shall

4.4 Licensee shall notify the Licensor at least five (5) days preceding the date of commencing any construction work pursuant to this License Agreement. Licensee will inspect all work during construction permitted by this License Agreement. The Licensor is permitted to inspect the Licensed Facility during construction and upon completion. The Licensor's right to inspect the Licensed Facility in no way relieves Licensee of its liability for improper construction. The Licensor's inspection is solely for the benefit of the Licensor and creates no obligation on behalf of the Licensor. Upon completion, Licensee shall provide the Licensor with "as-built drawings" completed and certified by Licensee that the Licensed Facility complies with this License Agreement and the aforementioned plans and specifications.

4.5 Licensee agrees that the construction permitted hereunder shall proceed with reasonable diligence from the initiation of such construction to its completion. Licensee shall not interrupt the flow of water in the Godfrey Ditch. If construction of the Project is not commenced by December 31, 2015 this License Agreement shall be terminated and be null and void. There shall be no refund of any fees paid by Licensee to the Licensor.

4.6 Licensee agrees to obtain, comply with, and to pay for the cost of any permits required by any governmental authority or agency.

4.7 Licensor gives full authorization for Licensee to commence construction for the Licensed Facility on or before April 2, 2014. If said construction for the Licensed Facility is not completed by end of business day on April 15, 2014, Licensee shall not be allowed to continue construction until after the 2014 irrigation season, typically in October, 2014.

5. **LICENSE FEE.** Licensee shall pay to the Licensor a license fee of Four thousand dollars (\$4,000.00) per Licensed Facility. The license fee shall be paid upon execution of this License Agreement. This license fee shall be in addition to any other costs for which Licensee is responsible pursuant to this License Agreement.

## 6. REIMBURSEMENT OF EXPENSES.

6.1 Licensee agrees to reimburse the Licensor (and pay directly) for all reasonable engineering, legal and administrative costs incurred by the Licensor in preparing and approving this License Agreement and the costs of inspection as described in paragraph 4.4.

6.2 Statements for the costs chargeable to Licensee hereunder will be forwarded to Licensee and the same shall be paid to the Licensor within 45 days after the billing date. If payment has not been received by Licensor within 45 days, Licensee shall have breached this License Agreement and Licensor may institute legal proceedings to collect the amount due and owing. In such proceeding, Licensor shall be entitled to its costs and reasonable attorneys' fees from Licensee.

## 7. MAINTENANCE.

7.1 Licensee specifically agrees and pledges to maintain repair and replace the Licensed Facility as described in **EXHIBIT A** so as not to require the Licensor to maintain, repair or replace it. If Licensee fails to properly maintain, repair or replace any portion of the Licensed Facility for which it is

responsible after ten days' notice of the need for same, Licensors may, at its own option, conduct its own maintenance, repair or replacement and Licensee shall reimburse Licensors for the cost of such work within 30 days. In the event Licensee fails to maintain, repair or replace the Licensed Facility, it shall be held liable for any loss, damage or injury to Licensors. If the Licensors conduct its own maintenance, repair or replacement, it does not waive the right to hold Licensee liable for damages caused by Licensee's failure to maintain, repair or replace.

7.2 In the event of an emergency, the Licensors or Licensee may conduct maintenance or repair immediately, giving notice to the other party as soon as possible at the emergency contacts identified in paragraph 12. If Licensors conduct emergency work, it shall be reimbursed for the cost of the work. Under no circumstances shall the Licensors be responsible or held liable for damages to the Licensed Facility resulting from maintenance or repair to the Godfrey Ditch.

8. **WARRANTY.** Licensee warrants that the construction of the Licensed Facility will allow the Licensors to transport water without additional carriage or transit loss than has historically occurred. If the Licensed Facility increases carriage or transit loss in the Godfrey Ditch, the Licensee agrees to repair the construction to prevent such additional loss.

#### 9. **LIABILITY AND INDEMNIFICATION.**

9.1 By virtue of entering into this License Agreement, the Licensors: (1) assumes no liability for use, operation, or existence of the Licensed Facility; and (2) assumes no additional responsibilities or obligations related to Licensee's future or additional activities in the area described in **EXHIBIT A** which are required by this License Agreement.

9.2 The Licensee agrees to indemnify and hold harmless; the Licensors, its shareholders, its directors, officers, agents, employees and contractors, from all claims and liability for damage or injury to property or persons arising or caused directly or indirectly by the Licensee's construction, repair, restoration, maintenance of, or failure to maintain, the Licensed Facility and Licensee's occupancy and use of the Licensed Facility described in **EXHIBIT A**.

9.3 Easement Rights. The License Facility granted to the licensee herein in no way restricts the Licensors' right to the historic use of its Godfrey Ditch, to construct, operate, or maintain all existing structures and facilities of the Licensors.

10. **TERM.** This License Agreement and the covenant herein contained shall be perpetual unless modified by Court order, such oil and gas wells listed on **EXHIBIT A** in relation to the Licensed Facility are plugged and abandoned, or the signed written agreement of the parties or their successors in title or unless terminated pursuant to paragraph 4.5.

11. **NOTICES.** Any notice required or permitted by this License Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the party to whom such notice is intended to be given at the address set forth below, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed to have been given when deposited in the U.S. mail.

**LICENSOR:**  
Godfrey Ditch Company

**COPY TO:**

**LICENSEE:**

**COPY TO:**

PDC Energy, Inc.  
1775 Sherman Street  
Suite 3000  
Denver, CO 80203  
Attn: Josh Wagner

13. **WAIVER OF BREACH.** The waiver by any party to this License Agreement of a breach of any term or provision of this License Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.

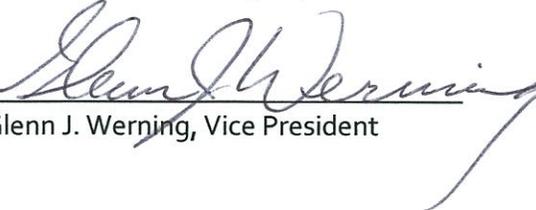
14. **RECORDATION.** This License Agreement shall be recorded by, and in the county of the Licensed Facility, and at the cost of Licensee and shall be binding on any successors of the Parties. All portions of **EXHIBIT A** will be recorded.

15. **EXHIBITS.** All exhibits referred to in this License Agreement are, by reference, incorporated in this License Agreement for all purposes.

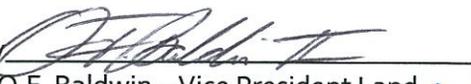
16. **REMEDIES.** This License Agreement may be enforced by specific performance, including mandatory injunctive relief, and damages.

Dated: 4/3/14.

**The Godfrey Ditch Company**

By   
Glenn J. Werning, Vice President

**PDC Energy, Inc.**

By   
O.F. Baldwin – Vice President Land *200*

STATE OF COLORADO )  
 ) ss.  
COUNTY & CITY OF DENVER )

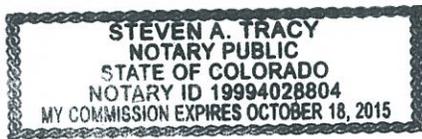
The foregoing LICENSE AGREEMENT FOR The Godfrey Ditch Company was acknowledged before me on 4-3, 2014 by Glenn J. Werning, its Vice President.

Witness my hand and official seal.

My commission expires 10-18-15.

*Steven A Tracy*  
38725 WCR 35  
Eaton, CO. 80615

[SEAL]



Notary Public

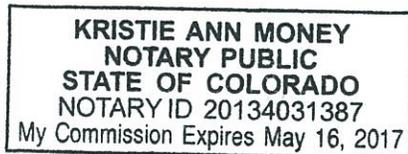
STATE OF COLORADO )  
 ) ss.  
COUNTY & CITY OF DENVER )

The foregoing LICENSE AGREEMENT FOR PDC Energy, Inc. was acknowledged before me on April 3, 2014 by O.F. Baldwin II, its U.P. Land.

Witness my hand and official seal.

My commission expires 5/16/17.

[SEAL]



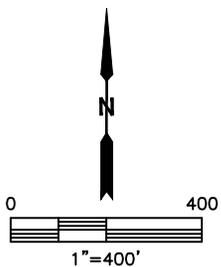
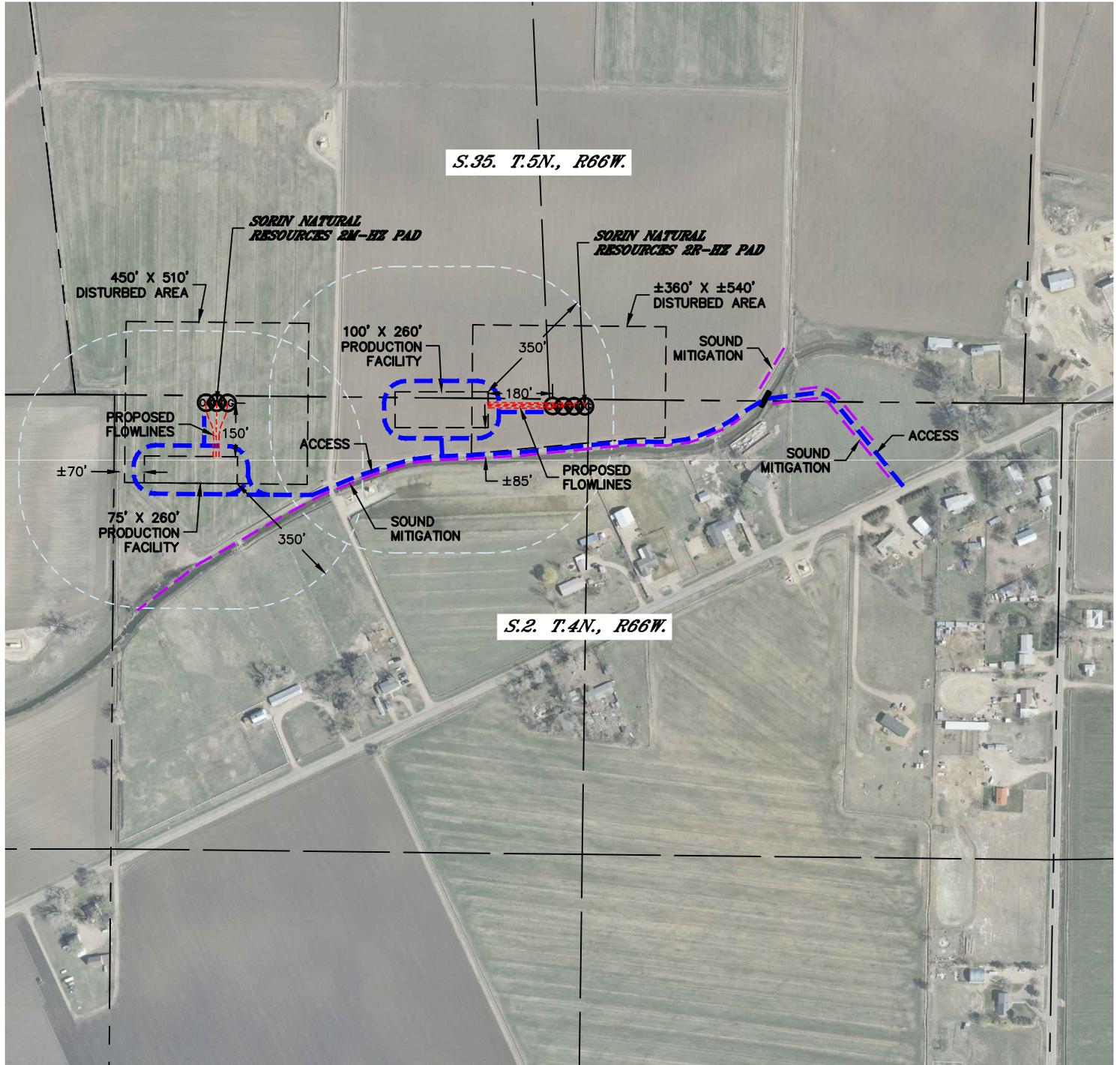
Notary Public

*[Signature]*



# EXHIBIT "A"

## SORIN NATURAL RESOURCES 2R & 2M-HZ PADS



**LETTERS TO  
CITY COUNCIL  
REGARDING  
SORIN WELLS**

To: The city of Evans mayor, planner, and the City Council

From: Glenn Werning, Vice President of the Godfrey Ditch

Dear ladies and gentlemen,

My family and I farm within your city, west of LaSalle on the Godfrey Bottom. We currently are working with Sean Wheeler to set off building sites for our sons since they were displaced by the flood. He suggested I write directly to you with other questions concerning our area.

Last week my wife Kathy, two neighbors, and I spoke at the City Planning Commission meeting against the Sorin application for an oil and gas drilling site next to our homes. We failed to convince most of the planners. After the public portion of the meeting was closed, the applicant was allowed to continue and some of the facts presented were not correct. So I am asking that you hear our side better before you vote on July 1<sup>st</sup>, as this will affect our lives for years to come.

First, I want to invite any or all of you to visit the farms to see what is being done. Duck, or recharge ponds, were approved two years ago and were designed and built by Ducks Unlimited. As I recall, they were to be excavated below grade and berms were not to be higher than two feet. Some of them are over four feet tall and lie north and south, creating a barrier to flood waters. I would like to know that their work meets the City of Evans's Flood Damage Prevention guidelines. Now Sorin is proposing a seven gas well site to the south of these ponds, further adding to the flood problem with the barriers around the tanks. Perhaps the duck ponds could have been designed to allow the drilling to be done further north and away from our homes and with the flow of high water in mind. Our mineral lease is with Noble Energy, they will have some interest in these wells being permitted, and Noble stated to me that they no longer drill in the floodplain because of their concern for public safety, and the new horizontal wells allow this change.

Next it was stated that a water well is to be drilled on this farm to supply the drilling and fracking. This is in the permit stage, and the Godfrey Ditch has filed an opposition to better understand what is being planned and how the well will be augmented. If it is permitted, it will reduce trucking by 3000 loads going in, but not the 3000 loads of fluid to be hauled out.

Sorin has also told me that they plan to make a gravel pit and water storage on some of the farm adjacent to ours. I responded that they are land locked and the only road out of their property was on WCR 33 ¼, a short dirt road (now part of Evans) by my home, a neighbors, and my son's. We are trying to get the permit to rebuild my son's home, but if Evans's is going to allow this road (with about 20 cars per day traffic) to become their haul road for gravel trucks then I will have to rethink not only that home, but mine also, as our privacy and quality of life will be gone. A gravel pit in the floodplain should not be allowed as the piles will also add to the damming of the floodwaters.

Please take the time to come and visit the site before your vote. See that nothing is being done except the building of these ponds. There has been no cleanup on any of Sorin's farms, they have not worked on any dikes, and have not even started doing weed control and that is already terrible. Evans is the second largest shareholder in the Godfrey Ditch, and these lands are within the city. It may be in your best interest to question their plans too.

Thank you,

Glenn Werning  
23822 WCR 33 ¼  
LaSalle Co.  
381-0412

June 15, 2014

Evans City Council Members

1100 37<sup>th</sup> Street

Evans , Colorado 80620

This letter is to address the proposed Sorin Natural Resources Oil and Gas development proposal for the Rumsey-Werning-Camenisch Annexation west of LaSalle. This is a large development proposal which affects many of the residents of this agricultural segment of the county, and it still needs refinement to become the working development which is proposed. PDC Energy has done lots of work and analysis to set up this facility; however, certain things need to be revisited to maintain the current and future lifestyle of the Evans residents in the wake of this development. I am also not certain as to what the future plans of the city may be, but the Sorin development group is carving out a series of projects that are going to place large restrictions on future possibilities for Evans, and a more careful regulation of what they are doing needs to be in place.

We all know that the oil and gas development is a large part of the Weld County economy at this point, and that we must all make certain concessions, and, as it appears, some more than others. However, these concessions should not be a blatant affront to certain safety and lifestyle issues. This last week the public hearing for the city planning commission seemed to be more of an inconvenience than a fact finding mission. Various community members residing in the Sorin development area presented concerns for property value loss, major traffic safety issues from overcrowded and heavily populated access road use, lack of highway maintenance on already over used roads, oil construction that impeded flood abatement and safety issues, and pushing property boundaries to the limits. The details on some of the concerns that need to be looked at a bit more includes the following: The placement directions of the storage tanks as designed will result in problems for future flood mitigation because the tanks will serve as a man made dam and divert the flow of the water over the heavily inhabited area along CR 394. The placement of the ponds being constructed by Ducks Unlimited have raised banks and are placed in positions to cause problems with flood management. The proposed location of the project access road is in one of the most heavily populated sections of the CR 394 and is directly across from three private driveways on a 20 foot wide roadway with high embankments on both sides. Thus, the accident factor of this entry way is high due to the cross center line turns, sideswipes, reduced speed flow, large vehicle off tracking, and heavy use by cattle trucks, other oil vehicles, and mail and delivery trucks. PDC Energy continues to say this road will not cause a problem; however, uncertainty as to the establishment of the water well because of water rights legalities, the movement of huge machinery, inability to govern each trucker as to speed and procedure, and the need to transport waste water out of the site contradicts the use statements they are presenting. It's appearing to be that once that road is set, PDC can use it however they see fit and create any amount of hazard that accompanies that use.

As I stated previously, we all know that oil development is here to stay and that Weld County is an important player in the country's production of fuel. However, a few things need to be revisited for this Sorin proposal for a drilling site for the benefit of Evans. This shouldn't be passed in its current proposal form because it has the potential for inherent long term problems.

I would like to invite the Evans City Council out to take a closer look at this site and to visit with the citizens to see exactly what some of the concerns are at this time. No one is saying that the drilling shouldn't be done, but some more work needs to be completed before it moves ahead. I would think that Evans should be a city that listens to the people who live in and near these sites in order to insure that proposed projects promote growth, safety, and a future that works for many different land uses rather than a dangerous industrial wasteland which bars any other types of future development.

Sincerely,

Gloria F. Mestas

16950 CR 394

LaSalle. Colorado 80645

Phone#: 970-284-6412

Email: [orglomes\\_610@what-wire.com](mailto:orglomes_610@what-wire.com)

----- Original message -----

From: Orlando Mestas

Date: 06/26/2014 4:27 AM (GMT-07:00)

To: John Morris

Cc: Jay Schaffer , Laura Brown , [lhoman@evanscolorado.gov](mailto:lhoman@evanscolorado.gov), Mark Clark , Sherri Finn , Brian Rudy

Subject: Still concerned about Sorin development

Mayor Morris,

This is a follow up communication on the letter which I sent to the Evans Council members concerning the Sorin Natural Resources development off CR394 which falls under the jurisdiction of Evans through past annexations. The residents of this area have great concern because the heavy impact on the population around this development.

As residents of this area, we want to be certain that we are heard and that our concerns are given serious consideration. We do not want to be dismissed because we supposedly aren't accurate in our view of the situation. Only the people who have lived here for years (in the midst of oil development, farming, water issues, and feedlot production) can give an accurate accounting of what is happening and what will happen. Sorin representatives and PDC energy gave a report at the planning commission that made everyone think all would be fine with the development, but in reality that's a glossed over representation. We all realize that the oil production will go on, and that's okay; however, more work needs to be done on this project before it moves forward. Even at the Planning Commission meeting, members of the commission sat in front of the public and said that what was happening with project was wrong and actually needed more study, but that the Sorin Development group and PDC Energy had the right to work, and that people around the development had to learn to make do with what came their way. That seemed to trump the rights of the community members who have lived here and supported the area for years and to dismiss what was right concerning them.

I do hope that the city council is visiting with people such as Glenn Werning, Mario Martinez, and other community members whose homes are backed up right on this development property. I also hope that Evans is looking at road 394 which is under Evans's jurisdiction and the placement of the proposed oil road entry (which is to support the traffic of 6000 trucks as indicated in the proposal) which is going to cause major problems as indicated in the letter sent previously. This evaluation is going to take more than a cursory glance at the situation.

We appreciate all serious thought and consideration you can continue to give to the questions and concerns we have concerning this large project which is calling for the development and placement of seven oil wells.

Gloria Mestas  
16950 CR 394  
LaSalle, Colorado 80645

Phone: 970-284-6412



June 27, 2014

Sean M. Wheeler  
Community Development  
100 37th Street  
Evans, Colorado 80620-2036

RE: Sorin Wells Use by Special Review, Evans USR Planning Commission Hearing Concerns

Dear Mr. Wheeler,

This letter is in response to several concerns addressed in the Evans USR Planning Commission Hearing on June 10, 2014 (“USR Hearing”). Please see PDC’s remarks listed below:

**1) Evans USR Planning Commission Hearing (6/10/14) –Production Facilities Concern:** During the USR Hearing, several property owners voiced concerns over PDC’s production facilities layout, more specifically, the orientation of the production facilities such that it could potentially cause a “bottleneck” effect if the area became flooded.

Please note the Colorado Oil and Gas Conservation Commission or COGCC approved the layout in May 2013, but has since changed its guidelines for flood impacted zone construction practices to provide that production facilities should be parallel to potential flow.

**PDC Response – Tank Battery Reorientation:** PDC has taken this concern in consideration by meeting on-site with the surface owner to fully review possible solutions. PDC and the surface owner were able to come to an agreement to reorient and slightly move production facilities in a manner that complies with the COGCC’s new guidelines for flood impacted zone construction, more fully described on the attached Exhibit A. In addition, PDC confirmed with the COGCC that new 2A permits will not be needed, only Form 4 sundries. PDC respectfully requests a condition of approval that PDC provides revised Master Site Plats and Vicinity Plats with the above changes to the production facilities within a timely manner after the July 1<sup>st</sup> Evans City Council USR Hearing.

**2) Evans USR Planning Commission Hearing (6/10/14) –Truck Traffic:** A second concern during the USR Hearing by several property owners was the location of the access road, more specifically, the amount of truck traffic near residences.

Please note PDC reviewed several alternatives for access prior to the USR hearing without being able to find a reasonable option (i.e. the surface owner would not agree, making several contacts to owners without a response, parcels of land in financial issues, etc.)

**PDC Response – Truck Traffic:** PDC has been in discussion with Platte River Bottom LLC to reach an agreement for a temporary access road easement during PDC’s construction drilling, completion and reclamation operations across Weld County Parcel #'s 095936000031 and 095935000005. Unfortunately, PDC and Platte River Bottom LLC were unable to come to agreement/terms on the location of the road. Thus, PDC will continue to utilize the permanent access as shown on Exhibit A (approved in USR hearing).

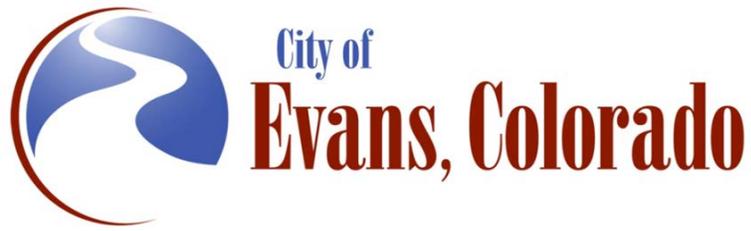
PDC appreciates Evans Planning Staff & Evans City Council for their review and consideration of the Sorin USR. Please do not hesitate to contact the undersigned at 303-831-3966 for any comments or questions you may have regarding this matter.

Sincerely,

**PDC ENERGY, INC.**

A handwritten signature in blue ink, appearing to read "Josh", with a long horizontal flourish extending to the right.

Josh B. Wagner  
Regional Landman, RPL  
[Josh.Wagner@pdce.com](mailto:Josh.Wagner@pdce.com)



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**CITY COUNCIL COMMUNICATION**

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**DATE:** July 1, 2014

**AGENDA ITEM:** 7.D

**SUBMECT:** Driftwood Plaza Lots 1 and 2 Rezoning from C-3 Commercial to R-2 Residential

**STAFF CONTACT:** Sean Wheeler, City Planner

**ACTION:** Consideration by City Council

**APPROVED BY:** Zach Ratkai, Building and Development Manager

**PLANNING COMMISSION:** June 10, 2014

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BACKGROUND INFORMATION		
<b>Location:</b>		At the northeast corner of the intersection of 37 <sup>th</sup> Street and Harbor Lane (See Attached Map)
<b>Applicant:</b>		Landings Development LLC, William Sheal
<b>Existing Land Use:</b>		Commercial, Undeveloped
<b>Proposed Land Use:</b>		Residential, Undeveloped
<b>Surrounding Land Use:</b>	<b>North</b>	Residential, Developed
	<b>South</b>	Commercial, Undeveloped
	<b>East</b>	Commercial, Undeveloped and Developed
	<b>West</b>	Residential, Developed
<b>Existing Zoning:</b>		C-1 Commercial
<b>Proposed Zoning:</b>		R-2 Residential
<b>Surrounding Zoning:</b>	<b>North</b>	R-2 Residential
	<b>South</b>	C-2 Commercial, C-3 Commercial
	<b>East</b>	C-1 Commercial
	<b>West</b>	R-1 Residential
<b>Future Land Use Designation:</b>		Proposed change from Commercial to Residential zoning for the placement of duplex units.

**PROJECT DESCRIPTION:**

The applicant seeks approval to rezone Lots 1 and 2 of the Driftwood Plaza Commercial Planned Unit Development (PUD) from C1-Commercial to R2-Residential. Both lots are currently undeveloped. The site is located on the north side of 37<sup>th</sup> Street, immediately east of the intersection of 37<sup>th</sup> Street and Harbor Lane. Surrounding uses include a mix of commercial and residential projects on both developed and undeveloped lots. If approved, the applicant intends to purchase the site, combine the lots and submit a plan to place residential duplex units on the property.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission considered the request on June 10, 2014 and the Commissioners recommended denial with a vote of 4 in favor (of denial) and 1 opposed. Discussion focused on requirements of the 2010 City Comprehensive Plan and its application within the current economy.

**ZONING AMENDMENTS (CHAPTER 19.60, MUNICIPAL CODE)**

**1. ANALYSIS / ISSUES:** Chapter 19.60 of the Municipal Code outlines the requirements for amending the zoning map. Under this Section, changes to zoning must be compatible with the goals and objectives outlined in the 2010 City of Evans Comprehensive Plan. Staff’s assessment and recommendations regarding this application are based on this requirement as described below:

**A. City of Evans Comprehensive Plan:** Through a collaborative effort between the public, the Elected Officials and Staff, the City updated its Comprehensive Plan in 2010 as a way to guide development in Evans. The Plan's stated goals and objectives support projects that expand the local economy in ways that provide for a variety of community needs. Chapter 2 describes an overview of the challenges faced by the City along with the approaches decided on to address them. Developers of the Comprehensive Plan anticipated an increase in residential construction; however they noted that the existing public facilities (roads, water / sewer systems, parks, etc.) still require improvements to fully support current residents. Other benefits to the public such as police and fire protection also receive financial support from sales tax dollars. Sales tax revenues fund these facilities and services, so the need to expand commercial enterprises in Evans was clear. Thus, a key focus in the Plan is to encourage commercial development as a way to grow the City's revenue base. Several elements also promote the idea of providing commercial centers near residential areas, where they benefit both the immediate neighborhood and the greater community as well. Based on the objective to expand the commercial base, Staff's assessment is that the proposed re-zoning from Commercial to Residential uses is *not* compatible with the 2010 Comprehensive Plan as required for the reasons outlined below:

**1) Revenue Sources:** First, because of Colorado's taxation structure most of the funding for Cities comes from sales tax revenues generated by commercial development, not from residential development. These funds pay for City services desired by residents and provide for the health, safety and welfare needs of the community. For that reason, the City's goal is to promote commercial development in certain areas, so that dollars spent by Evans residents *stay* in Evans rather than funding services in adjoining municipalities where there is no direct benefit.

In recent years Evans has experienced a significant increase in residential development. While providing residential options also has a clear benefit for citizens, several approved residential subdivisions are already in place with lots that remain to be built out. If Evans is to continue to provide the relatively low cost services, then more commercial uses are needed to support them with the sales tax revenues required to fund these services.

**2) Employment / Consumer Services:** Expanding the City's commercial base provides for local employment opportunities, which is another expressed goal of the Comprehensive Plan. Attracting retail development to the community is a challenge, because of the strong competition for the commercial market-share along US Highway 34 in Greeley. However, traffic along Highway 34 is becoming more congested and intense, especially during morning and evening drive times. As an alternative more commuters use 37<sup>th</sup> Street in Evans and the City can take advantage of this increase by developing commercial centers. In addition, Evans residents must leave the City for many of their services including most grocery shopping, health care and employment. This is because of a lack of commercial areas available within Evans. When the increase in traffic along 37<sup>th</sup> Street is considered along with the tangible need for local services, encouraging commercial development here will take advantage of those potential shoppers and provide local jobs. With construction of a new middle school expected soon west of this site, that too will increase the potential customer base for commercial businesses along 37<sup>th</sup> Street thus further benefiting the City's tax base.

**3) Mixed Use Zoning Alternatives:** Chapter 3 of the Comprehensive Plan outlines the specific goal of providing neighborhood commercial centers adjacent to residential areas. This site, and the one opposite on the south side of 37<sup>th</sup> Street, provides a good example of where this model for development can take place. Residential uses surround the area off 37<sup>th</sup> Street and residents could easily walk or bike to commercial businesses at these sites. The Comprehensive Plan calls “Mixed Use Activity Centers” the hub of a community, with the idea that they are designed to serve surrounding neighborhoods and the greater community. Commercial areas along major roads should be developed with appropriate transitions (in buffering, scale and uses) to surrounding residential areas. Slightly higher densities in these centers can facilitate alternative modes of transportation including walking, bicycling and transit use as noted. A key feature of mixed-use development is that it can occur vertically (e.g., apartments or offices over stores) as well as horizontally (e.g., housing adjacent to institutional or other uses) according to the Comprehensive Plan. Typically, a mixed-use development will have buildings directly facing streets with active ground floor commercial uses. Streets and sidewalks are designed to provide pedestrians and bicyclists with a sense of safety and comfort of scale, being further enhanced by landscaping, lighting and furnishings. Parking is located behind the structure with access directly off a secondary road.

This model provides an example of how the site could be developed to address the applicant’s goals and those of the City at the same time. With commercial uses on the ground floor, offices on the second floor and apartments on the third, the same space offers three potential sources of revenue for a land owner. Parking can be designed to accommodate different user groups at different times of the day, so that the site is not over-developed with parking at the expense of landscaping and other elements.

**REFERRAL AGENCY COMMENTS:**

Planning Staff referred this request to several City offices for comment. The standards applied by the City Engineer and those of the Fire District would apply at the time the site plan review, and thus are not addressed in this report. The City’s Economic Development Director reviewed the request as well. She provided input on the anticipated impacts from reducing commercial areas while increasing residential development without increases in sales tax revenues. Having participated in development of the “2010 Comprehensive Plan” she supports the conclusions outlined in this report.

**ZONING AMENDMENTS (REVIEW CRITERIA):**

For reference, Staff’s review and recommendations are based on the compliance with the Criteria found in Section 19.60.080 of the Municipal Code. For rezoning, a single criterion applies which states:

Zoning amendments shall be approved only if the proposed zoning is in substantial conformance with the 2010 City of Evans Comprehensive Plan, or there exists substantial reasoning for amending the Comprehensive Plan.

Based on the assessment outlined above in this report, Staff concludes the request cannot satisfy the requirements of the 2010 City of Evans Comprehensive Plan.

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**FINDINGS OF FACT AND CONCLUSIONS:**

On consideration of the Zoning Amendment request and the information contained in this report, Staff makes the following Findings of Fact;

The Driftwood Plaza Zoning Amendment cannot appropriately and sufficiently meet the Review Criteria found in Section 19.60.080 of the Evans Municipal Code.

**PLANNING COMMISSION AND STAFF RECOMMENDATION:**

The Planning Commission supports the Staff recommendation of denial of the request to rezone Driftwood Plaza Driftwood Plaza Lots 1 and 2 from C-3 Commercial to R-2 Residential, based on the findings and conclusions outlined in this report.

**RECOMMENDED CITY COUNCIL MOTION:**

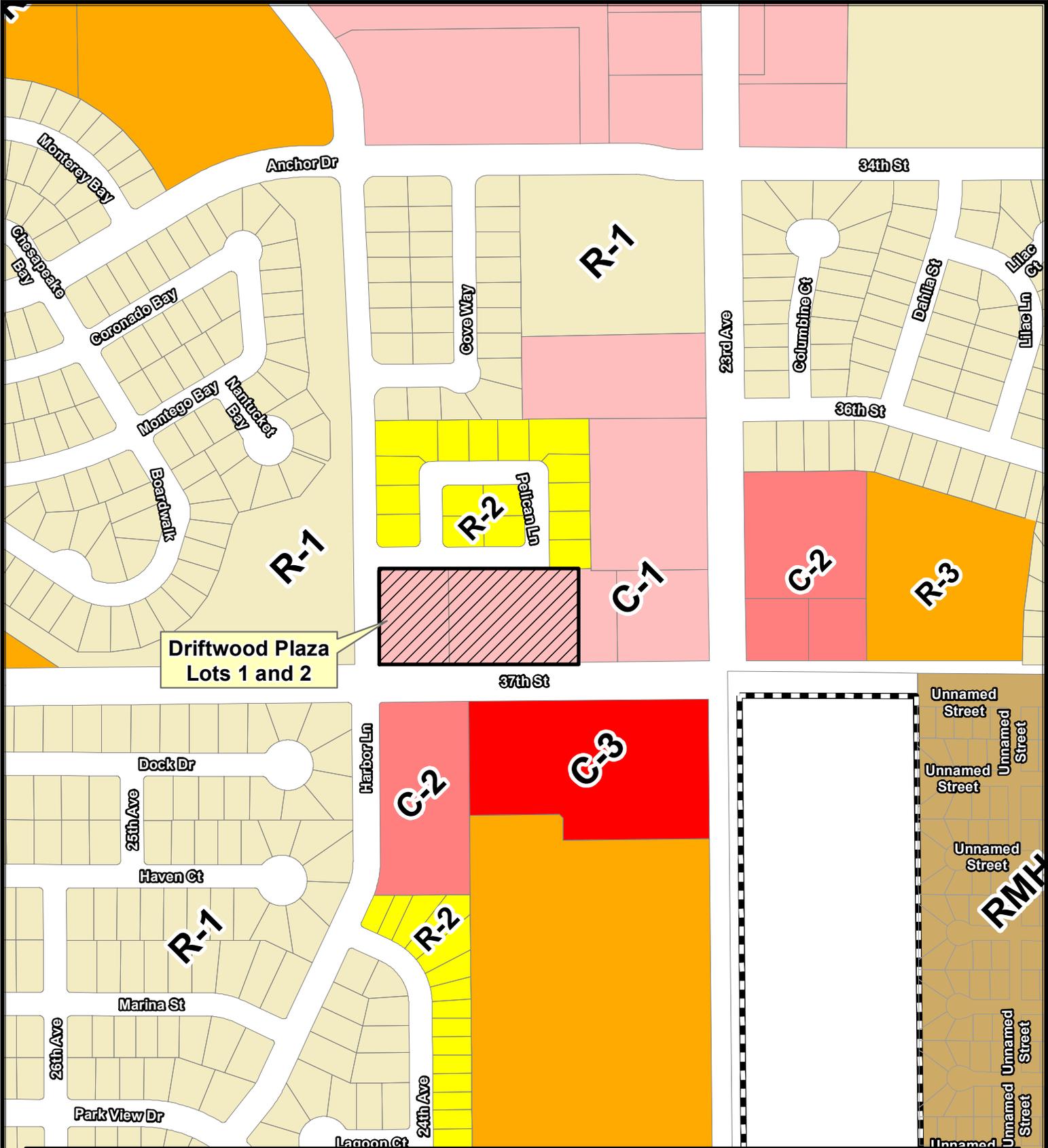
“Mr. Mayor, on the issue of the Driftwood Plaza Lots 1 and 2 Rezoning from C-3 Commercial to R-2 Residential, I move that the City Council deny the request as having failed to meet the criteria outlined in Chapter 19.60 of the Municipal Code.”

“Mr. Mayor, on the issue of the, Driftwood Plaza Lots 1 and 2 Rezoning from C-3 Commercial to R-2 Residential, I move that the City Council approve the application as having met the criteria outlined in Chapter 19.60 of the Municipal Code.”

**Attachments:**

- Vicinity Map
- Zoning Map
- Driftwood Plaza Rezoning Application Information





**Driftwood Plaza  
Lots 1 and 2**

**Legend**

-  Evans City Limits
-  Project Site

**Zoning Map  
Rezoning -  
Driftwood Plaza  
Lots 1 and 2**

  
  
 \* This map represents current zoning and not proposed zoning



**Land Use Application  
Zoning Amendments**

<b>Staff Use Only</b>	
Fee Paid:	_____
\$205 plus \$25 for property list	
Intake Date:	_____
GL Code	_____

Owner Name: LANDINGS DEVELOPMENT Telephone: 970-396-1031 Email: \_\_\_\_\_

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

\*Applicant Name: William Sheel Telephone: 970-396-6365 Email: bill.sheel@aol.com

Address: 3109 35<sup>th</sup> Ave A104, Greeley CO 80634

Property Address: 2485 + 2435 37<sup>th</sup> St., EVANS CO 80620

Project Name: T.B.D. Acres: 2.84

Current Zoning: C-1 Proposed Zoning: R-2

All Zoning Amendments shall comply with the requirements of Chapter 19.60 of the City of Evans Municipal Code and all applicable regulations and standards regarding design. Criteria for approval can be found in Section 19.60.080.

\*The applicant listed herein will serve as the sole source of contact for any information and updates on the project. Only correspondence from the applicant will be considered official project correspondence.

**SUBMITTAL CHECKLIST**

The following items will need submitted for review of a Zoning Amendment Application. Incomplete applications will not be accepted nor reviewed by the City.

Applicant Initials	Submittal	City Staff Initial if Complete
<u>WFS</u>	Pre Planning Application and Meeting with City Completed	
<u>WFS</u>	Zoning Amendment Fee \$500 + Actual Costs	
<u>WFS</u>	City provides 500' list Fee \$25	
✓	Title information including mineral owners	
<u>WFS</u>	Letter of intent stating reasons for zoning amendment and time schedule for construction or development	
<u>WFS</u>	Zoning amendment map (aerial and other)	
<u>WFS</u>	Name and address of all owners of the land proposed to be rezoned.	
✓	Name and address of all owners of severed mineral rights of the land proposed to be rezoned.	
<u>WFS</u>	A statement explaining why the property should be reclassified, or why the zoning district boundaries should be changed.	
<u>WFS</u>	A legal description of each requested change, on separate documents.	
<u>WFS</u>	Evidence of ownership and contract for sale and purchase, if applicable.	
	Such additional information as may be required by the City in order to ensure a complete and comprehensive review of the proposed zoning amendment.	
	If the requested zoning includes Planned Unit Development (PUD) zoning, the application shall include the requirements of Chapter 18.28 of the Evans Municipal Code.	

	An electronic copy of all submitted documents	
	Mylars submitted to City for signature after final City Council approval	
	Mylars recorded by applicant (or fee paid to City to record mylars)	

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

Landings Development LLC by Dale Bachman mgr      3-25-14  
 Land Owner(s) Signature      Date  
 Required to be Signed by ALL landowners

[Signature]      3/25/14  
 Applicant Signature      Date

For City Staff Use Only

Date Submitted: \_\_\_\_\_

Date Reviewed: \_\_\_\_\_ Reviewer Name: \_\_\_\_\_

Corrections Needed?  Yes  No

Date Returned as Incomplete to Applicant and Owner: \_\_\_\_\_

Date Accepted as Complete: \_\_\_\_\_

Planning Commission Date (within 30 days of completed application): \_\_\_\_\_

City Council Date: \_\_\_\_\_

Additional Comments: \_\_\_\_\_

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



# WERNSMAN ENGINEERING, INC.

1011 42nd STREET ♦ EVANS, CO 80620  
Phone (970) 353-4463 Fax (970) 353-9257

March 24, 2014

Sean Wheeler  
City Planner  
City of Evans  
1100 37<sup>th</sup> Street  
Evans CO 80620

RE: Rezoning for Lots 1 and 2, Driftwood Plaza from Commercial (C-1) to Residential (R-2)

Dear Sean:

We would like to request that the zoning of Lots 1 and 2 in Driftwood Plaza be changed from Commercial (C-1) to Residential (R-2) to allow the placement of duplex housing. The duplexes immediately to the north of the site will be the model for the new duplexes. Please find our replies to the submittal checklist you provided to us.

1. We are including a list of property owners within 500' of the properties.
2. The list of mineral owners will be provided at a later date if the zoning change is acceptable to the City of Evans.
3. If the property re-zoning is accepted by the City of Evans, the property will be purchased by Bill Sheel and his plan is to construct duplex housing in a very similar fashion as to the duplexes he constructed and owns on the property adjacent to the north side of the subject property. Mr. Sheel intends to purchase the property as soon as possible if the re-zoning is accepted and proceed with approval processes.
4. Please see the zoning amendment map included.
5. The current property owner is Landings Development LLC, 1707 61<sup>st</sup> Ave Suite 101, Greeley CO 80634
6. The list of severed mineral owners will be provided at a later date if the zoning change is acceptable to the City of Evans.

7. The proposed zoning is contiguous with the property immediately to the north. The property to the west is a very similar R-1 zoning. There is also R-1 zoning to the south west of the property across 37<sup>th</sup> Street. There is over 7 acres of undeveloped commercial zoned lots to the south of the property. There is an additional undeveloped lot east of the property across 23<sup>rd</sup> Avenue that contains almost 2.5 acres. The City will receive the increased property tax values from a residential development that is planned to happen soon, instead of receiving the taxes from undeveloped commercial property that has no immediate plans for development.

8. The legal descriptions for the two lots to be re-zoned are: Lot 1 and Lot 2 Driftwood Plaza Subdivision.

9. A copy of the warranty deed is included

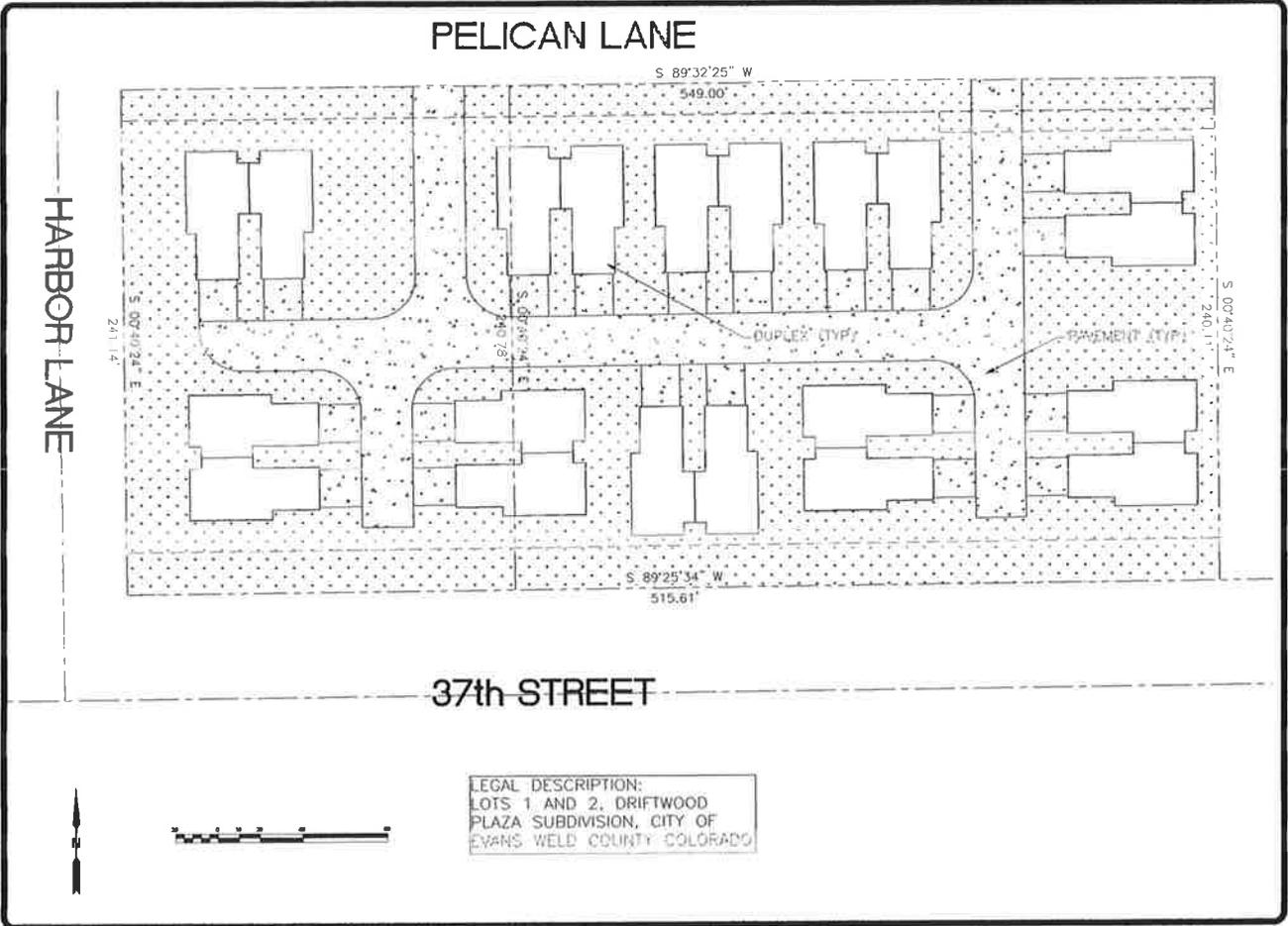
10. A conceptual site plan for the proposed Duplex Housing construction is included.

Please review and let us know if we can provide anything further for your review of this proposed zoning change.

Sincerely,

Eric Wernsman P.E.  
Wernsman Engineering





PELICAN LANE

HARBOR LANE

37th STREET

S 89°32'25" W  
549.00'

S 00°40'24" E  
241.14'

S 00°40'24" E  
240.11'

S 00°40'24" E  
240.11'

S 89°25'34" W  
515.61'

DUPLEX (TYP)

PAVEMENT (TYP)

LEGAL DESCRIPTION:  
LOTS 1 AND 2, DRIFTWOOD  
PLAZA SUBDIVISION, CITY OF  
EVANS WELD COUNTY COLORADO



DATE: 08/14/2024

PROJECT: DRIFTWOOD PLAZA

CONCEPTUAL  
SITE PLAN  
LOT 1 AND 2, DRIFTWOOD PLAZA  
EVANS, CO

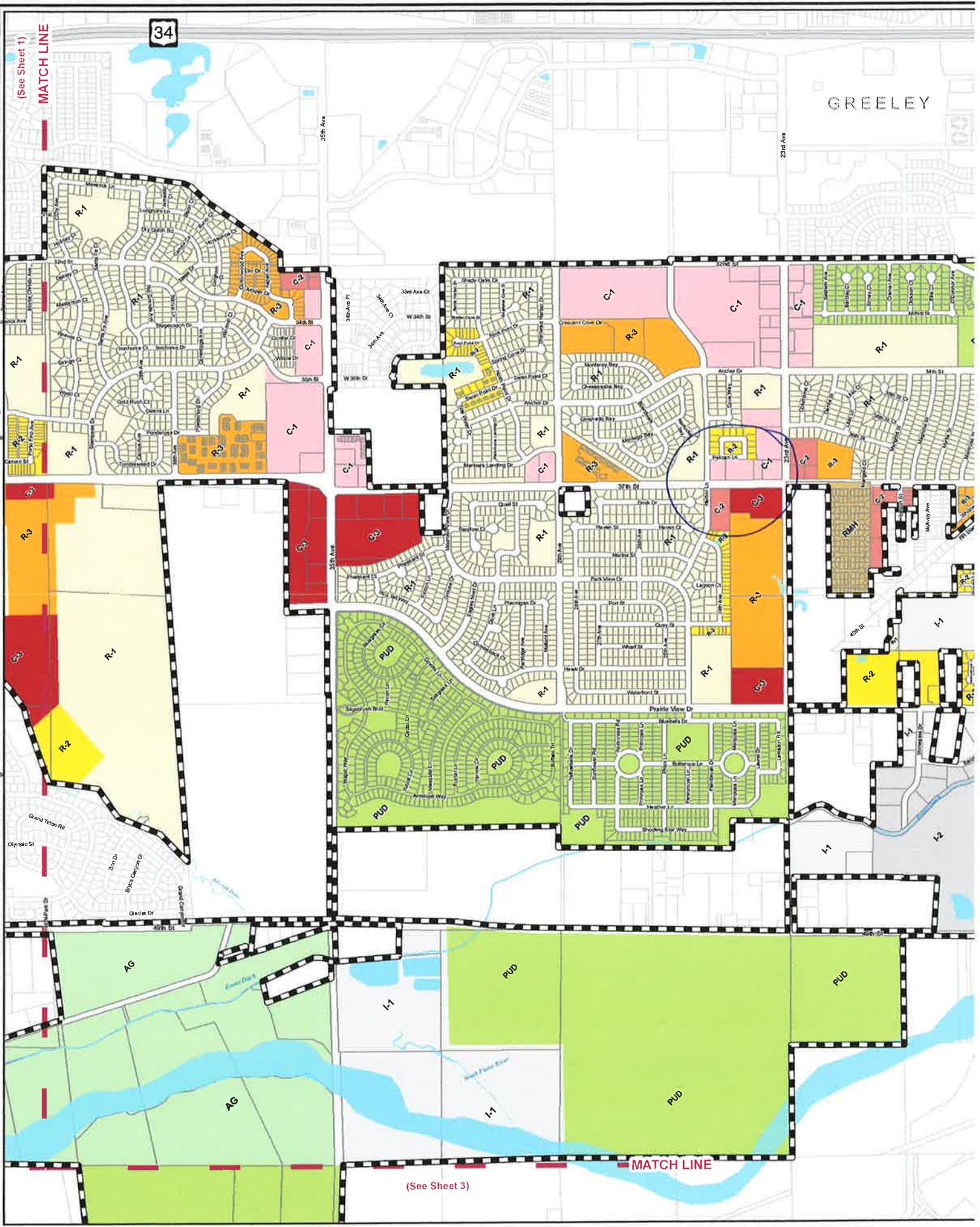
WERNER ENGINEERING  
1000 W. WYOMING  
EVANS, CO 80020  
303.338.4800

DATE	08/14/2024
BY	JW
SCALE	1" = 20'
PROJECT	DRIFTWOOD PLAZA
LOT	LOT 1 AND 2
DATE	08/14/2024

(See Sheet 1)  
MATCH LINE

34

GREELEY



(See Sheet 3)

MATCH LINE



# 2nd Half Coupon

2013 TAXES DUE IN 2014

SCHEDULE #  
R3388605

Return this coupon with payment to:  
WELD COUNTY TREASURER  
P.O. BOX 458  
1400 N 17<sup>th</sup> AVE  
GREELEY, CO 80632-0458

**DO NOT PAY THIS BILL IF YOUR  
MORTGAGE COMPANY WILL MAKE THIS PAYMENT**

035997

82665

TO AVOID PENALTIES AND INTEREST PAY ON OR BEFORE DUE DATE

LANDINGS DEVELOPMENT LLC  
1707 61ST AVE STE 101  
GREELEY, CO 80634-7997

SECOND HALF DUE BY JUNE 16, 2014 \$2,180.54

PAGE 28 OF 36

Retain this portion for your records



WELD COUNTY TREASURER  
P.O. BOX 458  
1400 N 17<sup>th</sup> AVE  
GREELEY, CO 80632-0458

Make Checks Payable To: **WELD COUNTY TREASURER**

POST DATED CHECKS ARE NOT ACCEPTED

## REAL ESTATE TAX NOTICE 2013 TAXES DUE IN 2014

ACCOUNT # R3388605  
PARCEL # 095924418002  
TAX DISTRICT: 0663

AUTHORITY	LEVY	CREDIT	NET LEVY	TAX	VALUATION	ACTUAL	ASSESSED
WELD COUNTY	22.038	5.23400	16.80400	\$862.22	LAND	\$176,944	\$51,310
SCHOOL DIST #6		0.00000	38.17500	\$1,958.76	BUILDINGS/IMPROVE	\$0	\$0
NORTHERN COLORADO WATER (		0.00000	1.00000	\$51.31	PERSONAL	\$0	\$0
EVANS CITY		0.00000	3.53600	\$181.43	TOTAL	\$176,944	\$51,310
EVANS FIRE		0.00000	15.50000	\$795.30	SEN/VET EXEMPTION	\$0	\$0
AIMS JUNIOR COLLEGE		0.00000	6.30200	\$323.35	NET TOTAL	\$176,944	\$51,310
HIGH PLAINS LIBRARY		0.00000	3.26400	\$167.48			
WEST GREELEY CONSERVATION		0.00000	0.41400	\$21.24			
<b>TOTAL</b>			<b>NET LEVY = 84.99500</b>	<b>\$4,361.09</b>	<b>MESSAGES</b>		
			<b>FEE \$0.00</b>		#1 Making a Payment	#2 Delinquent Payments	
			<b>SPECIAL ASSESSMENT \$0.00</b>		#3 Payment Receipt	#4&5 Senior or Vet Exemption	
			<b>GRAND TOTAL \$4,361.09</b>		Email Verification Code: RSNKQC8F		
SB 25 - In absence of State Legislature Funding, your School General Fund mill levy would have been 159.053							
LEGAL DESCRIPTION OF PROPERTY					PAYMENT		
EVS DWP L2 DRIFTWOOD PLAZA					DUE DATE		
PROPERTY LOCATION: 2435 37 ST EVANS 00000000					AMOUNT		
					FIRST HALF	FEBRUARY 28, 2014	\$2,180.55
					SECOND HALF	JUNE 16, 2014	\$2,180.54
					FULL PAYMENT	APRIL 30, 2014	\$4,361.09

The value of your property for 2014 will not change from the values shown on this tax notice unless the Assessor's office sends you a notice of value in May or June, 2014.

LANDINGS DEVELOPMENT LLC  
1707 61ST AVE STE 101  
GREELEY, CO 80634-7997

If you have sold this property, please forward this statement to the new owner or return to this office marked "PROPERTY SOLD".

Please see reverse side of this form for additional information.



# Full Payment or 1st Half Coupon

2013 TAXES DUE IN 2014

SCHEDULE #  
R3388605

1

Return this coupon with payment to:  
WELD COUNTY TREASURER  
P.O. BOX 458  
1400 N 17<sup>th</sup> AVE  
GREELEY, CO 80632-0458

PAGE 28 OF 36

**DO NOT PAY THIS BILL IF YOUR  
MORTGAGE COMPANY WILL MAKE THIS PAYMENT**

LANDINGS DEVELOPMENT LLC  
1707 61ST AVE STE 101  
GREELEY, CO 80634-7997

TO AVOID PENALTIES AND INTEREST PAY ON OR BEFORE DUE DATE

FULL PAYMENT DUE BY APRIL 30, 2014 \$4,361.09  
FIRST HALF DUE BY FEBRUARY 28, 2014 \$2,180.55

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## COUNCIL COMMUNICATION

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**DATE:** July 1, 2014

**AGENDA ITEM:** 7.E

**SUBJECT:** ORDINANCE 596-14 AN ORDINANCE AMENDING SECTION 16.040.170 REGARDING THE VARIANCE PROCESS FOR FLOODPLAIN PERMIT APPLICATIONS TO MAKE SUCH PROCESS CONSISTENT WITH OTHER VARIANCE PROCESSES

**PRESENTED BY:** Scott Krob, City Attorney

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### AGENDA ITEM DESCRIPTION:

In December 2013, the City Council adopted Ordinance 579-13 amending and replacing the City's Flood Damage Prevention regulations, which are contained in Chapter 16.040 of the Evans City Code. Ordinance 579-13 was based primarily on the model Flood Damage Prevention ordinance provided by the Colorado Water Conservation Board (CWCB). Staff has recently discovered that the variance process set forth in the CWCB model ordinance, which was included in Ordinance 579-13, is somewhat different from the variance process set forth in other sections of the Evans City Code, primarily Section 19.58 Variances. The primary difference is that Section 19.58 Variances provides that the Zoning Board of Appeals makes a recommendation to City Council and City Council then makes the final decision, while Ordinance 579-13 provides that the Zoning Board of Appeals makes the final decision and City Council does not consider the matter. Staff believes that the variance process for floodplain permits should be consistent with the variance process for other land use matters. Staff further believes that it is appropriate for City Council to make the final determination of all variances. Proposed Ordinance 596-14 would revise the variance process for floodplain permits as set forth in Section 16.040.170 of the City Code, to make it consistent with the other variances process of the City Code and placing the final decision of whether to grant a floodplain permit variance with the City Council, based on a recommendation of the Zoning Board of Appeals.

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### FINANCIAL SUMMARY:

The adoption of the proposed ordinance should not have any financial impact on the City as it merely revises the process for considering floodplain permit variances.

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### RECOMMENDATION:

Staff recommends adoption of the ordinance as presented.

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### SUGGESTED MOTIONS:

“I move to approve Ordinance No. 596-14.”

“I move to deny Ordinance No. 596-14.”

CITY OF EVANS, COLORADO

ORDINANCE 596-14

AN ORDINANCE AMENDING SECTION 16.040.170 OF THE EVANS CITY CODE  
REGARDING THE VARIANCE PROCESS FOR FLOODPLAIN PERMIT  
APPLICATIONS TO MAKE SUCH PROCESS CONSISTENT WITH OTHER  
VARIANCE PROCESSES

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, the Evans City Code provides processes for seeking variances from certain requirements of the Code, and

**WHEREAS**, variances are governed primarily by the provisions of Chapter 19.58 of the Code; and

**WHEREAS**, Chapter 19.58 sets forth a process in which a variance request is initially heard by the Zoning Board of Appeals, which makes a recommendation to City Council. The City Council then conducts a public hearing and makes the final determination of whether the variance should be granted; and

**WHEREAS**, the City Council recently adopted Ordinance 579-13, amending Chapter 16.040, the City's Flood Damage Prevention regulations; and

**WHEREAS**, Ordinance 579-13 was based in large part on a model ordinance provided by the Colorado Water Conservation Board (CWCB); and

**WHEREAS**, the variance procedure set forth in the CWCB's model ordinance and as adopted in Section 16.040.170 of Ordinance 579-13, provides a variance process that differs from the City's variance process as set forth in Section 19.58 of the City Code and does not vest the final decision in the City Council, and

**WHEREAS**, the City Council concludes that variances from the requirements of the City's Flood Damage Prevention regulations should follow the same process as other variances under Section 19.58 and should vest the final decision in the City Council.

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

1. Section 16.040.170 shall be deleted and replaced in its entirety with the following:  
(Stricken through language is deleted and underlined language is added)

**SECTION 16.040.170. VARIANCE PROCEDURES**

- A. Requests for variances from the requirements of this ordinance shall be heard and determined ~~by the Zoning Board of Appeals of the City of Evans. The timing and process for seeking a variance from the Zoning Board of Appeals shall be that~~ using the process set forth in Chapter 19.58 of the Evans Municipal Code, except as modified in this Section.
- ~~B. The Zoning Board of Appeals shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.~~
- ~~C. Any person or persons aggrieved by the decision of the Zoning Board of Appeals may appeal such decision in the courts of competent jurisdiction.~~
- ~~DB.~~ The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA upon request.
- ~~EC.~~ Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in Chapter 19.58 or the procedures set forth in the remainder of this ordinance.
- ~~FD.~~ Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in this Ordinance have been fully considered.
- ~~GE.~~ Upon consideration of the factors noted above in this section and the intent of this ordinance, the ~~City Council Zoning Board of Appeals~~ may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in 16.040.030.
- ~~HE.~~ Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

~~IG.~~ Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

~~IH.~~ Prerequisites for granting variances:

- i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- ii. Variances shall only be issued upon:
  - a. Showing a good and sufficient cause, and
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

~~d. Variances can only be approved with the vote of a supermajority of both the Zoning Board of Appeals and City Council. Such supermajority shall consist of seventy five percent (75%) of the positions filled as of the time the matter is considered by each respective body.~~

- iii. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

~~II.~~ Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:

- i. The criteria outlined herein are met, and
- ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional

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or invalid.

3. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

**INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 1<sup>st</sup> DAY OF JULY, 2014.**

**ATTEST: CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor

**PASSED AND ADOPTED ON A SECOND READING THIS \_\_\_ DAY OF \_\_\_\_\_, 2014.**

**ATTEST: CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor

CITY OF EVANS, COLORADO

ORDINANCE 596-14

AN ORDINANCE AMENDING SECTION 16.040.170 OF THE EVANS CITY CODE REGARDING THE VARIANCE PROCESS FOR FLOODPLAIN PERMIT APPLICATIONS TO MAKE SUCH PROCESS CONSISTENT WITH OTHER VARIANCE PROCESSES

**WHEREAS**, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

**WHEREAS**, the Evans City Code provides processes for seeking variances from certain requirements of the Code, and

**WHEREAS**, variances are governed primarily by the provisions of Chapter 19.58 of the Code; and

**WHEREAS**, Chapter 19.58 sets forth a process in which a variance request is initially heard by the Zoning Board of Appeals, which makes a recommendation to City Council. The City Council then conducts a public hearing and makes the final determination of whether the variance should be granted; and

**WHEREAS**, the City Council recently adopted Ordinance 579-13, amending Chapter 16.040, the City's Flood Damage Prevention regulations; and

**WHEREAS**, Ordinance 579-13 was based in large part on a model ordinance provided by the Colorado Water Conservation Board (CWCB); and

**WHEREAS**, the variance procedure set forth in the CWCB's model ordinance and as adopted in Section 16.040.170 of Ordinance 579-13, provides a variance process that differs from the City's variance process as set forth in Section 19.58 of the City Code and does not vest the final decision in the City Council, and

**WHEREAS**, the City Council concludes that variances from the requirements of the City's Flood Damage Prevention regulations should follow the same process as other variances under Section 19.58 and should vest the final decision in the City Council.

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

1. Section 16.040.170 shall be deleted and replaced in its entirety with the following:  
(Stricken through language is deleted and underlined language is added)

**SECTION 16.040.170. VARIANCE PROCEDURES**

- A. Requests for variances from the requirements of this ordinance shall be heard and determined using the process set forth in Chapter 19.58 of the Evans Municipal Code, except as modified in this Section.
- B. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA upon request.
- C. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in Chapter 19.58 or the procedures set forth in the remainder of this ordinance.
- D. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in this Ordinance have been fully considered.
- E. Upon consideration of the factors noted in this section and the intent of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in 16.040.030.
- F. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- G. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- H. Prerequisites for granting variances:
  - i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - ii. Variances shall only be issued upon:
    - a. Showing a good and sufficient cause, and

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

iii. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

I. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:

- i. The criteria outlined herein are met, and
- ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

3. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

**INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL  
OF THE CITY OF EVANS ON THIS 1<sup>ST</sup> DAY OF JULY, 2014.**

**ATTEST:**

**CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor

**PASSED AND ADOPTED ON A SECOND READING THIS 15<sup>TH</sup> DAY OF JULY, 2014.**

**ATTEST:**

**CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor

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## CITY COUNCIL COMMUNICATION

---

**DATE:** July 1, 2014

**AGENDA NO.:** 7.F

**SUBJECT:** Resolution No. 19-2014 – Adjustment of Sewer Rates and System Development Charges for the Evans Wastewater Utility Enterprise

**PRESENTED BY:** Fred Starr, Director of Public Works

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### AGENDA ITEM DESCRIPTION:

The attached Resolution proposes an increase to the Sanitary Sewer Rates for the Evans Wastewater Utility Enterprise. The resolution is proposing an increase in both the “Base Fees” and Sewer Usage Rates, to reflect the recommendation of City Council, to begin the initial funding of needed improvements to the City of Evans Wastewater treatment plant operations and to provide for adequate funding for ongoing operations and maintenance activities.

As a result of flood damage to the Evans Wastewater treatment plant and the need to increase treatment capacity and meet upcoming regulatory requirements, the City of Evans will need to make improvements to our wastewater treatment system. Improvements include the consolidation of our current treatment facilities into one location at the existing Hill and Park treatment plant site allowing the City to meet both capacity and water quality requirements while benefitting from the efficiency of operating only one treatment plant.

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### FINANCIAL SUMMARY:

The monthly user fee for all Class I customers will increase from the current \$11.65 to \$15.73.

The monthly user fee for all Class II, II and IV customers will increase from the current \$5.35 to \$7.22. In addition, for Class II, II and IV customers, the treatment costs as proposed in the Resolution reflect a 35% increase in the rate.

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### RECOMMENDATION:

Staff and the Water and Sewer Board recommend adoption of the Resolution.

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### SUGGESTED MOTIONS:

- \* *I move to approve Resolution No. 19-2014.*
  - \* *I move to deny approval of Resolution No. 19-2014.*
-

CITY OF EVANS, COLORADO

RESOLUTION 19-2014

A RESOLUTION ESTABLISHING SEWER RATES AND SYSTEM DEVELOPMENT FEES FOR USE OF THE SANITARY SEWER SYSTEM OF THE CITY OF EVANS, COLORADO

WHEREAS, the City Council is authorized to set, by Resolution, rates for the use of the Evans Sanitary Sewer System; and

WHEREAS, the Water and Sewer Board has reviewed the costs of operation, repairs and replacements, capital improvements, and future plant expansion; and

WHEREAS, the Water and Sewer Board found that existing usage rates and System Development Fees are not sufficient to cover current costs of necessary capital improvements or system maintenance; and

WHEREAS, the Water and Sewer Board has recommended increases to the usage rates and Sewer System Development fees.

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

Section 1. Sewer Usage Rates.

A. Effective July 1, 2014, the sewer rates for the use of the City of Evans Sanitary Sewer shall be as follows:

Class I. Residential Sanitary Sewer Rates. Single family units, multi-family units, and mobile home parks shall be assessed \$15.73 per residential living unit per month.

Class II. Commercial Rates. Applicable to schools, churches, warehouses, offices, and manufactured home communities served by a common tap, shall be assessed \$7.22 per water tap per month plus \$1.60 per 1,000 gallons of water used per month. If the commercial customer waters a lawn of 18,000 square feet or more using metered water, the sewer charge to that customer shall be calculated on the current year's first quarter water usage.

Class III. Commercial Rates. Applicable to beauty shops, barber shops, bars/taverns, service stations (excluding wash racks), vehicle and equipment repair facilities, and motels without dining facilities shall be assessed \$7.22 per water tap per month plus \$1.70 per 1,000 gallons of water used per month. If the commercial customer owns and waters a lawn of 18,000 square feet or more using metered water, the sewer charge to that customer shall be calculated on the current year's first quarter water usage.

Class IV. Commercial Rates. Applicable to restaurants, motels/hotels with dining facilities, office buildings with dining facilities, grocery stores with food processing, Laundromats (excluding dry cleaning) carwashes and truck washes shall be assessed \$7.22 per water tap per month plus \$3.30 per 1,000 gallons of water used per month. If the commercial customer owns and waters a lawn of 18,000 square feet or more using metered water, the sewer charge to that customer shall be calculated on the current year's first quarter water usage.

Class V. Commercial Rates. Any other facility or commercial use not listed or with special and unique types of discharge shall have their rates set by the Water and Sewer Board with final approval by the City Council.

Class VI. Non-Resident Rates. The rates for service to properties outside the Evans City Limits shall be 150% of the appropriate rate provided for Class I through IV.

A. Multiple User Tap

Any tap providing multiple usage shall be billed for all usage at the rate applicable to the highest class of user.

Section 2. Sewer System Development Fees

A. Effective January 1, 2014, Sewer System Development Fees are hereby fixed, imposed, and levied upon any owner, lessee or user of the sanitary sewer within the limits of the City of Evans except where more than one residential living unit will be served by the tap then subsection B of this section shall apply. The fees imposed shall be computed by reference to the diameter of the water tap used to provide water service.

<b>Water Tap Size</b>	<b>Meter Equivalent</b>	<b>Inside City Sewer System Development Fee</b>	<b>Outside City Sewer System Development Fee</b>
3/4"	1	\$3,915.83	\$5,873.75
1"	1.67	\$6,539.44	\$9,809.17
1 1/2"	3.33	\$13,039.73	\$19,559.59
2"	5.33	\$20,871.40	\$31,307.10
3"	10.67	\$41,781.95	\$62,672.93
4"	16.67	\$65,276.96	\$97,915.44
6"	33.33	\$130,514.76	\$195,772.15
8"	53.33	\$208,831.45	\$313,247.18
10"	126.67	\$496,018.76	\$744,028.14
12"	166.67	\$652,652.14	\$978,978.21

(2) SFRE Ratio - Single Family Residential Equivalent Ratio, based on AWWA M22; Sizing Water Service Lines & Meters

B. Where more than one residential living unit is proposed to be served by a single tap, the system development fee inside City limits shall be based on the number of living units multiplied by \$2,741 (70% of the inside ¾ inch tap size system development fee) or the system development fee

as provided in Subsection A for this section, whichever is greater.

Where more than one residential living unit is proposed to be served by a single tap the system development fee outside City limits shall be based on the number of living units multiplied by \$4112 (70% of the outside ¾ inch tap size system development fee) or the system development fee as provided in Subsection A for this section, whichever is greater.

C. If the primary or only purpose of a water tap is to provide protection from fire, the diameter of that tap shall not be considered in fixing the system development fee for sanitary sewer service, but rather the fee shall be set by reference to the diameter of any separate water tap which is used to provide regular domestic water service to the parcel, or if no such separate tap exists, then by reference to the diameter that the water tap would have been had there been no over-sizing because of fire protection requirements.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 1st day of July, 2014.

CITY OF EVANS, COLORADO

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

ATTEST:

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

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## CITY COUNCIL COMMUNICATION

---

**DATE:** July 1, 2014

**AGENDA ITEM:** 7.G

**SUBJECT:** Resolution No. 20-2014 Supporting a Grant Application from the State Board of The Great Outdoors Colorado

**PRESENTED BY:** Scott Sandridge, Parks & Grounds Superintendent & Kristen Debo, Recreation Coordinator

**PROJECT DESCRIPTION:** The City of Evans has requested \$180,250 from Great Outdoors Colorado to conduct an update to our current Parks Master Plan for a feasibility and planning study for Riverside Park and trail restoration. Due to the recent and severe flooding, Riverside Park was fully destroyed. Since the park began in 1991, the City has grown and expanded, and our residents have changed as well.

The City has asked for assistance from GOCO to update the existing Park Master Plan for two main purposes: the first is to conduct a needs study of our citizens and find out what they need in a park/recreational system. Once that is complete, we will ask the consultant to then determine where those components should be located in the City. For example, if a recreational need is a bowling alley, should that bowling alley be constructed in the existing space of Riverside Park or in another location? The other portion of the funding from this grant would cover the 12.5% match the City is required to pay to restore the trails in the park.

The grant does require a 25 % cash match for the projects. The funding obligated by FEMA will count as the City match. No funding will be required from the City.

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### STAFF RECOMMENDATION:

The City of Evans staff recommends that the City Council approve the application for requesting \$180,250 from Great Outdoors Colorado to conduct an update to the Parks Master Plan focusing on a feasibility study and planning process for the restoration of Riverside Park and trail repairs.

---

### SUGGESTED MOTIONS:

I move to approve Resolution No. 20-2014 supporting the grant application requesting \$180,250 from Great Outdoors Colorado to conduct a feasibility study and planning process for the restoration of Riverside Park and trail repairs.

I move to deny Resolution No. 20-2014 supporting the grant application requesting \$180,250 from Great Outdoors Colorado to conduct a feasibility study and planning process for the restoration of Riverside Park and trail repairs.

CITY OF EVANS

RESOLUTION 20-2014

SUPPORTING THE GRANT APPLICATION FOR A LOCAL PARKS AND  
OUTDOOR RECREATION PLANNING FROM THE STATE BOARD OF THE  
GREAT OUTDOORS COLORADO TRUST FUND FOR THE RIVERSIDE PARK  
AND OPEN SPACE RECOVERY PLAN AND TRAIL RESTORATION.

WHEREAS, the City of Evans is requesting \$180,250 from Great Outdoors Colorado to the Riverside Park and Open Space Recovery Plan and trail restoration to damaged segments caused by the 2013 flood , and

WHEREAS, Great Outdoors Colorado requires that the City Council of the City of Evans state its support for the Great Outdoors Colorado grant application for the Riverside Park and Open Space Recovery Plan and trail restoration.

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

- Section 1: The City Council of the City of Evans strongly supports the application and has appropriated matching funds for a grant with Great Outdoors Colorado for the Riverside Park and Open Space Recovery Plan and trail restoration.
- Section 2: The City Council of the City of Evans acknowledges that the grant application includes matching funds which City of Evans is solely responsible to provide if a grant is awarded.
- Section 3: The City Council of the City of Evans will secure those matching funds and authorizes the expenditure of funds necessary to meet the terms and obligations of any Grant awarded.
- Section 4: This resolution is to be in full force and effect from and after its passage and approval.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 1st day of July, 2014.

ATTEST:

CITY OF EVANS, COLORADO

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

\_\_\_\_\_  
Mayor

**City Manager  
Monitoring Report  
July 01, 2014**

*Below is a compellation of updates and projects that are either new or have changed since the last City Council meeting.*

• **COMMUNICATIONS**

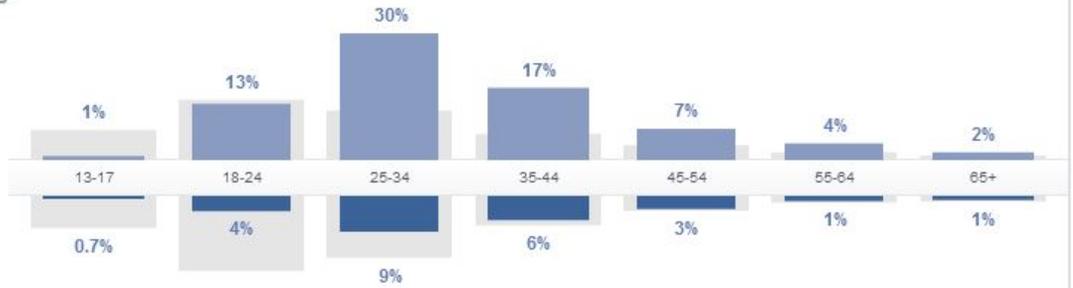
The people who like your Page

Women

**75%** Your Fans  
**46%** All Facebook

Men

**24%** Your Fans  
**54%** All Facebook



Country	Your Fans
United States of America	2,715
Pakistan	10
Mexico	5
Guatemala	1
Singapore	1
Ireland	1
Turkey	1
Nigeria	1
Argentina	1
United Kingdom	1
Germany	1

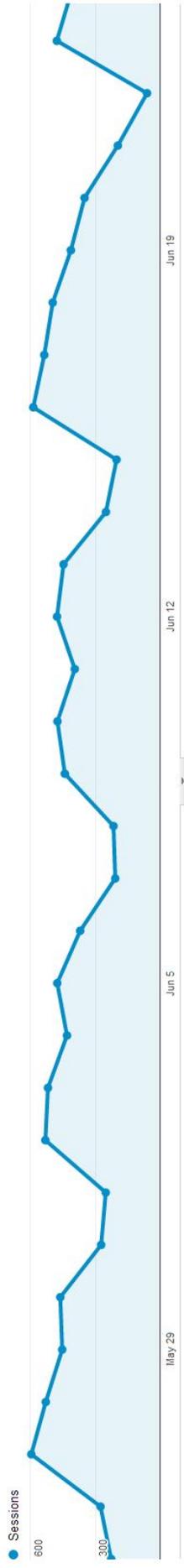
City	Your Fans
Greeley, CO	1,394
Evans, CO	696
Denver, CO	90
Fort Collins, CO	44
Windsor, CO	40
Loveland, CO	31
Eaton, CO	22
Kersey, CO	22
La Salle, CO	21
Longmont, CO	17
Johnstown, CO	11
Milliken, CO	11
Karachi, Sindh, Pakistan	10
Platteville, CO	10
Fort Morgan, CO	8

Language	Your Fans
English (US)	2,647
English (UK)	48
Spanish	34
Spanish (Spain)	7
French (France)	1
Turkish	1

Overview

Sessions vs. Select a metric

Hourly Day Week Month



Sessions **12,000**

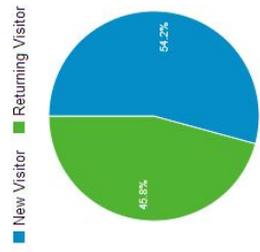
Users **8,120**

Pageviews **33,250**

Pages / Session **2.77**

Avg. Session Duration **00:02:22**

Bounce Rate **42.52%**



% New Sessions **54.22%**

Demographics

Language	Sessions	% Sessions
1. en-us	11,674	97.28%
2. en	180	1.50%
3. en-gb	24	0.20%
4. es-es	16	0.13%
5. es-419	13	0.11%
6. es-us	9	0.08%
7. pt-br	9	0.08%
8. en_us	7	0.06%
9. es-mx	6	0.05%
10. ko-kr	5	0.04%

[view full report](#)

■ Reach: Organic / Paid ▼
■ Post Clicks ■ Likes, Comments & Shares ▼

Published ▼	Post	Type	Targeting	Reach	Engagement	Promote
06/24/2014 12:23 pm	 Tomorrow is Bike to Work Day! Give your legs a rest at a Breakfast Station between 6-8:30 am There are			264 <span style="color: orange;">■</span>	20 14	<a href="#">Boost Post</a>
06/23/2014 4:16 pm	 June 21 (Saturday) marked the 2014 Summer Solstice - the longest day of the year. Prudhoe Bay,			389 <span style="color: orange;">■</span>	21 18	<a href="#">Boost Post</a>
06/20/2014 4:24 pm	 Thunderstorms are expected this weekend. Be sure to have a plan in place to stay safe during all of your			272 <span style="color: orange;">■</span>	4 10	<a href="#">Boost Post</a>
06/19/2014 3:28 pm	 Congratulations to Hue Salon on their Grand Opening at 2913 37th Street! The Evans Area			1.3K <span style="color: orange;">■</span>	9 105	<a href="#">Boost Post</a>
06/18/2014 1:53 pm	 Next Wednesday is Bike to Work Day! Start a new, healthy lifestyle and stop for some breakfast on your			921 <span style="color: orange;">■</span>	34 33	<a href="#">Boost Post</a>
06/17/2014 3:02 pm	 Weld County has tested positive for mosquitoes with West Nile Virus. This means the City of Evans			1.6K <span style="color: orange;">■</span>	120 93	<a href="#">Boost Post</a>
06/16/2014 10:12 am	 This week's City Council Meeting is being held tonight, due to the Colorado Municipal League			499 <span style="color: orange;">■</span>	12 2	<a href="#">Boost Post</a>
06/12/2014 11:17 am	 Tomorrow is the LAST day for you to win a \$50 Visa card! Submit a name for the new Evans electronic			1K <span style="color: orange;">■</span>	88 10	<a href="#">Boost Post</a>
06/11/2014 2:26 pm	 Don't miss out - sign up today!			367 <span style="color: orange;">■</span>	9 5	<a href="#">Boost Post</a>
06/10/2014 2:46 pm	 On this day in 1752, Benjamin Franklin flies a kite during a thunderstorm and collects a charge in a			587 <span style="color: orange;">■</span>	27 8	<a href="#">Boost Post</a>
06/09/2014 5:34 pm	 Evans resident Margarita Quintana is the recent winner of the Make TODAY Count Challenge!			539 <span style="color: orange;">■</span>	13 8	<a href="#">Boost Post</a>
06/06/2014 2:41 pm	 Weather updates, including Tornado Warnings and Severe Thunderstorm Warnings continue to go out.			1.2K <span style="color: orange;">■</span>	0 14	<a href="#">Boost Post</a>
06/06/2014 2:01 pm	Please take cover in a low lying area and monitor your local news stations for updates.			3.9K <span style="color: orange;">■</span>	978 31	<a href="#">Boost Post</a>
06/06/2014 12:41 pm	 Even though we are expecting rain this weekend, water levels in the South Platte River have been			1.4K <span style="color: orange;">■</span>	109 32	<a href="#">Boost Post</a>

- **ECONOMIC DEVELOPMENT**

### Project Updates

**Library Project:** The Library opening has been delayed a few weeks due to cold weather and some sub-contractor (framing) issues. It is set to be completed in August, with an opening date of mid – September. We plan on hosting a few celebrations, so stay tuned! We will have the Library, a police substation, a coffee shop, a museum/history component, large meeting rooms to seat close to 400, a large board room, and an office space for our economic development partners to use. Outdoor amenities include an open amphitheater (movies and music ready), a playground, small community garden, area for a Farmer’s Market (likely to open in 2015), and a bus stop for GET and School District 6. Feel free to stop by the construction site and take a peek!

**Shop Local Program:** The final logo is under review by communications staff, and the letters are set and ready to be sent by July 15 to all area businesses. The newly revamped website is up and running and we will add logos, photos and coupons as they come in. We would like everyone to join by the end of August so that we can use September/October to market, and the entire month of November to release ads and encourage people to Shop in Evans! We intend to order decals, bags, and other marketing “gear” to help get the word out.

**Farmer’s Market:** Due to the delay in the completion of the Library (the location of the Farmer’s Market) we will likely open in 2015. However, we will use the remainder of this year, with our newly hired contract Farmer’s Market Manager, to promote the Evans Farmer’s Market, send out notices and marketing material, and hopefully host a day long market after the Library opens - likely in late September or early October to hit the last of the growing season.

**Murals:** The Weld County community health campaign--Make TODAY Count!-- is sponsoring an Evans community mural projects throughout the community this summer, and They need your help! We are planning on asking them to paint a few buildings in Historic Evans (the restroom and storage at City Park, the old Fire Station, perhaps others). They are looking for community members to help come up with themes for the mural and to be involved with the painting—no experience necessary! They painted their first mural a few weeks ago—here is a blog post about it: <http://www.greeleyunexpected.com/blog/community-mural-project-8th-ave-22nd-st-greeley-high-school-students>.

### Long Range Planning Updates

**Historic Evans Master Plan:** Matrix will meet with the Recovery Task Force on Thursday, June 26<sup>th</sup> to begin the process of the Master Plan. Their timeline is headed for a completion date of spring of 2015, but may need to be adjusted based on information and community input. Their first step will be to gather information about stakeholders, coordinate public meetings with our other master planning projects, and work with the Task Force to get input and information. We will be running parallel timing and tracking with our other master plans and related projects such as an historic building inventory and a technical assessment of a potential downtown location.

**Riverside Park Master Plan:** THK has started their process, which will likely be complete in November. FEMA (fortunately) extended their deadline for an alternate procedure (replacing the same functions that were destroyed in the flood, but maybe not in the same manner or in the same location). THK was given three tasks: to develop an inventory of existing park and recreational assets, to determine from a citizen survey and other information what facilities and assets are needed and wanted in Evans, and to then recommend a location and priority for each of those functions.

**South Platte River Master Corridor Plan:** This grant from CWCB was awarded to the City, but we have not yet accepted it due to staffing resources. We have applied for a CDBG DR grant to allow for some planning staff that would then help manage this grant, which is an engineering/water study of the South Platte from the St. Vrain down to the influx of the Poudre River.

**South Platte River Master Plan:** This is the plan we started before the flood that has been delayed (not only due to the flood but due to some personal medical issues). We hope to get it back on track on June 26<sup>th</sup> with a presentation to the Task Force, and hold a River Summit on July 18<sup>th</sup> and July 19<sup>th</sup>.

**Trails:** The City did receive a grant to replace damaged trail systems (along with the FEMA reimbursement for damage) and, while this does depend on a number of other decisions, a new trail

system could be constructed this fall. Those other decisions involve the trash underneath the trail location, the berm and what repairs might be necessary, and the actual construction content of the trail (Concrete? Crusher fines? Other surfacing?)

### Retail Strategy

The conference in Las Vegas was a great opportunity for the City. We met with several major retailers to update them on our plans for the highway 85 corridor. Those meetings have since resulted in some on site visits from retailers. The last 4 years are starting to pay off!!! (Patience is certainly a virtue in economic development). We have also had some independent interest from retailers which is indicative that the economy is starting to revive.

### Urban Renewal

**Highway 85 Plan Area:** The Master Plan, adopted in February, is in place and we are working on specific zoning language to present to the City Council in July and August of this year. We are also working on a Project Description for what types of urban renewal the Evans Redevelopment Agency will support in the corridor.

**Historic Evans Plan Area:** This is being driving by the Master Plan (see information on Matrix Consulting above). There may be a few projects, such as multi-family housing, that the ERA could support in the areas most affected by the flood while we go through the process.

### Leadership 2.0

Six members of Leadership 2.0 met on Economic Development for 4 hours on May 13<sup>th</sup>. Our final meeting was on June 28<sup>th</sup>, and each team member presented information on economic development that they were asked to research.

### Sales Tax Update

Category	2013 YTD	2014 YTD	% Change
Base	489,171	689,744	41%
Commercial	574,233	623,652	9%
Industrial	486,489	973,674	100%
Utilities	261,353	253,611	-3%

Please remember this preliminary update does not include motor vehicle as we will get those in the next two weeks from the County.

As far as the monthly projection goes, we are \$159,275 ahead of what we needed to collect this month to meet our annual budget.

## Building Activity

Project	Type	Location	Staff Assigned	Contact Info	Status	Date Submitted	Date Due/ Expires	Notes
Cave Creek Phase III	PUD Amendment	35 <sup>th</sup> and Prairie View Drive	Sean	970.475.1167 <a href="#">Email</a>	Ready for Hearing	March 18	March 25	City Council July 1
CDOT	Site Plan	1004 42 <sup>nd</sup> St (Lot to the south)	Zach	970.475.1111 <a href="#">Email</a>	Site Plan In			Development Agreement in Limbo
Prairie Heights Middle School	Const. Drawings	3737 65 <sup>th</sup> Ave	Dawn	970.475.1160 <a href="#">Email</a>	Finalizing	2/21/14	3/11/14	On Hold
Evans Industrial Park LLA	Lot Line Adjust/Site Plan	4650 Industrial Parkway	Sean	970.475.1167 <a href="#">Email</a>	Under Review	3/21/14	4/8/14	DeJohn
1st and 31 <sup>st</sup>	Annex and Zone	SE Corner of 1 <sup>st</sup> Ave and 31 <sup>st</sup> St	Zach/Sean	970.475.1167 <a href="#">Email</a>	Pre Application	11/5/13	5/5/14	Expired
Fast Break Restaurant	Addition of Use	1100 42 <sup>nd</sup> St	Sean	970.475.1167 <a href="#">Email</a>	Pre Application	11/14/13	5/14/14	Expired
Energes Services	Site Conversion. Fun Center	1112 40 <sup>th</sup> St	TBD		Pre Application	11/12/13	5/12/14	In Violation
Moser Property	Former Auto Dealer / Vacuum Shop	2800 11 <sup>th</sup> Ave	Sean	970.475.1167 <a href="#">Email</a>	Pre Application	11/19/13	5/19/14	Expired
Driftwood Commercial	Rezone & Land Use Amend	2485 and 2435 37 <sup>th</sup> St	Sean	970.475.1167 <a href="#">Email</a>	Under Review	3/25/14	4/8/14	City Council July 1
Bonanza Creek	Comm Tower (USR)	4301 Industrial	Sean	970.475.1167 <a href="#">Email</a>	Ready for Hearing	2/17/14	8/17/14	City Council July 1
Sorin Wells	USR – Oil		Sean	970.475.1167	Comments	2/27/14	3/18/14	City Council July 1

	and Gas			<a href="#">Email</a>	Due Mar 18			
Meraz MFG Home	Pre-App	37 <sup>th</sup> and Pueblo (SE Corner)	Sean/Zach	970.475.1167 <a href="#">Email</a>	Pre-App	03/12/14	04/01/14	Will require public improvements on Pueblo, no MFG home allowed per zoning
Varco	Variance	4000 Carson Ave	Sean	970.475.1167 <a href="#">Email</a>	Under Review	6/2014	07/08/14	Variance App IN
Moser Crematorium	Code Amend	Commercial Zones	Sean	970.475.1167 <a href="#">Email</a>	In Process			Sean Doing Code Language Amend
Behring Property	Pre-App	120 37 <sup>th</sup> St	Sean	970.475.1167 <a href="#">Email</a>	New	5/13/14	11/13/14	RV Park for Oil Workers

## New Business Licenses

Business/Doing Business As		Phone	Address		NOB
A Better Job Inc	A Better Job Inc	Busn 970-302-0401	38515 WCR 41	Eaton, CO 80615	General Contractor
Betty Woodard and Chuck Woodard	Abundant 365 Naturals, LLC	Busn 970-590-1079	2621 Montego Bay	Evans, CO 80620	Handcrafted soap and body care products.
Carefree Ice LLC	Carefree Ice LLC	Busn 303-263-5041	932 Zodo Avenue	Erie, CO 80516	Lease commercial Ice Machines to Bars, Restaurants, Schools, etc.
Grace Royal Inc.	CONOCO Fast Break	Busn 970-339-4556	1100 42nd Street	Evans, CO 80620	Sales of Gasoline, lottery, tobacco, cigarette, milk, food
Generator Service Professionals LLC	Generator Service Professionals LLC	Busn 303-349-4718	3210 Lupton Avenue	Evans, CO 80620	Emergency Generators
Greeley Auto Spa & Signs	Greeley Auto Spa & Signs	Busn 402-669-6842	3620 35th Avenue #5	Evans, CO 80620	Window Tinting
La Fiesta LLC	La Fiesta LLC	Busn 970-353-0664	2812 11th Avenue	Evans, CO 80620	Restaurant
Michael Eugene Sheetz	Mishe Construction	Busn 970-405-5491	3604 Tidewater Drive	Evans, CO 80620	Remodel, construction
Elizabeth Garcia, Ana Fuentes	Reliable Insurance	Busn 970-928-8317	3609 Idaho Street Unit A	Evans, CO 80620	Insurance
Rexel, Inc.	Rexel, Inc.	Busn 972-308-1802	14951 Dallas Parkway	Dallas, TX 75254	Wholesale and retail of Datacom and Electrical Supplies
Roberts Lighting Service Inc.	Roberts Lighting Service Inc.	Busn 307-640-1112	6002 US Hwy 30	Cheyenne, WY 82001	Sign Install and Service
The Resident Expert Inc	The Resident Expert Inc	Busn 720-295-7391	18121 C East Hampden Avenue	Aurora, CO 80013	Roofing Services
TLM Constructors, INC.	TLM Constructors, INC.	Busn 970-346-8323	3000 W. F Street	Greeley, CO 80631	Bridge Maintenance, Rehab and Repair
Quality Roofing by Petitt Inc	Quality Roofing by Petitt Inc	Busn 970-310-3467	235 Hopkins CT	Loveland, CO 80537	Roofing

<b>Jeff Holand</b>	Guardian Roofing LLC	Busn	303-828-4236	443 Webber Ct.	Erie, CO 80516	Re-roofing
<b>Majestic Exteriors LLC</b>	Majestic Exteriors LLC	Busn	303-325-7652	225 Union Blvd Suite # 150	Lakewood, CO 80228	Exterior Construction
<b>Atlas Oil Company</b>	Atlas Oil Company	Busn	313-662-3500	24501 Ecorse Rd.	Taylor, MI 48180	Transportation/Distribution of Petroleum Products
<b>Adrian Trevizo</b>	Tornado Roofing LLC	Busn	970-581-1453	4315 Mariposa Ln	Evans, CO 80620	Roofing
<b>Dave Stefanich, Incorporated</b>	All Demolition Excavating Company	Busn	303-456-6056	6300 W 49th Drive	Wheat Ridge, CO 80033	Demolition, Excavation, New Water & Sewer Installation
<b>The Tire Rack, Inc.</b>	The Tire Rack, Inc.			9690 East 40th Avenue	Denver, CO 80238	Distribution of tires, wheels and auto accessories
<b>Pooh Corner RE</b>	Pooh Corner Electric	Busn	303-915-3855	69 Pooh Corner	Idaho Springs, CO 80452-9782	Electrical Contracting
<b>Swire Pacific Holdings Inc.</b>	Swire Coca-Cola, USA	Busn	303-371-3888	9900 E 40th Avenue	Denver, CO 80238-5009	Wholesale distributor of Coca-Cola products and the like, vend mach, operator
<b>Karen J Thomason</b>	Karen J Thomason	Busn	970-396-1044	1601 39th Street	Evans, CO 80620	Running errands for people
<b>Kenneth R Smith</b>	Randy's Tower Service	Busn	620-629-1712	1115 County Road 16	Rolla, KS 67954	Telecommunications Tower Service
<b>Another Towing Company, Inc</b>	Another Towing Company, Inc	Busn	970-353-3690	119 6th Avenue	Greeley, CO 80631	Towing and Roadside Services

- **PUBLIC WORKS**

**Engineering**

- We are in the process of finalizing locations for annual concrete replacement and asphalt patch projects.
- Management and inspection of PHMS offsite improvements – begins today. Road closure updates will be communicated.
- Finalizing contract documents for the 37<sup>th</sup> Street Storm Drain – Phase II project.

**Operations:**

- All Non-Potable Water systems operational at this time.
- We have completed the June mosquito spraying procedure as of this morning. At this time the schedule for spraying will be the last two weeks of each month. One week we will be spraying from 1<sup>st</sup> Ave to 23 Ave, the second week will be from 23<sup>rd</sup> Ave west.

**Community Development**

- An RFP for abatement services will be ready for issuance this week.
- Cave Creek has submitted about 50 modular home placement permits for their third phase.
- A permit has been received for a second tenant finish permit in the commercial center at 37<sup>th</sup> Street and 29<sup>th</sup> Ave.

**Waste Water:**

- Apparatus for the temporary lab have been ordered (the big ticket item is the incubator).
- Drained and cleaned out Evans WWTP chlorine contact chamber, removed the normal amount of sludge plus 2-4 inches of flood silt that had settled to the bottom.

**Parks:**

- Normal maintenance operations for parks maintenance, mowing, irrigation, and forestry.
- Eve Murphy donated trees to the Dog Park for the small dog park area.
- THK has begun working on the Riverside Master Plan.
- B&B should have the fence repairs at the Cemetery and Complex completed this week.
- Trees at City Park are having a safety trim done in the next few weeks.
- We will begin mowing Riverside Park as soon as our mower is repaired. We will spray the weeds after the mowing is complete.

- **POLICE DEPARTMENT**

PLEASE CONGRATULATE SERGEANT PETE BRATTON ON HIS RECENT PROMOTION! PETE HAS BEEN WITH EVANS PD FOR ABOUT SEVEN YEARS. HE ACHIEVED THE RANKING OF #1 IN THE RECENT PROMOTIONAL PROCESS. I AM VERY PROUD OF PETE AND I KNOW HE WILL DO AN EXCELLENT JOB AS A SUPERVISOR AND MENTOR! WE WILL BE SCHEDULING A PROMOTIONAL CEREMONY SOON!

ORAL BOARDS FOR THE NEW OFFICER HIRING PROCESS WERE HELD ON JUNE 24 AND 25. FINALISTS WILL PROGRESS TO BACKGROUND CHECKS BEGINNING THE WEEK OF JUNE 30. WE WILL COMPLETE THE HIRING PROCESS IN EARLY AUGUST.

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## COUNCIL COMMUNICATION

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**DATE:** July 1, 2014  
**AGENDA ITEM:** 10.A and 10.B  
**SUBJECT:** Adjournment to Executive Session

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**AGENDA ITEM DESCRIPTION:**

City Council will adjourn into two separate, successive Executive Sessions for the purpose of receiving legal advice on specific legal questions and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators.

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**FINANCIAL SUMMARY:**

N/A

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**RECOMMENDATION:**

N/A

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**SUGGESTED MOTIONS:**

*“I move to go into Executive Session for the purpose of receiving legal advice on specific legal questions, pursuant to C.R.S. Section 24-6-402(4)(b); and to discuss matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, pursuant to C.R.S. 24-6-402(4)(e).”*

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# City Council Calendar July 2014 through August 2014

## JULY 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		

JULY	Event	Location	Time
1	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
4	Independence Day	City Offices Closed	All Day
10	Flood Recovery Taskforce	Evans City Complex	6:00 PM - 8:00 PM
10	<a href="#">NFRMPO Council Meeting</a>	Severance Town Hall, 231 W. Fourth Avenue	6:00 PM - 8:30 PM
15	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
16	Evans Chamber-Energy Proud BBQ	Island Grove Pavilion 501 14th Ave. Greeley	4:30 PM - 6:30 PM
17	Evans Chamber-Business After Hours	Tortuga Bay/Gallery Green 2986 W. 29th St. #11	5:00 PM - 7:00 PM
24	Flood Recovery Taskforce	Evans City Complex	6:00 PM - 8:00 PM

## AUGUST 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						

AUGUST	Event	Location	Time
4	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
5	<a href="#">National Night Out</a>	Evans Neighborhoods	Begins at 6:00 PM
7	<a href="#">NFRMPO Council Meeting</a>	Johnstown Community Center, 101 Charlotte St.	6:00 PM - 8:30 PM
9	<a href="#">Evans Safety &amp; Awareness Fair</a>	Evans SAMs Club	9:00 AM - Noon
14	Flood Recovery Taskforce	Evans City Complex	6:00 PM - 8:00 PM
19	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
21	Evans Chamber-Business After Hours	Happy Life Gardens 2000 37th St., Evans	5:00 PM - 7:00 PM
28	Flood Recovery Taskforce	Evans City Complex	6:00 PM - 8:00 PM