



## **LOVELAND PLANNING COMMISSION MEETING AGENDA**

**Monday, November 26, 2018  
500 E. 3<sup>rd</sup> Street – Council Chambers  
Loveland, CO 80537  
6:30 PM**

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**LOVELAND PLANNING COMMISSIONERS:** Carol Dowding (Chair), Pat McFall (Vice Chair), Rob Molloy, Jeff Fleischer, Tim Hitchcock, Michael Bears, David Hammond, and Milo Hovland.

### **CALL TO ORDER**

#### **I. PLEDGE OF ALLEGIANCE**

#### **II. REPORTS:**

##### **a. Citizen Reports**

This is time for citizens to address the Commission on matters not on the published agenda.

##### **b. Recognition of Service: Carol Dowding**

##### **c. Current Planning Updates**

###### **1. Monday, December 10, 2018 – Regular Meeting Agenda Preview**

###### **i. Foundry Parking Garage – Art Memo**

###### **2. Hot Topics:**

###### **i. Planning Commission interviews**

##### **d. City Attorney's Office Updates**

- e. Committee Reports
- f. Commission Comments

### **III. APPROVAL OF MINUTES**

#### **Review and approval of the October 8, 2018 Meeting minutes**

### **IV. CONSENT AGENDA**

The consent agenda includes items for which no discussion is anticipated. However, any Commissioner, staff member or citizen may request removal of an item from the consent agenda for discussion. Items requested to be removed from the consent agenda will be heard at the beginning of the regular agenda.

Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption by the Planning Commission and acceptance by the Applicant of the staff recommendation for those items.

- Does anyone in the audience wish to remove an item from the Consent Agenda?
- Does any staff member wish to remove an item from the Consent Agenda?
- Does any Commissioner wish to add any item from the Regular Agenda to the Consent Agenda or remove an item from the Consent Agenda?

#### **1. Centerra Emergency Access Easement Vacation – Public Hearing**

This is a public hearing concerning the vacation of an emergency access easement located in an undeveloped area north of the Promenade Shops in east Loveland. The emergency access easement was established in 2004 to provide a second emergency access to the Promenade Shops while the shopping center was under construction. At the time it was established, a notation was included with the easement agreeing to terminate the easement when alternative access became available. Alternative access has since been made available to the Promenade Shops with the buildup of Centerra Parkway. The vacation of the easement is thus being formally pursued at this time.

Vacation applications are considered legislative. Under Loveland Municipal Code Chapter 16.36, the Planning Commission must hold a public hearing and make a recommendation to Council on the request. City Council is scheduled to hear this matter on December 4, 2018.

### **V. REGULAR AGENDA**

#### **2. Planning Commission Report Templates – Jennifer Hewitt-Apperson**

This is an administrative item. With the recent adoption of the Unified Development Code, Planning staff is working to update the format of staff reports prepared for the Planning Commission. The primary goal is to develop a report template that provides clear and accessible information in a predictable format. To this end, staff is seeking input from the Commission. To assist the Commission, several report examples have been provided for Commissioners to review.

## VI. ADJOURNMENT

### SUPPLEMENTARY INFORMATION

#### Public Hearing Procedures

The purpose of a public hearing is for the Planning Commission (PC as used below) to obtain full information as to the matter under consideration. This includes giving all interested parties the opportunity to speak (provide testimony) at the hearing.

The public hearing is a formal process. Below is the typical hearing sequence to be followed by the Planning Commission. *Annotations have been provided for clarity.*

1. **Agenda item is recognized by the Chair**
2. **Public hearing is opened**
3. **Staff presentation\***  
*(May include clarifying questions to staff from Commissioners)*
4. **Applicant presentation\***  
*(May include clarifying questions to applicant from Commissioners)*
5. **Public comment\***  
*(All public comment should be made from the podium upon the PC Chair acknowledging the citizen speaking. Citizens should provide their name and mailing address in writing at the podium, and introduce themselves. The PC may ask clarifying questions of the citizens. At a public hearing, the PC does not respond to questions from citizens; questions directed to the applicant or staff should be requested through the Chair.)*
6. **Applicant response**  
*(The Chair typically requests that applicants respond to comments and questions raised during public comment)*
7. **PC questions to staff, the applicant and possibly to citizens who presented**  
*(Commissioners may use this step in the process to gain a more detailed understanding of relevant information)*
8. **Close public hearing**  
*(Unless specifically permitted by the Chair, further testimony is not allowed after the public hearing is closed)*
9. **Motion**  
*(Motions are made by a PC member with possible conditions)*
10. **Motion is seconded**  
*(A 2nd is required before the motion can be considered; a motion that fails to obtain a second dies)*
11. **PC discussion**  
*(The PC discusses the application and whether it satisfies the required findings)*
12. **PC Chair requests that the applicant agree to any conditions prior to a vote**  
*(If an applicant does not accept the proposed conditions, the PC may deny the application)*
13. **Vote**  
*(The decisions of the PC must address relevant findings of fact. These findings are specified in adopted plans and codes, and serve to guide zoning and annexation decisions. Relevant findings are itemized in the Staff Report and referred to in the recommended motion.)*

\* Note that the Planning Commission may place time limits on presenters. All presenters should communicate clearly and concisely, refraining from duplicating detailed information that has been provided by others.

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**Privacy:** Citizens who present to the Commission or provide written materials for Commission review should understand that information provided like email addresses, phone numbers and personal addresses will become part of the public record. Such information may be posted on the City's web site or otherwise made available to the public unless a written request for privacy is provided to the Planning Commission Secretary.

**CITY OF LOVELAND**  
**PLANNING COMMISSION MINUTES**  
**October 8, 2018**

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A meeting of the City of Loveland Planning Commission was held at the Development Center on October 8, 2018 at 6:30 p.m. Members present: Chairwoman Dowding; and Commissioners McFall, Molloy, Fleischer, Hitchcock, and Bears. Members absent: Commissioners Hammond and Hovland. City Staff present: Bob Paulsen, Current Planning Manager; Laurie Stirman, Assistant City Attorney; Lisa Rye, Planning Commission Secretary.

*These minutes are a general summary of the meeting. A complete video recording of the meeting is available for two years on the City's web site as follows: <https://loveland.viebit.com/>*

**CITIZEN REPORTS**

There were no citizen reports.

**CURRENT PLANNING UPDATES**

1. **Robert Paulsen, Current Planning Manager**, reviewed the agenda items scheduled for the Monday, October 22, 2018 Planning Commission meeting. The Foundry Parking Garage – Art Memo is the only item on the agenda for this date. **Mr. Paulsen** explained that this item is not a pressing issue. He also mentioned that the meeting scheduled for Monday, November 12 falls on Veterans Day, which is a staff holiday and offices will be closed.

*Commissioner Hitchcock made a motion to cancel the October 22, 2018 and November 12, 2018 Planning Commission meetings; upon a second from **Commissioner McFall**, the motion was unanimously approved.*

2. **Mr. Paulsen** announced that the Boards and Commissions recruitment period, which opened October 1, will now be extended through November 5. Interviews for Planning Commission vacancies will be held in November and nominations will be presented to City Council in December. Vacant commission seats will be filled in January 2019.
3. **Mr. Paulsen** stated that on Tuesday, October 2, City Council voted unanimously to approve the Unified Development Code (UDC). It is expected that the Code will be adopted at the November 6, 2018 City Council Meeting, and then will go into effect on January 1, 2019.

**CITY ATTORNEY'S OFFICE UPDATES**

**Laurie Stirman**, Assistant City Attorney, stated that there is nothing to report.

## **COMMITTEE REPORTS**

There were no committee reports.

## **COMMISSIONER COMMENTS**

There were no comments.

## **BOYD LAKE PLACE IMPROVEMENTS**

**Justin Stone, Senior Engineer – Transportation Development Review**, made a special presentation to the Planning Commission by providing an overview of steps the City takes to make transportation improvements. In addition, he briefly summarized the transportation improvements in the Boyd Lake Avenue area north of Highway 34. **Mr. Stone** explained that long-range plans are adjusted and revised every five years to ensure compatibility with the developing area. Detailed plans for the Boyd Lake Avenue area and the 15<sup>th</sup> Street roundabout were discussed. He explained that the Centerra Metro District will be making considerable improvements in the area.

**Jim Niemczyk, Project Manager for Centerra Metropolitan District**, discussed in detail the number of roadway improvements underway within the North Boyd Lake Avenue area. He explained that many of the improvements are an effort to keep up with, and possibly stay ahead of, the development taking place in the Centerra Metro District area. Mr. Niemczyk highlighted the complexity of the design considerations relating to the roundabout that will be installed at 15th Street and Boyd Lake Avenue, including the development of an underpass for the recreation trail. He explained that growth from the residential developments in the Boyd Lake area is necessitating the adjacent roadway improvements.

**Mr. Paulsen** advised the Planning Commission that although they do not have authority over transportation plan reviews, it is possible for City staff to provide such plans to help update and inform them of critical projects that are taking place.

## **APPROVAL OF THE MINUTES**

*Commissioner McFall made a motion to approve the September 24, 2018 minutes; upon a second from Commissioner Fleischer, the minutes were unanimously approved. Commissioner Hitchcock abstained.*

## **CONSENT AGENDA**

There were no items scheduled on the Consent Agenda

## **REGULAR AGENDA**

### **1. First National Bank – Public Hearing**

**Project Description:** The applicant is requesting to replace (amend) a previously approved Preliminary Development Plan (PDP) with a plan for a new bank on this vacant site located in the PUD-zoned Peakview Commercial Park at 152 West 64th Street. The site is 0.74 acres in size and is flanked by Les Schwab Tires and the Murphy Oil gas station on the west side of Highway 287. The applicant is proposing to develop the site in two phases: initially constructing a drive-up ATM; phase 2 would include a 3800 square foot bank building with drive thru facilities.

The proposed use is allowed by the General Development Plan (GDP). The site design, building elevations and utility infrastructure has been reviewed by staff and determined to be consistent with the applicable GDP and applicable City development standards. Staff is recommending approval. The role of the Planning Commission is to conduct a public hearing and has authority to approve, conditionally approve or deny the application.

**Commissioner Dowding** opened the public hearing at 7:25 p.m.

**Mr. Caleb Jackson, Current Planning**, gave an overview of the site and discussed the zoning of the surrounding area. He explained that the proposed use for the site does meet the findings required for approval. If the Planning Commission approves the project, the applicant will be required to submit a Final Development Plan, which must be approved administratively before a building permit can be considered.

**Clint Anders, Ripley Design**, presented a timeline of the project which included attending a concept review meeting with the Development Review Team, followed by a neighborhood meeting and the mailing of notices to the surrounding areas. Mr. Anders presented plans including a sidewalks, landscaping, parking, and architecture for the first phase of the proposed project which is a drive-up ATM. Phase two was briefly discussed and would involve the construction of the bank building.

**Commissioner Hitchcock** asked what the time frame would be for the completion of both phases. **Mr. Anders** answered that there would be approximately a three year span between the construction of the ATM and the construction of the bank building.

**Commissioner Molloy** asked if the grading of the site would be done in one step for both of the phases. **Sharlene Shadowen, Lamp Rynearson**, discussed the proposed plans for grading and stated that site grading will be completed in the first phase to accommodate landscaping and proper drainage.

**Commissioner Dowding** closed the public hearing at 7:33 p.m.

**Commissioner McFall** moved to make the findings set forth in the Planning Commission staff report dated October 8, 2018 and, based on those findings approve Peakview Commercial Park – First Subdivision Lots 4, 5, and 6 - Preliminary Development Plan Lot 5 Amendment as amended on the record. **Commissioner Bears** seconded the motion.

*The motion was unanimously approved.*

## 2. Changes to Municipal Code – Public Hearing

**Project Description:** The City of Loveland supports affordable housing primarily through the waiver of development, capital expansion (CEF) and other fees for non-profit and for-profit developers. The Loveland Municipal Code, in Sections 16.38 and 16.43, states that City Council may, by resolution, grant an exemption from all or part of the capital expansion fees or any other fees. Other fees include utilities and charges that must be reimbursed, or backfilled, by the general fund and cannot be waived outright by City Council. Non-profit developers, namely the Loveland Housing Authority and Habitat for Humanity, have historically received a waiver of close to 100% of building permit and capital expansion fees, as well as utility fees that require backfilling. For-profit organizations have only received fee waivers that do not require backfilling.

On May 15, 2018, City Council discussed back-filling fire impact fees in addition to utility fees and requested that the Community Partnership Office bring forward an action to update portions of Sections 16.38 and 16.43 of the Loveland Municipal Code to require the backfilling of fire impact fees. Affordable housing projects can access the Community Housing Development Fund to pay the backfilled amounts. Historic downtown projects must be backfilled from the general fund or some other fund.

Sections of Title 16 relating to the waiver of fees will be amended to allow the backfilling of fire impact fees in 2018, prior to the effective date of the Unified Development Code. Should the proposed code changes be adopted, the Community Partnership Office will ensure that these changes are incorporated into the Unified Development Code as well.

This item was presented to the Affordable Housing and Historic Preservation Commissions and the Construction Advisory Board on September 17th, 24th and 26th respectively. All three commissions approved the change.

**Commissioner Dowding** opened the public hearing at 7:45 p.m.

**Alison Hade, Community Partnership Office**, discussed the proposed changes to the Municipal Code regarding Fire Impact Fees. She spoke of the Intergovernmental Agreement (IGA) that the Loveland Fire and Rescue Authority (LFRA) entered into with the City of Loveland in 2017, stating that LFRA will no longer outright waive the fire impact fees. **Ms. Hade** added that the IGA will impact the areas of affordable housing, the historic downtown, and the West Eisenhower Reinvestment Zone (WERZ).

**Commissioner Dowding** mentioned that it is hard to understand the changes to the code without being able to review redline versions of the pertinent sections of the code. **Laurie Stirman, Assistant City Attorney**, clarified that the proposed changes to the code include straight-forward language, specifying that the LFRA fees will be backfilled.

**Commissioner Hitchcock** questioned how the fees will be backfilled.

**Robert Paulsen, Current Planning Manager**, mentioned it may be helpful to the commissioners if there was clarification as to why LFRA wants these fees backfilled. **Commissioner McFall** added that he also wondered the same thing. **Ms. Hade** answered that it is the IGA that states that the impact fees must be backfilled. The language in the current municipal code and UDC will be changed to reflect this language.

**Commissioner Molloy** asked what part of West Eisenhower Reinvestment Zone will be impacted. **David Eisenbraun, Strategic Planning**, supplied the commissioners with a copy of a “Policy and Procedure Statement – West Eisenhower Reinvestment Zone” which shows which fees are waived and reimbursed.

**Commissioner Dowding** closed the public hearing at 8:01 p.m.

*Commissioner Molloy made a motion to recommend that City Council approve amendments to the Loveland Municipal Code Chapters 16.38 and 16.43 regarding fire impact fees as described in the staff memorandum dated October 8, 2018, as amended on the record. Commissioner Fleisher seconded the motion.*

*The motion was unanimously approved.*

## **ADJOURNMENT**

*Commissioner Hitchcock made a motion to adjourn. Upon a second by Commissioner McFall, the motion was unanimously adopted.*

**Commissioner Dowding adjourned the meeting 8:13 p.m.**

Approved by: \_\_\_\_\_  
Carol Dowding, Planning Commission Chair

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Lisa Rye, Planning Commission Secretary.

## Planning Commission Staff Report

November 26, 2018

**Agenda #:** Consent Agenda - 1

**Title:** Centerra EAE – Vacation of emergency access easement

**Applicant:** Kim Perry, McWhinney

**Request:** **Vacate an emergency access easement**

**Location:** East of I-25, north of Kendall Parkway, South of Clydesdale Parkway

**Existing Zoning:** Millennium PUD

**Staff Planner:** Noreen Smyth

### ***Staff Recommendation***

**APPROVAL** of the vacation.

### ***Recommended Motion:***

1. *Move to make the findings listed in Section VIII of the Planning Commission staff report dated November 26, 2018 and, based on those findings, recommend that City Council approve the Vacation of Emergency Access Easement referenced in the attached legal description, as amended on the record.*

### ***Summary of Analysis***

This is a public hearing concerning the vacation of an emergency access easement located in an undeveloped area north of the Promenade Shops in east Loveland. The emergency access easement was established in 2004 to provide a second emergency access to the Promenade Shops while the shopping center was under construction. At the time it was established, a notation was included with the easement agreeing to terminate the easement when alternative access became available. Alternative access has since been made available to the Promenade Shops through the buildout of Centerra Parkway. The vacation of the easement is thus being formally pursued at this time.

Vacation applications are considered legislative. Under Loveland Municipal Code Chapter 16.36, the Planning Commission must hold a public hearing and make a recommendation to Council on the request. City Council is scheduled to hear this matter on December 4, 2018.

## I. SUMMARY

This application proposes to vacate an emergency access easement within in an undeveloped area of the Millennium Addition. The 50 foot wide easement is located to the east of Interstate 25, north of the Promenade Shops, and south of the Crossroads Business Park. It is situated largely within Tract A-1 of the Millennium Addition (**Attachment B**); a full legal description is provided in the “Grant of Easement” (**Attachment A**). The easement was established in 2004 in conjunction with the development of the Promenade Shops. At that time, public streets were already planned for this area, but not yet able to provide the required second means of emergency access to the Promenade Shops. The easement was therefore provided in order to allow for the second means of access.

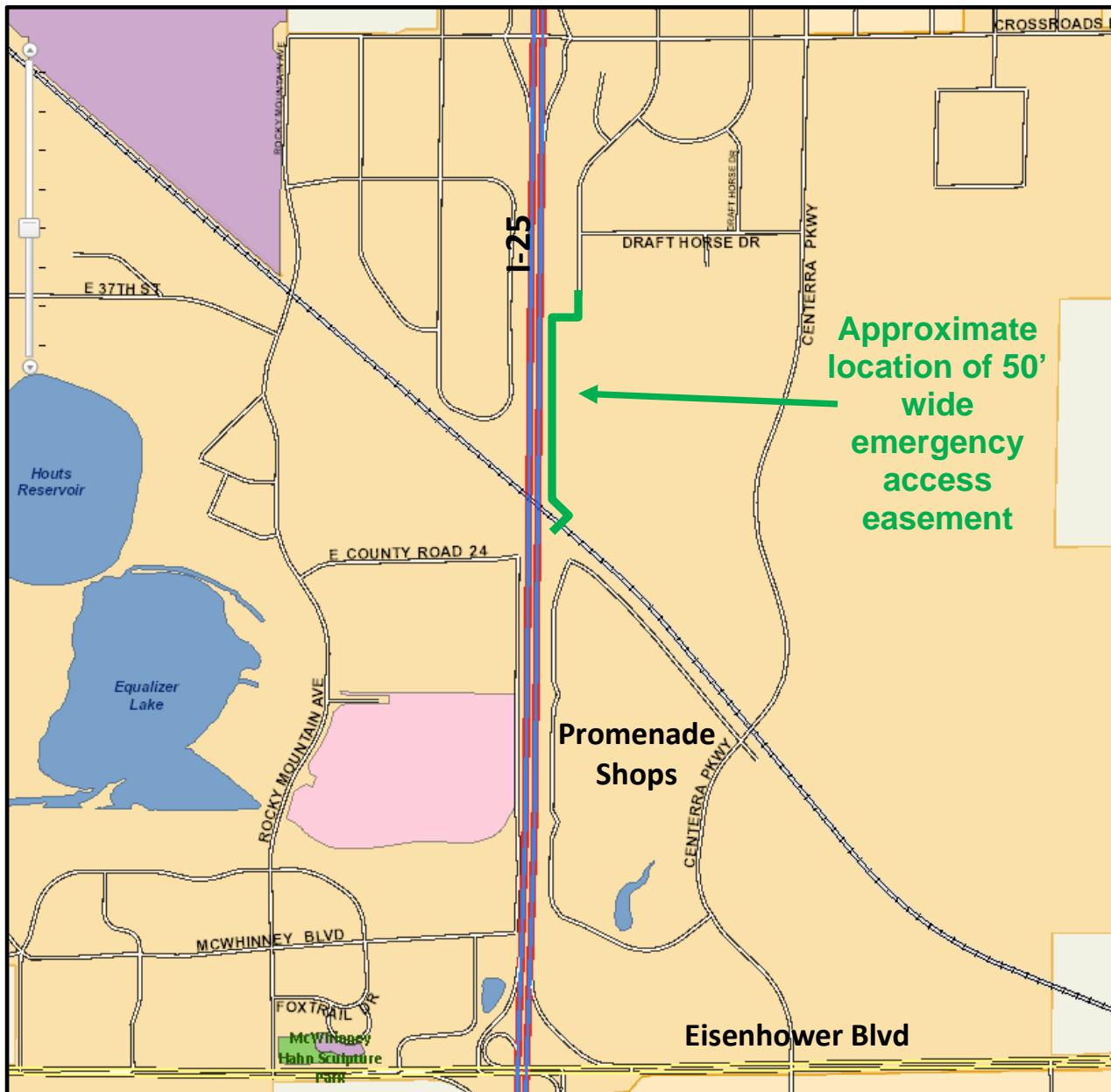
It was known at the time of the development of the Promenade Shops and the associated establishment of the easement that planned future street access would be able to provide an alternative emergency access. Thus, a provision was written into the Grant of Easement stating that the easement would be terminated by the City, at the applicant’s request, at the time it is no longer needed. Alternative access has since been obtained not only through the buildout of Centerra Parkway, but also Kendall Parkway and Sky Pond Drive. The applicant did not have specific need to pursue a vacation of the unneeded easement until a recent contact with the Colorado Department of Transportation (CDOT). CDOT is in the planning stages of an I-25 widening project, and the easement is situated in their anticipated right-of-way work area. In response, the applicant is now requesting the vacation of the unneeded easement.

The Loveland Fire Rescue Authority (LRFA) supports the vacation and considers it sensible to vacate it at this time, as it is best clean up unnecessary easements.

## II. ATTACHMENTS

- A. Grant of Easement and Legal Descriptions
- B. Parcel A-1 from the Millennium Addition
- C. Application

### III. VICINITY MAP



#### **IV. SITE DATA**

ACREAGE OF EASEMENTS TO BE VACATED .....	4.025 AC
ACREAGE OF SITE .....	PARCEL A-1: 354.480 AC
EXISTING ZONING .....	MILLENNIUM PUD
MASTER PLAN DESIGNATION .....	EMPLOYMENT
EXISTING USE .....	VACANT
EXISTING ADJACENT ZONING AND USE - NORTH .....	I INDUSTRIAL – CROSSROADS BUSINESS PARK
EXISTING ADJACENT ZONING AND USE - EAST .....	MILLENNIUM PUD – VACANT
EXISTING ADJACENT ZONING AND USE - SOUTH .....	MILLENNIUM PUD – PROMENADE SHOPS
EXISTING ADJACENT ZONING AND USE - WEST .....	MILLENNIUM PUD – INTERSTATE 25
UTILITY SERVICE PROVIDER - SEWER .....	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - ELECTRIC.....	CITY OF LOVELAND
UTILITY SERVICE PROVIDER - WATER .....	CITY OF LOVELAND

#### **V. KEY ISSUES**

No key issues have been identified with the vacation request from a City staff perspective.

#### **VI. BACKGROUND**

The Millennium Addition, which contains the easements to be vacated, was annexed into the City in October 2000. The easement was established by separate document in 2004.

#### **VII. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION**

##### **A. Notification**

An affidavit was provided by Wendi Cudmore with McWhinney indicating that proper notice was provided on November 9, 2018. Further, a notice was published in the Reporter Herald on November 6, 2018. All notices stated that the Planning Commission will hold a public hearing on November 26, 2018.

##### **B. Neighborhood Interaction/Response**

A neighborhood meeting is not required in conjunction with an application to vacate easements, and staff did not receive any inquiries or comments as a result of the public notice for the Planning Commission hearing.

#### **VIII. FINDINGS AND ANALYSIS**

The chapter and section cited below are from the Loveland Municipal Code as it relates to vacating an emergency access easement:

**Chapter 16.36, Section 16.36.010.B (2):** *That the right-of-way or easement to be vacated is no longer necessary for the public use and convenience.*

**Fire:** Staff believes that this finding can be met, due to the following facts:

- The easement was provided at a time where other secondary accesses were not available to the existing and future developments. The easement is no longer required as Centerra Parkway provides adequate Fire access.
- The vacation of the Emergency Access Easement will not negatively impact fire protection for the subject development or surrounding properties.

## **IX. RECOMMENDED CONDITION**

There are no recommended conditions of approval.



RCPTN#

2004-0088937

SCOTT DOYLE, CLERK  
LARIMER COUNTY CO

09/08/2004

14:32:00

#379094

PAGES - 6 FEE \$31.00 DOC \$0.00

## GRANT OF EASEMENT

THIS INDENTURE, made this 24<sup>th</sup> day of August, 2004, by and between **MCWHINNEY HOLDING COMPANY, LLLP**, a Colorado Limited Liability Limited Partnership, as successor by conversion to **McWhinney Holding Company, L.L.C.**, a Colorado Limited Liability Company and **CENTERRA PROPERTIES WEST, LLC**, A Colorado Limited Liability Company ("Grantors") whose address is 2725 Rocky Mountain Avenue, Suite 200, Loveland, Colorado 80538, and the **CITY OF LOVELAND, COLORADO**, a municipal corporation, ("City"), whose address is 500 East Third Street, Loveland, Colorado 80537.

## WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, Grantor has this day bargained and sold, and by these presents does bargain, sell, convey, transfer and deliver unto the City, its successors and assigns, an exclusive easement in, over and across the real estate hereinafter described, for purposes of emergency access.

The easement and right-of-way hereby granted, situate in Larimer County, Colorado, is legally described on Exhibit A, attached hereto and incorporated herein and depicted in the drawing on Exhibit B also attached hereto and incorporated herein.

TO HAVE AND TO HOLD said easement and right-of-way unto the City, its successors and assigns forever.

The Grantor does hereby covenant with the City that it is lawfully seized and possessed of the real property above described, that it has a good and lawful right to convey the easement and right-of-way herein granted, that the said easement and right-of-way is free and clear of all encumbrances (except for the lien and encumbrances of those lienholders who have consented to this Grant of Easement form) by separate consent form which is attached, and that it will forever warrant and defend the title thereto against lawful claims of all persons whomsoever.

The parties acknowledge that the easement granted herein will no longer be needed when alternative access is available and the City agrees that this Grant of Easement shall terminate when alternative access is provided and accepted by the City. Upon termination of this easement, as determined in the sole discretion of the City, upon the Grantors' request, the City agrees to record a notice so evidencing with the Larimer County Clerk and Recorder.

McWhinney Holding Company, LLP  
Centera Properties West, LLC  
Emergency Access Easement  
8/6/04  
Revised 8/18/04

CITY OF LOVELAND  
CITY CLERK'S OFFICE  
500 E 3RD ST  
LOVELAND, CO 80537

IN WITNESS WHEREOF, the Grantor has executed this Grant of Easement the day and year first above written.

GRANTOR:

**MCWHINNEY HOLDING COMPANY, LLLP,  
a Colorado Limited Liability Limited  
Partnership, as successor by conversion  
to McWhinney Holding Company, L.L.C.,  
a Colorado Limited Liability Company**

By: MHC GP, LLC, a Colorado Limited  
Liability Company, General Partner

By: McWhinney Real Estate  
Services, Inc., a Colorado  
Corporation, Manager

By: Douglas L. Hill  
Douglas L. Hill,  
Chief Operating Officer  
Date: 8/14, 2004

**CENTERRA PROPERTIES WEST,  
LLC, A Colorado Limited Liability  
Company**

By: McWhinney Real Estate  
Services, Inc., a Colorado  
Corporation, Manager

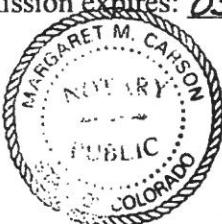
By: Douglas L. Hill  
Douglas L. Hill,  
Chief Operating Officer  
Date: 8/14, 2004

STATE OF COLORADO )  
 )ss  
COUNTY OF LARIMER )

The foregoing instrument was acknowledged before me this 24 day of  
August, 2004 by MCWHINNEY HOLDING COMPANY, LLLP, A Colorado Limited  
Liability Limited Partnership, as successor by conversion to McWhinney Holding Company,  
L.L.C., A Colorado Limited Liability Company by MHC GP, LLC, a Colorado Limited Liability  
Company, General Partner by McWhinney Real Estate Services, Inc., a Colorado Corporation,  
Manager by Douglas L. Hill, Chief Operating Officer and CENTERRA PROPERTIES WEST,  
LLC, A Colorado Limited Liability Company by McWhinney Real Estate Services, Inc., a  
Colorado Corporation, Manager by Douglas L. Hill, Chief Operating Officer

Witness my hand and official seal.

My commission expires: 03/23/2008



The seal of the City of Loveland, Colorado. It is a circular emblem with a serrated or jagged outer border. The word "CITY OF LOVELAND" is arched along the top inner edge, and "COLORADO" is arched along the bottom inner edge. In the center, the word "SEAL" is written in a bold, sans-serif font.

Dona Visconti  
City Clerk

Margaret M Carson  
Notary Public

## Notary Public

ACCEPTED BY

## CITY OF LOVELAND

Don F. William

By:

APPROVED AS TO FORM

City Attorney — 8/20/92

# Exhibit A



420 SOUTH HOWES, SUITE 202  
FORT COLLINS, COLORADO 80521  
970.221.4158  
FAX 970.221.4159

## LEGAL DESCRIPTION:

A 50 foot wide emergency access easement being a portion of land located in the Southeast Quarter of Section 3, and the Northeast Quarter of Section 10, all in Township 5 North, Range 68 West of the 6<sup>th</sup> Principal Meridian, City of Loveland, County of Larimer, State of Colorado being more particularly described as follows:

A 50 foot wide emergency access easement with foreshortened and prolonged sidelines to meet the North line of the Southeast Quarter of said Section 3, the Northeasterly and Southwesterly right-of-way lines of the Union Pacific Rail Road and the South right-of-way line of Cordova Pass Drive of the proposed Millennium East First Subdivision and shall be 25 feet each side measured at right angles and parallel with the centerline described as follows:

Considering the South line of the Southeast Quarter of said Section 3 as bearing North 89°05'00" East and with all bearings contained herein relative thereto:

Commencing at the South Quarter corner of said Section 3; thence, South 69°10'04" East, 172.72 feet to a point on the centerline of said 50 foot wide emergency access easement and the **POINT OF BEGINNING**, said point being on the South right-of-way line of Cordova Pass Drive of said proposed Millennium East First Subdivision; thence, North 00°35'04" East, 53.91 feet; thence, along a curve concave to the southeast having a central angle of 88°29'56" with a radius of 50.00 feet, an arc length of 77.23 feet and the chord of which bears North 44°50'02" East, 69.78 feet; thence, North 89°05'00" East, 92.57 feet; thence, along a curve concave to the south having a central angle of 15°28'54" with a radius of 50.00 feet, an arc length of 13.51 feet and the chord of which bears South 83°10'33" East, 13.47 feet; thence, South 75°26'06" East, 207.34 feet; thence, along a curve concave to the north having a central angle of 63°58'30" with a radius of 50.00 feet, an arc length of 55.83 feet and the chord of which bears North 72°34'38" East, 52.97 feet; thence, North 40°35'23" East, 55.06 feet; thence, along a curve concave to the west having a central angle of 89°55'35" with a radius of 50.00 feet, an arc length of 78.48 feet and the chord of which bears North 04°22'24" West, 70.67 feet; thence, North 49°20'11" West, 565.49 feet; thence, along a curve concave to the northeast having a central angle of 49°55'15" with a radius of 50.00 feet, an arc length of 43.56 feet and the chord of which bears North 24°22'33" West, 42.20 feet; thence, North 00°35'04" East, 2,019.76 feet; thence, along a curve concave to the southeast having a central angle of 88°43'59" with a radius of 50.00 feet, an arc length of 77.43 feet and the chord of which bears North 44°57'03" East, 69.92 feet; thence, North 89°19'03" East, 206.17 feet; thence, along a curve concave to the northwest having a central angle of 90°00'00" with a radius of 40.00 feet, an arc length of 62.83 feet and the chord of which bears North 44°19'03" East, 56.57 feet to the Point of Terminus of said Centerline, said point being on the North line of the Southeast Quarter of said Section 3.

**EXCEPTING** that portion contained within the Union Pacific Railroad right-of-way.

The above described emergency access easement contains 4.025 acres more or less and is subject to all easements and rights-of-way now on record or existing.

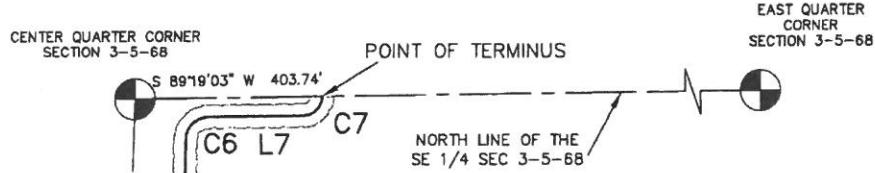
August 2, 2004  
jaa

S:\Survey Jobs\CLL\DESCRIPTIONS\EMERG ACCESS FOR LIFESTYLE.doc

## Exhibit B

### EXHIBIT

AN EMERGENCY ACCESS EASEMENT BEING A PORTION OF LAND LOCATED IN THE SE 1/4 OF SEC 3 AND THE NE 1/4 OF SEC 10, ALL IN TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO.



CENTERLINE  
OF 50' WIDE  
EMERGENCY  
ACCESS  
EASEMENT

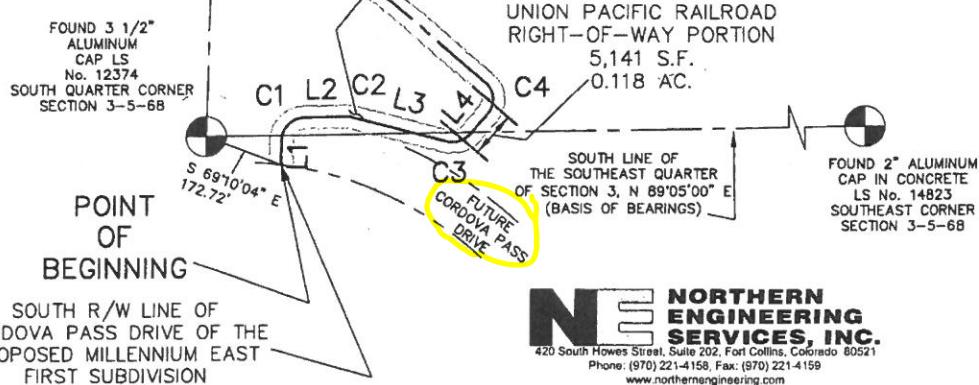
LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°35'04"E	53.91'
L2	N89°05'00"E	92.57'
L3	S75°26'06"E	207.34'
L4	N40°35'23"E	55.06'
L5	N49°20'11"W	565.49'
L6	N00°35'04"E	2019.76'
L7	N89°19'03"E	206.17'

CURVE TABLE					
CURVE	DELTA	RADIUS	BEARING	CHORD	LENGTH
C1	88°29'56"	50.00'	N 44°50'02"E	69.78'	77.23'
C2	15°28'54"	50.00'	S 83°10'33"E	13.47'	13.51'
C3	63°58'30"	50.00'	N 72°34'38"E	52.97'	55.83'
C4	89°55'35"	50.00'	N 04°22'24"W	70.67'	78.48'
C5	49°55'15"	50.00'	N 24°22'33"W	42.20'	43.56'
C6	88°43'59"	50.00'	N 44°57'03"E	69.92'	77.43'
C7	90°00'00"	40.00'	N 44°19'03"E	56.57'	62.83'

300 0 300 600 900 Feet  
( IN FEET )  
1 inch = 300 ft.



50' WIDE  
EMERGENCY  
ACCESS EASEMENT  
175,339 S.F.  
4.025 AC.



31/4

**EASEMENT CONSENT**  
Farm Credit Services

ASSN. LOAN NO.  
2465849

WHEREAS McWhinney Holding Company, LLLP, a Colorado Limited Liability Partnership, as successor by conversion to McWhinney Holding Company, L.L.C., a Colorado Limited Liability Company on August 24, 2009, executed a certain easement to the City of Loveland for emergency access easement which easement covered land in the County of Larimer, State of Colorado, described as follows:

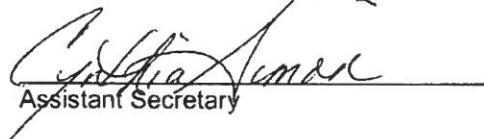
See attached Legal Description

NOW, THEREFORE, Farm Credit Services of the Mountain Plains, FLCA, a wholly owned subsidiary of Farm Credit Services of the Mountain Plains, ACA a corporation (herein after referred to as the Lender), the holder and owner of a real estate mortgage recorded in book \_\_\_\_\_, page \_\_\_\_\_, or Reception No. 2001092264 of the mortgage records of Larimer County, State of Colorado for a valuable consideration, the receipt of which is hereby acknowledged, hereby consents to the terms and provisions of said easement aforesaid without, however, joining in any of the warranties, guaranties, or indemnities contained herein.

8-24-09



ATTEST:

  
Lydia J. Amore  
Assistant Secretary

Farm Credit Services of the Mountain Plains, FLCA, a wholly owned subsidiary of Farm Credit Services of the Mountain Plains, ACA

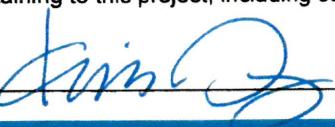
  
Patrick J. Stratton, Vice President



# VACATION APPLICATION

<b>Project Name:</b>		
<b>PROJECT</b>		
<b>Narrative Description of Project</b> , including purpose of vacation and other pertinent information:		
Existing Legal Description of Property Boundary (Lots, Blocks, Tracts and Subdivision Name, or Metes & Bounds):		
Name of PUD (if applicable):		
Address of Existing Buildings or Property:		
<b>APPLICANT INFORMATION</b>		
<b>OWNER'S REPRESENTATIVE (CONTACT PERSON)</b>		
Company:	Name:	Phone:  Fax:
Address:_____		
City, State:_____		Zip Code:_____
Email Address:_____		
<b>CONSULTANT</b>		
Company:	Name :	Phone:  Fax:
Address:_____		
City, State:_____		Zip Code:_____
Email Address:_____		
<b>CONSULTANT</b>		
Company:	Name :	Phone:  Fax:
Address:_____		
City, State:_____		Zip Code:_____
Email Address:_____		
<b>CONSULTANT</b>		
Company:	Name :	Phone:  Fax:
Address:_____		
City, State:_____		Zip Code:_____
Email Address:_____		

OWNER		
Company : McWhinney	Name : Centerra Commercial LLC and CPW	Phone: 970.776.4055 Fax: 970.635.3003
Address: 2725 Rocky Mountain Avenue, Suite 200 City, State: Loveland, CO Zip Code: 80538		
Email Address: Peter.Pauener@McWhinney.com		
SITE		
<b>Site Use and Zoning</b> Existing Use: Undeveloped Proposed Use: Millennium PUD Existing Zoning: Millennium PUD		<b>Existing Adjacent Zoning and/or Use</b> North Side: GDP Crossroads Bus Park/I South Side: Millennium PUD/Commercial West Side: Interstate Highway 25 East Side: Millennium PUD/Undeveloped
<b>Other Information</b> Number of Units Existing: N/A Number of Units Proposed: Number of Lots Proposed: Non-Residential Bldg. Area (Sq. Ft.) Proposed: Total Number of Parking Spaces:		<b>Acreage of Site</b> Gross: 4.02 Ac Right-of-Way: Net: <b>Utility Services Provided by</b> Water: S/A Wastewater: Electric:
FEMA FLOODPLAIN		
Is any portion located in a FEMA floodplain?  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		* If Yes, please submit legal description

DESIGNATION OF OWNER'S REPRESENTATIVE		
The undersigned owner(s) agree(s) that (please print name)		
Kim Perry represents the undersigned in all matters pertaining to this project, including subsequent modifications to the application.		
Owner		
Signature: 	Date: 11/8/2018	
ACKNOWLEDGMENTS		
I, as the Owner or Owner's Representative, hereby acknowledge that the application is correct and complete as per the specifications in the submittal checklist.		
Owner or Owner's Representative		
Signature: 	Date: 11/15/18	
Printed Name: Peter Lauener, President		

## Vicinity Map

City of Loveland PZ#18-179

Centerra Emergency Access Easement Vacation





410 East 5<sup>th</sup> Street  
Loveland, Colorado  
970.962.2523

November 16, 2018

Carol Dowding, Chairwoman  
City of Loveland Planning Commission  
410 E. 5<sup>th</sup> Street  
Loveland, CO 80537

RE: Planning Commission Report Templates

Dear Chairwoman Dowding:

As part of the implementation process for the Unified Development Code (UDC), staff is researching and drafting new Planning Commission report templates. As part of that process, we are seeking your input on what you would like to see in reports coming to you in the future. Prior to the November 26<sup>th</sup> Planning Commission meeting, please take a few minutes to think about the following questions:

1. What information do you look for first in staff reports?
2. What parts of staff reports do you rarely or never read?
3. What information do you want to see on the first page?
4. Do you prefer graphics in the body of the report or as a separate attachment?
5. What do you like about our current staff reports?
6. What would you change about our staff reports?
7. How could current staff reports be made better?

Included as part of this package are sample reports from other cities, a staff report in our current format as well as that same report in a different format. Please use these samples to generate ideas on how we can improve our reports.

Sincerely,

Jennifer Hewett-Apperson, AICP  
Senior Planner  
City of Loveland  
Phone: (970) 962-2557  
Email: [Jennifer.Hewett-Apperson@cityofloveland.org](mailto:Jennifer.Hewett-Apperson@cityofloveland.org)



410 East 5<sup>th</sup> Street  
Loveland, Colorado  
970.962.2523

Attachments:

1. Current Report Format: West Creek Annexation & Rezoning
2. Sample Revised Format: West Creek Annexation & Rezoning
3. Sample Planning Commission Reports from other local governments
  - a. Boulder
  - b. Longmont
  - c. Denver
  - d. Colorado Springs



**Current Planning Division**  
 410 E. 5th Street • Loveland, CO 80537  
 (970) 962-2523 • [eplan-planning@cityofloveland.org](mailto:eplan-planning@cityofloveland.org)  
[www.cityofloveland.org/DC](http://www.cityofloveland.org/DC)

## Planning Commission Staff Report

February 12, 2018

**Agenda #:** Regular Agenda - 1  
**Title:** West Creek Addition (PZ 17-217)  
**Applicant:** Pat Travis, Travis Cleanair, Inc.  
 represented by Deanne  
 Frederickson, AGPROfessionals  
**Request:** **Annexation and Zoning  
 (Conventional)**  
**Location:** Southeast corner of State Highway  
 402 and County Road 9

**Create Loveland  
 Comprehensive  
 Plan Land Use  
 Designation:** E - Employment  
**Existing Zoning:** FA - Farming  
**Proposed Zoning:** I – Developing Industrial  
**Staff Planner:** Troy Bliss

### **Staff Recommendation**

**CONDITIONAL APPROVAL** of the Annexation and Zoning.

### **Recommended Motions:**

1. *Move to make the findings listed in Section VII of the Planning Commission staff report dated February 12, 2018, and, based on those findings, recommend that City Council approve the West Creek Addition – Serial 1, 2 and 3 in this sequence, subject to the conditions listed in Section VIII, as amended on the record, and zone the addition to I – Developing Industrial.*

### **Summary of Analysis**

The public hearing is to consider the following items:

- Annexation of 9.7 acres of property owned by Pat Travis, Travis Cleanair, Inc., and;
- Zone the property I – Developing Industrial to allow future development.

The proposal is to annex and incorporate the 9.7 acre property into the City for future development that is intended to comprise employment/industry uses. Upon annexation/zoning, the property is planned to be subdivided into three (3) separate lots. The southern most lot is intended to develop first – a small indoor manufacturing facility that produces module cleanrooms for pharmacies, hospitals, etc. across the country (*Travis Cleanair, Inc. Custom Cleanroom Suites*) would relocate to this location.

Concerns regarding the annexation and future development of the property have been expressed by surrounding neighbors. These concerns generally include increased traffic volumes, change in the rural character of the area, lack of infrastructure, and the City master plan creating employment land uses around existing rural residential/farming properties.

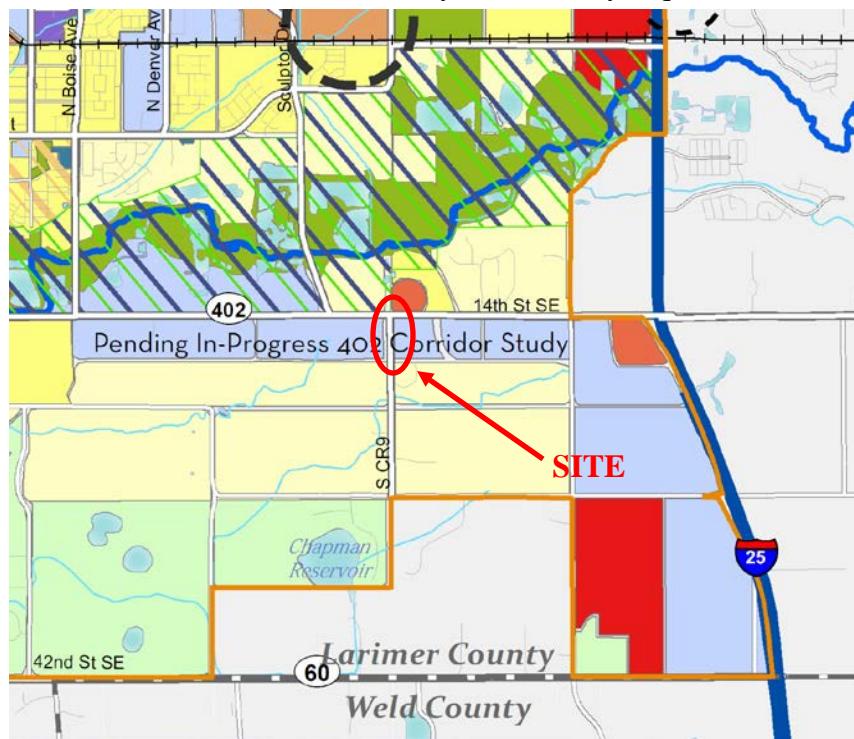
## I. SUMMARY

This proposal is to annex 9.7 acres of land owned by Pat Travis and rezone from its current Larimer County designation of FA – Farming to I – Developing Industrial. The primary purpose in pursuing annexation/zoning is to allow future development of the property in a manner consistent with the City's Comprehensive Plan, relative to the employment land use designation. The property is planned to be subdivided into three (3) lots of approximately 2 acres each with initial development of a light indoor manufacturing facility. Development would result in County Road 9 being constructed in its ultimate configuration (widened to a minor arterial with appropriate lane configurations/turn lanes) along the frontage. Curb/gutter/sidewalk reserved for future construction. From a utility perspective, the City does not have infrastructure (i.e. water, sanitary sewer, and electric) extended to this portion of Loveland. Consequently, until City infrastructure is in place, the following outside services would have to be provided to support development:

- Little Thompson Water District (water);
- Larimer County - septic systems for each lot, and;
- Poudre Valley REA (power).

### Location/Land Use

The property is located at the southeast corner of State Highway 402 and County Road 9. The entire 300+ linear feet of property along State Highway 402 is contiguous to the City's municipal boundary. However, this alone did not satisfy the statutory requirement for contiguity (1/6) given the total parcel



preferred location and design of street networks and access points and develops appropriate design standards for future development.

boundary of approximately 3,900+ linear feet. Consequently, in order to comply with state statutes, a serial annexation has been created that achieves contiguity through three (3) sequenced annexations (**Attachment D**). In addition to having a land use designation of E - Employment, Create Loveland Comprehensive Plan identifies the location of this property within the City's Growth Management Area (GMA). The GMA is an area where urban-level services are planned to be provided and that the City intends to annex such properties (if not already incorporated). State Highway 402 will also be undergoing a corridor study designed to establish a management plan that identifies the

### Site Characteristics

The subject property slopes from south to north. No existing structures mature vegetation exists. It is anticipated that the property was once flood irrigated crop land and pasture but has not been used for such

purposes for quite some time. A Phase I Environmental Site Assessment was conducted for the property in November 2017 (see **Attachment C**). No recognized environmental conditions were identified.

#### Development Process

Annexation and zoning is the first of three steps in developing the subject property in the city. Annexation requires findings of compliance with State Statutes regarding contiguity with municipal boundaries, an intent to develop at an urban level and an indication that the property can be served with infrastructure. Additionally, annexations are subject to compliance with the Intergovernmental Agreement with Larimer County, which requires the annexation of properties located within the city's growth management area that are eligible for annexation. In determining appropriate zoning, the city's comprehensive master plan and associated philosophies describe the city's vision for development.

The second planning step for development is subdividing to create buildable/legal lots of record (currently undergoing review by the City's Development Review Team (DRT)). This subdivision process is referred to as a Minor Subdivision that will create three (3) separate lots out of the property being annexed. No neighborhood meeting or public hearings will be held in consideration of approving the subdivision. However, the subdivision cannot be approved unless the annexation/zoning is approved.

The last planning step is development plans for each lot proposed to be developed. It is anticipated that these will be done separately and over time. Process for each development plan will be based on proposed use under the industrial zone. The first development plan for the small indoor manufacturing facility associated with cleanrooms would be allowed by-right in the industrial zone (current zoning code and proposed zoning code) which is administratively reviewed and approved, and includes the final detailed site designs.

This process is being identified because of the neighborhood concerns outlined below in Section VI of this staff report. Much of the concerns focus around development, whereas with annexation and zoning, development cannot be communicated in detail because such details are unknown now. This creates confusion as the development process demonstrates; annexation and zoning would likely be the only advertised public participation in arriving at a decision associated with development.

## **II. ATTACHMENTS**

- A. Project Description provided by the Applicant
- B. Neighborhood Correspondence
- C. Phase I Environmental Site Assessment (excluding appendix)
- D. Annexation Map

## **III. SITE DATA**

ACREAGE OF SITE GROSS .....	9.7 AC
MASTER PLAN DESIGNATION .....	E - EMPLOYMENT
EXISTING ZONING .....	LARIMER COUNTY FA FARMING
PROPOSED ZONING .....	I – DEVELOPING INDUSTRIAL
EXISTING USE .....	VACANT/UNDEVELOPED
PROPOSED USE.....	EMPLOYMENT/INDUSTRY USES

EXIST ADJ ZONING & USE - NORTH .....	MAC – MIXED-USE ACTIVITY CENTER (OLSON ADDITION) -
EXIST ADJ ZONING & USE - SOUTH.....	COUNTY FA FARMING – RURAL RESIDENTIAL/FARMING
EXIST ADJ ZONING & USE - WEST.....	COUNTY FA FARMING – RURAL RESIDENTIAL/FARMING
EXIST ADJ ZONING & USE - EAST.....	COUNTY FA FARMING – RURAL RESIDENTIAL/FARMING
UTILITY SERVICE – WATER, SEWER.....	LITTLE THOMPSON WATER DISTRICT (WATER) AND LARIMER COUNTY (SEPTIC SYSTEMS)
UTILITY SERVICE – ELECTRIC .....	POUDRE VALLEY REA

#### **IV. KEY ISSUES**

#### **V. BACKGROUND**

#### **VI. STAFF, APPLICANT, AND NEIGHBORHOOD INTERACTION**

- A. Notification:** An affidavit was received from Deanne Frederickson, AGPROfessionals certifying that written notice was mailed to all property owners within 1,200 feet of the property on January 24, 2018, and notices were posted in prominent locations on the perimeter of the site at least 15 days prior to the date of the Planning Commission hearing. There were no mineral owners associated with the property. In addition, a notice was published in the Reporter Herald on January 27, 2018. All notices indicated that the Planning Commission would hold a public hearing concerning the West Creek Addition on February 12, 2018.
- B. Neighborhood Response:** A neighborhood meeting was held at 6:00 p.m. on January 4, 2018, at the City of Loveland Development Center. The meeting was attended by 30-40 neighbors and interested parties along with City staff, the applicant and their consultant. At the meeting, concerns voiced regarding development of the property.

## VII. FINDINGS AND ANALYSIS

The chapters and sections cited below are from the Loveland Municipal Code.

### **1. Annexation and Zoning**

#### **Annexation Policies and Eligibility**

1. **Create Loveland: Development Review and Consistency, Annexation:** *The annexation complies with the laws of the State of Colorado regarding annexation.*
2. **Loveland Municipal Code, Section 17.04.020:** *The annexation complies with the laws of the State of Colorado regarding annexation and the property proposed for annexation is otherwise eligible to be annexed because there is at least one-sixth contiguity between the City and the area seeking annexation and there is no evidence that two or more of the following conditions have been met:*
  - a. *Less than 50% of the adult residents of the area proposed to be annexed use some of the recreation, civic, social, religious, industrial or commercial facilities of the municipality and less than 25% of its adult residents are employed in the annexing municipality.*
  - b. *One-half or more of the land proposed to be annexed is agricultural, and the landowners of such agricultural land have expressed an intention under oath to devote the land to agricultural use for at least five years.*
  - c. *It is not physically practical to extend urban service which the municipality provides normally.*

Planning: Staff believes that this finding can be met, based on the following facts:

- The annexation complies with the Colorado State Statutes regarding annexation of lands and is within the City's Growth Management Area (GMA).
- No enclaves will be created by this annexation and there is no evidence that two or more of the conditions listed in Section 17.04.020 of the Municipal Code, cited above, have been met.
- The development of the property will encourage a compact pattern of urban development. The land is immediately contiguous to the Mirasol development to the south and single family residential to the east that are within the city limits and are already receiving City services.
- The annexation complies with the Intergovernmental Agreement with Larimer County to annex property within the City's GMA that are eligible for annexation.

## **B. City Utilities/Services and Transportation**

### **1. Loveland Municipal Code**

#### **a. Section 17.04.040:**

**(i) Whether certain public facilities and/or community services are necessary and may be required as a part of the development of any territory annexed to the City in order that the public needs may be served by such facilities and services. Such facilities include, but are not limited to, parks and recreation areas, schools, police and fire station sites, and electric, water, wastewater and storm drainage facilities. Such services include, but are not limited to, fire and police protection, provision of water, and wastewater services.**

- (ii) Whether the annexation and development pursuant to the uses permitted in the zone district will create any additional cost or burden on the existing residents of the City to provide such facilities and services in the area proposed for annexation.
- (iii) The annexation complies with the water rights requirements set forth in Title 19 of the Loveland Municipal Code.

b. **Section 17.04.040:** Whether all existing and proposed streets in the newly annexed property are, or will be, constructed in compliance with City street standards, unless the City determines that the existing streets will provide proper access during all seasons of the year to all lots and that curbs, gutters, sidewalks, bike lanes, and other structures in compliance with City standards are not necessary to protect public health, safety, and welfare.

c. **Section 18.04.010:** The zoning, as proposed, would: lessen congestion in the streets; secure safety from fire, panic, and other dangers; and promote health and general welfare.

Transportation: Staff believes that this finding can be met, based on the following facts:

- Annexing and zoning property does not warrant compliance with the City's Adequate Community Facilities (ACF) ordinance. A condition is recommended to clearly ensure that all future development or land application within this proposed property shall be in compliance with the City of Loveland Street Plan, the Larimer County Urban Area Street Standards and any updates to either in effect at the time of development application.
- As identified in the City Municipal Code Title 16, a Traffic Impact Study will be required with all future development or other land use applications. The annexation will also be required to dedicate, free and clear, all applicable right-of-way to the City, at no cost to the City, at the time of development.
- Pending future proposed development within this property, of which review and approval by the City is required, the Transportation Engineering staff does not object to the proposed annexation and zoning.

Fire: Staff believes that this finding can be met, based on the following facts:

- The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company.
- The proposed annexation/zoning will not negatively impact fire protection for the subject development or surrounding properties.
- Pending future proposed development within this property, of which review and approval by the Fire Authority is required, staff does not object to the proposed annexation and zoning.

Water/Wastewater: Staff believes that this finding can be met, based on the following facts:

- The subject annexation is situated within the City's current service area for both water and wastewater. The existing house at 510 S St. Louis Ave has an approved water tap to serve City water to the house. The existing house is assumed to be on a private septic system. Annexation water was paid at the time of the approval of the water tap.
- The Department finds that the annexation and zoning is consistent with the Department's Water and Wastewater master plan.
- Public water and wastewater facilities are available to serve the development with the extension of water and wastewater mains as identified in the general development plan.

Power: Staff believes that this finding can be met, based on the following facts:

- The Department finds that the annexation and zoning is consistent with the Department's Power master plan.
- The property is currently being served by the City of Loveland for power services.
- Public facilities are available to serve the development.

Stormwater: Staff believes that this finding can be met, based on the following facts:

- With the annexation and future development, the Developer will engineer certain Stormwater facilities that will adequately collect, detain, and release Stormwater runoff in a manner that will eliminate off-site impacts.
- Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and service master plans.

## C. Land Use

### 1. Create Loveland Comprehensive Master Plan: Development Review and Consistency

- a. *The proposal is consistent with the Policies and Supporting Strategies in Chapter 2: Our Future*

Planning: Staff believes that this finding can be met, based on the following facts:

- Create Loveland identifies the area proposed for annexation as being in a designated opportunity area that encourages complete neighborhoods and a revitalization of the corridors. Specifically the plan calls out the potential for development of new mixed density neighborhoods at a greater density than currently existing in the neighborhood.
- The development supports policies contained in Create Loveland including:
  - Providing housing needs of low and moderate income households and the development of diverse housing types;
  - Responding to trends in Loveland's demographics by encouraging housing diversity, accessibility, and affordability; and
  - Work to ensure housing affordability for existing residents, particularly for the elderly, to allow for aging within the community.
- A preliminary development plan application, which is the next step in the development process, requires a neighborhood meeting and a public hearing with the Planning Commission. This will provide the neighborhood with an opportunity to participate and provide input on development of the property.

- b. *The proposal is consistent with the Land Use Plan and Land Use Designations contained in Chapter 3: Our Places*

Planning: Staff believes that this finding can be met, based on the following facts:

- The land use plan designates the site as medium density residential. This category allows for a variety of housing types at a moderate density. The targeted density range is 4-10 units per acre with building heights between 1-4 stories. With the annexation property, the Mirasol development would have a density of 9.5 units per acre, which is consistent with the plan.
- The highest priority mode of transportation in the medium density residential designation

emphasizes pedestrian movement with detached sidewalks, off-street trail systems and connections to neighborhoods and commercial centers. The GDP requires detached walks along all streets and emphasizes pedestrian movement through internal walks connecting to the Mirasol events center and looping through the development.

## 2. Loveland Municipal Code

### a. Section 18.04.010:

- (i) *Whether the zoning will provide adequate light and air; prevent overcrowding of land; avoid undue concentration of population; and facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.*
- (ii) *The character of the district and the particular uses permitted by right in the district will preserve the value of buildings and encourage the most appropriate use of land.*

Planning: Staff believes that this finding can be met, based on the following facts:

- Development of the property will provide adequate light and air and prevent overcrowding of the land. The density of the development aligns with the city's vision established in the land use plan. While the apartment building will be 3 stories, street side bufferyards and interior landscaping will be provided.
- The zoning for the property proposed for annexation will match the character of the Mirasol development and encourages the most appropriate use of the land, based on the city's vision in Create Loveland. The plan further identifies the neighborhood as an area targeted for change with mixed density development.
- As the project is contiguous to existing developments receiving city services, an extension of infrastructure services is practical. The existing house is already served by city water and power.

## D. Miscellaneous

### 1. Loveland Municipal Code, Section 17.04.040.F: *Whether the annexation is in the best interest of the citizens of the City of Loveland.*

Planning: Staff believes that this finding can be met, based on the following facts:

- The development supports policies in the comprehensive plan.
- The proposal aligns with the city's vision for redevelopment.
- The property is within the city's growth management area and complies with the city's Intergovernmental Agreement with Larimer County.

### 2. Loveland Municipal Code, Section 18.41.050.D.4.c: *Whether the GDP incorporates environmentally sensitive areas into the project design. Environmentally sensitive areas include, but are not limited to, wetlands, wildlife habitat and corridors, slopes in excess of 20%, flood plain, soils classified as having high water table, stream corridors, and mature stands of vegetation.*

Planning: Staff believes that this finding can be met, based on the following fact:

- An environmentally sensitive areas report was submitted with the annexation and GDP and was prepared by Cedar Creek Associates (see **Attachment C**). The report indicates that the only unique habitat within the project area is the woodland habitat created by the historic tree farm area and adjacent residential trees. The environmental report recommends that the larger, healthy trees be preserved to the extent possible and outlines

timing restrictions for tree removal based on the songbird nesting season. Conditions of approval are recommended in this staff report in alignment with the environmental report.

**F. Mineral Extraction Colorado Revised Statute:** *The proposed location and the use of the land, and the conditions under which it will be developed, will not interfere with the present or future extraction of a commercial mineral deposit underlying the surface of the land, as defined by CRS 34-1-3021 (1) as amended.*

Planning: Staff believes that this finding can be met, due to the following facts:

- There are no severed mineral leasehold owners on the property.
- A geologic hazards and mineral extraction evaluation report was submitted with the annexation and was prepared by Earth Engineering Consultants, LLC. The report indicated that no apparent significant geologic hazards exist on the property. Additionally the report indicates that due to the existing surrounding developments, small parcel size, depth of overburden clay and relatively thin sand and gravel lens, the deposit would not classify as “a commercial resource” under Colorado House Bill –HB 1529.

### **III. RECOMMENDED CONDITIONS**

The following annexation conditions are recommended by City Staff.

1.



**Current Planning Division**  
 410 E. 5th Street • Loveland, CO 80537  
 (970) 962-2523 • [eplan-planning@cityofloveland.org](mailto:eplan-planning@cityofloveland.org)  
[www.cityofloveland.org/DC](http://www.cityofloveland.org/DC)

## Planning Commission Staff Report

### January 01, 2019

West Creek Addition		
Agenda #: Regular Agenda - 1	PZ #17-217	Annexation & Conventional Zoning
Location	Southeast corner of State Highway 402 and County Road 9	

### Development Review Team Recommended Motion(s)

#### *Staff Recommendation*

**CONDITIONAL APPROVAL** of the Annexation and Zoning.

#### *Recommended Motions:*

1. *Move to make the findings listed in Section VII of the Planning Commission staff report dated February 12, 2018, and, based on those findings, recommend that City Council approve the West Creek Addition – Serial 1, 2 and 3 in this sequence, subject to the conditions listed in Section VIII, as amended on the record, and zone the addition to I – Developing Industrial.*

### Project Summary Brief

#### *Summary of Analysis*

The public hearing is to consider the following items:

- Annexation of 9.7 acres of property owned by Pat Travis, Travis Cleanair, Inc., and;
- Zone the property I – Developing Industrial to allow future development.

The proposal is to annex and incorporate the 9.7 acre property into the City for future development that is intended to comprise employment/industry uses. Upon annexation/zoning, the property is planned to be subdivided into three (3) separate lots. The southernmost lot is intended to develop first – a small indoor manufacturing facility that produces module cleanrooms for pharmacies, hospitals, etc. across the country (*Travis Cleanair, Inc. Custom Cleanroom Suites*) would relocate to this location.

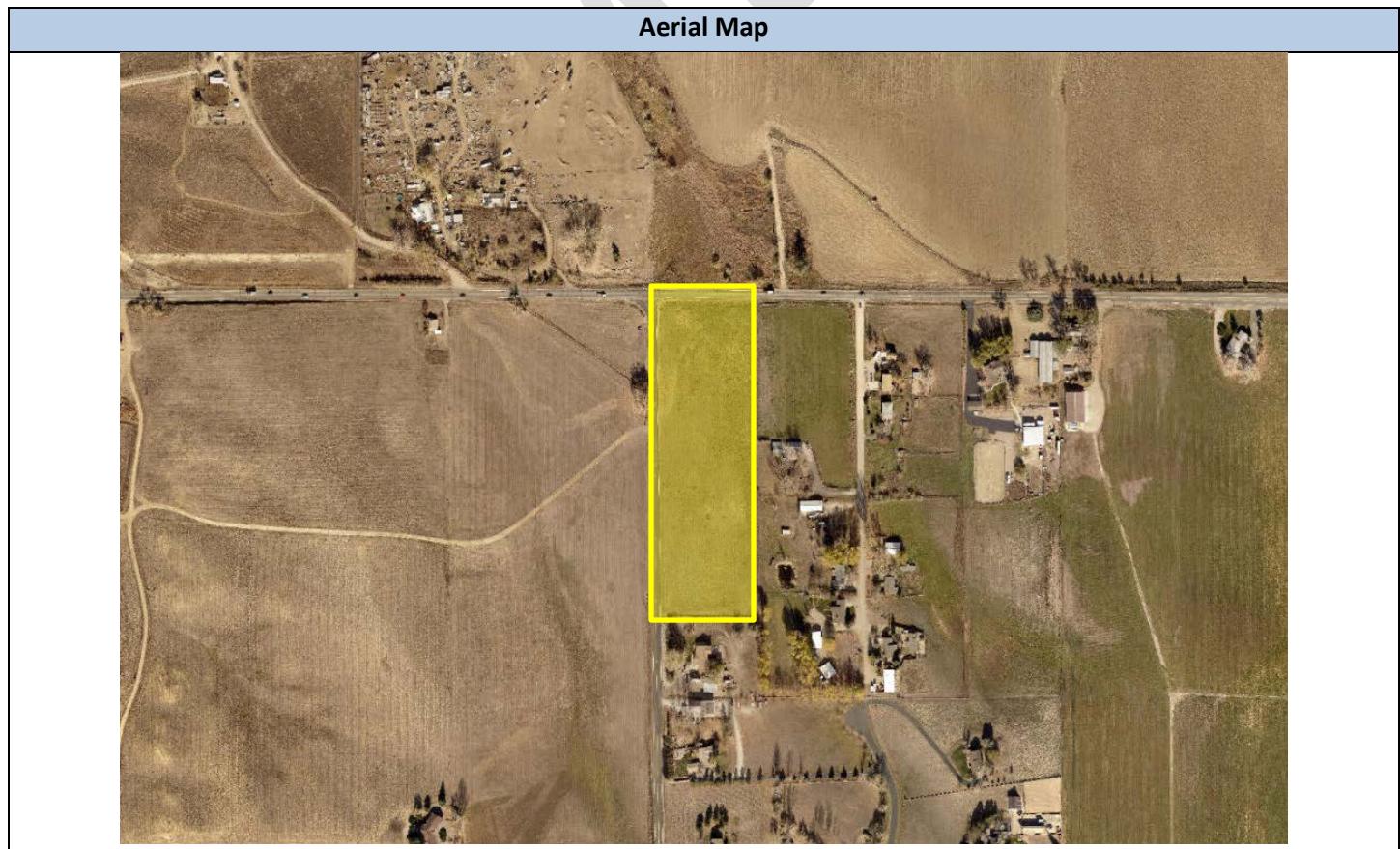
Concerns regarding the annexation and future development of the property have been expressed by surrounding neighbors. These concerns generally include increased traffic volumes, change in the rural character of the area, lack of infrastructure, and the City master plan creating employment land uses around existing rural residential/farming properties.

Applicant Information	Development Review Team Contacts
Applicant: Deanne Frederickson, AGPROfessionals	Planner: Troy Bliss Traffic Engineer: Randy Maizland LFRA: Ingrid McMillan-Ernst
Property Owner: Pat Travis, Travis Cleanair, Inc.	Stormwater: Kevin Gingery Power: Mark Warner Water & Sewer: Melissa Morin

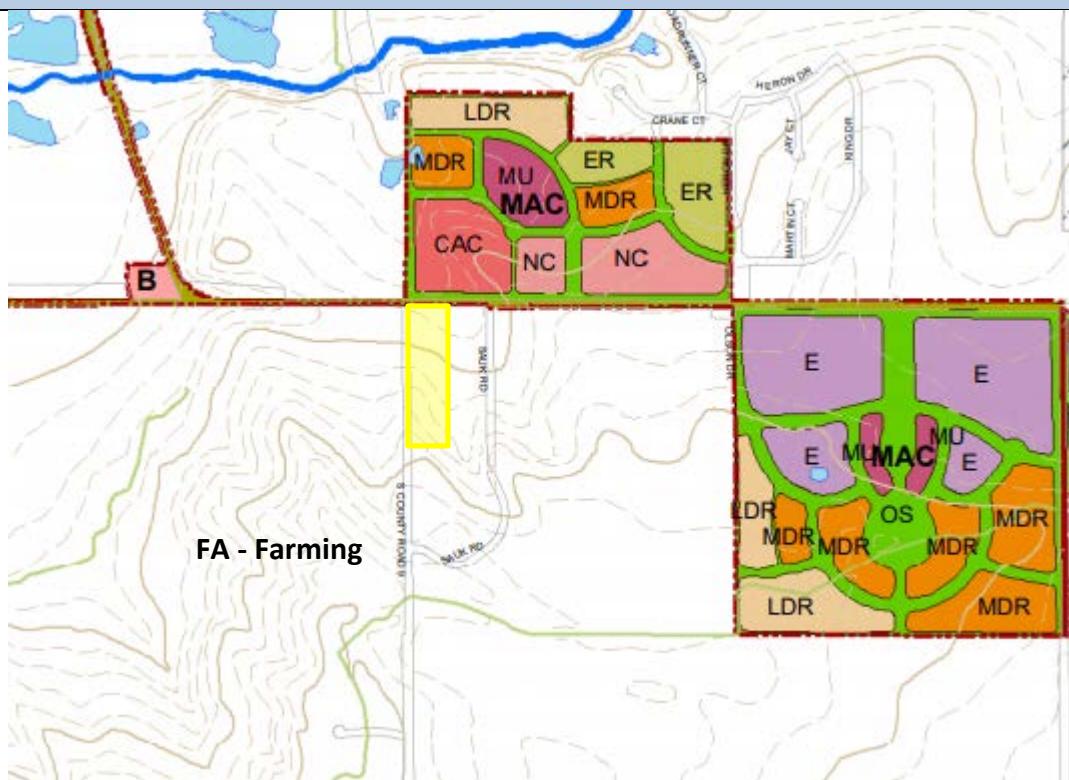
## Planning Commission Hearing January 1, 2019

Site Data	
Address/Location	Southeast corner of State Highway 402 and County Road 9
Subdivision	Portion of S28 T05 R68
Land Area	9.7 acres
Existing Buildings	n/a
Topography	Slopes from south to north
Access	Primary access will be from County Road 9
Water Provider	Little Thompson Water District
Wastewater Provider	Private Septic
Electric Provider	Poudre Valley REA
Gas Provider	Xcel Energy
Floodplain	n/a
Other	n/a

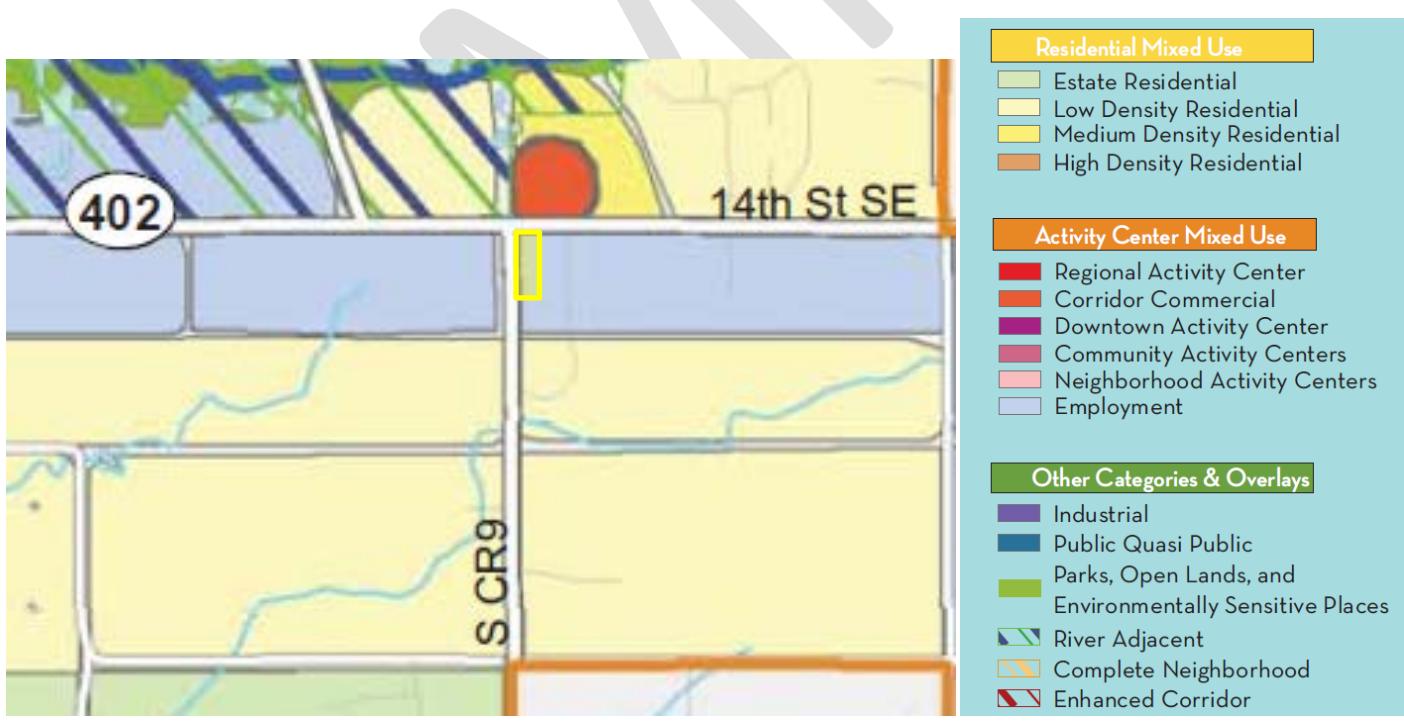
Subject Property and Adjacent Property Designations			
	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	FA-Farming	Employment	Vacant
Adjacent North	MAC	Employment	Olson Addition/Farming
Adjacent South	FA-Farming	Employment	Rural Residential/Farming
Adjacent East	FA-Farming	Employment	Rural Residential/Farming
Adjacent West	FA-Farming	Employment	Rural Residential/Farming



Zoning Map



Future Land Use Map



## Planning Commission Hearing January 1, 2019

Relevant Case History			
PZ#	Date	Request	Action
n/a	n/a	n/a	n/a

Relevant Zoning District Regulations		
I - Industrial District	Required	Proposed
Lot Area	1 acre	9.7 acres
Lot Frontage	100 ft	1010 ft
Maximum Building Heights	50 ft	35 ft
Maximum Lot Coverage	n/a	TBD
Minimum Building Setback:		
• Front	25 ft	25 ft
• Rear	0 ft	25 ft
• Side	0 ft	25ft
• Street Side	25 ft	80 ft
Minimum Parking Requirements:	1 sp/500 sf	TBD
Buffer yards	15 ft	20 ft

Planning Commission Criteria and Findings for Approval or Denial	
Pursuant to Section 18.17.104 of the City of Loveland Unified Development Code, the Planning Commission shall consider the following criteria for annexation of property into the City of Loveland:	
Criteria	Findings
<p>A. <b>Generally.</b> The City Council may consider an annexation application only after approving a resolution finding that the application complies with the eligibility criteria contained in C.R.S. §§ 31-12-104 and 31-12-105, or C.R.S. § 31-12-106.</p> <p>B. <b>Public Facilities and Community Services.</b> The City Council will not adopt an annexation ordinance until such time that it determines that the current requirements for public facilities and community services (defined herein), as the City determines to be necessary and required in the area proposed to be annexed, have been fulfilled, and that there is an appropriate mechanism in place to assure that the future requirements for such public facilities and community services will be fulfilled.</p> <ol style="list-style-type: none"> <li>As used in this subsection, the phrase “public facilities” includes, but is not limited to, streets, sidewalks, bike lanes, bridges, parks and recreation areas, schools, police or fire station sites, water and wastewater, and storm drainage facilities.</li> <li>As used in this subsection, the phrase “community services” includes, but is not limited to fire and police protection and provision of water and wastewater services.</li> </ol>	<p>A. The annexation complies with the Colorado State Statutes regarding annexation of lands and is within the City's Growth Management Area (GMA).</p> <p>No enclaves will be created by this annexation and there is no evidence that two or more of the conditions listed in Section 17.04.020 of the Municipal Code, cited above, have been met.</p> <p>The development of the property will encourage a compact pattern of urban development. The land is immediately contiguous to the Mirasol development to the south and single family residential to the east that are within the city limits and are already receiving City services.</p> <p>The annexation complies with the Intergovernmental Agreement with Larimer County to annex property within the City's GMA that are eligible for annexation.</p> <p>B. <b>Transportation:</b> <u>Staff believes that this finding can be met</u>, based on the following facts:</p> <ul style="list-style-type: none"> <li>Annexing and zoning property does not warrant compliance with the City's Adequate Community Facilities (ACF) ordinance. A condition is recommended to clearly ensure that all future development or land application within this</li> </ul>

<p><b>C. Other Annexation Considerations.</b> After approving the resolution described in subsection A., above, the City Council may consider the following prior making a decision about the adoption of an annexation ordinance:</p> <ol style="list-style-type: none"> <li>1. <i>Consistency with Comprehensive Plan.</i> Whether the applicant has demonstrated that the proposed annexation of land is consistent with the Comprehensive Plan.</li> <li>2. <i>Impact on Existing Residents of the City.</i> Whether the annexation of lands to the City creates any additional cost or burden on then-existing residents of the City to provide public facilities and additional community services in any newly-annexed area.</li> <li>3. <i>Impact on School Districts.</i> Whether the applicant has demonstrated that the applicant arranged with the school district regarding the dedication of school sites, or payment of fees in lieu of said dedication, as may be agreed to among the applicant, the school district and the City.</li> <li>4. <i>Intergovernmental Agreements.</i> Whether the applicant has demonstrated that the proposed annexation of land is in compliance with all pertinent intergovernmental agreements to which the City is a party.</li> <li>5. <i>Streets; Compliance with City Standards.</i> All existing and proposed streets in newly annexed territory shall be constructed in compliance with all current City standards unless the City determines that the existing streets will provide appropriate access during all seasons of the year to all lots fronting on each street; and that the curbs, gutters, sidewalks, bike lanes, culverts, drains, and other structures necessary to the use of such streets or highways are satisfactory or not necessary to promote public safety. The location, type, character and dimensions of all structures and the grades for all existing or proposed street work shall be subject to approval by the City.</li> <li>6. <i>Water Rights.</i> The annexation shall comply with the water rights requirements of Title 19, Loveland Municipal Code.</li> </ol>	<p>proposed property shall be in compliance with the City of Loveland Street Plan, the Larimer County Urban Area Street Standards and any updates to either in effect at the time of development application.</p> <ul style="list-style-type: none"> <li>• As identified in the City Municipal Code Title 16, a Traffic Impact Study will be required with all future development or other land use applications. The annexation will also be required to dedicate, free and clear, all applicable right-of-way to the City, at no cost to the City, at the time of development.</li> <li>• Pending future proposed development within this property, of which review and approval by the City is required, the Transportation Engineering staff does not object to the proposed annexation and zoning.</li> </ul> <p><b>Fire:</b> <u>Staff believes that this finding can be met</u>, based on the following facts:</p> <ul style="list-style-type: none"> <li>• The site will comply with the requirements in the ACF Ordinance for response distance requirements from the first due Engine Company.</li> <li>• The proposed annexation/zoning will not negatively impact fire protection for the subject development or surrounding properties.</li> <li>• Pending future proposed development within this property, of which review and approval by the Fire Authority is required, staff does not object to the proposed annexation and zoning.</li> </ul> <p><b>Water/Wastewater:</b> <u>Staff believes that this finding can be met</u>, based on the following facts:</p> <ul style="list-style-type: none"> <li>• The subject annexation is situated within the City's current service area for both water and wastewater. The existing house at 510 S St. Louis Ave has an approved water tap to serve City water to the house. The existing house is assumed to be on a private septic system. Annexation water was paid at the time of the approval of the water tap.</li> <li>• The Department finds that the annexation and zoning is consistent with the Department's Water and Wastewater master plan.</li> <li>• Public water and wastewater facilities are available to serve the development with the extension of water and wastewater mains as identified in the general development plan.</li> </ul> <p><b>Power:</b> <u>Staff believes that this finding can be met</u>, based on the following facts:</p> <ul style="list-style-type: none"> <li>• The Department finds that the annexation and</li> </ul>
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**Planning Commission Hearing January 1, 2019**

<p>7. <i>Best Interest of Citizens.</i> Whether the proposed annexation is in the best interest of the citizens of the City of Loveland.</p>	<p>zoning is consistent with the Department's Power master plan.</p> <ul style="list-style-type: none"> <li>• The property is currently being served by the City of Loveland for power services.</li> <li>• Public facilities are available to serve the development.</li> </ul> <p>Stormwater: <u>Staff believes that this finding can be met</u>, based on the following facts:</p> <ul style="list-style-type: none"> <li>• With the annexation and future development, the Developer will engineer certain Stormwater facilities that will adequately collect, detain, and release Stormwater runoff in a manner that will eliminate off-site impacts.</li> <li>• Development of the subject property pursuant to any of the uses permitted by right under the zoning district would result in impacts on City infrastructure and services that are consistent with current infrastructure and service master plans.</li> </ul>
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**Pursuant to Section 18.17.10 of the City of Loveland Unified Development Code, the Planning Commission shall consider the following criteria for zoning amendments:**

Criteria	Findings
<p>B. 1. It is the policy of the City not to rezone property in a manner that would create or facilitate the creation of development rights or entitlements that would either:</p> <ol style="list-style-type: none"> <li>a. Reduce the level of protection for significant natural resources that exist on the subject property; or</li> <li>b. Expose additional people or personal property to unmitigated natural hazards that are present on the subject property (e.g., fire, flood, or geological hazards).</li> </ol>	<p>The proposed zoning would not impact natural resources or increase exposure to natural hazards.</p>
<p>B. 2. This policy may be waived upon a finding by the City Council that:</p> <ol style="list-style-type: none"> <li>a. Alternative means have been implemented to achieve a comparable or better level of resource protection (e.g., conservation easements, development agreements, or other comparable mechanisms for resource protection); or</li> <li>b. The policy is outweighed by a substantial community interest that is served by approval of the rezoning (see Subsection C.1., below).</li> </ol>	<p>n/a</p>
<p>C.1. The proposed zone, as applied to the subject property, is consistent with its land use designation in the Comprehensive Plan or an amendment to the</p>	<p>The proposed I – Industrial zone is consistent with the Employment land use designation in the Comprehensive Plan.</p>

Planning Commission Hearing January 1, 2019

<p>Comprehensive Plan is approved in accordance with Section 4 of the Comprehensive Plan prior to the approval of the rezoning application.</p>	
<p>C. 2. Rezoning to the proposed zone will provide a benefit to the community or immediate area that cannot be provided under the existing zone, and the balance between the anticipated benefit, if any, and the anticipated burden on the community or immediate area, if any, is either neutral or favors the rezoning.</p>	<p>The proposed rezoning would enable the development of the subject property in a manner that would generate employment beyond what is possible in the County Farming district.</p>
<p>C. 3. The proposed zone would not cause an I zone to share a boundary with an ER, R1e, R1, R2, R3e, or R3 zone, unless there is sufficient land area on the subject property to provide a buffer, as set out in <a href="#">Division 18.08.03, Standards for Bufferyards</a>, and a development agreement is approved to mitigate use incompatibilities with fencing, walls, landscaping, noise and lighting restrictions, or other appropriate techniques.</p>	<p>The proposed I zone would not be adjacent to property zoned for strictly residential use.</p>
<p>C. 4. Adequate community facilities are available to serve development in the proposed zone in accordance with <a href="#">Section 18.15.205, Determination Regarding Adequacy</a>; or the proposed zone would limit demands upon community facilities more than the existing zone; or reasonable assurances are provided that adequate community facilities will be made available to serve new development by the time the new development places demands on the facilities.</p>	<p>Adequate Community Facilities exist as described previously.</p>
<p><b>D. Additional Findings.</b> The City Council may approve an application for rezoning upon a determination that at least one of the following three criteria has been met. This finding is in addition to the findings regarding the criteria of subsections B. and C., above:</p>	<p>n/a</p>
<p><i>1. Alternative #1: Plan Implementation.</i> The proposed zone is more appropriate than the existing zone to implement an adopted or approved current City plan that was developed with public input (e.g., the Comprehensive Plan, the Highway 287 Strategic Plan, etc.).</p>	<p>n/a</p>
<p><i>2. Alternative #2: Change in Character of the Area.</i> The City Council finds that the proposed zone is more appropriate than the existing zone because:</p> <ol style="list-style-type: none"> <li>There has been a change in character or capacity of public infrastructure in the area (e.g., installation of public facilities, other zone</li> </ol>	<p>n/a</p>

## Planning Commission Hearing January 1, 2019

<p>changes, new growth trends, deterioration, development transitions, etc.); and</p> <p>b. The proposed zone allows for the reasonable development or redevelopment of the subject property in a manner that will be compatible with its existing or planned context.</p>	
<p><i>3. Alternative #3: Need for Zone in Land Inventory.</i> The City Council finds that the proposed zone is more appropriate than the existing zone because:</p> <p>a. There is greater need in the City for land in the proposed zone than the existing zone based on a market study provided by the applicant; and</p> <p>b. The proposed zone will promote a balance of land uses in the City that will improve economic opportunity or community mobility in alignment with the Comprehensive Plan.</p>	n/a

Neighborhood Outreach	
<b>Notification</b>	An affidavit was received from Deanne Frederickson, AGPROfessionals certifying that written notice was mailed to all property owners within 1,200 feet of the property on January 24, 2018, and notices were posted in prominent locations on the perimeter of the site at least 15 days prior to the date of the Planning Commission hearing. There were no mineral owners associated with the property. In addition, a notice was published in the Reporter Herald on January 27, 2018. All notices indicated that the Planning Commission would hold a public hearing concerning the West Creek Addition on February 12, 2018.
<b>Neighborhood Response</b>	A neighborhood meeting was held at 6:00 p.m. on January 4, 2018, at the City of Loveland Development Center. The meeting was attended by 30-40 neighbors and interested parties along with City staff, the applicant and their consultant. At the meeting, concerns voiced regarding development of the property.

Planning Commission Comprehensive Plan Policy Guidance for Approval or Denial
<b>In considering an application for approval or denial the Planning Commission finds that the application either complies or does not comply with the following goals, and policies within the City of Loveland Comprehensive Plan:</b>
<ul style="list-style-type: none"> <li>• <b>Development Review and Consistency, Annexation:</b> <i>The annexation complies with the laws of the State of Colorado regarding annexation.</i></li> <li>• <b>Development Review and Consistency</b> <i>The proposal is consistent with the Policies and Supporting Strategies in Chapter 2: Our Future.</i></li> <li>• <i>The proposal is consistent with the Land Use Plan and Land Use Designations contained in Chapter 3: Our Places</i></li> </ul>

### Attachments:

- A. Project Description provided by the Applicant
- B. Neighborhood Correspondence
- C. Phase I Environmental Site Assessment (excluding appendix)
- D. Annexation Map

CITY OF BOULDER  
PLANNING BOARD AGENDA ITEM  
MEETING DATE: November 1, 2018

**AGENDA TITLE:**

Public hearing and Planning Board recommendation on a request to:

- 1) Approve the Post-Annexation Agreement for 1204 Upland Avenue in [Attachment A](#); and
- 2) Adopt an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to rezone approximately 33,067 square feet of land located at 1204 Upland Avenue and including a portion of adjoining right-of-way from Residential - Rural 1 (RR-1) to Residential - Low 2 (RL-2).

Applicant/Owner: Greeley Associates

**REQUESTING DEPARTMENT:**

Planning + Sustainability

Jim Robertson, Director

Charles Ferro, Development Review Manager

**OBJECTIVE:**

1. Hear staff and applicant presentations
2. Hold public hearing
3. Planning Board discussion
4. Planning Board recommendation to City Council on the post-annexation agreement and rezoning to Residential – Low 2 (RL-2)

**SUMMARY:**

Proposal: REZONING / POST-ANNEXATION AGREEMENT: Anticipated development consists of removal of the existing flood-damaged detached dwelling unit and construction of either two (2) duplexes or a duplex and a single-family home.

Project Name: 1204 Upland Rezoning

Location: 1204 Upland

Size of Property: 33,067 square feet

Zoning: Existing: RR-1, Rural Residential 1  
Proposed: RL-2, Residential Low 2

Comprehensive Plan: Low Density Residential

**KEY ISSUES:**

1. Is rezoning from RR-1 to RL-2 appropriate for the subject property?
2. Is the post-annexation agreement consistent with the terms of the 1997 Crestview West annexation agreement?

## I. INTRODUCTION AND BACKGROUND

### PROCESS:

Rezonings and consideration of post annexation agreements require at least two public hearings. The first is conducted by the Planning Board, who will make a recommendation to the City Council whether the rezoning meets the criteria found in Section 9-2-19, B.R.C., 1981 and whether the post-annexation agreement should be approved. The City Council then holds a second public hearing before making their determination.

### BACKGROUND:

#### Existing Site / Site Context

The approximately 33,067 square-foot property is located at the southeast corner of Broadway and Upland Avenue, and is legally described as Lots 1 and 2, Block 5, Moore's Subdivision. The property is bordered by right-of-way on three sides (Broadway, Upland, and 12 ½ Street). It is developed with a one-story single-family home built in approximately 1956 and a detached garage; the home was damaged in the 2013 flooding and is uninhabitable.

The property is located in the Crestview West neighborhood which was unilaterally annexed in 1997 pursuant to Crestview West Annexation Ordinance No. 5931. The properties in the neighborhood were annexed for health and safety reasons. Well water was contaminated by the Centerline Circuit plume. Initial zoning was established for the properties consistent with the North Boulder Subcommunity Plan, except that property owners who chose not to sign the annexation agreement received the Rural Residential- Established (RR-E), today Rural-Residential 1 (RR-1), zoning designation. The property owner at the time was not interested in participating in the larger neighborhood annexation and did not sign the annexation agreement and thus the property was zoned RR-E (RR-1).



When the North Boulder Subcommunity Plan (NBSP) was adopted in 1995, the recommendations for the Crestview East and West areas (the City's largest residential enclaves at the time) assumed that subsequent amendments would be made to the Plan for these areas in conjunction with working with the property owners on the terms of annexation. In a long process of work with the property owners in the Crestview West neighborhood and a number of public hearings, the NBSP transportation plan and future growth maps for the Crestview West area were amended in conjunction with annexation of the area consistent with the amendments to the NBSP, except that property owners who chose not to sign the annexation agreement received RR-E zoning.

The reason that properties, whose owners chose not to sign the annexation agreement, were given RR-E zoning was that the annexation agreements included specific design and transportation elements to ensure that development complied with the NBSP. The higher intensity zoning designations would only be consistent with the NBSP if the zoning came with specific restrictions, such as street and path locations, shared drive provisions, and maximum floor area ratios that were stipulated in the annexation agreements.

When the Crestview West area was annexed in 1997, it was specifically stipulated that the property owners who did not sign the annexation agreement would be allowed the same "annexation package" in the future, but only under the same conditions contained in the 1997 annexation agreement. Therefore, staff has drafted a Post Annexation Agreement that contains the applicable conditions. Since the original agreement was offered, circumstances have changed slightly. The agreement has been tailored specifically for this property and contains only the pertinent information.

The BVCP land use designation for the property is Low Residential (LR) and is defined in the BVCP as:

*"the most prevalent land use designation in the city, covering the primarily single-family home neighborhoods, including the historic neighborhoods and Post-WWII neighborhoods that consists of mostly single-family homes at 2 to 6 dwelling units per acre."*

The RR-1 zoning district is defined in section 9-5-2(c)(1)(A), B.R.C. 1981 as "single-family detached residential dwelling units at low to very low residential densities."

The RL-2 zoning district is defined in section 9-5-

2(c)(1)(A), B.R.C. 1981 as "medium density residential areas primarily used for small-lot residential development, including without limitation, duplexes, triplexes, or townhouses, where each unit generally has direct access at ground level."



## Project Description

The applicant is requesting rezoning from RR-1 to RL-2 consistent with adjacent properties fronting Broadway. Additional development potential exists under the proposed zoning, which could allow development of a total of four units. The applicant intends to demolish the flood damaged home and construct either two (2) duplexes or a duplex and a single-family home.

## II. KEY ISSUES ANALYSIS

### 1. Is RL-2 zoning appropriate for the subject property?

Staff's analysis of the rezoning criteria can be found in [Attachment B](#). The proposed zoning (RL-2) is defined in in Section 9-5-2(c), B.R.C. 1981 as "*medium density residential areas primarily used for small-lot residential development, including without limitation, duplexes, triplexes, or townhouses, where each unit generally has direct access at ground level.*" The property is surrounded on the north, east, and south by land with RL-2 zoning.

Under the proposed RL-2 zoning, additional development potential exists on the site. Following right-of-way dedication for Broadway under the Post-Annexation Agreement, if subdivided, Lot 1 will be reduced to 15,869 square-feet and Lot 2 will remain unchanged at 16,526 square-feet, per the survey information provided by the applicant. The property size could accommodate 4 dwelling units under the proposed RL-2 zoning, resulting in a density of approximately 5.38 units/acre. While there is no minimum lot size in RL-2, a minimum of 6000 square feet of open space per dwelling unit is required. Single family homes, duplexes and townhouses are allowed as a matter of right in the RL-2 zone.

Further, the property is part of the Crestview West area of the North Boulder Subcommunity Plan, which includes a goal to "*allow possible higher densities along the Broadway corridor to achieve affordable and diverse housing close to transit.*"

The applicant anticipates subdividing the property into two lots and constructing a duplex on each lot or possibly constructing one duplex on the lot adjacent to Broadway and a single-family detached dwelling on the eastern lot. Refer to [Attachment C](#).

The attached post-annexation agreement includes several design standards (consistent with the other adjacent Crestview West annexation agreements), however, staff would highlight that redevelopment shall be consistent with the following FARs which shall be defined as the total square footage of all levels within the outside walls of a building or portion thereof, but which shall not include basements, unenclosed carports, and unenclosed porches and decks. A 500 square foot bonus is allowed for attached or detached garages:

Lots 6,500 - 15,000 sq.ft.	0.30:1 FAR
Lots 15,001 - 29,999 sq.ft.	0.25:1 FAR
Lots >or = 30,000 sq.ft.	0.20:1 FAR

Based on lot sizes of 15,869 square feet and 16,526 square feet, the max house sizes would be 3974 square feet and 4131 square feet respectively. Several design considerations are found in the proposed agreement related to access, landscaping, fence height and location and building design. It should also be noted that 20% of the units are required to be permanently affordable or a payment of cash in lieu of onsite units received at the time of building permit.

Staff finds that the requested RL-2 zoning for the property is appropriate and consistent with the zoning in the neighborhood along Broadway. The proposed zoning is also consistent with the underlying BVCP land use designation of Low Density Residential, and in conjunction with the signing of the Post-Annexation Agreement, the rezoning will bring the property into conformance with the NBSP, and therefore, is an appropriate zoning district for the site.

**2. Is the post-annexation agreement consistent with the terms of the 1997 Crestview West annexation agreement?**

The post-annexation agreement is based on the original 1997 Crestview West neighborhood annexation agreement therefore, staff finds it consistent with the terms offered to surrounding properties in 1997.

### **III. PUBLIC COMMENT AND PROCESS**

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days prior to the public hearing. All notice requirements of Section 9-4-3, B.R.C. 1981 have been met. Staff received several correspondences mostly in support of the proposal. Correspondences have been included in [Attachment D](#).

### **IV. PLANNING BOARD ACTION**

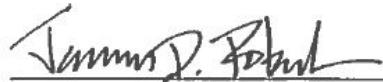
#### **STAFF FINDINGS AND RECOMMENDATION:**

1. Staff finds the application for rezoning of 1204 Upland to Residential Low - 2 (RL-2) is consistent with the rezoning criteria found in Section 9-2-19 B.R.C. 1981 and that the Boulder Valley Comprehensive Plan land use designation of Low Density Residential and is compatible with surrounding properties. (The rezoning includes not only the property, but also the adjacent 40' of right-of-way for Broadway and the adjacent 30' of right-of-way for Upland Avenue).
2. Staff finds the post annexation agreement consistent with other annexation agreements in the Crestview West neighborhood.

Therefore, staff recommends that Planning Board adopt the following Motion: Planning Board recommends that City Council

- 1) Approve the Post-Annexation Agreement for 1204 Upland Avenue in [Attachment A](#); and
- 2) Adopt an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to rezone approximately 33,067 square feet of land located at 1204 Upland Avenue from Residential - Rural 1 (RR-1) to Residential - Low 2 (RL-2).

**Approved By:**

  
**Jim Robertson, Planning Director**  
**Department of Planning + Sustainability**

**ATTACHMENTS:**

- A. Post-Annexation Agreement
- B. Staff's Analysis of Rezoning Criteria
- C. Proposed Site Plan
- D. Neighborhood Correspondence

***Planning and Zoning Commission Communication  
City of Longmont, Colorado***

Project Title: Hover Crossing Car Wash Preliminary PUD Plan (PZR 2018-7)

Date of Meeting: June 20, 2018

Staff Planner: Ava Pecherzewski, (303) 651-8735,  
[ava.pecherzewski@longmontcolorado.gov](mailto:ava.pecherzewski@longmontcolorado.gov)

**GENERAL INFORMATION**

Proposal: Preliminary PUD Plan for the development of a new drive-through tunnel car-wash facility with an outdoor vacuum station.  
Location: 1876 Hover Street (east side of Hover, north of 18<sup>th</sup> Ave)  
Area: 1.5 acres  
Existing Use: Undeveloped parcel  
Zoning: PUD-MU (Mixed-Use Planned Unit Development)

**SURROUNDING LAND USES AND ZONING**

North: St. Vrain Greenway Trail  
South: Commercial shopping center zoned PUD-MU  
East: Vacant lot zoned PUD-MU  
West: Casa Libertad Apartments zoned R3 (High Density Residential)

**COMPREHENSIVE PLAN DESIGNATIONS**

The “Envision Longmont” Comprehensive Plan designates this property as Neighborhood Center. Allowable uses under this land use designation include commercial, retail, service-oriented uses, office and medium-to-high density residential. Neighborhood centers are intended to offer a mix of supporting services and small-scale commercial uses for surrounding neighborhoods. Hover Street is a designated primary arterial street.

Property Owners: Walker Land Holdings, LLC

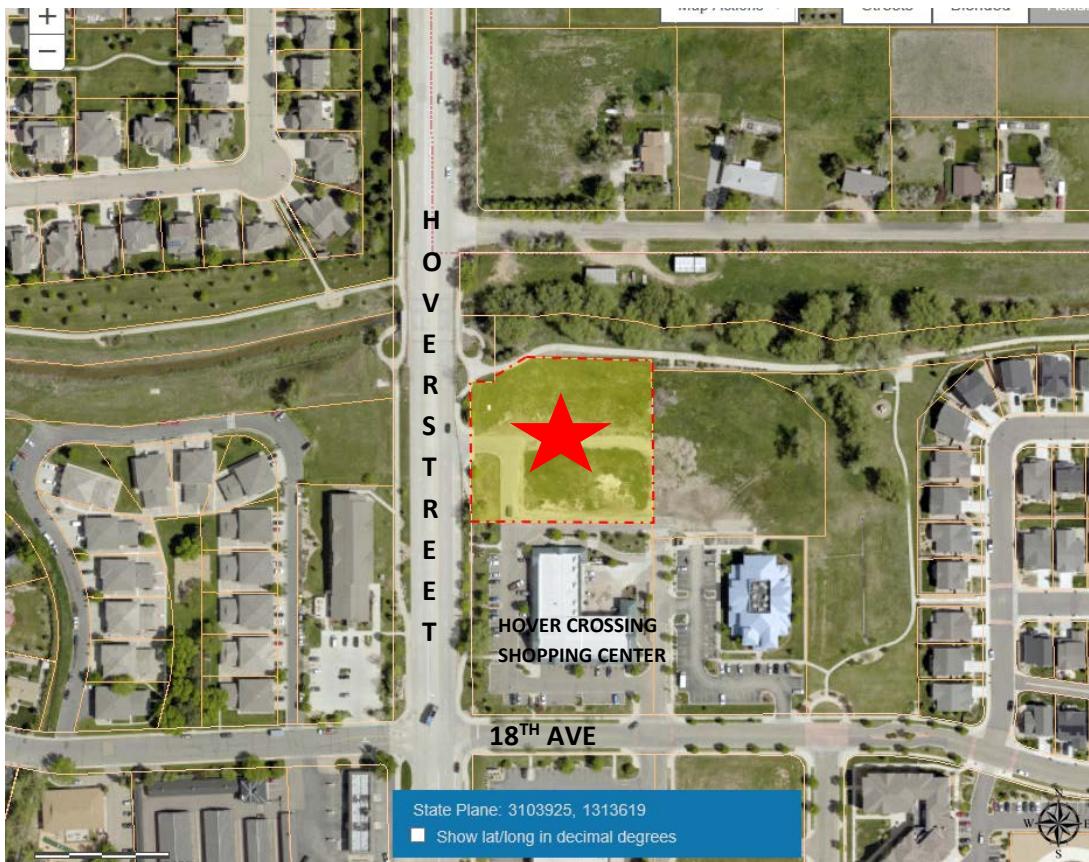
Applicant: Best In Class Car Wash

Applicant Contact: John Tweedy  
Company: Intergroup Architects  
Address: 2000 W. Littleton Blvd.  
Littleton, CO 80120

Phone: (303) 738-8877  
Email: [jtweedy@igarch.com](mailto:jtweedy@igarch.com)

## APPLICATION DESCRIPTION

An application has been filed for a preliminary PUD Plan for a for the development of a new drive-through tunnel car-wash facility with an outdoor vacuum station on an undeveloped, 1.5-acre parcel north of the Hover Crossing Shopping Center at 1876 Hover Street (east side of Hover, north of 18<sup>th</sup> Avenue). Below is a vicinity map:



The property zoning of PUD-MU allows for a full variety of commercial and residential uses. The Hover Crossing shopping center provides many neighborhood-serving businesses, such as a coffee shop, restaurants, offices, and retail. The PUD-MU zoning allows any land uses that are permitted in the Commercial zone, and car washes are permitted in commercial zones. A Preliminary PUD for the whole shopping center, including this parcel, was approved in 2004 and planned for a restaurant pad site at this location. Since the proposed use differs from the original PUD in 2004, the applicant has filed the application for a new Preliminary PUD for this pad site.

The proposed project is a drive-through, self-service tunnel car wash facility. Drivers will enter the property from the west on Hover Street or from the south driveway entry from the Hover Crossing Shopping Center, and will proceed to a pay kiosk and then into the car wash tunnel on the east side of the building. Once the cars exit the wash, they can either drive away back onto Hover Street, or they may choose to use the self-service vacuums on the north side of the building. Staff requested an acoustic analysis (located

in Attachment 3) to determine if the noise generated by either the car dryers inside the tunnel, or the vacuums, would meet city noise standards. The acoustic report concludes that the project will meet city noise standards with mitigation, which includes a sound-attenuated wall around the vacuum machine area. This screen wall has been incorporated into the site design. The proposed hours of operation, noted on the cover page of the PUD plan, are from 7:30 AM to 7:00 PM, seven days a week. Outdoor light fixtures are noted on the plans to turn on from 6:00 AM to Dawn, turn off during the day, then turn back on at Dusk, and shut off at 9:00 PM.

The proposed project meets or exceeds the Land Development Code requirements for development, including building design standards, common open space, lighting, noise (with conditions), parking, and circulation. The code requires the project to provide 20% of the site area with landscaping, and the project provides 42% open space. No variances or modifications are sought with this application.

### **DEVELOPMENT REVIEW COMMITTEE PROCESS**

The Development Review Committee initiated review of this project in October 2017. No significant issues were identified, only general plan corrections to address landscaping, parking, and architecture. The initial plan submittal included a building design that was not in keeping with the overall design theme of the Hover Crossing shopping center, which requires brick and/or stucco on the building exterior. The applicant has since revised the architectural elevations to tone down the colors and has changed the primary building material to brick.

During DRC review, staff expressed concern about potential noise impacts from the car air dryer at the end of the tunnel as well as the outdoor vacuums and requested an acoustic analysis (located in Attachment 3). The report indicates that the applicant has chosen the least noisy of the varying air dryers that can be used to dry the cars as they exit the tunnel. Further, the report concludes that the vacuum equipment will meet city noise standards with mitigation, which suggests a sound-attenuating 6'8" CMU wall to be constructed around the vacuum machine area north of the trash area. This enclosure wall is shown on the site plan and elevations, with colors and materials that match the building exterior (tan stucco with black stone wainscot). There are still some minor corrections that need to be made to the plans to satisfy the DRC, and a condition has also been added to PZR 2018-7B to reflect this.

During DRC review, outside referral agencies such as Xcel gas, Century Link phone, Oligarchy Ditch Company, and the adjacent Hover Crossing homeowners association were sent application materials to comment on. Comments were received from the Hover Crossing HOA and Xcel Energy. The Hover Crossing HOA had questions about how the drainage would work, noise, landscaping, lighting, and hours of operation. Staff responded to each of these questions in their letter. Comment letters are provided in Attachment 5.

## **NEIGHBORHOOD INPUT – NOTIFICATIONS AND SIGN POSTING**

<b><u>Notice Type</u></b>	<b><u>Date Sign Posted</u></b>	<b><u>Date Mailed/Postmarked</u></b>
Neighborhood Meeting	May 1, 2017	May 1, 2017
Notice of Application Submittal	September 16, 2017	September 29, 2017
Public Hearing Notice	June 4, 2018	June 4, 2018

An initial neighborhood meeting was held on May 16, 2017 at the Longmont Senior Center. Notices for the meeting were mailed out to all property owners within a 1,000-foot radius of the subject property on May 1, 2017 and signs were also posted on the property on that date. There were approximately eight attendees at the meeting, not including city staff or the applicant. At the meeting, the applicant provided a brief overview of the proposal. Questions were asked by the attendees from the adjacent residential neighborhoods regarding site access, hours of operation, lighting, noise and building height. A copy of the minutes from the neighborhood meeting as well as notification certifications are located in Attachment 4.

A notice of application was mailed to all property owners within a 1,000-foot radius on September 29, 2017 and signs were posted on the property notifying that an application was under review on September 16. Copies of notification certifications are located in Attachment 4. Staff received three letters from neighbors – two expressed concern about the proliferation of car washes in town and expressed a preference for a restaurant at this location, and the second letter did not express an opinion about this project but had general questions. One phone call was received in opposition to a car wash. All comment letters are in Attachment 5.

Notices of public hearing were mailed out to a 1,000-foot radius on June 4, 2018. Signs giving notice of the public hearing were posted on the site as of June 4, 2018. Copies of notification certifications are located in Attachment 4. Legal notice was published in the Times-Call newspaper. Since the notice was mailed and posted, staff received one phone call from a nearby resident who wanted to state that he was opposed to a car wash at this location because he felt that there were too many car washes in town and because he believes the applicant will not pre-treat the water and will drain all of the dirty water into the nearby creek. Staff explained the process for drainage and water treatment, which requires permitting and approval from Public Works.

## **CRITERIA EVALUATION**

In order to grant approval of a Preliminary PUD Plan, Planning & Zoning must find the application meets the following common review criteria (Code Section 15.02.040):

A. The application is consistent with the LACP, as amended; conforms to any previously approved concept plan, preliminary plat, or PUD plan; and complies with all applicable statutes, codes, ordinances and regulations.

**The application is consistent with the “Envision Longmont” comprehensive plan designation of Neighborhood Center, which allows for a range of commercial, retail, service-oriented uses, office and medium-to-high density residential. Neighborhood centers are intended to offer a mix of supporting services and small-scale commercial uses for surrounding neighborhoods. A car wash is a neighborhood-serving land use. The application is not consistent with a previously approved preliminary PUD plan for this pad site, which envisioned a restaurant. The applicant is requesting a new preliminary PUD for the car wash as an alternative. The project complies with all applicable codes, ordinances and regulations.**

**The project is also consistent with the following goals and policies of the “Envision Longmont” comprehensive plan:**

- **Policy 1.2A: Strive for a balanced mix of residential, employment, retail, commercial, recreational and other uses that allow residents to live, work, play, learn and conduct much of their daily business within the City and increase the self-sufficiency of the community;**
- **Goal 6.1: Recruit, support, incentivize, and retain quality businesses to provide a comprehensive range of job opportunities and promote economic diversity.**
- **Policy 6.1A: Foster a business-friendly environment that encourages the retention, growth, and continued profitability of existing businesses which benefit the City, its tax base and its residents.**

B. The application complies with applicable design standards and construction specifications, including for street and utility design and layout, and adequate utilities are available or will be provided for appropriate urban-level services.

**The project will have access to adequate and available utility services. The proposed development meets City design standards with respect to utility design and layout.**

C. The application is consistent with the intent and purpose of the zone, and proposes development compatible with neighboring existing and approved developments in terms of land use, layout, site design and access.

**The proposed car wash development is consistent with and implements the intent and purpose of the PUD-MU Zone. The property zoning of PUD-MU allows for a full variety of commercial and residential uses. The Hover Crossing shopping center provides many neighborhood-serving businesses, such as a**

**coffee shop, restaurants, offices, and retail. The PUD-MU zoning allows any land uses that are permitted in the Commercial zone, and car washes are permitted in commercial zones.**

The proposed PUD plan complies with the development/design standards stated in Section 15.030.060 for PUD zoned properties, including compliance with allowed uses, circulation, adequate public facilities, environmental protection, lighting, design, parking and street standards. The project also meets architectural design standards and common open space. Over 42% of the project area will contain landscaped open space where 20% is required.

The development proposes air dryers at the car wash exit and outdoor vacuums on the north side of the building. An acoustic analysis was submitted by the applicant (located in Attachment 3) which concludes that the air dryer and vacuums would not violate city noise ordinances so long as a 6'8" CMU wall is constructed around the vacuum equipment area on the northeast portion of the property. This enclosure wall is shown on the site plan and elevations, with colors and materials to match the car wash building (tan stucco and black stone wainscot).

- D. The application will not significantly adversely affect surrounding properties, the natural environment, existing or planned city transportation, or utility services or facilities, or the impacts will be mitigated to the extent feasible considering existing plans and zoning for the area.

The proposed development will not significantly adversely affect surrounding properties. The parcel to the east is a vacant, commercially-zoned lot. The parcel to the south is an existing shopping center with direct driveway access to this parcel. The property to the west is an apartment building that is across a busy arterial street and it is not likely that the residents will have noise impacts beyond the existing noise of a busy, highly traveled commercial corridor with other commercial businesses. North of this development is the St. Vrain Greenway trail and this is buffered by over 60-feet of landscaping.

The one-story car wash tunnel building is constructed in similar architectural style to the adjacent Hover Crossing shopping center, with brick as the primary building material. The site will have over half an acre of common open space landscaping, the trash enclosure is situated at the rear of the property away from the street frontage, and noise impacts from the proposed outdoor vacuum machines are mitigated with a noise-attenuating, 6'8" enclosure wall on the north side to mitigate potential noise impacts.

The proposed development will not significantly adversely affect the natural environment, including air, water, noise, stormwater management, or vegetation. There are no prairie dogs or existing trees on the property. There

is an existing master drainage plan for the Hover Crossing shopping center development and the applicant has demonstrated to the DRC that the project meets the standards.

The proposed development will not significantly adversely affect existing or planned city transportation facilities. The site will be accessed from Hover Street and from an internal driveway in the Hover Crossing Shopping Center.

The proposed development will not adversely affect utility services nor public facilities. Adequate police and fire protection services are available to this site. The development provides the necessary two points of access for fire department requirements. The development of this site will not have any adverse impacts on the levels of service to existing development, nor affect the City's adequate public facilities standards. The St. Vrain Valley School District will not be impacted by this development as the land use commercial in nature.

- E. The application includes an appropriate transportation plan, including multi-modal transportation access, and is integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails and similar features.

The development will be integrated and connected to the Hover Crossing shopping center via Hover Street on the west and from an internal driveway within the shopping center on the south. There is a pedestrian trail connection on the north along the St. Vrain Greenway as well as from sidewalks on Hover Street.

#### **Preliminary PUD**

Additional review criteria for preliminary PUD plans is required per Code Section 15.02.050.F.4:

- A. The PUD complies with the development/design standards stated in Section 15.03.060, "Planned unit development (PUD) districts";

The proposed PUD plan complies with the development/design standards stated in Section 15.030.060 for PUD zoned properties, including compliance with allowed uses, setbacks, circulation, landscaping, adequate public facilities, environmental protection, lighting, design, parking and street standards.

- B. The PUD will not limit the ability to integrate surrounding land into the city or cause variances or exceptions to be granted if the adjacent land is annexed or developed

The PUD is designed in a way that will not limit the ability of surrounding land to be integrated when annexed and/or developed. The majority of the

surrounding properties are in the city and developed. However, the adjacent parcel to the east is not developed and zoned PUD-MU. The PUD will extend a driveway into the site from Hover Street and the adjacent parcel, when ready for development, can continue access from this internal driveway into that lot.

C. The proposed phasing plan for development of the PUD is rational in terms of available infrastructure capacity and adequate public facility standards.

**The PUD will be developed in one phase. There is available infrastructure capacity and adequate public facilities to accommodate the development in one phase.**

**Supplemental Review Criteria for Projects Zoned PUD-MU:**

A. Any addition of residential units to a planned commercial or industrial development must benefit both the employers and residents of the PUD;

**No residential units are proposed with this application.**

B. The design and operations of the nonresidential land uses in the PUD will not result in adverse impacts on the residential uses in the PUD;

**The design and operations of the car wash business will not result in adverse impacts to the residential uses in the Hover Crossing subdivision. The closest residential homes in Hover Crossing are over 400 feet away and are buffered from the car wash property by another developable parcel as well as a pocket park.**

C. There will be enough residential units to create a self-supporting neighborhood, and the plan will integrate the residential uses within the district, and not result in the creation of isolated pockets of residential uses, and will provide adequate amenities for the residents;

**No residential units are proposed with this application. There are over 60 single-family homes in the Hover Crossing subdivision, plus an additional 100 apartments in the Hearthstone and Lodge at Hover Crossing senior apartment buildings that could support the neighborhood-serving car wash business.**

D. Any proposed retail uses will be consistent with the land use designation on the LACP or otherwise be consistent with the criteria for “neighborhood commercial centers” or “multi-neighborhood commercial centers” as stated in the LACP.

**No retail uses are proposed with this application. Car washes are a permitted service-oriented use in the Neighborhood Center land use designation.**

### **Planning and Zoning Commission Options**

The Planning and Zoning Commission may consider the following options when reviewing the Hover Crossing Car Wash Preliminary PUD Plan:

1. Approve the Hover Crossing Car Wash, finding that the review criteria have been met, as reflected in PZR-2018-7A.
2. Approve the Hover Crossing Car Wash, finding that the review criteria have been met, with conditions, as reflected in PZR-2018-7B.
3. Deny approval of the Hover Crossing Car Wash Preliminary PUD Plan, finding that the review criteria have not been met, as reflected in PZR-2018-7C.

### **Recommendation**

Staff recommends that the Planning and Zoning Commission conditionally approve the Hover Crossing Car Wash Preliminary PUD Plan, as reflected in PZR-2018-7B, to require the applicant to complete final approval of the drawings with the DRC.

### **Attachments**

1. PZ Resolutions 2018-7A, B & C
2. Applicant's submittal materials
3. Noise Study
4. Neighborhood Meeting Minutes and Certifications of Mailings & Sign Postings
5. Letters from Referral Agencies and Citizens
6. Vicinity Map
7. Preliminary PUD Plan

Project file number: 32997-2e



201 W. Colfax Ave., Dept. 205  
Denver, CO 80202  
p: 720.865.2915  
f: 720.865.3052  
[www.denvergov.org/CPD](http://www.denvergov.org/CPD)

**TO:** Denver Planning Board  
**FROM:** Scott Robinson, Senior City Planner  
**DATE:** October 31, 2018  
**RE:** Official Zoning Map Amendment Application #2018I-00077

### Staff Report and Recommendation

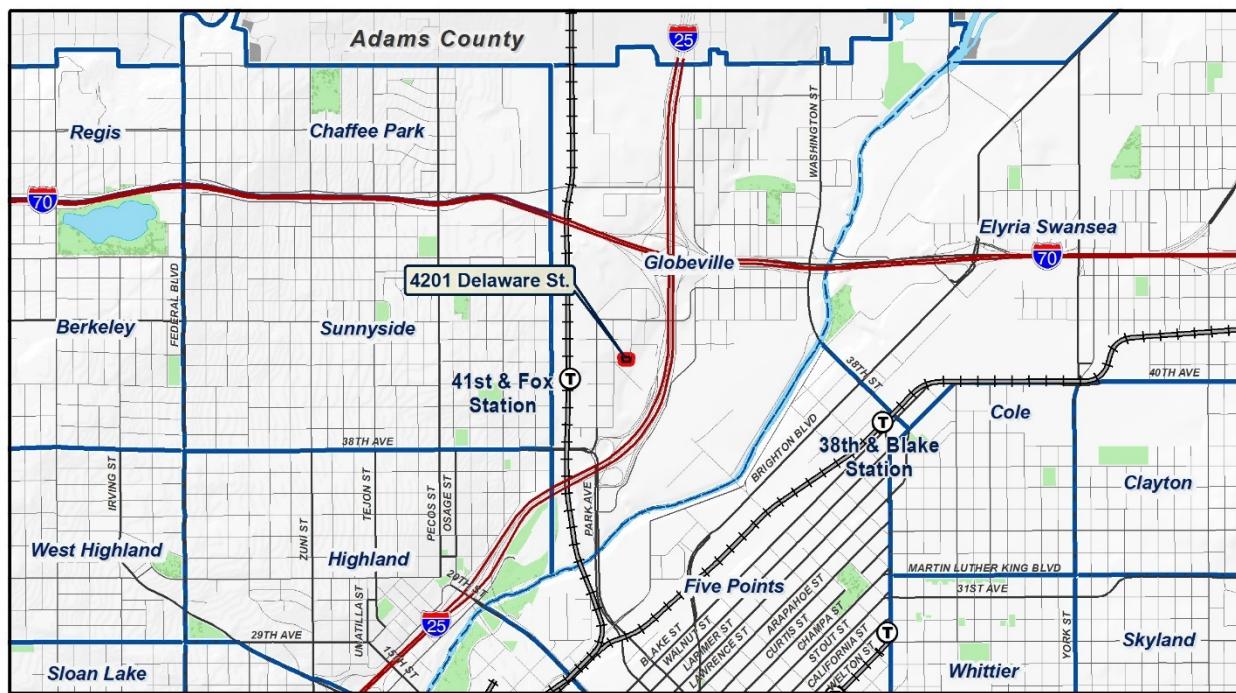
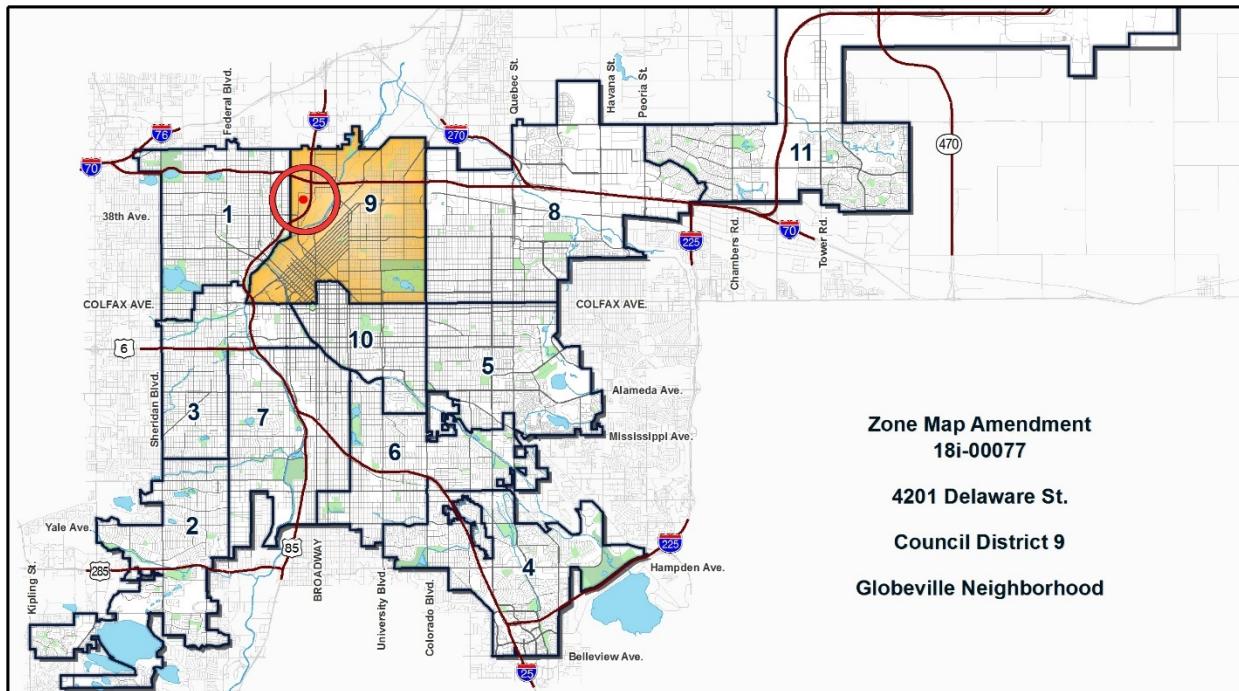
Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2018I-00077.

### Request for Rezoning

Address:	4201 Delaware Street
Neighborhood/Council District:	Globeville / Council District 9
RNOs:	UCAN; Globeville Civic Association #2; Globeville Civic Partners; North Highlands Neighbors Association; Elyria Swansea/ Globeville Businesses Association; Globeville K.A.R.E.S.; Inter-Neighborhood Cooperation (INC); Unite North Metro Denver
Area of Property:	7,170 square feet
Current Zoning:	I-A UO-2
Proposed Zoning:	C-RX-8
Property Owner(s):	4201 Delaware Street, LLC
Owner Representative:	Lorraine Stuart, Central Street Capital

### Summary of Rezoning Request

- The subject property is at the corner of 42<sup>nd</sup> Avenue and Delaware Street in the 41<sup>st</sup> and Fox station area.
- The property is currently a single-unit residence.
- The applicant is requesting the rezoning to develop the parcel.
- The C-RX-8 (Urban Center, Residential Mixed Use, 8 story) zone district allows street-level retail uses, but upper stories are reserved exclusively for housing or lodging accommodation uses. Commercial uses are secondary to the primary residential use of the district, and provide neighborhood-scaled shops and offices. The townhouse and general building forms are allowed. Further details of the zone district can be found in Article 7 of the Denver Zoning Code (DZC).
- The applicant's request includes removing the Billboard Use Overlay, UO-2, on the property.





## Existing Context

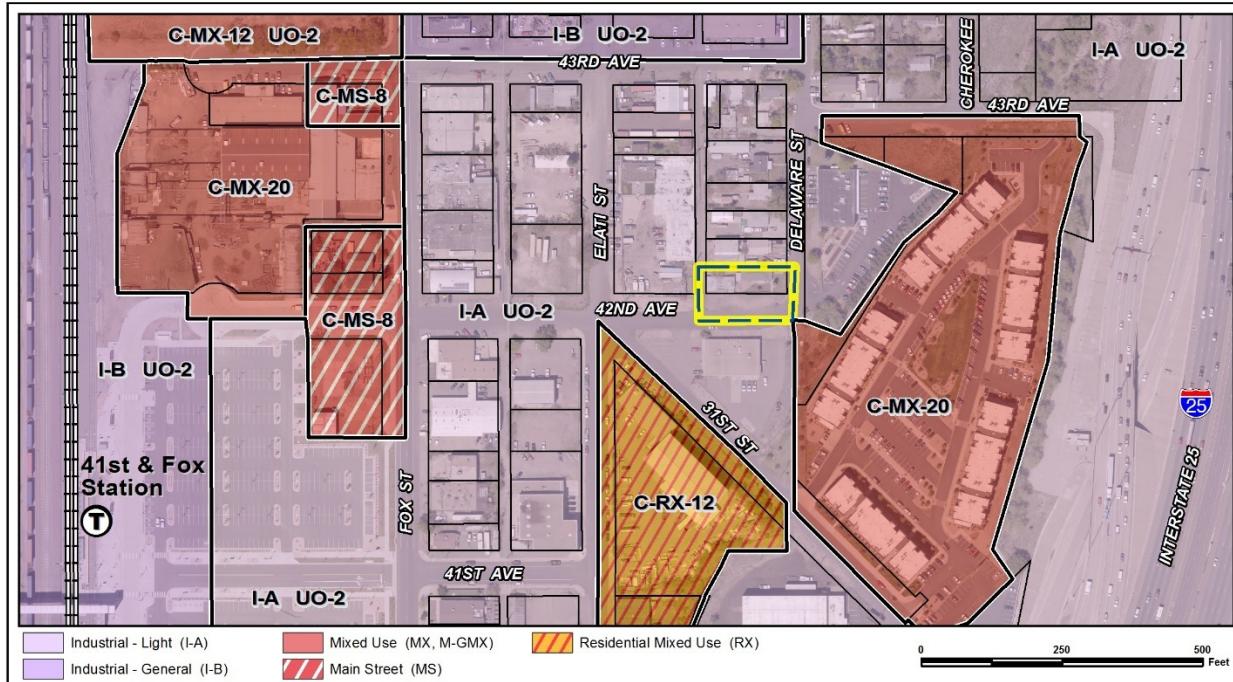
The subject property is in the Globeville neighborhood, in the 41<sup>st</sup> and Fox station area. It is part of an approximately 164-acre portion of the Globeville neighborhood that is separated from other parts of Globeville and other nearby neighborhoods by Interstates 25 and 70 to the north, east and south, and rail facilities (BNSF and RTD) to the west. Recent rezonings suggest this area is transitioning from an industrial context to an urban center neighborhood context consistent with the Station Area Plan vision, adopted in 2009. The site can be accessed by vehicles via 38<sup>th</sup> Avenue and Fox Street or West 44th Avenue to the east. In addition, a recently-constructed bridge provides bicycle and pedestrian access to the Sunnyside neighborhood with a multi-use path along Inca Street connecting into the South Platte River Trail. The subject property is located about 1,100 feet from the 41st and Fox station which will be served by the G Line.

The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	I-A UO-2	Residential	1-story single-unit house	A limited orthogonal grid extends along Fox Street from 38 <sup>th</sup> Ave. to 44 <sup>th</sup> Ave. The grid is limited by the rail corridor to the west, I-25 to the south and
North	I-A UO-2	Residential	1-story single-unit house	
South	I-A UO-2	Industrial	1-story concrete building	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
East	I-A UO-2	Office	1-story masonry building	east, and by large industrial sites and I-70 to the north. The area has limited access from other neighborhoods, including 44 <sup>th</sup> Ave. from the southeast portion of Globeville, 38 <sup>th</sup> Ave. from the Sunnyside neighborhood (west), and Fox Street to Park Avenue that provides direct access to downtown.
West	I-A UO-2	Industrial	1-story concrete building and storage yard	

## 1. Existing Zoning

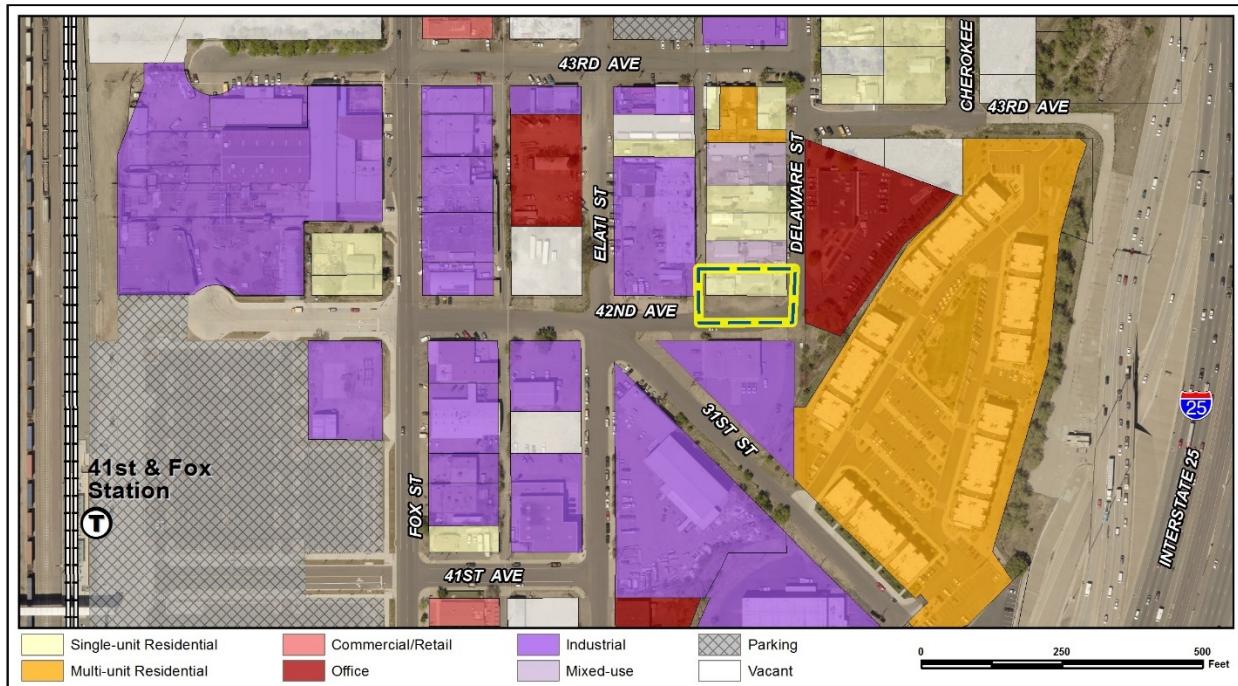


The existing zoning on the subject property is I-A, UO-2. I-A is a light industrial zone district in the Industrial Context. It allows office, business, and light industrial uses. Residential uses are only permitted where a residential structure existed prior to July 1, 2004. The General and Industrial building

forms are allowed in the I-A zone district and building mass is regulated by a maximum Floor Area Ratio of 2.0. No maximum building height is specified for the zone district except for when a site is within 175 feet of a Protected District, in which case the maximum permitted building height is 75 feet. There are no build-to requirements, transparency requirements, or street level activation standards in the I-A zone district. Surface parking is permitted between the building and primary and side streets. See DZC Division 9.1.

The UO-2 Billboard Use Overlay allows for “outdoor general advertising device” signs (i.e. billboards) within the applicable area. Additional standards and limitations regarding minimum separation and distance requirements also apply. There are currently no billboards on the subject site, and the applicant is proposing to eliminate the UO-2 overlay on the property. See DZC Section 9.4.4.7.

## 2. Existing Land Use Map



### 3. Existing Building Form and Scale



Site – from 42<sup>nd</sup> Ave. and Delaware St.



North – from Delaware St.



East – Delaware St.



South – from 42<sup>nd</sup> Ave.

Source: Google Maps



West – from 42<sup>nd</sup> Ave. and Elati St.

## Summary of City Agency Referral Comments

As part of the DZC review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

### **Development Services – Wastewater: Approved Rezoning Only – Will require additional information at Site Plan Review**

DS Wastewater approves the subject zoning change. The applicant should note that redevelopment of this site may require additional engineering including preparation of drainage reports, construction documents, and erosion control plans. Redevelopment may require construction of water quality and detention basins, public and private sanitary and storm sewer mains, and other storm or sanitary sewer improvements. Redevelopment may also require other items such as conveyance of utility, construction, and maintenance easements. The extent of the required design, improvements and easements will be determined during the redevelopment process. Please note that no commitment for any new sewer service will be given prior to issuance of an approved SUDP from Development Services.

### **Department of Public Health and Environment: Approved – See Comments**

The Denver Department of Public Health and Environment (DDPHE) concurs with the rezoning request. However, DDPHE is aware of areas of environmental significance near the site including Operable Unit 1 (OU1) of the Vasquez Boulevard -I70 Superfund Site. As part of the investigation of OU1, the Environmental Protection Agency (EPA) collected soil samples from the site and tested them for arsenic and lead; the concentrations of these metals were less than their respective screening levels. Additionally, service stations, that were locations of leaking underground storage tanks (LUSTS), historically were located upgradient of the site. The LUSTS were investigated, remediated and subsequently closed. The Colorado Department of Labor and Employment, Division of Oil and Public Safety issued no further action letters for the LUSTS. DDPHE does not believe the OU1 or LUST sites will impact the proposed use of the site.

- General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DEH suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.
- Denver's Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).
- Scope & Limitations: DEH performed a limited search for information known to DEH regarding environmental conditions at the subject site. This review was not intended to conform to ASTM

standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

**Public Works – City Surveyor: Approved – See Comments**

LOTS 16 AND 17, BLOCK 9, VIADUCT ADDITION,  
CITY AND COUNTY OF DENVER, STATE OF COLORADO

**Assessor: Approved** – No response

**Asset Management: Approved** – No response

**Denver Public Schools: Approved** – No response

**Parks and Recreation: Approved** – No response

**Development Services - Transportation: Approved** – No response

**Development Services – Project Coordination: Approved** – No response

**Development Services – Fire Prevention: Approved** – No response

## Public Review Process

	<b>Date</b>
CPD informational notice of receipt of the rezoning application to all affected members of City Council and registered neighborhood organizations:	7/25/18
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council and registered neighborhood organizations and property owners within 200 feet of the subject property:	10/18/18
Planning Board hearing:	11/7/18
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and registered neighborhood organizations, at least ten working days before the meeting (tentative):	11/13/18
Land Use, Transportation and Infrastructure Committee of the City Council review (tentative):	11/27/18
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and registered neighborhood organizations (tentative):	12/17/18
City Council Public Hearing (tentative):	1/7/19

- **Registered Neighborhood Organizations (RNOs)**
  - To date, no comment letters have been received from Registered Neighborhood Organizations.
- **Other Public Comment**
  - To date, no other comment letters have been received.

## Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

**DZC Section 12.4.10.7**

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

**DZC Section 12.4.10.8**

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

**1. Consistency with Adopted Plans**

The following adopted plans apply to this property:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- 41<sup>st</sup> and Fox Station Area Plan (2009)
- Globeville Neighborhood Plan (2014)

**Denver Comprehensive Plan 2000**

The proposal is consistent with many Denver Comprehensive Plan strategies, including:

- Environmental Sustainability Strategy 2-F – *Conserve land by: promoting infill development within Denver at sites where services and infrastructure are already in place; designing mixed-use communities and reducing sprawl, so that residents can live, work and play within their own neighborhoods; creating more density at transit nodes.* (p. 39)
- Environmental Sustainability Strategy 4-A – *Promote the development of sustainable communities and centers of activity where shopping, jobs, recreation and schools are accessible by multiple forms of transportation, providing opportunities for people to live where they work.* (p. 41)
- Land Use Strategy 3-B – *Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.* (p. 60)
- Land Use Strategy 4-A - *Encourage mixed-use, transit-oriented development that makes effective use of existing transportation infrastructure, supports transit stations, increases transit patronage, reduces impact on the environment, and encourages vibrant urban centers and neighborhoods.* (p. 60)
- Mobility Strategy 4-E – *Continue to promote mixed-use development, which enables people to live near work, retail and services.* (p. 78)
- Denver's Legacies Strategy 3-A – *Identify areas in which increased density and new uses are desirable and can be accommodated.* (p. 99)

The proposed map amendment would allow for mixed-use infill development near the new 41<sup>st</sup> and Fox station for the RTD G Line, which will provide high-quality transit service to downtown Denver, Arvada, and Wheat Ridge. The new transit station provides an opportunity to transform the area around it into a dense, mixed-use neighborhood. The proposed C-RX-8 zoning would allow for a broader variety of uses including housing, retail services, and employment at an intensity consistent with the desire for dense, walkable, mixed-use neighborhoods around transit expressed in Comprehensive Plan 2000.

### Blueprint Denver

According to the Plan Map adopted in Blueprint Denver, this site has a concept land use of Urban Residential and is located in an Area of Change.



### Future Land Use

An Urban Residential neighborhood is “higher density and primarily residential but may include a noteworthy number of complementary commercial uses. New housing tends to be in mid- to high-rise structures, and there is a greater housing base than employment base” (p. 41). The uses should be “primarily residential with moderate levels of small-scale commercial use” (p. 65). The building should have “pedestrian scaled facades and contextual design” and should include “extensive ground floor windows and frequent access” (p. 66). The proposed C-RX-8 zoning would be consistent with these recommendations by allowing a new structure up to eight stories tall. The proposed zoning would require the new structure to be predominately residential, with commercial uses other than lodging allowed only on the ground floor. The C-RX-8 zone district requirements include build-to, transparency, entrance, and upper story setback standards, implementing the design recommendations stated in Blueprint Denver.

### Area of Change / Area of Stability

As noted, the site is in an Area of Change. In general, “The goal for Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips” (p. 127). The proposed C-RX-8 zoning would allow additional development near a transit station, supporting jobs, housing, and services with less reliance on automobiles, consistent with the goals of Blueprint Denver.

### **Street Classifications**

Delaware Street and 42<sup>nd</sup> Avenue are classified as Undesignated Local streets by Blueprint Denver. The plan describes Local streets as “influenced less by traffic volumes and tailored more to providing local access. Mobility on local streets is typically incidental and involves relatively short trips at lower speeds to and from other streets” (p. 51). The residential and neighborhood-scale commercial uses allowed by the proposed C-RX-8 zone district would be appropriate for a local street. In addition, the subject property is near the 41<sup>st</sup> and Fox transit station which will soon serve the area with high-capacity transit. Connectivity to the citywide street network is limited, but the city is taking steps to limit the traffic generated in the area around the 41<sup>st</sup> and Fox station and to improve transportation connections into and out of the area. The Local streets adjacent to the subject site will connect the property to the broader multimodal transportation network, consistent with the recommendations of the plan. The proposed C-RX-8 zoning is consistent with the concept land use, area of change, and street type recommendations of Blueprint Denver.

### **41<sup>st</sup> and Fox Station Area Plan**

The 41<sup>st</sup> and Fox Station Area Plan was adopted by City Council in 2009 and applies to the subject property. The plan focuses on the long-term redevelopment of the area east of the railroad tracks “to create a complete, transit-friendly neighborhood” (p. viii).

Primary goals for the station area are as follows (p. vii):

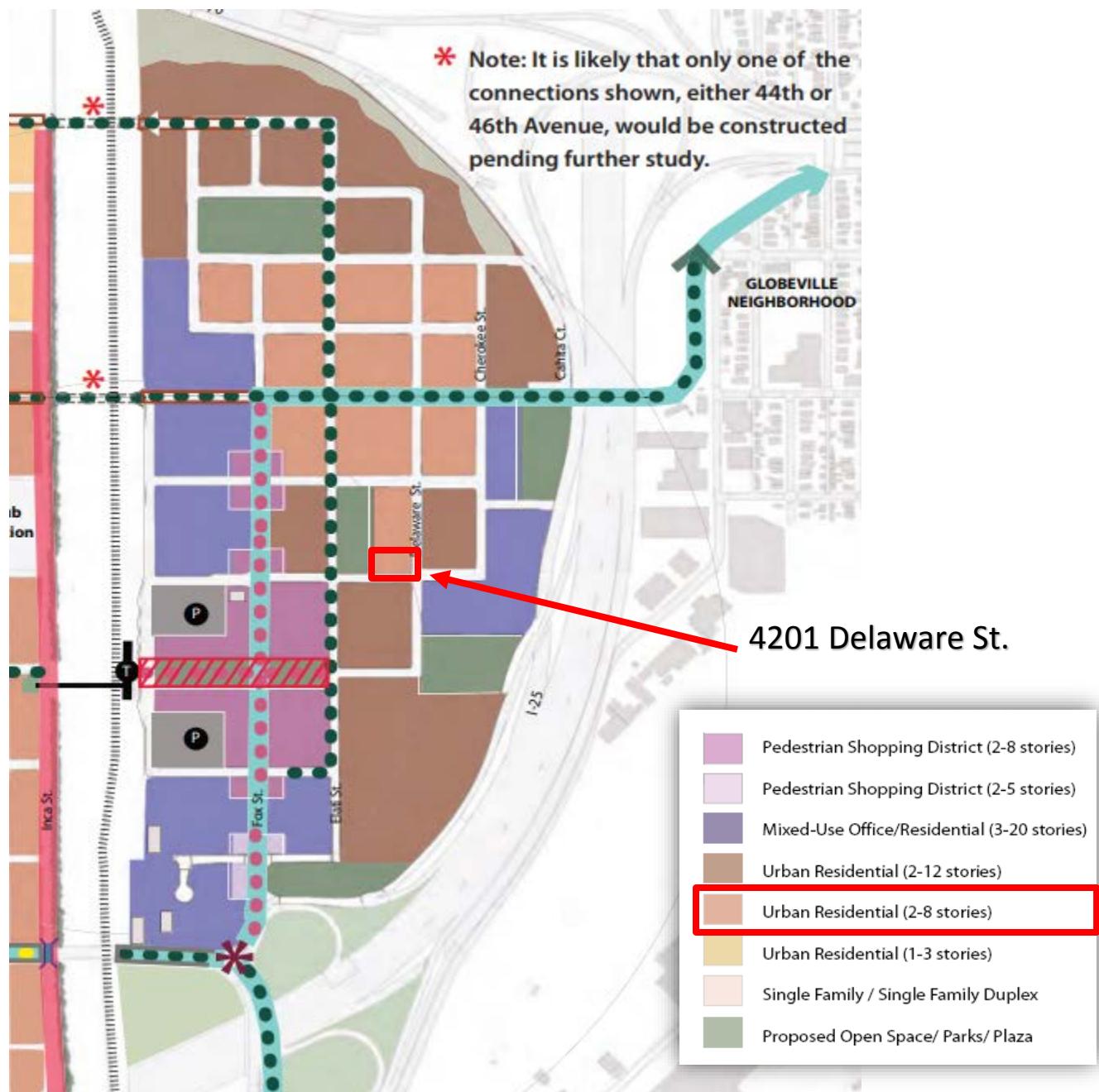
- Improve pedestrian connections to the station, between neighborhoods, and along major corridors
- Create opportunities to add more housing, jobs and services to the station area
- Incorporate plazas, parks and open space into redevelopment areas
- Capitalize on the station area’s proximity to Downtown and location on the Gold Line and Northwest Rail corridors
- Balance the needs of new development and existing uses

Key elements of the plan concept include the following (p. viii):

- Development of a high intensity activity node close to the station on the east side
- Capture views of Downtown and buffer the station area by locating taller structures along I-25 and I-70

The subject property is designated as Urban Residential (2-8 stories) in the Land Use Plan. According to the plan, “these areas are intended as new, moderate density neighborhoods.... On the east side of the tracks, this moderate-density residential will provide a range of housing types that help support the pedestrian shopping district and employment base.” (p. 16).

The proposed C-RX-8 zoning would allow predominately residential development with a maximum height of eight stories, consistent with the plan guidance for the area. This would facilitate the addition of new housing at an appropriate scale to support the desired commercial uses in the area.



The 41<sup>st</sup> and Fox Station Area Plan also includes urban design recommendations, including that “the ground floors of buildings in all areas should contain the following elements: prominent, street facing entries, extensive ground floor windows and frequent entrances, pedestrian scaled facades, awnings to protect pedestrians and mark entrances, and building entrances that meet the sidewalk” (p. 18). The plan also calls for buildings edges to be “brought to the sidewalk with minimal setbacks” (p. 18).

The proposed C-RX-8 zoning only allows the General and Town House building forms, which require that 70 percent of the building façade be within 10 feet of the street (15 feet for residential only buildings). They also require a minimum of 40 percent of the street-facing façade be transparent (30 percent for residential only buildings) and that pedestrian access come from the street. The proposed C-RX-8 zoning meets the land use, intensity, and design intent of the 41<sup>st</sup> and Fox Station Area Plan.

The plan includes mobility infrastructure recommendations intended to ensure the area can accommodate the growth called for in the plan (p. 20). Some of these recommendations have been completed, such as the multi-use path connecting across 38<sup>th</sup> Avenue to the South Platte River Trail and the new pedestrian bridge over the railroad tracks at the station. Some recommendations have not been completed, such as the proposed new street connection across the railroad tracks at 44<sup>th</sup> Avenue or 46<sup>th</sup> Avenue. With the RTD G Line opening soon and the proposed Rules & Regulations relating to parking and trip capacity currently under development, the potential development from the proposed C-RX-8 zone district would be adequately accommodated by the transportation system and the proposed map amendment is consistent with the 41<sup>st</sup> and Fox Station Area Plan.

### **Globeville Neighborhood Plan**

The Globeville Neighborhood Plan was adopted by City Council in 2014 and overlaps with the boundary of the 41<sup>st</sup> and Fox Station Area Plan on the subject site. The Globeville Neighborhood Plan reinforces the land use and building height recommendations established in the 41<sup>st</sup> and Fox Station Area Plan. It sets forth the following vision for this area of Globeville: “The 41st and Fox Station will develop over the coming decades into the focal point of a diverse, transit supportive, and environmentally sustainable urban center. Many new residents and businesses will be drawn to the convenient location close to downtown and near some of Denver’s most vibrant urban neighborhoods” (p. 15). The Globeville Plan specifies “that the concept land use and building height recommendations in this plan are intended to be fully consistent with the 41st and Fox Station Area Plan. Should any inconsistencies be found, please refer to the adopted Station Area Plan for the official Plan guidance” (p.34). In the “Strong” section of the Plan, the 41<sup>st</sup> and Fox Station area is identified as an opportunity site to “create a broad base of new jobs in diverse economic sectors by redeveloping opportunity sites throughout the neighborhood” (p. 44).

As described above the proposed C-RX-8 zone district is consistent with the recommendations of the 41<sup>st</sup> and Fox Station Area Plan, which are reinforced in the Globeville Neighborhood Plan. The proposed rezoning would facilitate the redevelopment of the subject site and allow a variety of residential and commercial uses, strengthening the economy of the area consistent with the Globeville Neighborhood Plan recommendations.

## **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to C-RX-8 will result in the uniform application of zone district building form, use and design regulations.

### **3. Public Health, Safety and General Welfare**

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through implementation of the city's adopted land use plan. The proposed zone district enhances the pedestrian experience through improved building design standards including transparency, build-to, and street level active uses. The proposed rezoning would also facilitate redevelopment of the property and investment in the neighborhood, enhancing the safety and welfare of the area and concentrating housing and services near transit. The traffic safety impacts of the proposed development will be mitigated through strategies outlined above.

### **4. Justifying Circumstance**

The application identifies several changes as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, "Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest." The city adopted the Globeville Neighborhood Plan in 2014, after the current zoning was put in place in 2010, meeting subsection b of the criterion. In addition, there are changing conditions in the area, with the construction of the 41<sup>st</sup> and Fox Station, the improved pedestrian and bicycle connections, new apartment buildings a block to the east, and new retail development at 39<sup>th</sup> Avenue and Fox Street. These changing conditions, along with the recently adopted neighborhood plan, justify the rezoning to serve the public interest.

### **5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements**

The requested C-RX-8 zone district is within the Urban Center Neighborhood Context. The neighborhood context generally consists of multi-unit residential and mixed-use commercial strips and commercial centers in an orthogonal street grid with high levels of bike and pedestrian access to transit. (DZC, Division 7.1). The proposed zone district would allow multi-unit residential and commercial development with convenient pedestrian access to the 41<sup>st</sup> and Fox transit station, consistent with the Urban Center context description.

The Denver Zoning Code states the C-RX-8 zone district "applies to residentially-dominated areas served primarily by collector or arterial streets where a building scale of 2 to 8 stories is desired" (DZC Section 7.2.3.2.B). As described above, the area is served by local streets but the proximity to the 41<sup>st</sup> and Fox station makes the C-RX-8 an appropriate zone district for the site. The desired building heights and access to transit are consistent with the zone district purpose and intent statements.

### **Attachments**

1. Application

## CITY PLANNING COMMISSION AGENDA

**STAFF: MIKE SCHULTZ**

**FILE NO(S):**

**CPC MPA 04-00043-A3MN17- QUASI-JUDICIAL**

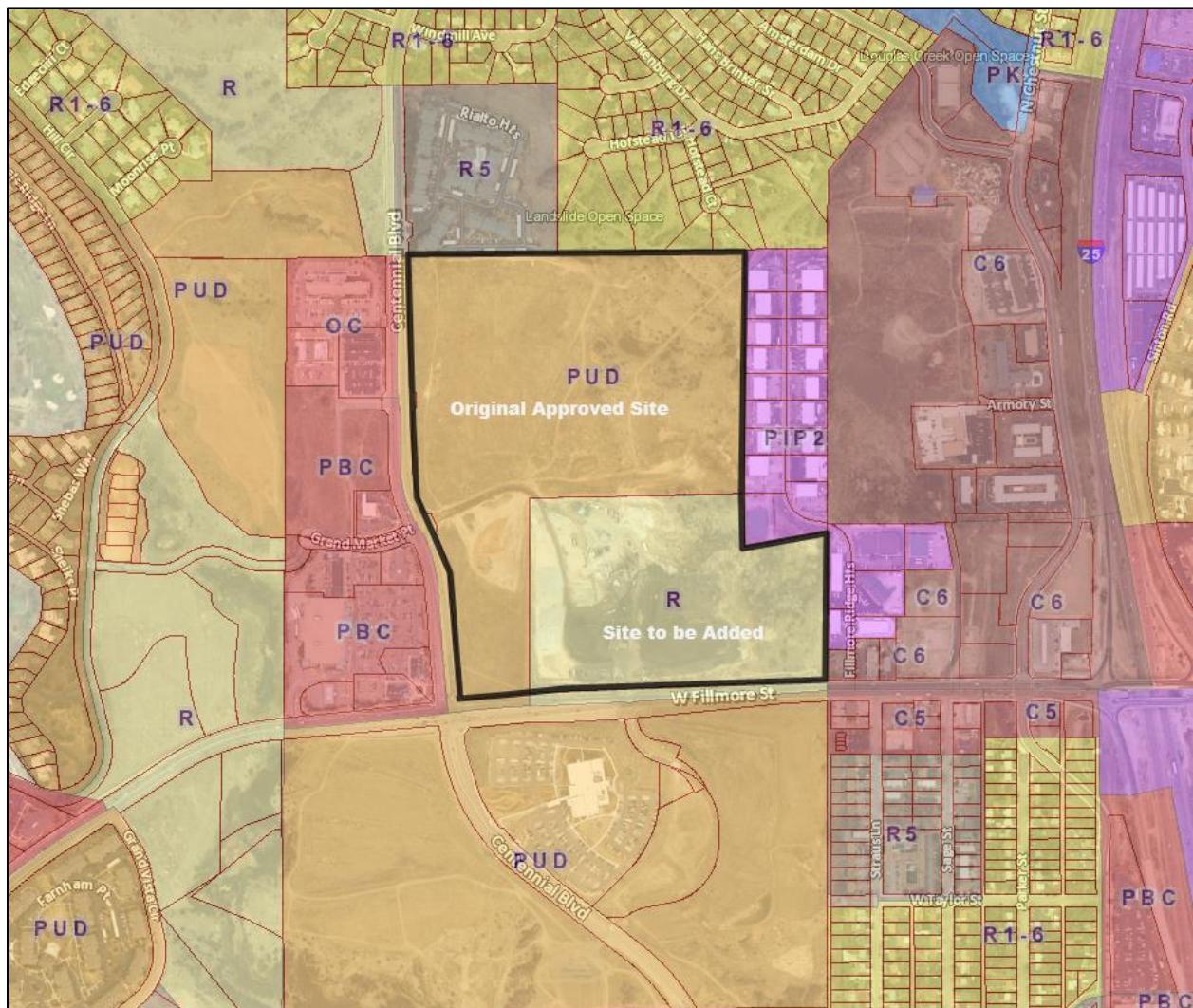
**CPC PUZ 17-00030 - QUASI-JUDICIAL**

**CPC PUP 15-00052-A1MJ17 - QUASI-JUDICIAL**

**PROJECT: PENROSE-ST. FRANCIS NEW CAMPUS**

**APPLICANT: RTA ARCHITECTS**

**OWNERS: CENTURA HEALTH, MARTIN MARIETTA & DAVID LEMESANY**



## **PROJECT SUMMARY:**

Project Description: This project includes concurrent applications for a minor amendment to the Hill Properties Master Plan; a zone change from PUD (Planned Unit Development) and R (Residential Estate) to a new PUD (Planned Unit Development) zone district allowing a maximum building height of 165 feet, a maximum of 1,850,000 square feet of gross floor area and allowed uses including hospital, medical office, general office and general commercial; and a major amendment to the Penrose-St. Francis New Campus planned unit development concept plan adding the 27.79 acres of property located southeast of the original site and additional plan changes to the proposed building areas. The total concept plan and site area consists of 78.84 acres located at the northeast corner of Fillmore Street and Centennial Boulevard.

1. Applicant's Project Statement: (FIGURE 1)
2. Planning and Development Team's Recommendation: Staff recommends approval of the minor amendment to the master plan, change of zone and major amendment to the PUD concept plan.

## **BACKGROUND:**

1. Site Address: (Asphalt Plant property) 1300 West Fillmore Street/(Original approved property) site is not currently addressed.
2. Existing Zoning/Land Use: R (Residential Estate) and PUD (Planned Unit Development)
3. Surrounding Zoning/Land Use:
  - North: R-5 (Multi-Family Residential)/Apartments and R-1 6000 (Single-Family Residential/Single-Family Residential and protected open space).
  - South: PUD/Hospital/Clinic
  - East: PIP-2 (Planned Industrial Zone) and C-6 (General Business)/General warehouse, contractor's yards, light industrial
  - West: PBC (Planned Business Center)/Commercial Retail
4. Comprehensive Plan/Designated 2020 Land Use: Commercial Center (Hospital uses permitted)
5. Annexation: Mesa Addition #2, July 1971
6. Master Plan/Designated Master Plan Land Use: Hill Properties Master Plan – Master Plan was amended in 2015 to include the hospital)
7. Subdivision: Not platted
8. Zoning Enforcement Action: None (the asphalt batch plant is technically legal non-conforming, but no zoning enforcement cases are open against the property)
9. Physical Characteristics: The site along the west is generally flat. The property begins to have major west to east slope occurring midway through the site to the easterly property line which continues east to I-25. The grade differential from Centennial Boulevard to the easterly property line is approximately 120 feet. Manmade fill can be found throughout the property; the asphalt batch plant portion has significant stockpiles of materials. Natural vegetation exists within the easterly portion of the site that includes some scrub oak.

## **STAKEHOLDER PROCESS AND INVOLVEMENT**

The public process included one (1) neighborhood meeting and four (4) coordinated meetings with the Mesa Working Committee (the initial meeting involved a larger group and that group was pared down to 6 or 7 residents).

For the initial neighborhood meeting, the site was posted and postcards sent to 203 residents and HOA contacts located within 1,000 feet for residents and 2,000 feet for HOA groups. The neighborhood meeting was held on November 30<sup>th</sup> at Coronado High School. Approximately 50 residents were in attendance; of those only 1/3 of the attendees were aware of the previously approved PUD zoning and PUD concept plan for the hospital (the original 51 acres). The residents voiced the following concerns:

- The proposed maximum building height of 200 feet (which had already been approved with the prior zoning);
- The impacts of the building height to the character of the Mesa area;
- Geologic issues associated with the property and placement of the building;
- Traffic concerns along both Fillmore Street and Centennial Boulevard;
- Light and noise pollution;
- Drainage from the site and impacts to properties to the east.

During the meeting the hospital and RTA Architects requested volunteers from those attending to serve as an advisory committee to the neighborhoods agreeing that CONO (Council of Neighbors and Organizations) representatives would participate in the process.

On January 12<sup>th</sup> Penrose Hospital hosted the group of volunteers to continue discussion regarding the neighborhood issues in an attempt to address some of the concerns. A smaller working committee, the Mesa Committee, representing the various neighborhoods was formed to meet weekly on each Tuesday to focus on how and when some of the above issues could be addressed. The group met on three (3) occasions with Penrose Hospital staff, RTA Architects and City staff.

After three weeks of discussions, Penrose Hospital agreed to lower the maximum building height from the originally approved 200 feet to 165 feet; a corresponding increase in the maximum gross building square footage was then requested. The Hospital has indicated an agreement with the Mesa Committee to continue working with the group to ensure an open relationship to try and address neighborhood issues and concerns noted above. Penrose Hospital points to their ongoing working relationship with the North End neighborhood group and coordination on projects impacting the current main facility, including the east tower constructed in 2003.

The Mesa Committee provided staff a formal position (**FIGURE 2**) as a result of the meetings with the Hospital in regard to the current proposal and future development of the site. Both the Mesa Committee and the Hospital agree that continued collaboration is necessary once site design and building architecture are considered prior to formal development plan submittal. Planning staff will continue to strongly encourage outreach from the Hospital to both the Mesa Committee and surrounding residents as early as possible in order to achieve a general consensus among the residents.

Upon submittal of the formal applications, the mailing area was increased to 2,000 feet from the subject property; notices went out to 627 property owners and homeowners associations. Staff received only three (3) comments from surrounding property owners regarding the proposed requests (one was in the form of questions which return comments were never received). Attached are letters from residents regarding the proposed project. (**FIGURE 3**)

Staff also sent the plans to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, City Traffic, City Fire, City Finance, Police and E-911. This site is not located within the Airport Overlay or buffer area to require USAFA review.

## **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

### **1. Review Criteria/Design & Development Issues**

#### **a. Background:**

Penrose-St. Francis Hospital (Centura Health) received their original approval from the City Council in December 2015 to rezone 51.05 acres; the original approval allowed a 200 foot height maximum and 1,032,000 square feet of hospital, office, medical office and commercial space (**FIGURE 4** – the original concept plan). The applicant has a purchase agreement with the property owners of the asphalt batch plant located southeast of the original site; the subject property consists of 27.79 acres.

The current request by the applicant is to rezone the 51.05 original acres and the 27.79 new acres to one 78.84 acre PUD zone district. The PUD zoning would allow a maximum building height of 165 feet, a maximum gross building floor area of 1,850,000 square feet (1,550,000 square feet of hospital, 200,000 square feet of office/medical office and 100,000 square feet of commercial).

The applicant would be required to submit a PUD development plan and final plat in order to secure full vesting rights before being allowed to be approved for a building permit.

#### **b. Hill Properties Master Plan:**

The Hill Properties Master Plan is being amended (**FIGURE 5**) to show the addition of the 27.79 acre property in the southeast quadrant of the area. The quadrant includes future office and private open space along with a slightly enlarged area for the hospital. The prior 2015 application for the hospital involved a major amendment to the master plan to change the 51.05 acre site from office, neighborhood commercial, and general industrial to office, hospital, and community commercial.

#### **c. PUD Concept Plan:**

The PUD concept plan (**FIGURE 6**) has been modified to include the additional acreage in the southeast quadrant of the site; this has allowed the Hospital and its consultants the ability to reconfigure the intended building zones (or generalized building locations).

The plan shows an enlarged building zone for the primary “hospital building” within the center of the site utilizing the upper, mostly level, portion of the property; the hospital zone is the only zone that would allow the 165 foot maximum building height on the property.

Three (3) “commercial/office/medical office” zones are located in the northwest, southwest and southeast corners of the property. These zones would allow a maximum building height of only 65 feet in these areas. A parking zone is interwoven between the hospital zone and the commercial/office zones. This area would allow for a building height of 45 feet, if necessary.

Lastly, a “private open space” zone buffers the easterly 1/3 of the site, creating a 450 to 500 foot open space buffer to the east. The buffer area is intended to discourage future building construction due to the unstable slope conditions as well as to protect the natural vegetation on-site. The area would allow the possibility of future water quality detention as part of the development. The Hospital envisions future trails and pathways throughout connecting from Fillmore Street to Centennial Boulevard that could be used by the general public as well as hospital staff and patients.

The concept plan also allows flexibility of a reduced building setback of 15 feet along both Fillmore Street and Centennial Boulevard; a 25-foot landscape buffer would be required in all other instances along those street frontages.

Three (3) access points are proposed on the plan. One access location along Fillmore Street will align with existing access to the VA Hospital. A future 4-way intersection is planned at this location. Two access points are shown along Centennial Boulevard; one at Grand Market Point and another at the northerly extent of the property. This access is intended to be a full movement intersection utilizing stop signs in lieu of a traffic signal.

d. Neighborhood Issues:

*Building Height:* At the larger neighborhood meeting held in November and the following up meetings with the working committee, a number of issues were voiced concerning the proposal; however, the predominant issue has been the allowed maximum building height.

As indicated above, the Hospital has agreed to reduce the maximum building height from 200 feet to 165 feet. However, the Hospital is seeking to increase the maximum gross floor area. The Hospital has indicated that it may not need the maximum building height or that only a portion of the building may reach the maximum.

The neighborhood and Mesa Committee, even though they have cautiously agreed to lending support of the new PUD zoning, stress that Chapter 6 of the Comprehensive Plan highlights community character and views to both the Pikes Peak backdrop and the mesa area (the mesa area is generally that area located south of Fillmore Street, including Sonderman Park up to Fillmore Street; the high mesa could also include the developed area of Kissing Camels area).

*Traffic:* Additional concerns include increased traffic congestion on and around Fillmore Street down to the I-25 interchange as well as along Centennial Boulevard up to Garden of the Gods Road. A traffic impact analysis has been prepared and reviewed by City Traffic Engineering. The analysis recommends the following improvements:

- Remove existing raised median within Centennial Boulevard and add median opening;
- Construct right-turn lane on Centennial for northerly access;
- Add pavement markings to close northbound right-turn lane striping;
- Stripe and sign existing southbound left-turn lane for U-turns only;
- Provide full movement north access; this intersection would be stop sign controlled;

- Add signal heads to existing signal at Grand Market Point;
- Possible modification of west leg median/east side curb radii and pedestrian ramps;
- Reconstruct southbound left turn lane to add taper;
- May need to relocate signal pole on southeast corner;
- Restriping, signing and other minor modifications as needed.

The analysis recommendations and a map of those improvements can be reviewed on the attached figure (**FIGURE 7**).

Traffic Engineering points out that the upcoming extension of Centennial Boulevard to the south connecting to I-25 & Fontanero Street will likely provide traffic relief to the area, particularly regarding traffic onto Fillmore Street.

*Geologic Hazards:* A preliminary geo-hazard investigation was submitted with the original submittal and updated with this submittal. The preliminary geologic hazard study cites potential unstable slope conditions along the easterly portion of the site. The concept plan does take that into account and proposes to maintain the building envelope for the Hospital on the upper terrace of the site and to create a 450 to 500 foot swath of “private open space” along the entire east side of the site. The executive summary from the report is provided in the attached figure (**FIGURE 8**).

*Drainage:* Property owners within the Fillmore Heights Industrial Park located immediately east of the subject property voiced concerns over historic drainage that runs from the property to the east and eventually toward I-25. Because the site does contain significant grade from west to east it is anticipated that water quality capture will occur on the lower portions of the property; however a final drainage report will need to be provided to determine the size, volume, design and extent of the facility.

*Building Design, Light Pollution, Landscaping and Noise Pollution:* Many of these issues will need to be studied and evaluated at the time of development plan submittal. Staff continues to require developments to utilize “full cut-off” and LED lighting fixtures that help minimize light pollution. Noise studies will need to be considered if/when a helipad facility is included with the development of the Hospital. Hospital staff has already been in communication with Flight for Life regarding current and anticipated flight patterns to the site.

Staff will continue to encourage the Hospital to have a strong and continued working relationship with the Mesa Working Committee and surrounding property owners.

## 2. Conformance with the City Comprehensive Plan:

### **Strategy LU 203a: Locate the Places that People Use for Their Daily Needs and Activities Close to Each Other**

Group and link the places used for living, working, shopping, schooling, and recreating and make them accessible by transit, bicycle, and foot, as well as by car.

### **Objective LU 3: Develop a Mix of Interdependent, Compatible, and Mutually Supportive Land Uses**

Over the past several decades, the location and design of development have created a pattern of isolated, disconnected, single-purpose land uses. An alternative to this type of

land use pattern is one that integrates multiple uses, shortens and reduces automobile trips, promotes pedestrian and bicycling accessibility, decreases infrastructure and housing costs, and in general, can be provided with urban services in a more cost-effective manner.

**Policy LU 301: Promote a Mixed Land Use Pattern**

Promote development that is characterized by a mix of mutually supportive and integrated residential and non-residential land uses and a network of interconnected streets with good pedestrian and bicycle access and connections to transit.

**Objective LU 4: Encourage Infill and Redevelopment**

Encourage infill and redevelopment projects that are in character and context with existing, surrounding development. Infill and redevelopment projects in existing neighborhoods make good use of the City's infrastructure. If properly designed, these projects can serve an important role in achieving quality, mixed-use neighborhoods. In some instances, sensitively designed, high quality infill and redevelopment projects can help stabilize and revitalize existing older neighborhoods.

**Policy LU 401: Encourage Appropriate Uses and Designs for Redevelopment and Infill Projects**

Work with property owners in neighborhoods, the downtown, and other existing activity centers and corridors to determine appropriate uses and criteria for redevelopment and infill projects to ensure compatibility with the surrounding area.

**Objective CCA 6: Fit New Development into the Character of the Surrounding Area**

Often the overall character of a new development is not realized until the project is completed. This can lead to unintended impacts and incompatible development. Applicants for new developments need to clearly identify how their projects will fit into the character of the surrounding area and the community as a whole with respect to height, scale, bulk, massing, roof forms, signage, overall site design, pedestrian and vehicular access, and relation to the public right-of-way.

**Policy CCA 601: New Development Will Be Compatible with the Surrounding Area**

New developments will be compatible with the surrounding land uses and will complement the character and appearance of adjacent land uses.

**Objective LU 8: Integrate Employment Centers into the Wider City Land Use Pattern**

Colorado Springs has been successful at attracting and retaining major employers and growing small businesses, which has led to a healthy, thriving economy. However, the needs of employers, such as land requirements, location considerations, and availability of housing, must be balanced with overall quality of life issues. Employment activities that are not integrated into the community lead to higher infrastructure costs, increase traffic and congestion, and create a sense of separation from the community. Employment centers should be developed so they meet the needs of the employers, while at the same time contributes to the quality of life in Colorado Springs. The City's efforts should focus on creating opportunities for quality employment at various economic levels for its residents, and on environmentally responsible industries that make a positive contribution to the community.

*Due to the reference made by the Mesa Committee, staff has included Chapter 6 of the Comprehensive Plan for the review and consideration of the Planning Commission (FIGURE 9)*

***Guidelines from Adopted Infill Section***

**Catalyst or Catalytic Project:** a public or private project that is timed and located with an expectation that it will serve as a particularly crucial and effective encouragement for additional development in infill areas.

**DENSITY AND MIXED USE ARE IMPORTANT**

Supporting infill includes the continued acknowledgment and support of greenfield development, because infill is more than reallocating a fixed amount of land use and development demand between greenfield and core areas. Infill provides an added value component that can complement traditional development. Thus, ongoing and strategic support for infill and redevelopment is expected to increase the overall marketability of the city and region for land and economic development investment.

Density is important, but so are land use mix, design, connectivity, and integration. Increases in housing and employment density are an essential component of the city's infill and redevelopment vision because density creates opportunities for markets, livability, placemaking, and land use efficiency. Increases in density should be location and context sensitive and be connected and integrated with surrounding uses. Infill and redevelopment can also add value without contributing to density, especially if uses are mixed and well integrated. Additional density is not appropriate for all locations and circumstances, and especially not for areas of special environmental sensitivity or natural and open space value.

*This project can be categorized as a catalytic project along with the existing VA Hospital immediately to the south and the future extension of Centennial Boulevard to the south. The hilltop (or Mesa) area at Fillmore Street and Centennial Boulevard could become a vital civic, office, commercial and retail center in the years to come.*

*It is the finding of the Planning and Community Development Department that the Penrose-St. Francis New Main Campus minor master plan amendment, change of zone and amended concept plan will substantially conform to the City Comprehensive Plan 2020 Land Use Map and the Plan's goals and objectives.*

3. Conformance with the Area's Master Plan:

The site is guided by the Hill Properties Master Plan which is also being considered for a minor amendment as part of this request. The 27.79 acre site is proposed to be included with the recently amended 51.05 acres of the master plan to include hospital, office, medical office, commercial and private open space for the eventual build out of the new Penrose-St. Francis Hospital Campus.

No fiscal impact analysis was necessary for the minor amendment.

**STAFF RECOMMENDATION:**

**CPC MPA 04-00043-A3MN17- MINOR AMENDMENT TO MASTER PLAN**

Recommend approval to City Council the minor amendment to the Hill Properties Master Plan, based upon the finding that the minor amendment request complies with the review criteria for granting an amendment as set forth in City Code Section 7.5.408.

**CPC PUZ 17-00030 – PUD ZONE**

Recommend approval to City Council the zone change from PUD (Planned Unit Development) and R (Residential Estate) to PUD (Planned Unit Development; hospital, office, medical office, general commercial, 1,850,000 gross floor area, 165-foot maximum building height), based upon the findings that the change of zone request complies with the review criteria set forth in City Code Section 7.3.603 regarding establishment of PUD zones along with City Code Section 7.5.603B regarding the findings for change of zone district boundaries.

**CPC PUP 15-00052-A1MJ17 – PUD CONCEPT PLAN**

Recommend approval to City Council the Penrose Hospital Campus PUD Concept Plan, based upon the findings that the plan complies with the review criteria within City Code Section 7.3.605 and meets the review criteria for granting a concept plan as set forth in City Code Section 7.5.501(E).