



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

AGENDA

Regular Meeting
September 16, 2014 - 7:30 p.m.

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

1. CALL TO ORDER

2. PLEDGE

3. ROLL CALL

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

4. PRESENTATION

A. Letter of Support for Project and Participation: Tobacco Cessation and Health Disparity—Colorado Department of Public Health & Environment

5. 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!

6. APPROVAL OF AGENDA

7. CONSENT AGENDA

A. Approval of Minutes of the Regular Meeting of September 2, 2014

8. NEW BUSINESS

- A. Public Hearing Ordinance No. 604-14 – Amending The Zoning Of All Properties Located Within The US 85 Overlay District (1st Reading)
- B. Public Hearing Ordinance No. 605-14 – Draft Amendments To Evans Municipal Code, Chapters:
 - 16.28: Oil & Gas Exploration and Development;
 - 19.15: C-1 Commercial District;
C-2 Commercial District;
C-3 Commercial District;
I-1 Light Industrial District;
I-2 Medium Industrial District; and
I-3 Heavy Industrial District
(1st Reading)
- C. Public Hearing Ordinance No. 606-14 – Rumsey-Werning-Camenisch PUD Plan Approval (Werning Parcels) (1st Reading)
- D. Public Hearing Resolution No. 32-2014 – Tender Care Day Care Use By Special Review (USR)
- E. Public Hearing Resolution No. 33-2014 – Country Meadows Sub. Lots 1 & 2 Variance (Outdoor Storage)
- F. Public Hearing Resolution No. 34-2014 – Evans Energy Park Annexation, Petition For Annexation Of A Parcel Of Land Into The City Of Evans
- G. Approval of Contract With TischlerBise For An Impact Fee Study
- H. Authorizing Approval Of An Agreement To Convey Rights-Of-Way And Easement (35th Avenue Widening Project)
- I. Liquor License Renewal for Evans Liquor, LLC

9. REPORTS

- A. City Manager
- B. City Attorney

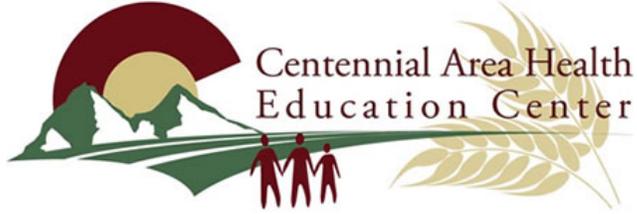
10. AUDIENCE PARTICIPATION (general comments)

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

11. ADJOURNMENT

CITY OF EVANS – MISSION STATEMENT

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



Amendment 35 Grant Review Committee
Attention, Sheryl Garcia
Colorado Department of Public Health & Environment
4300 Cherry Creek Drive South, Building A
Denver, CO 80246-1530

Dear 35 Grant Review Committee

Date XX

On behalf of the City of Evans, I strongly encourage the Thirty-Five Grant Review Committee to consider the joint grant application of the City of Evans and Centennial Area Health Education Center. Through our grant we will partner with a nonprofit and the six counties in the northeastern portion of Colorado. In the project area there are 90,000 residents and 9000 square miles, an area roughly the size of the state of New Jersey. This unique collaboration makes this particular application appealing in that the disparities are similar, while the geographic areas are so dissimilar in nature. This grant presents the opportunity for the City of Evans to share our successful program with others while at the same time further enhancing the health education opportunities for our residents.

This is a project designed to connect healthy lifestyles through supportive communities and leadership. Connecting successful projects with others to build a strong regional health infrastructure is our goal. Through collaborative outreach, with recognition of the importance of the physical environment, shared sound policy development with our partners, heighten awareness of education, and with the development of a Healthy Wellness Network we will be able to promote the prevention of chronic disease, and enrichment of the lives of residents within these locales.

Our program is intended to enhance Evans, while opening up new opportunities in the northeastern regions. We look forward to our working partnership with the City of Evans and Centennial Area Health Education Center Health in this collaborative effort to identify, reach, and improve the lives and health of the individuals in these areas of the City of Evans and northeastern Colorado.

Sincerely,

XXX

COUNCIL COMMUNICATION

DATE: September 16, 2014

AGENDA ITEM: 7.A

SUBJECT: Approval of the Minutes of September 2nd City Council Meeting

PRESENTED BY: City Clerk

AGENDA ITEM DESCRIPTION:

Approval of minutes.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

N/A

SUGGESTED MOTIONS:

"I move to approve the Consent Agenda / minutes as presented."

MINUTES
Regular Meeting
September 2, 2014 - 7:30 p.m.

CALL TO ORDER

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

PLEDGE

ROLL CALL

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

AUDIENCE PARTICIPATION

There was no audience participation.

APPROVAL OF AGENDA

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Rudy, to approve the Agenda. The motion passed with all voting in favor thereof.

CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of August 19, 2014
- B. Ordinance No. 600-14 – Repealing and Reenacting Highway 85 Corridor Overlay District Design Standards Chapter 19.62 of the Evans Municipal Code (2nd Reading)
- C. Ordinance No. 601-14 – Amending the City Of Evans Municipal Code By Repealing And Reenacting Chapter 19.10 titled “Districts Established – Zoning Map” City of Evans (2nd Reading)
- D. Ordinance No. 602-14 – Amending Chapter 19.04 Of The Evans Municipal Code Titled “Definitions” (2nd Reading)
- E. Ordinance No. 603-14 – Amending The City Of Evans Municipal Code By Repealing Chapters 19.11, 19.12, 19.14, 19.16, 19.18, 19.20, 19.24, 19.26, 19.28, 19.30, 19.32, 19.34, And 19.36, And Enacting Chapter 19.15 titled “Districts Established – Zoning Use and Dimensional Standards (2nd Reading)
- F. Resolution No. 31-2014 Joint Use Agreement with School District 6

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Rudy, to approve the Consent Agenda.

The motion passed with all voting in favor thereof.

NEW BUSINESS

A. Contract Approval with CDM Smith Concerning South Platte River Corridor Study Master Plan

Sheryl Trent, City Economic Development Director, explained that the Colorado Water Conservation Board (CWCB) reached out to the City of Evans regarding a study of the South Platte River Corridor following the Flood Disaster in September, 2013.

Ms. Trent explained that the CWCB had funds set aside for watershed coalitions to have master planning completed by a consultant, and have already funded many master plans, including the Big Thompson. She explained that the City applied for grant funding and received \$180,000 to complete the flooding and water engineering studies along the South Platte. Ms. Trent also explained that additional funding from a Community Development Block Grant- Damage Recovery (CDBG-DR) has provided for staffing assistance, which will allow the City to move forward with the master plan.

She explained that CDM Smith had been selected to complete the consulting for this project. According to Ms. Trent, the City will be required to provide approximately \$20,000 of in-kind contributions and approximately \$15,000 in funding to receive the grant funding from CWCB. She asked the City Council to approve the contract with CDM Smith for an amount to not exceed \$180,000.

Mayor Morris discussed his support for the project and asked when the master plan would be completed.

Ms. Sheryl discussed the process for public input and building the coalition with the goal of completing the master plan by February 2015.

Council Member Clark made the motion, seconded by Council Member Rudy, to approve the Contract with CDM Smith for an amount not to exceed \$180,000. The motion passed with all voting in favor thereof.

REPORTS

A. City Manager

Aden Hogan, City Manager, referred the City Council members to the department updates in the City Monitoring Report and reminded the Council Members about EvansFest on September 6th.

B. City Attorney

Scott Krob provided an update concerning a recent liquor license suspension of Evans Liquor and the pending license renewal for the business, which will be presented to the City Council at the September 16th meeting. Mr. Krob discussed the need for an executive session concerning the debris cleanup in Eastwood Village.

AUDIENCE PARTICIPATION

There was no audience participation.

EXECUTIVE SESSION

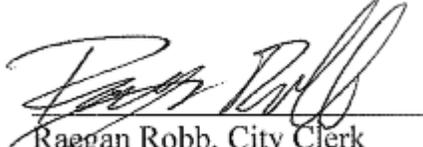
- A. For the purpose of conferencing for legal advice, pursuant to CRS 24-6-402(4)(b); and for developing strategy for negotiations, and instructing negotiators pursuant to CRS 24-6-402(4)(e)

At 7:42 p.m. Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Clark to adjourn into an executive session for the purpose of conferencing for legal advice, pursuant to CRS 24-6-402(4)(b); and for developing strategy for negotiations, and instructing negotiators pursuant to CRS 24-6-402(4)(e).

The motion passed with all voting in favor thereof.

ADJOURNMENT

The regular meeting adjourned at 7:54 p.m.


Raegan Robb, City Clerk

CITY COUNCIL COMMUNICATION

DATE: September 16, 2014

AGENDA ITEM: 8.A

Ordinance No. 604-14 – An ordinance amending the zoning of all properties located within the US 85 Overlay District as further described herein

STAFF CONTACT: Vincent Harris, AICP – Baseline Corporation

ACTION: Consider Ordinance to rezone properties within the US 85 Overlay District

APPROVED BY: Sheryl Trent, Economic Development Director

BACKGROUND INFORMATION		
Location:	Highway 85 Overlay District (map attached)	
Applicants:	The City of Evans	
Existing Land Use:	Various	
Proposed Land Use:	N/A	
Surrounding Land Use:	North	City of Greeley
	South	Weld County
	East	Various
	West	Various
Existing Zoning:	C-3, I-2, I-3, R-1, R-2, RC	
Proposed Zoning:	PF, 85-O, 85-RC-N, 85-RC-R, 85-RC-A	
Surrounding Zoning:	North	City of Greeley
	South	Weld County
	East	RC, R-1, R-2, RMFH, I-1, C-3
	West	C-3, R-1, R-3, I-1, I-3
Future Land Use Designation:	Commercial, Public Facilities, Urban Residential, Historic Mixed Use, Industrial Business Park	

OVERVIEW:

On Tuesday August 19, 2014 the City of Evans City Council acted on an ordinance that created Chapter 19.15 of the Evans Municipal Code, titled: Districts Established Zoning Use and Dimensional Standards. The purpose of creating this chapter was twofold:

1. Chapter 19.15 consolidated each individual zone district (all existing and five new zone districts) in a single chapter for ease of reference. Previously, each zone district, its intent, uses, and dimensional standards were contained within separate chapters as part of Title 19 of the Municipal Code. When Chapter 19.15 was approved, all zone districts including the information above were transferred into a new Chapter 19.15 and their previous chapters repealed. Zoning uses and dimensional standards were reorganized into tables to be more accessible and user-friendly.

2. In addition to the changes described above, Chapter 19.15 also established the following new zone districts:

- Public Facilities District (PF)
- US 85 – Office District (85-O)
- US 85 – Retail & Commercial – Neighborhood District (85-RC-N)
- US 85 – Retail & Commercial – Regional Corridor District (85-RC-R)
- US 85 – Retail & Commercial – Auto District (85-RC-A)

The intent, use standards, and dimensional standards for each new zone district are also contained within Chapter 19.15.

The purpose of establishing these zone districts is to promote the goals of the US Highway 85 Overlay District Master Plan. This master plan was approved in February of 2014. The Plan was established to encourage the following objectives:

- Help unify fragmented land uses present within the corridor by focusing specific future development types into specific areas (e.g. retail, office); and
- Promote infrastructure improvements to create safe access opportunities and improve traffic circulation and flows; and
- Address transportation linkages and connections to promote better safety, health related options, and quality access for local residents; and
- Address the lack of vibrant pedestrian and bicycle infrastructure to connect the surrounding neighborhoods and community to the planned and existing park and trail systems, and commercial uses.

After the US Highway 85 Overlay District was successfully enacted, staff from the City of Evans met with Baseline Corporation to begin developing proposals for enhanced zone districts. City Council reviewed and took action on the creation of the new zone districts at its August 19, 2014 meeting.

The purpose of the proposed ordinance presented before City Council as described in this staff report

is to apply these new zone districts to properties within the US 85 Overlay District. The properties to be rezoned are described below underneath the heading of their corresponding new zone district.

PROPOSED ZONING AMENDMENTS

1. Properties to be rezoned to the Public Facilities (PF) zone district

A) Subject Properties: The **Public Facilities** zone district will be applied to the all properties described in Exhibit A of this staff report. These properties are those owned by the City of Evans or the Colorado Department of Transportation (CDOT) with an intended public use.

B) Current Zoning: The properties proposed to be rezoned to the **Public Facilities** zone district are currently zoned for R-1 (Single Family Residential), RC (Residential Commercial), and C-3 (Commercial High Intensity).

C) Issue: The majority of the properties proposed to be rezoned to the Public Facilities zone are owned by the City of Evans. Currently these properties are not developed and provide open space for passive recreation. Due to the small size and awkward shape of these parcels, the city will likely dedicate them to future open space. The one exception, parcel 096129300001 (Weld County) is currently owned by CDOT. The City currently permits Transportation Facilities within the Public Facilities Zone District, thus the Public Facilities zone district is viewed as the most appropriate zoning for potential developments given the nature of the intended use and property owner.

2. Properties to be rezoned to the Highway 85 Office (85-O) zone district

A) Subject Properties: The **Highway 85 Office** zone district will be applied to the all properties described in Appendix B of this staff report.

B) Current Zoning: The properties proposed to be rezoned to the **Highway 85 Office** district are currently zoned C-3 (Commercial High Intensity).

C) Issue: The purpose of the **Highway 85 Office** District is to promote employment opportunities within the US 85 corridor. These properties will be able to take advantage of the commercial uses located to the south and elsewhere in the US 85 Overlay District. The **Highway 85 Office** District is positioned in the northwest corner of the corridor in areas that currently have medical office uses present on site.

3. Properties to be rezoned to the Highway 85 Retail & Commercial – Neighborhood (85-RC-N) zone district

A) Subject Properties: The **Highway 85 Retail & Commercial – Neighborhood** zone district will be applied to the all properties described in Exhibit C below.

B) Current Zoning: The properties proposed to be rezoned to the **Highway 85 Retail and**

Commercial - Neighborhood district are currently zoned C-3 (Commercial High Intensity), RC (Retail Commercial), I-2 (Medium Industrial), and I-3 (Heavy Industrial).

C) Issue: The **Highway 85 Retail and Commercial – Neighborhood** zone district is characterized by smaller retail experiences that include sit-down restaurants, specialty shops, drugstores, financial services as examples. This zone district also permits some residential uses if located above commercial uses. The majority of the properties described above are smaller in size. This section of the US 85 Overlay District is also within close proximity to residential uses outside the corridor that can take advantage of the proposed uses.

4. Properties to be rezoned to the Highway 85 Retail & Commercial – Regional Corridor (85-RC-R) zone district

A) Subject Properties: **The Highway 85 Retail & Commercial – Regional** Corridor zone district will be applied to the all properties described within Appendix D of this staff report.

B) Current Zoning: The properties proposed to be rezoned to this district are currently zoned C-3 (Commercial High Intensity), I-1 (Light Industrial), and I-3 (Heavy Industrial).

C) Issue: **The Highway 85 Retail and Commercial – Regional Corridor** zone district is characterized by larger retail experiences that can utilize the larger parcels identified in the boundaries above. The majority of these properties currently have zoning (C-3) similar to the dimensional use standards proposed in the Regional Corridor district. However the Regional Corridor zone district promotes higher development flexibility through varying setback requirements. These adjusted standards will help to attract developers to the US 85 Overlay District.

5. Properties to be rezoned to the Highway 85 Retail & Commercial – Auto (85-RC-A) zone district

A) Subject Properties: The **Highway 85 Retail & Commercial – Auto** zone district will be applied to very few properties described in Appendix E of this staff report.

B) Current Zoning: The properties proposed to be rezoned to the **Highway 85 Retail & Commercial – Auto** district are currently zoned I-2 (Medium Industrial).

C) Issue: The US 85 Retail and Commercial – Auto zone district to promote the same uses and development standards as the Highway 85 Retail & Commercial – Regional Corridor zone district. Again, the larger size of the parcels allow for larger development within the property. This district also allows for the sales of new automobiles. This may help developers take advantage of the awkwardly shaped lots located in the northeast quadrant of the US 85 Overlay District.

REFERRAL AGENCY COMMENTS:

The Development Review Team and Baseline Corporation met to discuss the proposed zone districts, their standards, and the properties to which they will be applied. Baseline in conjunction

with City Staff suggests the proposed zoning is appropriate for the properties identified above. The proposed zoning is directly in line the future land use recommendations approved in US Highway 85 Overlay District Master Plan.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday August 27, 2014, the City of Evans Planning Commission met to discuss and recommend action to City Council on the proposed rezoning. The Planning Commission inquired as to whether existing uses will be able to remain on site if the proposed rezoning were approved. Staff indicated that all existing uses will be grandfathered and subject to the City of Evans legal non-conformity standards (Section 19.56.040).

Planning Commission also inquired as to whether eminent domain could come into effect based on the proposed rezoning. Sheryl Trent, Economic Development Director, indicated that all properties within the City of Evans are subject to eminent domain statutes through the State of Colorado. She reiterated however that the process is very complex and that the City currently has no plan to exercise this power on any properties located in the US 85 Overlay District. Rezoning the properties would not affect the City's ability to utilize eminent domain or not.

The Planning Commission unanimously recommended approval of the proposed ordinance to rezone the properties.

ZONING AMENDMENTS (REVIEW CRITERIA):

Section 12.12 of the City of Evans Home Charter allows for the City Council of Evans to adopt procedures for the establishment and amendment of zoning for property within the City of Evans.

Section 19.60.080 of the Evans Municipal Code establishes criteria for amending zoning for properties within the municipal boundaries. For rezoning, a single criterion applies which states:

Zoning amendments shall be approved only if the proposed zoning is in substantial conformance with the 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 satisfies the requirements of the 2010 City of Evans Comprehensive Plan and its component, the US Highway 85 Overlay District Master Plan approved by the Evans City Council in February 2014.

FINDINGS OF FACT AND CONCLUSIONS:

On consideration of the rezoning request as reflected in proposed modifications to the zoning map, and the information contained in this report, Staff makes the following Findings of Fact;

The proposed zoning amendments appropriately and sufficiently meet the Review Criteria found in Section 19.60.080 of the Evans Municipal Code.

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

As stated, it is the position of staff that the proposed rezoning fulfills these criteria.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed rezoning of all lands based on the findings and conclusions outlined in this report, with said lands being more accurately described on Exhibits A through Exhibit E.

RECOMMENDED CITY COUNCIL MOTIONS:

“Mr. Mayor, I move to approve Ordinance No. 604-14 approving the rezoning of all properties located within the US 85 Overlay District to the following zone districts: Public Facilities district, Highway 85 Office district, Highway 85 Retail & Commercial Neighborhood District, Highway 85 Retail & Commercial Regional Corridor District, Highway 85 Retail & Commercial Auto District.”

“Mr. Mayor, I move to deny Ordinance No. 604-14 approving the rezoning of all properties located within the US 85 Overlay District to the following zone districts: Public Facilities district, Highway 85 Office district, Highway 85 Retail & Commercial Neighborhood District, Highway 85 Retail & Commercial Regional Corridor District, Highway 85 Retail & Commercial Auto District.”

Attachments:

Proposed Ordinance

Exhibit A, Properties to be rezoned to Public Facilities zone district

Exhibit B, Properties to be rezoned to US 85 Office zone district

Exhibit C, Properties to be rezoned to US 85 Retail & Commercial Neighborhood zone district

Exhibit D, Properties to be rezoned to US 85 Retail & Commercial Regional Corridor zone district

Exhibit E, Properties to be rezoned to US 85 Retail & Commercial Auto zone district

Exhibit F, US 85 Overlay District Zoning Map

CITY OF EVANS, COLORADO

ORDINANCE NO. 604-14

AN ORDINANCE AMENDING THE ZONING OF ALL PROPERTIES LOCATED
WITHIN THE US 85 OVERLAY DISTRICT AS FURTHER DESCRIBED
HEREIN

WHEREAS, in accordance with Section 12.12 of the Evans Home Rule Charter and Chapter 19.60 of the Evans Municipal Code, the amendment to the zoning of the subject properties, described below, is initiated by the City of Evans; and

WHEREAS, the Planning Commission held a public hearing on August 27, 2014, and recommended the zoning of the subject properties be amended to zone districts recently adopted by City Council on August 19, 2014; and

WHEREAS, after considering the Planning Commission's recommendation, reviewing the file herein, and conducting a public hearing concerning the rezoning in accordance with Chapter 19.60 of the Municipal Code, the City Council hereby determines it to be in the best interest of the City of Evans to amend the zoning of properties within the US 85 Overlay District to Public Facilities (PF), US 85 Office (85-O), US 85 Retail & Commercial Neighborhood (85-RC-N), US 85 Retail & Commercial Regional Corridor (85-RC-R), US 85 Retail & Commercial Auto (85-RC-A) districts, and that such zoning is in conformance with Section 19.60.080, Criteria for Approval of Zoning Amendments, which requires the proposed zoning to be in substantial conformance with the Evans Comprehensive Plan unless there exists substantial reasoning for amending the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that the zoning classification of the properties located in the US 85 Overlay District, described as attached in Exhibits A through E, is hereby changed to PF, 85-O, 85-RC-N, 85-RC-R, 85-RC-A, as the case may be.

Section 2. Publication and Effective Date. This ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 16th day of September, 2014.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 7th day of October,
2014.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

Exhibit A

Proposed Public Facilities District Rezoning (Properties Included)

The Public Facilities zone district will contain all properties located within the boundary descriptions below. These descriptions can also be referenced on the attached map titled: Proposed Public Facilities District Rezoning. All parcel numbers refer to those on file with the Weld County Assessor as of August 14, 2014. All zone district boundaries shall be interpreted to extend halfway into adjacent rights-of-way.

A-1 Boundary (Please see corresponding map)

The boundary begins at the northernmost point of the property identified as parcel 096129300001. This parcel is generally located east of the Union Pacific Railroad south of 42nd Street. It then moves south along the westernmost property line until it reaches the southern property line of said property. It then moves east until it reaches the east property line and then moves north until it reaches the north property line. It then moves west along said north property line until it reaches the point of beginning as described above.

A-2 Boundaries

In addition, the following properties are included in the Public Facilities zone district. A second boundary begins at the northeast corner of the property identified as parcel 096129222003. This parcel is located generally south of 40th Street, west of the Union Pacific Railroad, and east of US Highway 85. The boundary then moves southwest along the east parcel line of said property until it reaches the southernmost point of said property. It then moves north along the western property line of said parcel until it reaches the parcel's northern property line. It then moves east until it reaches the point of beginning as identified above.

In addition, the following property shall be included in the Public Facilities zone district. A third boundary begins at the southeast corner of parcel 096129220001. It then moves west until it reaches the western boundary of the Union Pacific Railroad right-of-way. It then moves northeast until it reaches the northern tip of said parcel. It then moves south along the eastern boundary of said parcel to the point of beginning as described above.

A-3 Boundary

In addition, the following property shall be included in the Public Facilities zone district. A fourth boundary contains the property south of 36th Street, east of Idaho Street, west of Denver Street, and north of 37th Street. This boundary shall include the entirety of parcel 096120330001.

EXHIBIT A PARCELS
PROPOSED PUBLIC FACILITIES DISTRICT
REZONING



Exhibit B

Proposed US 85 Office District Rezoning (Properties Included)

The US 85 Office zone district will contain all properties located within the boundary description below. These descriptions can also be referenced on the attached map titled: Proposed US 85 Office Rezoning. All parcel numbers refer to those on file with the Weld County Assessor as of August 14, 2014. All zone district boundaries shall be interpreted to extend halfway into adjacent rights-of-way.

B-1 Boundary

The boundary begins at the northeast corner of parcel 096120226999 near the intersection of the 29th Street and State Farm Road. It then moves east along 29th Street until it reaches the west parcel line of the said parcel. It then moves north along said west parcel line until it reaches the north parcel line of said property. It then moves southeast along said north parcel line until it reaches the east parcel line at 8th Avenue. It then moves south along the east parcel line along 8th Avenue until it reaches the southernmost property line. It then moves west along said parcel line until it reaches the western most parcel line of said property. It then moves north until it reaches the point of beginning as described above.

EXHIBIT B PARCELS
PROPOSED US 85 OFFICE DISTRICT
REZONING

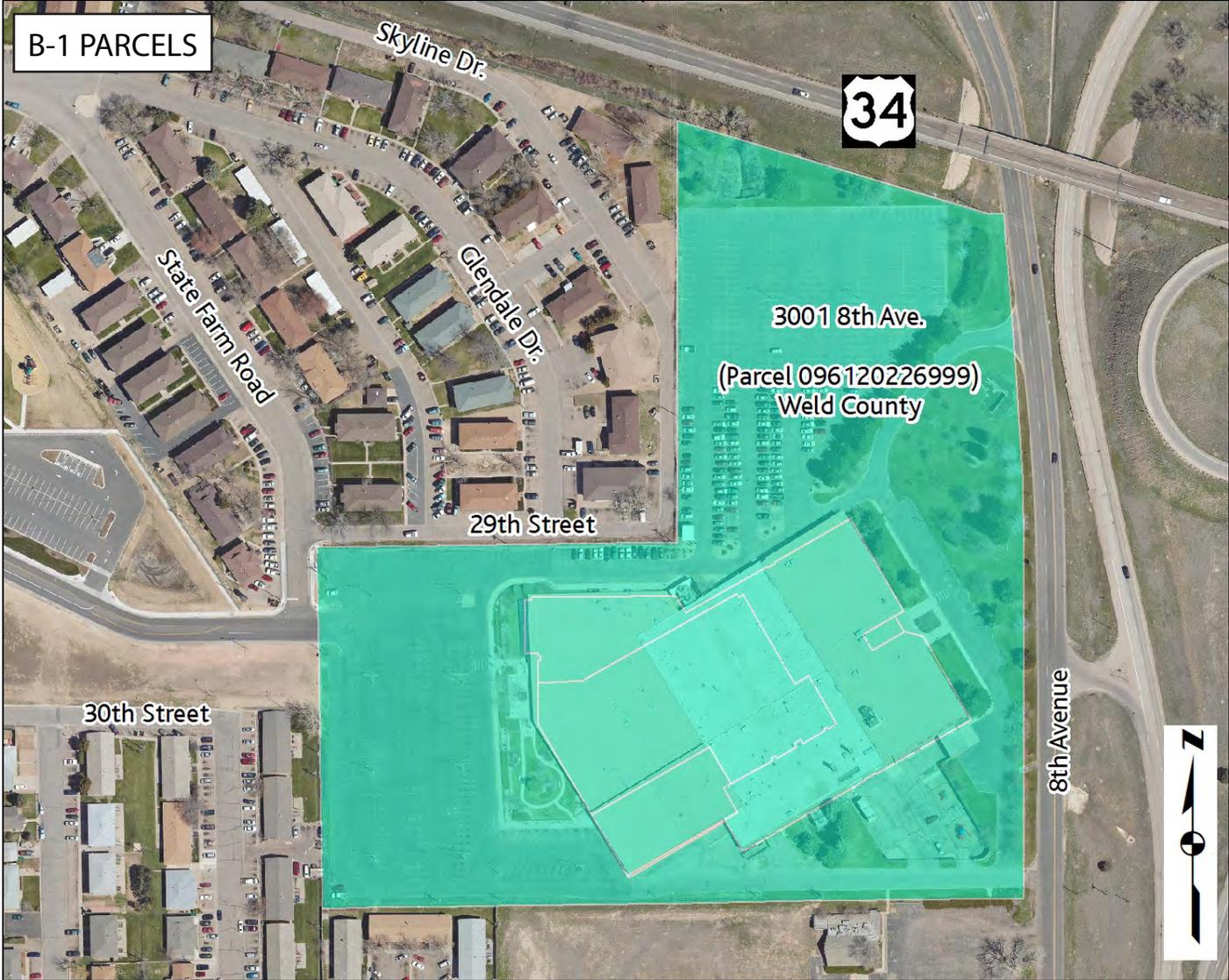


Exhibit C

Proposed US 85 Retail & Commercial – Neighborhood District Rezoning (Properties Included)

C-1 Boundaries (*All Parcels*)

The Highway 85 Retail & Commercial – Neighborhood zone district will contain all properties contained within the boundary descriptions below. These descriptions can also be referenced on the attached map titled: Proposed US 85 Retail & Commercial - Neighborhood Rezoning. All parcel numbers refer to those on file with the Weld County Assessor as of August 14, 2014. All zone district boundaries shall be interpreted to extend halfway into adjacent rights-of-way.

The boundary begins at the intersection of 37th Street and Idaho Street and moves north along Idaho Street to the intersection of 36th Street and Idaho Street. It then moves east along 36th Street to the West Service Road. It then moves northeast along the West Service Road to the intersection of the West Service Road and 35th Street. It then moves west along 35th Street to the intersection of 35th Street and St. Vrain Street. It then moves south along St. Vrain Street until it is in line with the north parcel line of the property identified as 3819 St. Vrain Street (parcel 096130107015). It then moves west along said north parcel line to the west line of said parcel. It then moves south along said west line continuing along the west line of the property located at 1221 40th Street (parcel 096130124002) to 40th Street. It then moves east along 40th Street to the intersection of 40th Street and the West Service Road. It then moves northeast along the West Service Road to the point of beginning described above.

In addition, the following properties shall be included in the US 85 Retail and Commercial – Neighborhood zone district. A second boundary begins at the intersection of Denver Street and 37th Street and moves west along 37th Street to US Highway 85. It then moves southwest along US Highway 85 to the southwestern corner of the property identified as 3919 State Street (parcel 096129221005). It then moves east along the southern line of said parcel to the Union Pacific Railroad. It then moves northeast along the Union Pacific Railroad to 35th Street. It then moves west to US Highway 85. It then moves southwest along US Highway 85 to Denver Street. It then moves south along Denver Street to the point of beginning as described above.

In addition, the following property shall be included in the US 85 Retail and Commercial – Neighborhood zone district. A third boundary begins at the intersection of 37th Street and Boulder Street at the southeast corner of the property located at 801 37th Street (parcel 096120321001). It then moves north along Boulder Street to the northernmost point of said parcel. It then moves southwest along the western boundary of said parcel along the Union Pacific Railroad to 37th Street. It then moves east along 37th Street to the point of beginning as described above.

In addition, the following properties shall be included in the US 85 Retail and Commercial – Neighborhood zone district. A fourth boundary begins at the intersection of 42nd Street and the western edge of the Union Pacific Railroad. It then moves northeast along the western edge of said railroad until it reaches the northernmost point of the property located at 4009 Idaho Street (parcel 096129235002). It then moves south along Idaho Street to the north parcel line of the property located at 1004 42nd

Street (parcel 096129301001). It then moves east along the north parcel line to the eastern line of said parcel. It then moves south along said eastern parcel line to the south parcel line of said parcel. It then moves west along said south parcel line to the west parcel line of said parcel. It then moves north to 42nd Street. It then moves east to the point as beginning as described above.

EXHIBIT C PARCELS
PROPOSED US 85 RETAIL & COMMERCIAL -
NEIGHBORHOOD DISTRICT REZONING

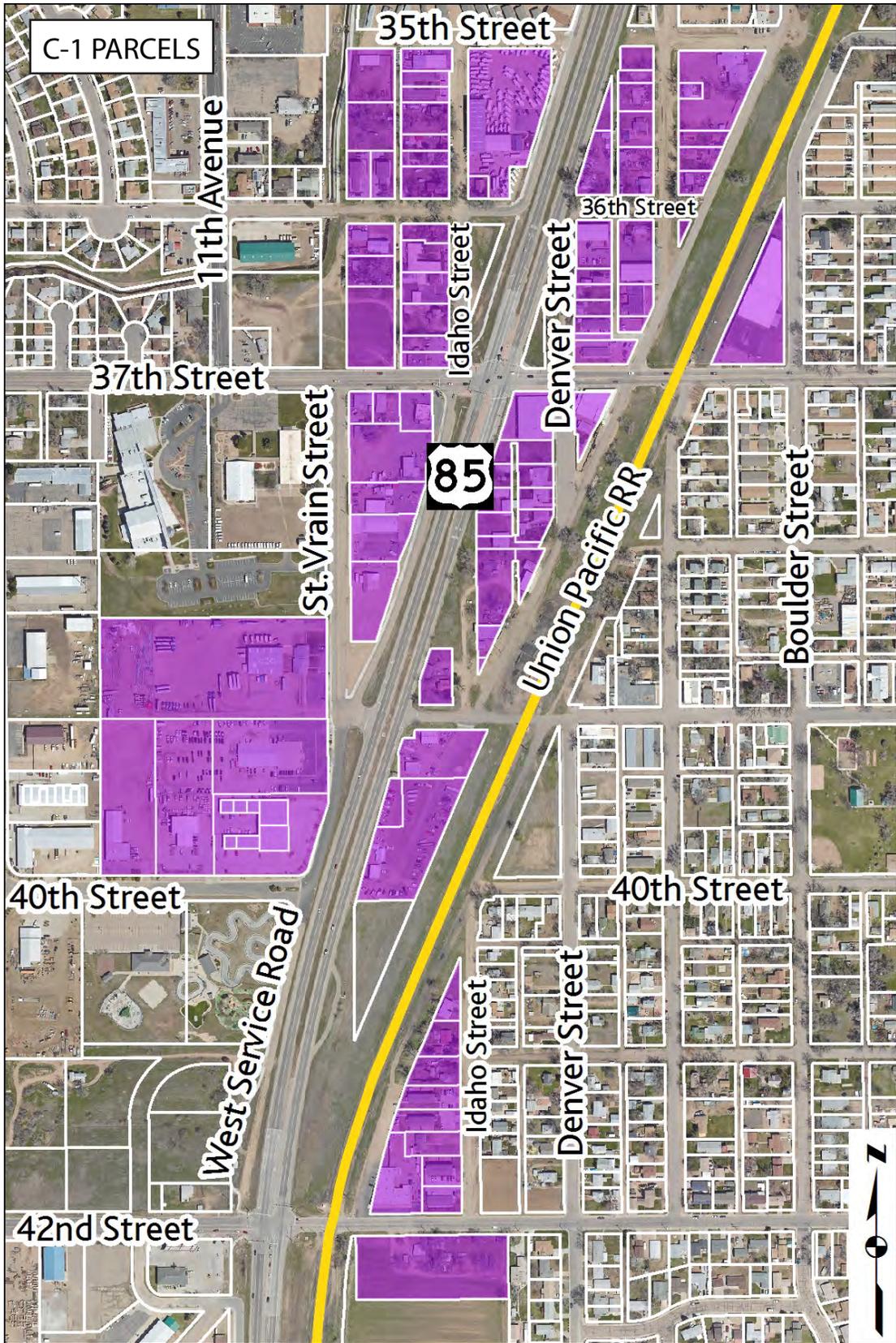


Exhibit D

Proposed US 85 Retail & Commercial – Regional Corridor District Rezoning (Properties Included)

Boundaries D-1

The Highway 85 Retail & Commercial – Regional Corridor zone district will contain all properties contained within the boundary description below. These descriptions can also be referenced on the attached map titled: Proposed US 85 Retail & Commercial – Regional Corridor Rezoning. All parcel numbers refer to those on file with the Weld County Assessor as of August 14, 2014. All zone district boundaries shall be interpreted to extend halfway into adjacent rights-of-way.

The boundary begins at the intersection of the Evans Town Ditch and 35th Street. It then moves north along the eastern border of the Evans Town Ditch and crosses 31st Street until it is in line with the northern property line of the parcel identified as 096120326004 near the intersection of 31st Street Lane and Lakeside Drive. It then moves east along the northern property line of said parcel until it reaches the eastern property line of said parcel. It then moves east along 31st Street until it is in line with the western property line of parcel 096120208027. It then moves north along the western property line of said parcel until it reaches the northern property line of the parcel 096120208026. It then moves east along said property line until it reaches the eastern property line at 8th Avenue. It then moves south along 8th Avenue, crosses 31st Street, and continues south along the West Frontage Road until it reaches 35th Street. It then continues west until it reaches the point of beginning as described above.

In addition, the following properties shall be included in the US 85 Retail and Commercial – Regional Corridor zone district. A second boundary begins at the intersection 35th Street and US Highway 85. It then moves northeast along US Highway 85, crosses 31st Street, until it reaches the northern parcel line of the property located at 665 31st Street (parcel 096120209002). It then moves east along said northern parcel line until it reaches the east line of said parcel. It then moves south until it reaches the 31st Street. It then moves east until it reaches the western edge of the Union Pacific Railroad right-of-way. It then moves southwest along the western edge of the Union Pacific right-of-way until it reaches 35th Street. It then moves west until it reaches the point of beginning as described above.

In addition, the following properties shall be included in the US 85 Retail and Commercial – Regional Corridor zone district. A third boundary begins at the northernmost point of the property located at 3309 Empire Street (parcel 096120327002). It then moves south along Empire Street to the southeastern corner of the parcel located at 3351 Empire Street (parcel 096120327003). It then moves west and north along the southern property line of said parcel to the eastern edge of the Union Pacific Railroad right-of-way. It then moves northeast along said railroad right-of-way to the point of beginning as described above.

Boundary D-2

In addition, the following properties shall be included in the US 85 Retail and Commercial – Regional Corridor zone district. A fourth boundary begins at the intersection of 40th Street and the West Service

Road. It then moves south along the West Service Road to Bratner Road. It then moves southwest along Bratner Road to 43rd Street. It then moves west along 43rd Street to the west property line of parcel 096130408003. It then moves north along the west line of said parcel and continues along the west line of parcel 096130410001 to 42nd Street. It then moves east along 42nd Street to the west line of parcel 096130126004. It then moves north along the west line of said parcel continuing along the west line of parcel 096130126001. It then moves east along the north line of said parcel to the west line of parcel 096130129002 extended. It then moves north along the west line of said parcel to 40th Street. It then moves east along the north line of said parcel and along 40th Street to the point of beginning as described above.

In addition, the following properties shall be included in the US 85 Retail and Commercial – Regional Corridor zone district. A fifth boundary includes all of the properties within the City of Evans and within the boundaries of the US 85 Overlay District, as of the date of approval of this ordinance, that are located west of US Highway 85 and southeast of Bratner Road.

EXHIBIT D PARCELS

PROPOSED US 85 RETAIL & COMMERCIAL - REGIONAL
CORRIDOR DISTRICT REZONING

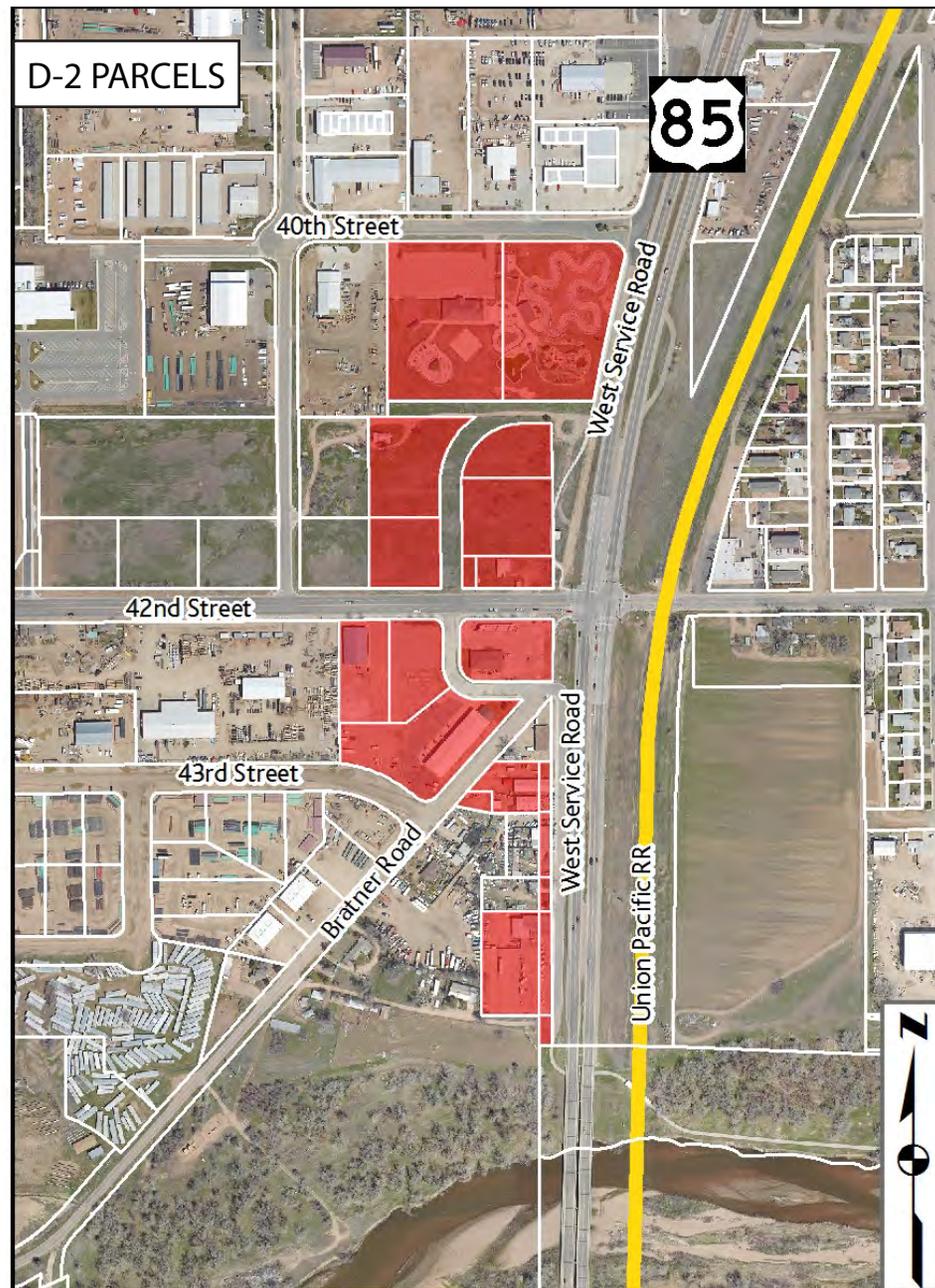
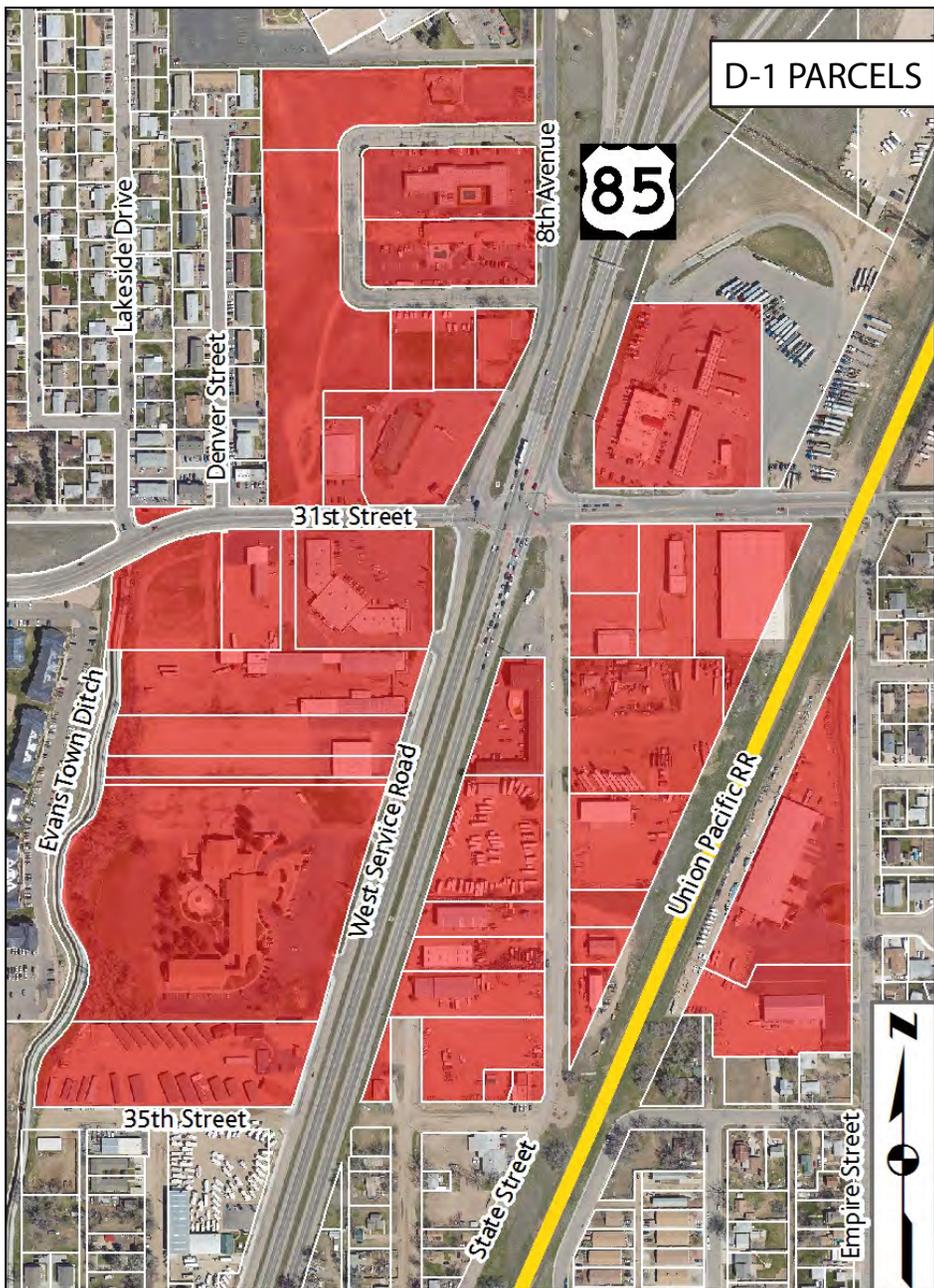


Exhibit E

Proposed US 85 Retail & Commercial – Auto District Rezoning (Properties Included)

Boundary E-1

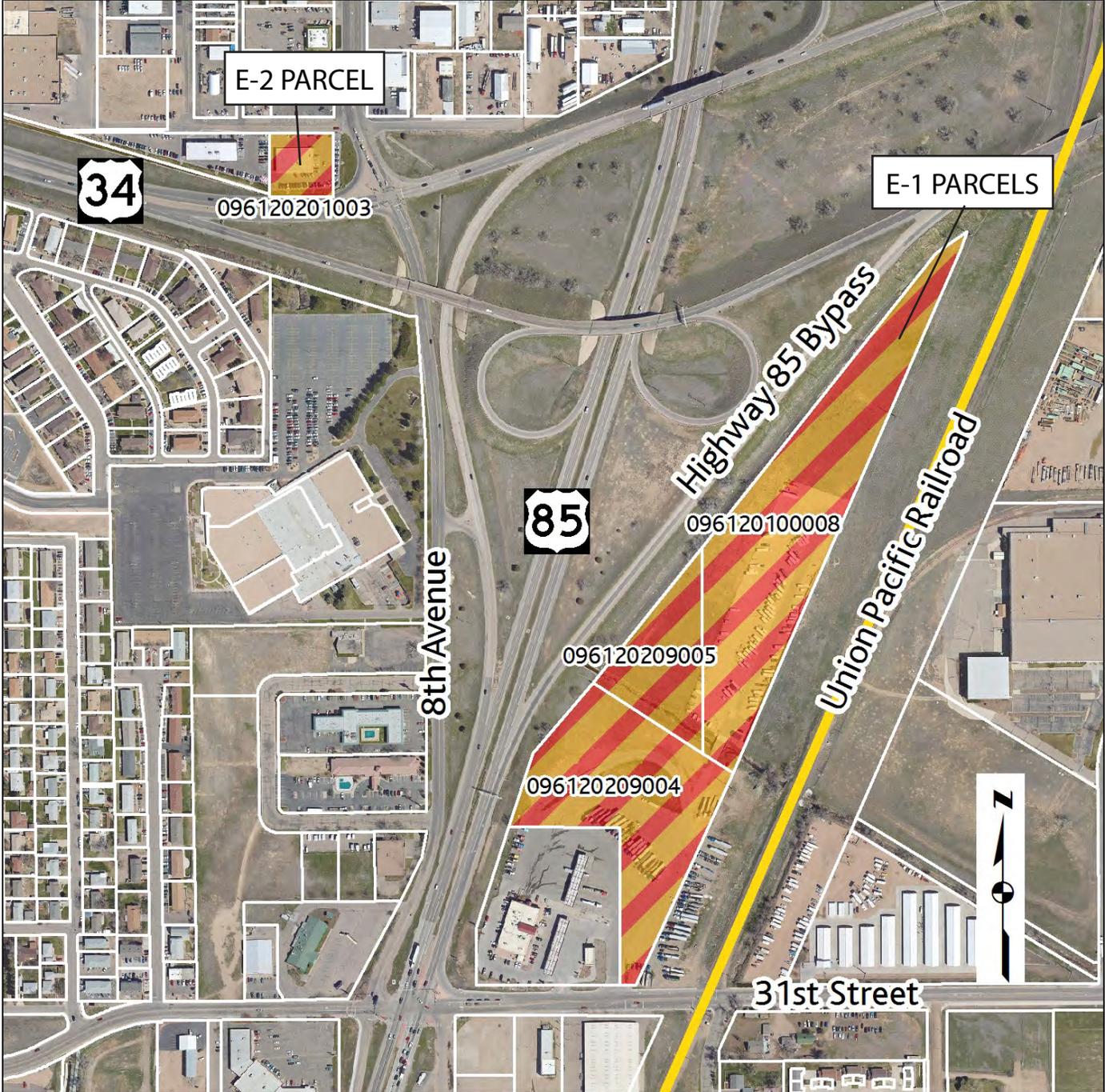
The Highway 85 Retail & Commercial – Auto zone district will contain all properties contained within the boundary description below. These descriptions can also be referenced on the attached map titled: Proposed US 85 Retail & Commercial - Auto Rezoning. All parcel numbers refer to those on file with the Weld County Assessor as of August 14, 2014. All zone district boundaries shall be interpreted to extend halfway into adjacent rights-of-way.

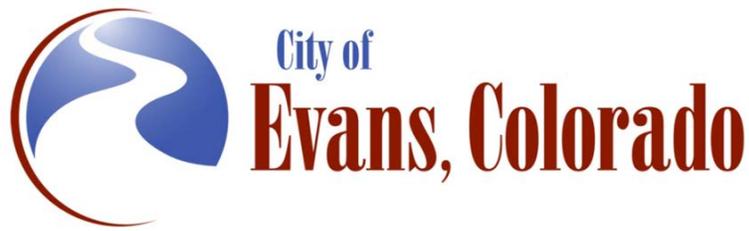
The boundary begins at the southeast corner of parcel 096120209004. It then moves northeast along the eastern boundary of said parcel to the northernmost point of parcel 096120100008. It then moves southwest along the western boundary of said parcel and the western boundary of parcel 096120209005 to the southwest point of parcel 096120209004 along US Highway 85. It then moves east and south along said parcel to the point of beginning as described above.

Boundary E-2

In addition, the following properties shall be included in the US 85 Retail and Commercial – Auto zone district. A second boundary includes all of the properties within the City of Evans and within the boundaries of the US 85 Overlay District, as of the date of approval of this ordinance, that are located north of US Highway 34 Bypass.

EXHIBIT E PARCELS
PROPOSED US 85 RETAIL & COMMERCIAL - AUTO
DISTRICT REZONING





CITY COUNCIL COMMUNICATION

DATE: September 16, 2014

AGENDA ITEM: 8.B

SUBJECT: **Draft Amendments Evans Municipal Code, Chapters:**
16.28: Oil & Gas Exploration and Development; and
19.15.030 Table of Uses Allowed (Related to Crematorium Uses)

STAFF CONTACT: Sean Wheeler, City Planner

ACTION: Consideration by City Council

APPROVED BY: Zach Ratkai, Community Development Manager

PLANNING COMMISSION MEETING DATE: July 22nd, 2014

OVERVIEW:

Over time municipal codes require periodic updating to address issues such as outdated standards or new technology. As noted at the previous public hearing the Community Development Department is reviewing the Evans Code for areas that may need revision. At this time Staff recommends amendments to two Code sections;

1. Chapter 16.28.060 (Oil & Gas Facilities Setbacks). The proposed amendment will change the City's setback requirements to make them consistent with State standards for these uses. It will also apply the City's setback requirements for oil and gas facilities from property lines (and not just structures or other uses alone) based on a "whichever is greater" measurement. The addition of a property line standard does exceed the State's requirements, but it is consistent with other municipal code setback requirements that are normally made from property lines.

2. Chapter 19.15.030 (Table of Uses Allowed): Under the current regulations, crematoriums are allowed only in the Industrial Zone Districts through the Special Review process. Approval of the proposed amendment will allow crematoriums as a Permitted Use in all three industrial zones. Also, because crematoriums are becoming more commonly associated with the mortuary and funeral business, this amendment would allow them as a Permitted Use in the Commercial Zone districts as well.

PLANNING COMMISSION: The Planning Commission does not make a formal recommendation on proposed code amendments. However, as they are involved with the development review process, Staff made an informal presentation to the Commissioners about the proposed changes at their July 22, 2014 meeting.

- With regard to the proposed setback changes for oil and gas uses the Planning Commissioner expressed support for the recommendations as drafted.
- For the proposed changes to where crematoriums would be allowed as permitted uses, the Commissioners also expressed support for the recommendations after some brief discussion.

In addition Scott Moser, who operates a mortuary business in Evans, presented information about crematoriums and the current technology. He also answered questions from Planning Commissioners about issues such as emissions and safety protocols in place for the current technology in this area. Mr. Moser provided Staff with some technical information, which is attached to this report for consideration.

REFERRAL AGENCY REVIEW:

The recommended Code amendments will not impact the standards monitored by the City Engineer or those by the Fire District, who did not provide comments for this report.

PROPOSED EVANS MUNICIPAL CODE AMENDMENTS:

1. Oil and Gas Facility Requirements:

A. Chapter 16.28.060 (Oil & Gas Well Locations and Setbacks): This chapter provides the current setback requirements for oil and gas facilities as follows:

- 1) Setback minimum requirements related to oil and gas wells:
 - One hundred fifty (150) feet for all structures not necessary to the operation of the well.
 - Three hundred (300) feet for all structures and places used as a place of assembly.
- 2) Setbacks from Tank Batteries: The minimum setback from all gas and oil well tank batteries, separators and ancillary equipment is three hundred (300) feet for all structures not necessary to the operation of the well, and for structures and areas used as a place of assembly.
- 3) Setbacks from Streets, Alley or Right-of-Way: The minimum distance separation between any public street, alley or right-of-way and a wellhead and/or any tank battery, separator and ancillary equipment is seventy-five (75) feet.
- 4) Setbacks from Utility Easements: The minimum distance separation between any utility easement and a wellhead and/or any tank battery, separator and ancillary equipment is twenty (20) feet.

B. Current State Requirements: In August 2013 the State Oil and Gas Conservation Commission (COGCC) adopted new setback regulations. Attached to this report is a copy of the COGCC newsletter that describes the new State requirements. It provides the basis for Staff recommendations. In summary the State's new setback rules establish the following:

- 1) 500-foot setback between new Oil and Gas Locations and existing Building Units. (The State defines "Building Units" as including residences; some commercial and warehouse space; high occupancy uses such as schools and hospitals; and designated outside activity areas.)
- 2) 200-foot safety setback from a Well and any building, public road, major above ground utility line or railroad line.

C. Issue: With the adoption of new standards by the State the City's regulations no longer match the COGCC requirements. This can lead to confusion for applicants and neighboring property owners as to which regulations apply. In addition, the current setbacks for oil and gas facilities in Evans are not based on property lines, but are based on the actual distance between oil and gas facilities and other uses. For that reason, the approval of oil and gas facilities can impose a setback requirement on adjoining land owners who are not a part of the application. While this does not create an impossible situation to correct it does impose an additional step on the adjoining land owner, should they desire to construct a residence or accessory structure on their property. For example, if the rear yard setback on a property is 20 feet, but an approved oil and gas facility setback extends an additional 40 feet into a property, the adjacent property owner has to meet the 40 foot setback in order to be in compliance with State or City regulations. Requiring oil and gas facilities to be setback from a property line eliminates this issue, with the property owner who benefits from the approval absorbing the impact. Also, in other areas of the municipal code, setbacks are also based on property lines.

D. Staff Recommendation: To bring City and State requirements into agreement, and to prevent approvals that may cause unanticipated impacts on adjoining property owners, Staff recommends replacement of the setbacks for oil and gas uses in Chapter 16.28.060 with the following standards:

- 1) 500-foot minimum setback is required between Oil and Gas Wellheads / Support Facilities and all structures not necessary to the operation of the well; all structures or places used as a place of assembly, and; from all property lines.
- 2) 200-foot safety setback is required between Wellheads and/or Support Facilities, and any public road, major above ground utility line or a railroad lines.

2. Crematoriums; Changes to Uses by Right and by Special Review Designations:

A. Chapter 19.15.030 (Table of Uses Allowed): This chapter currently lists the "Special Uses" and "Permitted Uses" allowed in the Industrial and Commercial Zone Districts. Crematoriums are currently allowed only in the Industrial Zones as a Use by Special Review.

B. Issue: In recent years the technology for crematoriums as has advanced dramatically to reduce the emissions and noise from these uses. Business owners in the mortuary and funeral industry now

find that the desire for this service is on the rise, and it is becoming more common to offer this service directly at the business. Because of the improvements in technology the visual and environmental impacts from crematoriums no longer rise to a level where added controls are needed through the Special Review process. In addition, allowing business operators within the City to expand the list of options they can provide encourages them to stay in the City and serve the residents here. For these reasons Staff supports allowing crematoriums in both the Industrial and Commercial Zone Districts as a permitted use. Finally, a mortuary operator in Evans has advised Staff that he currently must contract to a facility in Loveland to provide crematory services. He notes this can add stress to grieving family members because of transportation issues, and that it adds days to a families schedule for making final arrangements. Allowing him to provide a crematory at his location would allow his business to improve services to the residents of Evans.

C. Staff Recommendation: Staff recommends amending Chapter 19.15.030 of the Evans Municipal Code to allow Crematoriums as a “Permitted Use” in both the Industrial and Commercial Zone Districts.

REVIEW CRITERIA:

1. **Zoning Amendments:** For reference, the Review Criteria found in Section 19.60.080 of the Municipal Code provide the basis for Staff recommendations. For these amendments a single criterion applies that 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.

2. **2010 Comprehensive Plan:** Chapter 4 of the City’s Comprehensive Plan outlines the overall goals, policies and actions to be implemented by the Plan. It establishes standards to promote development approval that require:

- Orderly, Efficient Growth Pattern and Adequate Public Facilities
- Economic Development Opportunities
- Stable, Cohesive Neighborhoods and Improved Community Identity

3. **Conclusion:** Based on the assessment outlined in this report, Staff concludes the proposed code amendments satisfy the objectives of the 2010 City of Evans Comprehensive Plan. The proposed setback amendments relate to creating efficient growth patterns and the also serve to improve the community identity, while the expansion of business options relates to promoting economic development.

FINDINGS OF FACT & CONCLUSIONS:

On consideration of the recommended Zoning Amendments to the Evans Municipal Code, and the information contained in this report, Staff makes the following Findings of Fact;

The proposed code amendments appropriately and sufficiently meet the Review Criteria found in Section 19.60.080 of the Evans Municipal Code.

STAFF RECOMMENDATION:

Staff recommends approval of Ordinance 605-14 on 1st Reading for the adoption of the proposed code amendments as described on Exhibit A to the Ordinance.

RECOMMENDED MOTIONS:

“Mr. Mayor, on the issue of the proposed amendments to the Evans Municipal code, I move that the City Council approve Ordinance 605-14 on 1st Reading for the adoption of the proposed code amendments as described on Exhibit A to the Ordinance.

“Mr. Mayor, on the issue of the proposed amendments to the Evans Municipal Code, I move that the Council deny the amendments, as having failed to meet the review criteria in Chapter 19.60.080 of the Municipal Code.”

Attachments:

- Exhibit A, Code Amendments;
- Draft Code Section;
- Colorado Oil and Gas Conservation Commission Newsletter; and
- Technical Specifications, Crematoria Units

EXHIBIT “A”

Proposed Amendments to the Evans Municipal Code related to Oil and Gas Well Facility Setbacks, and Crematorium Uses in the Industrial and Commercial Zone Districts.

1. Replacement of the setbacks for oil and gas uses in Chapter 16.28.060, with the following:

A. A 500-foot minimum setback is required between new Oil and Gas facilities and wellheads, and Building Units, or a 500-foot setback from property lines, whichever is greater.

B. A minimum safety setback of 200-feet is required between wells and tank batteries, and any building, public road, major above ground utility line, or railroad is required at the time of drilling.

2. Amendments to the requirements for crematoriums in the Industrial Zone Districts, and the addition of crematorium as a use in the Commercial Zone Districts as follows:

Crematoriums shall be allowed as a permitted use in all Industrial Zone and Commercial Zone Districts (excluding the area defined by the US Highway 85 Overlay District Master Plan) as defined in Chapter 19.15.030 of the Evans Municipal Code.

19.15.030 Districts designated, table of uses allowed

A. Those land uses which are permitted those which may be permitted through conditional review or use by special review, or land uses which are prohibited are shown in the table below. Land uses not specifically listed on the Table below shall be presumed to be prohibited. Commercial Zone Districts			
Use Standards			
<i>Land Use</i>	Zone District		
	Commercial		
	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>
P = Permitted Use S= Special Uses [blank] = Prohibited Uses			
Accessory use	P	P	P
Adult business, subject to licensing requirements			P
Car wash facilities			S
Cemetery			S
Commercial residence		S	P
Community facilities	P	P	S
Congregate residence	S	S	
<u>Crematoriums</u>	<u>P</u>	<u>P</u>	<u>P</u>
Day care center	P	P	P
Hospital	S	S	P
Kennel	S	P	P
Long-term care facilities	S	P	P
Mini storage units	S	S	S
Mortuary or funeral home	P	P	P
Multifamily residential	S	S	S
Nightclub, bar, tavern		P	P
Office and financial uses	P	P	P
Parking lot, off-street	P	P	P
Personal service establishments	P	P	P
(Entire List Not Shown)			
Industrial Zone Districts			
Use Standards			
<i>Land Use</i>	Zone District		
	Industrial		
	<i>I-1</i>	<i>I-2</i>	<i>I-3</i>
P = Permitted Uses S= Special Uses [blank] = Prohibited Uses			
Accessory use	P	P	P
Adult business, subject to licensing requirements	P	P	P

Animals confined		S	S
Auction yard			S
Car wash facilities	S	S	S
Cemetery	S	S	S
Commercial residence		P	
Community facilities			
Congregate residence			
Crematoriums	S <u>P</u>	S <u>P</u>	S <u>P</u>
Day care center			
Flammable liquids storage	P	P	P
Flea market	P	P	P
Hospital			
Industrial uses facility	P	P	P
Junkyards			S
Kennel	P	P	P
Livestock trailer washout			S
Long-term care facilities			
Manufacturing/assembly plant	P	P	P
Mini storage units	P	P	P
Mortuary or funeral home	P		
Multifamily residential			
(Entire List Not Shown)			

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COGCC-LGD Newsletter

August 9, 2013

A Message From the Local Government Liaisons

Inside This Issue

- 1 Message from the LGLs
- 2 New Setback Rules
- 3 GIS Boundary Information
- 3 Call for suggested topics
- 4 LGD Training Registration
- 4 LGD Registration Instructions

*Make your reservation
for LGD Training today!*

See page 4 for details.

Welcome to the second issue of the Colorado Oil and Gas Conservation Commission (COGCC) Local Government Designee (LGD) Newsletter. We plan to publish the newsletter quarterly, and welcome your comments on content and suggestions for future issues. Prior issues are available on our website at COGCC.state.co.us, within the “Local Gov” tab.

As most of you know, 2012 and 2013 have been busy times for the COGCC. Two major efforts began with an extensive stakeholder involvement process: The Groundwater Rules effective May 1, and the Setback Rules effective August 1.

A myriad of views, suggestions, and opinions were expressed and heard during the stakeholder process. Both sets of rules therefore represent a balanced approach to the Commission’s role in regulating oil and gas activity in the state while protecting the health, safety and welfare of the citizens.

This newsletter issue highlights the “Setback Rules”, and the increased opportunity for communication for local governments and LGDs.

The LGD program was established in the 1990s at the request of local governments as a way to increase communication and cooperation between the different levels of government. We are aware of no similar program in other states. But as the visibility of oil and gas in communities has grown, so has the role of the LGD. We therefore encourage local governments to get engaged with operators, the public, and with us as LGLs to take full advantage of the opportunities this voluntary program offers. We are here to help you with these efforts. Thank you!

*Nancy Prince
Marc Morton*

Highlights of New Setback Rules Effective August 1, 2013

The new Setback Rules establish a uniform 500 foot Exception Zone setback between new Oil and Gas Locations and existing Building Units; require enhanced mitigation measures for any new Well or Production Facility within 1,000 feet; and require oil and gas Operators to notify Building Unit Owners within 1,000 feet of an Oil and Gas Location at least 30 days before filing the Location Assessment application (Form 2A) with COGCC.

Some Defined Terms

(See 100 Series)

- Well
- Production Facility
- Oil and Gas Location
- Operator
- Building Units
- Building Unit Owners
- Residential Building Units
- Designated Setback Location
- Exception Zone
- Buffer Zone
- Urban Mitigation Area
- High Occupancy Building Unit
- Designated Outside Activity Area

COGCC believes this “trifecta” of setback zones, early stakeholder engagement, and enhanced best management practices will significantly alleviate citizen concerns regarding oil and gas exploration and production activity by mitigating impacts of that activity.

For specifics on the rules and rulemaking process, please refer to the COGCC website cogcc.state.co.us. The “Hot Topics” section includes “New Setback Rules” link to the rules and to training materials developed for oil and gas operators that will also be useful to LGDs. The “Rules” tab on the website includes links to a complete copy of the COGCC Rules, a record of the stakeholder and rulemaking process, and other related information.

Key requirements under the new rules include:

- A. For any new proposed Oil and Gas Location closer than 1,000 feet to a Building Unit the Operator must:
 - Notify Building Unit Owners at least 30 days prior to filing an oil and gas location assessment (Form 2A) with COGCC;
 - Notify Building Unit Owners of the opportunity to meet with Operator and/or comment on oil and gas location assessment applications ;
 - Meet with Building Unit Owners if requested ; and
 - Implement mitigation measures required by Rule 604.c.

Rules Series That Changed

- 100 - Definitions
- 300 - Drilling, Development, Producing and Abandonment
- 600 - Safety
- 800 - Aesthetic and Noise Control

The new Setback Rules give local governments additional input into the COGCC location assessment and permitting process via the LGD program.

- B. Notification and meeting requirements depend on:
- Distance to nearest Building Unit ; and
 - Building or land use type and density of Building Units
 - Building Units include Residential Building Units, and some commercial and warehouse space;
 - High Occupancy Building Units such as schools and hospitals; and
 - Designated Outside Activity Areas
- C. Under the new Rules, different stakeholders (Local Governments, Surface Owners, and adjacent Building Unit owners) have different rights, responsibilities, and opportunities for increased involvement with the planning, location assessment, and permitting processes.
- D. A minimum safety setback of 200 feet from a Well and any building, public road, major above ground utility line, or railroad is required at the time of drilling.
- E. E. Waivers and exceptions may be allowed in specific situations for some of the requirements of the Setback Rules.
- F. The rules emphasize the importance of Operator/Local Government communication in the planning stages. Specific opportunities include:
- LGD contact information is included in the notifications sent to neighbors by Operators ;
 - LGDs will get pre-application notifications in Urban Mitigation Areas;
 - The LGD may request that the Operator meet with Building Unit Owners;
 - Local Governments may request that the Commission hold a hearing to establish a Designated Outdoor Activity Area ;
 - LGDs may request extension of the comment period for Form 2 or Form 2A from 20 to 30 days. In the Urban Mitigation Area or Exception Zone , the LGD may request extension of the comment period for Form 2As to 40 days); and
 - As before, LGDs may provide comments on a Form 2 or Form 2A, and may request that CDPHE consult with COGCC on a Form 2A regarding potential impacts to public health, safety, welfare or the environment.

Is your Jurisdiction Accurately Mapped?

The definition of a county, municipality, or special district as shown on the COGCC GIS Online map determines the electronic LGD permitting notification for that area. In order to ensure that each LGD receives proper notification, it is crucial that these boundaries be accurate and up-to-date. Please take a moment to check the representation of your jurisdiction's area on the map (<http://dnrwebmapgdev.state.co.us/mg2012app/>) If there are questions or inaccuracies, please notify COGCC.



Yellow shading on the COGCC map indicates boundaries that are currently being used to generate notification of oil and gas activity that is sent by e-mail to LGDs

This review is most pertinent for the municipalities and special districts whose boundaries are prone to change through annexation.

The preferred format of boundary definition would be a shapefile from your GIS department. If that is not possible, a PDF map showing the boundary definition relative to Section, Township, Range would be appreciated.

Questions, correspondence, shapefiles or maps should be addressed to Dennis Ahlstrand at dennis.ahlstrand@state.co.us.

Topics for Upcoming Issues

Some topics being considered for the upcoming issues of the LGD newsletter include developing and implementing Memorandums of Understanding (MOU) between Operators and local governments; COGCC enforcement rules, policies and procedures; and planned improvements to our website.

While we are happy to generate topics for inclusion in the Newsletter, we want your input as well. For example, let us know if you have developed a special tool or process that is helpful in managing the LGD program in your locality, or a program or model for conducting community outreach related to oil and gas issues.

Also let us know if there a specific question/issue that you would like to solicit feedback from other LGDs or COGCC.

Please forward your suggestions by October 1 for inclusion in the Fall newsletter.

LGD Training Registration Instructions

To register for one of the three remaining 2013 LGD Training Sessions, please contact either Nancy or Marc. More training sessions are planned for 2014!

Include the following information:

Location and date of training

_____ August 21 - Denver (near capacity, we will take wait list registrations)

_____ September 24 - Glenwood Springs

_____ November 12 - Lamar

Names and affiliation of people planning to attend (If 2 or more people may attend, please give names and contact information - changes can be made later if necessary.)

NAME

LGD: (yes or no)

NAME OF LOCAL GOVERNMENT

DEPARTMENT OR AFFILIATION

EMAIL ADDRESS

PHONE NUMBER

If there are questions, please call or send an e-mail. The COGCC main number is 303-894-2100.

nancy.prince@state.co.us (phone extension 5103)

marc.morton@state.co.us (phone extension 5132)

Does Your Local Government Have An LGD?

Registering to become a “Participating” LGD is highly recommended. Taking this step allows a local government to provide much greater input into the planning of oil and gas operations in their jurisdiction. Registration is not automatic however. Information must be provided to COGCC to initiate the registration, and must be kept current in order to maximize benefits.

All it takes for your county, municipality or special district to participate is to submit a Form 29, available at cogcc.state.co.us under the “Forms” tab. Fill the Form out, sign and submit to the Hearings Assistant either by fax as directed, or as a pdf to an email to cogcc.hearings_unit@state.co.us.

Be sure to check the boxes if you desire the opportunity for onsite consultation, would like general e-mail notification, and would like eForm credentials. eForm credentials allow the LGD to receive notice of pending applications, and to make comments on the electronic forms, streamlining notification and comment process. If an additional, non-LGD carbon copy “cc” contact is desired, please indicate that also.

Once the Form 29 has been submitted and processed you will be contacted by COGCC to verify the information in our database. This information is viewable by the public and is an easy way people in your community can find your contact information.

COGCC Form 29 is used to register LGDs and update LGD changes and contact information. A blank form can be printed from Forms tab on COGCC home page.



The next innovation from CMS is the ECO2 Fully Automatic Oxygen Monitoring and Control System. The ECO2 continually and automatically monitors the amount of actual oxygen present during the combustion process and adds oxygen to the airflow when needed. ECO2 is available as an option to any CMS model cremator or as a retrofit to your existing cremation equipment.

Benefits of ECO2

Save Fuel

Maximizes the energy generated by the case, reducing the amount of external fuel needed.

Reduce Visual Emissions

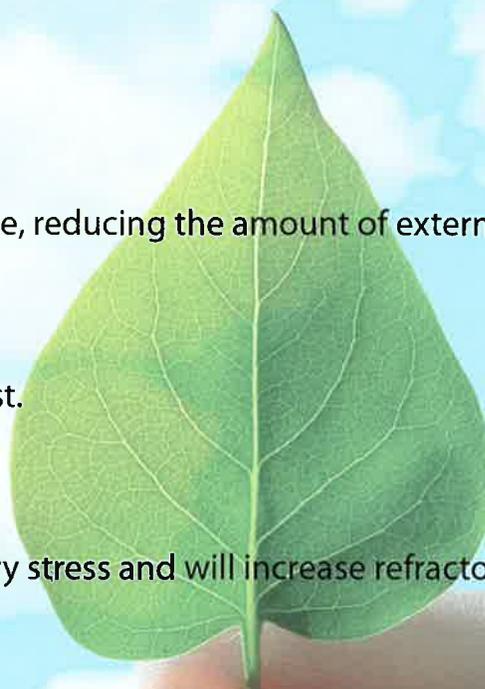
Ensures correct O₂ levels for cleaner exhaust.

Increase Refractory Life

More efficient combustion reduces refractory stress and will increase refractory life.

Shorten Cremation Time

Controlling excess air while ensuring correct oxygen percentages will result in a faster cremation cycle.



SPECIFICATIONS:

EXTERIOR DIMENSIONS:

- Length: 32"
- Width: 30"
- Height: 53"

ELECTRICAL SUPPLY:

- 115 Volts
- 60 Hertz
- 30 Amps

ENCLOSED DUST COLLECTION SYSTEM: MOTOR/BLOWER

- 115 Volts
- 60 Hz
- 6.8 Amps

AUTOMATIC THERMAL PROTECTION

EXTREAMLY QUIET OPERATION

FILTER:

Size: 12" x 16" x 1"

- Easy changing and washable

PROCESSING MOTOR:

- 115 Volt
- 60 Hz
- 16 Amp
- 2 Horsepower

CLEARANCES:

- 2" from back of unit to wall
- 36" on right side

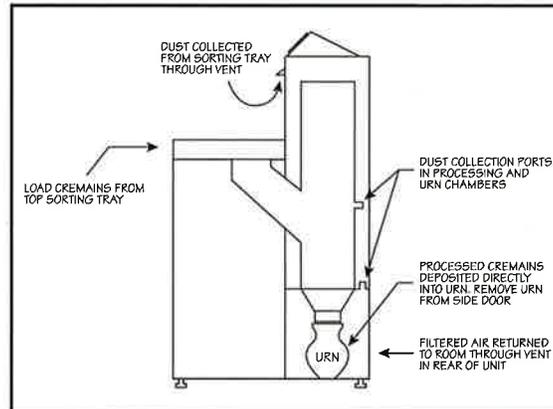
WARRANTY:

1-year limited warranty

Processors

Utilizing customer input, CMS was the first to incorporate a technologically advanced dust removal system into the design of the CMS Dust-Free Cremated Remains Processor. A separate filtering system is not required. A high-tech, microprocessor controlled dust removal system pulls dust away while the cremated remains are being sorted, loaded, and processed--virtually eliminating hazards to the user.

After the system quickly and quietly reduces the remains to less than 200 cu/in, it automatically fills the urn. No more hand loading. No more dust. The CMS Dust-Free Cremated Remains Processor efficiently completes the entire cycle in less than 3 minutes.



Features

- Automatically fills the urn
- Built-in dust removal system
- Microprocessor controlled
- Separate filtering system NOT required
- Reduces cremated remains to less than 200 cu/in
- Completes Cycle in less than 3 minutes
- 1-Year Limited Warranty

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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 20th 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 1st 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 37th Street, immediately east of the intersection of 37th 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 37th Street as citizens will be utilizing 37th 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 51st 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. 20th 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 37th 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 37th 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 24th 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.

APPROVED

CITY OF EVANS, COLORADO

ORDINANCE NO. 605-14

AN ORDINANCE AMENDING THE SETBACK PARAMETERS FOR OIL AND GAS EXTRACTION AS DEFINED IN CHAPTER 16.28 AND AMENDING CHAPTER 19.15 TO INCLUDE CREMATORIUM USES WITHIN THE C-1, C-2, C-3, I-1, I-2, AND I-3 ZONING DISTRICTS

WHEREAS, in accordance with Section 12.12 of the Evans Home Rule Charter and Chapter 19.60 of the Evans Municipal Code, the amendment to the zoning of the subject properties, described below, is initiated by the City of Evans; and

WHEREAS, the Planning Commission held a public hearing on July 22 2014, and recommended to amend the sections of municipal code described herein; and

WHEREAS, after considering the Planning Commission's recommendation, reviewing the file herein, and conducting a public hearing concerning the amendments in accordance with Chapter 19.60 of the Municipal Code, the City Council hereby determines it to be in the best interest of the City of Evans to amend the Chapters 16.28 and 19.15, and that such amendments are in conformance with Section 19.60.080, Criteria for Approval of Zoning Amendments, which requires the proposed zoning to be in substantial conformance with the Evans Comprehensive Plan unless there exists substantial reasoning for amending the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that the regulations contained within Chapter 16.28 and 19.15 of the Evans Municipal Code, described as attached in Exhibit A is hereby changed.

Section 2. Publication and Effective Date. This ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and the City Clerk, and by the Certificate of Publication. This ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 16th day of September, 2014.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 7th day of October,
2014.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

EXHIBIT “A”

Proposed Amendments to the Evans Municipal Code related to Oil and Gas Well Facility Setbacks, and Crematorium Uses in the Industrial and Commercial Zone Districts.

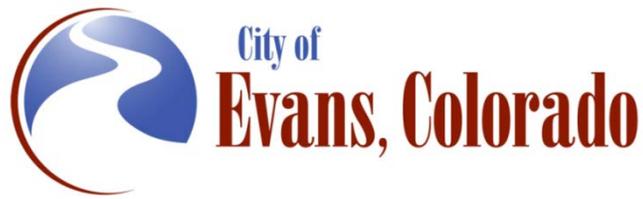
1. Replacement of the setbacks for oil and gas uses in Chapter 16.28.060, with the following:

A. A 500-foot minimum setback is required between new Oil and Gas facilities and wellheads, and Building Units, or a 500-foot setback from property lines, whichever is greater.

B. A minimum safety setback of 200-feet is required between wells and tank batteries, and any building, public road, major above ground utility line, or railroad is required at the time of drilling.

2. Amendments to the requirements for crematoriums in the Industrial Zone Districts, and the addition of crematorium as a use in the Commercial Zone Districts as follows:

Crematoriums shall be allowed as a permitted use in all Industrial Zone and Commercial Zone Districts (excluding the area defined by the US Highway 85 Overlay District Master Plan) as defined in Chapter 19.15.030 of the Evans Municipal Code.



CITY COUNCIL COMMUNICATION

DATE: September 16, 2014

AGENDA ITEM: 8.C

SUBJECT: Rumsey-Werning-Camenisch PUD Plan Approval
(Werning Parcels)

ACTION: Consideration by City Council

STAFF CONTACT: Sean Wheeler, City Planner

APPROVED BY: Zach Ratkai, Community Development Manager

PLANNING COMMISSION: August 27, 2014

BACKGROUND INFORMATION		
Location:	23822 WCR #331/4; Off both sides of CR# 394 and CR# 331/4 (See Attached Map)	
Applicant:	Glenn and Kathy Warning	
Existing Land Use:	Agricultural	
Proposed Land Use:	PUD: Zoning for Agricultural and Related Uses, plus Rural Residential Uses	
Surrounding Land Use:	North	Agricultural, Weld County Undeveloped
	South	I-2 Industrial, Agricultural
	East	PUD, Undeveloped
	West	Weld County Agricultural
Existing Zoning:	PUD: Undefined	
Proposed Zoning:	PUD: Agricultural, Rural Residential	
Surrounding Zoning:	North	PUD / Undeveloped Wildlife Habitat
	South	I-2 Industrial / Weld County, Undeveloped, Agricultural
	East	PUD (Undefined)
	West	PUD (Undefined)

Future Land Use Designation:	Agricultural uses with possible agricultural related uses, also limited residential development.
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PROJECT DESCRIPTION:

1. In May, 2004, the City approved an annexation request for the Rumsey-Werning-Camenisch Planned Unit Development (PUD). The annexation included approximately 1349 acres of land located south of the Platte River. At the time the intent was to develop the site with a possible mix of residential, commercial and outdoor recreational uses. This plan also assumed the extension of City streets and utilities via 35th Avenue with the addition of a bridge over the river. City Ordinance No. 260-04 established the zoning for the annexed properties as a “PUD” with a requirement that a PUD Plan be approved *prior* to further development. The subsequent Annexation Agreement also required the City’s approval of a PUD Plan. Between 2004 and today, the applicant discussed ideas for development with City Staff but nothing was formally presented for approval. With changes in the economy, plans to extend streets and utilities were stalled along with those for development of this PUD.

2. Following the 2013 flood, the Wernings determined the best use of the land would be for it to remain in agricultural production as a family farm. In the spring of this year they contacted the City to discuss development options with this use in mind. One of the family’s objectives is to obtain approval for some residential building sites, so that family members can reside on the land and continue farming. *(Staff is recommending approval of building sites, but not tying them to just family members or the agricultural use. This is discussed below in greater detail.)* Thus the applicant’s currently seek approval for a PUD Plan in compliance with the City Ordinance and Annexation Agreement. The parcels total approximately 350.58 acres and the proposed plan would apply *only* to the Werning property and not to the other owners / parcels in the PUD.

3. Staff contacted the State Division of Water Resources regarding the use of wells to serve residential lots as public water is not available to the site. The State indicated they can issue a well permit to serve up to three residential uses per well, provided that each permit is tied to a parcel of land of 35-acres or more in size. The parcel assigned to the well does not, according to the State, have to be associated with a residential lot. For that reason, the City can agree to the creation of any sized residential lot provided there are sufficient wells to serve them. The applicant’s indicated they wished to create 7 lots for possible future home sites, but they do not wish to subdivide the farm into 35-acre lots. Since the applicants have sufficient acreage to obtain the required number of well permits for their proposed residential uses, Staff agreed to support the creation of up to 10 smaller residential lots. This number is based on the number of lots they could potentially create as 35-acre parcels if the property was in Weld County. In this case, Staff is recommending a 2-acre minimum lot size. That size is consistent with residential lot requirements in the agricultural zone. It also allows for the placement of septic systems with adequate separation to mitigate potential impacts on ground water.

4. In formulating the PUD plan, Staff used the existing definitions in the Agricultural Zone to provide a basis for the zoning. We also incorporated defined agricultural uses from other jurisdictions into our recommendations. All of the elements of the PUD Plan relate to agricultural

uses such as allowances for farm stands, horse boarding, livestock and agricultural related recreation. This last category includes uses such as a corn maze or hay rides in the fall months. By including these as permitted uses, the applicants have greater flexibility for the use of their land without the need for additional approvals. The applicant's asked Staff to include the ability to build a private landing strip on the property for private use only. This is included as it is common feature on western farms and ranches. Another request was for the ability to construct a golf course at some future date. The golf course is included, but through the Special Review approval under outdoor recreational uses. Finally, the proposed PUD plan includes set-back and building height allowances, along with agricultural related accessory uses such as the ability to construct pole-barns, etc. for equipment storage. Approval of these accessory uses would still require obtaining a building permit.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission considered the request on August 27th, 2014. Discussion focused briefly on the locations of proposed home sites as related to the floodplain, options for buyers, and the extent of uses outlined in the PUD Plan. Staff noted the City Engineer reviewed the site plan and did not object to the residential lot locations. In addition, the expanded uses are typical of a PUD Plan, but all relate to agriculture as the primary use. Also, the applicant made two requests just prior to the Planning Commission hearing for additions to the PUD Plan. They asked that "fish farm" be added as an allowed use under the definition of farming. In addition, they asked to extend the hours of operation related to recreational uses from 10pm to midnight on Friday and Saturday evenings. This last request relates to uses like corn mazes, etc. as described in the PUD Plan. The Planning Commission supported the additions, and voted 5 to 0 in favor of the PUD Plan.

CHAPTER 18.28 PLANNED UNIT DEVELOPMENT (PUD) DISTRICTS:

Chapter 18.28.010 outlines the intent behind creating PUD districts. In summary this section notes that PUD Districts allow for the development of land in ways that might not be permitted under traditional zoning. PUD's should be approved where the plan will preserve the natural and scenic features of large open areas while providing an efficient use of land.

ANALYSIS:

Chapter 18.28 provides the requirements to develop a property once the PUD designation is in place. While a conceptual plan is allowed, the applicants are presenting a Comprehensive PUD Plan for review. It designates specific residential lot locations and allowances proposed under the PUD zoning, but it also expands the list of permitted uses beyond those allowed under the AG Zone. Staff supports the propose plan for two reasons. First, the City approved the PUD designation for this site in 2004 and this step represents a finalization of that process for one part of the site. Second, the recommended land uses for the PUD relate to agriculture, which is the historic and current use of the land. Other elements not directly related to agriculture require Special Review approval. Given the recent economy, Staff's assessment is that increasing options for landowners (which remain true to the intent of the original agricultural zoning) benefits the greater community. For this landowner, it can help to keep the family farm in operation until such a time when other development may be

appropriate. The City's Comprehensive Plan also supports proposal's that encourage commercial endeavors and farming is clearly a business.

1. 18.28.180 Review Criteria:

A. Section 18.28.180 provides the specific review criteria to weigh the merits of a proposed PUD Plan. It requires consideration of issues such as land use compatibility, potential traffic impacts, appearance and recreational potentials. It also requires consideration of the likelihood that the PUD will achieve the objectives described in the intent Section (18.28.010 above). The Code also allows for consideration of any other matters which the Council determines to be relevant in making its decision. To accomplish this, there are two basic criterion for judging a PUD plan;

- Does it serve the public interest?
- Do the "self-regulating" aspects of the proposed PUD provide safeguards to the public and residents of the PUD?

1) Application of the PUD Plan: The City approved a plan for the Rumsey-Werning-Camenisch PUD in 2004, but the approval documents do not stipulate a vesting period for development of the site. In fact, this project is one of several approved PUD's in Evans that remain incomplete. Staff's perspective is that there is no tangible public benefit to keeping projects in limbo that are half way through the approval process. This plan will not apply to the PUD as a whole, but it does help to define a part of the PUD area. Staff contacted the other owners of parcels within the PUD who did not respond with an interest in applying a PUD Plan to their parcels. It is important to note that approval of this request does not impact the other parcels in the PUD, or obligate the other owners in any way.

2) Plan Definitions: The proposed PUD Plan applies zoning definitions that will have a minimal impact on surrounding uses, as the majority of the ground will stay in agricultural production. Still, the Plan does expand possible agricultural uses for the property beyond those allowed under the City's AG Zone. Our assessment is that supporting diverse (yet related) options for any business only increases the likelihood that business will survive in a fluctuating economy. Another factor for consideration is that approval of the Plan allows for the continued operation of a family farm that is been in use for several generations. Agriculture in Northern Colorado continues to face challenges from water costs to encroaching development. The proposed PUD Plan allows for the continued operation of this farm, while providing some residential options for the applicant. Other elements of the plan such as allowing hay rides or a corn maze or a farm stand do not directly increase public revenues substantially. They do, however, add a cultural element to the area of the type which can become known regionally and support a family at the same time. (Consider for example that Knott's Berry Farm. It is known worldwide but it started as a roadside farm stand.) Staff's assessment is that approval of the plan benefits the greater community by encouraging a diverse commercial and recreational aspect to the City of Evans. It also completes the PUD process for at least part of the site, and allows this land owner a greater list of options for use of their land.

3) Access and Safety: There is one issue regarding safety and that is access. The applicants propose to provide a private drive to access the residential lots as they do not wish to have a public

road. Staff supports this plan with the provision that the access drive meet the standards required for emergency vehicle access. The applicants advised Staff the road would be sized accordingly, as they also use semi-trailer sized vehicles in the farming operation. The LaSalle Fire Chief reviewed the proposed plan and supports approval provided the access drive is designed correctly. A follow up inspection of the access road will be required before building permits can be issued for the sites as well. With that concern addressed, there are no other safety issues evident in this request.

4) Review Criteria Summary: The applicants family has lived on and operated this farm for generations. There is nothing listed in the PUD Plan's that is not related to agriculture and continuation of that historic use. The Plan also limits impacts for other uses such as a farm stand by defining the scope of these uses. If one of the agri-business related uses grows substantially, the City retains the ability to reconsider the use and apply appropriate conditions. Things that are not listed as a "Permitted Use" require "Use by Special Review" approval, so again the City is able to consider other conditions of approval as appropriate under that process.

2. Other Chapter 18.28 Requirements:

A. Residential Lots: The applicant's intent is to provide building sites for family members. However, Staff does not recommend limiting who can purchase lots or tying them to the agricultural use. These options require the City to impose additional tracking mechanisms for which there is no clear benefit. The recommended number of residential lots is based on the number of 35-acre lots the applicants could develop if they were in Weld County. They have not sought a density bonus by use of the PUD process, so the potential amount of residential development is unchanged by approval of the PUD Plan. The creation of additional residential lots would require an amendment to the PUD. Staff support for additional lots would be based on available public utilities, which are not planned for extension in the foreseeable future.

B. Lot Buyers and Approvals: Related to item "A" above, the Municipal Code requires that anyone purchasing a lot or land interest in the PUD is obligated to comply with the requirements and limitations of the approvals for the PUD. As this PUD Plan only applies to the applicant's parcels within the original annexation, and not to other owners or parcels in the larger PUD.

C. Homeowner's Association: A homeowner's association is not requested for this PUD. Because there are no public improvements tied to the PUD Plan, this recommendation of the Chapter 18.28 standards does not apply.

REVIEWING AGENCY COMMENTS:

Staff considered the request as part of the Development Review Team review in meetings with the applicant. Planning Staff forwarded a copy of the request to the City Engineer and Fire District for review. The City's Economic Development Director also considered the request. None of the reviewing agencies objected to approval of the PUD Plan, provided the applicant meets standards for adequate access on the private road.

FINDINGS OF FACT AND CONCLUSIONS:

Based on a review of the proposed PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development, and the information contained in this report, Staff makes the following Findings of Fact;

The proposed PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development satisfies the requirements of Chapter 18.28 of the Evans Municipal Code and it will be compatible with the surrounding land uses.

PLANNING COMMISSION & STAFF RECOMMENDATION:

The Planning Commission and Staff recommend approval of the requested PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development, based on the findings and conclusions outlined in this report and subject to the PUD Plan provided for consideration.

RECOMMENDED MOTIONS:

“Mr. Mayor, on the issue of the proposed amendments to the Evans Municipal code, I move that the City Council approve Ordinance 606-14 on 1st Reading for the adoption of the proposed PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development

“Mr. Mayor, I move to recommend denial of the proposed PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development (Werning Parcels) as applicable to the PUD parcels described on Exhibit “A” because it is not in the best interest of the citizens of the City of Evans.”

Attachments:

- Exhibit “A” Legal Description;
- Draft PUD Plan;
- Draft PUD Plat;
- Vicinity Map;
- Zoning Map; and
- Applicant’s Letter of Intent

DESCRIPTION-E 1/2, SECTION 3 - PARCEL A

A tract of land located in the East One-Half (E 1/2) of Section Three (3), Township Four (4) North, Range Sixty-Six (66) West of the 6TH Principal Meridian, Weld County, Colorado, being more particularly described as:

Considering the east line of the Northeast One-Quarter (NE 1/4) of said Section Three (3), Township Four (4) North, Range Sixty-Six (66) West of the 6TH Principal Meridian, Weld County, Colorado to bear North 02°58'46" East and all bearings contained herein relative thereto:

Beginning at the North One-Quarter (N 1/4) Corner of said Section Three (3); thence, South 00°37'00" West, 2715.47 feet to the Center One Quarter (C 1/4) Corner of said Section Three (3);

Thence along the west line of the East One-Half (E 1/2) of said Section Three (3), South 02°16'22" East, 448.46 feet to a point on the centerline of Weld County Road 394;

Thence along the centerline of Weld County Road 394 the following seven (7) courses, (L1) North 66°26'18" East, 407.44 feet to a point on a curve (C1) to the left which has a central angle of 27°04'50", a radius of 934.30 feet and the chord of which bears North 79°58'42" East, 437.49 feet; thence, (L2) South 86°28'53" East, 372.69 feet;

Thence, (L3) South 84°09'52" East, 339.66 feet; thence, (L4) South 81°10'05" East, 616.87 feet;

Thence, (L5) South 86°20'00" East, 511.14 feet; thence, (L6) South 88°48'42" East, 141.49 feet to a point on the east line of the East One-Quarter (E 1/2) of said Section Three (3);

Thence along the east line of the East One-Half (E 1/2) of said Section Three (3), North 00°02'25" West, 353.97 feet to the East One-Quarter (E 1/4) Corner of said Section Three (3);

Thence, North 02°58'46" East, 666.45 feet;

Thence leaving said east line of the East One-Quarter (E 1/2) of said Section Three (3), North 87°02'17" West, 472.04 feet;

Thence, North 02°58'46" East, 575.77 feet;

Thence, North 86°10'09" East, 475.39 feet to a point on the east line of the East One-Quarter (E 1/2) of said Section Three (3);

Thence along said east line of the East One-Quarter (E 1/2) of said Section Three (3);

North 02°58'46" East, 92.93 feet to the North One-Sixteenth (N 1/16) Corner of said Section Three (3) and Section Two (2);

Thence North 02°58'46" East, 1264.76 feet to the Northeast Corner of said Section Three (3);

Thence North 87°54'54" West, 2903.59 feet to the Point of Beginning.

The above-described tract contains 191.08 acres, more or less, and is subject to rights-of-way and/or easement reserved for Weld County Road 50 located in the northerly part of the parcel and is subject to rights-of-way and/or easements of record or as may now exist.

DESCRIPTION-N 1/2, SECTION 2 - PARCEL B

A tract of land located in the North One-Half (N 1/2) of Section Two (2), Township Four (4) North, Range Sixty-Six (66) West of the 6TH Principal Meridian, Weld County, Colorado, being more particularly described as:

Considering the west line of the Northwest One-Quarter (NW 1/4) of said Section Two (2), Township Four (4) North, Range Sixty-Six (66) West of the 6TH Principal Meridian, Weld County, Colorado to bear North 02°58'46" East and all bearings contained herein relative thereto:

Beginning at the Northwest Corner of said Section Two (2);

Thence, South 89°43'02" East, 2611.82 feet to the North One-Quarter (N 1/4) Corner of said Section Two (3);

Thence along the east line of the Northwest One-Quarter (NW 1/4) of said Section Two (2), South 00°56'57" West, 1341.89 feet to the northeast corner of Lot A, RE-1434 and the southerly rights-of-way of Weld County Road 394;

Thence along the southerly rights-of-way of Weld County Road 394, South 65°28'35" West, 249.43 feet;

Thence, South 24°38'20" East, 317.70 feet; thence, North 65°19'05" East, 97.57 feet to the east line of the Northeast One-Quarter (NE 1/4) of said Section Two (2);

Thence along the east line of the Northeast One-Quarter (NE 1/4) of said Section Two (2), North 00°56'57" East, 351.61 feet to the southerly rights-of-way of Weld County Road 394;

Thence along southerly rights-of-way of Weld County Road 394, North 65°24'01" East, 812.66 feet;

Thence, South 24°25'00" East, 1862.34 feet to the south line of the Northeast One-Quarter (NE 1/4) of said Section Two (2);

Thence along the south line of the Northeast One-Quarter (NE 1/4) of said Section Two (2), North 89°11'42" West, 1531.03 feet to the Center One-Quarter (C 1/4) Corner of said Section Two (2);

Thence, North 89°11'42" West, 1352.87 feet to the Center-West One-Sixteenth (C-W 1/16) Corner of said Section Two (2);

Thence, North 01°57'36" East, 1391.72 feet to the North-West One-Sixteenth (N-W 1/16) Corner of said Section Two (2);

Thence North 89°14'27" West, 1328.14 feet to the North Sixteenth (N 1/16) Corner of said Section Two (2) and Three (3);

Thence, North 02°58'46" East, 1264.76 feet to the Point of Beginning.

The above-described tract contains 159.50 acres, more or less, and is subject to rights-of-way and/or easement reserved for Weld County Road 50 located in the northerly part of the parcel and is subject to rights-of-way and/or easements of record or as may now exist.

PUD Plan
Rumsey-Werning-Camenisch Planned Unit Development (Werning Parcels)
September, 2014

INTENT:

It is the intent of the City when establishing the zoning for the Werning PUD to allow the site to continue in historic agricultural uses, while providing residential options on site to support those operating the farm. There are no future land uses proposed at the time of approval for the property. The number of allowed residential uses in the Werning PUD is based on a 35-acre factor, where the actual lot size may be as small as 2-acres.

PERMITTED USES:

Permitted uses are those allowed by right within the PUD. Permitted uses do not require additional approval for the use, but building permits and other standards may apply. Any use not listed as a permitted use, an accessory use, or a Use by Special Review, requires approval through an amendment to the PUD. Permitted uses for the Werning are as follows:

Agriculture: (See Farm)

Apiary: Includes the keeping of bees for the commercial production of honey or related products, along with support facilities needed for said production.

Dwelling, Single-Family: Single family residential uses are allowed subject to building permit requirements in effect at the time of construction. Single-family residential uses may include on-site construction, manufactured homes or modular residences. Duplex units and multi-family uses are not allowed.

Farm / Sod Farm / Tree Farm / Nursery / Greenhouse: To include the production of crops such as vegetables, fruit trees, grain, plants, shrubs, vines or flowers; the growing of trees and shrubs for commercial landscape purposes; a fish farm, ranching and similar uses / activities. A farm, sod farm, tree farm, nursery or greenhouse may include Agricultural Processing as an accessory use, as defined by Accessory Uses; Farm Stands and Agricultural Processing.

Horses; Personal: Personal horses for the use of the occupants of the lot and their guests, for purposes other than boarding or training, are allowed provided the total number of personal horses and those kept for boarding purposes does not exceed 50 horses. The keeping of 51 or more horses requires Use by Special Review approval.

Livestock / Feedlots: The keeping of livestock is allowed including cattle, sheep, swine and poultry. Commercial feedlot operations require Use by Special Review approval. Feedlots are defined as being more than one animal per half acre, where more than 50% of the food required is provided from off-site resources.

Public Service Facilities: Consists of municipal fire, police stations, ambulance dispatch and essential public utility and service installations which are owned by a governmental entity or any entity defined as a public utility for any purpose by the Colorado Public Utilities Commission, and used in connection with the reproduction, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals and similar uses necessary for the protection and benefit of the public; provided that repair and storage facilities are not included.

ACCESSORY USES & ELEMENTS:

Accessory uses are allowed as described in Chapter 19.48 (Accessory Uses and Structures) of the Evans Municipal Code unless further defined here. Allowed accessory uses are as follows:

Accessory Structures: Accessory structures that are clearly customary and incidental to the operation of a farm are allowed. These include (but are not limited to) barns, storage buildings, equipment maintenance buildings, garages for personal vehicles, etc. Structures larger than 120 square feet in require a building permit and subject to set back requirements. Accessory structures related to secondary uses, either permitted or which require approval, are subject to the site plan approval process. Accessory uses requiring site plan approval include all those not directly related to the operation of the farm or those which require Use by Special Review approval.

Farm Stand: Farm stands and agricultural processing or the sale of agricultural related goods are allowed in the PUD, subject business license requirements and the following standards.

- A. Farm Stands:** A temporary stand (120 days or fewer) for the sale of agricultural products produced on the premises. A permanent facility for a farm stand must comply with all other zoning requirements for this PUD and is subject to Site Plan approval and building permit requirements.
- B. Agricultural Processing and Sales:** The processing, packaging and sale of agricultural products on a permanent basis is an allowed use; excluding fish, meat or game. Examples include (but are not limited to) the site produced produce, the making of alfalfa pellets, herbal products, food products, wreaths, woolen products, cheese and candles, honey and honey related products.
- C. Location and Requirements:** Farm stands (larger than 120sf) and processing or sales facilities are subject to building permit requirements. The farm stand or processing / sales facility must be clearly incidental to and supportive of the dominant agricultural use of the site, and must be operated by the owner or lessee of the agricultural use. Agricultural processing is allowed by right subject to the following requirements;
 - 1) Seventy-five percent (by volume) of raw materials to be processed are raised or grown on the site.
 - 2) The total processing and/or sales facility is 1200 sq. ft. or less in gross floor area.

- 3) Traffic generation from the processing and/or sale of products is less than 60 vehicle trips/day, including customers, employees and deliveries.
- 4) The hours of operation are limited to the hours between 7:00 am and 9:00 pm.
- 5) The facility or operation will serve to preserve or enhance the rural character of the neighborhood or vicinity.
- 6) The processing or sales facility will not significantly change the character of the neighborhood.
- 7) The sale of other items not produced on site is allowed, provided the sales of these items do not become the primary source of sales revenues. An example would include, but is not limited to, honey products produced locally or hand-crafted seasonal items not produced on site by the owner.

D. Site Plan: Site Plan review and approval is required prior to operation for all processing and sales facilities, unless waived by the City Administrator or his / her designated representative.

E. Variances: Variances to the standards of this section may be approved through the Use by Special Review process.

Fences: Fences (including barbed-wire fencing typical to an agricultural operation) are allowed. Fences higher than 6-feet require a fence permit. Fences shall not be installed so as to create a visibility hazard or other safety concern. No shall fencing be installed in the public right-of-way. Fencing over easement areas is subject to any agreements or rights of interest by the easement holder.

Hobby Breeder and Animal Foster Care: Hobby breeder facilities and foster homes for pet animals are permitted, provided such uses do not detract from the rural character of the area with excessive noise, traffic, etc.

Home Occupation: The production and sale of agricultural produce as a home occupation, at which all produce for sale has been grown at the site, shall be permitted within the dwelling and/or from accessory buildings located within five hundred (500) feet of the dwelling occupied by those conducting the rural home occupation. Equipment used in the production of agricultural produce shall be that customarily associated with farming or agricultural purposes and shall not be limited in size or number. All other home occupations are subject to the provisions described in Chapter 19.48 (Accessory Uses and Structures) of the Evans Municipal Code.

Horses; Boarding: The keeping of boarded horses conducted as an incidental and accessory use to a farm is allowed as follows:

A. Number of Horses: Up to 20 boarded horses may be kept collectively within the PUD; more than 20 requires Use by Special Review approval. The total number of personal horses and boarded horses combined shall not exceed 50 collectively for the PUD without Use by Special Review Approval.

B. Trainee Visits: Up to 15 weekly trainee visits may be provided.

C. Outdoor Arenas: Outdoor arenas are allowed. Lights and amplified noise devices associated with outdoor arenas must be turned off by 9:00 p.m. if the arena is located within 250 feet of a neighboring residence.

D. Outdoor Storage; Horse Trailers: Outdoor storage of horse trailers is allowed provided only those trailers that are for use by owners of the property and/or boarded horses may be stored. No more than one trailer per horse residing on the property is allowed. All horse trailers shall be licensed and operable.

E. Variances: Variances to the standards of this section may be approved through the Use by Special Review process.

Landing Strip: A landing strip for private aircraft is permitted on the property for the sole use of the owner, which shall not operate as a commercial business. Use of the landing strip in emergency situations or to support emergency operations is allowed.

Vehicles, Outside Storage: Vehicles that do not qualify as junk vehicles and that are owned by the occupant of a single-family dwelling, along with agricultural equipment incidental and necessary to the operation of a farm, may be stored outside on the same lot with the dwelling.

Agriculture Related Activities: Activities offered to the public for the purpose of recreation, education or active tourism related involvement in the farm operation are allowed. These activities must be incidental to the primary agricultural operation on the site or related to natural resources present on the property. This term includes farm tours, hayrides, corn mazes, classes related to agricultural products or skills and, picnic and party facilities offered in conjunction with the above. Agricultural activities do not include accommodations uses or retail sales, unless retail sales meet the standards for a farm stand defined in this PUD Plan. The agricultural activity must meet the following criteria:

A. The agricultural related activity will be clearly incidental to and supportive of the dominant agricultural use of the site.

B. The agricultural related activity will be operated by the agricultural facility owner or lessee.

C. Any outdoor activity will be located at least 50 feet from property lines.

D. The hours of operation are limited to the hours between 7:00 am and 9:00 pm, Sunday through Thursday, and 7:00 am till Midnight on Friday and Saturday.

E. Noise, fumes, dust, odors, vibration or light generated as a result of the agricultural related activity will, at the property line, be below the volume, frequency or intensity such that they do not unreasonably interfere with the enjoyment of life, quiet, comfort or outdoor recreation of an individual of ordinary sensitivity and habits.

- F. The agricultural related activity and operation will serve to preserve or enhance the rural character of the neighborhood or vicinity.
- G. The agricultural related activity and facilities will not significantly change the character of the neighborhood.
- H. The scale and intensity of the agricultural related activity and facilities must be consistent with the character of the area.
- I. Variances to the standards of this section may be approved through the Use by Special Review process.

SPECIAL USES:

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

Animals, Confined (Feedlots)
Cemetery
Community Facilities
Day Care Centers
Group Homes
Kennel
Mineral Extraction
Oil and Gas Facilities
Recreational Facilities; Indoor
Recreation Facilities; Outdoor Extensive
Recreational Facilities; Intensive
Recreational Vehicle (RV) Park/Campground
Recreational Vehicle Storage
Repair Shops
Security Residence
Staff Supervised Residential Facilities
Telecommunications or Commercial Mobile Radio Service Facilities

PROHIBITED USES:

All uses defined as industrial, commercial or not otherwise defined as allowed in this PUD Plan are prohibited.

RESIDENTIAL LOT REQUIREMENTS:

Maximum Density: Up to 10 single-family residential lots are allowed within the parcels subject to this PUD Plan, to include residences in existence at the time of approval.

Siting: Each residential lot must be designed to allow a logical pattern of lots that all meet minimum lot size and setback requirements and provide for adequate access, drainage and utilities for each lot. Should the agricultural operation cease, the property owner must pursue one of the following options to further develop the property:

1. Amended PUD
2. Present an alternative proposal in compliance with the Evans Municipal Code in effect at that time.

Building Permits / Water / Utilities:

1. A building permit is required prior to construction of any single-family residential use, or for an accessory use that is greater than 120sf in size.
2. Water is to be provided to each residential use via a well, approved by the State of Colorado Division of Water Resources. A copy of the State approved well permit must be provided at time of building permit application for each residential use. Well permits may serve up to three single-family residences, per State regulations in effect at the time of this PUD Plan approval. (Changes to State regulations may impact issuance of a building permit.)
3. Utility connections are the responsibility of the lot owner, and shall be in compliance with any applicable building permit requirements for inspections and approvals.

Storage Buildings and Garages: Each lot may include detached storage buildings and garages for the sole use of the occupants of the principal building. The total ground floor area of all storage buildings and garages on a lot cannot exceed ten percent (10%) of the lot's net area. Semitrailers with attached running gear (i.e. axels, wheels) cannot be used as storage buildings or garages. Only those buildings that are designed, constructed and approved by the City of Evans Building Department as storage buildings or garages may be used for this purpose. Manufactured homes, including pre-1974 mobile homes, cannot be used as storage buildings, barns or garages.

Setbacks, Lot Size and Building Height Requirements

<u>Road Front</u>	<u>Side</u>	<u>Rear</u>	<u>Lot Size Minimum</u>
25'	20'	25'	2 Acres

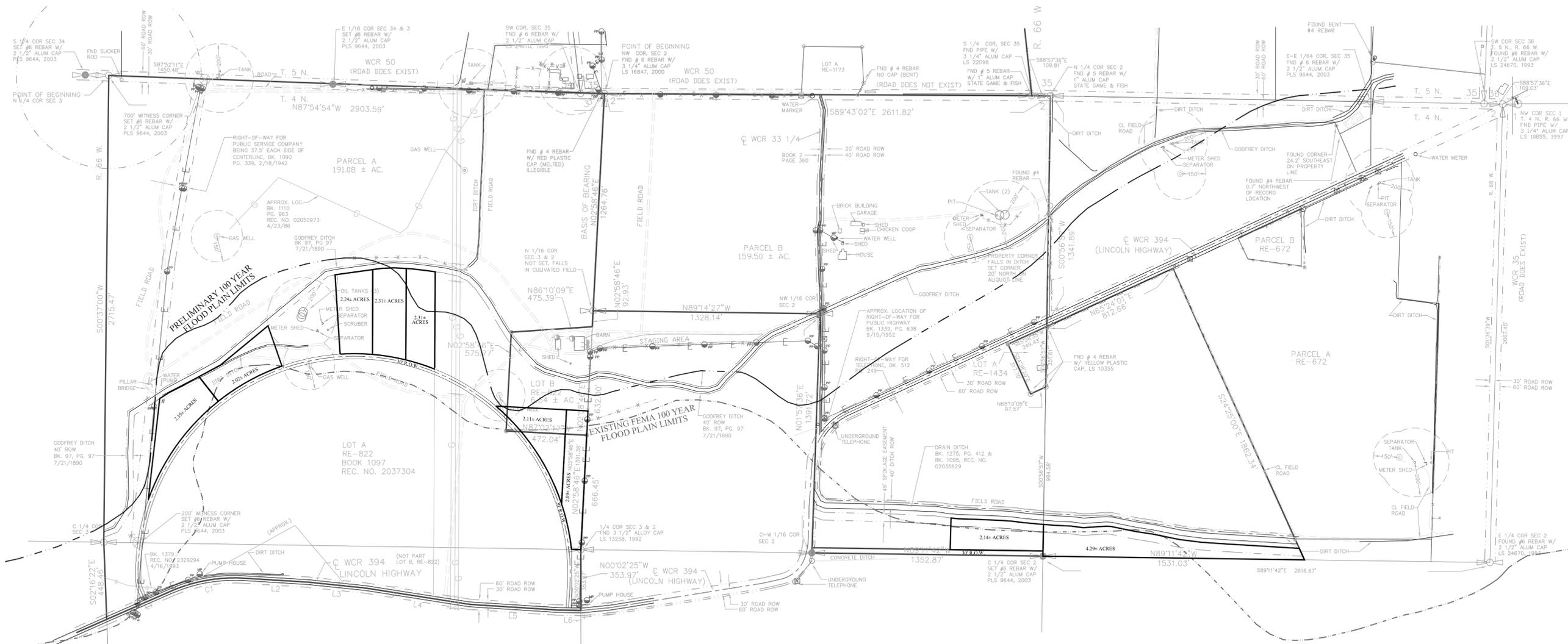
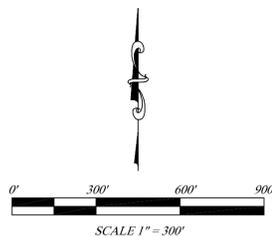
Building Heights:

35 Feet for residential buildings and accessory structures not defined agricultural buildings and structures;

60 Feet for agricultural buildings and structures, incidental and directly related to Agricultural Uses.

PRELIMINARY WERNING P.U.D.

LOCATED IN THE EAST HALF OF SECTION 3 AND THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 4 NORTH,
RANGE 66 WEST OF THE 6th PRINCIPAL MERIDIAN, CITY OF GREELEY, COUNTY OF WELD, STATE OF COLORADO



NOTES:

- 1) All references to books, pages, maps and reception numbers are public documents on file at the Clerk and Records Office of Weld County, State of Colorado unless stated otherwise.
- 2) NOTICE: According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you first discovered such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon (13-80-105 C.R.S.). Alles Taylor & Duke, LLC and/or Scott L. Ducommun will not be liable for more than the cost of this survey and then only to the Client specifically shown hereon or in our file by signed authorization. Acceptance and/or use of this instrument for any purpose constitutes agreement by the client to all terms stated hereon.
- 3) BASIS OF BEARINGS:
- 4) All known easements and/or rights-of-way, have been shown on this plat. The easements and or rights-of-way which are shown hereon may not be complete, are based on general information, and are to be used only in this context.
- 5) The existing 100 year Flood Plain lines were created using a digital copy of the flood plain maps and digitizing the flood plain lines on the drawing. These lines are an approximation of the flood plain lines only. The EXISTING 100 year Flood Plain Line was prepared using FEMA FIRM (Flood Insurance Rate Map) map Panel No. 750 of 1075, Community Panel No. 080266 0750 C, Map Revised: September, 28, 1982. The PRELIMINARY 100 year Flood Plain Line was prepared using FEMA FIRM (Flood Insurance Rate Map) map Panel No. 1707, 1710, 1726, and 1730 of 2250, Community Panel No. 08123C1707E, 08123C1710E, 08123C1726E and 08123C1730E, Effective Date: None.
- 6) LINEAL UNITS: All lineal distances are measured in feet and decimal feet units know as "Surveyors Units".

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

ENGINEERING & LAND SURVEYING SERVICES

DESIGNED BY:	S.L.D.
DRAWN BY:	M.T.
CHECKED BY:	M.T.
DATE	AUG., 2014
PROJECT NO.	2014-159

No.	Date	Revisions	Approval
1	10/9	Description First Review.	M.T.

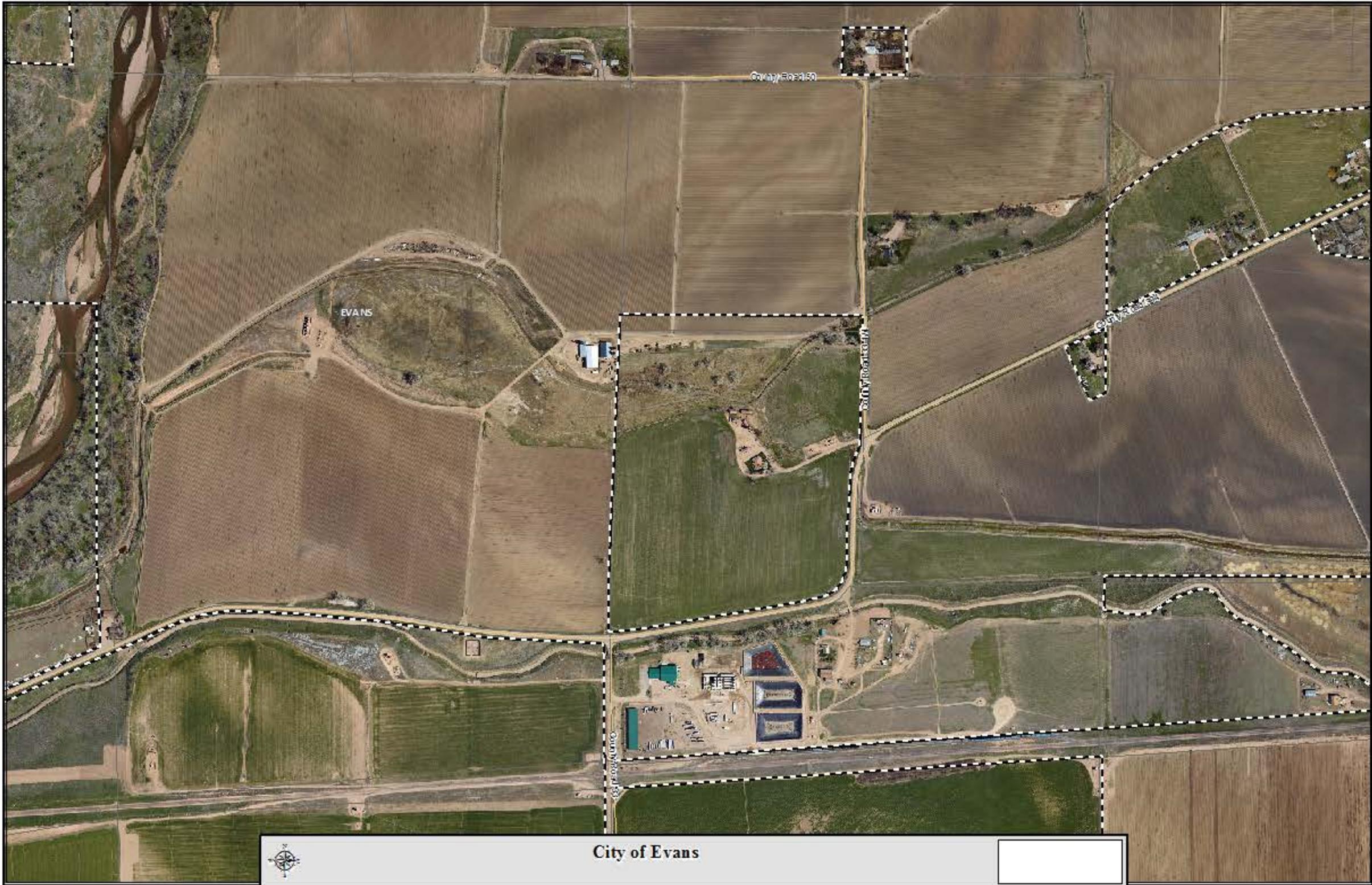
PRELIMINARY P.U.D.

COUNTY OF WELD COLORADO

PT. OF SEC. 3 & SEC. 2, T. 4 N. R. 66 W.

SCALE: 1" = 40'

SHEET 1 OF 1



City of Evans





County Road 50

EVANS

PUD

County Road 30474

PUD

I-2

County Road 30475



City of Evans



June 15, 2014

Glenn & Kathy Werning
23822 WCR 33 ¼
La Salle, Co 80645

City of Evans PUD Amendment application: Letter of Intent

After the 2013 flood it has become obvious that the best use for our land is agriculture. We do not believe that it will ever be developed. A good portion of the farm lies within the flood plain. The South Platte River also isolates us from the city of Evans. We do not believe that we will have any of the amenities that come from living within city limits until a bridge is built to cross the river on 35th avenue. At this point in time a bridge being built is very unlikely. So, we are asking that our farm be designated for agriculture. During the last 80 years, five generations of Wernings have lived on this farm and we would like to see this legacy continue.

We would like to develop a plan that would enable our children and grandchildren the opportunity to build homes and live on our family farm. Over the years our children have actively taken over our farm operation and committed themselves to the farming lifestyle. With the amount of working hours that are required to farm (10-16 hr. days, 7 days a week) it is necessary to live and work in the same location. We currently need one new home on the farm. Planning ahead for our other son and grandchildren we are asking you to consider the possibility that in the future seven new homes could be built on the farm. Each lot will be about 2 acres. These lots would allow our sons and families to finance their own home.

Our farm consists of 5 parcels. The basic legal description is NAE ½ of Sec 3 Township 4 Range 66 and SE ¼ of the NW ¼ of Sec 2 Township 4 Range 66.

Parcel # 1057030000035: This parcel consists of 180 acres. These 180 acres are relatively flat. 70 acres of this parcel lies above the flood plain. This is a best place for our son's to build their homes. We would like to build one house soon and have the right to build four more as they are needed. We would like each lot to be about two acres in size. Two building sites would be located on the east side of the parcel. The other building area would be located on the west side and would have three possible building sites. The density of homes is based on 35 acres. In order to keep most of our fields in production we purpose two separate clusters of homes. This would allow for a pivot irrigation sprinkler to be added in the future. If the sprinkler is added to the field the current access road would need to be moved from the center of the field to the east side of the field. We would also like approval for a new farm entrance if and when a sprinkler is added to our farming operation.

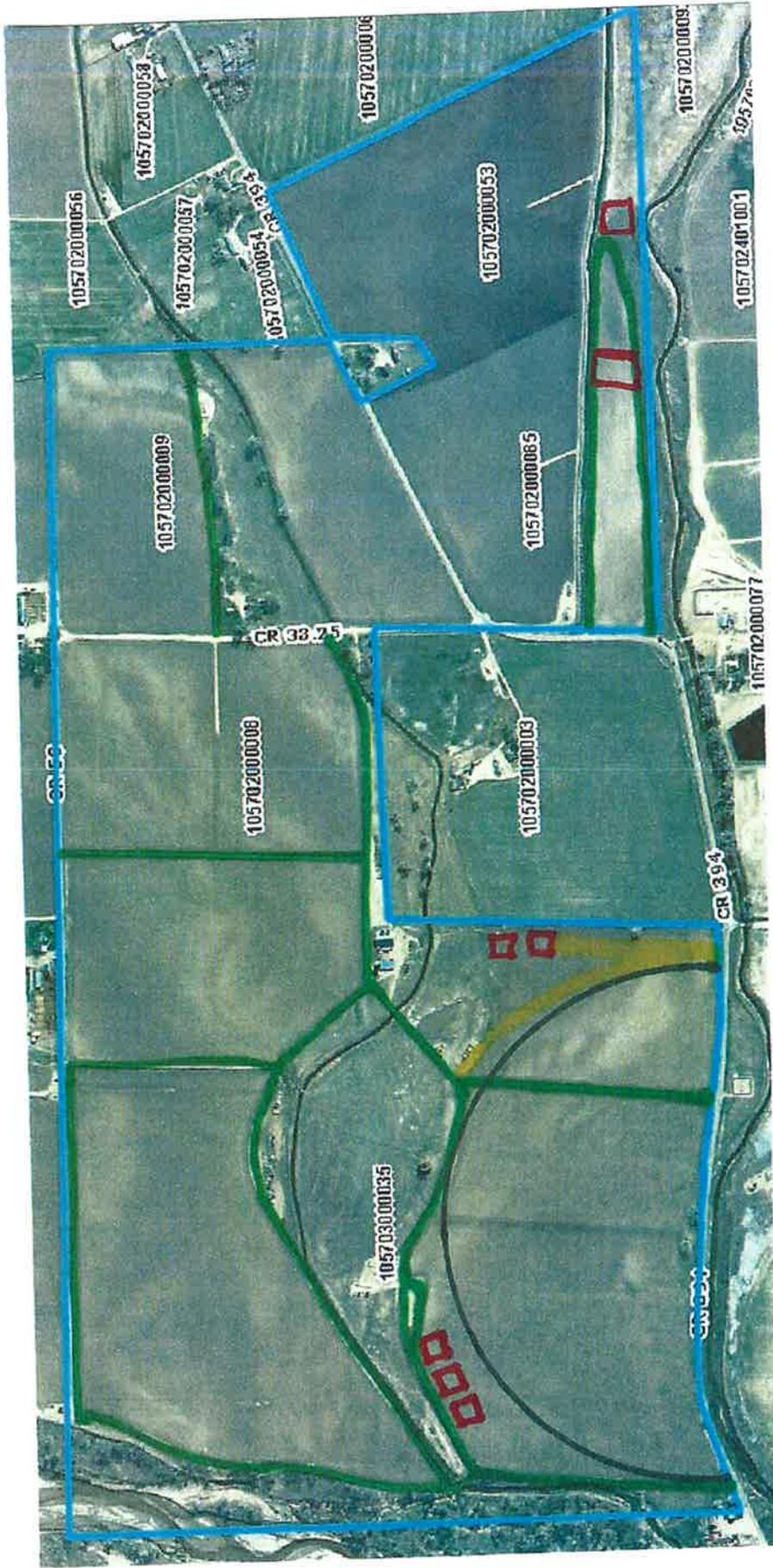
Parcel #1057020000008: This parcel consists of 60 acres. This parcel has a small home on it. This home does not lie within the city of Evans. However most of the parcel is within Evans city limits.

Parcel # 105702000009: This parcel consists of 28 acres. This parcel holds our home and multiple small out buildings.

Parcel # 105702000085: This parcel consists of 31 acres. A good portion of this parcel also lies above the flood plain and would be a good place for homes. We would like to have the approval for 1 home to be built on this parcel. The lot size would be about 2 acres. A field access already exists for this parcel and would be used for access to this lot. There are no immediate plans to build.

Parcel # 105702000053: This parcel consists of 50 acres. A good portion of this parcel also lies above the flood plain and would be a good place for homes. We would like to have the approval for 1 home to be built on this parcel. . The lot size would be about 2 acres a field access already exists for this parcel and would be used for access to this lot. There are no immediate plans to build.

Werning Farms PUD Amendment



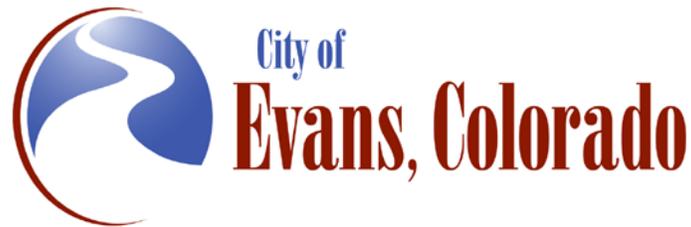
Property Line

Existing Farm Roads

Future Pivot Sprinkler

Proposed Farm Road

Home Building Sites



AGENDA

Planning and Zoning Commission Regular Meeting

Wednesday, August 27, 2014

Work Session 6:00

Regular Meeting 6:30

Evans Community Complex – 1100 37th Street

City Council Chambers

Planning and Zoning packets are prepared several days prior to the meetings. This information is reviewed and studied by the Commission, eliminating lengthy discussions to gain basic understanding. Timely action and/or short discussion on agenda items do not reflect lack of thought or analysis. An informational packet is available for public inspection on the website at www.evanscolorado.gov

WORK SESSION

- 1) PC Training
 - a. Robert's Rules of Order

REGULAR MEETING

- 1) CALL TO ORDER
Meeting was called to order at 6:31 p.m. by Chairman Brothe on 8/27/14.

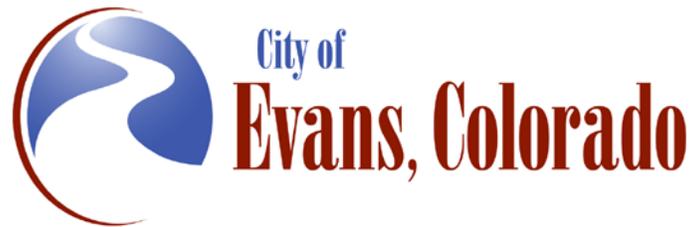
- 2) ROLL CALL:

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 July 22, 2014

Commissioner Phillips made the motion, seconded by Commissioner Speer, to approve the minutes of July 22, 2014. The motion passed with all voting in favor thereof.

- 4) APPROVAL OF THE AGENDA



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

5) AGENDA ITEMS:

A. PUBLIC HEARING –

a. USR – Tendercare Day Care, 3451 23rd Avenue

****Removed by staff for the purposes of the City Council Hearing ****

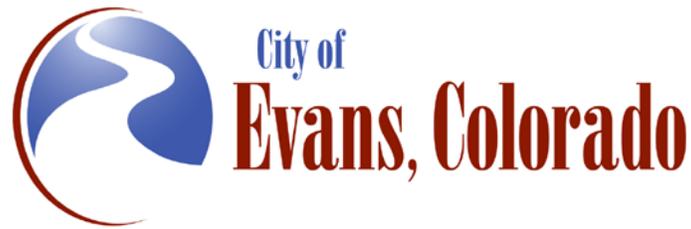
B. PUBLIC HEARING –

a. Werning PUD Amendment

Chairman Brothe opened the Public Hearing at 6:56 p.m.

PROJECT DESCRIPTION:

1. In May, 2004 the City approved an annexation request for the Rumsey-Werning-Camenisch Planned Unit Development (PUD). The annexation included approximately 1349 acres of land located south of the Platte River. At the time the intent was to develop the site with a possible mix of residential, commercial and outdoor recreational uses. This plan also assumed the extension of City streets and utilities via 35th Avenue with the addition of a bridge over the river. City Ordinance No. 260-04 established the zoning for the annexed properties as a “PUD” with a requirement that a PUD Plan be approved prior to further development. The subsequent Annexation Agreement also required the City’s approval of a PUD Plan. Between 2004 and today, the applicant discussed ideas for development with City Staff but nothing was formally presented for approval. With changes in the economy, plans to extend streets and utilities were stalled along with those for development of the PUD.
2. Following the 2013 flood, the Wernings determined the best use of the land would be for it to remain in agricultural production as a family farm. In the spring of this year they contacted the City to discuss options with this use in mind. One of the family’s objectives is to obtain approval for residential building sites so that family members can reside on the land and continue farming. The applicant’s currently seek approval for a PUD Plan in compliance with the City Ordinance and Annexation Agreement. The parcels total approximately 350.58 acres and the proposed plan would apply only to the Werning property and not to the other

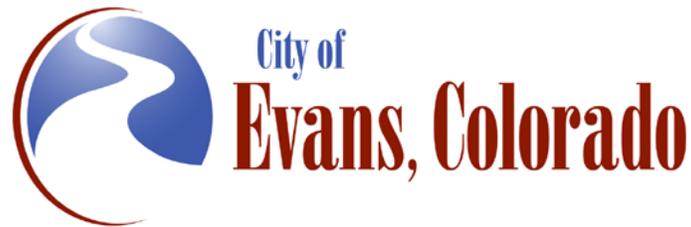


owners / parcels in the PUD.

3. Regarding water, Staff contacted the State Division of Water Resources to ask about the use of wells to serve residential lots. The State indicated they can issue a well permit to serve up to three residential uses, provided that each permit is tied to a parcel of land of 35-acres or more in size. The parcel assigned to the well does not, according to the State, have to be associated with a residential lot. Thus as part of the PUD Plan, the City can agree to the creation of any sized residential lot provided there are sufficient wells to serve them. The applicant's indicated they wished to create 7 lots for possible future home sites, but they did not want to create 35-acre lots as that would divide the farm ground and make financing more costly for their children. Since the applicants have sufficient acreage to obtain the required number of well permits for their proposed residential uses, Staff agreed to support the creation of up to 10 smaller residential lots. In this case, Staff is recommending a 2-acre minimum lot size as that is consistent with residential lot requirements in the agricultural zone. It also allows for the placement of septic systems with adequate separation to mitigate potential impacts on ground water.
4. In formulating the PUD plan, Staff used the existing definitions in the Agricultural Zone to provide a basis for the zoning. We also incorporated defined agricultural uses from other jurisdictions into the recommendations. All of the elements of the PUD Plan relate to agricultural uses such as allowances for farm stands, horse boarding, livestock and agricultural related recreational uses. This last category includes things such as a corn maze or hay rides in the fall months. By including these as permitted uses, the applicants have greater flexibility for the use of their land without the need for additional approvals. In addition, the applicant's asked Staff to include the ability to build a private landing strip on the property for private use only. This is included as it is common feature on western farms and ranches.

Another request was for a potential private golf course at some future date. This is also included through Special Review approval under outdoor recreational uses. Finally, the proposed PUD plan includes set-back and building height allowances, along with agricultural related accessory uses such as the ability to construct pole-barns, etc. for equipment storage without the requirement for additional approvals beyond obtaining a building permit.

STAFF RECOMMENDATION:



Staff recommends that the Planning Commission forward a recommendation of approval to the Evans City Council of the requested PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development, based on the findings and conclusions outlined in this report and subject to the PUD Plan provided for consideration.

QUESTIONS FROM PLANNING COMMISSION TO STAFF:

Commissioner Lowe asked if there were three original farms in the PUD and are those other farms ok with the new PUD. Mr. Wheeler advised that they were notified of the PUD application process and they have not contacted Mr. Wheeler.

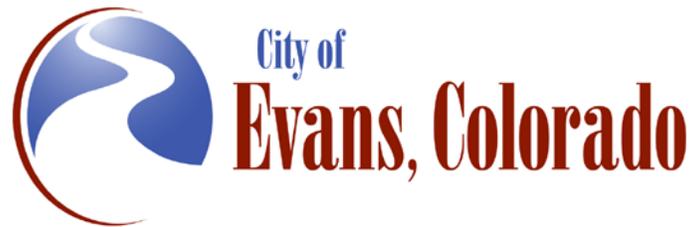
Commissioner Speer wanted clarification if the proposed site was on the north or the south side the CR 394. Mr. Wheeler clarified that the new proposed sights are the north side of the CR 394. Commissioner Speer was concerned due to the recent flood. Mr. Ratkai clarified that any new site plans would have to comply to floodplain development standards.

Commissioner Speer wanted clarification that earlier Mr. Wheeler stated that the family wants to build on the land but then later stated that the family may sell their land. Mr. Ratkai clarified that the applicant is in the audience and they would be able to state better what they intent to use their land for.

Commissioner Lowe wanted clarification of extending 35th Avenue and if the property would be on the east side. Mr. Ratkai clarified that it would be on the west side and that extending 35th Avenue would be multi-million dollar project and it's in the early stages of a concept at this time.

Commissioner Lowe wanted clarification about airplane landing strips with each individual farms and it's relation to the expansion of 35th Avenue. Mr. Wheeler advised that it was a grass landing strip and would have to comply with the FAA. Mr. Ratkai clarified that tonight is a document merely to establish specific land uses.

Commissioner Linn wanted clarification on what a PUD is? Her understanding is a piece of land and that the zoning would be uniform, what she is hearing tonight that the PUD is asking to be able to do whatever they want to do? Mr. Ratkai clarified that the PUD establish uses for your desire, goes through recommend of Planning Commission and approval from City Council. This PUD tonight is establishing mixed PUD use and then later on establishing specific uses through reviews and permits that comply to long range planning, our comprehensive plan, and the establish uses



of the PUD. It's doesn't necessarily mean all residential or commercial, it can be mixed use.

APPLICANT'S POSITION:

Glen Werning, 23832 WCR 33 ¼ LaSalle, CO 80644. Back in 2004, a developer came in and tried to buy his farm. They never bought the farm. Along with it came a PUD and then the possibility of developing more of the city around the 35th Avenue expansion. Then more uses came about with whatever would work for them. Then 2008 came along and the recession hit, and nothing ever happened and Mr. Werning keep his farm and never got it sold. Mr. Werner has sons and are farming. One of his son's homes was damaged by the 2013 flood and is now having to rent a house in Gilcrest. Mr. Werning would like to have some lots to build houses on for his sons. Then the flood hit and both of his sons were displaced. Mr. Werner only wants two lots to give to his sons to build houses on. In order to get loans, Mr. Werner has to go through a PUD and get legal lots. Mr. Werner advised that the lots are not in the floodplain. In regards to the air landing strips, Mr. Werner is a pilot and likes to fly and it was added as a possibility in the PUD.

AUDIENCE PARTICIPATION IN SUPPORT OF THE ISSUE:

None

AUDIENCE PARTICIPATION IN OPPOSTION OF THE ISSUE:

None

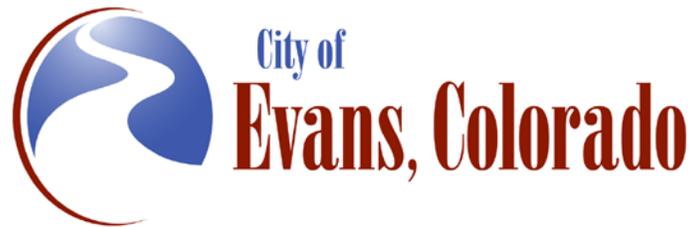
Chairman Brothe asked the Planning Commission if there are any questions that need clarified that were brought up during the Public Hearing.

Commissioner Linn asked about also putting a golf course on the property to Mr. Werner. Mr. Werner added that he is tired of farming and would like to add the golf course as a possibility.

Chairman Brothe wanted clarification in terms of the roadway in relation to the flood. Mr. Werning clarified that the roadway is 12 feet about the floodplain. The road would also be wide enough for farm equipment and oil and gas rigs and trucks.

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

Commissioner Speer stated that she has a farm and concerns of the flood as it affected her. She feels that someone should be able to use their land as they feel with considerations of their neighbors.



Chairman Brothe closed audience participation at 7:34 p.m.

Commissioner Linn moved to recommend approval of the proposed PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development (Werning Parcels) as applicable to the PUD parcels described on Exhibit "A" as being in the best interest of the citizens of the City of Evans.", seconded by Commissioner Phillips. The motion passed with all voting in favor thereof.

C. PUBLIC HEARING –

a. An ordinance to rezone properties within the Highway 85 Overlay District to the following new zone districts:

- Public Facilities zone district
- US 85 Office zone district
- US 85 Retail & Commercial – Neighborhood zone district
- US 85 Retail & Commercial – Regional Corridor zone district
- US 85 Retail & Commercial – Auto zone district

****Removed by staff for the purposes of the City Council Hearing ****

6) AUDIENCE PARTICIPATION:
None

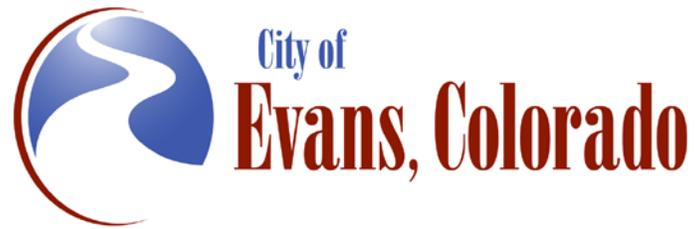
7) STAFF UPDATE
Go back to original fourth Tuesday of the month, next meeting will be at September 23rd at 6 p.m.

8) GENERAL DISCUSSION
Commissioner Linn had a question about Robert's Rules of Order on page 95 in relation to the duties of the chair. Mr. Ratkai advised he would look into it.

Commissioner Speer stated that she wanted to thank the staff for helping out with the new commission.

Commissioner Phillips referred back to the outcome of the city council. If they are reviewing a PUD he would like to see the original PUD and that it would be helpful.

9) ADJOURNMENT
Commissioner Linn made the motion, seconded by Commissioner Speer, to adjourn the



meeting. The motion passed with all voting in favor thereof. The meeting adjourned at 8:11 p.m.

CITY OF EVANS, COLORADO

ORDINANCE NO. 606-14

AN ORDINANCE APPROVING AN AMENDMENT OF THE WERNING PROPERTY TO BE KNOWN AS THE RUMSEY-WERNING-CAMENISH P.U.D. PLAN MORE SPECIFICALLY LOCATED IN THE EAST HALF OF SECTION 3, TOWNSHIP 4 NORTH, RANGE 66 WEST OF THE 6TH P.M., CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO

WHEREAS, pursuant to Section 18.28.125 of the Evans Municipal Code, a request for an amendment to the approval of a P.U.D. Plan has been submitted, and

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

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

1. The requested amendment to the 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. Amendment Approval. The Exhibit titled "Exhibit A" and attached hereto and incorporated herein by reference, is 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 amendment.

Section 2. Conditions. The owner shall comply with the conditions and development standards as shown on the attached "Exhibit A". Any changes that would amend the attached requirements shall be required to return to the Planning Commission and the City Council for formal approval.

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.

Section 5. 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.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Evans on this 16th day of September, 2014.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 7th day of October, 2014.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

“EXHIBIT A”
PUD Plan
Rumsey-Werning-Camenisch Planned Unit Development (Werning Parcels)
September, 2014

INTENT:

It is the intent of the City when establishing the zoning for the Werning PUD to allow the site to continue in historic agricultural uses, while providing residential options on site to support those operating the farm. There are no future land uses proposed at the time of approval for the property. The number of allowed residential uses in the Werning PUD is based on a 35-acre factor, where the actual lot size may be as small as 2-acres.

PERMITTED USES:

Permitted uses are those allowed by right within the PUD. Permitted uses do not require additional approval for the use, but building permits and other standards may apply. Any use not listed as a permitted use, an accessory use, or a Use by Special Review, requires approval through an amendment to the PUD. Permitted uses for the Werning are as follows:

Agriculture: (See Farm)

Apiary: Includes the keeping of bees for the commercial production of honey or related products, along with support facilities needed for said production.

Dwelling, Single-Family: Single family residential uses are allowed subject to building permit requirements in effect at the time of construction. Single-family residential uses may include on-site construction, manufactured homes or modular residences. Duplex units and multi-family uses are not allowed.

Farm / Sod Farm / Tree Farm / Nursery / Greenhouse: To include the production of crops such as vegetables, fruit trees, grain, plants, shrubs, vines or flowers; the growing of trees and shrubs for commercial landscape purposes; a fish farm, ranching and similar uses / activities. A farm, sod farm, tree farm, nursery or greenhouse may include Agricultural Processing as an accessory use, as defined by Accessory Uses; Farm Stands and Agricultural Processing.

Horses; Personal: Personal horses for the use of the occupants of the lot and their guests, for purposes other than boarding or training, are allowed provided the total number of personal horses and those kept for boarding purposes does not exceed 50 horses. The keeping of 51 or more horses requires Use by Special Review approval.

Livestock / Feedlots: The keeping of livestock is allowed including cattle, sheep, swine and poultry. Commercial feedlot operations require Use by Special Review approval. Feedlots are defined as being more than one animal per half acre, where more than 50% of the food required is provided from off-site resources.

Public Service Facilities: Consists of municipal fire, police stations, ambulance dispatch and essential public utility and service installations which are owned by a governmental entity or any entity defined as a public utility for any purpose by the Colorado Public Utilities Commission, and used in connection with the reproduction, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals and similar uses necessary for the protection and benefit of the public; provided that repair and storage facilities are not included.

ACCESSORY USES & ELEMENTS:

Accessory uses are allowed as described in Chapter 19.48 (Accessory Uses and Structures) of the Evans Municipal Code unless further defined here. Allowed accessory uses are as follows:

Accessory Structures: Accessory structures that are clearly customary and incidental to the operation of a farm are allowed. These include (but are not limited to) barns, storage buildings, equipment maintenance buildings, garages for personal vehicles, etc. Structures larger than 120 square feet in require a building permit and subject to set back requirements. Accessory structures related to secondary uses, either permitted or which require approval, are subject to the site plan approval process. Accessory uses requiring site plan approval include all those not directly related to the operation of the farm or those which require Use by Special Review approval.

Farm Stand: Farm stands and agricultural processing or the sale of agricultural related goods are allowed in the PUD, subject business license requirements and the following standards.

A. Farm Stands: A temporary stand (120 days or fewer) for the sale of agricultural products produced on the premises. A permanent facility for a farm stand must comply with all other zoning requirements for this PUD and is subject to Site Plan approval and building permit requirements.

B. Agricultural Processing and Sales: The processing, packaging and sale of agricultural products on a permanent basis is an allowed use; excluding fish, meat or game. Examples include (but are not limited to) the site produced produce, the making of alfalfa pellets, herbal products, food products, wreaths, woolen products, cheese and candles, honey and honey related products.

C. Location and Requirements: Farm stands (larger than 120sf) and processing or sales facilities are subject to building permit requirements. The farm stand or processing / sales facility must be clearly incidental to and supportive of the dominant agricultural use of the site, and must be operated by the owner or lessee of the agricultural use. Agricultural processing is allowed by right subject to the following requirements;

- 1) Seventy-five percent (by volume) of raw materials to be processed are raised or grown on the site.
- 2) The total processing and/or sales facility is 1200 sq. ft. or less in gross floor area.
- 3) Traffic generation from the processing and/or sale of products is less than 60 vehicle trips/day, including customers, employees and deliveries.
- 4) The hours of operation are limited to the hours between 7:00 am and 9:00 pm.

- 5) The facility or operation will serve to preserve or enhance the rural character of the neighborhood or vicinity.
- 6) The processing or sales facility will not significantly change the character of the neighborhood.
- 7) The sale of other items not produced on site is allowed, provided the sales of these items do not become the primary source of sales revenues. An example would include, but is not limited to, honey products produced locally or hand-crafted seasonal items not produced on site by the owner.

D. Site Plan: Site Plan review and approval is required prior to operation for all processing and sales facilities, unless waived by the City Administrator or his / her designated representative.

E. Variances: Variances to the standards of this section may be approved through the Use by Special Review process.

Fences: Fences (including barbed-wire fencing typical to an agricultural operation) are allowed. Fences higher than 6-feet require a fence permit. Fences shall not be installed so as to create a visibility hazard or other safety concern. No shall fencing be installed in the public right-of-way. Fencing over easement areas is subject to any agreements or rights of interest by the easement holder.

Hobby Breeder and Animal Foster Care: Hobby breeder facilities and foster homes for pet animals are permitted, provided such uses do not detract from the rural character of the area with excessive noise, traffic, etc.

Home Occupation: The production and sale of agricultural produce as a home occupation, at which all produce for sale has been grown at the site, shall be permitted within the dwelling and/or from accessory buildings located within five hundred (500) feet of the dwelling occupied by those conducting the rural home occupation. Equipment used in the production of agricultural produce shall be that customarily associated with farming or agricultural purposes and shall not be limited in size or number. All other home occupations are subject to the provisions described in Chapter 19.48 (Accessory Uses and Structures) of the Evans Municipal Code.

Horses; Boarding: The keeping of boarded horses conducted as an incidental and accessory use to a farm is allowed as follows:

A. Number of Horses: Up to 20 boarded horses may be kept collectively within the PUD; more than 20 requires Use by Special Review approval. The total number of personal horses and boarded horses combined shall not exceed 50 collectively for the PUD without Use by Special Review Approval.

B. Trainee Visits: Up to 15 weekly trainee visits may be provided.

C. Outdoor Arenas: Outdoor arenas are allowed. Lights and amplified noise devices associated with outdoor arenas must be turned off by 9:00 p.m. if the arena is located within 250 feet of a neighboring residence.

D. Outdoor Storage; Horse Trailers: Outdoor storage of horse trailers is allowed provided only those trailers that are for use by owners of the property and/or boarded horses may be stored. No more than one trailer per horse residing on the property is allowed. All horse trailers shall be licensed and operable.

E. Variances: Variances to the standards of this section may be approved through the Use by Special Review process.

Landing Strip: A landing strip for private aircraft is permitted on the property for the sole use of the owner, which shall not operate as a commercial business. Use of the landing strip in emergency situations or to support emergency operations is allowed.

Vehicles, Outside Storage: Vehicles that do not qualify as junk vehicles and that are owned by the occupant of a single-family dwelling, along with agricultural equipment incidental and necessary to the operation of a farm, may be stored outside on the same lot with the dwelling.

Agriculture Related Activities: Activities offered to the public for the purpose of recreation, education or active tourism related involvement in the farm operation are allowed. These activities must be incidental to the primary agricultural operation on the site or related to natural resources present on the property. This term includes farm tours, hayrides, corn mazes, classes related to agricultural products or skills and, picnic and party facilities offered in conjunction with the above. Agricultural activities do not include accommodations uses or retail sales, unless retail sales meet the standards for a farm stand defined in this PUD Plan. The agricultural activity must meet the following criteria:

- A. The agricultural related activity will be clearly incidental to and supportive of the dominant agricultural use of the site.
- B. The agricultural related activity will be operated by the agricultural facility owner or lessee.
- C. Any outdoor activity will be located at least 50 feet from property lines.
- D. The hours of operation are limited to the hours between 7:00 am and 9:00 pm, Sunday through Thursday, and 7:00 am till Midnight on Friday and Saturday.
- E. Noise, fumes, dust, odors, vibration or light generated as a result of the agricultural related activity will, at the property line, be below the volume, frequency or intensity such that they do not unreasonably interfere with the enjoyment of life, quiet, comfort or outdoor recreation of an individual of ordinary sensitivity and habits.
- F. The agricultural related activity and operation will serve to preserve or enhance the rural character of the neighborhood or vicinity.
- G. The agricultural related activity and facilities will not significantly change the character of the neighborhood.

- H. The scale and intensity of the agricultural related activity and facilities must be consistent with the character of the area.
- I. Variances to the standards of this section may be approved through the Use by Special Review process.

SPECIAL USES:

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

- Animals, Confined (Feedlots)**
- Cemetery**
- Community Facilities**
- Day Care Centers**
- Group Homes**
- Kennel**
- Mineral Extraction**
- Oil and Gas Facilities**
- Recreational Facilities; Indoor**
- Recreation Facilities; Outdoor Extensive**
- Recreational Facilities; Intensive**
- Recreational Vehicle (RV) Park/Campground**
- Recreational Vehicle Storage**
- Repair Shops**
- Security Residence**
- Staff Supervised Residential Facilities**
- Telecommunications or Commercial Mobile Radio Service Facilities**

PROHIBITED USES:

All uses defined as industrial, commercial or not otherwise defined as allowed in this PUD Plan are prohibited.

RESIDENTIAL LOT REQUIREMENTS:

Maximum Density: Up to 10 single-family residential lots are allowed within the parcels subject to this PUD Plan, to include residences in existence at the time of approval.

Siting: Each residential lot must be designed to allow a logical pattern of lots that all meet minimum lot size and setback requirements and provide for adequate access, drainage and utilities for each lot. Should the agricultural operation cease, the property owner must pursue one of the following options to further develop the property:

1. Amended PUD
2. Present an alternative proposal in compliance with the Evans Municipal Code in effect at that time.

Building Permits / Water / Utilities:

1. A building permit is required prior to construction of any single-family residential use, or for an accessory use that is greater than 120sf in size.
2. Water is to be provided to each residential use via a well, approved by the State of Colorado Division of Water Resources. A copy of the State approved well permit must be provided at time of building permit application for each residential use. Well permits may serve up to three single-family residences, per State regulations in effect at the time of this PUD Plan approval. (Changes to State regulations may impact issuance of a building permit.)
3. Utility connections are the responsibility of the lot owner, and shall be in compliance with any applicable building permit requirements for inspections and approvals.

Storage Buildings and Garages: Each lot may include detached storage buildings and garages for the sole use of the occupants of the principal building. The total ground floor area of all storage buildings and garages on a lot cannot exceed ten percent (10%) of the lot's net area. Semitrailers with attached running gear (i.e. axels, wheels) cannot be used as storage buildings or garages. Only those buildings that are designed, constructed and approved by the City of Evans Building Department as storage buildings or garages may be used for this purpose. Manufactured homes, including pre-1974 mobile homes, cannot be used as storage buildings, barns or garages.

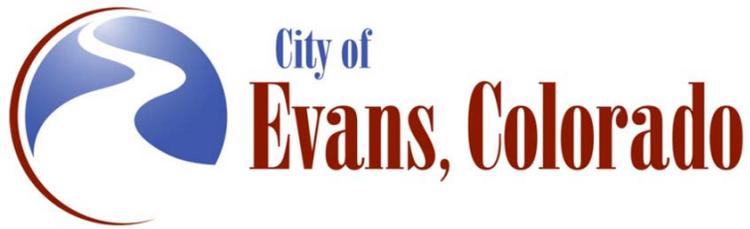
Setbacks, Lot Size and Building Height Requirements

<u>Road Front</u>	<u>Side</u>	<u>Rear</u>	<u>Lot Size Minimum</u>
25'	20'	25'	2 Acres

Building Heights:

35 Feet for residential buildings and accessory structures not defined agricultural buildings and structures;

60 Feet for agricultural buildings and structures, incidental and directly related to Agricultural Uses.



CITY COUNCIL COMMUNICATION

DATE: September 16th, 2014

AGENDA ITEM: 8.D

SUBJECT: Resolution 32-2014 Tendercare Daycare, Use by Special Review (USR)

STAFF CONTACT: Sean Wheeler, City Planner

APPROVED BY: Zach Ratkai, Community Development Manager

PLANNING COMMISSION: August 27th, 2014

BACKGROUND INFORMATION		
Location:	SW corner of the intersection of Anchor Drive and 23 rd Avenue, at the Crossroads Christian Church.	
Applicant:	Tendercare Learning Center (Commercial Daycare and Pre-School); Susan Cameron, Owner	
Existing Land Use:	Church	
Proposed Land Use:	Approval to operate a Commercial Daycare Center with attached playground area for up to 40 children, and 12 employees at a church.	
Surrounding Land Use:	North	Undeveloped Commercial Property
	South	Undeveloped Commercial Property
	East	Single-Family Residential
	West	Single-Family Residential
Existing Zoning:	R-1 Residential	
Proposed Zoning:	R-1 Residential	
Surrounding Zoning:	North	C-1 Commercial
	South	C-1 Commercial
	East	R-1 Residential
	West	R-1 Residential
Future Land Use Designation:	Site is zoned R-1 but platted as a "Church Lot". No change to principal use proposed.	

PROJECT DESCRIPTION:

The applicant seeks Use by Special Review (USR) approval to operate a Commercial Daycare Center at the Crossroads Christian Church in north-central Evans. The site is a 4.5 acre lot located at the southwest corner of the intersection of Anchor Drive and 23rd Avenue. The existing church is approximately 25,300 square feet in size, and the applicant proposes to use 2200 square feet for the daycare center. The business layout will include 4 classrooms, bathroom facilities, a kitchen, office and a reception room. The applicant will also construct a fenced outdoor play area at the west end of the existing gym for older children, and fenced-off a smaller play area between the structures for use by toddlers. Once the business is fully operational, the applicant plans to provide services to 40 children and employ a staff of 12 including herself. There are no interior remodel efforts specifically planned for this use. The fencing for the outdoor play areas will be installed, along with some additional landscaping, following approval. Parking on site is sufficient for the use and is not anticipated to conflict with other activities at the church. The site is zoned R-1 Residential, but the existing use is non-residential in nature. Surrounding uses include residential lots and undeveloped commercial sites. The residential areas are to the east, west and also to the southwest. To the north and south properties are undeveloped commercial lots.

For historic reference, when the city approved the Colony Plaza Subdivision in 1995, the lot was designated as a “Church Tract” but it was zoned R-1. For that reason the request requires USR approval, otherwise it would be processed as a site plan under administrative review.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission considered the request on August 27th, 2014. Discussion focused briefly on the locations of proposed home sites as related to the floodplain, options for buyers, and the extent of uses outlined in the PUD Plan. Staff noted the City Engineer reviewed the site plan and did not object to the residential lot locations. In addition, the expanded uses are typical of a PUD Plan, but all relate to agriculture as the primary use. Also, the applicant made two requests just prior to the Planning Commission hearing for additions to the PUD Plan. They asked that “fish farm” be added as an allowed use under the definition of farming. In addition, they asked to extend the hours of operation related to recreational uses from 10pm to midnight on Friday and Saturday evenings. This last request relates to uses like corn mazes, etc. as described in the PUD Plan. The Planning Commission supported the additions, and voted 5 to 0 in favor of the PUD Plan.

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

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 adjoining sites, transportation systems, public facilities, etc. because the proposed use may have a greater impact than a use allowed by right. Staff’s analysis for this request included the following:

1. Site Plan Review: The applicant provided a site plan (attached to this report) showing the layout of the facility inside and proposed locations of the play areas outdoors. Typically, a hand drawn site plan is not sufficient for review but this situation is unique. The facility is already built and aerial photography of the site clearly shows the actual structures, parking, access, etc. The site plan drawing provides adequate detail on the inside layout and the proposed additional play areas. Staff’s assessment is that requiring the applicant to spend funds for a professional drawing, which would not add any information, was not necessary. In addition, the applicant provided photographs that show the interior and exterior as well. Thus our conclusion is that the level of detail provided is sufficient for this review based on the size and scope of the proposed use.

2. Landscaping: Staff did not require a landscape plan for this request because the site is in use and this request will not result in any substantial modifications to the outside area. The project description indicates the applicant will provide for the planting of 6 trees and other elements. However, landscaping will not provide immediate shade for the playground area. Shading will need to be accomplished through construction of a pergola or other shade structure in the playground, or by providing access to the inside of the gym. With regard to specific landscaping, Staff recommends the applicant provide a list from the garden center or nursery stating the botanical and common name for each selection, as well as size at planting prior to installation. This is not required, but it will aid the applicant in selecting plant materials that should thrive at the site.

Aspen are not recommended for use, and alternative selections such as linden, maple, honeylocust or smaller ornamental varieties including crabapple varieties will have a better survival rate in Evans. Staff does not recommend planting trees along the edge of the building next to Anchor drive because

of space limitations. Shrubs would be more effective in that location. Tree placement should be moved farther to the east on site where there is more space along Anchor Drive.

3. Potential Impacts: Consideration of a USR application requires analysis of potential impacts. When looking at the size and scope of the proposed use, our assessment is the applicant has selected a site that can easily accommodate this business without having any significant impacts. The property is large with adequate room to construct the outdoor play areas and meet setback requirements. The distance between the west end of the playground area as proposed to the nearest residential property line is approximately 50-feet. Parking is available, and this use is not anticipated to generate a large volume of traffic. Access and egress are well designed without any known concerns for site distances from the intersection, etc. The business will be in an existing building and it is subject to State requirements for compliance with health and safety standards, along with the City's building inspection requirements as well. With the annual renewal requirement for business licenses, the City has a verifiable mechanism to review the use on a yearly basis. Finally, this is a commercial use that fulfills a need in Evans and one that will create jobs. These are both clear goals for development in the City as outlined in the "2010 Comprehensive Plan". Based on all of the above factors, Staff concludes that approval of the request will not result in any negative impacts to surrounding uses or the City.

4. Special Review Use Time Limit: Staff supports an open-ended approval of the USR for the Daycare Center. The use and operator are subject to State licensing requirements for commercial daycare centers, and any potential future operator would also need to be licensed by the State. As noted above, the use requires an annual business license from the City, and this affords Evans the option of tracking the use as well. Given the requirements and controls that are in place, there appears to be no compelling reason to limit the time which this use can operate at this location.

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. As noted in the above review, nothing about the request has raised concerns regarding health, safety or welfare issues based on the information provided by the applicant and on information available about the site. With both State and City requirements in place for licensing, inspections, etc. Staff has no anticipation of any problems resulting from approval of the use. Please note, on the day of the Planning Commission hearing, a neighbor contacted Staff regarding prairie dogs on the site, with a concern they could pose a threat to the children. The City does not have a prairie dog mitigation requirement. However, Staff contacted the City of Greeley Natural Resources Department for information on their programs. Our conclusion is the request 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. Approval of the request will provide 12 jobs within the City and it will fill a need for daycare services in Evans. The City also benefits through annual business license fees. Though a single business license is not substantial on its own, business license revenues do contribute to the City's operating budget when considered collectively. 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. The goals and objectives of the 2010 Comprehensive Plan clearly support the idea of increasing commercial activities in Evans. The Plan's stated goals are outlined in Chapter 4 under Goal #3 (Economic Development Opportunities). It encourages approval of requests that provide employment opportunities and commercial services to Evans residents. The same chapter also states:

In addition, the City should develop criteria to determine appropriate locations for neighborhood commercial development as development occurs. Criteria are intended to provide for flexibility in siting and design, resulting in a mixed-use development pattern that encourages commercial and employment uses as part of the neighborhood fabric of the City. - 2010 Comprehensive Plan, Page 4-18; Goals, Policies & Actions

Compliance with the USR criteria related to health, safety and welfare (along with consideration of potential impacts) provides a basis for determining if commercial uses are appropriate in areas not zoned for them. Based on our review of these criteria and the City's policy objectives for development, 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. Based on the size and scope of the proposed use with regard to traffic generated, the number of children, etc. considered along with the proposed location, Staff's assessment is that the business will be compatible with the surrounding properties and uses.

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. The existing church is large enough to accommodate the use without requiring any interior modifications, and the outdoor play areas can be added without encroaching on setbacks, etc. The applicant has also agreed to provide some additional landscape improvements for the site as well. Based on these factors our assessment is that 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 do not apply to this type of use)

REVIEWING AGENCY COMMENTS:

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

FINDINGS OF FACT AND CONCLUSIONS:

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

The Tendercare Daycare Center 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 & STAFF RECOMMENDATION:

The Planning Commission and Staff recommend approval of the requested PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development, based on the findings and conclusions outlined in this report and subject to the PUD Plan provided for consideration.

STAFF RECOMMENDATION:

Staff supports a recommendation of approval from the Planning Commission to the Evans City Council for the Tendercare Daycare Center Use by Special Review, based on the findings and conclusions outlined in this report.

RECOMMENDED PLANNING COMMISSION MOTIONS:

“I move to recommend adoption of Resolution 32-2014 for the approval of Tendercare Daycare Center Use by Special Review as being in the best interest of the citizens of the City of Evans.”

“I move to recommend denial of the Tendercare Daycare Center Use by Special Review because it is not in the best interest of the citizens of the City of Evans.”

Attachments:

Vicinity Map
Zoning Map
Application Materials (Site Plan, Project Description, Interior Photographs)
Illustrative Overhead Photographs

R-3

2477 LOT 5 **C-1** 3383 LOT 4

3390 LOT 3 **C-1**

Anchor Dr

800 T 10
504 T 11
08 T 12
512 LOT 13 **Driftwood Park**
2516 LOT 14 **R-1**
2520 LOT 15
524 T 16
3504 LOT 18
3508 LOT 19
3512 LOT 20

3400 LOT 14
3404 LOT 13
3408 LOT 12
3412 LOT 11
3416 LOT 10
3420 LOT 9
3424 LOT 8
R-1
3403 LOT 1
3407 LOT 2
3411 LOT 3
3415 LOT 4
3419 LOT 5
3423 LOT 6
3427 LOT 7

Cove Way

3402 LOT 1
3406 LOT 2
3410 LOT 3
3414 LOT 4
3418 LOT 5
3422 LOT 6
3426 LOT 7
3430 LOT 8
3434 LOT 9
3446 LOT 12
3442 LOT 11
3438 LOT 10
3451 PT OF TRACT 8 **R-1**
PT OF TRACT 8 **C-1**

3446 LOT 12
3442 LOT 11
3438 LOT 10
3434 LOT 9
R-2
2434 LOT 4
2432 LOT 5
2430 LOT 6
2428 LOT 7
2426 LOT 8
2424 LOT 9
2418 LOT 5
2416 LOT 6
2414 LOT 9

23rd Ave

3501 LOT 9
3500 LOT 10
3502 LOT 11
3504 LOT 12
3506 LOT 13
3508 LOT 14
3510 LOT 15
3512 LOT 16
3514 LOT 17
3516 LOT 18
R-1
3503 LOT 8
3505 LOT 7
3507 LOT 6
3509 LOT 5
3511 LOT 4
3513 LOT 3
3515 LOT 2
3517 LOT 1
Columbine Ct

38th St

2216 LOT 32
2214 LOT 31
2212 LOT 30
2210 LOT 29
R-1



**Land Use Application
Use by Special Review**

Staff Use Only Attach Receipt <u>SU14-1</u> Fee: \$500.00 includes public hearing Intake Date: <u>6/23/14</u> GL code <u>203</u>

All applications for a Use by Special Review shall comply with the requirements of Chapter 19.44 of the City of Evans Municipal Code and all applicable regulations, standards and plans. Please allow for a 60 day approval period following a complete and accepted submittal. This includes two public hearings and meetings with the Planning Commission and City Council.

Project Name: Tendercare Learning Cntr Acres: _____ Current Zoning: R

Property Address: 3451 23RD Ave

Proposed Use (brief description):
To use a portion of the facility for a daycare/preschool

Land Owner Name: _____ Telephone: _____ Email: _____

Mailing Address: _____

*Applicant Name: Susan Cameron Telephone: 970-978-2154 Email: grannysite.500@live.com

Mailing Address: 2714 19th St. Rd Greeley CO 80634

*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 to be submitted for review of a Use by Special Review Application. Incomplete applications will not be accepted.

Applicant Initials	Submittal Documents Required to be Accepted for Review by City	City Staff Initial if Complete
<u>SC</u>	Pre Application Submittal and meeting with City Completed	<u>SW</u>
	Electronic copy of all required forms (see below)	
	Use by Special Review Fee: \$500.00 (check / credit card) + Actual Costs (Minus \$150 for Pre-Application Meeting)	
<u>SC</u>	Legal description of the property	
<u>SC</u>	Letter indicating why the use should be allowed. (See Section 19.44.020 B 1-7 for necessary information)	
<u>SC</u>	A site plan or master plan drawing of the location and use	
<u>SC</u>	Photos of the site in question (if appropriate)	
<u>SC</u>	Photos showing the proposed use (if appropriate)	
<u>SC</u>	An aerial map of the location	
<u>SC</u>	Any other documentation that would support the request	

	A list, in Excel format, of all land owners within 500' of the proposed use	
	If above list is provided by the City, a \$25 fee will be added	
	Other:	

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

Land Owner Signature

Date

Susan Cameron

6-18-14

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:

City Council Date:

Additional Comments:

Tendercare Learning Center

-PLAN-

To use approximately 2200 square feet of the facility on 3451 23rd Ave, in Evans, CO as a daycare/preschool:

4 classrooms 10 children per room:

- 1 teacher in each room **(4)**
- 1 nursery 10 in room
 - 5 babies; **1 teacher**
 - 12 months old to 24 months old; **1 teacher**

Included in this area is:

2 restrooms accommodation both with 3 stalls each.

A kitchen with:

Fridge

Stove

Dishwasher

2 sinks; 1 for food prep, 1 for hand washing

We will not need to do any renovations as the existing rooms are well equipped for fire exits in case of emergencies in every room and are ready for the use of supervising children.

There will be 3 preschool rooms and their sizes are 22.5'x14'.

The nursery/toddler area is 500 square feet.

The remainder portion of the adjoining room which is easily accessible for the other 4 rooms is 22'x 22'

There is also a fire alarm installed in the area that we will be using for the daycare.

EMPLOYEES:

- 1 Director
- 6 teachers
- 3 teachers' aids
- 1 cook
- 1 receptionist

When are at the fullest level we will have 11 employees and 12 including myself as a director.

SECURITY

Each classroom has an exit door that locks on the inside which is a security measure for the children while in classroom.

It also is easy access to the outside incase of a fire. The front door where parents will be entering will be locked and parents will only be able to enter with a code to the front secured door. They will also be met by a receptionist who will sign them in and id them if it is deemed necessary. Once in the facility parent and child will be let in the secured rooms of the daycare/preschool. There are also lights outside that work with motion, so anyone near the facility at night or early morning the light will go on and is secure for the parents coming early mornings and late night.

SECURED PLAYGROUND

The area between daycare and gym will be a fenced in playground area for he nursery though 24 months old. The gate will only be accessible to unlock from the inside of the playground area. The size will be at least 400 square feet.

For the children from 25 months through school age children there will be a playground area off of the gymnasium west of the daycare. The children will walk through the gym into a wooden fenced in playground with 2 exit gates only access to open from the inside for security.

The playground will be away from the street and the parking lot to keep the children safe from danger.

It will also have a privacy fence so intruders are unable to look in and watch the children.

Its size will be approximately 3000 square feet. This is in compliance with state regulations. There will also be a shaded area and 2 different surfaces which are also in compliance with state regulations.

So the the shape of the playground will be 60' x 50' x 60' and the fence will be finished off with 50' of the gymnasium.

PARKING

There are 3 hand-i-cap parking spaces and 13 parking spaces for parents to park and walk the children to the daycare.

There are 20 parking spaces for the employees to park at.

LANDSCAPING

We will also plant some bushes and flowers around the playground area. West of the playground we will be planting a weeping willow which is a shade tree and is a very fast growing one. This will protect the children from the sun. Also in the

playground area we will be building a shaded area so that when the children need to rest from the sun they are able to sit in a shaded area. To make the property more presentable we will be planting some box trees that are lovely and green all year in the front entrance area. They also do not require as much water. In addition we will be planting some of trees and bushes in areas that do serve as a purpose but would beautify the area with more trees and is required by the City of Evans.



Exit doors in each room



← Fire alarm

room that is accessible by all the rooms.



lip against outside
fence small
bushes/flowers
+ vinyl fencing

50'
weeping willow outside of
fence.

The DIMENSIONS in the
photo are not exact
but the size will be 60x50(2)



Signage
6' x 3'
on
side of
church

- 3- trees along side the length of the church.
- 3- Quaking Aspen
- 2- trees in the back end of the property
Evergreen possibly Arizona Cypress

IN

box trunks with lavender/mums

OUT



**Proposed Day Care
Addition area**

Anchor Dr

34th St

Cave Way

3rd Ave

Columbine Ct

Harbor Ln

Pelican Ln

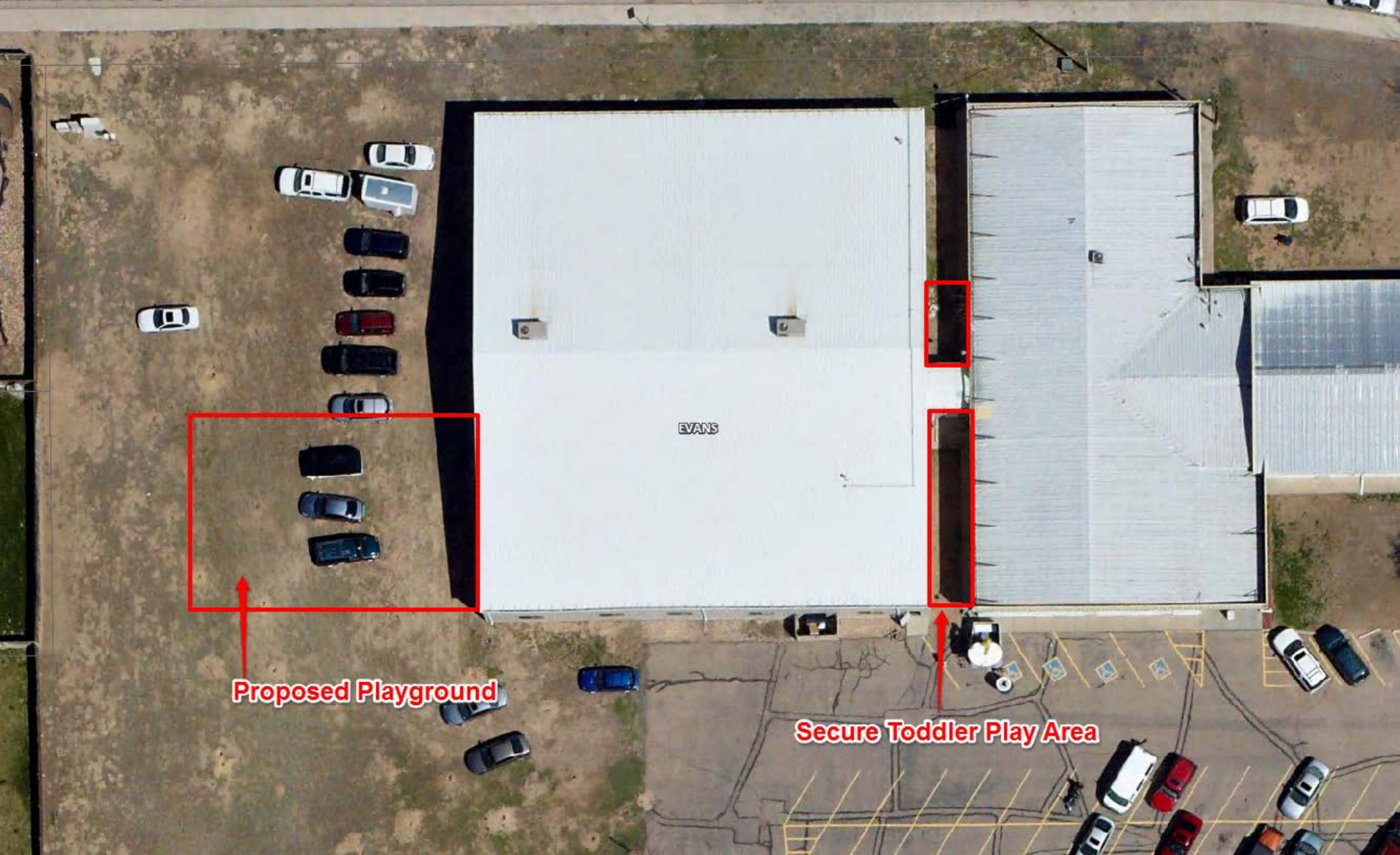
EVANS

Driftwood Park

Crossroads Church

**Tract 8, Colony
Plaza Subdivision**



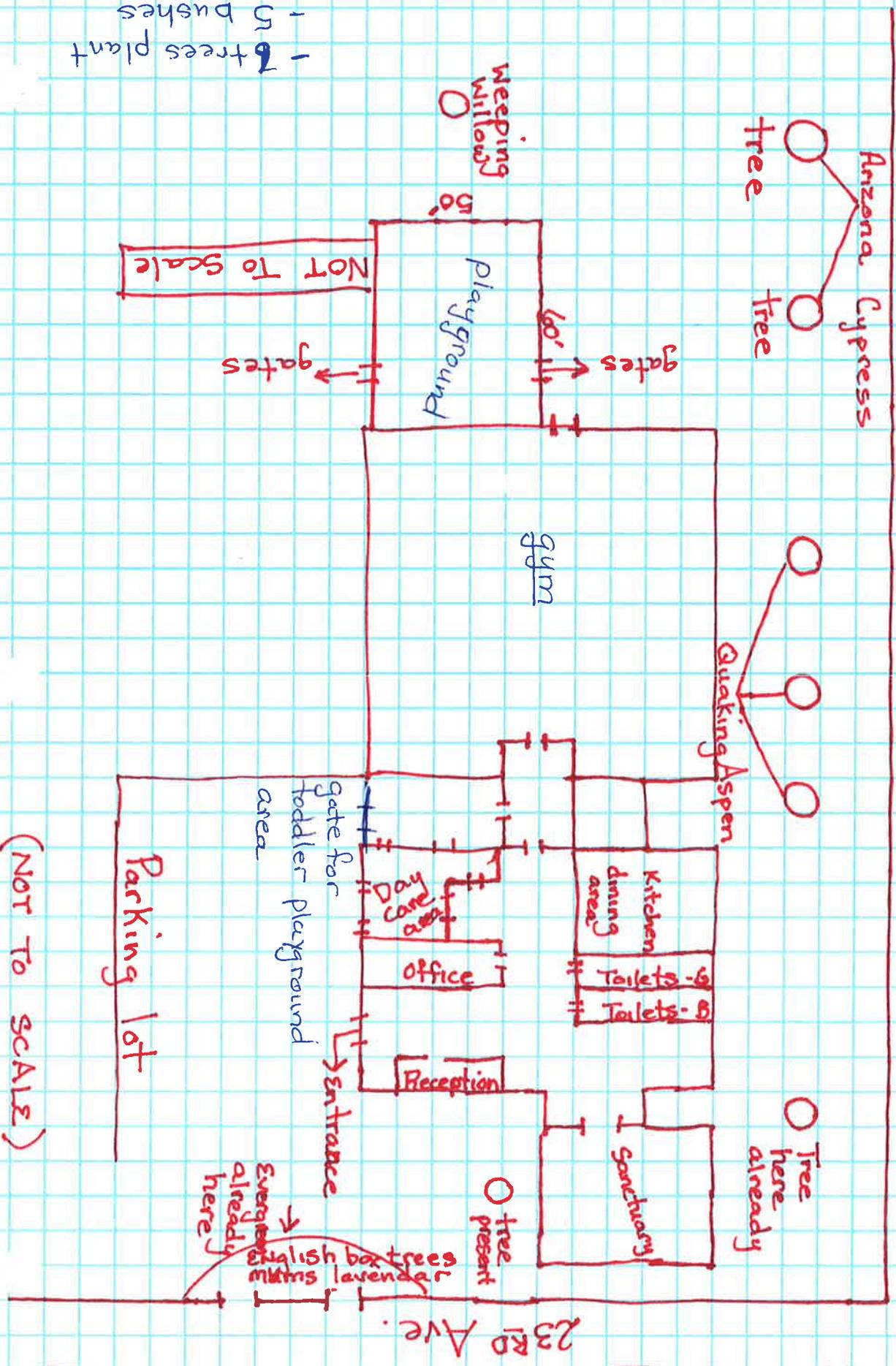


EVANS

Proposed Playground

Secure Toddler Play Area

Anchor



- 7 trees plant
- 5 bushes
- flowers around playground

- West -

(NOT TO SCALE)

CITY OF EVANS, COLORADO

RESOLUTION NO. 32-2014

A RESOLUTION APPROVING A USE BY SPECIAL REVIEW TO ALLOW A COMEMRCIAL DAY CARE CENTER ON THE PROPERTY LOCATED AT 3451 23rd AVENUE IN EVANS COLORADO – TENDER CARE DAY CARE

WHEREAS, the City of Evans has received a request from the Crossroads Christian Church, owner, for a Use by Special Review (USR) for the allowance of a commercial day care use on the premises; and

WHEREAS, this site location is zoned R-1, Single Family Residential; and

WHEREAS, the Planning Commission conducted a public hearing at its meeting on August 27, 2014, and recommended approval of such request, and

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that a special use permit is hereby granted on the site.

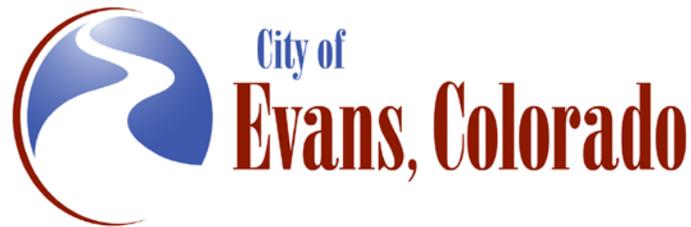
PASSED, SIGNED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 16th day of September, 2014.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

By: _____
Mayor



AGENDA

Planning and Zoning Commission Regular Meeting

Wednesday, August 27, 2014

Work Session 6:00

Regular Meeting 6:30

Evans Community Complex – 1100 37th Street

City Council Chambers

Planning and Zoning packets are prepared several days prior to the meetings. This information is reviewed and studied by the Commission, eliminating lengthy discussions to gain basic understanding. Timely action and/or short discussion on agenda items do not reflect lack of thought or analysis. An informational packet is available for public inspection on the website at www.evanscolorado.gov

WORK SESSION

- 1) PC Training
 - a. Robert's Rules of Order

REGULAR MEETING

- 1) CALL TO ORDER
Meeting was called to order at 6:31 p.m. by Chairman Brothe on 8/27/14.

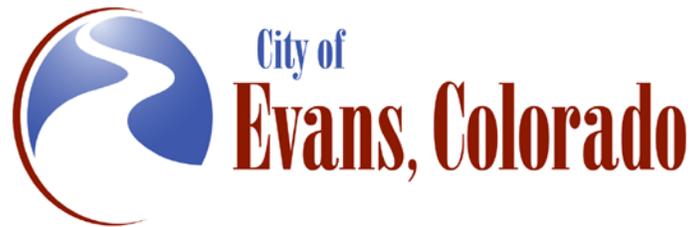
- 2) ROLL CALL:

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 July 22, 2014

Commissioner Phillips made the motion, seconded by Commissioner Speer, to approve the minutes of July 22, 2014. The motion passed with all voting in favor thereof.

- 4) APPROVAL OF THE AGENDA



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

5) AGENDA ITEMS:

A. PUBLIC HEARING –

a. USR – Tendercare Day Care, 3451 23rd Avenue

PROJECT DESCRIPTION:

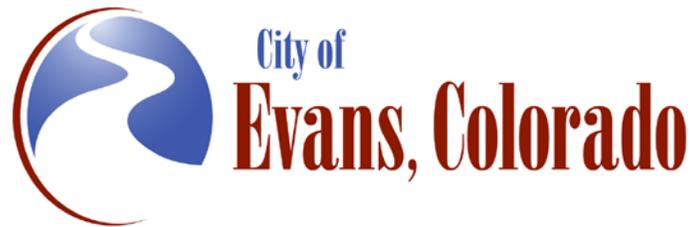
The applicant seeks Use by Special Review (USR) approval to operate a Commercial Daycare Center at the Crossroads Christian Church in north-central Evans. The site is a 4.5 acre lot located at the southwest corner of the intersection of Anchor Drive and 23rd Avenue. The existing church is approximately 25,300 square feet in size, and the applicant proposes to use 2200 square feet for the daycare center. The business layout will include 4 classrooms, bathroom facilities, a kitchen, office and a reception room. The applicant will also construct a fenced outdoor play area at the east end of the existing gym for older children, and fenced-off a smaller play area between the structures for use by toddlers. Once the business is fully operational, the applicant plans to provide services to 40 children and employ a staff of 12 including herself. There are no interior remodel efforts specifically planned for this use. The fencing for the outdoor play areas will be installed, along with some additional landscaping, following approval. Parking on site is sufficient for the use and is not anticipated to conflict with other activities at the church. The site is zoned R-1 Residential, but the existing use is non-residential in nature. Surrounding uses include residential lots and undeveloped commercial sites. The residential areas are to the east, west and also to the southwest. To the north and south properties are undeveloped commercial lots.

For historic reference, when the city approved the Colony Plaza Subdivision in 1995, the lot was designated as a "Church Tract" but it was zoned R-1. For that reason the request requires USR approval, otherwise it would be processed as a site plan under administrative review.

Chairman Brothe opened the Public Hearing at 6:48 p.m.

QUESTIONS FROM PLANNING COMMISSION TO STAFF:

Commissioner Linn would like to see some plantings along with the trees. Along with the trees have some other plantings like shrubs and flowers. Mr. Wheeler advised



that the church would be helping with the funding of the landscaping.

STAFF RECOMMENDATION:

Staff supports a recommendation of approval from the Planning Commission to the Evans City Council for the Tendercare Daycare Center Use by Special Review, based on the findings and conclusions outlined in this report.

APPLICANT'S POSITION:

Applicant was not present. Mr. Wheeler advised that she is currently running a daycare now and she may have been unavailable. Mr. Wheeler advised that she had no issues with the staff report.

AUDIENCE PARTICIPATION IN SUPPORT OF THE ISSUE:

No audience participation

AUDIENCE PARTICIPATION IN OPPOSITION OF THE ISSUE:

No audience participation

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

Commissioner Phillips asked about fencing for the children. Mr. Wheeler advised that they are proposing do a fence and the State requires a fenced in area for the playground as well as it has to be a solid fence where people on the outside can't look in. The State also requires shade for the playground area and obviously the newly planted trees won't provide enough so there will be some temporary shade structures put in place for now.

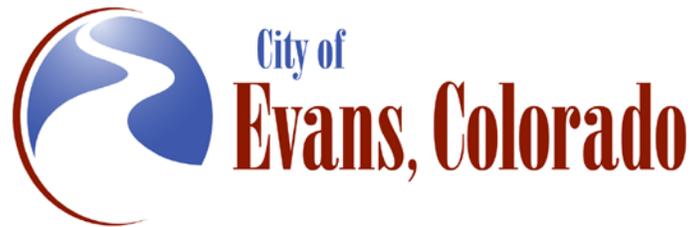
Chairman Brothe asked if the daycare would be opened to the public or just the church members. Mr. Wheeler clarified that it would be open to the public.

Commissioner Speer commented that a lot of the regulations are controlled by the State or higher authority that may answer questions about regulations.

Chairman Brothe closed audience participation at 6:54 p.m.

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

None at the time.



Commissioner Phillips moved to recommend approval of the Tendercare Daycare Center Use by Special Review as being in the best interest of the citizens of the City of Evans, seconded by Commissioner Linn. The motion passed with all voting in favor thereof.

B. PUBLIC HEARING –

a. Werning PUD Amendment

****Removed by staff for the purposes of the City Council Hearing ****

C. PUBLIC HEARING –

a. An ordinance to rezone properties within the Highway 85 Overlay District to the following new zone districts:

Public Facilities zone district
US 85 Office zone district
US 85 Retail & Commercial – Neighborhood zone district
US 85 Retail & Commercial – Regional Corridor zone district
US 85 Retail & Commercial – Auto zone district

****Removed by staff for the purposes of the City Council Hearing ****

6) AUDIENCE PARTICIPATION:

None

7) STAFF UPDATE

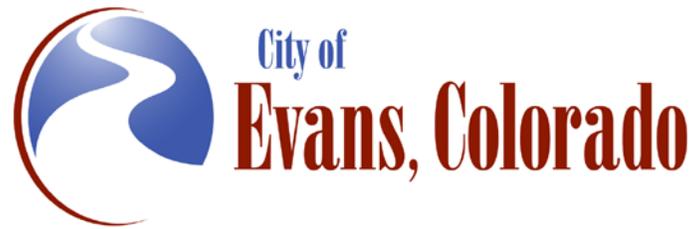
Go back to original fourth Tuesday of the month, next meeting will be at September 23rd at 6 p.m.

8) GENERAL DISCUSSION

Commissioner Linn had a question about Robert's Rules of Order on page 95 in relation to the duties of the chair. Mr. Ratkai advised he would look into it.

Commissioner Speer stated that she wanted to thank the staff for helping out with the new commission.

Commissioner Phillips referred back to the outcome of the city council. If they are reviewing a PUD he would like to see the original PUD and that it would be helpful.



9) ADJOURNMENT

Commissioner Linn made the motion, seconded by Commissioner Speer, to adjourn the meeting. The motion passed with all voting in favor thereof. The meeting adjourned at 8:11 p.m.

TOWN CENTER AT THE LANDINGS 2477
LOT 5

UNC

Anchor Dr

31st St

3400 LOT 14 3403 LOT 1

3404 LOT 13 3407 LOT 2

3408 LOT 12 3411 LOT 3

COVE AT THE LANDINGS
3412 LOT 11 3415 LOT 4

3416 LOT 10 3419 LOT 5

3420 LOT 9 3423 LOT 6

3424 LOT 8 3427 LOT 7

3402 LOT 1

3406 LOT 2

3410 LOT 3

3414 LOT 4

3418 LOT 5

3422 LOT 6

3426 LOT 7

3430 LOT 8

3434 LOT 9

3451
PT OF TRACT 8

COLONY PLAZA

PT OF TRACT 8

3446 LOT 12 3442 LOT 11 3438 LOT 10

3434 LOT 9

COTTAGES AT THE LANDINGS

2434 2432 LOT 5 LOT 6 LOT 7 2418 2416

LOT 4 2430 2428 2426 2424 2422 2420 LOT 8

LANDINGS

3501 LOT 9 3500 LOT 10 3502 LOT 11

3503 LOT 8 3504 LOT 12 3401 LOT 27

3505 LOT 7 3506 LOT 13 3403 LOT 26

3507 LOT 6 3508 LOT 14 3405 LOT 25

3509 LOT 5 3510 LOT 15 3501 LOT 24

3511 LOT 4 3512 LOT 16 3503 LOT 23

3513 LOT 3 3514 LOT 17 3505 LOT 22

3515 LOT 2 3516 LOT 18 3507 LOT 21

3517 LOT 1 3518 LOT 19 3509 LOT 20

3504 LOT 4 3506 LOT 3 3502 LOT 5

3508 LOT 2 3504 LOT 4 3502 LOT 5

3510 LOT 1 3508 LOT 2 3504 LOT 4

3510 LOT 1

VILLAGE 4TH FG

23rd Ave

Columbine Ct

East St

East St

2216 LOT 32 2214 LOT 31 2212 LOT 30 2210 LOT 29 2208 LOT 28

2206 LOT 27 2204 LOT 26 2202 LOT 25

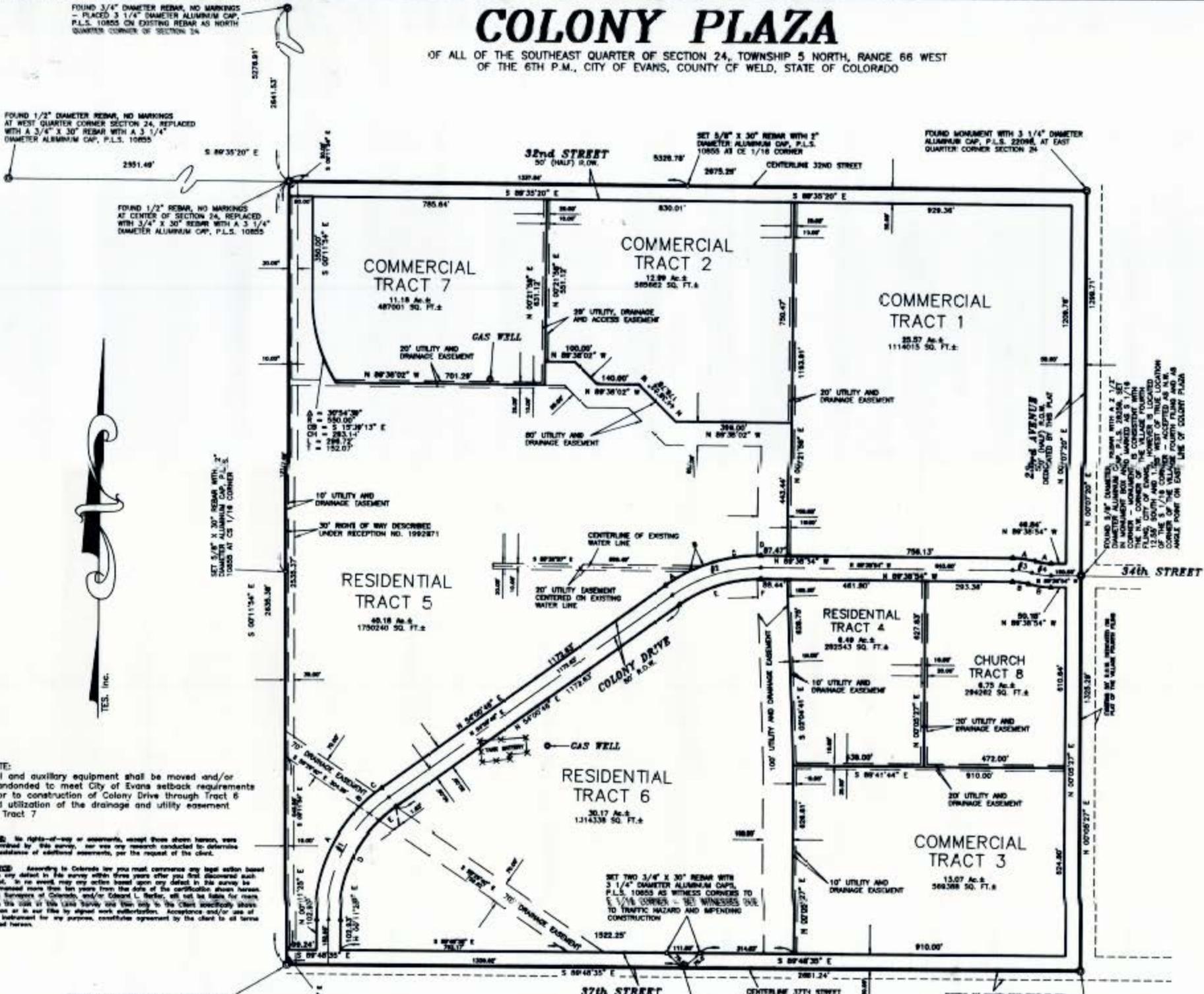
EVANS

Driftwood Park

Harbor Ln

COLONY PLAZA

OF ALL OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO



FOUND 3/4" DIAMETER REBAR, NO MARKINGS - PLACED 3 1/4" DIAMETER ALUMINUM CAP, P.L.S. 10855 ON EXISTING REBAR AS NORTH QUARTER CORNER OF SECTION 24.

FOUND 1/2" DIAMETER REBAR, NO MARKINGS AT WEST QUARTER CORNER SECTION 24, REPLACED WITH A 3/4" X 30" REBAR WITH A 3 1/4" DIAMETER ALUMINUM CAP, P.L.S. 10855

FOUND 1/2" REBAR, NO MARKINGS AT CENTER OF SECTION 24, REPLACED WITH 3/4" X 30" REBAR WITH A 3 1/4" DIAMETER ALUMINUM CAP, P.L.S. 10855

SET 5/8" X 30" REBAR WITH 2" DIAMETER ALUMINUM CAP, P.L.S. 10855 AS CE 1/16 CORNER

FOUND MONUMENT WITH 3 1/4" DIAMETER ALUMINUM CAP, P.L.S. 22096, AT EAST QUARTER CORNER SECTION 24

SET 5/8" X 30" REBAR WITH 2" DIAMETER ALUMINUM CAP, P.L.S. 10855 AT CS 1/16 CORNER

FOUND 3/8" DIAMETER REBAR WITH A 2 1/2" DIAMETER ALUMINUM CAP, P.L.S. 22096, SET IN MONUMENT BOX AND MARKED AS S 1/16 CORNER - MONUMENT OF COLONY PLAZA. THE N.E. CORNER OF THE VILLAGE PLAZA (13.26 AC. ±) SOUTH AND 1/16 CORNER IS LOCATED AT THE S 1/16 CORNER WEST OF TRUE LOCATION OF THE VILLAGE PLAZA AND AS AN ANGLE POINT ON EAST LINE OF COLONY PLAZA

NOTE: Well and auxiliary equipment shall be moved and/or abandoned to meet City of Evans setback requirements prior to construction of Colony Drive through Tract 6 and utilization of the drainage and utility easement on Tract 7

NOTE: In rights-of-way or easements, except those shown herein, were delineated by this survey, but was any research conducted to determine the existence of additional easements, per the request of the client.

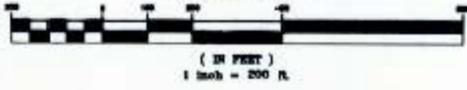
DISCLAIMER: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discovered such defect, in no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein. Licensed Surveyors of Colorado, and/or Leonard L. Berber, will not be liable for more than the cost of this legal survey and then only to the client specifically shown herein as it was filed by signed work exhibitors. Acceptance and/or use of this instrument for any purpose, constitutes agreement by the client to all terms stated herein.

FOUND 3/4" DIAMETER REBAR WITH 1 1/2" DIAMETER ALUMINUM CAP, P.L.S. 22801, SET IN MONUMENT BOX AT SOUTH QUARTER CORNER SECTION 24

TRUE LOCATION OF E 1/16 CORNER - NO MONUMENT SET

FOUND 3/4" DIAMETER REBAR WITH 2 1/2" DIAMETER ALUMINUM CAP, P.L.S. 28258, SET IN MONUMENT BOX AT S.E. CORNER SECTION 24

GRAPHIC SCALE



LEGEND

- ⊙ EXISTING MONUMENT (see descriptive text at this symbol on drawing)
- SET 1/2" X 16" REBAR WITH YELLOW PLASTIC CAP, P.L.S. 10855 (typical this symbol unless otherwise noted)
- X- EXISTING FENCE LINE

CURVE DATA TABLE

CURVE	BETA	RADIUS	CHORD BRG	CHORD	LENGTH	TANGENT
#1	53°49'21"	308.00'	S 27°06'08" W	458.61'	469.69'	253.73'
#1A	43°24'27"	340.00'	S 21°53'38" W	399.39'	409.11'	214.99'
#1B	61°27'21"	348.00'	S 47°24'21" W	71.81'	71.81'	35.99'
#1C	02°47'23"	348.00'	S 20°27'04" V	26.59'	55.29'	13.11'
#1D	45°00'21"	463.00'	S 22°41'38" V	352.11'	361.33'	190.57'
#1E	08°49'08"	463.00'	S 49°36'18" V	70.72'	70.78'	35.44'
#2	36°29'28"	588.00'	S 72°19'36" V	311.82'	317.12'	164.18'
#2A	10°05'10"	546.00'	S 99°02'21" V	94.94'	95.06'	47.65'
#2B	83°16'42"	546.00'	S 66°44'18" V	49.73'	49.75'	24.89'
#2C	18°27'00"	546.00'	S 14°12'00" V	184.84'	184.84'	89.89'

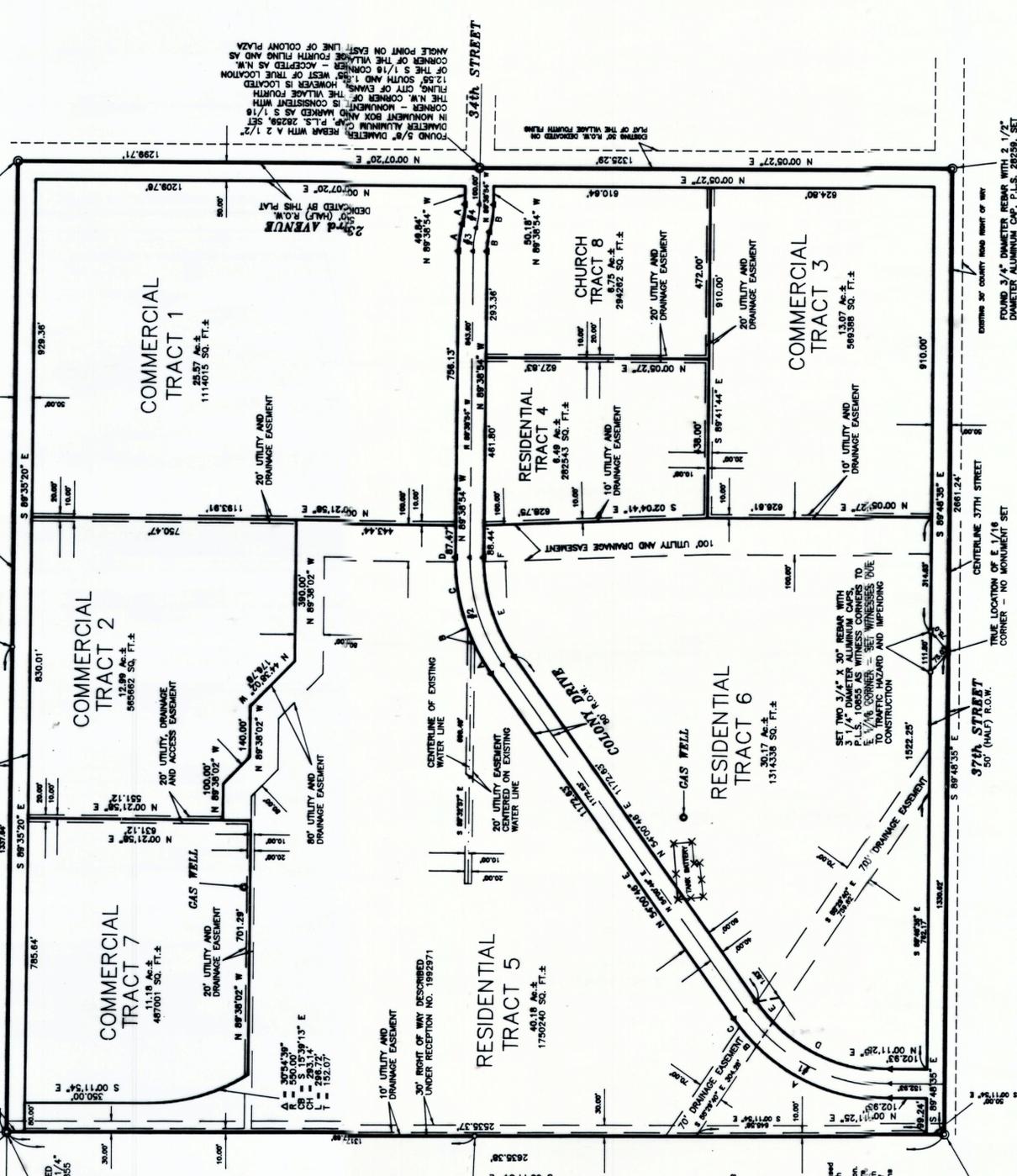
COLONY PLAZA

OF ALL OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 5 NORTH, RANGE 66 WEST OF THE 6TH P.M., CITY OF EVANS, COUNTY OF WELD, STATE OF COLORADO

FOUND 1/2" DIAMETER REBAR, NO MARKINGS IN WEST QUARTER CORNER SECTION 24, REPLACED WITH 3/4" DIAMETER ALUMINUM CAP, P.L.S. 10855 IN MONUMENT BOX AT S.E. CORNER SECTION 24

FOUND 1/2" DIAMETER REBAR, NO MARKINGS AT CENTER OF SECTION 24, REPLACED WITH 3/4" DIAMETER ALUMINUM CAP, P.L.S. 10855 IN MONUMENT BOX AT S.E. CORNER SECTION 24

FOUND 1/2" DIAMETER REBAR, NO MARKINGS AT CENTER OF SECTION 24, REPLACED WITH 3/4" DIAMETER ALUMINUM CAP, P.L.S. 10855 IN MONUMENT BOX AT S.E. CORNER SECTION 24

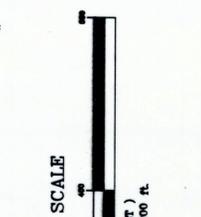


CURVE DATA TABLE

CURVE	STA.	RADIUS	CHORD	CHORD BEARING	ANGLE	LENGTH	TANGENT
81A	53+19.21	400.00	400.00	S 00°00'00" E	90.00	400.00	0.00
81B	43+24.27	540.00	540.00	S 00°00'00" E	90.00	540.00	0.00
81C	07+37.31	540.00	540.00	S 00°00'00" E	90.00	540.00	0.00
81D	45+00.21	460.00	460.00	S 00°00'00" E	90.00	460.00	0.00
81E	08+49.00	460.00	460.00	S 00°00'00" E	90.00	460.00	0.00
82	38+20.20	590.00	590.00	S 00°00'00" E	90.00	590.00	0.00
82A	10+05.10	540.00	540.00	S 00°00'00" E	90.00	540.00	0.00
82B	15+38.48	540.00	540.00	S 00°00'00" E	90.00	540.00	0.00
82C	01+19.46	540.00	540.00	S 00°00'00" E	90.00	540.00	0.00
82D	01+19.46	540.00	540.00	S 00°00'00" E	90.00	540.00	0.00
82E	01+19.46	540.00	540.00	S 00°00'00" E	90.00	540.00	0.00
82F	01+19.46	540.00	540.00	S 00°00'00" E	90.00	540.00	0.00
83	14+32.48	280.00	280.00	S 00°00'00" E	90.00	280.00	0.00
83A	14+32.48	280.00	280.00	S 00°00'00" E	90.00	280.00	0.00
83B	14+32.48	280.00	280.00	S 00°00'00" E	90.00	280.00	0.00
84	14+32.48	280.00	280.00	S 00°00'00" E	90.00	280.00	0.00
84A	14+32.48	280.00	280.00	S 00°00'00" E	90.00	280.00	0.00
84B	14+32.48	280.00	280.00	S 00°00'00" E	90.00	280.00	0.00
84C	14+32.48	280.00	280.00	S 00°00'00" E	90.00	280.00	0.00
84D	14+32.48	280.00	280.00	S 00°00'00" E	90.00	280.00	0.00

LEGEND

- EXISTING MONUMENT (see descriptive text at this symbol on drawing)
- SET 1/2" X 16" REBAR WITH YELLOW PLASTIC CAP, P.L.S. 10855 (typical this symbol unless otherwise noted)
- EXISTING POINT LINE
- ANGLE POINT (shown for reference only, no monument set per request of client - some symbols may appear larger for clarity)
- TYPICAL CURVE DATA I.D.
- SEE CURVE TABLE, CURVE 4A, FOR DATA
- SEE CURVE TABLE, CURVE 4B, FOR DATA
- SEE CURVE TABLE, CURVE 4B, FOR DATA

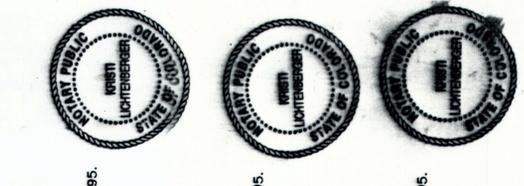


Considering the South line of the Southeast Quarter of Section 24, Township 5 North, Range 66 West of the 6th P.M., as monumented by a 3/4" diameter rebar with a 2 1/2" diameter aluminum cap, P.L.S. 28259 at the Southeast corner of P.L.S. Section and by a 3/4" diameter rebar with a 2 1/2" diameter aluminum cap, P.L.S. 28259 at the Northwest corner of said Section, to bear an assumed bearing of South 89°48'35" East with all bearings contained hereon relative thereto.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS: That H. H. Duell & Co., a Partnership, Duell Co., a Limited Partnership, being the owners of the Southeast Quarter of Section 24, Township 5 North, Range 66 West of the 6th P.M., City of Evans, County of Weld, State of Colorado, more particularly described as follows: Considering the South line of said Southeast Quarter, as monumented by a 3/4" diameter rebar with a 2 1/2" diameter aluminum cap, P.L.S. 28259 at the Southeast corner of said Section and by a 3/4" diameter rebar with a 2 1/2" diameter aluminum cap, P.L.S. 23501 at the Southwest corner of said Section, to bear an assumed bearing of South 89°48'35" East with all bearings contained herein relative thereto. BEGINNING at the South 89°48'35" East line of said Southeast Quarter, on said Southeast Quarter, thence along the West line of said Southeast Quarter North 00°11'54" West 2835.38 feet to the Center of said Section; thence along the North line of said Southeast Quarter South 89°35'20" East 2675.29 feet to the East Quarter corner of said Section, said point being on the centerline of Twenty Third Avenue; thence along said centerline South 00°07'20" West 1289.71 feet to the Northwest corner of said Section, said point being on the centerline of Twenty Third Avenue; thence along said centerline North 00°07'20" East 1289.71 feet to the Northeast corner of said Section, said point being on the centerline of Twenty Third Avenue; thence along said centerline South 89°48'35" East 2675.29 feet to the point of BEGINNING; have by these presents platted the above described lots as shown on the attached map and designate the same as COLONY PLAZA and hereby dedicate to the public all streets, avenues and easements as shown hereon. We further verify that the width and name of the streets, avenues and easements, the dimensions and numbers of the lots are shown correctly upon said map and that the scale thereof is one inch equals two hundred feet (1" = 200').

IN WITNESS WHEREOF: We the undersigned have set our hands and seals.



H. H. Duell & Co., a Partnership
 The foregoing was acknowledged before me this 27th day of June, 1995.
 My commission expires: 6/28/98
 Witness my hand and seal.
 Notary Public

John Duell
 Duell Co., a Limited Partnership

The foregoing was acknowledged before me this 27th day of June, 1995.
 My commission expires: 6/28/98
 Witness my hand and seal.
 Notary Public

Greely Christian Church

The foregoing was acknowledged before me this 27th day of June, 1995.
 My commission expires: 6/28/98
 Witness my hand and seal.
 Notary Public

CERTIFICATE OF APPROVALS

This plat approved by the City of Evans Planning Commission this 23 day of May 1995.
 Chairman: Harold S. Worthing

This plat is approved by the Public Works Department this 23 day of May 1995.
 Director of Public Works: James Hamilton

Plat and dedication approved by the City of Evans, Weld County, Colorado this 23 day of June, 1995.
 Attest: Kim Boty, City Clerk



STATE OF COLORADO)
 CITY OF EVANS)
 COUNTY OF WELD)

Krisi Lichtenberger
 Notary Public in and for the aforesaid county in the State of Colorado, do hereby certify that the above described plat was presented to me by the Mayor of the City of Evans, Weld County, Colorado, and that I have personally examined the same and that the same appears to be correct and that I have subscribed to the above instrument in writing, appeared before me this day in person and acknowledged that he executed the same as authorized by the City Council of said City at a regular meeting thereof held on the 23rd day of May, 1995, and that he executed said acceptance of said map and dedication as his free and voluntary act and deed of said City of Evans.

My Commission Expires: 6/23/98
 Witness my hand and seal
 Notary Public

Edwards
 Registered Professional Land Surveyor in the State of Colorado, do hereby certify that the survey represented by this plat was made under my supervision and the monuments shown hereon actually exist and this plat accurately represents said survey.



Edwards
 Registered Professional Land Surveyor in the State of Colorado, do hereby certify that the survey represented by this plat was made under my supervision and the monuments shown hereon actually exist and this plat accurately represents said survey.

1 1 1 SHEETS SHEET NO.

COLONY PLAZA
 FINAL PLAT

EVANS DEVELOPMENT COMPANY
 1100 10th STREET, SUITE 201, GREELEY, CO

Total Engineering Service, Inc.
 3310 STATE STREET
 EVANS, COLORADO 80620
 (303) 339-5215

E.L.B. DRAWN 95106FP T.M.C. DESIGNED 5/17/95 E.L.B. CHECKED 95-106 PROJECT NO. DATE

NO. BY DATE REVISION DESCRIPTION

1 62 5-24-95 Notes & Details Per Drawing Comments.

CHAPTER 19.62

US 85 Overlay District Design Standards

19.62.010 General.

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

19.62.020 Intent of US 85 Overlay District.

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

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

(Ord. 560-13 §1)

19.62.030 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19.62.040 Boundaries and affected property.

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

19.62.050 Nonpermitted uses and restrictions.

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

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

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

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

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

19.62.060 Uses allowed with special use permit.

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

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

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

19.62.070 Existing uses and structures.

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

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

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

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

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

19.62.080 Design review process.

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

19.62.090 Site planning and urban design.

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

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

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

19.62.100 Setbacks, street frontages and height.

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

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

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

19.62.110 Access, circulation and parking.

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

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

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

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

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

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

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

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

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

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

E. Pedestrian circulation.

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

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

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

2. Internal sidewalks shall be required as specified:

a. Between the front doors of primary buildings;

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

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

3. Required sidewalk dimensions.

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

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

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

19.62.120 Service and loading areas.

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

19.62.130 Telecommunications equipment and utilities.

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

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

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

19.62.140 Buffers and transition areas.

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

19.62.150 Fences and walls.

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

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

1. Appropriate materials include:

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

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

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

3. Inappropriate materials in any location include:

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

19.62.160 Landscape standards.

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

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

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

D. Front lot landscaping.

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

2. Front lot landscaping, street frontage landscaping.

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

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

3. Front lot landscaping, behind sidewalks.

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

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

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

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

F. Interior lot landscaping standards.

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

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

G. Plant material requirements.

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

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

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

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

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

19.62.170 Architectural design standards.

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

1. Building design and character.

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

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

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

2. Roofs.

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

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

(1) Appropriate roofing materials include:

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

(2) Inappropriate materials include:

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

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

3. Elevations.

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

(1) Appropriate exterior materials include:

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

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

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

(4) Inappropriate materials include:

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

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

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

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

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

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

19.62.180 Lighting.

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

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

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

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

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

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

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

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

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

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

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

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

19.62.190 Signage.

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

A. Allowed signs.

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

B. Prohibited signs.

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

C. General sign regulations.

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

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

D. Sign dimensions and setback requirements.

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

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

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

1. Total sign area.

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

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

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

E. Sign plans for window signs.

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

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

19.62.200 Maintenance standards.

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

19.62.210 Variance.

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

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

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

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

19.62.220 Administration and enforcement.

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

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

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

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

19.62.230 Violation – penalty.

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

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



AGENDA

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

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

1) CALL TO ORDER

Meeting was called to order at 6:01 p.m. by Chairman Schanwolf on 9/4/14.

2) ROLL CALL:

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

3) APPROVAL OF MINUTES

Minutes of October 10, 2013

Chairman Schanwolf put the minutes on hold until the next meeting as staff is still trying to locate the October 10, 2013 minutes.

4) APPROVAL OF THE AGENDA

Chairman Schanwolf approved the agenda.

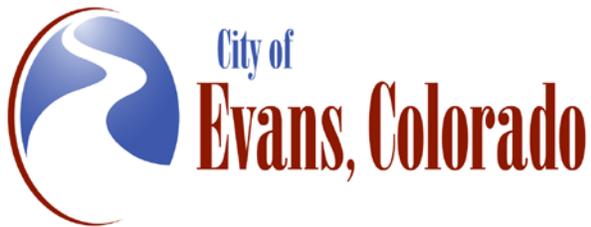
5) AGENDA ITEMS:

a. Varco – US 85 Variance.

Chairman Schanwolf opened the public hearing at 6:03 p.m.

PROJECT DESCRIPTION:

1. The applicant seeks approval for a variance to the outdoor storage prohibition found in Chapter 19.62 (Highway 85 Overlay District Design Standards) of the Evans Municipal Code, which applies to any lot located within the Overlay District boundary.



2. The site is located on the north Side of 42nd Street, between Carson Avenue and US Highway 85 and both lots are undeveloped. In addition, Lot 1 is located within the US Highway 85 Overlay District boundary, while Lot 2 outside of the District, directly east of Lot 1. To develop the site as proposed, the applicant would have to combine the lots via the amended plat. Once combined the lots would total approximately 2.67 acres in size, and typically the higher zoning of the two original lots applies to the new combined lot. In this case, the requirements of the US Highway 85 Overlay District would apply.

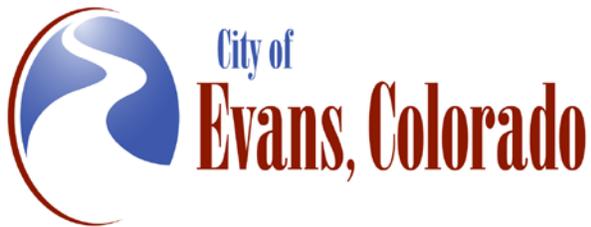
3. As a final note, the applicant included a site plan with the project materials. This plan is conceptual in nature and Staff has not reviewed it for compliance with the applicable site plan requirements in the Municipal Code. Approval of the rezoning or variance should not be considered to include approval of a site plan, as that is a separate process. Ultimately the applicant would like to construct a 16,000 sf building on the site that would be leased to a client in the energy industry. That client requires an area for outdoor storage as well, which prompted the variance request. Please note, the allowed amount of outdoor storage in the I-3 Industrial Zone District is also the highest permitted under the Industrial Zoning, so the variance request to that standard is not minimal in nature.

STAFF RECOMMENDATION:

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

APPLICANT'S POSITION:

Matt Trone, Cushman & Wadefield, a brokerage specializing in industrial real estate, 1050 17th Street, Suite 1400, Denver, CO is representing the applicant. The applicant has been looking for a site with an existing facility in the Greeley/Evans area and due to the limited resources determined a build to suit would be best. Due to their limited capital outlay it would be best to find a suitable developer and to have a 5 year lease. This is the only site in the Greeley/Evans area that the developer was willing to do a built to suit on a 5 year term. Mr. Ratkai brought up to Tebo that they may have some difficulty in getting the variance to pass but to Mr. Trone's client it would be a very negative impact. Mr. Trone's client competes against Bell Supply and Junkin Redman and the type of business they do they like to be clustered together much like car dealerships. This site was ideal in that aspect as well. In another comment that goes back to the difficulty of the client, they have



over 600 tenants that are also in commercial retail in Colorado, so they certainly understand. It's not in the best interest to have land to the north if they can't have land to the south for future development. Another issue brought up are the current structures onsite is an eye sore and Tebo's position is that they can transform those structures already onsite, with industrial use, with proper fencing, and nice landscaping to portray a nice image facing Hwy 85. They are planning on facing the entrance towards Hwy 85 and not have a metal building but a nice facade and his client is more than willing to work with the Hwy 85 corridor and to conform to the requirements. There is some variance with the outside storage but you get to transform an eye sore to a nice looking industrial building. Again, Mr. Trone doesn't work for Tebo; he is only representing the applicant.

AUDIENCE PARTICIPATION IN SUPPORT OF THE ISSUE:

No one in the audience

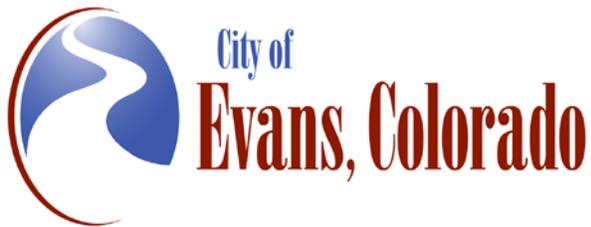
AUDIENCE PARTICIPATION IN OPPOSITION OF THE ISSUE:

No one in the audience

Chairman Schanwolf asked the ZBA if there are any questions that need clarified that were brought up during the Public Hearing.

Chairman Schanwolf wanted clarification on what type of materials would be stored onsite. Mr. Trone answered that it would be the same type of materials that Bell Supply and Junkin Redman sells, much like a Walmart of the oil and gas industry, like piping and fittings, etc. Chairman Schanwolf brought up concerns about the height of the materials in relation to the fencing area and also seen from Hwy 85. Mr. Trone advised that he doesn't have any photos with him but Rifle is a great example. Mr. Trone answered that his client would be more willing to make sure the height of the materials are below the fence. Mr. Trone also advised that it depends on what angle you are looking at the property in terms of elevation in relation to Hwy 85. Mr. Trone advised that their main concern is if you are standing in the Hwy 85 corridor what can you see and his client is more than willing to work with the city to make sure nothing is visible.

Board member Clark asked about the change in the zoning on the outdoor storage "is it forever or limited." Mr. Ratkai advised that what they have done, specifically Bell Supply is have a special review impose limitations on the fence, provide landscaping that in 5 to 10 years will block some of the views. Staff also looks at the timing of the use, and one of the USRs of Bell Supply, which is similar in nature, was a 5 year limitation. We have the latitude to grant a limitation. Once it was negotiated with council it came to be 15 years with special review and when 15 years is up, it sunsets or they may re-apply.



Mr. Trone advised that his client would be leasing the land for 5 years. The client understands if they have to have limitations. It is important for them to have a good clean image for their clients.

Chairman Schanwolf asked if they could have lots without outside storage and Mr. Trone answered that it was crucial that they have the outside storage. Chairman Schanwolf commented that inside the building would be smaller retail and Mr. Trone answered yes as well as offices in the front of the building. Chairman Schanwolf commented that the offices would be on the east end and then asked about access to parking. Mr. Trone answered there would be 2 points of access, one being on the west side from Carson Avenue and the other access for passenger vehicles would from the east. It would be best if trucks didn't have to interact with passenger vehicles and they can loop around in the yard. The drivers prefer that plan.

Board Member Buck asked about the building specifications, is it one level? Mr. Trone answered that is correct that the building would be 60,000 square feet. It was asked of staff what is the requirement in terms of the parking spaces. Mr. Ratkai answered that he would have to look at the ratio versus retail, versus storage, versus office, but will looking at the size of the building it would be about 15-20 spaces with one or two handicapped spaces for the passenger vehicles. Mr. Trone was asked about size of the building and storage and he took into account about parking, the building, detention, and setbacks and guessed it would be less than an acre based on the he total amount of land; 2.67 acres (given by Mr. Ratkai) once the lots are combined.

Board Member Buck asked about lot 2 and that it doesn't lay in the Hwy 85 corridor. Mr. Ratkai clarified yes it doesn't. Therefore, the outside storage would be permitted on lot 2 as is. Lot 1 falls into the overlay district is there a zoning situation that pulls lot 1 into lot 2 or vice versa in terms with zoning. Mr. Ratkai clarified that both lots fall into the C-3 zoning whether or not it's in the overlay district, it doesn't permit outside storage. If it's zoned I1, I2, or I3, you could combine the lots and have a principal use which means it would have to have a warehouse or other type of building on the lots. Also if you combine the lots and have one boundary then it would conform to the new overlay district. Board Member Buck also wanted clarification on how the boundaries were determined on the new Hwy 85 corridor. Mr. Ratkai can't speak on that as he wasn't part of the original team that developed the new boundaries however, he would be more than happy to speak to Mrs. Trent and get back to him on that question.

Board Member Buck asked about why the zoning wasn't pursued first which



would have mitigated the outdoor storage. Mr. Ratkai answered that he is working with a new staff and took over the project because it's a multi-layer project with the political implications of the Hwy 85 corridor, and staff chose to do a less expensive route to see if the variance would pass before the applicant invested a lot of capital into a public hearing entitlement process. Board Member Buck thinks that the zoning is the bigger issue but he understood. Mr. Trone spoke about the order of items and why they are waiting on the zoning due to the possibility of outcome of decision from ZBA and City Council. For what it's worth they are more than willing to work with the city with landscaping along with the objective of the highway corridor.

Board Member Buck asked if the service road was platted. Mr. Ratkai answered yes it is for future that it would be re-routed away from the intersection. It would be considered in development and serve as access for the east side those lots.

Chairman Schanwolf asked about the lot south of the lot 2 which is lot 3 and if it would be in the overlay district. Mr. Ratkai answered no it wouldn't but it would be considered in the planning.

Chairman Schanwolf closed the public hearing at 6:43 p.m.

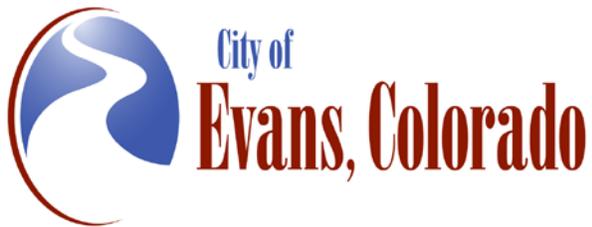
Chairman Schanwolf asked for any ZBA discussion or clarification from the staff.

Chairman Schanwolf stated that he would vote for denial.

Board Member Buck stated that he appreciated that this would bring a business and jobs to Evans and that he got the adjacent property owners concurrence but as he knows they are tasked with looking at 4 criteria and to see if that the application falls within that criteria. He believes it's a worthy cause and there are some options we can look at such as limited use such as the 5 years and rezoning but unfortunately he is not able to vote in favor of.

Mr. Chairman, on the issue of the Country Meadows Sub. Lots 1 & 2 Variance for the allowance of a future industrial use with outdoor storage, Commissioner Buck moved that the Zoning Board of Appeals forward a recommendation of denial to the Evans City Council as the request cannot meet all the criteria outlined in 19.58 of the Evans Municipal Code, seconded by Commissioner Clark. The motion passed with all voting in favor thereof.

Staff will present at City Council along with our decision on September 16, 2014 at 7:30 p.m. Council can overrule our decision and you can present to



present your case.

6) AUDIENCE PARTICIPATION:
No audience

7) GENERAL DISCUSSION:
Mid-year report was given.

The board wants to meet more regularly. Wants to meet next month for a work session if there is not a public hearing.

8) ADJOURNMENT
Commissioner Buck made the motion, seconded by Commissioner Clark to adjourn the meeting at 7:20 p.m.

CITY COUNCIL COMMUNICATION

DATE: September 16th, 2014

AGENDA ITEM: 8.E

SUBJECT: Country Meadows Sub. Lots 1 & 2 Variance (Outdoor Storage)

STAFF CONTACT: Zach Ratkai, Community Development Manager

PLANNING COMMISSION: August 27th, 2014

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

PROJECT DESCRIPTION:

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

1. ANALYSIS / ISSUES:

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

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

19.62.050 Nonpermitted uses and restrictions.

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

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

18. Outdoor storage.

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

19.62.060 Uses allowed with special use permit.

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

1. Industrial uses facility.

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

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

Chapter 19.58 (Variances):

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

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

19.58.040 Procedure for variance requests.

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

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

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

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

REFERRAL AGENCY COMMENTS:

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

FINDINGS OF FACT AND CONCLUSIONS:

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

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

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

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

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

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

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

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

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

ZONING BOARD OF APPEALS RECOMMENDATION:

The Evans Zoning Board of Appeals (ZBA) held a public hearing for this item on September 4, 2014. No one spoke in either opposition or support from the public during the hearing. The ZBA heard from both staff and the applicant and voted in favor of the staff recommendation of denial of the request and; subsequently, forward the same to the Evans City Council via the following motion:

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

STAFF RECOMMENDATION:

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

RECOMMENDED ZBA MOTION:

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

Attachments:

Public Hearing Notice
Vicinity Map
Zoning Map
County Meadows Subdivision Rezoning and Variance Application Materials
Evans Renewal Agency Comments

Hwy 85 Future Land Use Map
Highway 85 Traffic Pattern Map
19.30 – C-3 Commercial Zoning District Standards
19.58 – Variances
19.62 – US 85 Overlay District Design Standards Code

**CITY OF EVANS
NOTICE OF PUBLIC HEARING**

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

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

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

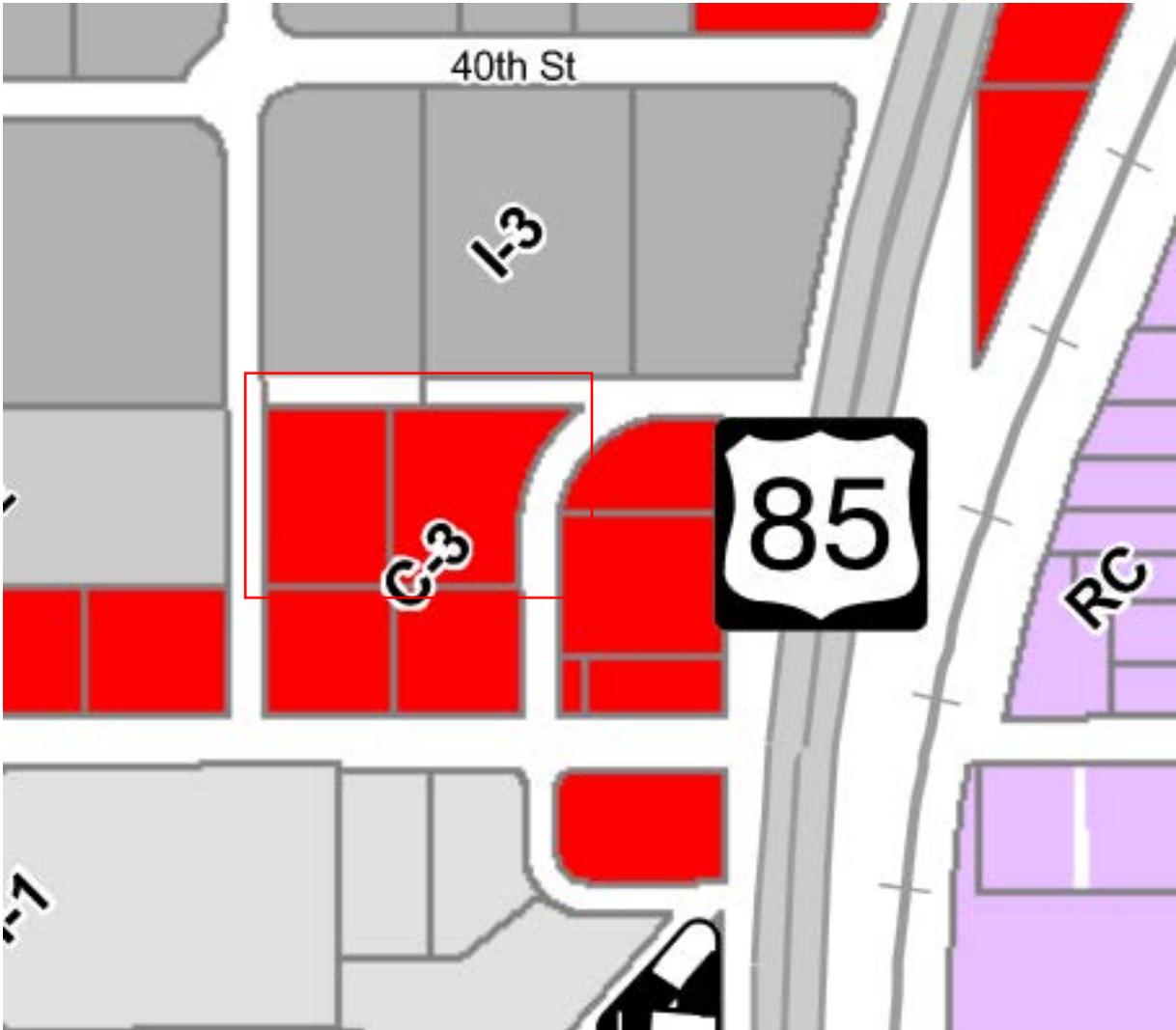
Be it also known that additional information may be obtained from the Evans Community Development Department, 1100 37th Street, Evans, Colorado, between the hours of 8:00 am and 5:00 pm, Monday through Friday, or by phone at (970) 475-1112.

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

Vicinity Map



Zoning Map





**Land Use Application
Variance**

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

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

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

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

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

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

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

Mailing Address: PO Box T, Boulder CO 80306

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

Mailing Address: PO Box T, Boulder CO 80306

SUBMITTAL CHECKLIST

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

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

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

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


6/5/14

Land Owner Signature **Date**


6/5/14

Applicant Signature **Date**

For City Staff Use Only

Date Submitted:

Date Reviewed: Reviewer Name: _____

Corrections Needed? Yes No

Date Returned as Incomplete to Applicant and Owner:

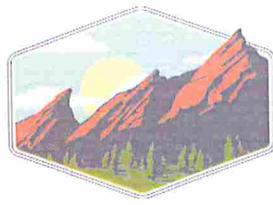
Date Accepted as Complete:

ZBA Date:

City Council Date:

Additional Comments:

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



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June 4, 2013

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

Mr. Sean Wheeler, City Planner

Mr. Zach Radkai, Community Development Manager

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

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

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

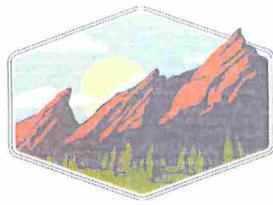
The project I am hopeful to move forward with would be the construction of an approximate 16,000 SF building with additional outdoor storage to facilitate National OilWell Varco. National OilWell Varco is a worldwide provider of customer-focused solutions for the energy industry. The building would house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

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

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

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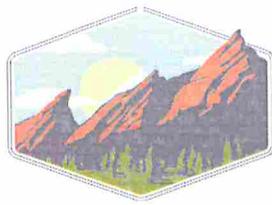
retail site or office. I understand that in an ideal world the City of Evans would love to realize the revenue generated from the retail sales taxes generated from a retail use or the larger volume of employees working in an office building, however there is a low likelihood that these two particular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

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

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

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

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

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

Respectfully Submitted,



James Dixon

Director of Development

Tebo Development and Borchert Pointe LLC

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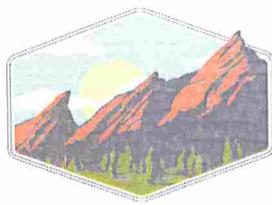
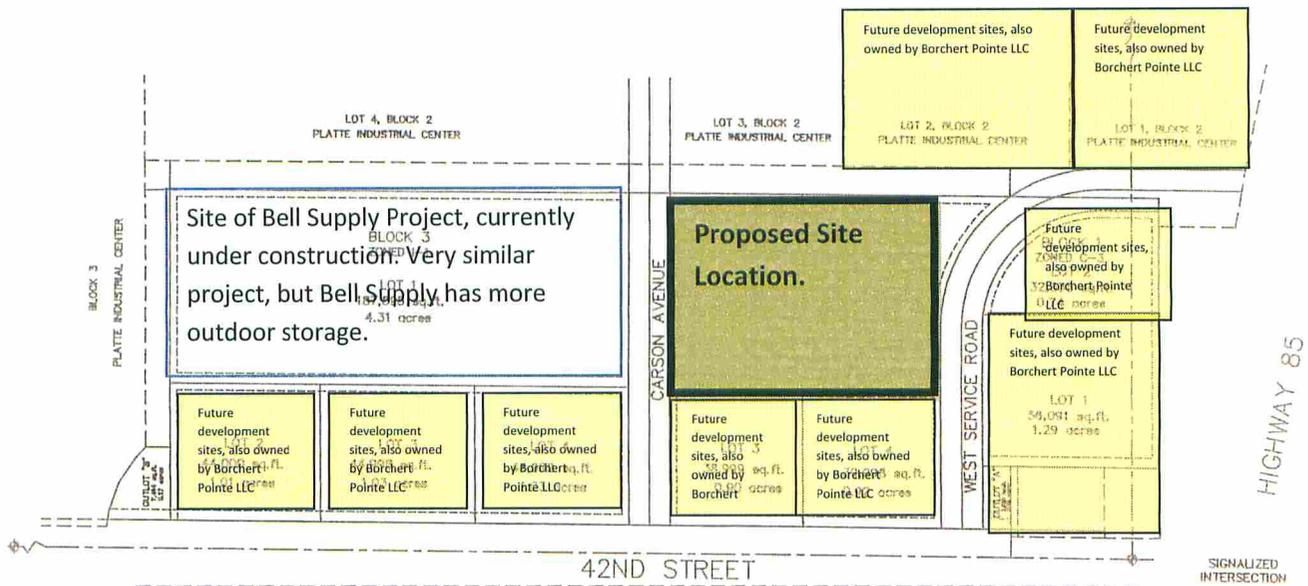


Exhibit A

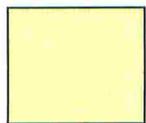


LOT LAYOUT PLAN COUNTRY MEADOWS SUBDIVISION

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



Greeley/ Evans Commercial Center



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



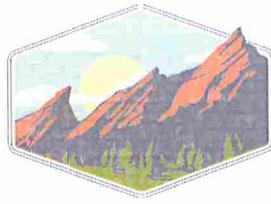
---Represents the proposed project site



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

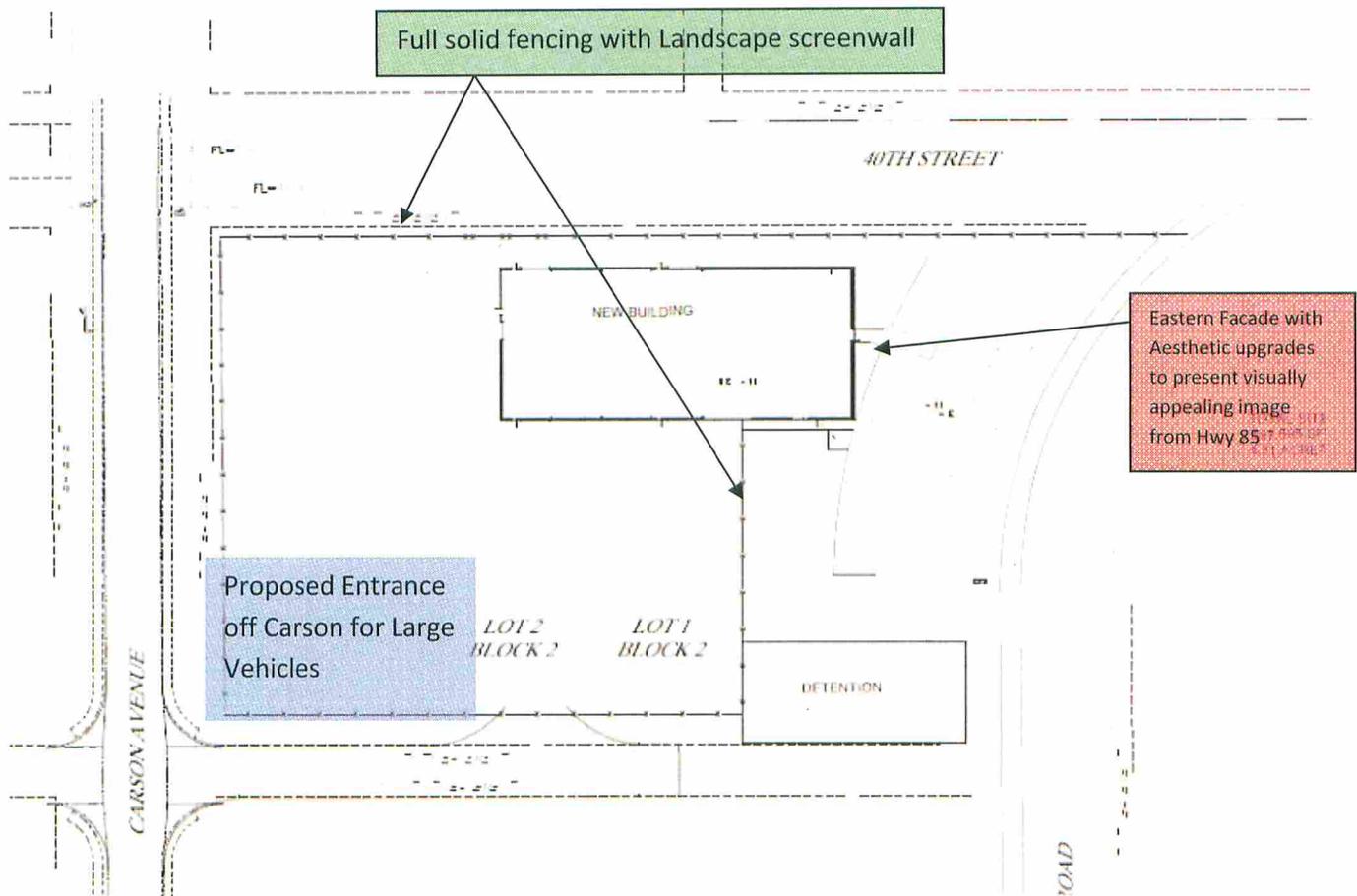
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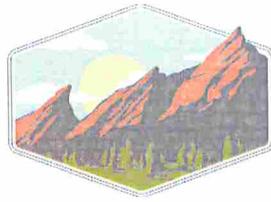
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Proposed Possible Site Plan



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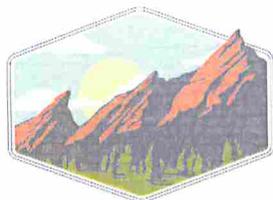
Land Owners Buffer Report

Owners within 500' of the proposed Project

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

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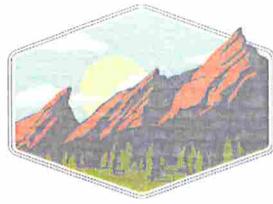
EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

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

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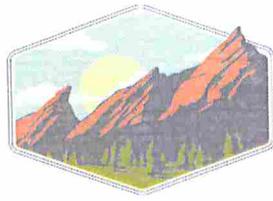
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Photos Of Current Site



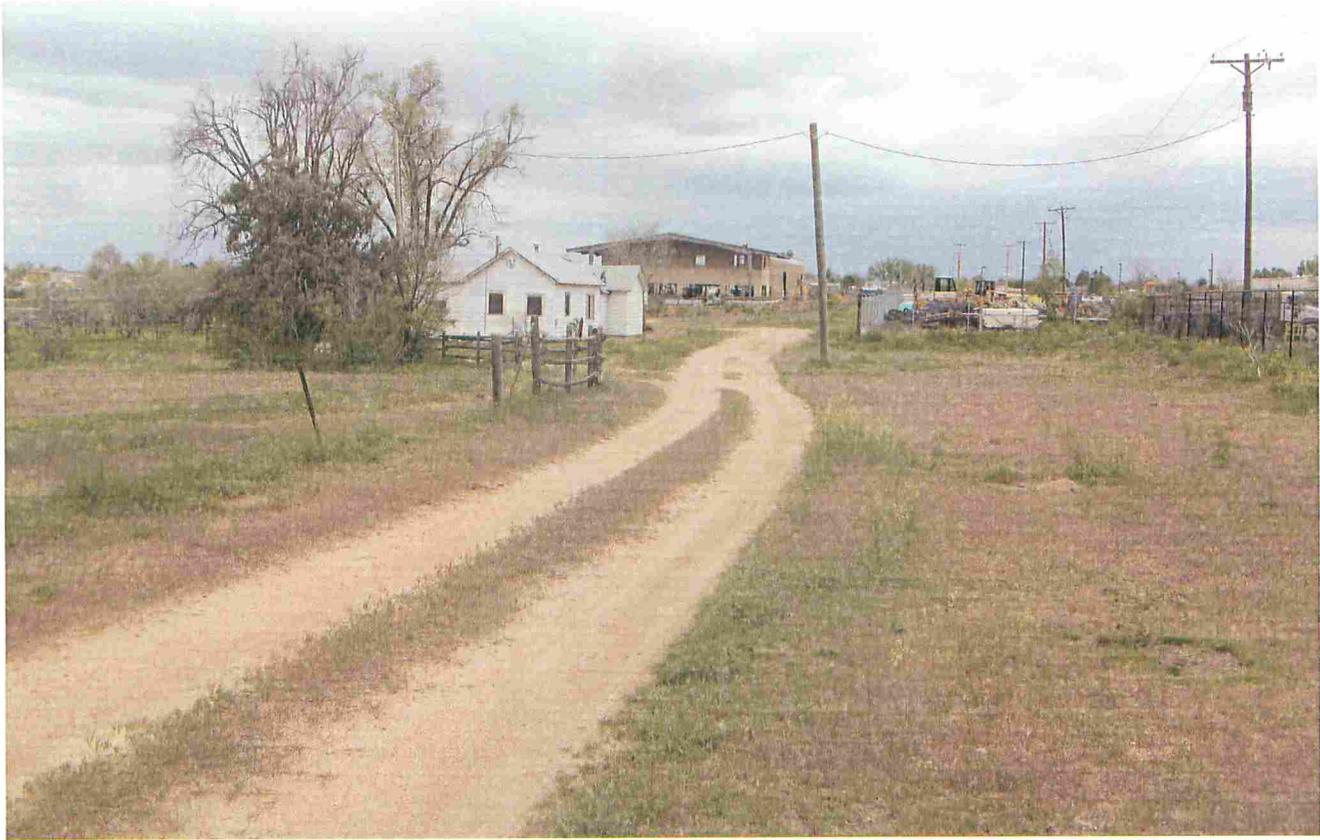
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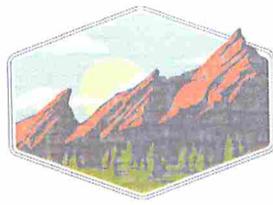
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Photo Of Current Site



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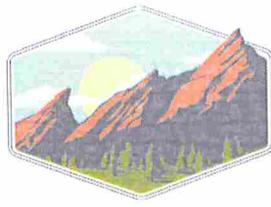
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P R O P E R T I E S

Photo of Current Site



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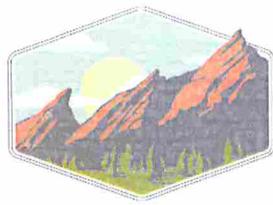
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Aerial of Site



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

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



TEBO
PROPERTIES

Letter of Support

Tebo Leasing Associate

From: clyde lane
Sent: Thursday, June 05, 2014 11:15 AM
To: leasing@teboproperties.com
Subject: Hillside Rental, LLC

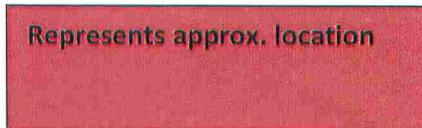
I, Clyde Lane, owner of Hillside Rental, LLC support a building with outdoor storage to the south of my business.

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

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

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

Photos showing surrounding outdoor storage use.





City of
Evans, Colorado

Evans Redevelopment Agency

1100 37th Street

Evans, Colorado 80620

August 15, 2014

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

Re: Varco Variance Request

Dear Board Members;

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

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

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

Overview of Corridor

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

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

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

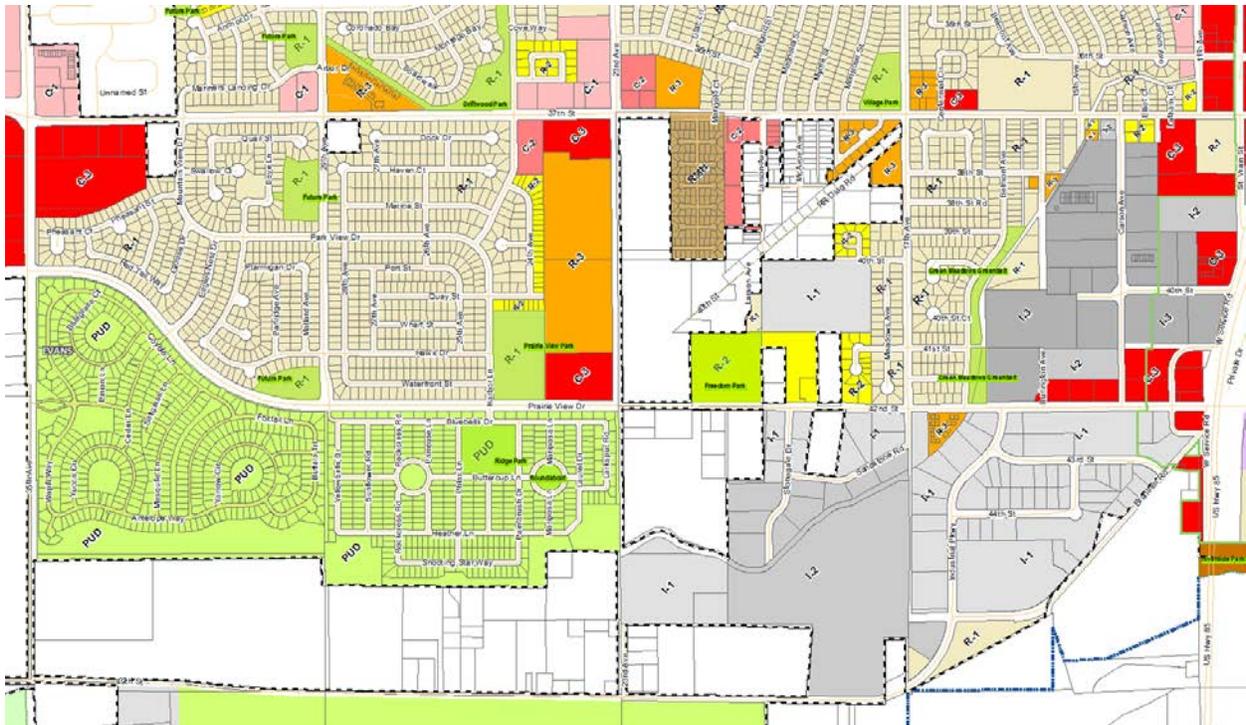
History of Planning Efforts

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

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

Long Range Vision and Plan

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



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

Highway 85 Corridor Master Plan

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

Prohibited Use

From 19.62

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

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

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

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

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

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

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

Zoning

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

High Retail Commercial

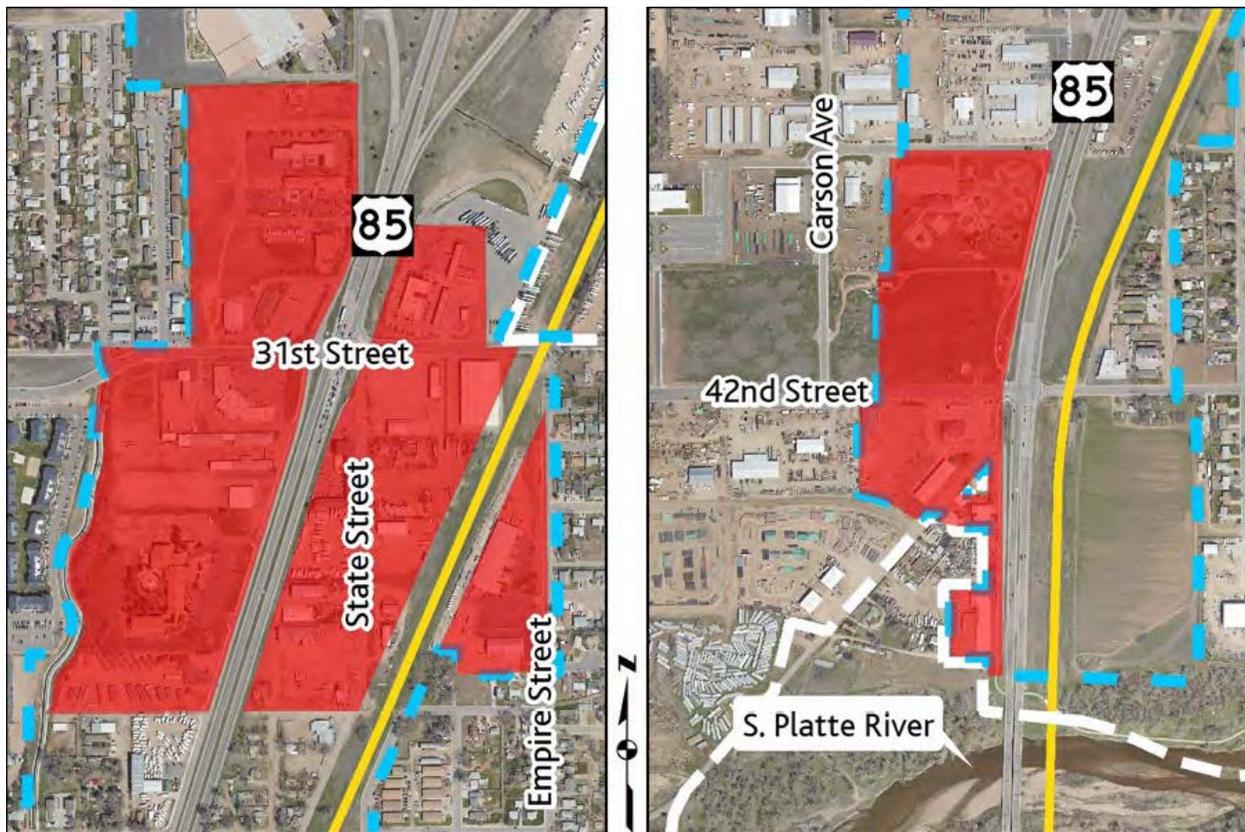
The High Retail Commercial category envisions traditional retail center land uses. This category is characterized by one or two anchor stores with other smaller supporting retail uses. These types of centers and uses typically offer a wide variety of goods and:

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

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

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

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



Urban Renewal Area Plan

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

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

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

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

Long term financial sustainability

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

Policy Direction from Council and Planning Commission

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

Additional Comments to Address Applicant Information

Visual Impact

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

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



Spot Zoning

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

Summary

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

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

Sincerely,

Sheryl Trent
Executive Director

Attachments:
Highway 85 Corridor/URA Map



**Parcel Map
Highway 85
Urban Renewal Area**

Legend

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

1:3,600
1 inch = 300 feet

0 100 200 400 600 800 1,000
Feet



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

FUTURE LAND USE CLASSIFICATIONS

HIGH RETAIL COMMERCIAL

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

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





Right-In/Right-Out will be maintained

Carson Avenue

42nd Street

S. Platte River



Network

Evans City Park

Pueblo Street

Riverside Park

40th Street

Idaho Street
Denver Street
Central Street
Boulder Street

85

Park 'n' Ride

Potential Park Land

LEGEND

(All proposals are conceptual and subject to final engineering)

Frontage Road Closure

Potential Access Easement

Improved Public Road

Pedestrian Network

Railroad

Possible Road Access Closure

Proposed Roundabout Location

Proposed US Highway 85 Pedestrian Bridge

Existing Traffic Signal

Existing Railroad Crossing



CHAPTER 19.30

C-3 High Intensity Commercial District

19.30.010 Intent.

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

19.30.020 Permitted use groups.

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

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

Permitted use groups in the C-3 district continued:

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

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

19.30.030 Special uses.

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

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

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

19.30.040 Property development regulations.

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

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

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

(Ord. 005-00)

CHAPTER 19.58

Variances

19.58.010 Intent.

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

19.58.020 Duties of the Zoning Board of Appeals.

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

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

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

19.58.030 Criteria for variances.

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

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

19.58.040 Procedure for variance requests.

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

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

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

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

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

19.58.050 Regulations not eligible for variances.

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

19.58.060 Minor variances.

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

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

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

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

19.58.070 Expiration.

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

19.58.080 Fees.

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

CITY OF EVANS, COLORADO

RESOLUTION NO. 33-2014

A RESOLUTION APPROVING, WITH CONDITIONS, A VARIANCE FROM SECTIONS 19.62.050.B.18 OF THE EVANS MUNICIPAL CODE TO ALLOW OUTDOOR STORAGE ON THE PROPERTY TO ACCOMMODATE A FUTURE USE – 4101 WEST SERVICE ROAD, EVANS

WHEREAS, the City of Evans has received a request from Borchert Pointe LLC, property owners and applicant for a variance to Section 19.62.050.B.18 of the Evans Municipal Code in order to be allowed outdoor storage to accommodate a potential future use, and

WHEREAS, said request has been processed in accordance with Chapter 19.58, Variances, of the Evans Municipal Code, and

WHEREAS, the Zoning Board of Appeals conducted a public hearing on September 4, 2014, and recommended an denial of said variance, and

WHEREAS, the City Council conducted a public hearing, has carefully reviewed the request and finds, by a vote of at least five members of Council, that such request does not meet the variance criteria and that it does comply with the purpose of the zoning codes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that the decision of the Zoning Board of Appeals is hereby upheld and a variance is hereby denied from Section 19.62 of the Evans Municipal Code for the property known as the Country Meadows Lots 1 and 2, 4101 West Service Road, Evans, to allow outdoor storage;

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 16th day of September, 2014.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

By: _____
Mayor

CITY COUNCIL COMMUNICATION

DATE: September 16, 2014

AGENDA ITEM: 8.F

SUBJECT: **Evans Energy Park Annexation**, Petition for annexation of a parcel of land into the City of Evans, set annexation hearing for November 18, 2014.

PRESENTED BY: Zach Ratkai, Community Development Manager

AGENDA ITEM DESCRIPTION:

BACKGROUND INFORMATION		
Location:		Southeast Corner of 1 st Avenue and 31 st Street
Applicants:		Jack Bestall, Bestall Design Collaborative
Existing Land Use:		Agriculture/Open Space
Proposed Land Use:		Recreation and Light Industrial
Surrounding Land Use:	North	Agriculture, vacant land (City of Greeley)
	South	Agriculture (Weld County)
	East	Agriculture (Weld County)
	West	Industrial/Institutional= (Evans)
Existing Zoning:		Agriculture (Weld County)
Proposed Zoning:		PUD
Surrounding Zoning:	North	Industrial (Greeley)
	South	Agriculture (Weld County)
	East	Agriculture (Weld County)
	West	Residential (R-1) (Evans)
Future Land Use Designation:		Residential Urban Neighborhood

The City of Evans received on August 28, 2014 a petition for annexation on behalf of the Bestall Design Collaborative. The property consists of 78.439 acres all of which is proposed to be included into the City of Evans. The property currently is zoned agricultural. Access to the property is along the 1st Avenue frontage south of 31st Street.

The proposed annexation will establish contiguity with the City of Evans along its western property line. The annexation as proposed conforms to the regulations established with the Colorado Municipal Annexation Act of 1965 concerning contiguity. A concurrent application to initially zone the property to PUD (Planned Unit Development) was also submitted along with the petition.

The purpose of this Agenda item will be to pass a resolution to indicate that the application is substantially complete and to initiate annexation proceedings by establishing a date, time, and place for a hearing before the Evans City Council. This hearing will determine if the proposed annexation complies with Section 30 of Article II of the Colorado State Constitution and sections 31-12-104 and 31-12-105 of the Colorado Revised Statutes as well as the City of Evans process for annexation. Evans Community Development Staff has reviewed the Annexation Petition and find all documents to be complete and eligible for review of substantial compliance with the Colorado Municipal Annexation Act of 1965. The applicant has also submitted all additional required documents from Chapter 19.08 of the City of Evans Municipal Code related to annexation.

Passing of this resolution will establish a date set neither less than thirty days nor more than sixty days for City Council to review and approve or deny an ordinance regarding this annexation petition.

RECOMMENDATION:

Staff recommends that City Council establish a date to review the proposed annexation to determine compliance with Article II of the Colorado State Constitution and Section 31-12-104 and 31-12-105 of the Colorado Revised Statutes. To ensure such review within 30 to 60 days of the passing of this resolution, staff recommends the hearing be set for November 18, 2014.

SUGGESTED MOTIONS:

I move to adopt Resolution No. 34-2014 establishing November 18, 2014 as the date to review an application for annexation.

I move to deny Resolution No. 34-2014 establishing November 18, 2014 as the date to review an application for annexation.

Attachments:

- Annexation Petition
- Evans Energy Park Annexation Map

CITY OF EVANS, COLORADO

RESOLUTION NO. 34-2014

A RESOLUTION ESTABLISHING NOVEMBER 18, 2014 AS THE DATE TO REVIEW AN APPLICATION FOR ANNEXATION INTO THE CITY OF EVANS, KNOWN AS THE EVANS INDUSTRIAL PARK

WHEREAS, the City of Evans has received a petition from Jack Bestall, representative of the property owner, for annexation into the City of Evans, and

WHEREAS, pursuant to the Colorado Municipal Annexation Act of 1965, as amended, and the City of Evans Municipal Code a public hearing must be held to review the petition, and

WHEREAS, the passing of this resolution will establish a date set neither less than thirty days nor more than sixty days for City Council to review an ordinance regarding said petition for annexation, and

WHEREAS, the submitted application is found to be substantially complete.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, that the City Council will hold a hearing on November 18, 2014 to review a petition for annexation for compliance with Section 30 of Article II of the Colorado State Constitution, the Colorado Municipal Annexation Act of 1965, as amended, as well as Chapter 19.08 of the City of Evans Municipal Code.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 16th day of September, 2014.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

By: _____
Mayor

PETITION FOR ANNEXATION

The undersigned, in accordance with Article 12, Chapter 31, CRS, as amended, hereby petition for City Council of the City of Evans, Colorado, for annexation to the City of Evans the unincorporated territory more particularly described below, to be known as (name of annexation)

Evans Energy Park – 3312 1st Avenue

and in support of said Petition, petitioners allege that:

- 1) It is desirable and necessary that the following described territory be annexed to the City of Evans (attach legal description as well);
3312 1st Avenue - approximately 80 acres at the southeast corner of 1st Avenue and 31st Street consisting of vacant land, a 20 acre lake and three (3) oil wells.
- 2) Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the City of Evans, Colorado;
- 3) A community of interest exists between the territory proposed to be annexed and the City of Evans, Colorado;
- 4) The territory proposed to be annexed is urban or will be urbanized in the near future;
- 5) The territory proposed to be annexed is integrated or is capable of being integrated with the City of Evans, Colorado;

- 6) The signatures of the Petition comprise one hundred percent (100%) of the landowners of the territory to be included in the area proposed to be said landowners attesting to the facts and agreeing to the conditions herein contained will negate the necessity of any annexation election;

- 7) No land held in identical ownership, whether consisting of one tract to parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - a) Is divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels are separated by a separate dedicated street, road or other public way;
 - b) Comprising twenty (20) acres or more and which, together with the buildings and improvements situated thereon has an assesses value in excess of Two Hundred Thousand Dollars (\$200,000) for ad

valorem tax purposes for the year proceeding the annexation, is included within the territory proposed to be annexed without the written consent of the landowner or landowners.

8) No part of the area proposed to be annexed is more than three miles from a point on the municipal boundary, as such was established more than one year before this annexation will take place;

9) The area proposed to be annexed comprises (Check One):

_____ More than 10 acres and the Board of County Commissioners of Weld County has agreed to waive the requirement of an impact report as provided for in section 31-12-108.5, C.R.S., as amended.

More than 10 acres and an impact report as provided for in section 31-12-108.5, C.R.S., as amended, is required.

_____ 10 acres or fewer and an impact report as provided for in section 31-12-108.5, C.R.S., as amended, is not required.

10) The area proposed to be annexed is located within Weld County, and the following special districts:

Water Districts - Northern Colorado Water Conservancy District; Central Colorado Water Conservancy District; Central Colorado Water Conservancy Subdivision Reach B

Sanitation District - None

Fire District - Western Hills Fire District

School District - Greeley District 6

Recreation District - None

Library District - High Plains Library

Ambulance District - Evans Fire Department

Jr. College District - Aims Junior College District

Other _____

11) The mailing address of each signer, the legal description of the land owned by each signed and the date of signing of each signature are all shown on this Petition;

12) Accompany this Petition are four (4) prints of the annexation map containing the following information:
a) A written legal description of the boundaries of the area proposed to be annexed;

- b) A map showing the boundary of the area proposed to be annexed;
 - c) Within the annexation boundary map there is shown the location of each ownership tract in unplatted land, and if part or all of the area is to be platted, then the boundaries and the plat number of plots or of lots and blocks are shown;
 - d) Next to the boundary of the area proposed to be annexed is drawn the contiguous boundary of the City of Evans, and the contiguous boundary of any other municipality abutting the area proposed to be annexed;
 - e) The dimensions of the contiguous boundaries are shown on the map.
- 13) The territory to be annexed is not presently a part of any incorporated city, city and county, or town;
- 14) The undersigned agree to the following, which shall be covenants running with the land, and which shall, at the option of the City, appear on the annexation map;
- 15) Petitioner represents that:
- a) Water rights shall be provided pursuant to City Ordinance;
 - b) The owners shall participate in providing drainage plans and improvement and payment of a unit drainage fee as may be required by the City for the area;
 - c) The undersigned hereby waives any and all "vested rights" previously created pursuant to Section 24-68-103, CRS, as amended;**
- X_____ No part of the property to be annexed is included within any site specific development plan approved by Weld County, Colorado; OR
- _____ A site specific development plan has been approved by Weld County, Colorado, which has created a vested right.

d) The undersigned and the City may enter into a Pre-Annexation Agreement prior to the effective date of this annexation, which agreement shall be additional conditions as effectively as if set forth in this Petition; and

- 16) The petitioner understands he/she will be responsible for costs incurred by the City of Evans such as, but not limited to, advertising and recording fees, attorney fees, and other professional costs incurred by the city.

Executed this 15 day of August, 20 14.

Lorraine Annis
Property Owner Signature

Wanda Ardrey Robert E. Ardrey
Property Owner Signature

LORRAINE ANNIS
Property Owner Printed Name

Wanda Ardrey Robert E. Ardrey
Property Owner Printed Name

P.O. Box 194
Mailing Address

5193 So. Williams Dr
Mailing Address

Firestone CO80520
City, State, Zip

Ardenwood Village, Co. 80121
City, State, Zip

Lorsherr@centurylink.net
Email Address

Bob Ardrey @ G Milk. Com
Email Address

303 833 3208
Contact Phone

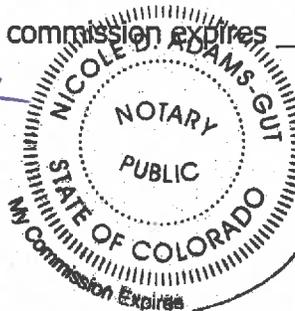
303-761-9922
Contact Phone

The foregoing instrument was acknowledged before me this 15th day of AUGUST, A.D. 20 14.

Witness my hand and official seal. My commission expires 09/19/16.

Notary Public

[Signature]



EVANS ENERGY PARK ANNEXATION

A PARCEL OF LAND BEING A PART OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 21,
TOWNSHIP 5 NORTH, RANGE 65 WEST, OF THE 6TH PRINCIPAL MERIDIAN
COUNTY OF WELD, STATE OF COLORADO

OWNER: PUBLIC SERVICE
COMPANY OF COLORADO

W 1/4 CORNER OF SECTION 21,
T.5N., R.65W., OF THE 6TH P.M.
(FOUND #6 REBAR & 3 1/4 ALUMINUM
CAP I.S. NO. 4392 SET 2008
IN RANGE BOX)

OWNER: JAMES BIRTS

OWNER: CITY OF EVANS

N00°38'45"W 1319.83'

S 1/4 CORNER OF SECTION 21,
T.5N., R.65W., OF THE 6TH P.M.
(FOUND 2 1/2 ALUMINUM
CAP I.S. NO. 24670 SET 1994
IN RANGE BOX)

OWNER: CITY OF GREELEY

N89°02'38"E 2609.58'

OWNER: MARLIN & SHIRLEY NESS

N 1/4 CORNER OF SECTION 21,
T.5N., R.65W., OF THE 6TH P.M.
(FOUND #4 REBAR)

OWNER: MARLIN & SHIRLEY NESS

C 1/4 CORNER OF SECTION 21,
T.5N., R.65W., OF THE 6TH P.M.

E 1/4 CORNER OF SECTION 21,
T.5N., R.65W., OF THE 6TH P.M.
(FOUND 2 1/2 ILLEGIBLE
ALUMINUM CAP)

PARCEL CONTAINS
3,416,803 SQUARE FEET
78.4390 ACRES

S00°34'57"E 1299.60'

OWNER: GAME FISH & PARKS COMMISSION - COLORADO

OWNER: STATE OF COLORADO

S88°35'58"W 2608.33'

OWNER: ELAINE & MERLYN ERICKSON

OWNER: GAME FISH & PARKS COMMISSION - COLORADO

OWNER: STATE OF COLORADO

S 1/4 CORNER OF SECTION 21,
T.5N., R.65W., OF THE 6TH P.M.
(FOUND #6 REBAR & 2 1/2 ALUMINUM
CAP I.S. NO. 19585 SET IN 1993)



Scale: 1" = 100'

LEGEND

EXISTING CITY LIMITS

ANNEXATION DATA:

TOTAL PERIMETER: 7837.35'
CONTIGUOUS PERIMETER: 1319.83'
AREA OF ANNEXATION: 3,416,803 SQUARE FEET
78.4390 ACRES
MORE OR LESS
PERCENT CONTIGUOUS: 17%

ZONING

EXISTING: AGRICULTURAL
PROPOSED: PUD

LEGAL DESCRIPTION:

THE NORTH 1/2 OF THE SW 1/4 OF SECTION 21, T.5N., R.65W., OF THE 6TH P.M.
EXCEPT THE WEST 30 FEET THEREOF,
COUNTY OF WELD, STATE OF COLORADO

APPLICANT

EVANS INDUSTRIAL DEVELOPMENT LLC
12835 EAST ARAPAHOE ROAD TOWER II, SUITE 780
CENTENNIAL, CO 80112

PREPARED BY

ENGINEERING SERVICE COMPANY
ENGINEERS - SURVEYORS - PLANNERS
Creative Solutions Since 1954
1300 South Platte Street, Suite 120, Aurora, Colorado 80012
Office (303) 337-1393 Fax (303) 337-7481
www.engineering-service-co.com

Drawer No.: E-742 Date of Preparation: 08/26/2014 Date of Last Revision:

CITY COUNCIL COMMUNICATION

DATE: September 16, 2014

AGENDA ITEM: 8.G

SUBJECT: Approval of Contract with TischlerBise for an Impact Fee Study

PRESENTED BY: Sheryl Trent, Economic Development Director

PROJECT DESCRIPTION: The City of Evans, Colorado, has been discussing professional consulting services to conduct a comprehensive Impact Fee Study for several years. Specifically, the City desires an analysis and recommendation of the appropriate methodologies for the City's current Impact Fee categories of Transportation, Fire/Rescue, Parks, Trails, Water, Sewer, and Drainage. Additionally, a Police Impact Fee is contemplated as part of this analysis. The Impact Fee program must meet applicable case law and State (SB 15) requirements for impact fees. Inherent in the overall analysis is an evaluation of the City's current impact fees with attention to the methodologies employed and any recommendations for alternative methodologies and approaches. The Impact Fee Study should recommend proportional impact fees for each infrastructure category by type of land use to support the City's policy goals for land use planning, infrastructure planning and funding, and economic development

Two responses were received to the RFP's and after review by City staff; TischlerBise was selected to provide consultant services.

BACKGROUND:

TischlerBise utilizes a project management process that ensures that projects are completed on time and within budget, and most importantly that they yield results that match our expectations. From the RFO: *Our project management plan utilizes the following principles common to successful projects:*

- 1. **First, we begin by defining the project to be completed.** Based on discussions that occur as part of our Kick Off Meeting, Carson Bise will identify the final project goals and objectives in collaboration with City staff, list potential challenges to the process, and develop a plan to ensure successful outcomes and effective communication.*
- 2. **Second, we will plan the project schedule.** As part of the Kick Off Meeting, Mr. Bise will work with City staff to create an agreed upon timetable to meet the project schedule. Prior to beginning the project, Mr. Bise will assign roles that will ensure the project schedule is met on time and within budget.*

3. *Third, we will actively manage the project process. Mr. Bise and Dr. Guthrie have a long history of strong project management skills that are supported by past project successes (we encourage you to contact our references regarding our success in project management). Mr. Bise will manage the work in progress, provide guidance and oversight to staff, and will be accountable to the City of Greeley for meeting the schedule, budget, and technical requirements of the project.*
4. *Finally, we will review all project deliverables and communication through a formal quality assurance process that requires review at the peer level, project manager level, and executive officer level. Prior to the delivery of work product to the City, deliverables will go through a structured quality assurance process involving up to three levels of review and utilizing a formal checklist tool.*

FINANCIAL CONSIDERATIONS:

This project has been partially grant funded by the Department of Local Affairs through the Energy and Mineral Impact Assistance Fund. A grant in the amount of \$50,000 was received from DOLA. The City is contributing in kind staff resources through administrative functions, financial functions, GIS functions and management of the project as well as an additional \$30,000 from the General Fund which will need a budget amendment.

STAFF RECOMMENDATION:

Staff recommends that the City Council approve the contract with TischlerBise in an amount not to exceed \$80,000; and that the City Council approve a budget amendment for funding.

RECOMMENDED CITY COUNCIL MOTION:

“I move to approve the contract with TischlerBise for an Impact Fee Study in an amount not to exceed \$80,000 and a budget amendment to correspond.”

“I move to deny the contract with TischlerBise for an Impact Fee Study for the following reasons...”

Exhibit A – Scope of Services/RFP

PROPOSAL FOR AN IMPACT FEE STUDY

Prepared for

The City of Evans, Colorado

February 12, 2014



TischlerBise
Fiscal, Economic & Planning Consultants

4701 Sangamore Road, S240
Bethesda, MD 20816
(800) 424-4318
www.tischlerbise.com

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Cover Letter

February 12, 2014

Ms. Sheryl Trent, Economic Development Director
City of Evans
1100 37th Street
Evans, CO 80620

Dear Sheryl;

TischlerBise is pleased to submit the enclosed proposal to provide consulting services for the update of the City's impact fee program. This assignment requires a consulting team with a unique combination of experience and expertise. We feel that TischlerBise is ideally suited to undertake this project based on our extensive national and Colorado impact fee experience. There are several points we would like to note that make our qualifications unique:

- 1. Depth of Experience.** TischlerBise is the nation's leading impact fee and infrastructure financing consulting firm. Our qualified professionals bring an unparalleled depth of experience to this assignment. We have managed over 800 impact fee studies across the country – more than any other firm. We are innovators in the field, pioneering approaches for credits, impact fees by size of housing unit, and distance-related/tiered impact fees. More importantly, a TischlerBise impact fee methodology has never been challenged in a court of law.
- 2. Technical Knowledge of Land Use Planning and Local Government Finance.** The City requires consulting expertise in the areas of land use planning and growth management in the State of Colorado, as well as in local government finance. **Many communities overlook the fact that impact fees are a land use regulation.** The TischlerBise team will apply years of impact fee experience within the context of overall City financial needs, land use, and economic development policies. This will lead to a work product that is both defensible and that promotes equity.
- 3. Colorado Experience.** TischlerBise has conducted numerous impact fee studies in the State of Colorado (including the City of Evans).
- 4. Responsiveness.** As a small firm, we have the flexibility and responsiveness to meet all deadlines of the City's project. **We offer the City the level of service and commitment that the larger firms save for their biggest contracts.**

As the President of TischlerBise, I have the authority to negotiate and contractually bind the firm. We look forward to the possibility of working with the City of Evans and are committed to providing cost-effective, high-quality support for this assignment.

Sincerely,



L. Carson Bise, II, AICP, President
TischlerBise, Inc.
4701 Sangamore Road, Suite S240
Bethesda, MD 20816
Phone: (800) 424-4318 Ext. 12
E-mail: carson@tischlerbise.com

General Information

Impact Fees	TischlerBise was established in 1977 as Tischler, Montasser, and Associates, Inc. The firm became Tischler and Associates, Inc., in 1980 and TischlerBise, Inc., in 2005. The firm, a Subchapter (S) Corporation, was incorporated in Washington, D.C., and maintains offices in Bethesda, Maryland, and North Palm Beach, Florida. Work for the City’s assignment will be conducted from the firm’s Bethesda headquarters.
Fiscal / Economic Impact Analyses	
Infrastructure Funding Strategies	TischlerBise’s team of seven qualified professionals has provided consulting services to public agencies for over 36 years. In this time, we have prepared over 800 impact fee evaluations—more than any other firm. We have also prepared numerous infrastructure financing strategies. Through our detailed approach, proven methodologies, and comprehensive work products, we have established TischlerBise as the leading national firm on revenue enhancement and cost of growth strategies.
Capital Improvement Planning	
Financial / Market Feasibility	To successfully navigate through the update of the City’s Impact Fee Study, the successful consultant must possess specific, detailed, and customized knowledge, not only of the technical analysis, but also of the context of the fee structure in achieving the City’s land use, financial, and economic development policy goals. Our project team for this assignment includes our most senior and experienced impact fee professionals.
Primary Contact: L. Carson Bise, II, AICP President 4701 Sangamore Road, S240 Bethesda, MD 20816 (800) 424-4318 Ext. 12 carson@tischlerbise.com	The role of each team member and their qualifications are briefly discussed below, with detailed résumés provided in the <i>Qualification of Firm</i> section of our proposal.
Federal ID#: 52-1087538 Corporate Status: S-Corporation, organized in the District of Columbia	Carson Bise, AICP , President of TischlerBise, will serve as Principal-In-Charge and will coordinate our project team’s interaction with the City to ensure that all work is completed properly, on time, and within budget. He will work closely with Dwayne Guthrie, developing and reviewing all aspects of the project and providing overall quality assurance for the project.
www.tischlerbise.com	Dwayne Guthrie, Ph.D., AICP , Principal at TischlerBise, has been selected as Project Manager for this project because of his substantial experience preparing impact fees and financing strategies, as well as his strong project management skills. Most importantly, Dr. Guthrie, in conjunction with Mr. Bise, will ensure constant collaboration and communication between City staff and our team through frequent progress memorandums, conference calls, and in-person meetings. Mr. Guthrie was the Project Manager for our previous impact fee study for the City.

Qualification of Firm

TischlerBise is the national leader in impact fees, having conducted over 800 impact fee evaluations for both public and private sector clients nationwide. As our proposal demonstrates, **no other firm can match the depth of our team's impact fee experience.** Our Project Approach ensures:

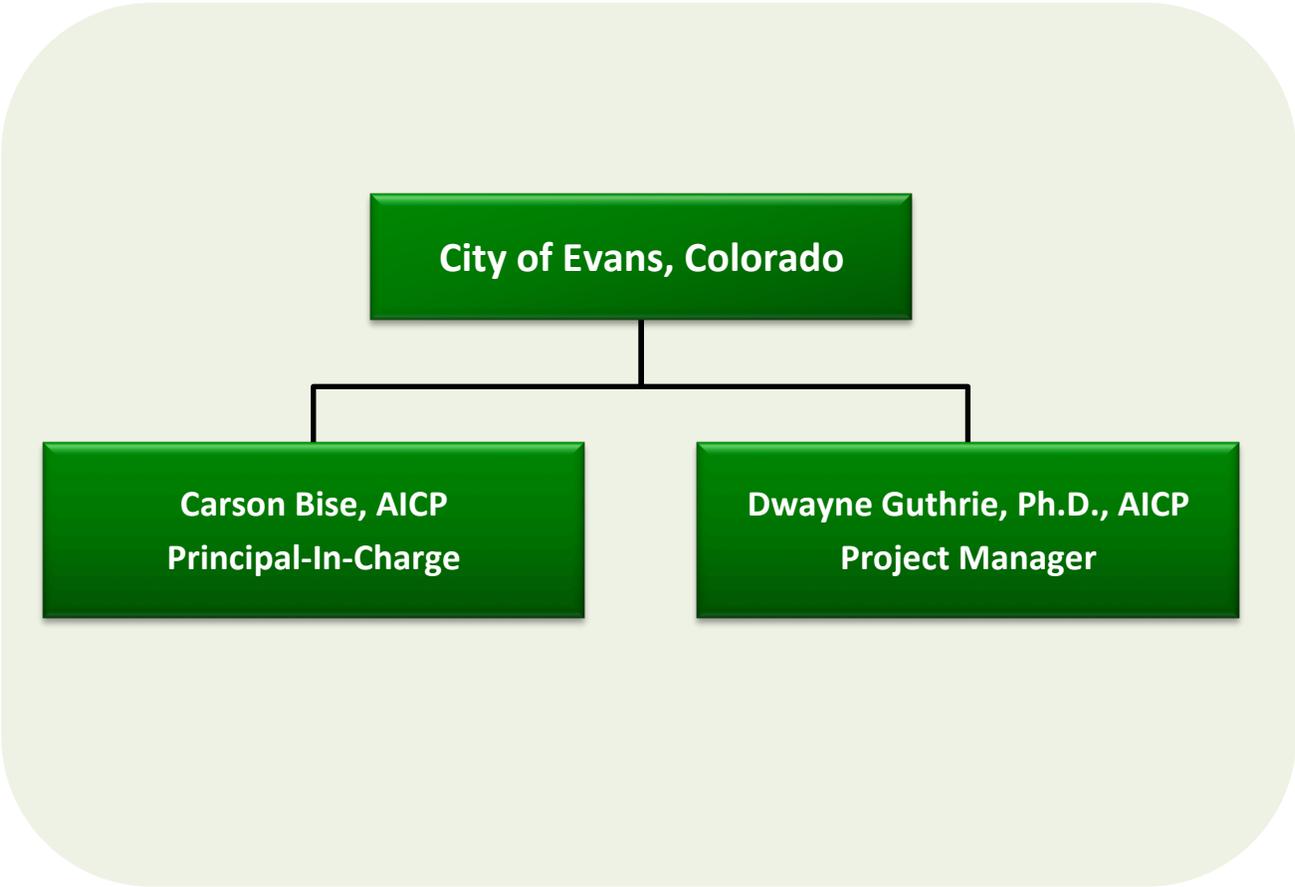
- Determining existing and projected residential and nonresidential growth for 10, 20, and 30-year periods.
- Determining Evans-specific demand indicators.
- Developing meaningful and realistic Capital Improvement Plans/Projection of Capital Needs by impact fee category.
- Crafting impact fee methodologies that assist the implementation of land use and economic policy objectives.

PROJECT MANAGEMENT AND PROJECT TEAM

TischlerBise utilizes a project management process that ensures that projects are completed on time and within budget, and most importantly that they yield results that match our clients' expectations. Our project management plan utilizes the following principles common to successful projects:

- 1. First, we begin by defining the project to be completed.** Based on discussions that occur as part of our Kick Off Meeting, Carson Bise will identify the final project goals and objectives in collaboration with City staff, list potential challenges to the process, and develop a plan to ensure successful outcomes and effective communication.
- 2. Second, we will plan the project schedule.** As part of the Kick Off Meeting, Mr. Bise will work with City staff to create an agreed upon timetable to meet the project schedule. Prior to beginning the project, Mr. Bise will assign roles that will ensure the project schedule is met on time and within budget.
- 3. Third, we will actively manage the project process.** Mr. Bise and Dr. Guthrie have a long history of strong project management skills that are supported by past project successes (we encourage you to contact our references regarding our success in project management). Mr. Bise will manage the work in progress, provide guidance and oversight to staff, and will be accountable to the City of Greeley for meeting the schedule, budget, and technical requirements of the project.
- 4. Finally, we will review all project deliverables and communication through a formal quality assurance process** that requires review at the peer level, project manager level, and executive officer level. Prior to the delivery of work product to the City, deliverables will go through a structured quality assurance process involving up to three levels of review and utilizing a formal checklist tool.

The following graphic depicts the organization of our proposed project team. Our team for the City’s assignment is composed of highly qualified individuals who are experts in the field of impact fees, infrastructure improvement planning, and public outreach. We will provide seamless support to the City’s assignment.



Detailed résumés for our project team are provided below.

CARSON BISE, AICP, PRESIDENT

EXPERIENCE

Carson Bise has twenty-three years of fiscal, economic, and planning experience and **has conducted fiscal and infrastructure finance evaluations in over 35 states. Mr. Bise has developed and implemented more fiscal impact models than any consultant in the country.** The applications Mr. Bise has developed have been used for evaluating multiple land use scenarios, specific development projects, annexations, urban service provision, tax-increment financing, and concurrency/adequate public facilities monitoring. Mr. Bise is also a leading national figure in the calculation of impact fees, having completed over 200 impact fees for the following categories: parks and recreation, open space, police, fire, schools, water, sewer, roads, municipal power, and general government facilities. In his seven years as a planner at the local government level, he coordinated capital improvement plans, conducted

market analyses and business development strategies, and developed comprehensive plans. Mr. Bise has also written and lectured extensively on fiscal impact analysis and infrastructure financing. His most recent publications are *Fiscal Impact Analysis: Methodologies for Planners*, published by the American Planning Association, a chapter on fiscal impact analysis in the book *Planning and Urban Design Standards*, also published by the American Planning Association, and the ICMA IQ Report, *Fiscal Impact Analysis: How Today's Decisions Affect Tomorrow's Budgets*. Mr. Bise was also the principal author of the fiscal impact analysis component for the Atlanta Regional Commission's Smart Growth Toolkit and is featured in the recently released AICP CD-ROM Training Package entitled *The Economics of Density*. Mr. Bise is currently on the Board of Directors of the Growth and Infrastructure Finance Consortium and **recently Chaired the American Planning Association's Paying for Growth Task Force. He was also recently named an Affiliate of the National Center for Smart Growth Research & Education.**

SELECTED IMPACT FEE AND INFRASTRUCTURE FUNDING STRATEGY EXPERIENCE

- City of Daphne, Alabama – *Impact Fee Study*
- City of Gulf Shores, Alabama – *Impact Fee Study*
- City of Orange Beach, Alabama – *Impact Fee Study*
- Town of Camp Verde, Arizona – *Impact Fee Study*
- City of Eloy, Arizona – *Impact Fee Study*
- City of Siloam Springs, Arkansas – *Impact Fee Study*
- City of National City, California – *Impact Fee Study*
- City of Avenal, California – *Impact Fee Study*
- City of Banning, California – *Impact Fee Study*
- City of Temecula, California – *Impact Fee Study*
- City of Tulare, California – *Impact Fee Study*
- City of Boulder, Colorado – *Impact Fee/Excise Tax Study*
- Town of Castle Rock, Colorado – *Impact Fee Study*
- City of Greeley, Colorado – *Impact Fee Study*
- City of Steamboat Springs, Colorado – *Impact Fee Study*
- Town of Vail, Colorado – *Impact Fee Study*
- City of North Miami, Florida – *Impact Fee Study*
- City of Punta Gorda, Florida – *Impact Fee Study*
- DeSoto County, Florida – *Impact Fee Study*
- Manatee County, Florida – *Impact Fee Study*
- Pasco County, Florida – *School Impact Fee Study*
- Polk County, Florida – *Impact Fee Study*
- Seminole County, Florida – *School Impact Fee and Infrastructure Financing Study*
- Anne Arundel County, Maryland – *Revenue Strategies*
- Calvert County, Maryland – *Impact Fee Study*
- Caroline County, Maryland – *Schools Excise Tax Study*
- Carroll County, Maryland – *Impact Fee Study*
- Charles County, Maryland – *Impact Fee Study*
- Dorchester County, Maryland – *Impact Fee Study*
- Hagerstown, Maryland – *Impact Fee Study*

- City of Salisbury, Maryland – *Impact Fee Study*
- Town of Easton, Maryland – *Impact Fee Study*
- Town of Hampstead, Maryland – *Impact Fee Study*
- Talbot County, Maryland – *Impact Fee Study*
- Washington County, Maryland – *Impact Fee Study*
- Wicomico County, Maryland – *Impact Fee Study*
- Worcester County, Maryland – *Impact Fee Study*
- Broadwater County, Montana – *Impact Fee Feasibility Study*
- Flathead County, Montana – *Impact Fee Feasibility Study and Impact Fee Study*
- City of Missoula/Missoula County, Montana – *Impact Fee Study and Capital Facility Plan*
- City of Laurel, Montana – *Impact Fee Feasibility Study*
- City of Great Falls, Montana – *Impact Fee Feasibility Study*
- Florence-Carlton School District, Montana – *Impact Fee Study*
- Gallatin Canyon/Big Sky, Montana – *Capital Improvement and Funding Plan*
- City of North Las Vegas, Nevada – *Impact Fee Study*
- Nye County/Town of Pahrump, Nevada – *Impact Fee Study*
- City of Las Cruces, New Mexico – *Water and Sewer Impact Fee Study*
- Cabarrus County, North Carolina – *Voluntary Mitigation Payment Studies (Two School Districts)*
- City of Greenville, North Carolina – *Impact Fee Study*
- Abbeville County, South Carolina – *Infrastructure Funding Strategy*
- Beaufort County, South Carolina – *Infrastructure Funding Strategy*
- Clinton City, Utah – *Impact Fee Study*
- Draper City, Utah – *Impact Fee Study*
- Logan City, Utah – *Impact Fee Study*
- Goochland County, Virginia – *Cash Proffer Study*
- Henrico County, Virginia – *Impact Fee Study; Cash Proffer Study*
- Prince George County, Virginia – *Cash Proffer Study*
- Prince William County, Virginia – *Impact Fee Study*
- Spotsylvania County, Virginia – *Impact Fee Study*
- Stafford County, Virginia – *Impact Fee Study*
- Sussex County, Virginia – *Cash Proffer Study*

EDUCATION

M.B.A., Economics, Shenandoah University

B.S., Geography/Urban Planning, East Tennessee State University

B.S., Political Science/Urban Studies, East Tennessee State University

SPEAKING ENGAGEMENTS

- Fiscal Impact Assessment, AICP Training Workshop, American Planning Association National Planning Conference
 - Dealing with the Cost of Growth: From Soup to Nuts, International City/County Management Association National Conference
 - Demand Numbers for Impact Analysis, National Impact Fee Roundtable
-

- Calculating Infrastructure Needs with Fiscal Impact Models, Florida Chapter of the American Planning Association Conference
- Economic Impact of Home Building, National Impact Fee Roundtable
- Annexation and Economic Development, American Planning Association National Conference
- Economics of Density, American Planning Association National Conference
- The Cost/Benefit of Compact Development Patterns, American Planning Association National Conference
- Fiscal Impact Modeling: A Tool for Local Government Decision Making, International City/County Management Association National Conference
- Fiscal Assessments, American Planning Association National Conference
- From Soup to Nuts: Paying for Growth, American Planning Association National Conference
- Growing Pains, International City/County Management Association National Conference
- Mitigating the Impacts of Development in Urban Areas, Florida Chapter of the American Planning Association
- Impact Fee Basics, National Impact Fee Roundtable
- Fiscal Impact Analysis and Impact Fees, National Impact Fee Roundtable
- Are Subsidies Worth It?, American Planning Association National Conference

PUBLICATIONS

- “Fiscal Impact Analysis: Methodologies for Planners,” American Planning Association.
- “Planning and Urban Design Standards,” American Planning Association, Contributing Author on Fiscal Impact Analysis.
- “Fiscal Impact Analysis: How Today’s Decisions Affect Tomorrow’s Budgets,” ICMA Press.
- “The Cost/Contribution of Residential Development,” Mid-Atlantic Builder.
- “Are Subsidies Worth It?” Economic Development News & Views.
- “Smart Growth and Fiscal Realities,” ICMA Getting Smart! Newsletter.
- “The Economics of Density,” AICP Training Series, 2005, Training CD-ROM (American Planning Association).

DWAYNE GUTHRIE, PH.D., AICP, PRINCIPAL

EXPERIENCE

Dr. Guthrie has thirty-two years of experience as a professional planner, working primarily in the areas of impact fees, demographic analysis, infrastructure funding, fiscal evaluations, and transportation planning. His career includes twenty-three years of work as a planning consultant and eight years of public sector experience. At TischlerBise, Dr. Guthrie is the impact fee team leader, with over 380 studies completed for approximately 120 jurisdictions in twenty-five states/provinces. Dr. Guthrie has also served as an expert witness on the topic of impact fees.

As a planning practitioner, Dr. Guthrie promotes smart growth through revenue strategies and pricing policies. By helping communities implement development impact fees, local governments create a nexus between private sector development and the demand for public facilities. Rather than subsidize

growth with general tax revenues, Dr. Guthrie works to ensure designated funding for infrastructure that also helps to minimize externalities like traffic congestion. He has pioneered innovative methods for tabulating census data to support higher fees for larger housing units and reducing fees for infill development located in urban centers.

Dr. Guthrie also teaches graduate planning courses at local universities, including Growth Management at the Alexandria campus of Virginia Tech and Planning Techniques at Catholic University of America. His doctoral dissertation, titled *“Understanding Urban, Metropolitan, and Megaregion Development to Improve Transportation Governance”* documents the expected geographic extent of commuter sheds in 2030 for large metropolitan areas within the continental United States. Commuter sheds provide a viable refinement to current statistical area designations and solve problems due to inconsistent and fragmented MPO boundaries. Nine transportation megaregions are proposed based on specific criteria, including global gateways that facilitate movement of people and goods, contiguous commuter sheds with urban centers spaced a suitable distance for high-speed rail service, and end-point commuter sheds projected to add at least one million persons and jobs from 2000 to 2030. The dissertation recommends a new paradigm for transportation governance with scale-dependent decision-making and funding strategies.

SELECTED IMPACT FEE AND INFRASTRUCTURE FUNDING ASSIGNMENTS

- City of Foley, Alabama - *Development Impact Fees*
- Baldwin County, Alabama - *Development Impact Fees*
- Apache Junction Water Company, Arizona - *Water System Connection Fees*
- City of Avondale, Arizona - *Development Impact Fees*
- City of Casa Grande, Arizona - *Development Impact Fees*
- City of Glendale, Arizona - *Development Impact Fees*
- City of Goodyear, Arizona - *Development Impact Fees*
- City of Goodyear, Arizona - *Water Resources Fee*
- City of Peoria, Arizona - *Development Impact Fees*
- City of Prescott, Arizona - *Feasibility of Development Impact Fees for Roads*
- Town of Queen Creek, Arizona - *Development Impact Fees*
- City of Scottsdale, Arizona - *Development Impact Fees*
- City of Show Low, Arizona - *Development Impact Fees*
- City of Surprise, Arizona - *Development Impact Fees*
- City of Tolleson, Arizona - *Development Impact Fees*
- City of Bentonville, Arkansas - *Development Impact Fees*
- City of Chino Hills, California - *Development Impact Fees*
- City of Clovis, California - *Sewer Impact Fee*
- City of Temecula, California - *Development Impact Fee*
- City of Tulare, California - *Development Impact Fee*
- Pitkin County, Colorado - *Funding Strategy & Impact Fee*
- City of Boulder, Colorado - *Development Excise Taxes*
- Town of Castle Rock, Colorado - *Development Impact Fees and Evaluation of Douglas County School Fees*

-
- Montezuma County, Colorado - *Development Impact Fee*
 - Town of Erie, Colorado - *Development Impact Fees*
 - City of Evans, Colorado - *Development Impact Fees*
 - Town of Johnstown, Colorado - *Drainage Financing Alternatives, Development Impact Fees, and Water Rate Study*
 - Arapahoe County, Colorado - *Rural Road Funding Strategy*
 - City of Louisville, Colorado - *Development Impact Fees*
 - City of Pueblo, Colorado - *Development Impact Fee*
 - Town of Vail, Colorado - *Development Impact Fee*
 - State of Delaware – *Transportation Impact Fee*
 - New Castle County, Delaware - *Development Impact Fees, Sewer Policies and Capacity Fees*
 - DeSoto County, Florida - *Development Impact Fees*
 - DeSoto School District, Florida - *School Impact Fees*
 - Manatee County, Florida - *Development Impact Fees*
 - City of Lake Wales, Florida - *Development Impact Fees*
 - Polk County School District, Florida - *Capital Needs Assessment*
 - Pasco County School District, Florida - *School Impact Fees*
 - City of Miami, Florida - *Development Impact Fees and Evaluation of Miami-Dade County Impact Fees for Roads and Schools*
 - City of Naples, Florida - *Development Impact Fees*
 - Coral Ridge Properties - *Capital Improvements Element for Parkland, Florida*
 - City of Punta Gorda, Florida - *Development Impact Fees*
 - City of Sunny Isles Beach, Florida - *Development Impact Fees*
 - Gordon County, Georgia - *CIE and Development Impact Fees*
 - City of Douglasville, Georgia - *CIE and Development Impact Fees*
 - Douglas County, Georgia - *CIE and Development Impact Fees*
 - City of Garden City, Georgia - *CIE and Development Impact Fees*
 - Henry County, Georgia – *CIE and Transportation Impact Fee*
 - Effingham County, Georgia - *CIE and Development Impact Fees*
 - Town of Hailey, Idaho - *Annexation Study and Development Impact Fees*
 - City of Nampa, Idaho - *Development Impact Fees*
 - City of Post Falls, Idaho - *Development Impact Fees*
 - City of Baltimore, Maryland - *Transportation Funding Strategy*
 - Home Builders Association of Carroll County, Maryland - *Evaluation of Development Impact Fees*
 - Cecil County, Maryland - *Development Excise Tax*
 - Frederick County, Maryland - *Development Impact Fees*
 - Town of Hampstead, Maryland - *Development Impact Fees*
 - Charles County, Maryland - *School Impact Fees*
 - Worcester County, Maryland - *Development Impact Fees*
 - Queen Anne's County, Maryland - *Development Impact Fees*
 - Carroll County, Maryland - *Development Impact Fees*
 - City of Westminster, Maryland - *Capital Improvements Plan*
 - City of Madison, Mississippi - *Development Impact Fees*
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- City of Nixa, Missouri - *Development Impact Fees*
 - City of Belgrade, Montana - *Development Impact Fees*
 - Gallatin County, Montana – *Roads and Fire District Impact Fees*
 - Florence-Carlton School District, Montana - *School Impact Fees*
 - City of Great Falls, Montana - *Evaluation of Capacity Fees*
 - Town of Manhattan, Montana - *Development Impact Fees*
 - City and County of Missoula, Montana - *Development Impact Fees*
 - Frenchtown Fire District, Montana - *Development Impact Fees*
 - City of Polson, Montana - *Development Impact Fees*
 - Douglas County, Nevada - *Road Impact Fees*
 - NAOIP & HBA of Albuquerque, New Mexico - *Evaluation of Impact Fees*
 - City of Las Cruces, New Mexico - *Development Fees*
 - Currituck County, North Carolina - *School Impact Fee*
 - Orange County, North Carolina - *School Impact Fee*
 - City of Jacksonville, North Carolina – *Water and Sewer Facilities Charges*
 - Home Builders Association of Beaver Creek, Ohio - *Review of Transportation Fees*
 - City of Delaware, Ohio - *Development Impact Fees*
 - City of Green, Ohio - *Development Impact Fees*
 - Village of Sunbury, Ohio - *Development Impact Fees*
 - City of Edmond, Oklahoma – *Water and Sewer Impact Fees*
 - City of Cambridge, Ontario - *Development Charges*
 - Hydro Electric Commission of Cambridge, Ontario - *Development Charges*
 - City of Sarnia-Clearwater, Ontario - *Development Charges*
 - Township of Wellesley, Ontario - *Development Charges*
 - Aiken County, South Carolina - *Development Impact Fees*
 - Anderson County, South Carolina - *Development Impact Fees*
 - Georgetown County, South Carolina - *Development Impact Fees*
 - City of Sherman, Texas - *Development Impact Fees*
 - City of American Fork, Utah - *Development Impact Fees*
 - City of Clearfield, Utah - *Development Impact Fees*
 - City of Clinton, Utah - *Development Impact Fees*
 - City of Draper, Utah - *Development Impact Fees*
 - City of Farmington, Utah - *Development Impact Fees*
 - City of Hooper, Utah - *Sewer Impact Fee*
 - City of Hyde Park, Utah - *Development Impact Fees*
 - City of Kaysville, Utah - *Development Impact Fees*
 - City of North Logan, Utah - *Development Impact Fees*
 - City of Pleasant Grove, Utah - *Development Impact Fees*
 - Salt Lake County, Utah – *Stormwater and Park Impact Fees*
 - South Valley Sewer District, Utah - *Sewer Impact Fees*
 - City of Spanish Fork, Utah - *Development Impact Fees*
 - City of Springville, Utah - *Park Impact Fees*
 - City of Wellsville, Utah - *Development Impact Fees*
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- City of West Jordan, Utah - *Development Impact Fees*
- City of Woods Cross, Utah - *Development Impact Fees*
- Graham Companies (Loudoun County, Virginia) - *Evaluation of Dulles Sewer District*
- City of Suffolk, Virginia – *Water and Sewer Availability Charges*
- Jefferson County, West Virginia - *Development Fees*
- City of Eau Claire, Wisconsin - *Public Facilities Needs Assessment*
- City of Kenosha, Wisconsin - *Evaluation of CIP Process*
- City of Casper, Wyoming - *Development Impact Fees*
- Teton County, Wyoming – *Transit Impact Fee*

EDUCATION

Ph.D., Planning, Governance, and Globalization, Virginia Tech

M.A., Urban and Regional Planning, University of Florida

B.A., Education, University of Florida

SPEAKING ENGAGEMENTS

- “Impact Fees”, Utah City Engineers Association
- “Funding the Infrastructure Gap,” American Planning Association National Conference
- “Development Impact Fees,” Association of Idaho Cities Conference
- “Reasonable Impact Fees,” National Association of Home Builders Conference
- “Impact Fees: The Good, The Bad and The Ugly,” Continuing Legal Education International, Growth Management Conference
- “Do Impact Fees Fit Your Comprehensive Revenue Strategy?” Rocky Mountain Land Use Institute Conference
- “Developing a Capital Improvements Program,” Utah League of Cities & Towns Conference

PUBLICATIONS

Paul Tischler, Dwayne Guthrie and Nadejda Mishkovsky. 1999. “Introduction to Infrastructure Financing” IQ Service Report, Vol. 31, No. 3. Washington, DC: International City/County Management Association.

COLORADO EXPERIENCE

An important factor to consider related to this work effort is our **relevant experience working in the State of Colorado, including our previous experience with the City of Evans**, which makes us intimately familiar with local government revenue structures as well as the planning and growth management issues facing the City of Evans.

The following table summarizes TischlerBise’s vast impact fee experience in the State of Colorado:

CLIENT	Feasibility Analysis	Roads/Transportation	Sewer	Water	Stormwater	Law Enforcement	Fire/EMS	Parks and Recreation	Trails/Open Space	Libraries	General Government
Arapahoe County		◆									
Boulder		◆				◆	◆	◆	◆	◆	
Castle Rock		◆			◆	◆	◆	◆	◆		◆
Colorado Springs		◆									
Eaton			◆	◆		◆		◆	◆		◆
Erie		◆				◆		◆	◆		◆
Evans		◆									
Greeley		◆	◆				◆	◆			
Johnstown		◆				◆	◆	◆	◆	◆	◆
Louisville	◆	◆				◆		◆	◆	◆	◆
Montezuma County		◆									
Pitkin County		◆									
Pueblo		◆									
Steamboat Springs						◆	◆	◆	◆		◆
Vail		◆									

NATIONAL EXPERIENCE

A full listing of our national impact fee clients over the last five years is provided below.

STATE	CLIENT	Feasibility Analysis	Roads/Transportation	Sewer	Water	Stormwater	Solid Waste	Law Enforcement	Fire/EMS	Parks and Recreation	Trails/Open Space	Libraries	General Government	Schools
AL	Baldwin		◆							◆				◆
AL	Daphne		◆					◆	◆	◆				
AL	Fairhope		◆					◆	◆	◆		◆		
AL	Foley		◆					◆	◆	◆				

Proposal for an Impact Fee Study
City of Evans, CO

STATE	CLIENT	Feasibility Analysis	Roads/Transportation	Sewer	Water	Stormwater	Solid Waste	Law Enforcement	Fire/EMS	Parks and Recreation	Trails/Open Space	Libraries	General Government	Schools
AL	Gulf Shores		◆					◆	◆	◆				
AL	Orange Beach		◆					◆	◆	◆		◆		
AR	Bentonville			◆	◆			◆	◆	◆		◆		
AR	Siloam Springs		◆	◆	◆			◆	◆	◆				
AZ	Apache County	◆												
AZ	Apache Junction		◆					◆	◆	◆		◆	◆	
AZ	Avondale		◆	◆	◆			◆	◆	◆		◆	◆	
AZ	Buckeye		◆	◆	◆			◆		◆		◆	◆	
AZ	Bullhead City		◆					◆		◆			◆	
AZ	Camp Verde	◆						◆		◆		◆	◆	
AZ	Carefree	◆	◆		◆						◆		◆	
AZ	Casa Grande		◆	◆				◆	◆	◆		◆	◆	
AZ	Cave Creek		◆	◆	◆					◆	◆		◆	
AZ	Cochise Co.	◆												
AZ	Coolidge		◆	◆			◆	◆	◆	◆			◆	
AZ	Dewey-Humboldt		◆					◆	◆	◆		◆	◆	
AZ	El Mirage			◆	◆			◆	◆	◆			◆	
AZ	Eloy			◆	◆			◆		◆		◆	◆	
AZ	Flagstaff	◆	◆					◆	◆	◆		◆	◆	
AZ	Gilbert		◆		◆			◆	◆			◆		
AZ	Glendale			◆	◆	◆		◆	◆	◆		◆	◆	
AZ	Goodyear		◆	◆	◆			◆	◆	◆		◆		
AZ	Holbrook			◆	◆		◆							
AZ	Lake Havasu City		◆											
AZ	Maricopa	◆	◆					◆	◆	◆	◆	◆	◆	
AZ	Phoenix		◆				◆	◆	◆	◆	◆	◆		
AZ	Pinal Co.	◆	◆					◆		◆				
AZ	Pinetop-Lakeside		◆					◆		◆	◆		◆	
AZ	Prescott	◆												
AZ	Queen Creek		◆	◆	◆			◆	◆		◆	◆	◆	
AZ	Safford			◆	◆									
AZ	San Luis		◆	◆	◆	◆		◆	◆	◆				
AZ	Scottsdale			◆	◆									
AZ	Sedona		◆			◆		◆		◆			◆	
AZ	Show Low	◆	◆	◆	◆			◆		◆		◆		
AZ	Sierra Vista		◆					◆	◆	◆	◆	◆		
AZ	Somerton		◆	◆	◆	◆		◆	◆	◆				
AZ	Springerville	◆		◆	◆									

Proposal for an Impact Fee Study

City of Evans, CO

STATE	CLIENT	Feasibility Analysis	Roads/Transportation	Sewer	Water	Stormwater	Solid Waste	Law Enforcement	Fire/EMS	Parks and Recreation	Trails/Open Space	Libraries	General Government	Schools
AZ	Surprise		◆	◆	◆			◆	◆	◆		◆	◆	
AZ	Taylor	◆	◆					◆	◆	◆			◆	
AZ	Tolleson	◆	◆	◆	◆	◆		◆	◆				◆	
AZ	Tucson		◆											
AZ	Wellton		◆	◆	◆	◆		◆	◆	◆				
AZ	Yuma		◆	◆		◆		◆	◆	◆	◆		◆	
CA	Temecula		◆	◆	◆			◆		◆	◆	◆	◆	
CA	Tulare		◆	◆	◆	◆		◆	◆	◆	◆	◆	◆	
CA	Visalia									◆		◆	◆	
FL	Coral Gables		◆	◆				◆	◆	◆			◆	
FL	Deerfield Beach							◆	◆					
FL	DeSoto County	◆	◆						◆	◆		◆	◆	
FL	DeSoto Co. School Board													◆
FL	Miami	◆						◆	◆	◆	◆		◆	◆
FL	Naples	◆												
FL	North Miami	◆		◆	◆			◆	◆	◆	◆	◆	◆	
FL	Parkland							◆		◆				
FL	Pasco Co. School Board													◆
FL	Port St. Lucie									◆			◆	
FL	Punta Gorda		◆					◆	◆	◆		◆	◆	
FL	Seminole County Schools													◆
FL	Stuart		◆					◆	◆	◆			◆	
GA	Effingham County		◆	◆	◆			◆		◆		◆		
ID	Hailey		◆	◆	◆			◆	◆	◆	◆	◆	◆	
ID	Hayden		◆					◆		◆				
ID	Kellogg			◆				◆		◆				
ID	Kootenai Co. Fire & Rescue								◆					
ID	Nampa	◆	◆	◆	◆			◆	◆	◆	◆			
ID	Post Falls	◆	◆					◆		◆				
ID	Sandpoint		◆						◆	◆	◆			
ID	Shoshone Fire District								◆					
ID	Victor		◆					◆	◆	◆				
MD	Easton	◆	◆					◆	◆	◆			◆	
MN	Woodbury			◆	◆	◆								
MS	Madison							◆	◆	◆	◆			
ND	Minot											◆	◆	
NM	Las Cruces			◆	◆									
NV	North Las Vegas	◆							◆					

Proposal for an Impact Fee Study
City of Evans, CO

STATE	CLIENT	Feasibility Analysis	Roads/Transportation	Sewer	Water	Stormwater	Solid Waste	Law Enforcement	Fire/EMS	Parks and Recreation	Trails/Open Space	Libraries	General Government	Schools
NV	Nye County		◆			◆		◆	◆	◆				
NV	Washoe County		◆											
UT	Sandy City		◆			◆		◆	◆		◆			
UT	Spanish Fork	◆		◆	◆	◆				◆				
UT	Wellsville		◆	◆	◆				◆	◆				
UT	West Jordan		◆	◆	◆	◆		◆	◆	◆				
VA	Isle of Wright Co.								◆	◆				◆
VA	Stafford County		◆											
VA	Suffolk			◆	◆									
WV	Jefferson Co.							◆	◆	◆			◆	◆
WY	Casper	◆	◆						◆	◆				
WY	Pinedale	◆		◆	◆				◆	◆	◆		◆	

Approach to Services

PROJECT UNDERSTANDING

The City of Evans, Colorado, seeks professional consulting services to conduct a comprehensive Impact Fee Study. Specifically, the City desires an analysis and recommendation of the appropriate methodologies for the City's current Impact Fee categories of Transportation, Fire/Rescue, Parks, Trails, Water, Sewer, and Drainage. Additionally, a Police impact fee is contemplated as part of this analysis. The Impact Fee program must meet applicable case law and State (SB 15) requirements for impact fees. Inherent in the overall analysis is an evaluation of the City's current impact fees with attention to the methodologies employed and any recommendations for alternative methodologies and approaches. The Impact Fee Study should recommend proportional impact fees for each infrastructure category by type of land use to support the City's policy goals for land use planning, infrastructure planning and funding, and economic development.

PROJECT CONSIDERATIONS

TischlerBise believes that one of the positive aspects of the recent economic downturn is that it will redirect focus on the fact that impact fees are a land use regulation rather than simply a one-time revenue accruing from new development. Many communities lost this perspective during the building boom that occurred in Colorado and elsewhere from 2000 to 2007. Revenue maximization was the focus of impact fees, rather than how an impact fee methodology and program could be crafted to help a community implement land use and economic development policy objectives. For example, TischlerBise pioneered the concept of tiered transportation impact fees, which vary fees by vehicle miles of travel. This approach can have the effect of incentivizing development in areas with existing infrastructure capacity and discouraging development in areas without capacity. This is something that the City of Evans may want to consider in the context of separate fee zones in different areas of the City based on the analysis. **In summary, the City of Evans has the opportunity to bring a new perspective to its Development Impact Fee program.**

TischlerBise offers the following observations and comments on the City's current impact fee schedule.

- **Consider a progressive residential impact fee schedule based on size of unit or number of bedrooms.** The City currently has a "one-fee-fits-all" single family residential fee schedule. In other words, a 1,200-square-foot unit pays the same impact fee amount as a 4,200-square-foot single family unit. In many communities, however, data indicate that entry-level and/or affordable homes often have smaller household sizes compared to larger, more expensive homes. This "one-fee-fits-all" structure for residential units may be constraining the City's ability to meet some of its policy objectives related to affordable housing and equity. This impact fee update will provide the opportunity to discuss trade-offs of a revised residential approach. TischlerBise feels strongly that the City should consider a fee structure that varies residential impact fees by size of unit. **TischlerBise has been the national leader in this movement toward "progressive" fee structures.** As part of our demographic analysis conducted as part of this assignment, we will prepare data on factors that vary by housing unit size (i.e., persons per unit

and vehicle trips) for the City's consideration prior to development of the fee methodology. Ultimately, the City will decide which direction to pursue relative to this policy decision.

- **Remove barriers for job creation.** TischlerBise recommends that the City revisit the nonresidential fee schedule to ensure a simplified impact fee schedule that maintains the required proportionality between various nonresidential land uses. This approach often has two benefits: (1) the fee schedule is more beneficial to small, "mom and pop" businesses (since there is an inverse relationship between the size of nonresidential uses and the number of employees and trips generated); and (2) the program is easier to administer. This approach can help support economic development efforts in the City. There are several approaches that TischlerBise will discuss with the City relative to this objective.
- **Craft impact fee methodologies to reflect City land use and economic development objectives.** Many communities forget that impact fees are actually a land use regulation. With this in mind, the City may want to consider alternative methods of calculating the impact fees that take into consideration the City's land use and economic development objectives (such as encouraging infill development). For example, TischlerBise pioneered the concept of tiered transportation impact fees, which vary the fees by vehicle miles of travel. Tiered fees can have the effect of incentivizing development in areas with existing infrastructure capacity and discouraging more costly development on the fringe. Another element is exploring opportunities to include multi-modal credits within the methodology to credit development that diverts trips to alternative modes of transportation (e.g., transit, pedestrian and bicycle).

PROJECT APPROACH

Impact fees are fairly simple in concept, but complex in delivery. Generally, the jurisdiction imposing the fee must: (1) identify the purpose of the fee, (2) identify the use to which the fee is to be put, (3) show a reasonable relationship between the fee's use and the type of development project, (4) show a reasonable relationship between the facility to be constructed and the type of development, and (5) account for and spend the fees collected only for the purpose(s) used in calculating the fee.

Reduced to its simplest terms, the process of calculating impact fees involves the following two steps:

1. Determine the cost of development-related capital improvements, and
2. Allocate those costs equitably to various types of development.

There is, however, a fair degree of latitude granted in constructing the actual fees, as long as the outcome is "proportionate and equitable." Fee construction is both an art and a science, and it is in this convergence that TischlerBise excels in delivering products to clients.

Any one of several legitimate methods may be used to calculate impact fees for the City. The choice of a particular method depends primarily on the service characteristics and planning requirements for the facility type being addressed. Each method has advantages and disadvantages given a particular situation, and to some extent they are interchangeable, because they all allocate facility costs in proportion to the needs created by development.

In practice, the calculation of impact fees can become quite complicated because of the many variables involved in defining the relationship between development and the need for capital facilities. The following paragraphs discuss the three basic methods for calculating impact fees and how those methods can be applied.

Plan-Based Impact Fee Calculation - The plan-based method allocates costs for a specified set of future improvements to a specified amount of development. The improvements are identified by a facility plan. In this method, the total cost of relevant facilities is divided by total demand to calculate a cost per unit of demand. The plan-based method is often the most advantageous approach for facilities that require engineering studies, such as roads and utilities.

Cost Recovery Impact Fee Calculation - The rationale for the cost recovery approach is that new development is paying for its share of the useful life and remaining capacity of facilities from which new growth will benefit. To calculate a development impact fee using the cost recovery approach, facility cost is divided by ultimate number of demand units the facility will serve. An oversized water storage tank is an example.

Incremental Expansion Impact Fee Calculation - The incremental expansion method documents the current level-of-service (LOS) for each type of public facility in both quantitative and qualitative measures, based on an existing service standard such as square feet per capita or park acres per capita. The level-of-service standards are determined in a manner similar to the current replacement cost approach used by property insurance companies. However, in contrast to insurance practices, clients do not use the funds for renewal and/or replacement of existing facilities. Rather, the jurisdiction uses the impact fee revenue to expand or provide additional facilities, as needed, to accommodate new development. An incremental expansion cost method is best suited for public facilities that will be expanded in regular increments, with LOS standards based on current conditions in the community.

Evaluation of Alternatives. Designing the optimum impact fee approach and methodology is what sets TischlerBise apart from our competitors. Unlike most consultants, we routinely consider each of the three methodologies for each component within a fee category. The selection of the particular methodology for each component of the impact fee category will be dependent on which is most beneficial for the City of Evans. In a number of cases, we will prepare the impact fees using several methodologies and will discuss the various trade-offs with the City. There are likely to be policy and revenue tradeoffs depending on the capital facility and methodology. We recognize that “one size does not fit all” and create the optimum format that best achieves our clients’ goals.

Each community is different, each fee category is different, and TischlerBise compares alternative methodologies to maximize revenues for our clients.

For example, TischlerBise typically calibrates the impact fees to the specific jurisdiction’s road network and demographic data, whether using an incremental expansion or plan-based method. Our ability to evaluate alternative methods was demonstrated in the City of Missoula, Montana, where the initial policy direction was to calculate transportation impact fees for a specific, high-growth area near the

airport. A plan-based method was appropriate for this relatively small geographic area that had specific improvements already identified through a prior planning effort. During a series of meetings with the local advisory committee and staff, TischlerBise agreed to also prepare a citywide transportation impact fee using the incremental expansion cost method. Our firm is able to evaluate different methods because we do not rely on state/regional transportation models to provide data inputs for the impact fee calculations. In essence, we develop our own aggregate travel demand model that is in some ways more sophisticated than the large-scale computer models used by state and regional agencies. For instance, while it is common for link-specific computer models to lump together all housing types and only separate retail from all other types of nonresidential development, TischlerBise routinely uses at least two types of housing units and between three and five nonresidential development types in our travel demand analysis.

GIS Technology. TischlerBise routinely utilizes GIS technology to add value to the evaluation of infrastructure needs and assessing financing alternatives. This includes assessing existing land use, performing a GIS-based land suitability analyses that can be used to define service areas, project demands for facilities, and coordinate CIP investment for the City of Evans. For example, TischlerBise used GIS in our engagement with Missoula/Missoula County, Montana, to establish a nexus for **Fire/EMS impact fees that increased with distance from the City Center based on the ratio of capital cost to development units in three service areas (urban, suburban, and rural)**. Similar GIS evaluations were used in Manatee County, FL; Pitkin County, CO; Vail, CO; and Sandpoint, ID.

Lending a Sense of Market Reality to the Development Projections. Projecting future residential and nonresidential development is more difficult now than in the past due to the recent economic downturn. This is compounded by shifting trends in the housing market as a result of changing demographics and lifestyle choices. Changes in the retail sector combined with existing surpluses of retail space in many communities are also a concern, especially in communities like Evans that rely heavily on sales tax. **TischlerBise's extensive national experience conducting market analysis and real estate feasibility studies is invaluable in determining the appropriate development projections used in the impact fee calculations.** These projections include both the amount of development and the geographic location. Depending on the methodology employed, overly optimistic development projections can increase the City's financial exposure, if impact fee revenue is less than expected.

MANAGEMENT/COMMUNICATION PLAN

As noted above, TischlerBise utilizes a project management process which ensures that our projects are completed on time and within budget, and most importantly that they yield results that match our clients' expectations. Our extensive track record of successfully completing impact fee assignments for clients across the country is evidence of our ability to complete the work for the City of Evans. Ongoing communication between TischlerBise and our clients is hallmark of our approach and has contributed to successful implementation of hundreds of fee programs.

SCOPE OF WORK

The following scope of work provides detailed steps to ensure this project is completed successfully and meets the legal requirements for impact fees, based on national case law.

Task 1: Project Initiation/Data Collection

Description: The purpose of this task is to develop a complete understanding of the City’s land use planning issues as well as begin to identify policy issues related to a City impact fee program. In addition, this task will serve as an opportunity for TischlerBise to make contact with City staff and conduct project “kick-off” activities. During this task, we will meet with City staff to establish lines of communication, review and discuss project goals and City policies related to the project, review the project schedule (and revise if necessary), and request additional data and documentation related to the project. The specifics of this initial discussion are outlined below:

- Review and refine work plan and schedule, if appropriate.
- Assess information needs and required staff support.
- Discuss the City’s current program of impact fees.
- Discuss the City’s current infrastructure needs.
- Discuss overall capital facility financing issues.
- Identify and discuss trade-offs with different impact fee approaches including: residential fees by house size; geographic services areas.
- Identify and collect data and documents relevant to the analysis.
- Become familiar with the City’s economic development goals.
- Identify any major relevant policy issues.

Meetings: One (1) meeting with City staff.

Deliverables: 1) Data request memorandum, and 2) Revised project schedule.

Task 2: Recommend Land Use Assumptions

Description: The purpose of this task is to review and understand the current demographics of the City as they relate to growth and development and determine the likely development future for the City in terms on new population, housing units, employment and nonresidential building area over the next 10-20 years.

Meetings: Discussions with the Planning Department will be held as part of Task 1, as well as conference calls as needed.

Deliverables: Our Team will prepare a draft technical memorandum discussing the recommended land use factors and projections. After review and sign-off by the City, a final memorandum will be issued, which will become part of the final Impact Fee Study.

Task 3: Determine Capital Facility Needs and Service Levels

Description: This task, as well as tasks 4-6, may vary somewhat depending on the methodology applied to a particular impact fee category. The impact fee analysis for each facility type will be presented in a separate chapter in the Impact Fee Study.

Identify Facilities/Costs Eligible for Impact Fee Funding. As an essential part of the nexus analysis, TischlerBise will evaluate the impact of development/redevelopment on the need for additional facilities, by type, and identify costs eligible for development impact fee funding. Elements of the analysis include:

- Review facility plans, fixed asset inventories, and other documents establishing the relationship between development and facility needs by type.
- Identify planned facilities, vehicles, equipment, and other capital components eligible for development impact fee funding.
- Prepare forecasts of relevant capital facility needs.
- Adjust costs as needed to reflect other funding sources such as grants, State/Federal funding, dedicated revenue streams (e.g., sales tax).

As part of calculating the fee, the City may include the construction contract price; the cost of acquiring land, improvements, materials and fixtures; the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction system improvement; and debt service charges, if the City might use impact fees as a revenue stream to pay the principal and interest on bonds, notes or other obligations issued to finance the cost of system improvements. All of these components will be considered in developing an equitable allocation of costs.

Identify Appropriate Level of Service Standards. We will review needs analyses and levels-of-service for each facility type. Activities related to this task include:

- Apply defined service standards to data on future development to identify the impacts of development on facility and other capital needs. This will include discussions with staff of existing versus adopted levels of service, as appropriate.
- Ascertain and evaluate the actual demand factors (measures of impact) that generate the need for each type of facility to be addressed in the study.
- Identify actual existing service levels for each facility type. This is typically expressed in the number of demand units served. This will include an analysis of excess capacity.
- Define service standards to be used in the impact fee analysis.

- Determine appropriate geographic service areas for each fee category.

Meetings: Two (2) meetings with City staff to discuss capital facility needs and levels of service.

Deliverables: Memoranda as appropriate; See Task 7.

Task 4: Evaluate Different Allocation Methodologies

Description: The purpose of this task is to determine the methodology most appropriate for each impact fee component. It is imperative that the methodology take into account the City's funding needs as well as land use and other policy objectives. As noted in our previous section, the three basic methodologies that can be applied in the calculation of impact fees are the plan-based, incremental expansion, and cost-recovery approaches. Selection of the particular methodology for each component of the impact fee category will depend on which is most beneficial for Evans. In a number of cases, we will prepare the impact fees for a particular infrastructure category using several methodologies and will discuss the trade-offs with the City. This allows us to use a combination of methodologies within one fee category. For instance, a plan-based approach may be appropriate for a new park land purchases while an incremental expansion approach may be appropriate for park improvements. By testing all possible methodologies, the City is assured that the maximum supportable impact fee will be developed. Policy discussions will then be held at the staff level regarding the trade-offs associated with each allocation method prior to proceeding to the next task.

Meetings: One (1) meeting with City staff to discuss issues related to allocation methodologies and City fiscal and land use/economic development policy.

Deliverables: Memoranda as appropriate; See Task 7.

Task 5: Determine Need for and Calculate "Credits" to be Applied Against Capital Costs

Description: A consideration of "credits" is integral to the development of a legally valid impact fee methodology. There is considerable confusion among those who are not immersed in impact fee law about the definition of a credit and why it may be required.

There are two types of "credits" each with specific, distinct characteristics, but both included in the calculation of impact fees. The first is a credit due to possible double payment situations. This could occur when a property owner will make future contributions toward the capital costs of a public facility covered by an impact fee. The second is a credit toward the payment of an impact fee for the required dedication of public sites and improvements provided by the developer and for which the impact fee is imposed. Both types of credits will be considered and addressed in the impact fee analysis.

Deliverables: Memoranda as appropriate; See Task 7.

Task 6: Conduct Funding and Cash Flow Analysis

Description: In order to prepare a meaningful capital improvements plan, it is important to not only understand the gross revenues, but also the capital facility costs and any deficits. In this case some consideration should be given to anticipated funding sources. This calculation will allow the City to better understand the various revenue sources possible and the amount that would be needed if the impact fees were discounted.

The initial cash flow analysis will indicate whether additional funds might be needed or if the capital improvements plan might need to be changed to have new growth pay its fair share of new capital facilities. This could also affect the total credits calculated in the previous task. Therefore, it is likely that a number of iterations will be conducted in order to refine the cash flow analysis reflecting capital improvement

Deliverables: Memoranda as appropriate; See Task 7.

Task 7: Prepare Capital Improvements Plan/Impact Fee Report, Public Presentations

Description: TischlerBise will prepare a draft report that will include Capital Improvements Plan for all applicable Infrastructure categories. The report will summarize the need for impact fees for the appropriate public facility category and the relevant methodologies employed as well as document all assumptions and cost factors. The report will include at a minimum the following information:

In addition to an Executive Summary, there will be separate chapters for each infrastructure category that will include:

- A detailed description of the methodologies used during the study
- A detailed description of all level of service standards and cost factors used and accompanying rationale
- A detailed schedule of all proposed fees listed by land use type and activity
- Other information which adequately explains and justifies the resulting recommended fee schedule
- Capital Improvements Plan for each Impact Fee category
- Cash Flow Analysis

Following the City's review of the draft report, we will make mutually agreed upon changes to the Capital Improvement Plans and Impact Fee Report.

TischlerBise's impact fee report will have flow diagrams clearly indicating the methodology and approach, a series of tables for each component showing all of the data assumptions and figures, and a narrative explaining all of the data assumptions, sources and the methodologies. The report will be a stand-alone document clearly understood by interested parties. Because of the firm's extensive experience in

calculating impact fees and preparing such reports, we have developed a very succinct written product that leaves a well-understood paper trail.

Meetings: Two (2) meetings/presentations to present results.

Deliverables: Draft and final reports and presentation materials for meetings.

Cost Proposal

The table below contains the cost proposal for this assignment. Our cost proposal is fixed fee and includes all consulting costs, travel, etc.

Proposed Fee Schedule for the City of Evans, Colorado				
Project Team Member:	Bise	Guthrie	Total	
Hourly Rate	\$200	\$180	Hours	Cost
Tasks				
Task 1: Project Initiation	8	8	16	\$3,040
Task 2: Develop Land Use Assumptions	16	48	64	\$11,840
Task 3: Determine Capital Facility Needs and Service Levels	16	120	136	\$24,800
Task 4: Evaluate Different Allocation Methodologies	8	48	56	\$10,240
Task 5: Determine the Need for and Calculate Credits	0	16	16	\$2,880
Task 6: Conduct Funding and Cash Flow Analysis	0	16	16	\$2,880
Task 7: Prepare CIP, Impact Fee Report and Presentations	24	90	114	\$21,000
Project Expenses:				\$2,300
Total Cost:	72	346	418	\$78,980

Client References

The following section illustrates our experience and expertise with similar impact fee studies. The City of Evans may feel free to contact these references.

City of Post Falls, Idaho

Capital Improvement Plan and Impact Fees

*Hilary Anderson, Planning
Manager
(208) 773-8708
handerson@postfallsidaho.org
Dates of Performance: 2006
and 2011*

*Study available at:
[http://www.postfallsidaho.org/
PZDept/pzforms/FinalIFReport
PostFallsID_110207.pdf](http://www.postfallsidaho.org/PZDept/pzforms/FinalIFReport_PostFallsID_110207.pdf)*

TischlerBise was retained to review and update the City of Post Falls' impact fee program. Three fee categories were included—Parks, Public Safety, and Roads. TischlerBise developed the City's initial program approximately ten years ago prior to this update with interim fee updates conducted internally by the City. This assignment included updating capital improvement plans and calculating impact fees for each fee category. The Parks fee includes two different types of parks, for which current levels of service have been maintained over the past ten years, as well as recreation center space. The Public Safety fee includes space for Police facilities as well as Communications infrastructure such as wireless towers, and the Roads fee is based on a long-range plan of improvements needed to accommodate growth. **TischlerBise was retained in 2011 to prepare an update to our original study, incorporating a progressive residential impact fee schedule and nonresidential schedule to encourage economic development.**

City of Bozeman, Montana

Capital Improvement Plan and Impact Fees

*Chris Saunders, Assistant
Planning Director
(406) 582-2260
csaunders@bozeman.net
Dates of
Performance:2010/2011*

*Study available at:
[http://www.bozeman.net/Dep
artments-\(1\)/Planning/Impact-
Fees-\(1\)](http://www.bozeman.net/Departments-(1)/Planning/Impact-Fees-(1))*

TischlerBise was retained by the City of Bozeman, Montana to update impact fees for the City's fire, water, streets, and sewer infrastructure. Most impact fees decreased for residential land uses, in large part because of access to more detailed data and practical considerations in the impact fee methodology. For example, TischlerBise calculated Bozeman's residential fees utilizing a tiered fee structure which accounted for the size of each housing unit. Persons per housing unit were derived from a logarithmic trend line fitted to U.S. Census data. TischlerBise recommended a minimum fee based on a unit size of 1,400 square feet and increasing in 200 square foot intervals to a maximum fee based on a unit size of 3,100 square feet or larger. This tiered approach results in a more equitable fee, as smaller housing units typically have fewer persons per household and generate fewer vehicle trips than larger units.

For the sewer fee, TischlerBise isolated and considered data for homes constructed within the past 20 years, which were built with more efficient

plumbing systems than older units. This enabled TischlerBise to calculate a significantly lower residential sewer fee, because new home construction will feature these more efficient systems. For the streets fee calculation, TischlerBise was able to more accurately reflect commuter patterns in the City and also accounted for decreased construction costs since the Great Recession. For the average 2,400 square foot home on a 6,000 square foot lot, total impact fees decreased by \$2,500.

City Commissioner Chris Mehl praised the study conducted by TischlerBise, saying that the proposed fees are better targeted, taking into consideration new components such as the number of people who occupy a housing unit and the size of the lot a home sits on. The Bozeman City Commission adopted all impact fees at 100% of the proposed fee amounts in early 2013.

City of Sandpoint, Idaho

Capital Improvement Plan and Impact Fees

Contact: Jeremy Grimm, AICP,
Planning Director
(208) 255-1738
jgrimm@ci.sandpoint.id.us
Dates of Performance: 2011

Study available at:
<http://www.cityofsandpoint.com/ImpactFees/impactfees.asp>

TischlerBise conducted an impact fee study and capital improvement plan for the City of Sandpoint, Idaho. Five fee categories are included: parks, police, fire, streets, and multi-use pathways. TischlerBise was hired to update the City's existing program that did not account for variations by land use type. In addition with this update, TischlerBise included a progressive fee structure for residential units that varied the fee by size of housing unit. **The fee schedule also promotes downtown development with a reduced fee to account for other tax-supported improvements.** Finally, the fees include a new impact fee for multi-use pathways to support the City's planning and mobility objectives. The study included extensive public outreach with the City Council and Advisory Committee.

City of West Jordan, Utah

Impact Fee Facilities Plan and Impact Fees

Tom Burdett, Planning Director
Telephone: (801) 569-5061
tomb@wjordan.com
Dates of Performance: 2003,
2008, 2012

TischlerBise has prepared impact fees for this community on three separate occasions. The fee categories include water, sewer, roads, parks, municipal facilities and storm drainage. As part of our first assignment, **TischlerBise evaluated other revenue sources and developed a revenue strategy in which impact fees would pay for facilities required to serve new growth and supplemental sources would pay for new capital facilities benefiting existing development.** There was no opposition at the public hearing and the fees passed unanimously.

City of Evans, Colorado
AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT
CONTRACTOR

THIS AGREEMENT is made and entered into this 16th day of September, 2014, by and between the City of Evans, State of Colorado (hereinafter referred to as the "City"), and TischlerBise (hereinafter referred to as "Consultant").

RECITALS:

- A. The City requires professional services.
- B. Consultant has held itself out to the City as having the requisite expertise and experience to perform the required services for the Project.

NOW, THEREFORE, it is hereby agreed, for the consideration hereinafter set forth, that Consultant shall provide to the City professional consulting services for the Project.

I. SCOPE OF SERVICES

Consultant shall furnish all labor and materials to perform the services required for the complete and prompt execution and performance of all duties, obligations and responsibilities for the Project, which are described or reasonably implied from **Exhibit A**, which is attached hereto and incorporated herein by this reference.

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

The City shall provide Consultant with reports and such other data as may be available to the City and reasonably required by Consultant to perform hereunder. No project information shall be disclosed by Consultant to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure. All documents provided by the City to Consultant shall be returned to the City. Consultant is authorized by the City to retain copies of such data and materials at Consultant's expense.

III. OWNERSHIP OF INSTRUMENTS OF SERVICE

The City acknowledges that the Consultant's documents are an instrument of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the City upon completion of the services. Any reuse of the Consultant's documents is at the City's own risk.

IV. COMPENSATION

- A. The do not exceed fee for this project is \$80,000.00. The hourly rate schedule is shown in attached proposal. Invoices will be itemized and include hourly breakdown for all personnel and other charges. The maximum fee specified herein shall include all fees and expenses incurred by Consultant in performing all services hereunder.

B. Consultant may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the services performed by Consultant under this Agreement, except as otherwise supplemented or accompanied by such supporting data as may be required by the City.

1. All invoices, including Consultant's verified payment request, shall be submitted by Consultant to the City no later than the twenty-fourth (24th) day of each month for payment, pursuant to the terms of this Agreement. In the event Consultant fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Consultant defers its right to payment, pursuant to said late invoice, until the following month.
2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice, as provided by this Agreement.

C. The City has the right to ask for clarification on any Consultant invoice after receipt of the invoice by the City.

D. In the event payment for services rendered has not been made within forty-five (45) days from the timely receipt of the invoice for any uncontested billing, interest will accrue at the rate of twelve percent (12%) per annum compounded annually. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Consultant may, after giving seven (7) days' written notice and without penalty or liability of any nature, suspend all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days' written notice, Consultant may terminate this Agreement. Upon receipt of payment in full for services rendered, Consultant will continue with all authorized services.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Consultant's written notification that services required herein by Consultant have been fully completed in accordance with this Agreement and all data and reports for the Project.

V. COMMENCEMENT AND COMPLETION OF SERVICES

Within seven (7) days of receipt from the City of a Notice to Proceed, Consultant shall commence services on all its obligations as set forth in the Scope of Services or that portion of such obligations as is specified in said Notice. Except as may be changed in writing by the City, the Project shall be complete and Consultant shall furnish the City the specified deliverables, as provided in **Exhibit A**.

VI. CHANGES IN SCOPE OF SERVICES

A change in the Scope of Services shall constitute any material change or amendment of services which is different from or additional to the Scope of Services specified in Section I of this Agreement. No such change, including any additional compensation, shall be effective or paid,

unless authorized by written amendment executed by the City. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Agreement.

VII. PROFESSIONAL RESPONSIBILITY

A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, as required by law.

B. The services performed by Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of services in the applicable community.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or resolve any errors or deficiencies in his designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the City for construction costs caused by errors and omissions which fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports and incidental services or materials furnished hereunder shall not in any way relieve Consultant of responsibility for technical adequacy of the services. Neither the City's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Consultant shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VIII. COMPLIANCE WITH LAW

The services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

IX. INDEMNIFICATION

A. INDEMNIFICATION – GENERAL: The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Consultant or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Consultant shall defend, indemnify and hold harmless the City, its mayor and City council, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or

proceedings of any kind or nature whatsoever, including worker's compensation claims, in any way resulting from or arising from the services rendered by Consultant, its employees, agents or subconsultants, or others for whom the Consultant is legally liable, under this Agreement; provided, however, that the Consultant need not indemnify or save harmless the City, its mayor and City council, its officers, agents and employees from damages to the extent caused by the negligence of the City's mayor and City council, officials, officers, directors, agents and employees.

B. **INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE:** The Consultant shall indemnify and hold harmless the City, its mayor and City council, and any of its officials, officers, directors, and employees from and against damages, liability, losses, costs and expenses, including reasonable attorneys fees, but only to the extent caused by the negligent or intentional acts, errors or omissions of the Consultant, its employees, subconsultants, or others for whom the Consultant is legally liable, in the performance of professional services under this Agreement. The Consultant is not obligated under this subparagraph IX.B. to indemnify the City for the negligent acts of the City, its mayor or City council, or any of its officials, officers, directors, agents and employees.

C. **INDEMNIFICATION – COSTS:** Consultant agrees, to the extent provided in Paragraph A., above, to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims or demands at the sole expense of Consultant or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Consultant also agrees, to the extent provided in Paragraph A. above, to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the City, its mayor and City council, officials, officers, directors, agents and employees, the City shall reimburse Consultant for the portion of the judgment attributable to such act, omission or other fault of the City, its mayor and City council, officials, officers, directors, agents and employees.

X. INSURANCE

A. Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law. Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to Section IX, Indemnification, above, by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.

B. Consultant shall procure and maintain, and shall cause any subconsultant of Consultant to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Worker's compensation insurance not required by law for one employee company.
2. Commercial general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products and completed operations. The policy shall contain a severability of interests provision.
3. Professional liability insurance with minimum limits of One Million Dollars (\$1,000,000) each claim and Two Million Dollars (\$2,000,000) annual aggregate, and Consultant shall maintain such coverage for at least three (3) years from the termination of this Agreement.
4. The policy required by Paragraph 2, above shall be endorsed to include the City and the City's officers, employees and consultants as additional insureds. Every policy required above shall be primary insurance, with the exception of Professional Liability and Worker's Compensation, and any insurance carried by the City, its officers, its employees or its consultants shall be excess and not contributory insurance to that provided by Consultant. No additional insured endorsement to the policy required by Paragraph 1, above shall contain any exclusion for bodily injury or property damage arising from completed operations. Consultant shall be solely responsible for any deductible losses under any policy required above.
5. The certificate of insurance provided for the City shall be completed by Consultant's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled or terminated until at least thirty (30) days' prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

City of Evans
1100 37th Street
Evans, Colorado 80620-2036
Attn: Risk Manager

6. Failure on the part of Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Consultant to the City upon demand, or the City may offset the cost of the premiums against any monies due to Consultant from the City.

7. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
8. The parties hereto understand and agree that the City, its officers and its employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently Three Hundred Fifty Thousand Dollars (\$350,000) per person and Nine Hundred Ninety Thousand Dollars (\$990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-101, et seq., as from time to time amended, or otherwise available to the City, its officers or its employees.

XI. NONASSIGNABILITY

Neither this Agreement nor any of the rights or obligations of the parties hereto shall be assigned by either party without the written consent of the other.

XII. TERMINATION

This Agreement shall terminate at such time as the services in Section I are completed and the requirements of this Agreement are satisfied, or upon the City's providing Consultant with seven (7) days' advance written notice, whichever occurs first. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Consultant for all services previously authorized and completed prior to the date of termination. If, however, Consultant has substantially or materially breached the standards and terms of this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Consultant.

XIII. CONFLICT OF INTEREST

The Consultant shall disclose any personal or private interest related to property or business within the City. Upon disclosure of any such personal or private interest, the City shall determine if the interest constitutes a conflict of interest. If the City determines that a conflict of interest exists, the City may treat such conflict of interest as a default and terminate this Agreement.

XIV. VENUE

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Weld, State of Colorado.

XV. INDEPENDENT CONTRACTOR

A. Consultant is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Consultant to perform services under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it is the employee of the City for any purposes.

B. Disclosure: Consultant is not entitled to workers' compensation benefits and Consultant is obligated to pay federal and state income tax on any moneys earned pursuant to this Agreement for Professional Services by Independent Contractor.

XVI. NO WAIVER

Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligations of this Agreement.

XVII. ENTIRE AGREEMENT

This Agreement and the attached Exhibit A is the entire Agreement between Consultant and the City, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified or changed, except as specified herein.

XVIII. NOTICE

Any notice or communication between Consultant and the City which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States mail, addressed as follows:

The City: City of Evans
Attn: Aden Hogan, City Manager
1100 37th Street
Evans, Colorado 80620-2036

Consultant: TischlerBise
Attn: Carson Bise
4701 Sangamore Road
S240
Bethesda, MD 20816
(800) 424-4318
www.tischlerbise.com

XIX. EFFECTIVE DATE AND EXECUTION

This Agreement shall become effective following execution by both Consultant and City. This Agreement may be executed in counterparts, including by facsimile or electronically, each of which shall be considered an original, but all of which together shall constitute one instrument.

CITY OF EVANS, COLORADO

By: _____
Aden Hogan, City Manager

THE FOREGOING instrument was subscribed and sworn to before me this ____ day of _____, 201xx by Aden Hogan. Witness my hand and official seal.

SEAL

Notary Public
My Commission Expires: _____

CONSULTANT

By: _____
Title: _____

THE FOREGOING instrument was subscribed and sworn to before me this ____ day of _____, 201x by _____. Witness my hand and official seal.

SEAL

Notary Public
My Commission Expires: _____

CITY COUNCIL COMMUNICATION

DATE: September 16, 2014

AGENDA ITEM: 8.H

SUBJECT: Approval of an Agreement to Convey Rights-Of-Way and Easement (35th Avenue Widening Project)

PRESENTED BY: Fred Starr, AICP, Public Works Director

PROJECT DESCRIPTION:

The City of Evans entered into an Annexation Agreement dated December 15, 1998 with the Guy and Pamela Brenckle, the “Owners” of certain property located west of 35th Avenue and South of 37th Street. The Annexation Agreement obligated the “Owners” to dedicate all rights-of-way for public streets to the City without cost to the City. This included the right-of-way necessary for the widening of 35th Avenue.

The City of Evans is currently in the process of widening a portion of 35th Avenue from 37th Street south to Prairie View Drive that is adjacent to the property owned by Mr. and Mrs. Brenckle which requires the dedication of additional right-of-way and easements for the construction of the new roadway and placement of utilities.

The attached agreement will convey all of the necessary right-of-way and easements from the affected property owners that are necessary to complete this work and will fulfill the obligation in the Annexation Agreement.

STAFF RECOMMENDATION:

The City of Evans staff recommends that the City Council approve the Agreement to Convey Rights-Of-Way and Easement (35th Avenue Widening Project)

SUGGESTED MOTIONS:

“Mr. Mayor I move to approve the Agreement to Convey Rights-Of-Way and Easement between the City of Evans and Guy and Pamela Brenckle”

“Mr. Mayor I move to deny the Agreement to Convey Rights-Of-Way and Easement between the City of Evans and Guy and Pamela Brenckle for the following reasons...”

**AGREEMENT TO CONVEY RIGHTS-OF-WAY AND EASEMENT
(35th Avenue Widening Project)**

THIS AGREEMENT is entered into between the City of Evans, Colorado, a Colorado home rule municipal corporation (“the City”) and Guy and Pamela Brenckle (“the Owners”).

WHEREAS, the City and the Owners previously entered into an Annexation Agreement dated December 15, 1998, and recorded with the Weld County Clerk and Recorder on December 18, 1998 under reception number 2661534 (“the Annexation Agreement”), annexing certain property described on Exhibit A, attached (“the Property”) to the City;

WHEREAS the Annexation Agreement obligated the Owners to , *inter alia*, dedicate all rights-of- way for public streets to the City without cost to the City;

WHEREAS, the Annexation Agreement is a covenant running with the Property;

WHEREAS, the City is in the process of widening a portion of 35th Avenue that is adjacent to the Property and has need of additional rights-of-way from the Owners to facilitate such widening project.

NOW, THEREFORE, in consideration of the premises cited above and the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, City and Owners agree as follows:

1. **Conveyance of Rights-of-Way.** Owners agree to convey or dedicate to the City, at no cost to the City so much right-of-way as required by the City to be used for street purposes, including pavement, curb and gutter, as depicted generally on Exhibit B and identified as “Roadway Area”, attached, which may be up to 22 feet in width.
2. **Conveyance of Easement.** Owners agree to convey or dedicate to the City, at no cost to the City, an easement over, across, beneath and through the area depicted generally on Exhibit B and identified as “Easement Area.” The Easement Area shall be no greater than 10 feet in width, used solely by the City and solely for the purposes of constructing, installing, maintaining, repairing, and replacing storm sewer pipelines and sidewalk improvements related to the street widening project. The sidewalk to be constructed within the Easement Area is to be part of a Regional Trail and therefore the City will maintain the Easement Area, including snow removal.
3. **Method and Documentation of Conveyances.** The parties contemplate that the conveyance of the rights-of-way and easement will be accomplished primarily through a

PKB
8/26/14
PKB

re-platting process, that the re-plat will depict the rights-of-way and the easement, and the re-plat will contain a plat note acknowledging the rights-of-way and easement and referencing this Agreement. The Owners agree to fully cooperate with the City and execute all documents reasonably necessary to effectuate the parties' intent and fulfill the purpose of this Agreement which is to facilitate the 35th Avenue widening project. If the City reasonably concludes that a process other than or in addition to the re-platting process will more effectively implement this Agreement, Owners agree to fully cooperate with the City and execute all documents reasonably necessary for such process. The processes described in this Section 3 shall be accomplished at no cost to the Owners.

4. **Satisfaction of Owners' Obligations.** The conveyance of the Roadway Area and the Easement by Owners to the City shall be deemed to satisfy all of the Owners' obligations under the Annexation Agreement as those obligations relate to the current project to widen 35th Avenue. In the event the current Owner conveys or otherwise transfers the Property or a substantial portion of the Property, and such subsequent owner or their successors develop the Property or a substantial portion of the Property, the City may require the dedication of additional rights-of-way and easements and other exactions deemed reasonably necessary by the City, as a condition of such future development. Such dedications and exactions shall reasonably reflecting the impacts or anticipated impacts of such future development..

5. **Annexation Agreement Remains in Effect.** The parties recognize and acknowledge that the obligations of the Owners and their successors under the provisions of the Annexation Agreement remain in full force and effect, except as specifically modified herein.

6. **Severability:** If any provisions or parts of this Agreement are judged to be unenforceable or invalid, to the extent practicable, such judgment shall not affect, impair, or invalidate the remaining parts of this Agreement, the intention being that the various parts and provisions hereof are severable.

7. **Recording of Agreement:** This Agreement shall be recorded with Weld County and shall be a covenant running with and against the Property.

8. **Binding Effect:** This Agreement shall be binding upon Owners, their heirs, successors, assigns, transferees, and any other person or entity acquiring or purchasing any interest in any of the Property.

9. **Transfer or Assignment:** In the event of a sale or transfer of any portion of the Property, the seller or transferor and the purchaser or transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless, prior to the transfer or the sale, a written agreement satisfactory to the City delineating and allocating the various rights and obligations provided for under this Agreement has been approved and executed by the City Council.

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10. **Title and Authority:** Owners expressly warrant and represent to the City that they are the record owners of the Property and further represent and warrant that the undersigned have full power and authority to enter into this Agreement. Owners understand that the City is relying on the representations and warranties contained herein, in approving and in entering into this Agreement.

11. **Damage to trees.** In the event any of the juniper trees adjacent to the easement die within two years of completion of the 35th Avenue widening project, the City agrees to replace such trees with such replacement trees being a minimum of a minimum of seven (7) feet tall.

IN WITNESS WHEREOF, and agreeing to be fully bound by the terms of this Agreement, the parties have set their hands below on this _____ day of _____, 2014.

[signatures on next page]

5/8
8/25/14
PKB

OWNERS

[Signature]
Signature

8/25/14
Date

[Signature]
Signature

8/25/14
Date

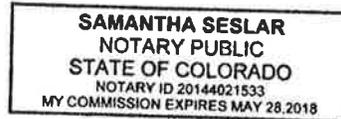
STATE OF COLORADO

COUNTY OF WELD ss.

SUBSCRIBED AND SWORN to before me this 25 day of August, 2014, by

[Signature]
WITNESS my hand and official seal.

My commission expires: May 28, 2018
Notary Public
(SEAL)



CITY OF EVANS, COLORADO
A Municipal Corporation

By: _____
Mayor Date

ATTEST:

By: _____
City Clerk Date

CITY COUNCIL COMMUNICATION

DATE: September 16, 2014

AGENDA ITEM: 8.I

SUBJECT: Liquor License Renewal for Evans Liquor, LLC

PRESENTED BY: Scott Krob, City Attorney and
Raegan Robb, City Clerk

AGENDA ITEM DESCRIPTION: A renewal application has been submitted for Evans Liquor. In general, liquor license renewals are reviewed administratively by City Staff, unless there have been license violations or other statutory or regulatory violations during the period of the previous license, or City staff have identified issues of concern they feel should be brought to the attention of the City Council.

The Evans Liquor renewal application is being brought to City Council due to the issues reflected in the attached Order to Show Cause and Notice of Hearing (“Show Cause Order”) issued by the State involving (1) the conviction of the Applicant’s principal, Jaswinder Singh for felony insurance fraud and (2) sale of alcohol to an underage person by an employee of the Applicant.

Staff has waited to bring this matter before Council, pending the outcome of the State’s proceedings. The State proceedings were recently concluded through entry of a Stipulation, Agreement, and Final Agency Order (“Stipulation”), a copy of which is attached. Under the Stipulation, the Applicant admitted the allegations contained in the Show Cause Notice regarding the insurance fraud conviction and the sale of alcohol to an underage person. The Stipulation between the State and the Applicant further provided that the license would be suspended for 15 days from August 4 through 18, 2014, the license would be transferred to an unrelated third-party and the convicted principal of the Applicant would not have any managerial involvement in any liquor license for a period of two years. It is Staff’s understanding that the period of suspension has been served, but the license has not yet been transferred to an unrelated third-party.

Actions that may be taken by the Council include:

1. Approve the renewal, with or without conditions, and take no action in addition to that taken by the State.
2. Set the matter for an evidentiary hearing to determine whether the license should be renewed. If the matter is set for hearing, it requires ten (10) days advance notice.
3. If the Council sets the matter for a hearing, the Council must decide whether it will hear and determine the matter or

have it heard and determined by a hearing officer under Municipal Code Section 5.08.135. If the Council chooses to have the matter determined by a hearing officer, it usually selects the Municipal Court Judge, Mike Stewart.

At the hearing, whether it is before the Council or the hearing officer, the possible actions that may be taken include:

- (1) Renew the license without conditions
- (2) Renew the license with conditions
- (3) Deny the renewal

FINANCIAL SUMMARY: The renewal application fees have been paid.

RECOMMENDATION:

SUGGESTED MOTIONS: I move that we...

BEFORE THE EXECUTIVE DIRECTOR, DEPARTMENT OF REVENUE

STATE OF COLORADO

ORDER TO SHOW CAUSE AND NOTICE OF HEARING

IN THE MATTER OF:

**EVANS LIQUOR, L.L.C.
D/B/A EVANS LIQUOR
1100 42nd STREET
EVANS, COLORADO 80620**

LICENSE NO. 42-71963-0000

WHEREAS, it has been made to appear to the State Licensing Authority, Executive Director, Department of Revenue, State of Colorado, that Evans Liquor, L.L.C., d/b/a Evans Liquor, 1100 42nd Street, Evans, Colorado 80620 (“Licensee”), has violated the statutes or the rules and regulations of the Department of Revenue governing its retail liquor store license in the following particulars:

- I) Pursuant to Section 12-47-307(1)(a)(VI), C.R.S., no license provided by this article or article 46 or 48 of this title shall be issued or held by any person unless such person’s character, record and reputation are satisfactory to the respective licensing authority.
 - A. It is alleged the Licensee’s principal, Jaswinder Singh, is not of satisfactory character, record, and reputation to the State Licensing Authority, based on the following. On December 2, 2013, the Licensee’s principal, Jaswinder Singh, entered a plea of guilty to a violation of 18-5-102(1)(c), C.R.S., Forgery (a class 5 felony) and was sentenced to three (3) years supervised probation with one day of incarceration to be served in the next nine (9) months, court fines, costs, and fees. The plea was a result of an investigation conducted by the Colorado Attorney General’s Office related to fraudulent insurance claims submitted by Jaswinder Singh.
- II) Pursuant to Section 12-47-901(1)(a.5)(I), C.R.S., except as provided in Section 18-13-122, C.R.S., it is unlawful for any person to sell, serve, give away, dispose of, exchange, or deliver or permit the sale, serving, giving, or procuring of any alcohol beverage to or for any person under the age of twenty-one years.
 - A) It is alleged that on November 3, 2013, the Licensee, by and through its employee/agent, Angela Michelle Sowers, permitted the sale, serving, giving, or procuring of an alcohol beverage (Six bottles of Corona Extra malt liquor) to LG-13-101, a twenty-year-old Liquor Enforcement Division underage purchaser.

NOW THEREFORE, you are hereby ordered to appear before me to show cause why your said license should not be suspended or revoked as provided by law.

A pre-hearing meeting with the Liquor Enforcement Division to discuss matters relating to this notice, including the setting of a mutually convenient hearing date, may be arranged upon your request. You should contact Acting Division Director Patrick Maroney at (303) 205-2927, within ten (10) days of the date of this notice to arrange such a conference. If you fail to contact the Division within ten (10) days, a hearing date will be set without further notice to you, and you will then be notified by letter of that hearing date.

You are entitled to have an attorney represent you at the hearing. If you should retain an attorney, you should do so well in advance of the hearing. Once a hearing date has been set, a postponement will not be granted except for good cause shown. If you should fail to appear at the scheduled time and place for the hearing, testimony will be taken in reference to the allegations, upon which evidence your license to operate under the terms of the Colorado Liquor or Beer code may be suspended or revoked.

Please be further advised that if the State Licensing Authority does find you in violation of any of the above-cited section(s) of the Colorado Liquor or Beer Code, the State Licensing Authority may consider, in selecting the sanction to be imposed against you, any mitigating or aggravating factors, any prior violations of the Colorado Liquor or Beer Code, as well as any sanctions previously imposed.

IT IS FURTHER ORDERED that a copy of this Order to Show Cause and Notice of Hearing shall be mailed or delivered to the above-mentioned Licensee.

IN WITNESS WHEREOF, I have here unto set my hand and seal of my office this _____ day of _____, 2014.

Barbara J. Brohl
Executive Director
Department of Revenue
State Licensing Authority

BEFORE THE EXECUTIVE DIRECTOR, DEPARTMENT OF REVENUE

STATE OF COLORADO

STIPULATION, AGREEMENT, AND FINAL AGENCY ORDER

IN THE MATTER OF:

**EVANS LIQUOR LLC
D/B/A EVANS LIQUORS
1100 42ND STREET
EVANS, COLORADO 80620**

LICENSE NO. 42-71963-0000

THIS AGREEMENT BETWEEN the State of Colorado, Liquor Enforcement Division (“Division”), and Evans Liquor LLC, d/b/a Evans Liquor, 1100 42nd Street, Evans, Colorado 80620 (“Licensee”), is offered for the purpose of settlement of the matters detailed in the Order to Show Cause and Notice of Hearing, attached hereto as Exhibit 1 (hereinafter “Notice”). The above-named parties submit and agree as follows:

1. The facts and allegations contained in the Notice are true and accurate.
2. The Licensee agrees to a fifteen (15) day suspension of its retail liquor store license as a penalty for its violation of the Colorado Liquor Code as set forth in the Notice. Said suspension of Licensee’s retail liquor store license to take place as follow:
 - A. License to be actively suspended for fifteen (15) days from 12:01 a.m. on August 4, 2014 until 11:59 p.m. on August 18, 2014.
 - B. During any period of active license suspension, Licensee will post its premises in compliance with Regulation 47-600(F), 1 C.C.R 203-2.
3. By September 30, 2014, the Licensee will transfer retail liquor store license #42-71693-0000 to a third-party, completely and wholly independent of the Licensee and its owner Jaswinder Singh, and who otherwise meets the approval of the State and local licensing authorities. Licensee’s right to transfer the license shall terminate upon the expiration of the current licensing period.
4. Licensee agrees that for a minimum of two (2) years from the date this agreement is approved by the State Licensing Authority, neither the Licensee nor its owner Jaswinder Singh will create any financial interest, directly or indirectly, in any entity making

application for a Colorado liquor license; and, that its owner Jaswinder Singh will not assist in the control of operations related to any liquor-licensed establishment, however:

- i. This agreement shall not prohibit the Licensee or its owner Jaswinder Singh from becoming parties to any bona fide lease, sublease, or assignment of lease for the premises at 1100 42nd Street, Evans, Colorado 80620.
 - ii. This agreement shall not prohibit the Licensee or its owner Jaswinder Singh from carrying any portion of a promissory note related to any bona fide purchase agreement generated by the sale of the licensed establishment. If such sale occurs, the Licensee and buyer must submit a sworn affidavit affirming that the neither the Licensee nor its owner Jaswinder Singh have any other financial interest, other than the promissory note, nor do the Licensee or its owner Jaswinder Singh have decision making authority in the daily operations of the newly-licensed establishment.
5. Nothing in this Stipulation, Agreement and Final Agency Order shall be construed to prevent Jaswinder Singh from being a salaried employee in a non-managerial position of a retail liquor store. Jaswinder Singh shall notify the Division of such employment in writing within ten (10) business days of hiring.
6. This Order shall be admissible as evidence in future proceedings concerning any alleged violation of this Order. The matters at issue in said future proceeding shall be limited to the question of whether or not Licensee has failed to comply with the terms of this Order. Any issues relating to the underlying complaint or investigation that formed the basis for action against Licensee (and any defenses that Licensee may have to such complaint and investigation) shall specifically not be at issue in the proceeding against Licensee for failing to comply with the terms of this Order. In the event an alleged violation of this Order is taken to hearing and the State Licensing Authority determines that the allegations are unproven, then the Division shall take no further action and this Order shall remain operative and in full force and effect.
7. Upon execution by all parties, this Order and all its terms shall have the same force and effect as an order entered after a formal hearing pursuant to § 12-47-601, C.R.S., except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the State Licensing Authority as set forth in §§12-47-103(9) (b) and 12-47-601, C.R.S.
8. Licensee expressly agrees and acknowledges that Licensee has entered into this Order knowingly and voluntarily. Licensee acknowledges that the terms of this Order were mutually negotiated and agreed upon. After the opportunity to consult with legal counsel, Licensee affirms that Licensee has read this Order and fully understands its nature, meaning and content. Licensee agrees that upon execution of this Order, no subsequent action or assertion shall be maintained or pursued by Licensee asserting the invalidity in any manner

of this Order.

9. Upon execution by all parties, this Order shall represent the entire and final agreement of the parties. In the event that any provision of this Order is deemed unenforceable by a court of competent jurisdiction, such provision shall be severed, and the remainder of this Order shall be given full force and effect.
10. Licensee understands and knowingly and voluntarily enters into this Order. Licensee further understands and knowingly and voluntarily waives the following rights:
 - a. The right to a formal disciplinary hearing on the merits of the matters forming the basis of this Order and the right to require the State Licensing Authority to meet its burden of proof in a formal hearing;
 - b. The right to cross-examine all witnesses against Licensee at a formal hearing;
 - c. The right to subpoena witnesses, present evidence and to testify on Licensee's own behalf at a formal hearing;
 - d. The right to be represented by counsel of Licensee's own choosing and at Licensee's expense at any stage of this proceeding;
 - e. The right to engage in pre-hearing discovery of the State Licensing Authority's evidence; and
 - f. The right to appeal this Order.
11. All the costs and expenses incurred by Licensee to comply with this Order shall be the sole responsibility of the Licensee, and shall not in any way be the obligation of the Division.
12. This Order shall be effective on the date approved and ordered by the Executive Director of the Department of Revenue, as the State Licensing Authority. Should the State Licensing Authority reject the terms hereof, Respondent's admissions herein shall be withdrawn, and the matter scheduled for a hearing.
13. Upon approval and order of the State Licensing Authority, this Order shall become a permanent part of the record, and shall be open to public inspection and published pursuant to the Division's standard policies and procedures or applicable law.

Patrick Maroney
Acting Director
Liquor Enforcement Division

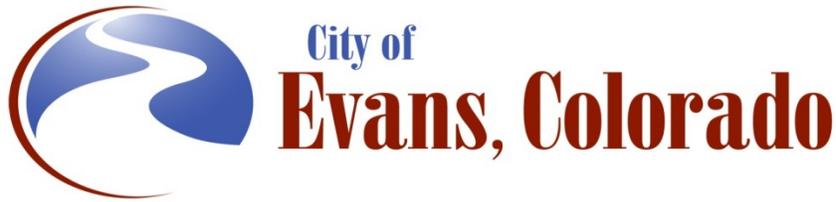
Jaswinder Singh
Evans Liquor LLC

Date

Date

APPROVED and ORDERED this _____ day of _____ 2014.

Barbara J. Brohl
Executive Director
Department of Revenue
State Licensing Authority



City Manager
Monitoring Report
September 16, 2014

Below is a compellation of updates and projects that are either new or have changed since the last City Council meeting.

- **IT**
- **CUSTOMER SERVICE**
- **ECONOMIC DEVELOPMENT**
- **FINANCE**
- **FIRE DISTRICT**

Brian Lee has been promoted to Captain, filling the longstanding opening.

Part time firefighter Troy Brown has been hired to fill the full time opening, with these changes the District's full time staffing compliment is full.

We are in the process of making changes to the part time firefighter program to bring added consistency to our staffing.

- **HUMAN RESOURCES**
- **PUBLIC WORKS**

Engineering

- Martin Marietta Materials will begin the Asphalt Patch Project on September 9, 2014.
- GLH Construction will be providing costs for the Fire Hydrant and Valve service contract.
- 2014 Asphalt Overlay Project is out to bid.
- Working on scheduling with Kolbe Striping to complete this year's Pavement Marking project.
- Grant Projects
 - 35th Avenue Widening: ROW agreement to go to City Council for approval on Sept. 16th. HDR will be working on the plan updates.
 - Evans Ditch Trail: Landmark Engineering is updated the ROW inventory map. Staff is working on getting answers on design as well as setting up a neighborhood meeting.
 - US 85 / 37th Street Access Control Plan: Working with CDOT for traffic signal funding.
 - US 85 / 31st Street: Working with CDOT to get the funds obligated. Will be putting together an RFP soon.
- Flood Projects
 - 1st Avenue / 37th Street: Working on project write up to the state. Also, working with the county to get updated invoices with proper FEMA codes in order to get reimbursement. Will bid in spring.

- Industrial Parkway / Brantner Road / 49th Street: Working on scheduling a field meeting with Warren and FEMA on temporary vs. permanent repairs. Will bid in spring.
- Continuing to monitor the PHMS project off site utility construction
- Concrete Replacement Project is complete. May bring Naranjo back later in the year to complete more work.

Community Development

- Permits and applications have been increasing.
- Duplex on Swan Point (North Point) – One service per building was approved.

Operations:

- We are ready to start the radio program and will begin by ordering radios.
- We are working on lining out the radio change out program. We are still swapping radios out as we go along, and have been working on getting data ready for when we start swapping out radios on a grander scale. We would like to hire two (2) seasonal employees to help us out: Doug could take one and do the outside accounts and Bob K. could take the other to do the inside accounts
- GLIC will be closing down around the 20th of September as usual.
- Irrigation still has some leaks that we will need to address at the end of the season when the water is out.
- We have made our last major mowing for the year. We will do random areas on request. We're about finished spraying ROW. We are sweeping when we have time.
- We will be working on the storm issue for Classic Auto starting Thursday, 9/11/14.
- We will be starting our Storm Retention/Detention Maintenance program 9/8/14 and work on the program until weather stops us.
- Sprayed mosquitoes 8/6/14 (morning), and sprayed half the City as part of our monthly spraying.
- Standard business.
- We have completed spraying and mowing the City. Will start on sweeping and aggregate road maintenance.

Waste Water:

- Approved to move forward in replacing the screen at Hill-n-Park. Project is still a few months out.
- The Fine Screen at the Evans Plant is still down as the crew is waiting on parts; two weeks out due to custom order.

Parks:

- Normal maintenance operations for parks maintenance, mowing, irrigation, and forestry.
- Evansfest went well. The only issue that came up was a large amount of wasps decided to move into an oak tree and three kids were stung.
- We are down to 4 full-time seasonals and 4 part-time seasonals.
- Several issues have come up at Salida Court. Power to pump house, water to property behind pump house (we own pump house property). Water to outlots that HOA owns.
- Getting several calls for tree advice. Is this a service we want to continue to try to provide? (Zach to review as part of AIP.)

Both Parks and Operations helped with preparations for Evansfest and the Riverside one-year anniversary events.

- **POLICE DEPARTMENT**
- **RECREATION**

City Council Calendar

September 2014

SEPTEMBER 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				

September	Event	Location	Time
2	City Council Work Session & Regular City Council Meeting	Evans City Complex	6:00 PM - 8:00 PM
4	NFRMPO Council Meeting	Eaton Rec Center, 224 1st Street	6:00 PM - 8:30 PM
6	EvansFest	Evans City Park 3929 Golden Street	8:00 AM - 2:00 PM
9	City Council Budget Work Session	Evans City Complex	Begins at 6:00 PM
11	Flood Recovery Taskforce	Evans City Complex	6:00 PM - 8:00 PM
11	CDOT County 4P Meeting & Highway 85 Coalition Meeting	Evans City Complex	Begins at 6:00 PM
16	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
18	Evans Chamber-Business After Hours	Innovative Foods 3420 Industrial Parkway	5:00 PM - 7:00 PM
25	Flood Recovery Taskforce	Evans City Complex	6:00 PM - 8:00 PM