

**CITY OF LOVELAND  
PLANNING COMMISSION MINUTES  
January 24, 2011**

6 A meeting of the City of Loveland Planning Commission was held in the City Council Chambers of  
7 the Civic Center on January 24, 2011 at 6:30 p.m. Members present: Chairman Molloy; Vice  
8 Chairman Ray; and Commissioners Dowding, Crescibene, Krenning, Leadbetter, Middleton and  
9 Meyers. Commissioners Absent: Commissioner Fancher. City Staff present: Robert Paulsen,  
10 Current Planning Manager; Sunita Sharma, Assistant City Attorney.

12 These minutes are a general summary of the meeting. For more detailed information, audio and  
13 videotapes of the meeting are available for review in the Community Services office.

## COMMISSIONER COMMENTS

17 **Chairman Molloy** introduced newly appointed Planning Commissioner Carol Dowding.

19 **Commissioner Crescibene** commented on the Loveland City Update that residents receive in their  
20 utility bills and thanked staff that including the information. He commended the building inspectors  
21 for all their hard work during the year and stated that the number of inspections was very impressive  
22 considering that there were two less employees helping do those inspections.

24 **Commissioner Crescibene** spoke of the storage facility on Highway 402 and stated he would like to  
25 see more screening or landscaping in the future. It was determined that facility was located and  
26 approved by Larimer County.

## **ELECTION OF OFFICERS**

30 Commissioner Krenning made a motion to nominate Vice Chair Ray to Chair. Upon  
31 discussion Vice Chair Ray declined the nomination. Vice Chair Ray nominated Chair Molloy  
32 to serve as Chair. Upon a second by Commissioner Crescibene the vote was unanimously  
33 adopted.

35 After polling the Commission, Commissioner Meyers expressed interest in serving as Vice  
36 Chair. Commissioner Ray made a motion to nominate Commissioner Meyers as Vice Chair.  
37 Upon a second by Commissioner Krenning the motion was unanimously adopted.

39 Commissioner Middleton made a motion to nominate Commissioner Crescibene as Zoning  
40 Hearing Officer. Upon a second by Commissioner Meyers the motion was unanimously  
41 adopted.

## CITIZEN REPORTS

1  
2 There were no citizen reports.  
3

4 **COMMITTEE REPORTS**  
5

6 **Robert Paulsen, Current Planning Manager** reported the Title 18 Committee has not meet in two  
7 months and would soon resume meeting once a month. He stated that a schedule would be  
8 distributed sometime in February.  
9

10 **Chairman Molloy** gave a brief update on the Bicycle/Pedestrian Committee meeting held in  
11 December. He spoke of the public involvement and stated that the meeting was very productive. He  
12 reported the Committee is discussing ways to improve elements of pedestrian pathways and bicycle  
13 movement throughout the community.  
14

15 **STAFF MATTERS**  
16

17 **Mr. Paulsen** reported that the Namaqua Hills Preliminary Plat appeal had been continued by the City  
18 Council to February 1. He stated that staff held another neighborhood meeting last week with  
19 residents who expressed their preferred alternatives.  
20

21 He reported that there were three topics for discussion for the February 14, 2011 meeting:  
22

- 23 • SPD amendments would be coming back for the Commission's review the changes are not  
substantive changes but technical corrections
- 24 • Appeal amendments with adjustments as requested by the Commission. He clarified that he  
believed that the majority of the Council supported eliminating the Merit Hearing process but  
that was speculation.
- 25 • Peakview Commercial 1st Subdivision PDP Amendment  
26

27 He commented that on January 25 the City Council is holding a Study Session with Next Media  
28 Outdoor regarding billboards who is requesting that they be allowed to relocate and re-enhance  
29 current billboards.  
30

31 **Commissioner Crescibene** questioned who would decide which signs would be removed and where  
32 the new ones would be placed.  
33

34 **Mr. Paulsen** clarified that Next Media is requesting that the number of their current billboards be  
35 reduced 19 to 8 and noted that they would have the ability to chose 8 new sites and that four of the  
36 eight billboards could be electronic. He stated that staff is looking for Council policy direction on  
37 this issue.  
38

39 **Vice Chair Ray** stated that Next Media has indicated that there would be an ability to tie into  
40 emergency alerts, amber alerts etc...  
41

1  
2 **Assistant City Attorney Sunita Sharma** reported that she helps coordinates the northern Colorado  
3 High School Regional mock trial tournament each year with high school students who compete for a  
4 chance to go to state tournament to the national tournament. She asked for volunteers from the  
5 Planning Commission to serve as scorers on the Jury. She asked anyone interested to speak with her  
6 after the meeting.

7  
8 **APPROVAL OF MINUTES**

9  
10 **Commissioner Meyers** stated that page three, line 23, should be amended to read as follows:

11  
12 **Mr. Peterson** reported that he was one of three that he was one of three members and  
13 he was the managing member, commenting the other two members are long time  
14 members of the community

15  
16 **Commissioner Middleton** offered the following amendment:

17  
18 *Commissioner Middleton made a motion to adjourn. Upon a second by  
19 Commissioner Middleton Meyers the motion was unanimously adopted*

20  
21 **Ms. Mesa** reported that she had made changes to Page 6, line 19 adding language to  
22 read as follows:

23  
24 *She clarified that at times small technical revisions are made by legal staff prior  
25 being heard by Council. She stated that Council would be apprised of any  
26 technical revisions that may be made by legal staff, which were not reviewed by the  
27 Planning Commission.*

28  
29 **Commissioner Middleton** moved to approve the Minutes of the December 13, 2010 Planning  
30 Commission meeting, as amended. Upon a second by **Commissioner Meyers** the motion passed  
31 unanimously (Chair Molloy recused himself).

32  
33 **REGULAR AGENDA**

34  
35 **REGULAR AGENDA**

36  
37 **1. Timka First Addition**

38  
39 This is a public hearing to consider an annexation and initial I-Developing Industrial District zoning  
40 for a 9.9-acre property located on 14th Street Southeast. This is a serial annexation, achieving  
41 contiguity with the City by virtue of being adjacent to 14th Street SE, which was annexed as part of  
42 the Bentley 3rd Addition. Serial annexations are expressly allowed under the provisions of the state  
43

1 statutes, provided each serial meets the contiguity requirements for annexation. This matter is  
2 legislative in nature.

3

4 **Brian Burson, project planner**, gave a brief background on this item. He stated the request is to  
5 annex into the city and zone it I-Developing Industrial, with special provisions and design standards  
6 to assure that the desired character of the E-Employment land areas is achieved. The county zoning  
7 is currently C-Commercial. He stated that the role of the Planning Commission is to make a  
8 recommendation to the City Council for both the annexation and zoning. He stated that when a  
9 municipality has adopted a comprehensive master plan, the city is generally obligated to zone  
10 property in a manner that is reasonably consistent with that comprehensive plan which would make  
11 this proposal a quasi-judicial matter for the Planning Commission. He further reported that the  
12 applicant and staff have been working together to develop the terms of annexation as listed in  
13 Section VII of the report. He presented the commission with revised terms of annexation  
14 (**Secretary's note:** The revisions are included in these minutes).

15

16 **Ken Merrit, Landmark Engineering** representing the applicant, briefly oriented the Commission  
17 and audience on the location of the proposed annexation, clarifying that the property is located  
18 entirely within the Growth Management Area (GMA), and is designated as E-Employment Land  
19 Use. He spoke of the potential uses as outlined in the Land Use Master Plan.

20

21 There was a lengthy discussion regarding how annexation could be achieved as a serial to assure that  
22 the 1/6 contiguity is met, and explained how the serial annexation would be accomplished. He  
23 clarified that the first serial annexation is gained by its contiguity from the adjacent city right-of-way  
24 on the southern boundary of Highway 402 and the second serial annexation would come from the  
25 southern boundary of the 1st serial annexation, which would then allow for the entire property to be  
26 annexed. He pointed out that all uses that are permitted by right in the E-Employment and I-  
27 Industrial zones would be permitted. He stated that the following uses would normally be permitted  
28 by a special review would not be allowed to occur on this property:

29

- 30 a. Crematorium
- 31 b. Heavy industrial
- 32 c. Truck stop
- 33 d. Junkyard
- 34 e. Packing facility
- 35 f. Jails, detention and penal center
- 36 g. Outdoor storage as a principle use
- 37 h. Sexually Oriented Businesses
- 38 i. Recycling collection facility attended
- 39 j. Recycling collection facility unattended

40

41 **Mr. Merrit** reported that the applicant is requesting I-Industrial zoning and stated that the  
42 annexation and development agreement and should be achieved by establishing supplemental site

1 development standards through an annexation agreement. He stated that this property had a high  
2 level of site development standards ie., development of a unified campus character, 60% of uses  
3 would be employment, 40% support uses; protection of view corridors using setbacks using a  
4 minimum 60 ft setback along the 402 corridor, extensive set of landscape and development standards  
5 as well as extensive architectural development standards which would be added into an annexation  
6 agreement.

7  
8 **Mr. Merrit** mentioned that in the future there would be a minor subdivision application on the  
9 property, which would also be dedicating additional right-of-way on Highway 402.

10  
11 **Commissioner Meyers** asked if lot 2 would be accessible from lot 1.

12  
13 **Mr. Merrit** clarified that there is an access easement located along western property boundary  
14 allowing access to both lots from Highway 402.

15  
16 **Commissioner Dowding** spoke of the two maps, one being the contiguity map differentiating  
17 the north and south being in a different location than what is shown in the site development  
18 standards. She asked what activities would be allowed in the north and south lots.

19  
20 **Mr. Merrit** clarified that minor subdivisions are approved at a staff level and that the lots would be  
21 required to comply with the conditions that are required in the I-Industrial zoning as well as the  
22 conditions in the annexation agreement. He further clarified that those uses have not been defined  
23 yet and stated that they will be consistent with what is allowed by the zoning.

24  
25 **Commissioner Krenning** questioned why the applicant chose I-Industrial not B-Business  
26 zoning.

27  
28 **Mr. Merrit** stated they struggled with that B-Business has some very specific uses, which were  
29 slightly more limiting. He stated that they also looked at using the MAC zone, which includes  
30 uses that contain a higher level of residential, and retail and stated that the E zone would require  
31 extensive conditions and since the site was so small it did not make sense and felt it was out of  
32 character. He stated that since the I zone was lacking in development standards they felt that it  
33 would be better to require the conditions that are in the staff report to make it a more quality  
34 development.

35  
36 **Commissioner Krenning** asked why the applicant is not zoning the property DR and questioned  
37 if there were plans for development at this time.

38  
39 There was a lengthy discussion regarding the IGA with Larimer County. The IGA requires that  
40 property owners ask the City to be annexed if they are eligible. **Mr. Merrit** stated that this  
41 property does not meet the contiguity requirement, and was not required to ask to be annexed.  
42 He stated that if the applicant were to request a DR zone then all rights that the property owner

1 had in the County could be lost. He further commented that there is not an IGA for this part of  
2 the County.

3  
4 **Mr. Merrit** assured Commissioner Dowding that the building setback minimums would be met.  
5 He stated that due to the size of the property and all the standards that have to be met in the E  
6 zone it was their opinion that the I zone was easier to write the development standards.

7  
8 **Chair Molloy** stated that he did not understand why the E zone was not maintained as shown on  
9 the Comprehensive Plan.

10  
11 **Mr. Burson** clarified that the Comprehensive Plan does recognize that the I-Industrial zone  
12 fulfills the E-Employment area recommendation but does not instruct on how to adapt it to the  
13 character. He stated that if the I-Industrial zoning were acceptable than staff believed it should  
14 add the additional character which is needed. He stated that the concept master plan requires  
15 specific unified development and you would have narrow choices on design and at this time there  
16 is no developer on board to say what they want with regards to design.

17  
18 After discussion regarding state requirements for contiguity, **Tiffane Johnson, Landmark**  
19 **Planners and Engineers**, clarified that there were currently five companies located on the site:  
20 landscape maintenance; two oil and gas service companies; Timka Resources; Timberline Tools  
21 and French Concrete.

22  
23 **Mr. Merrit** clarified that they are not setting boundaries for this particular annexation because it  
24 is a serial annexation.

25  
26 After discussion regarding state requirements for contiguity, **Tiffane Johnson, Landmark**  
27 **Planners and Engineers**, clarified that there were currently five companies located on the site:  
28 landscape maintenance; two oil and gas service companies; Timka Resources; Timberline Tools  
29 and French Concrete.

30  
31 **Mr. Paulsen** clarified that the provisions of the Code would allow nonconforming uses to expand to  
32 up to 25%.

33  
34 **Commissioner Krenning** stated that he would be supporting the application and believed that staff  
35 does work in the best interest of the City.

36  
37 **Assistant City Attorney Sunita Sharma** made the following changes to the conditions:

38  
39 3.b. Upon annexation and zoning into the City, and notwithstanding the provisions  
40 of Sections 18.36.010 and 18.36.020 of the City of Loveland Municipal Code, all  
41 uses permitted by right and all uses permitted by special review in the E-Employment  
42 District shall also be permitted on this property as specified in the E-Employment

1           **District.** In cases where a use is allowed in the I zone by right ~~by~~ **but** normally  
2           requires a special review in the E zone, the uses allowed by right in the I zone shall  
3           govern.

4           AND

5           Striking the following Water/Wastewater condition:

6           11. ~~At the time of Development, the Developer shall design and construct a~~  
7           ~~wastewater main along Highway 402 to the site, if not previously constructed by~~  
8           ~~others. The main shall be designed in accordance to the then current Wastewater~~  
9           ~~Master Plan and Wastewater Development Standards.~~

10           *Commissioner Krenning made a motion to make the findings listed in Section VI of the staff  
11           report dated January 24, 2011, and recommend that City Council approve the Timka First  
12           Addition to the City of Loveland and zone the Timka First Addition as I-Developing Industrial,  
13           subject to the terms of annexation listed in Section VII of said report, as amended on the record.  
14           Upon a second by Commissioner Middleton the motion was unanimously adopted.*

15           Mr. Merrit agreed to the conditions.

## 16           RECOMMENDED TERMS OF ANNEXATION

17           The following terms of annexation are recommended by City staff.

### 18           Current Planning:

19           1. Upon annexation of the property, all development and redevelopment of the property shall be  
20           governed by the Development Standards in **Attachment #2**, as well as all applicable codes,  
21           standards and policies of the City. These Development Standards shall be incorporated into the  
22           Annexation Agreement between the Owner and the City.

23           2. When reviewing and acting upon any application for a use permitted by special review, the  
24           City shall be authorized to consider the goals, objectives and criteria for the E-Employment Center  
25           land use category, as set forth in the 2005 Comprehensive Plan, as amended. Applications that do not  
26           meet the intent of the goals, objectives and criteria for the E-Employment Center land use category,  
27           as set forth in the 2005 Comprehensive Plan, as amended, may be disapproved by the City.

28           3. Upon annexation and zoning into the City, and notwithstanding the provisions of Sections  
29           18.36.010 and 18.36.020 of the City of Loveland Municipal Code, the following uses shall not be  
30           permitted on this site:

31           a. Crematorium

- 1    b.    Heavy industrial
- 2    c.    Truck stop
- 3    d.    Junkyard
- 4    e.    Packing facility
- 5    f.    Jails, detention and penal center
- 6    g.    Outdoor storage as a principle use
- 7    h.    Sexually Oriented Businesses
- 8    i.    Recycling collection facility attended
- 9    j.    Recycling collection facility unattended

10  
11    3.b.    Upon annexation and zoning into the City, and notwithstanding the provisions of Sections  
12    18.36.010 and 18.36.020 of the City of Loveland Municipal Code, all uses permitted by right and all  
13    uses permitted by special review in the E-Employment District shall also be permitted on this  
14    property as specified in the E-Employment District. In cases where a use is allowed in the I zone by  
15    right but normally requires a special review in the E zone, the uses allowed by right in the I zone  
16    shall govern.

17  
18    **Transportation Engineering:**

19  
20    4.    All future development within this addition shall comply with the Larimer County Urban  
21    Area Street Standards (LCUASS), the 2030 Transportation Plan, and any updates to either in effect at  
22    the time of a building permit, and/or a site-specific development application. Any and all variances  
23    from these standards and plans require specific written approval by the City Engineer.

24  
25    5.    Notwithstanding any conceptual information presented in the Annexation/Zoning submittal;  
26    street layout, street alignments, access locations, intersection configurations and intersection  
27    operations (traffic controls) shall be determined at the time of application for a building permit,  
28    and/or a site-specific development application.

29  
30    6.    The owner shall dedicate to the City, at no cost to the City, right-of-way for all street facilities  
31    adjacent to, or within, this addition that are shown on the adopted Transportation Plan prior to  
32    approval of a building permit and/or a site specific development application within this addition.  
33    Furthermore, the owner shall dedicate additional right-of-way for SH 402 on any future platting  
34    application for the property in order to achieve a 70-foot total half right-of-way on SH 402 adjacent  
35    to the property.

36  
37    7.    The developer agrees to acquire, at no cost to the City, any off-site right-of-way necessary for  
38    mitigation improvements. Prior to the approval of a building permit, and/or a site specific  
39    development application within this addition, the developer shall submit documentation satisfactory  
40    to the City, establishing the Developer's unrestricted ability to acquire sufficient public right-of-way  
41    for the construction and maintenance of any required street improvements to both adjacent and off-  
42    site streets.

1  
2 8. The ultimate roadway improvements, including sidewalk, adjacent to the property for SH 402  
3 shall be designed and constructed by the developer, unless designed and constructed by others. A  
4 cash-in-lieu payment may be accepted for all or part of the improvements, if approved in writing by  
5 the City Engineer. The timing and detailed scope of these improvements will be determined through  
6 review and approval of the building permit application and/or a site-specific development  
7 application.

8  
9 9. Any future proposed development within the addition shall submit a Traffic Impact Study and  
10 demonstrate compliance with current City Standards at the time of development.

11  
12 10. Any future proposed development within the addition shall obtain written concurrence from  
13 CDOT for access to SH 402.

14  
15 **Water/Wastewater:**

16  
17 11. At the time of Development, the Developer shall, provide the City a Wastewater Impact  
18 Design Analysis Report for the Development.

19  
20 **Power:**

21  
22 12. All plats of this property shall include the following note:

23  
24 "When the property being annexed into the City of Loveland is currently located within the REA  
25 certified territory, this property is subject to a five percent (5%) surcharge on electrical energy as  
26 defined in 40-9.5-204, CRS, and the City of Loveland Municipal Code 13.12.180. This surcharge  
27 applies to any subsequent subdivisions of property annexed after January 31, 1987 within the REA  
28 certified service territory. A surcharge of 5% will be added to all bills for the sale of electric power to  
29 additional services which came into the existence after January 31, 1987, within the territory herein  
30 annexed which surcharge will expire ten years after effective date of this annexation."

31  
32 **Larry Ryder, Larimer County resident and adjacent neighbor**, expressed concerns regarding  
33 an access easement. He stated that County required him to dedicate a 30-foot right-of-way  
34 easement.

35  
36 **Mr. Merrit** stated that in the future their maybe a joint access easement, but the city is not  
37 prepared to make this a public road at this time. He stated that when development occurs then  
38 the access would be addressed.

39  
40 **ADJOURNMENT**

1    ***Commissioner Middleton made a motion to adjourn. Upon a second by Vice Chair Ray the***  
2    ***motion was unanimously adopted.***

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5    Rob Molloy, Chair

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8    Vicki Mesa, Secretary

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