



CITY OF LOVELAND
CITY COUNCIL
Civic Center • 500 East Third Street • Loveland, Colorado 80537
(970) 962-2727 • FAX (970) 962-2903 • TDD (970) 962-2620
www.cityofloveland.org

PROCLAMATION

WHEREAS, our Founding Fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish a Constitution for the United States of America; and

WHEREAS, it is of the greatest import that all citizens fully understand the provisions and principles contained in the Constitution in order to support it, preserve it and defend it against encroachment; and

WHEREAS, the two hundred twenty third anniversary of the signing of the Constitution provides a historic opportunity for all Americans to learn about and recall achievements of our Founders, and to reflect on the rights and privileges of citizenship, as well as its attendant responsibilities; and

WHEREAS, the independence guaranteed to the American people by the Constitution should be celebrated by appropriate ceremonies and activities during Constitution Week, September 17 through 23, as designated by a proclamation of the President of the United States of America in accordance with Public Law 915.

NOW, THEREFORE, we, the Loveland City Council of the City of Loveland, do hereby proclaim September 17 through 23, 2011 as

CONSTITUTION WEEK

in the City of Loveland, and urge all our citizens to pay special attention during that week to our Federal Constitution and the advantage of American Citizenship.

Signed this 20th day of September, 2011

Cecil A. Gutierrez, Mayor

CALL TO ORDER

Mayor Gutierrez called the regular meeting of the Loveland City Council to order on the above date at 6:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll was called and the following responded: Gutierrez, McKean, Klassen, Heckel, Johnson, Solt, Shaffer, McEwen and Rice.

PROCLAMATION

Mayor Gutierrez read the proclamation. Police Chief Luke Hecker, Fire Chief Randy Mirovski and Thompson Valley EMS Chief Randy Lesher received the proclamation. A moment of silence was held in remembrance of those who lost their lives in the 9/11 attack. Mayor Gutierrez announced United Way of Larimer County will host a film screening and 9/11 tribute event for the community on Sunday, September 11 from 3:00-5:30pm at Everyday Joe's Coffee House (144 S. Mason St. ~ Fort Collins). The event will feature the new documentary New York Says Thank You, an inspirational film that profiles a national pay-it-forward movement.

PROCLAMATION

On September 11, 2001, the peace and security of our nation was shattered by cowardly terrorist attacks that killed nearly 3,000 innocent and brave people at the World Trade Center towers in New York City, at the United States Pentagon, and in the pristine fields of Shanksville, Pennsylvania. Although the terrorists' goal was to strike a powerful blow to the hearts of all Americans and tear at the fabric our nation, arising from the very ashes of that tragedy came a remarkable spirit of unity, compassion and determination that will never be forgotten, just as we will never forget those who were lost and injured on that day, and those who rose in service during the rescue and recovery effort and in defense of our nation both here at home and abroad.

In observance of the 10th anniversary of the September 11, 2001 attacks on America, which killed citizens from 92 different countries, we hereby adopt the following Proclamation in tribute to those lost and injured on 9/11, and the many who gave of themselves in service to their communities and to this country in the aftermath of the attacks:

WHEREAS, people of all ages and walks of life, across America, and around the world, collectively witnessed an event of immense tragedy on September 11, 2001; and

WHEREAS, the events of that day instantly transformed nearly everyone's lives, some through personal loss, and many others through an unfamiliar sense of individual and national vulnerability; and

WHEREAS, an unprecedented, historic bonding of Americans arose from the collective shock, unifying the country in an outpouring of national spirit, pride, selflessness, generosity, courage and service; and

WHEREAS, many brave people heroically, tirelessly and courageously participated in an extraordinarily difficult and dangerous rescue and recovery effort, in some cases voluntarily putting their own well-being at risk; and

WHEREAS, September 11 will never, and should never be just another day in the hearts and minds of all Americans; and

WHEREAS, September 11, 2011 will be the 10th anniversary of the 9/11 attacks on America; and

WHEREAS, many citizens may wish to memorialize September 11 by engaging in, or making a plan to engage in personal and individual acts of community service, or other giving activities, as part of a solemn day of remembrance and tribute; and

WHEREAS, on March 19, 2009, the United States Congress passed bipartisan legislation authorizing the establishment of September 11 as a federally recognized National Day of Service and Remembrance, which President Barack Obama signed into law on April 21, 2009 and;

WHEREAS, the President of the United States, on September 11, 2009, issued the Patriot Day Proclamation officially and permanently designating September 11 as a National Day of Service and Remembrance, and calling upon all interested Americans to participate in this observance through moments of silence, the flying of the flag of the United States at half-staff, as well as community service and charitable activities in tribute and remembrance; and

NOW, THEREFORE, we, the City Council of the City of Loveland, in tribute to all of the victims of 9/11 and the many who rose in service in response to the 9/11 terrorist attacks, will observe September 11, 2011, the 10th Anniversary of 9/11, as a

voluntary Day of Service and Remembrance, and furthermore call upon our citizens and organizations to consider joining in this observance and to engage in activities of tribute, solemn remembrance and charitable service.

Signed this 6th day of September, 2011

Cecil A. Gutierrez, Mayor

PROCEDURAL INFORMATION

Mayor Gutierrez made the following procedural announcement: Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it. 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 of the staff recommendation for those items. Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.

CONSENT AGENDA

Mayor Gutierrez asked if anyone in the audience, Council or staff wished to speak on any of the items or public hearings listed on the Consent Agenda. Councilor Johnson moved to approve the Consent Agenda. The motion was seconded by Councilor Heckel and a roll call vote was taken with all councilors present voting in favor thereof.

1. MINUTES

- a) Minutes for the August 9, 2011 special meeting were approved.
- b) Minutes for the August 9, 2011 study session were approved.
- c) Minutes for the August 11, 2011 special meeting were approved.
- d) Minutes for the August 16, 2011 regular meeting were approved.
- e) Minutes for the August 23, 2011 special meeting were approved.

2. CITY MANAGER

Board & Commission Appointments

Motion

Administrative Action: A motion recommending the following appointments was approved:

Affordable Housing Commission: Christopher Jessen and Wayne Thompson were reappointed to terms effective until June 30, 2014.

Housing Authority: Sandra McFeron was reappointed to a five year term effective until June 30, 2016.

3. CITY MANAGER

Easement Vacation Wet Industrial Addition (Cardinal Glass)

Ordinance #5621

Legislative Action: "AN ORDINANCE VACATING A PORTION OF CERTAIN WATER MAIN OR PIPELINE EASEMENTS LOCATED ON LOT 1, BLOCK 1, OF THE REPLAT OF LOTS 1, 4, 5, 6, AND 7, BLOCK 1 OF THE WEST INDUSTRIAL ADDITION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on second reading.

4. ECONOMIC DEVELOPMENT

Purchase and Remediation of Leslie-the-Cleaner Property

Ordinance #5622

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE

PURCHASE AND REMEDIATION OF THE LESLIE-THE-CLEANER PROPERTY LOCATED AT 301 N. LINCOLN AVENUE" was approved and ordered published on second reading.

5. DEVELOPMENT SERVICES

Historic Designation Larimer County Bank Building

1st Rdg Ord & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE LARIMER COUNTY BANK BUILDING LOCATED AT 247 EAST FOURTH STREET IN LOVELAND, COLORADO" was approved and ordered published on first reading.

6. DEVELOPMENT SERVICES

Supplemental Appropriation Historic Preservation Outreach and Education

1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR HISTORIC PRESERVATION OUTREACH AND PUBLIC EDUCATION" was approved and ordered published on first reading.

7. DEVELOPMENT SERVICES

Easement Vacation Civic Center Campus

1st Rdg Ord & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE VACATING THE EXCLUSIVE UTILITY EASEMENT LOCATED ON PORTIONS OF LOT 2, BLOCK 1, AND LOT 1, BLOCK 1, CIVIC CENTER SECOND SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO" was approved and ordered published on first reading.

8. DEVELOPMENT SERVICES

Reallocation of Community Development Block Grant Funds

#R-52-2011

Administrative Action: Resolution #R-52-2011 of the City Council of the City of Loveland, Colorado approving the grant funding recommendation of the Loveland Affordable Housing Commission for the reallocation of certain Community Development Block Grant funds was approved.

RESOLUTION #R-52-2011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO APPROVING THE GRANT FUNDING RECOMMENDATION OF THE LOVELAND AFFORDABLE HOUSING COMMISSION FOR THE REALLOCATION OF CERTAIN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, the City Council of the City of Loveland recognizes the need to provide opportunities for the well-being of less fortunate citizens; and

WHEREAS, the City receives federal Community Development Block Grant ("CDBG") funds through the U.S. Department of Housing and Urban Development to assist in meeting the housing needs for Loveland citizens with low incomes; and

WHEREAS, the City Council has charged the Affordable Housing Commission with the task of reviewing all "bricks and mortar" grant applications made to the City for CDBG funds related to housing and making a recommendation to the City Council regarding such grant funds distribution; and

WHEREAS, on August 3, 2010, the City Council adopted Resolution #R-35-2010 allocating \$25,000 in CDBG funds to the Housing Authority of the City of Loveland ("Housing Authority") for the Home Match program (the "Project"); and

WHEREAS, the Housing Authority was unable to complete the Project, therefore the \$25,000 was returned to the City for reallocation under the City's CDBG fund distribution process; and

WHEREAS, the \$25,000 was not included in the 2011 CDBG fund allocation, which was approved on June 21, 2011 by Resolution #R-43-2011; and

WHEREAS, the Affordable Housing Commission has since reviewed the grant applications made to the City for 2010 CDBG funds, and has made a recommendation to the City Council regarding reallocation of the remaining \$25,000 in CDBG funds; and

WHEREAS, the City Council desires to approve the grant funding recommendation of the Affordable Housing Commission.

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

Section 1. That the recommendation of the Affordable Housing Commission for the reallocation of the remaining \$25,000 in 2010 Community Development Block Grant funds is hereby approved as follows, subject to Agency or Project Owner execution of a subrecipient contract with the City of Loveland on or before September 21, 2011:

Agency or Project Owner	Total Grant Amount
Housing Authority of the City of Loveland	\$21,500
Volunteers of America	\$ 3,500
Total Amount of CDBG funds	\$25,000

Section 2. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 6th day of September, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

9. DEVELOPMENT SERVICES

Municipal Code Amendment – Title 18 Temporary & Minor Exempt Signs

1st Rdg Ord & P.H. Legislative Action: A public hearing was held and "AN ORDINANCE AMENDING TITLE 18 OF THE LOVELAND MUNICIPAL CODE BY AMENDING CHAPTER 18.50 REGARDING TEMPORARY SIGNS, EXEMPT SIGNS, PROJECT MARKETING SIGNS AND ENFORCEMENT" was approved and ordered published on first reading.

10. PUBLIC WORKS

Supplemental Appropriation – CDOT Safe Routes to School Grant

a) Resolution #R-53-2011 Administrative Action: Resolution #R-53-2011 approving an Intergovernmental Agreement between the City of Loveland, Colorado, and the Colorado Department of Transportation for 7th Street and Garfield Avenue (Truscott Elementary) Sidewalk Improvements was approved.

RESOLUTION #R-53-2011

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND, COLORADO AND THE COLORADO DEPARTMENT OF TRANSPORTATION FOR 7TH STREET AND GARFIELD AVENUE AREA (TRUSCOTT ELEMENTARY) SIDEWALK IMPROVEMENTS

WHEREAS, the City of Loveland desires to install sidewalk and associated improvements along 7th Street between Grant Avenue and Garfield Avenue (along the north side of Truscott Elementary School) in Loveland (the "Project"), which is to be funded by federal-aid funds administered and made available through the State of Colorado, acting through the Colorado Department of Transportation ("CDOT"); and

WHEREAS, federal-aid funds are available for the Project in the amount of \$85,880; and

WHEREAS, the City and CDOT desire to enter into an intergovernmental agreement, a copy of which is attached hereto Exhibit A and incorporated herein by this reference (the "Agreement"), to define the division of responsibilities with regard to the Project; and

WHEREAS, as governmental entities in Colorado, the City of Loveland and CDOT are authorized, pursuant to C.R.S. § 29-1-203, to cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each.

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

Section 1. That the Intergovernmental Agreement in the form substantially similar to that attached hereto as Exhibit A and incorporated herein by reference, is hereby approved and the City Manager is authorized, following consultation with

the City Attorney, to modify the Intergovernmental Agreement in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City

Section 2. That the City Manager and the City Clerk are authorized and directed to execute the Contract on behalf of the City.

Section 3. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 6th day of September, 2011.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

b) 1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR THE INSTALLATION OF 7TH STREET AND GARFIELD AVENUE (TRUSCOTT ELEMENTARY) SIDEWALK IMPROVEMENTS" was approved and ordered published on first reading.

END OF CONSENT AGENDA

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

CITY COUNCIL

a) Citizens' Reports

Jay Earl, Bond Administrator for Thompson School District, presented City Council and Kevin Aggers a plaque in appreciation of their support of \$600,000 toward the renovation of the Loveland High School Natatorium.

b) Business from Council

Shaffer

Councilor Shaffer provided an update regarding North Front Range Metropolitan Planning Organization's discussion on weighted voting. She also commended the City's Emergency response team regarding a recent incident.

Klassen

Councilor Klassen congratulated Steve Adams on being selected Water and Power Director.

Rice

Councilor Rice thanked the many volunteers involved with the Corn Roast Festival.

Gutierrez

Mayor Gutierrez made the following announcements: the Loveland Feed and Grain's 120th anniversary celebration will be held Friday, September 9; the 2nd Annual Patriots Day Concert to benefit the Veterans Plaza at Spring Canyon Park in Fort Collins will be held Saturday, September 10; information from the recent visioning meeting for Economic Development in Larimer County hosted by Larimer County Commissioners, specifically Commissioner Lew Gaiter III will be sent to Council and Northern Colorado Economic Development Corporation's annual luncheon is October 12 at the Hilton Hotel in Fort Collins which is an opportunity to meet the new CEO. Mayor Gutierrez asked that Staff and Council work to develop a conference attendance policy for Council. He also noted the agendas for the November 1st and November 8th meetings should be kept to a minimum.

Motion

Councilor Johnson moved to call for a special meeting at 6:30 on November 8, 2011 to swear in newly elected Councilors, with the Study Session to follow. Councilor McEwen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof.

c) City Manager Report

City Manager Cahill announced Public Works Director Keith Reester will be hosting in September Public Works officials from Australia and also extended congratulations to Keith on being named a Fellow of an organization of the American Public Works Association (APWA) providing him an opportunity to mentor other Public Works professionals. Thank you to The Friends of the Library who have submitted their last check completing their \$2 million dollar funding commitment toward the Library expansion. City Manager Cahill explained Cardinal Glass was mitigating the noise issue, by adding sound proofing material inside and constructing a sound proofing baffle wall outside.

d) City Attorney Report

None

PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

11. PUBLIC WORKS

Final Document Review for North I-25 Environmental Impact Statement

Discussion Only Item: City Engineer Dave Klockeman introduced this item to Council. Carol Parr, Project Manager with Colorado Department of Transportation was also present. The Colorado Department of Transportation (CDOT), in cooperation with the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), has just released the Final North I-25 Environmental Impact Statement (EIS) document for review. The City of Loveland has been involved in the EIS since the process began in 2004. The official review period is from August 19, 2011 to September 19, 2011. On August 30, 2011 the comment period was extended to October 3, 2011. As part of this review period, CDOT is requesting that the City of Loveland, as one of the participating local agencies, provide comments back to the Project Team.

12. FINANCE

July 2011 Financial Report

Information Only: Payroll & Compliance Manager Bonnie Steele introduced this item to Council. Human Resources Manager Julia Garcia spoke to the healthcare costs and the new employee health care clinic. This is an information only item. No action is required. The Snapshot Report includes the City's preliminary revenue and expenditures including detailed reports on tax revenue, health claims and cash reserves for the seven months ending July 31, 2011. City Council asked for demographics of city staff.

13. CITY MANAGER'S OFFICE

Investment Report July 2011

This is an information only item. No Council action is required. Fiscal Advisor Alan Krcmarik introduced this item to Council. The budget estimate for investment earnings for 2011 is \$3,163,130. For the first seven months of 2011, the amount posted to the investment account is \$2,000,643 including realized gains. Actual year-to-date earnings are higher than the year-to-date projection by \$232,497. Based on July's monthly statement, the estimated annualized yield on the U.S. agencies and corporates was up

to 1.64%, still under the annual target rate. Interest rates have dropped significantly lower.

14. CITY MANAGER

Discussion and consideration of any needed action concerning the ACE Manufacturing and Innovation Park.

City Manager Bill Cahill provided an update on the ACE Park. A new Request for Proposal was sent out August 30, 2011. Responses are due by September 13, 2011. Proposals will be reviewed and interviews are scheduled to begin September 16, 2011. October 4th is the targeted date to come back to Council. Tours for the interested developers are being scheduled now. Questions submitted by Councilor McKean, regarding the ACE project will be directed to the City Manager to be forwarded to CAMT.

15. CITY MANAGER

Mid-year Review of City Council Goals for 2011

Discussion only; no action required. City Manager Bill Cahill introduced this item. As follow-up to the Advance, the Council expressed interest in holding a mid-year review to evaluate progress. While staff will be prepared to give informational updates on the specific actions previously directed by Council, the primary purpose of this item is to provide for Council-driven discussion. Council discussed events which would change Council priorities set in February, 2011. The events discussed included revising the coversheets to include alternate options and clarifying the budget impacts and holding two legislative days per year in June and December. Additional goals considered included the Community Marketing Commission Strategic Marketing Plan, raw water strategy and, reduce deliveries to Council members at their homes and to keep the homelessness joint discussion with the school district moving forward by picking up from the last meeting. Capital Expansion Fees – will be added to the 2012 CEF study.

COUNCIL COMMENTS

McKean

Councilor McKean extended "kudo's" to Mary Shann in Code Enforcement for all she does for the City.

Gutierrez

Mayor Gutierrez mentioned the DOLA Director will be at the City on Thursday, at 2:00 pm.

Solt

Councilor Solt mentioned concerns he'd received regarding traffic safety issues at the Classical Charter School.

ADJOURNMENT

Having no further business to come before Council, the September 6, 2011 Regular Meeting was adjourned at 10:04 p.m.

Respectfully Submitted,

Teresa G. Andrews, City Clerk

Cecil A. Gutierrez, Mayor



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
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AGENDA ITEM: 2

MEETING DATE: 9/20/2011

TO: City Council

FROM: Greg George, Development Services

PRESENTER: Troy Bliss

TITLE:

AN ORDINANCE AMENDING TITLE 18 OF THE LOVELAND MUNICIPAL CODE
BY AMENDING CHAPTER 18.50 REGARDING TEMPORARY SIGNS, EXEMPT
SIGNS, PROJECT MARKETING SIGNS AND ENFORCEMENT

DESCRIPTION:

Consideration of a legislative action to adopt an ordinance on second reading amending Title 18 relating to various sign provisions.

BUDGET IMPACT:

Yes No

SUMMARY:

The proposed code amendments to the sign code provide:

- additional definitions for new sign types being introduced;
- more sign types are exempt from having to get a permit, including flags and real estate marketing signs;
- greater allowances to businesses and clear regulation for the use of temporary signs; and
- a longer period of time for new developments under construction to display project marketing signs.

The Planning Commission conducted hearings on June 27, 2011 and August 8, 2011 unanimously recommending approval of the amendments to City Council. City Council adopted the ordinance on first reading as an item on the consent agenda on September 6, 2011.

LIST OF ATTACHMENTS:

- Ordinance amending Title 18
- City Council staff memorandum, September 6, 2011

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to adopt on second reading: AN ORDINANCE AMENDING TITLE 18 OF THE LOVELAND MUNICIPAL CODE BY AMENDING CHAPTER 18.50 REGARDING TEMPORARY SIGNS, EXEMPT SIGNS, PROJECT MARKETING SIGNS AND ENFORCEMENT

REVIEWED BY CITY MANAGER:

FIRST READING: September 6, 2011

SECOND READING: September 20, 2011

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 18 OF THE LOVELAND MUNICIPAL CODE
BY AMENDING CHAPTER 18.50 REGARDING TEMPORARY SIGNS, EXEMPT
SIGNS, PROJECT MARKETING SIGNS AND ENFORCEMENT**

WHEREAS, City Council finds that updates to Title 18 of the Loveland Municipal Code are necessary and required in the interest of the health, safety and welfare of the people; and

WHEREAS, the City Council has received a recommendation of the Planning Commission recommending adoption of revisions to Title 18 of the Loveland Municipal Code, including changes to Chapter 18.50 regarding Temporary signs, Exempt signs, Project marketing signs and enforcement; and

WHEREAS, the City Council desires to adopt the recommendations of the Planning Commission and revise Chapter 18.50 of the Loveland Municipal Code regarding Signs.

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

Section 1. Chapter 18.50 of the Loveland Municipal Code is amended by the revision of Section 18.50.020 to revise the definition of “Temporary sign” to read as follows:

Chapter 18.50.020 Definitions

“Temporary sign” means a sign which, due to the materials used; the method, manner or location of display; or the method of operation for display; is suited only for occasional, seasonal, or special event display, including, but not limited to, those signs regulated under section 18.50.070.

Section 2. Chapter 18.50 of the Loveland Municipal Code is amended by the revision of Section 18.50.020 to add the following definitions for “Balloon”; “Flying banner”; “Pennant”; “Temporary construction fence sign”; “Temporary event sign”; and “Valance” to read as follows:

“Balloon” means an airtight bag or membrane which is inflated with air or a lighter than air gas typically intended to rise or float above the ground.

“Flying banner” means a type of temporary sign consisting of cloth, bunting, canvas or similar fabric, attached to a single vertical staff support structure with distinctive colors, patterns or symbolic logos for display.

“Pennant” means a type of temporary sign consisting of fabric, plastic, or metal strand drapery with distinctive colors, patterns, symbolic logos, or a series of narrow tapering flags for display.

“Temporary construction fence sign” means a temporary sign affixed to or incorporated into a construction fence for displaying advertisements, messages, logos, illustrations, and graphics related only to the associated property under construction.

“Temporary event sign” means a temporary sign advertising a community event sponsored by a governmental entity or not-for-profit entity that is limited only to one type of temporary sign that may include either a banner, balloon, flying banner, pennant, or valance.

“Valance” shall have the same definition as a pennant.

Section 3. Chapter 18.50 of the Loveland Municipal Code regarding Signs not subject to permit-Exempt signs, is amended by the revision of Sections 18.50.050.E; 18.50.050.M; and 18.50.050.N to read in full as follows:

18.50.050 Signs not subject to permit-Exempt signs.

...

E. Flags:

1. Flags of the United States;
2. Flags and insignias of the state of Colorado, the city of Loveland, Larimer County, governmental agencies, and nonprofit organizations exempt from federal tax, when displayed on premise, and where no single side exceeds forty-eight (48) square feet in area;
3. Except as provided in Section 18.50.050.E.4, no more than three (3) flags shall be exempt for each premise. Any additional flag shall be subject to a sign permit and the square footage shall be included in the sign area measurement for a freestanding sign.
4. Upon written request, the current planning manager may authorize additional flags on a premise provided that the flags are not used as a sign, as defined in this chapter, and are compatible within the context of the premise and the surrounding neighborhood. Any final decision of the current planning manager may be appealed to the planning commission in accordance with Chapter 18.80 of this code.

...

M. Real estate model home signs. One (1) real estate model home sign and a maximum of two (2) flying banners are permitted per street frontage of the premise on which a model home or a temporary real estate sales office is located. Real estate model home signs shall not exceed thirty-two (32) square feet of sign area per face; free-standing real estate model home signs are limited to six (6) feet in height and wall mounted real estate model home signs shall not extend above the top of the wall or parapet wall of the building to which the wall sign is attached. Flying banners shall not exceed a dimension of four (4) feet in width, thirteen (13) feet in height and twenty-five (25) square feet in total size. All surfaces incorporated into a real estate model home

sign and sign structure including, but not limited to, pole covers, monument style sign bases, and background surfaces shall be counted in the allowable sign area.

...

N. Real estate open house signs. A maximum of six (6) real estate open house signs are allowed for an open house event and such signs shall be displayed only on the day of the open house and the day prior to the open house. On-premise or off-premises display of real estate open house signs is permitted, but display in the public right-of-way is prohibited. Real estate open house signs shall not exceed six (6) square feet of sign area per face and four (4) feet in height. Pennants and balloons may be affixed to real estate open house signs provided that such attachments do not encroach upon street or sidewalk right-of-way or create a street or sidewalk safety hazard; balloons that are affixed to real estate open house signs shall not have a vertical or horizontal dimension greater than two (2) feet.

Section 4. Section 18.50.070 of the Loveland Municipal Code regarding Temporary signs is repealed in its entirety and reenacted to read in full as follows:

Chapter 18.50.070 Temporary signs.

A. Purpose.

Temporary sign regulations are established to provide businesses and non-residential uses with the opportunity to advertise occasional, seasonal, or special events. These regulations are intended to control the visual impacts to the community of such advertisements, and to provide consistency with the spirit and intent of this title and the vision statements of the Comprehensive Plan. Temporary signs shall under no circumstance be substituted for permanent signage or be situated to screen permanent signage on an adjacent lot or premise. These temporary sign provisions shall only apply to businesses and non-residential uses. These provisions shall not be applicable to signs listed under Section 18.50.050.

B. Temporary signs subject to a permit.

1. For all businesses and non-residential uses, the following sign types are permissible:

- a. Banners
- b. Balloons
- c. Pennants
- d. Valances
- e. Flying banners
- f. Any sign device which operates from an external power source including but not limited to searchlights, balloons, and animated signs

2. Permit and duration.

- a. All permissible temporary signs as specified in Section 18.50.070.B.1 shall require the approval of a temporary sign permit application by the building division.

b. Temporary sign permit applications shall be made in increments of fifteen (15) consecutive days. A maximum of four (4) temporary sign permits may be issued to an individual business or non-residential use per calendar year and may be approved in succession. The maximum cumulative display for all permitted temporary signs shall not exceed sixty (60) days per calendar year unless a variation is approved under Section 18.50.070.E.

3. Number.

No more than two (2) of the sign types specified in Section 18.50.070.B of this chapter shall be permitted on a lot or premise for an individual business or non-residential use.

4. Sign Area and Location.

a. Banners: A banner or banners must not cumulatively exceed one-hundred (100) square feet in total sign area and shall be attached to an exterior building wall. All portions of such banner(s) shall be in contact with the building wall, and shall not flap, extend beyond the wall nor be fastened to support structures.

b. Balloons: Except as allowed in Section 18.50.070.D.1.a., Balloons shall not exceed a total maximum dimension of ten (10) feet, inclusive of a base. Attaching Balloons to tethers is permitted providing the tether is no greater than fifteen (15) feet in length. Balloons must be secured to a building, structure, stable object, or the ground and shall not extend beyond the boundaries of the lot or premise. Balloons shall not be attached to trees or shrubs planted within the lot or premise.

c. Pennants and valances: A single pennant or valance strand shall not exceed fifty (50) feet in length. Each pennant or valance strand must be secured to a building, structure, stable object, or the ground at both ends. Pennant and valance strands shall not be attached to trees or shrubs planted within the lot or premise.

d. Flying banners: Except as allowed in Section 18.50.070.D.1.b., each flying banner shall not exceed twenty-five (25) feet in height inclusive of the staff or support structure and seventy-five (75) square feet in size. Flying banners are to be attached to a single vertical staff support structure only. The support structure may be mounted securely to a building, structure, stable object, or the ground. Flying banners shall not extend beyond the boundaries of the lot or premise. Flying banners shall not be attached to trees or shrubs planted within the lot or premise.

e. Sign devices operated from an external power source: Sign devices operated from an external power source shall comply at all times with the city's noise ordinance. These types of temporary signs shall be secured to the ground and limited to twenty-five (25) feet in height providing they do not extend beyond the boundaries of the lot or premise. The lighting component for searchlights must be projected upward so as not to diminish public safety and welfare.

5. Lighting.

Temporary signs may only be illuminated indirectly by means of a separate light source (excluding Searchlights). It shall be demonstrated that no off-site impacts associated to glare will occur by indirectly illuminating a temporary sign. The light source shall also comply with applicable provisions of the *City of Loveland Site Development Performance Standards and Guidelines*.

C. Maintenance.

All temporary signs shall be kept neatly finished and repaired, including all parts and supports. The Building Official and/or an authorized representative shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

D. Temporary Signs not subject to permit.

1. The following temporary signs shall not require a permit and shall not be limited in number or duration upon a lot or premise associated to a business or non-residential use, unless specified otherwise. Internal or external illumination for these specific signs shall be strictly prohibited.
 - a. Balloons which do not have maximum horizontal or vertical dimension greater than two (2) feet;
 - b. Flying banners placed within a lot or premise, providing no more than four (4) are installed and each individual flying banner does not exceed a maximum of ten (13) feet in height and twenty-five (25) square feet in total size;
 - c. Temporary construction fence sign as defined in Section 18.50.020, provided the sign does not extend above the fence;
 - d. Temporary event sign as defined in Chapter 18.50.020 subject to Section 18.50.070.B.4. and limited to a duration of no more than five (5) days;
 - e. Portable signs as defined in this chapter limited to A-frame or T-frame signs which do not exceed six (6) square feet and have a maximum height of four (4) feet. These portable signs shall be located within ten (10) feet of the business entrance and allow for a minimum unobstructed access width of five (5) feet along all sidewalks. For the purpose of this section, portable A-frame or T-frame signs shall not be placed in a public right-of-way; and
 - f. Any signage device similar to those described in items a. through e. above if so determined and approved in writing by the Current Planning Manager.
2. Internal or external illumination for the signs listed in subsection D.1 above, shall be strictly prohibited.

E. Administrative Allowances.

1. Variations from these temporary sign provisions relating to the duration and location may be provided by the Current Planning Manager. Such variations may only be provided to businesses operating at a new location for less than six (6) months or for businesses which have poor visibility from the street. To obtain a variation, the applicant must make a written request and demonstrate the following:

- a. A substantial hardship exists in carrying out the provisions of this chapter; and
 - b. The spirit and intent of this chapter will be secured in granting a variation.
2. Variations will be considered on a case-by-case basis. The Current Planning Manager may impose conditions to ensure that the intent of this chapter is maintained. Appeal of the Current Planning Manager's decision shall follow the procedures outlined in Chapter 18.80 of the Loveland Municipal Code.

F. Enforcement.

Any unauthorized deviation from this chapter shall be subject to the enforcement, legal procedures and penalties as described in Chapter 18.50.170.

Section 5. Section 18.50.085 of the Loveland Municipal Code regarding Project marketing signs is repealed in its entirety and reenacted to read in full as follows:

18.50.085 Project marketing signs.

- A. Sign Area. The maximum sign area for a project marketing sign in residential zones and residential PUDs shall be fifty square feet. The maximum sign area for a project marketing sign in non-residential zones and non-residential PUDs shall be seventy-five square feet. The sign area shall include only the extreme limits of lettering and depictions, except when the surface area of any structure to which the sign is affixed exceeds fifty percent of the area of the sign face, in which case all additional surface area will be included in the sign area measurement. Monument style sign bases and pole covers shall be included in calculating all such additional surfaces which are subject to the fifty percent limitation.
- B. Number. There shall be no more than one sign per project entry from any adjacent street and no more than two signs per project or phase of a project.
- C. Height. Project marketing signs shall be no more than 12 feet in height.
- D. Lighting. Any lighting shall be indirect. All lighting shall be aimed and/or shielded to insure that no direct light is seen upon the driving surface of any streets or upon any nearby residential properties.
- E. Duration. Signs shall be allowed to remain for no more than 2 years following commencement of construction of the public improvements within the project, unless a written request to extend this time period is approved by the current planning manager.
- F. Location. Signs shall be located within the boundaries of a project or premise which is part of the original marketing of the lots, tracts, structures or units. For projects within a mixed use planned unit development, the premise shall constitute the boundaries of the entire planned unit development.
- G. Maintenance. All applicants shall provide adequate assurance acceptable to the City that the sign and the lot or tract upon which it is located will be maintained in good condition at all times.

Section 6. Chapter 18.50 of the Loveland Municipal Code is amended by the revision of Section 18.50.170 to read as follows:

18.50.170 Enforcement, legal procedures and penalties.

It shall be unlawful for any person to erect, maintain, or allow upon any property over which they own, manage, lease or control, any sign which is not permitted pursuant to the provisions of this sign code. Enforcement, legal procedures and penalties shall be in accordance with Chapter 18.68 of this title. Additionally, unauthorized signs on public property may be confiscated by the city and held pending notification of the owner by the city. The owner may obtain said signs from the city manager upon payment of a confiscation and storage charge in an amount established by the city council. For the purposes of the enforcement of this chapter, the Building Official and his or her designee is authorized and duly appointed to issue summonses and complaints and penalty assessment notices for a violation of this chapter.

Section 7. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

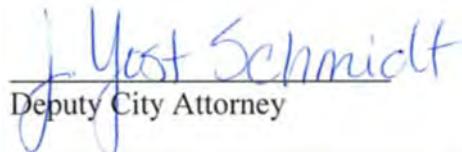
Signed this _____ day of _____, 2011

ATTEST: CITY OF LOVELAND, COLORADO

City Clerk

Mayor

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney



**Development Services
Current Planning**

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MEMORANDUM

TO: City Council

FROM: Troy Bliss, Current Planning

DATE: September 6, 2011

SUBJECT: Amendments to Title 18, Chapter 18.50 (Signs) of the Municipal Code: Definitions, Signs Not Subject To Permit-Exempt Signs, Temporary Signs, Project Marketing Signs, and Enforcement, Legal Procedures And Penalties

I. EXHIBITS

1. Planning Commission Minutes from June 27, 2011
2. Planning Commission Staff Report from June 27, 2011 including all attachments
3. Planning Commission Minutes from August 8, 2011
4. Planning Commission Staff Report from August 8, 2011 including all attachments
5. Combined and adjusted proposed Title 18 Amendments in redline form

II. SUMMARY OF AMENDMENTS

This is a proposal which includes various amendments to Title 18 of the Municipal Code regarding signs. A majority of the work contained in these proposed amendments has been devoted to the following:

- Temporary Signs – Temporary signs are those signs which typically advertise a special sale or event for businesses and non-residential uses within the community. In most applications, they are the canvas or vinyl banners placed on building facades. Also they include a variety of other devices like balloons, pennants, valances, and flags. The most notable changes to the sign code being proposed relate to the City's temporary sign ordinance (Section 18.50.070). The proposal includes a complete overhaul of the temporary sign provisions in an effort to address newer types of advertisement methods that businesses within the community have been and are seeking to use. These amendments are prepared to provide greater accommodations to businesses for occasional advertisement purposes through the use of different sign type allowances, criteria to help lessen the burden of permitting, and new business/building location variations. In an effort to balance business needs with community aesthetics, dimensional standards and duration for permitted temporary signs were greatly restructured. The temporary sign amendments clarify and update allowances for temporary signs and provide an easier format for enforcement and interpretation.

The remaining proposed amendments are relatively minor in nature where adjustments are being proposed to help clarify existing provisions and update standards. Selected adjustments are more summarized below:

- Signs Not Subject To Permit-Exempt Signs – These are types of signs such as governmental/non-profit organization flags and real estate marketing signs which are allowed in the City without a permit. Changes to this Section of the Code were prompted to clarify the use of flags and expand on the allowances for real estate marketing needs to include allowances for the flying banners.
- Project Marketing Signs – Signs for the purpose of advertising/marketing new residential development under construction. The development community has expressed an interest to the city in adjusting these provisions to allow for longer durations in which to keep project marketing signs up for display.
- Enforcement, Legal Procedures And Penalties – This is the Section of the Code which applies to all sign provisions contained in Chapter 18.50. The proposed adjustment is simply to clarify this Section of the Code relative to how these provisions carried out.

III. PLANNING COMMISSION CONSIDERATIONS

The Planning Commission reviewed the proposed amendments in two hearings (June 27, 2011 and August 8, 2011). Discussion at the June 27, 2011 hearing prompted further amendments that were presented to the Planning Commission on August 8, 2011.

- On June 27, 2011, the Planning Commission reviewed proposed amendments pertaining to sign definitions, temporary sign regulations and sign enforcement, legal procedures and penalties. By a unanimous vote, the Planning Commission recommended approval of the amendments to City Council. At the public hearing, the Planning Commission recommended a slight adjustment to the non-permitted signs regarding flying banners. The height (thirteen (13) feet) and total size (twenty-five (25) square feet) were increased from what was presented (see **Exhibit 1**).
- On August 8, 2011, the Planning Commission reviewed the proposed amendments pertaining to signs not subject to permit-exempt signs and project marketing signs. By a unanimous vote, the Planning Commission is recommended approval of the amendments to City Council. At the public hearing, the Planning Commission recommended a slight adjustment to the non-permitted flying banners for real estate signs in which to maintain some consistency with non-permitted temporary sign provisions from June 27, 2011 (see **Exhibit 3**).

The sign amendments recommended for approval by the Planning Commission at the two hearings have been combined into one ordinance for City Council's consideration. Attached to this memorandum (see **Exhibit 5**) is a combined redline version of the proposed amendments as reflected in the ordinance that includes the Planning Commission recommendations.

IV. BACKGROUND

These proposed sign amendments were initiated due to the increase in the use of temporary signs throughout the community. Issues related to the outdated nature of the temporary sign provisions and the difficulty the City was having with enforcement of the regulations. This effort was the culmination of Title 18 Committee input, Loveland Chamber of Commerce outreach, and feedback/direction from

local sign companies with the expertise on this topic who develop and sell temporary signs. This project transpired over a two (2) year period where various input was gathered, reviewed and ultimately assembled over the following timeline:

- May 12, 2009 – City Council Study Session which directed staff to begin work on temporary sign amendments.
- October 26, 2009 – Planning Commission Study Session where initial proposed amendments to temporary signs was presented for feedback and direction.
- January 28, 2010 – City Open House to present initial proposed amendments to interested citizens for comment and feedback on.
- May 10, 2010 – Public hearing with Planning Commission. Planning Commission took no action, directing staff to address complexities of the initial proposed amendments to the temporary sign provisions.
- Between May 10, 2010 and June 27, 2011 staff had various meetings with the Title 18 Committee and sought further outreach from the Loveland Chamber of Commerce and local sign companies. This resulted in a complete overhaul of the initial proposed amendments to the temporary sign provisions.
- June 27, 2011 – Public hearing with Planning Commission.
- August 8, 2011 – Public hearing with Planning Commission.

V. OUTLINE OF AMENDMENTS AND RECOMMENDATION

Below is an outline of the main components of the proposed amendments:

- Adding definitions to types of temporary signs;
- Providing expanded allowance to businesses for the use of temporary signs and providing clearer temporary sign regulations;
- Small adjustments to the enforcement, legal procedures and penalties associated to the sign code;
- Expanding and clarifying the use of flags as exempt forms of signs;
- Providing greater allowances for real estate marketing and advertisement needs specifically relating to flying banners; and
- Allowances for new developments under construction to maintain longer durations for keeping project marketing signs.

Planning Commission and City Staff are recommending to City Council approval of the amendments to Title 18, Chapter 18.50 (Signs) of the Loveland Municipal Code as reflected in the ordinance prepared on first reading dated September 6, 2011.

**CITY OF LOVELAND
PLANNING COMMISSION MINUTES
June 27, 2011**

6 A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on
7 June 27, 2011 at 6:30 p.m. Members present: Chairman Molloy; Vice Chairman Meyers; and
8 Commissioners Dowding, Fancher, Leadbetter and Middleton. Commissioners Crescibene, Krenning
9 and Ray were absent. City Staff present: Troy Bliss, Current Planning; Robert Paulsen, Current
10 Planning Manager; Sunita Sharma, Assistant City Attorney.

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

15 CITIZEN REPORTS

17 There were no citizen reports.

19 STAFF REPORTS

21 **Bob Paulsen, Current Planning Manager**, reported that his office had received a petition
22 addressed to Planning Commission regarding a joint City/County effort to identify an alignment for
23 the extension of Boyd Lake Road from 5th Street to Highway 60. He stated that the petition was
24 handed out to all the Commissioners. He further commented that the alignment project would be
25 discussed when the Public Works Department presents the 2030 Transportation Plan to the Planning
26 Commission in the fall.

27
28 **Chair Molloy** stated that he would like to hear about the alignment by the Public Works department
29 before it is done.

30
31 **Mr. Paulsen** stated that he would ask if they could email the Commission further information on the
32 alignment.

34 Vice Chair Meyers reported on a recent meeting that he and Commissioners Dowding and
35 Middleton had worked with Planning staff on prioritizing the Comprehensive Plan and Objectives as
36 part of the Comprehensive Plan update process. He indicated that the meeting had been productive.

1 **APPROVAL OF MINUTES**

2
3 *Commissioner Fancher moved to approve the Minutes of the June 13, 2011 Planning
4 Commission meeting. Upon a second by Commissioner Dowding the motion passed
5 unanimously. (Chairman Molloy abstained.)*

6
7 Mr. Paulsen requested that Regular Item #2 be continued to July 11, 2011.

8
9 **REGULAR AGENDA**

10
11 **1. Amendments to Title 18 regarding sign definitions, temporary sign regulations, and sign
12 enforcement, legal procedures and penalties.**

13
14 SUMMARY OF AGENDA ITEM: This is a public hearing to review temporary signs. The purpose
15 in bringing forward this amendment to the municipal code is that City staff has seen an increase in
16 the use of temporary signs throughout the community. For the most part, issues have not been related
17 to volume but relate to the City's abilities to fairly enforce the sign regulations. There are also issues
18 of clarity and currency with the existing temporary sign regulations. This application involves
19 legislative action by the Planning Commission; the Commission's recommendation will be
20 forwarded to the City Council for a final decision.

21
22 **Troy Bliss, Project Planner**, gave a brief background report on this item. He stated that staff was
23 directed by the City Council to move forward on the Temporary Sign Regulations. He spoke of the
24 outreach that was done and of the numerous community groups that staff met with, commenting that
25 staff received a large amount of feedback. He commented that there were requests to simplify the
26 definitions so that they are understandable. He clarified that the sign companies are in general
27 support the proposed amendments.

28
29 He stated that the proposed amendments are focused around the City's temporary sign regulations,
30 and are specifically structured in three main areas:

31 • Adding definitions to types of temporary signs;
32 • Providing expanded allowance to businesses for the use of temporary signs and providing
33 clearer temporary sign regulations; and
34 • Making a small adjustment to the enforcement, legal procedures and penalties associated
35 with the sign code.

36
37 **Mr. Bliss** stated that he received an email from Mr. Greg Muhonen requesting amendment to the
38 height and square footage of flying banners.

39
40 **Ron Busby, 1441 39th Place**, thanked Mr. Bliss and staff for their hard work and stated that the
41 modifications made by staff will help his tenants. He was specifically pleased with expanded

1 allowance for portable, sandwich board-type signs. He urged the Planning Commission to
2 recommend adoption by City Council.

3
4 **Greg Muhonen, 2085 Quillan**, also thanked staff, the Title 18 Committee, and City Council for
5 their efforts. He recommended an amendment to the flying banner provisions to increase banner
6 height allowance from 10 feet to 13 feet and to increase the flag or banner area from 20 square feet to
7 25 square feet in size. He indicated his overall support of the proposed amendments.

8
9 **Commissioner Middleton** questioned if Mr. Muhonen, who serves on the Title 18 Committee, did
10 not agree with the Committee's recommendation.

11
12 **Mr. Muhonen** stated over several months of Title 18 Committee meetings and in their previous
13 discussions about the size of the banners being 13 feet high and 25 square feet in area, he had
14 assumed that the Committee was in agreement with the height and size of the banners he was
15 advocating. He stated that he was surprised to see that the size had not been adjusted to reflect this
16 discussion.

17
18 After a brief discussion, **Mr. Bliss** stated that there are no specific industry size standards for pendent
19 signs; he stated that these types of signs are made in various heights and sizes by the various
20 manufacturers.

21
22 **Mr. Paulsen** stated the increased sign height advocated by Mr. Muhonen is not a crucial matter. He
23 emphasized, however, that the standards be clearly defined.

24
25 **Mr. Bliss** clarified that there is no application fee for a temporary sign. He reported that that staff,
26 Title 18 Committee, sign companies, the public and members of the Chamber of Commerce have
27 been working on this amendment for approximately two years

28
29 After a discussion regarding flags, **Mr. Bliss** stated that American flags are placed in the category of
30 exempt signs by the code. He noted that the review of regulations concerning government flags had
31 not been part of this effort.

32
33 **Commission Dowding** indicated support for changing the height and size of teardrop banners (flying
34 banners) as proposed by Mr. Muhonen.

35
36 **Commissioner Leadbetter** commented that he liked that the new code language was straightforward
37 and easy to understand, and he concurred with Commissioner Dowding regarding Mr. Muhonen's
38 request.

39
40 **Vice Chair Meyers** agreed with previous speakers.

1 **Commissioner Middleton** supported the item with the proposed amendment by Mr. Muhonen.

2 **Chair Molloy** spoke in support of the amendments.

3 *Commissioner Fancher made a motion to recommend that City Council approve the amendments*
4 *to Title 18 regarding temporary signs as described in the June 27, 2011 Planning Commission*
5 *staff report, and as amended on the record reflecting Mr. Muhonen's request. Upon a second by*
6 *Commissioner Middleton the motion was unanimously adopted.*

7 Following completion of the previous agenda item, a general discussion about the frequency,
8 format and duration of Planning Commission meetings occurred.

9 **Commissioner Leadbetter** suggested that the format of the commission meetings be changed by
10 holding one regular hearing and a worksession per month. He felt that would be a more efficient use
11 of staff and the Planning Commissions time.

12 **Assistant City Attorney Sharma** stated she would review the Charter to see if that recommendation
13 would be allowed by the City Charter.

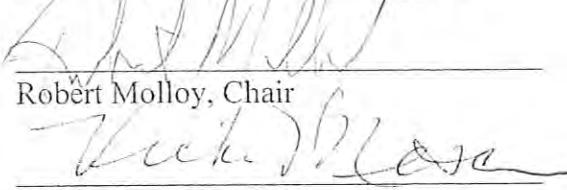
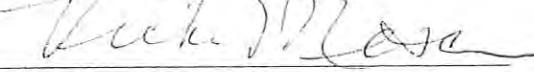
14 **Commissioner Middleton** stated he would support putting a time limit on the length of the
15 meetings.

16 **2. Amendments to Titles 16, 17, 18 and 19 of the Loveland Municipal Code.**

17 SUMMARY OF AGENDA ITEM: Amendments to Titles 16-19 of the City of Loveland Municipal
18 Code that will implement a new process for application, review and approval of site development
19 plans and site work permits. The proposed amendments would affect all development except single-
20 family detached dwellings, single-family attached dwellings for no more than two units, and two-
21 family dwellings. This application involves legislative action by the Planning Commission; the
22 Commission's recommendation will be forwarded to the City Council for a final decision.

23 Staff is requested that this item be continued to the July 11, 2011 meeting so that final City
24 staff review can be completed.

25 *Vice Chair Meyers made a motion to open and continue Item #2 to the July 11, 2011. Upon a*
26 *second by Commissioner Fancher the motion was unanimously adopted.*

1 **ADJOURNMENT**
23 *Commissioner Middleton made a motion to adjourn. Upon a second by Vice Chair Meyers the*
4 *motion was unanimously adopted.*5 
6
7 Robert Molloy, Chair
8 
910 Vicki Mesa, Secretary
11
12
13



Development Services Current Planning

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ITEM NO:

1 – Regular Agenda

PLANNING COMMISSION MEETING:

June 27, 2011

TITLE:

Amendments to Title 18 regarding sign definitions, temporary sign regulations, and sign enforcement, legal procedures and penalties.

LOCATION:

City-wide

APPLICANT:

City of Loveland, Current Planning Division

STAFF CONTACT:

Troy Bliss

APPLICATION TYPE:

Amendments to Title 18 of the Loveland Municipal Code

ACTION:

Recommend for adoption by City Council

STAFF RECOMMENDATION:

Move to recommend that City Council approve the amendments to Title 18 regarding temporary signs as described in the June 27, 2011 Planning Commission staff report and as amended on the record.

I. ATTACHMENTS

1. Loveland Municipal Code, Title 18, Chapter 18.50, Sections 18.50.010 (definitions), 18.50.070 (Temporary Signs), and 18.50.170 (Enforcement, legal procedures and penalties).
2. Proposed Amendments to the Loveland Municipal Code, Title 18, Chapter 18.50, Sections 18.50.010 (definitions), 18.50.070 (Temporary Signs), and 18.50.170 (Enforcement, legal procedures and penalties).
3. Citizen correspondence.

II. SUMMARY

The proposed amendments to Title 18 are focused around the City's temporary sign regulations, specifically structured in three main areas of focus including:

- adding definitions to types of temporary signs;
- providing expanded allowance to businesses for the use of temporary signs and providing clearer temporary sign regulations; and
- a small adjustment to the enforcement, legal procedures and penalties associated to the sign code.

This effort has resulted in a clearer description of the temporary sign provisions by defining specific types of permissible signs and standards that are both easily applied and enforced (i.e. duration, number, size, height, and location).

III. BACKGROUND

From the previous Planning Commission direction in May of 2010, the Current Planning Division has been continuing its efforts to amend Chapter 18.50 of the Loveland Municipal Code regarding temporary sign regulations. The primary focus in this effort was to simplify. Through all the input gathered during this process and prior to the May 2010 Planning Commission hearing, the proposed Temporary Sign Amendments became highly complex. Consequently, City Staff pulled back and began restructuring these amendments, starting with comparisons to surrounding Front Range communities. What City Staff found was that the proposed amendments were very generous relative to the regulations of other communities, primarily through sign exemptions and duration. To address these issues, specific yet easily distinguishable criteria have been built into the proposed Title 18 Amendments.

With these proposed amendments it was important to recognize potential over-regulation with respect to minuscule types of temporary signs such as balloons, flags/flying banners, temporary construction fence signs, etc. which have a fairly minimal visual impact to the community. From a City Staff position, we want to be practical and not get into the business of having to police these types of signs. Therefore, a section was added for temporary signs not requiring a permit.

Additionally, these provisions address circumstances where greater allowances may be considered in an effort to assist new business needs or buildings which have poor visibility from a public right-of-way. This is captured as a new section (Administrative Allowances) in which the Current Planning Manager may consider variations to the proposed temporary sign provisions relative to duration and location of the signs.

This effort was the culmination of Title 18 Committee input, Loveland Chamber of Commerce outreach, and feedback/direction from local sign companies with the expertise on this topic who develop and sell temporary signs (see **Attachment 2**).

IV. DESCRIPTION OF PROPOSED AMENDMENTS

Temporary signs are those signs which typically advertise a special sale or event. In most applications, they are the canvas or vinyl banners seen on building facades. Temporary signs also include a variety of signage devices like balloons, pennants, valances, and flags. The reason for bringing forward this amendment to the municipal code is that City staff has seen an increase in the use of temporary signs throughout the community. For the most part, issues have not been related to volume but relate to the City's abilities to fairly enforce the sign regulations. There are also issues of clarity and currency with the existing temporary sign regulations. A more detailed discussion is provided below.

A. Issues

- **Temporary sign permits are difficult to track** - Temporary sign permits are issued through the City of Loveland Building Division as specified in Section 18.50.070.D (see **Attachment 1**). From a permit tracking standpoint, there has been much difficulty in determining how long a temporary sign has been in place. This is because the current provisions state that a business is allowed a cumulative time of 60 days per calendar year in which to place a temporary sign on their building. A majority of the applicants seeking a temporary sign permit want the total allotted days allowed but not in succession. Consequently, City staff has found that the permits distribute the time allotment periodically throughout the year and most often times not all at once. This becomes difficult to track especially when permits remain on file for a year, perhaps not meeting the intent of what the temporary sign provisions were meant to be.

- **The code does not address newer temporary sign types or alternative locations for placement** - It becomes important to revisit City policies as they age over time. (Loveland's temporary sign provisions have not been updated since 1997.) As with most anything, practices change and new products get introduced. Temporary signs are no different. Businesses are constantly seeking different opportunities to display temporary signs, particularly those that are not attached to a building or defined in the code. The research that City staff has conducted from other communities and verified from the sign manufacturers has identified some of these current sign types that the Loveland code currently does not capture.

Additionally, the location or placement of temporary signs has become problematic. The code only allows temporary signs to be placed on signable walls or to extend no more than 20 feet from the front of a building. With certain types of signs, their designs are not capable of being attached to a building (i.e. temporary freestanding signs). There may be instances where a business wants to temporarily advertise for a sale but their building is setback from the street a substantial distance. With such a scenario, placing a temporary sign on the building may not be worthwhile as it cannot be seen. Consequently, other options are sought but cannot be accommodated because of current code provisions. When considering newer sign types and how they function, location becomes an important component to analyze.

- **Problems with enforcement** - Circumstances where a business/use is not in compliance with their permit or has not obtained a permit for temporary signs, has created enforcement difficulties. Loveland has nothing in place for enforcement specific to temporary signs. If any action is deemed necessary to address a temporary sign violation the Code Enforcement Division follows general guidelines which begin with verbal communication to a business owner. These verbal warnings are sometimes ignored. Subsequent measures that the City may follow include a court summons which is a more drastic approach especially when dealing with a temporary sign. Generally, the City is hesitant to resort to this approach unless there is a flagrant ongoing violation. Consequently, violations can often remain, resulting in continual clutter of temporary signage throughout the community. The intent behind the proposed amendments is to help keep enforcement manageable by means of incorporating more flexibility into temporary sign allowances (i.e. temporary signs not subject to a permit) while at the same time introducing requirements that establish a clearer approach in carrying out these provisions. Staff believes that such provisions will result in a more equitable treatment of violators.

B. Solutions

In an effort to find solutions to the issues described above, the proposed temporary sign amendments are being presented to:

- address issues relative to permit tracking by recommending a consecutive duration for permitted signs
- incorporate exemptions for specific temporary signs which are generally minor in nature
- provide allowances for a wider range of temporary sign types
- consider alternative allowances to the duration and location of temporary signs given special circumstances (i.e. new businesses or buildings which are not very visible from a public right-of-way).

To date, the proposed amendments have been presented to the Loveland Chamber of Commerce (Legislative Affairs Board) and posted on the City of Loveland website. In an effort to seek additional community feedback, this information has been provided to various organizations, clubs, citizens, etc. to assist in the decision making process with Planning Commission and City Council. Other means in trying to seek community feedback have been related to article briefs presented in the *Loveland Reporter Herald*. As mentioned above City Staff has also brought this information forward to local sign companies which manufacture these types of temporary signs. The feedback has been positive with very helpful comments restructuring these proposed amendments. Additionally, the Title 18 Committee is in full support of these amendments moving forward and therefore City staff is requesting Planning Commission review the information presented herein and make a recommendation to City Council.

V. RECOMMENDATION

Recommendation

City staff is recommending that Planning Commission recommend approval to City Council for the proposed Temporary Sign amendments presented in **Attachment 2** to this memorandum dated June 27, 2011.

18.50.020 Definitions.

As used in this chapter, the following words and phrases shall have the meanings set out in this section:

“Animated or flashing sign” means any sign or part of a sign which changes physical position by any movement or rotation, or which gives the visual impression of such movement by use of lighting, including blinking, chasing, scrolling or other animation effects, or signs which exhibit intermittent or sequential flashing of natural or artificial light or color effects. (Ord. 5431 § 1, 2009)

“Awning” means a framed exterior architectural feature which is attached to and supported from the wall of a building and/or held up by its own supports, and which is covered with canvas, fabric, or other similar material as its primary surface, and which provides or has the appearance of providing shelter from the elements to pedestrians, vehicles, property, or buildings.

“Awning sign” means a sign that is painted on or otherwise attached to an awning that is otherwise permitted by ordinance.

“Banner” means a sign which is constructed of cloth, canvas, or other type of natural or man made fabric, or other similar light material which can be easily folded or rolled, but not including paper or cardboard.

“Billboard, bench sign” or “off-premises sign” means a sign which directs attention to a business, product, service or entertainment conducted, sold or offered at a location other than on the premises on which the sign is located, but shall not include bus stop signs.

“Building frontage” means the side of the building which aligns with a street or parking lot.

“Building mounted sign” means any permanent sign fastened to or painted on any part of a building or structure in such a manner that the building is the supporting structure for or forms the background surface for the sign, including, but not limited to, wall signs, projecting signs, awning signs, and roof signs.

“Bus signs” means signs placed upon transit buses owned or operated by, or on behalf of the city pursuant to a written agreement with the city which sets forth the regulations for the size, content, placement, design and materials used for such signs. Bus signs shall not be considered “portable signs” as defined in subsection P.1. of this section.

“Bus stop signs” means signs located on benches or shelters placed in the public rights-of-way or in private property adjacent to public rights-of-way at a bus stop pursuant to a written agreement with the city which sets forth the regulations for the size, content, placement, design and materials used in the construction of said signs, benches and shelters.

“Business” means an activity concerned with the supplying and distribution of goods and services.

“Business premises” means the land, site, or lot at which, or from which, a business is principally conducted, including off-street satellite parking areas or vehicle storage areas which are approved by the City as an accessory use for the business.

“Business vehicle identification sign” means a sign which is permanently mounted or otherwise permanently affixed to a vehicle, trailer or semi-trailer and which identifies the business, products or services with which the vehicle, trailer or semi-trailer is related. For purposes of this definition, magnetic and adhesive signs shall be considered as being permanently affixed.

Bumper stickers and similar size adhesive decals shall not be considered business vehicle identification signs.

“Canopy” means a framed accessory structure or exterior architectural feature which is attached

to and supported from a wall or held up by its own supports, which provides shelter from the elements to persons, vehicles, or property.

“Canopy sign” means a wall sign that is located on the roof, fascia, soffit, or ceiling of a canopy, and that is otherwise permitted by ordinance.

“Changeable copy sign” means a sign which displays words, lines, logos or symbols which can change to provide different information. Changeable copy signs include computer signs, reader boards with changeable letters and time and temperature units.

“Commemorative or memorial sign” means a sign, tablet or plaque commemorating or memorializing a person, event, structure or site.

“Construction sign” means a temporary sign erected on the premises on which construction, alteration or repair is taking place, during the period of active continuous construction, displaying the name and other relevant information about the project, and may include the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project. (Ord. 5207 § 12, 2007)

“Dissolve” means a mode of message transition on an electronic message sign accomplished by varying the light intensity or pattern, where the first message gradually and uniformly appears to dissipate and lose legibility simultaneously with the gradual and uniform appearance and legibility of the second message. (Ord. 5431 § 1, 2009; Ord. 5207 § 12, 2007)

“Election sign” means a non-illuminated sign relating to a candidate, issue, proposition, or other matter to be voted upon by the electors of the city. (Ord. 5440 § 1, 2009)

“Electronic Message Sign” means a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means, including animated graphics and video. (Ord. 5431 § 1, 2009; Ord. 5207 § 12, 2007)

“Fade” means a mode of message transition on an electronic message sign accomplished by varying the light intensity, where the first message gradually and uniformly reduces intensity to the point of not being legible and the subsequent message gradually and uniformly increases intensity to the point of legibility. (Ord. 5431 § 1, 2009; Ord. 5207 § 12, 2007)

“Freestanding sign” means any non-movable sign not affixed to a building, and is not a portable sign.

“Governmental sign” means a sign erected and maintained by or on behalf of the United States, the state, the county or the city for the purpose of regulating traffic or for civic purposes.

“Hazardous sign” means a sign which by reason of inadequate maintenance, dilapidation, or obsolescence creates a hazard to public health, safety or welfare.

“Historic sign” means a sign which has been designated as historic as provided in subsection D of Section 18.50.150.

“Holiday decoration sign” means a temporary sign, in the nature of decorations, clearly customary and commonly associated with federal, state, local or religious holidays and contains no commercial message.

“Horizontal Profile” means a sign profile where the width of the sign is a minimum of 50% greater than the height of the sign. (Ord. 5431 § 1, 2009; Ord. 5207 § 12, 2007)

“Identification sign” means a sign giving only the nature, logo, trademark or other identifying symbol, address, or any combination of the name, symbol and address of a building, business, development or establishment.

“Illegal sign” means any sign which was erected without a sign permit in violation of any of the

ordinances of the city governing the same at the time of its erection and which sign has not been in conformance with such ordinances, including this code, and which shall include signs which are posted, nailed or otherwise fastened or attached to or painted upon structures, utility poles, trees, fences or other signs.

“Indirect lighting” means a source of external illumination of any sign.

“Information Sign” means a sign which directs or regulates pedestrians or vehicle traffic within private property and includes information of a general directive or informational nature such as no parking, disabled parking, loading area, self-service, and rest rooms; which bears no advertising matter, and does not exceed two square feet of sign area per face.

“Joint identification sign” means a sign which serves as a common or collective identification for two or more uses on the same premises.

“Leading edge” means the point of a sign, including the sign support structure, closest to the public right-of-way.

“Legal nonconforming sign” means any sign for which a sign permit was issued and said sign was lawfully erected and maintained prior to the enactment of this chapter and any amendments thereto and which does not conform to all the applicable regulations and restrictions of this code and any amendments thereto.

“Light bulbs” means incandescent bulbs used on a business or commercial premise and not a residential premise. This does not include holiday decorative lights.

“Logo” means, for the purposes of this chapter only, a symbol, image, insignia, word, word abbreviation, or initials which is designed for easy recognition, and which represents or identifies in graphic form, a nation or organization of nations, states or cities, or fraternal, religious and civic organizations or any educational institutions, irrespective of whether they are made of permanent, semi-permanent, or temporary materials.

“Menu board sign” means a wall or freestanding sign which lists the foods or other products available at drive-through facilities.

“Module” means a self-contained message component which is an integral part of a sign.

“Multi-tenant center” means one or more buildings, located on a single premise, containing two or more separate and distinct businesses or activities which occupy separate portions of the building with separate points of entrance, and which are physically separated from each other by walls, partitions, floors or ceilings.

“Nameplate sign” means a sign, located on the premises, giving only the name or address, or both, of the owner or occupant of a building or premises.

“Nonbacked or individual letter sign” means a wall sign consisting of individual letters, script or symbols without background other than a wall of a building or other structure.

“Noncommercial sign” means a sign which has no commercial content.

“Off-premises Sign.” See “Billboard, bench sign.”

“Portable sign” means a sign that is designed to be easily transportable, including but not limited to signs designed to be displayed while mounted or affixed to the trailer by which it is transported, or with wheels remaining otherwise attached during display; signs mounted on transportable frames with wheels removed; signs attached or affixed to a chassis or other moveable support constructed without wheels; signs designed as, or converted to, A-frame or Tframe

signs; signs attached temporarily to the ground, a structure, or other signs; signs mounted on a vehicle and visible from the public right-of-way, including business vehicle identification

signs; sandwich boards; and hot air or gas filled balloons which are not designed or approved for navigable flight.

“Premises” means an area of land occupied by the buildings or other physical uses which are an integral part of the activity conducted upon the land and such open spaces as are arranged and designed to be used in conjunction with that activity.

“Private sale or event sign” means a sign advertising a private sale of personal property such as a house sale, garage sale, rummage sale and the like.

“Project marketing sign” means a sign that is placed at one or more key locations within a project, which identifies the project and offers for sale, as part of the original marketing of the project, the lots, tracts, structures or units within the project.

“Projecting sign” means a sign that is wholly or partly dependent upon a building for support and which projects horizontally more than fifteen inches from such building.

“Real estate model home sign” means a sign identifying a model home and/or a temporary real estate sales office. (Ord. 5440 § 1, 2009)

“Real estate open house sign” means a sign indicating that a building or portion of a building is available for inspection by prospective buyers or renters. (Ord. 5440 § 1, 2009)

“Real estate sign” means a sign indicating only the availability for sale, rent or lease of a specific parcel, building or portion of a building and name, address and telephone number of owner or listing of real estate broker.

“Residential zoning district” means a property having one of the following Title 18 zoning designations: ER, R1e, R1, R2, R3e, R3 or a property zoned PUD where the property is designated exclusively for residential use by an approved site specific development plan. (Ord. 5440 § 1, 2009)

“Residential, commercial and industrial development identification sign” means a sign identifying only the name of a residential, commercial or industrial complex.

“Residential premise” means a lot or parcel of land containing a home or building used for dwelling purposes provided that the land is zoned for such use.

“Roof sign” means a sign any portion of which projects above the top of the wall of a building, or is mounted on the roof of a building.

“Searchlight.” See “Animated or flashing sign.”

“Sign” means any object, device, or structure, or part thereof, situated outdoors or indoors, which is visible beyond the boundaries of the premises upon which it is located, and which advertises, identifies, directs or attracts the attention of the public to a business, institution, product, organization, event or location by any means, including, but not limited to, words, letters, graphics, fixtures, symbols, colors, motion, illumination and projected images.

“Sign face” means the area of a sign upon or through which the message is displayed.

“Sign structure” means and includes all supports, braces or other framework of a sign.

“Signable wall” means a wall of a building which is visible from a street, parking area or other public or private way.

“Street frontage” means a property line which abuts a public right-of-way that provides public access to or visibility to the premises.

“Temporary sign” means a sign which, due to the materials used; the method, manner or location of display; or the method of operation for display; is suited only for brief display, including, but not limited to, those signs regulated under section 18.50.070 of this title.

“Top of wall” means the uppermost point of the vertical exterior surface of a building wall,

excluding parapet wall in which case the top of wall shall be the top of the parapet wall or three feet above the roof, which ever is less.

“Vehicular Sign.” See “Portable sign.”

“Wall sign” means a sign fastened to or painted on a wall of a building or structure in such a manner that the wall is the supporting structure for, or forms the background surface of the sign and which does not project more than fifteen inches from such building or structure.

“Window sign” means a sign that is applied to or attached to the exterior or interior of a window or located in such manner within a building that it is visible from the exterior of the building through a window, but excludes merchandise in a window display. (Ord. 5283 § 1, 2008; Ord. 4779 § 4, 2003; Ord. 4254 § 1 (part), 1997; Ord. 4219 § 1 (part), 1996; Ord. 4185 § 1 (part), 1996; Ord. 4089 §§ 1, 2, 1995; Ord. 3711 § 2, 1991; Ord. 3631 § 1, 1989; Ord. 3609 § 1 (part), 1989)

18.50.070 Temporary signs.

- A. The following objects and devices are hereby declared to be temporary signs, subject to the following requirements and limitations. Only the following temporary signs are allowed:
 - 1. Portable Signs: The following portable signs are allowed when used in conjunction with a legal business provided that not more than two types of portable sign may be used at one time and that the cumulative total time for all portable signs for each business does not exceed 60 days per calendar year:
 - a. Balloons and other types of lighter than air objects, which have no linear dimension greater than 2 feet.
 - b. Pennants, valances, or wind powered devices.
 - c. Banner or banners which do not cumulatively exceed 100 square feet in total sign area.
 - 2. Light bulbs: Light bulbs are allowed when used in conjunction with a temporary use and their use does not exceed 60 days per calendar year.
 - 3. Large Balloons: Balloons and other types of lighter than air objects which have a dimension greater than 2 feet and are secured to the property shall only be allowed for a maximum of 7 days for special events such as circuses, carnivals, festivals, grand openings and other similar events. Large balloons for special events are allowed provided that they are used only once every six months.
 - 4. Searchlights: Searchlights shall be allowed for a maximum of 3 days per calendar year.
- B. Location. All temporary signs allowed pursuant to Section 18.50.070 A.1.a. through c. shall be located only on a signable wall which adjoins the portion of the building occupied by the business with which the temporary sign is associated and shall not extend more than 20 feet from the front of the building or over any vehicular way or parking area. Any temporary sign located over a public walk-way shall have a minimum clearance of 8 feet. Balloons as defined in this Section 18.50.070 are allowed to extend a maximum of 8 feet over the top of a wall or parapet.
- C. Maintenance: All temporary signs shall be kept neatly finished and repaired, including all parts and supports. The Building Official and/or an authorized representative shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

D. Permits: All portable signs as defined in Section 18.50.070 A.1.a through c. and 18.50.070 A.3. and A.4. shall require a permit issued by the Building Division. Permit cards shall be displayed at the business with which the sign is associated until the permit expires or the temporary sign is removed. (Ord. 4254 § 1 (part), 1997; Ord. 4221 § 1 (part), 1996; Ord. 4185 § 1 (part), 1996; Ord. 4089 § 5, 1995; Ord. 3776 § 2, 1991; Ord. 3703 § 1, 1990; Ord. 3609 § 1 (part), 1989)

18.50.170 Enforcement, legal procedures and penalties.

It shall be unlawful for any person to erect, maintain, or allow upon any property over which they own, manage, lease or control, any sign which is not permitted pursuant to the provisions of this sign code. Enforcement, legal procedures and penalties shall be in accordance with Chapter 18.68 of this title. Additionally, unauthorized signs on public property may be confiscated by the city and held pending notification of the owner by the city. The owner may obtain said signs from the city manager upon payment of a confiscation and storage charge in an amount established by the city council. For the purposes of the enforcement of this chapter, the Building Official and his or her designee is authorized and duly appointed to issue summonses and complaints and penalty assessment notices for a violation of this chapter only. (Ord. 4089 § 6, 1995; Ord. 3788 § 2, 1991)

Chapter 18.50.020 Definitions

“Temporary sign” means a sign which, due to the materials used; the method, manner or location of display; or the method of operation for display; is suited only for **brief occasional, seasonal, or special event** display, including, but not limited to, those signs regulated under section 18.50.070.

“Balloon” means an airtight bag or membrane which is inflated with air or a lighter than air gas typically intended to rise or float above the ground.

“Flag/flying banner” means a type of temporary sign consisting of cloth, bunting, canvas or similar fabric, attached to a single vertical staff support structure with distinctive colors, patterns or symbolic logos for display.

“Pennant/valance” means a type of temporary sign consisting of fabric, plastic, or metal strand drapery with distinctive colors, patterns, symbolic logos, or a series of narrow tapering flags for display.

“Temporary construction fence sign” means a temporary sign affixed to or incorporated into a construction fence for displaying advertisements, messages, logos, illustrations, and graphics related only to the associated property under construction.

“Temporary event sign” means a temporary sign advertising a community event sponsored by a governmental entity or not-for-profit entity that is limited only to one type of temporary sign that may include either a banner, balloon, flag/flying banner, or pennant/valance.

Chapter 18.50.070 Temporary signs.

- A. The following objects and devices are hereby declared to be temporary signs, subject to the following requirements and limitations. Only the following temporary signs are allowed:
 - 1. Portable Signs: The following portable signs are allowed when used in conjunction with a legal business provided that not more than two types of portable sign may be used at one time and that the cumulative total time for all portable signs for each business does not exceed 60 days per calendar year:
 - a. Balloons and other types of lighter than air objects, which have no linear dimension greater than 2 feet.
 - b. Pennants, valances, or wind powered devices.
 - c. Banner or banners which do not cumulatively exceed 100 square feet in total sign area.
 - 2. Light bulbs: Light bulbs are allowed when used in conjunction with a temporary use and their use does not exceed 60 days per calendar year.
 - 3. Large Balloons: Balloons and other types of lighter than air objects which have a dimension greater than 2 feet and are secured to the property shall only be allowed for a maximum of 7 days for special events such as circuses, carnivals, festivals, grand openings and other

similar events. Large balloons for special events are allowed provided that they are used only once every six months.

—4. Searchlights: Searchlights shall be allowed for a maximum of 3 days per calendar year.

A. Purpose.

1. **Temporary sign regulations are established to provide businesses and non-residential uses with the opportunity to advertise occasional, seasonal, or special events.** These regulations are intended to control the visual impacts to the community of such advertisements, and to provide consistency with the spirit and intent of this title and the vision statements of the Comprehensive Plan. Temporary signs shall under no circumstance be substituted for permanent signage or be situated to screen permanent signage on an adjacent lot or premise. These temporary sign provisions shall only apply to businesses and non-residential uses.

B. Location. All temporary signs allowed pursuant to Section 18.50.070 A.1.a. through c. shall be located only on a signable wall which adjoins the portion of the building occupied by the business with which the temporary sign is associated and shall not extend more than 20 feet from the front of the building or over any vehicular way or parking area. Any temporary sign located over a public walk-way shall have a minimum clearance of 8 feet. Balloons as defined in this Section 18.50.070 are allowed to extend a maximum of 8 feet over the top of a wall or parapet.

B. Temporary signs subject to a permit.

1. **For all businesses and non-residential uses, the following sign types are permissible:**
 - a. Banners
 - b. Balloons
 - c. Pennants/valances
 - d. Flags/flying banners
 - e. Any sign device which operates from an external power source including but not limited to searchlights, balloons, and animated signs

2. Permit and duration.

- a. **All permissible temporary signs as specified in Section 18.50.070.B.1 shall require the approval of a temporary sign permit application by the building division.**
- b. **Temporary sign permit applications shall be made in increments of fifteen (15) consecutive days. A maximum of four (4) temporary sign permits may be issued to an individual business or non-residential use per calendar year and may be approved in succession. The maximum cumulative display for all permitted temporary signs shall not exceed sixty (60) days per calendar year unless a variation is approved under Section 18.50.070.E.**

3. Number.

a. No more than two (2) of the sign types specified in Section 18.50.070.B of this chapter shall be permitted on a lot or premise for an individual business or non-residential use.

4. Sign Area and Location.

a. Banners: A banner or banners must not cumulatively exceed one-hundred (100) square feet in total sign area and shall only be attached to an exterior building wall. All portions of such banner(s) shall be in contact with the building wall, and shall not flap, extend beyond the wall nor be fastened to support structures.

b. Balloons: Except as allowed in Section 18.50.070.D.1.a., Balloons shall not exceed a maximum dimension of ten (10) feet, inclusive of a base. Attaching Balloons to tethers is permitted providing the tether is no greater than fifteen (15) feet in length. Balloons must be secured to a building (including but not limited to roof, parapet, or façade), structure, stable object, or the ground and shall not extend beyond the boundaries of the lot or premise. Balloons shall not be attached to trees or shrubs planted within the lot or premise.

c. Pennants/valances: A single pennant/valance strand shall not exceed fifty (50) feet in length. Each pennant/valance strand must be secured to a building, structure, stable object, or the ground at both ends. pennant/valance strands shall not be attached to trees or shrubs planted within the lot or premise.

d. Flags/flying banners: Except as allowed in Section 18.50.070.D.1.b., each flag/flying banner shall not exceed twenty-five (25) feet in height inclusive of the staff or support structure and seventy-five (75) square feet in size. Flags/flying banners are to be attached to a single vertical staff support structure only. The support structure may be mounted securely to a building, structure, stable object, or the ground. Flags/flying banners shall not extend beyond the boundaries of the lot or premise. Flags/flying banners shall not be attached to trees or shrubs planted within the lot or premise.

e. Sign devices operated from an external power source: Sign devices operated from an external power source shall comply at all times with the city's noise ordinance. These types of temporary signs shall be secured to the ground and limited to twenty-five (25) feet in height providing they do not extend beyond the boundaries of the lot or premise. The lighting component for searchlights must be projected upward so as not to diminish public safety and welfare.

5. Lighting.

a. Temporary signs may only be illuminated indirectly by means of a separate light source (excluding Searchlights). It shall be demonstrated that no off-site impacts associated to glare will occur by indirectly illuminating a temporary sign. The light source shall also comply with applicable

provisions of the *City of Loveland Site Development Performance Standards and Guidelines*.

~~C. Maintenance: All temporary signs shall be kept neatly finished and repaired, including all parts and supports. The Building Official and/or an authorized representative shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.~~

C. Maintenance.

- 1. All temporary signs shall be kept neatly finished and repaired, including all parts and supports. The Building Official and/or an authorized representative shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.**

~~D. Permits: All portable signs as defined in Section 18.50.070 A.1.a through e. and 18.50.070 A.3. and A.4. shall require a permit issued by the Building Division. Permit cards shall be displayed at the business with which the sign is associated until the permit expires or the temporary sign is removed. (Ord. 4254 § 1 (part), 1997; Ord. 4221 § 1 (part), 1996; Ord. 4185 § 1 (part), 1996; Ord. 4089 § 5, 1995; Ord. 3776 § 2, 1991; Ord. 3703 § 1, 1990; Ord. 3609 § 1 (part), 1989)~~

D. Temporary Signs not subject to permit.

- 1. The following temporary signs shall not require a permit and shall not be limited in number or duration upon a lot or premise associated to a business or non-residential use, unless specified otherwise. Internal or external illumination for these specific signs shall be strictly prohibited.**
 - a. Balloons having a maximum dimension no greater than two (2) feet;**
 - b. Flags/flying banners placed within a lot or premise, providing no more than four (4) are installed and each does not exceed a maximum of ten (10) feet in height and twenty (20) square feet in size;**
 - c. Temporary construction fence sign as defined in Section 18.50.020, provided the sign does not extend above the fence;**
 - d. Temporary event sign as defined in Chapter 18.50.020 subject to Section 18.50.070.B.4. and limited to a duration of no more than five (5) days;**
 - e. Portable signs as defined in this chapter limited only to a-frame or t-frame signs which do not exceed six (6) square feet and have a maximum height of four (4) feet. These portable signs shall be located within ten (10) feet of the business entrance and allow for a minimum unobstructed access width of five (5) feet along all sidewalks. For the purpose of this section, portable a-frame or t-frame signs shall not be placed in public right-of-way; and**

f. Any signage device similar to those described in items a. through e. above if so determined by the Current Planning Manager.

E. Administrative Allowances.

- 1. Variations from these temporary sign provisions relating to the duration and location may be provided by the Current Planning Manager. Such variations can only be provided to businesses operating at a new location for less than six (6) months or for businesses which have poor visibility from the street. To obtain a variation, the applicant must make a written request and demonstrate that:**
 - a. A substantial hardship exists in carrying out the provisions of this Chapter; and**
 - b. The spirit and intent of this chapter will be secured in granting a variation.**
- 2. Variations will be considered on a case-by-case basis. The Current Planning Manager may impose conditions that ensure the intent of this chapter is maintained. Appeal of the Current Planning Manager's decision shall follow the procedures outlined in Chapter 18.80 of the Loveland Municipal Code.**

F. Enforcement.

- 1. Any unauthorized deviation from this chapter shall be subject to the enforcement, legal procedures and penalties as described in Chapter 18.50.170.**

18.50.170 Enforcement, legal procedures and penalties.

It shall be unlawful for any person to erect, maintain, or allow upon any property over which they own, manage, lease or control, any sign which is not permitted pursuant to the provisions of this sign code. Enforcement, legal procedures and penalties shall be in accordance with Chapter 18.68 of this title. Additionally, unauthorized signs on public property may be confiscated by the city and held pending notification of the owner by the city. The owner may obtain said signs from the city manager upon payment of a confiscation and storage charge in an amount established by the city council. For the purposes of the enforcement of this chapter, the Building Official and his or her designee is authorized and duly appointed to issue summonses and complaints and penalty assessment notices for a violation of this chapter ~~only~~. (Ord. 4089 § 6, 1995; Ord. 3788 § 2, 1991)

Troy Bliss

m: cj_luke@msn.com on behalf of CJ Luke <connie@highimpact-signs.com>
Sent: Monday, June 20, 2011 9:04 AM
To: Troy Bliss
Subject: RE: City of Loveland Proposed Temporary Sign Amendments

Looks good, Troy. Thanks for the opportunity to provide input.

Connie Luke
 High Impact Signs & Graphics
 1546 Taurus Court
 Loveland, CO 80537
www.highimpact-signs.com
 Ph 970.278.9980

From: blisst@ci.loveland.co.us
 To: connie@highimpact-signs.com; dezender@mesanetworks.net; aero@aerographics.com; firststreetsigns@comcast.net;
 marylee@mountainstatesta.com
 Date: Fri, 17 Jun 2011 16:44:41 -0600
 Subject: City of Loveland Proposed Temporary Sign Amendments

Greetings,

Thank you all for taking the time to speak with me over the phone a few days ago. I certainly appreciate you all providing me your contact information in an effort to share with you the attached amendments to the City of Loveland Municipal Code the Current Planning Division has been working on relative to Temporary Signs. Please note these proposed amendments only focus on Temporary Signs (Chapter 18.50, Section 18.50.070 of the Loveland Municipal Code). These proposed amendments will be presented to our Planning Commission on June 27, 2011 at 6:30 p.m. in the City Council Chambers of the Municipal Complex located at 500 East Third Street. I welcome any feedback and comments from you all prior to this meeting. They can be sent to me directly if you would like. Also, you are certainly welcome to attend the Planning Commission hearing should you wish to share with the Commissioner's any thoughts or just participate in the process. If there are any questions please do not hesitate to contact me. Again thank you, your professional expertise on this topic is much appreciated in our efforts towards implementing amendments to the Temporary Sign regulations.

Troy Bliss
 Senior Planner
 Current Planning
 Development Services
 City of Loveland
 (970) 962-2522
blisst@ci.loveland.co.us

Troy Bliss

From: Doug Zender <dezender@mesanetworks.net>
Sent: Saturday, June 18, 2011 10:16 AM
To: Troy Bliss
Subject: Re: City of Loveland Proposed Temporary Sign Amendments

Hey Troy,

Thank you for sending proposed changes to the sign code. After having read through the information, I have a question that was not addressed. On numerous occasions, I've produced banners for customer pick-up... they install it & maintain it... do I suffer consequences of their failure to follow the code? Since I am a sign guy, not a policeman or code enforcement officer, I don't feel an obligation to babysit them... how will this kind of thing be handled? Is it not, then, their responsibility to pull permits & meet code requirements? In these cases, I usually have never even been to their property nor seen the application of the sign or where or how it is affixed... is there some sure criteria for this?? It would seem to me, that, once the thing leaves my shop, it is the property of my client & his responsibility to deal w/ the legalities.... is this the case, or no?? At this point I'm not sure what to advise such a customer. Is there any kind of provision anticipated? I am personally not too fond of banners or many other temporary type signs, since their tendency is, over time, to look a bit shabby, but also have to make a living, so try to serve my customers as best I can w/o side-stepping the law. I appreciate your efforts to keep signage in a reasonable visual realm since I believe all signs should have some aesthetic appeal in their surroundings & I anticipate your positive response regarding this issue...

Thanks,

Doug Zender
 A to Z Unlimited
 4469 West Eisenhower Blvd.
 Loveland, Colorado 80537
 Phone: 970-669-8303

----- Original Message -----

From: [Troy Bliss](#)
To: connie@highimpact-signs.com ; dezender@mesanetworks.net ; aero@aerographics.com ;
firststreetsigns@comcast.net ; marylee@mountainstatesta.com
Sent: Friday, June 17, 2011 4:44 PM
Subject: City of Loveland Proposed Temporary Sign Amendments

Greetings,

Thank you all for taking the time to speak with me over the phone a few days ago. I certainly appreciate you all providing me your contact information in an effort to share with you the attached amendments to the City of Loveland Municipal Code the Current Planning Division has been working on relative to Temporary Signs. Please note these proposed amendments only focus on Temporary Signs (Chapter 18.50, Section 18.50.070 of the Loveland Municipal Code). These proposed amendments will be presented to our Planning Commission on June 27, 2011 at 6:30 p.m. in the City Council Chambers of the Municipal Complex located at 500 East Third Street. I welcome any feedback and comments from you all prior to this meeting. They can be sent to me directly if you would like. Also, you are certainly welcome to attend the Planning Commission hearing should you wish to share with the Commissioner's any thoughts or

participate in the process. If there are any questions please do not hesitate to contact me. Again thank you, your professional expertise on this topic is much appreciated in our efforts towards implementing amendments to the Temporary Sign regulations.

Troy Bliss
Senior Planner
Current Planning
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City of Loveland
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CITY OF LOVELAND
PLANNING COMMISSION MINUTES
August 8, 2011

The meeting of the City of Loveland Planning Commission was held in the City Council Chambers on August 8, 2011 at 6:30 p.m. Members present: Chair Molloy; Vice Chair Meyers; and Commissioners Crescibene, Middleton, Dowding and Leadbetter. Commissioners Absent: Krenning, Ray and Fancher. City Staff present: Troy Bliss, Current Planning; Brian Burson Current Planning; Robert Paulsen, Current Planning Manager; Sunita Sharma, Assistant City Attorney.

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

STAFF MATTERS

Assistant City Attorney Judy Schmidt briefly introduced herself to the Planning Commission explaining that she would soon be assuming the duties of Assistant City Attorney that Ms. Sharma has been performing. She indicated that the change is simply an ongoing effort within the City Attorney's Office to cross-train and work with other city departments and the various boards and commissions.

Robert Paulsen, Current Planning Manager, reported that he provided the Commission with a memorandum regarding the Comprehensive Plan update. He stated that ten (10) revised and consolidated objectives have been identified and he asked the Planning Commission to review the objectives prior to the discussion at the August 22, 2011 Planning Commission Meeting.

APPROVAL OF MINUTES

Commissioner Meyers made a motion to adopt the June 27, 2011 meeting minutes. Upon a second by Commissioner Dowding the motion was unanimously adopted. Commissioner Crescibene abstained.

After a brief discussion regarding the lack of a quorum at the July 25, 2011 Planning Commission meeting, **Assistant City Attorney Sunita Sharma** reported there were no minutes from July 25, 2011 to approve, as no action other than continuance of agenda items was taken.

COMMITTEE REPORTS

Vice Chair Meyers stated that the Title 18 Committee will not meet in August and the items before the Commission are the items that they have been working on.

EXHIBIT 3

CONSENT AGENDA

1. Lee Farm 1st Subdivision

SUMMARY OF AGENDA ITEM: Consideration of a request for a two year extension for the approval of the Lee Farm 1st Subdivision preliminary plat, consisting of 246.86 acres. The preliminary plat was originally approved by the Planning Commission on August 23, 2010.

With the original approval of the related Lee Farm 1st Subdivision PUD Preliminary Development Plan, vested rights were acquired, assuring the validity of the PDP for three years. Since the preliminary plat and PDP are interrelated, it is appropriate to grant validity to the preliminary plat for the same length of time.

This application involves administrative action by the Planning Commission. Absent an appeal, the Planning Commission's action is final.

Commissioner Middleton made a motion to approve the Consent Agenda. Upon a second by Commissioner Crescibene the motion was unanimously adopted.

REGULAR AGENDA

1. Amendments to Title 18 Regarding Signs Not Subject to Permit-Exempt Signs and Project Marketing Signs.

SUMMARY OF AGENDA ITEM: This is a public hearing to consider the proposed amendments to Title 18 which are focused on the City's exempt sign and project marketing sign provisions. The amendments are considered minor and are associated with the larger set of Temporary Sign amendments reviewed and recommended for approval by the Planning Commission on June 27, 2011.

Troy Bliss, Project Planner, gave a staff presentation on this item. He reported that staff had initiated some minor adjustments to the signage provisions for government flags and real estate marketing signs following the July 25, 2011 Planning Commission hearing. These adjustments responded to issues raised during the discussion of Temporary signs.

He stated that the proposed amendments are to the City's exempt and project marketing sign provisions, specifically structured in three main areas of focus:

- Expanding and clarifying the use of flags as exempt forms of signs;
- Providing greater allowances for real estate marketing and advertisement needs specifically relating to flying banners-type signs; and
- Allowing a longer duration period for the use of project marketing signs for new residential developments.

He reported that these amendments were presented to the Title 18 Committee on July 14 and received full support of the Committee. He stated that with the Planning Commission's review of these amendments, staff intends to incorporate them into the Temporary Sign amendments when they are presented to the City Council in early September.

Vice Chair Meyers thanked staff for their patience and flexibility in accommodating real estate and business owners. He stated he fully supported the item.

Commissioner Dowding stated that at the June 27, 2011 meeting the Planning Commission supported provisions to accommodate flying banners that were 13 foot high with a total of 25 square feet in area. She questioned why the new amendment specifies a maximum width allowances rather than a square footage limit; she suggested that the standards be consistent on all temporary signage.

Mr. Bliss concurred that the width limitation was not specified in the original Temporary Sign amendments. He clarified that in the new amendments staff is specifying a width of 4 feet, not a specific square footage limitation on the size of the banner.

Vice Chair Meyers he stated that there is no industry standard and that all signs are custom made.

Mr. Bliss clarified that the Commission approved a maximum height of 13 feet and maximum square footage allowance of 25 square feet for flying banners used in commercial applications; he further stated that staff had not specified a width limit. He asked if the Commission would like to keep the height to 13 feet with the maximum width of 25 square feet.

Commissioner Dowding asked if the Commission was comfortable with maintaining a different standard for business and real estate signs.

Vice Chair Meyers reemphasized there are no industry standards for the tear drop banners and that the temporary signs for businesses have already been determined, and for clarification the Commission is only looking at temporary real estate signs. He stated that most signs made are customized.

Mr. Bliss stated staff's intent is to allow a height and width standard for residential banners, vs. the commercial provisions that only identify height and square footage. He further commented that commercial businesses are allowed to have four (4) banners (approx. 100 square ft.) without a permit, and residential banners are limited to two (2) banners and when the height and width is calculated it is approximately the same in square footage.

Vice Chair Meyers, after alluding to the previous hearing, commented that he would not support the 4 foot width and stated that he would support what was approved at the hearing on June 27, 2011.

Assistant City Attorney Sharma noted that she believed that there was an error in the minutes of the June 27, 2011 hearing that were previously adopted. She stated that she believed that the intent of the Commission was for flying banners to be limited to 25 square feet in total area and that the reference in the minutes to "width" was incorrect.

PUBLIC COMMENT

There was no public comment.

Upon closing the public comment portion of the hearing, there was a discussion involving several Commissioners to the effect that the amendment regarding flying banners should include a height limit of 13 feet, a width limit of 4 feet, and a square footage limit of 25 feet for each flying banner type sign. This position appeared to represent a consensus of the Commission.

Vice Chair Meyers made a motion to recommend that City Council approve the amendments to Title 18 regarding signs not subject to permit-exempt signs and project marketing signs as described in the August 8, 2011 Planning Commission staff report, as amended on the record, and to authorize the City Attorney's Office to correct spelling, punctuation, and clerical and typographical errors, and make other such modifications in form, but not substance, as necessary to effectuate the purposes of the recommended amendments. Upon a second by Commissioner Leadbetter the motion was unanimously adopted.

2. Amendments to Title 18 to allow small wind energy systems (wind turbines) on residential properties

SUMMARY OF AGENDA ITEM: This is a public hearing to consider amendments to Title 18 of the City of Loveland Municipal Code to allow small wind energy systems, (small wind turbines) on all residential properties in the City, subject to specific standards and process. Small wind energy systems could be either building-mounted or freestanding. Small wind turbines that fully comply with all of the specific standards would be a use-by-right as an accessory use. Small wind turbines that do not fully comply with all of the specific standards would be a use-by-special review. If approved as a use-by-special review, the small wind energy system would still be deemed as an accessory use.

Brian Burson, Project Planner, gave a brief history and staff report on this item. He commented that information from the American Wind Energy Association was very helpful in guiding staff in drafting the proposed regulations. He stated that the majority of the sources that staff utilized in developing the regulations encouraged the removal of regulatory obstacles in making allowances for small wind energy systems.

Mr. Burson commented that Loveland is considered to be a poor wind generating community (it is located in an area which has relatively low potential for wind power generation) and the amount of energy that could be generated would be used for limited functions; however, future technological advancements could although with on-going technology staff believes that could change. He reported that the majority of the small-scale wind generators come in a kit and can be mounted on a pole or a roof. He stated that the wind systems can be purchased in numerous

places and that the purchaser or a contractor can mount them. He stated that the manufacturers generally provide devices that are designed and stamped by an engineer; the proposed regulations do not require that a Colorado PE stamp the plans for such units. . He stated that the installation of turbines, whether pole or roof-mounted, would be subject to applicable building codes and inspections.

He outlined the proposed standards as follows:

- Limit of one per property, with a maximum rating of 10 kilowatts;
- Limit the height to 10 feet above the ridge line of the roof or 35 feet from grade for freestanding;
- Require appropriate distances from all property lines and all overhead utility lines to limit the impacts and prevent damage to other property and improvements;
- Minimize visual impacts by requiring neutral or muted colors, minimizing guy wires, and prohibiting signs and lights on the devices or towers;
- Assure compliance with the existing noise ordinance for residential properties.

Mr. Burson noted that under the recommended motion, a reference was made to Attachment #3; the reference should read Attachment #2. He concluded by stating that staff is requesting that small wind power generators be allowed as uses by right on all residential properties.

Commissioner Crescibene stated he did not support the proposed amendments and felt that that the small wind turbines would be an eye sore and create visual clutter. He questioned their benefit if Loveland is not in an area that produces a sufficient amount of wind and stated he was opposed to allowing them to be in the City limits, specifically not in a residential area.

Vice Chair Meyers commented that he felt it was important to allow citizens a choice on whether they want to use this type of alternative energy. He spoke of the advances in technology that have recently occurred, stating that there are bladeless generators that can operate with winds of 5 miles per hour.

Mr. Burson responded to a question from Commissioner Middleton, and clarified that a building permit would be required.

Commissioner Middleton stated he supported the amendment and felt that we were behind the green power curve on the alternative power issue in the United States.

Commissioner Dowding stated she support the proposed amendment but expressed concerns that it may potentially create a battleground with Homeowner's Associations.

Commissioner Crescibene commented that due to federal regulations any issue regarding energy supersedes any regulations that a Homeowner's Association may have.

Mr. Burson clarified that the Colorado State Legislature passed legislation that prohibits Homeowner's Associations from denying the generators, but stated they can control how they look and where they are located.

Commissioner Leadbetter stated that he is not a proponent of seeing these generators going up, but he believed there is a need for this type of alternative energy and that it is necessary to have regulations in place. He clarified that his concern was that there be a permitting process to make sure that they are properly erected and that the mounting should be stamped by a local engineer.

Chair Molloy commented that currently the generators may not produce much electricity but believed with time and with advances in technology they will become more efficient. He stated that a reduction in energy usage was a benefit to the community.

PUBLIC COMMENT

There was no public comment.

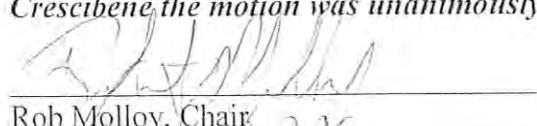
Commissioner Middleton made a motion to recommend the City Council approve the amendments to Title 18 of the Loveland Municipal Code, as set forth in Attachment #2 of the attached Planning Commission staff memorandum, dated July 25, 2011, as amended on the record, and to authorize the City Attorney's Office to correct spelling, punctuation, and clerical and typographical errors, and make other such modifications in form, but not substance, as necessary to effectuate the purposes of the recommended amendments. Upon a second by Vice Chair Meyers the motion was adopted 5-1 (Commissioner Crescibene voting Nay).

(Secretary's note: There was a brief recess)

Vice Chair Meyers made a motion to redact his previous motion to approve the June 27, 2011 meeting minutes. Upon a second by Commissioner Middleton the motion was unanimously adopted.

ADJOURNMENT

Commissioner Middleton made a motion to adjourn. Upon a second by Commissioner Crescibene the motion was unanimously adopted.



Rob Molloy, Chair



Vicki Mesa, Secretary



Development Services Current Planning

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ITEM NO:

1 – Regular Agenda

PLANNING COMMISSION MEETING:

August 8, 2011

TITLE:

Amendments to Title 18 regarding signs not subject to permit-exempt signs and project marketing signs.

LOCATION:

City-wide

APPLICANT:

City of Loveland, Current Planning Division

STAFF CONTACT:

Troy Bliss

APPLICATION TYPE:

Amendments to Title 18 of the Loveland Municipal Code

ACTION:

Recommend for adoption by City Council

STAFF RECOMMENDATION:

Move to recommend that City Council approve the amendments to Title 18 regarding signs not subject to permit-exempt signs and project marketing signs as described in the August 8, 2011 Planning Commission staff report, as amended on the record, and to authorize the City Attorney's Office to correct spelling, punctuation, and clerical and typographical errors, and make other such other modifications in form, but not substance, as necessary to effectuate the purposes of the recommended amendments.

I. ATTACHMENTS

1. Proposed Amendments to the Loveland Municipal Code, Title 18, Chapter 18.50.050 (Signs not subject to permit-exempt signs) and 18.50.085 (Project marketing signs).

II. SUMMARY

The proposed amendments to Title 18 are focused around the City's exempt and project marketing sign provisions, specifically structured in three main areas of focus:

- Expanding and clarifying the use of flags as exempt forms of signs;
- Providing greater allowances for real estate marketing and advertisement needs specifically relating to flags/flying banners; and
- Allowances for new developments under construction to maintain longer durations for keeping project marketing signs.

The amendments described above are considered minor amendments associated with the larger set of Temporary Sign amendments reviewed and recommended for approval by the Planning Commission on June 27, 2011. Work on the three amendments was prompted as follows:

- 1) Concerns expressed by Planning Commissioners regarding the limitation on the display of government flags (the current code limit being three) as specific in the sign provisions of the code.
- 2) Concerns expressed by development community representatives following the Planning Commission's June 27, 2011 hearing on Temporary signs relating to the marketing of real estate.

The amendments were presented to the Title 18 Committee on July 14th and received full support of the Committee. Following the Planning Commission's review of these amendments, staff intends to incorporate these amendments into the Temporary Sign amendments when they are presented to the City Council in early September.

City staff is requesting Planning Commission review of the amendments and is recommending that the Commission vote to recommend approval to the City Council.

III. RECOMMENDATION

Recommendation

City staff is recommending that Planning Commission recommend approval to City Council for the proposed exempt and project marketing sign amendments presented in **Attachment 1** to this Planning Commission Staff Report dated August 8, 2011.

PROPOSED TITLE 18 PERMIT-EXEMPT AND PROJECT MARKETING SIGN AMENDMENTS

Chapter 18.50

SIGNS

Sections:

18.50.010 Purpose.

18.50.020 Definitions.

18.50.030 General sign regulations in all zones.

18.50.040 Measurement of sign dimensions in all zones.

18.50.050 Signs not subject to permit-Exempt signs.

18.50.060 Prohibited signs.

18.50.070 Temporary signs.

18.50.075 Business vehicle identification signs.

18.50.080 Residential, commercial and industrial project identification signs.

18.50.085 Project marketing signs.

18.50.090 Sign regulations for nonresidential uses in a residential zone.

18.50.095 Sign setback from adjacent residentially zoned land.

18.50.100 Sign regulations in nonresidential zones.

18.50.110 Sign regulations for structures with minimal building setback along a street right-of-way or in the Downtown Sign District.

18.50.115 Portable Signs – Downtown Sign District

18.50.120 I-25 Corridor.

18.50.130 Sign regulations for signs in the Highway 34 corridor.

18.50.135 Sign regulations for convenience stores.

18.50.140 Maintenance.

18.50.145 Abandoned/obsolete signs.

18.50.150 Nonconforming signs.

18.50.160 Approval procedures.

18.50.170 Enforcement, legal procedures and penalties.

18.50.180 Variances.

18.50.190 Appeals.

18.50.050 Signs not subject to permit-Exempt signs.

E. Flags:

1. Flags of the United States;

2. Flags and insignias of the state of Colorado, the city of Loveland, Larimer County, **governmental agencies**, and nonprofit organizations exempt from federal tax, when displayed on premise, and where no single side exceeds forty-eight (48) square feet in area;

3. **Except as provided in Section 18.50.050.E.4, no more than three (3) flags shall be exempt for each premise. Any additional flag shall be subject to a sign permit and the square footage shall be included in the sign area measurement for a freestanding sign.**

4. Upon written request, the current planning manager may authorize additional flags on a premise provided that the flags are not used as a sign, as defined in this chapter, and are compatible within the context of the premise and the surrounding neighborhood. Any final decision of the current planning manager may be appealed to the planning commission in accordance with Chapter 18.80 of this code.

M. Real estate model home signs. One (1) real estate model home sign **and a maximum of two (2) flying banners are** is permitted per street frontage of the premise on which a model home or a temporary real estate sales office is located. Real estate model home signs shall not exceed thirty-two (32) square feet of sign area per face; free-standing real estate model home signs are limited to six (6) feet in height and wall mounted real estate model home signs shall not extend above the top of the wall or parapet wall of the building to which the wall sign is attached. **Flying banners shall not exceed a dimension of four (4) feet in width and thirteen (13) feet in height.** All surfaces incorporated into a real estate model home sign and sign structure including, but not limited to, pole covers, monument style sign bases, and background surfaces shall be counted in the allowable sign area.

N. Real estate open house signs. A maximum of six (6) real estate open house signs are allowed for an open house event and such signs shall be displayed only on the day of the open house and the day prior to the open house. On-premise or off-premises display of real estate open house signs is permitted, but display in the public right-of-way is prohibited. Real estate open house signs shall not exceed six (6) square feet of sign area per face and four (4) feet in height. Pennants and balloons may be affixed to real estate open house signs provided that such attachments do not encroach upon street or sidewalk right-of-way or create a street or sidewalk safety hazard; balloons that are affixed to real estate open house signs shall **not have a vertical or horizontal dimension no linear dimension greater than two (2) feet.**

18.50.085 Project marketing signs.

A. Sign Area. The maximum sign area for a project marketing sign in residential zones and residential PUDs shall be fifty square feet. The maximum sign area for a project marketing sign in non-residential zones and non-residential PUDs shall be seventy-five square feet. The sign area shall include only the extreme limits of lettering and depictions, except when the surface area of any structure to which the sign is affixed exceeds fifty percent of the area of the sign face, in which case all additional surface area will be included in the sign area measurement. Monument style sign bases and pole covers shall be included in calculating all such additional surfaces which are subject to the fifty percent limitation.

B. Number. There shall be no more than one sign per project entry from any adjacent street and no more than two signs per project or phase of a project.

C. Height. Project marketing signs shall be no more than 12 feet in height.

D. Lighting. Any lighting shall be indirect. All lighting shall be aimed and/or shielded to insure that no direct light is seen upon the driving surface of any streets or upon any nearby residential properties.

E. Duration. Signs shall be allowed to remain for no more than 2 years following commencement of construction of the public improvements within the project, **unless a written request to extend**

this time period is approved by the current planning manager, or until such time that a permanent project identification sign, as defined in subsection 18.50.020, is installed, whichever is less.

F. Location. Signs shall be located within the boundaries of a project or premise which is part of the original marketing of the lots, tracts, structures or units. For projects within a mixed use planned unit development, the premise shall constitute the boundaries of the entire planned unit development.

G.F. Maintenance. All applicants shall provide adequate assurance acceptable to the City that the sign and the lot or tract upon which it is located will be maintained in good condition at all times.

**Amendments to Title 18, Chapter 18.50 (Signs) of the Municipal Code:
Definitions, Signs Not Subject To Permit-Exempt Signs, Temporary
Signs, Project Marketing Signs, and Enforcement, Legal Procedures And
Penalties**

Chapter 18.50.020 Definitions

“Temporary sign” means a sign which, due to the materials used; the method, manner or location of display; or the method of operation for display; is suited only for **brief occasional, seasonal, or special event** display, including, but not limited to, those signs regulated under section 18.50.070.

“Balloon” means an airtight bag or membrane which is inflated with air or a lighter than air gas typically intended to rise or float above the ground.

“Flying banner” means a type of temporary sign consisting of cloth, bunting, canvas or similar fabric, attached to a single vertical staff support structure with distinctive colors, patterns or symbolic logos for display.

“Pennant” means a type of temporary sign consisting of fabric, plastic, or metal strand drapery with distinctive colors, patterns, symbolic logos, or a series of narrow tapering flags for display.

“Temporary construction fence sign” means a temporary sign affixed to or incorporated into a construction fence for displaying advertisements, messages, logos, illustrations, and graphics related only to the associated property under construction.

“Temporary event sign” means a temporary sign advertising a community event sponsored by a governmental entity or not-for-profit entity that is limited only to one type of temporary sign that may include either a banner, balloon, flying banner, or pennant/valance.

“Valance” shall be include the same definitions as a pennant.

18.50.050 Signs not subject to permit-Exempt signs.

E. Flags:

1. Flags of the United States;
2. Flags and insignias of the state of Colorado, the city of Loveland, Larimer County, **governmental agencies**, and nonprofit organizations exempt from federal tax, when displayed on premise, and where no single side exceeds forty-eight (48) square feet in area;
3. Except as provided in Section 18.50.050.E.4, no more than three (3) flags shall be exempt for each premise. Any additional flag shall be subject to a sign permit and the square footage shall be included in the sign area measurement for a freestanding sign.

4. Upon written request, the current planning manager may authorize additional flags on a premise provided that the flags are not used as a sign, as defined in this chapter, and are compatible within the context of the premise and the surrounding neighborhood. Any final decision of the current planning manager may be appealed to the planning commission in accordance with Chapter 18.80 of this code.

M. Real estate model home signs. One (1) real estate model home sign **and a maximum of two (2) flying banners are** is permitted per street frontage of the premise on which a model home or a temporary real estate sales office is located. Real estate model home signs shall not exceed thirty-two (32) square feet of sign area per face; free-standing real estate model home signs are limited to six (6) feet in height and wall mounted real estate model home signs shall not extend above the top of the wall or parapet wall of the building to which the wall sign is attached. **Flying banners shall not exceed a dimension of four (4) feet in width, thirteen (13) feet in height and twenty-five (25) square feet in total size.** All surfaces incorporated into a real estate model home sign and sign structure including, but not limited to, pole covers, monument style sign bases, and background surfaces shall be counted in the allowable sign area.

N. Real estate open house signs. A maximum of six (6) real estate open house signs are allowed for an open house event and such signs shall be displayed only on the day of the open house and the day prior to the open house. On-premise or off-premises display of real estate open house signs is permitted, but display in the public right-of-way is prohibited. Real estate open house signs shall not exceed six (6) square feet of sign area per face and four (4) feet in height. Pennants and balloons may be affixed to real estate open house signs provided that such attachments do not encroach upon street or sidewalk right-of-way or create a street or sidewalk safety hazard; balloons that are affixed to real estate open house signs shall **not have a vertical or horizontal dimension no linear dimension greater than two (2) feet.**

Chapter 18.50.070 Temporary signs.

A. ~~The following objects and devices are hereby declared to be temporary signs, subject to the following requirements and limitations. Only the following temporary signs are allowed:~~

- ~~1. Portable Signs: The following portable signs are allowed when used in conjunction with a legal business provided that not more than two types of portable sign may be used at one time and that the cumulative total time for all portable signs for each business does not exceed 60 days per calendar year:~~
 - ~~a. Balloons and other types of lighter than air objects, which have no linear dimension greater than 2 feet.~~
 - ~~b. Pennants, valances, or wind powered devices.~~
 - ~~c. Banner or banners which do not cumulatively exceed 100 square feet in total sign area.~~
- ~~2. Light bulbs: Light bulbs are allowed when used in conjunction with a temporary use and their use does not exceed 60 days per calendar year.~~
- ~~3. Large Balloons: Balloons and other types of lighter than air objects which have a dimension greater than 2 feet and are secured to the property shall only be allowed for a maximum of 7 days for special events such as circuses, carnivals, festivals, grand openings and other~~

similar events. Large balloons for special events are allowed provided that they are used only once every six months.

—4. Searchlights: Searchlights shall be allowed for a maximum of 3 days per calendar year.

A. Purpose.

Temporary sign regulations are established to provide businesses and non-residential uses with the opportunity to advertise occasional, seasonal, or special events. These regulations are intended to control the visual impacts to the community of such advertisements, and to provide consistency with the spirit and intent of this title and the vision statements of the Comprehensive Plan. Temporary signs shall under no circumstance be substituted for permanent signage or be situated to screen permanent signage on an adjacent lot or premise. These temporary sign provisions shall only apply to businesses and non-residential uses. These provisions shall not be applicable to signs listed under Section 18.50.050.

~~B. Location.~~ All temporary signs allowed pursuant to Section 18.50.070 A.1.a. through e. shall be located only on a signable wall which adjoins the portion of the building occupied by the business with which the temporary sign is associated and shall not extend more than 20 feet from the front of the building or over any vehicular way or parking area. Any temporary sign located over a public walk way shall have a minimum clearance of 8 feet. Balloons as defined in this Section 18.50.070 are allowed to extend a maximum of 8 feet over the top of a wall or parapet.

B. Temporary signs subject to a permit.

1. For all businesses and non-residential uses, the following sign types are permissible:

- a. Banners
- b. Balloons
- c. Pennants
- d. Valances
- e. Flying banners
- f. Any sign device which operates from an external power source including but not limited to searchlights, balloons, and animated signs

2. Permit and duration.

a. All permissible temporary signs as specified in Section 18.50.070.B.1 shall require the approval of a temporary sign permit application by the building division.

b. Temporary sign permit applications shall be made in increments of fifteen (15) consecutive days. A maximum of four (4) temporary sign permits may be issued to an individual business or non-residential use per calendar year and may be approved in succession. The maximum cumulative display for all permitted temporary signs shall not exceed sixty (60) days per calendar year unless a variation is approved under Section 18.50.070.E.

3. Number.

No more than two (2) of the sign types specified in Section 18.50.070.B of this chapter shall be permitted on a lot or premise for an individual business or non-residential use.

4. Sign Area and Location.

- a. **Banners:** A banner or banners must not cumulatively exceed one-hundred (100) square feet in total sign area and shall be attached to an exterior building wall. All portions of such banner(s) shall be in contact with the building wall, and shall not flap, extend beyond the wall nor be fastened to support structures.
- b. **Balloons:** Except as allowed in Section 18.50.070.D.1.a., Balloons shall not exceed a total maximum dimension of ten (10) feet, inclusive of a base. Attaching Balloons to tethers is permitted providing the tether is no greater than fifteen (15) feet in length. Balloons must be secured to a building, structure, stable object, or the ground and shall not extend beyond the boundaries of the lot or premise. Balloons shall not be attached to trees or shrubs planted within the lot or premise.
- c. **Pennants and valances:** A single pennant or valance strand shall not exceed fifty (50) feet in length. Each pennant or valance strand must be secured to a building, structure, stable object, or the ground at both ends. Pennant and valance strands shall not be attached to trees or shrubs planted within the lot or premise.
- d. **Flying banners:** Except as allowed in Section 18.50.070.D.1.b., each flying banner shall not exceed twenty-five (25) feet in height inclusive of the staff or support structure and seventy-five (75) square feet in size. Flying banners are to be attached to a single vertical staff support structure only. The support structure may be mounted securely to a building, structure, stable object, or the ground. Flying banners shall not extend beyond the boundaries of the lot or premise. Flying banners shall not be attached to trees or shrubs planted within the lot or premise.
- e. **Sign devices operated from an external power source:** Sign devices operated from an external power source shall comply at all times with the city's noise ordinance. These types of temporary signs shall be secured to the ground and limited to twenty-five (25) feet in height providing they do not extend beyond the boundaries of the lot or premise. The lighting component for searchlights must be projected upward so as not to diminish public safety and welfare.

5. Lighting.

Temporary signs may only be illuminated indirectly by means of a separate light source (excluding Searchlights). It shall be demonstrated that no off-site impacts associated to glare will occur by indirectly illuminating a temporary sign. The light source shall also comply with applicable

provisions of the *City of Loveland Site Development Performance Standards and Guidelines*.

~~C. Maintenance: All temporary signs shall be kept neatly finished and repaired, including all parts and supports. The Building Official and/or an authorized representative shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.~~

C. Maintenance.

All temporary signs shall be kept neatly finished and repaired, including all parts and supports. The Building Official and/or an authorized representative shall inspect and shall have authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

~~D. Permits: All portable signs as defined in Section 18.50.070 A.1.a through e. and 18.50.070 A.3. and A.4. shall require a permit issued by the Building Division. Permit cards shall be displayed at the business with which the sign is associated until the permit expires or the temporary sign is removed. (Ord. 4254 § 1 (part), 1997; Ord. 4221 § 1 (part), 1996; Ord. 4185 § 1 (part), 1996; Ord. 4089 § 5, 1995; Ord. 3776 § 2, 1991; Ord. 3703 § 1, 1990; Ord. 3609 § 1 (part), 1989)~~

D. Temporary Signs not subject to permit.

- 1. The following temporary signs shall not require a permit and shall not be limited in number or duration upon a lot or premise associated to a business or non-residential use, unless specified otherwise. Internal or external illumination for these specific signs shall be strictly prohibited.**
 - a. Balloons which do not have maximum horizontal or vertical dimension greater than two (2) feet;**
 - b. Flying banners placed within a lot or premise, providing no more than four (4) are installed and each individual flying banner does not exceed a maximum of thirteen (13) feet in height and twenty-five (25) square feet in total size;**
 - c. Temporary construction fence sign as defined in Section 18.50.020, provided the sign does not extend above the fence;**
 - d. Temporary event sign as defined in Chapter 18.50.020 subject to Section 18.50.070.B.4. and limited to a duration of no more than five (5) days;**
 - e. Portable signs as defined in this chapter limited to A-frame or T-frame signs which do not exceed six (6) square feet and have a maximum height of four (4) feet. These portable signs shall be located within ten (10) feet of the business entrance and allow for a minimum unobstructed access width of five (5) feet along all sidewalks. For the purpose of this section,**

portable A-frame or T-frame signs shall not be placed in a public right-of-way; and

f. Any signage device similar to those described in items a. through e. above if so determined and approved in writing by the Current Planning Manager.

2. Internal or external illumination for the signs listed in subsection D.1 above, shall be strictly prohibited.

E. Administrative Allowances.

1. Variations from these temporary sign provisions relating to the duration and location may be provided by the Current Planning Manager. Such variations may only be provided to businesses operating at a new location for less than six (6) months or for businesses which have poor visibility from the street. To obtain a variation, the applicant must make a written request and demonstrate the following:

- a. A substantial hardship exists in carrying out the provisions of this chapter; and**
- b. The spirit and intent of this chapter will be secured in granting a variation.**

2. Variations will be considered on a case-by-case basis. The Current Planning Manager may impose conditions to ensure that the intent of this chapter is maintained. Appeal of the Current Planning Manager's decision shall follow the procedures outlined in Chapter 18.80 of the Loveland Municipal Code.

F. Enforcement.

Any unauthorized deviation from this chapter shall be subject to the enforcement, legal procedures and penalties as described in Chapter 18.50.170.

18.50.085 Project marketing signs.

A. Sign Area. The maximum sign area for a project marketing sign in residential zones and residential PUDs shall be fifty square feet. The maximum sign area for a project marketing sign in non-residential zones and non-residential PUDs shall be seventy-five square feet. The sign area shall include only the extreme limits of lettering and depictions, except when the surface area of any structure to which the sign is affixed exceeds fifty percent of the area of the sign face, in which case all additional surface area will be included in the sign area measurement. Monument style sign bases and pole covers shall be included in calculating all such additional surfaces which are subject to the fifty percent limitation.

B. Number. There shall be no more than one sign per project entry from any adjacent street and no more than two signs per project or phase of a project.

C. Height. Project marketing signs shall be no more than 12 feet in height.

D. Lighting. Any lighting shall be indirect. All lighting shall be aimed and/or shielded to insure that no direct light is seen upon the driving surface of any streets or upon any nearby residential properties.

E. Duration. Signs shall be allowed to remain for no more than 2 years following commencement of construction of the public improvements within the project, **unless a written request to extend this time period is approved by the current planning manager.** ~~or until such time that a permanent project identification sign, as defined in subsection 18.50.020, is installed, whichever is less.~~

F. Location. Signs shall be located within the boundaries of a project or premise which is part of the original marketing of the lots, tracts, structures or units. For projects within a mixed use planned unit development, the premise shall constitute the boundaries of the entire planned unit development.

G.F. Maintenance. All applicants shall provide adequate assurance acceptable to the City that the sign and the lot or tract upon which it is located will be maintained in good condition at all times.

18.50.170 Enforcement, legal procedures and penalties.

It shall be unlawful for any person to erect, maintain, or allow upon any property over which they own, manage, lease or control, any sign which is not permitted pursuant to the provisions of this sign code. Enforcement, legal procedures and penalties shall be in accordance with Chapter 18.68 of this title. Additionally, unauthorized signs on public property may be confiscated by the city and held pending notification of the owner by the city. The owner may obtain said signs from the city manager upon payment of a confiscation and storage charge in an amount established by the city council. For the purposes of the enforcement of this chapter, the Building Official and his or her designee is authorized and duly appointed to issue summonses and complaints and penalty assessment notices for a violation of this chapter **only.** (Ord. 4089 § 6, 1995; Ord. 3788 § 2, 1991)



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
(970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 3

MEETING DATE: September 20, 2011

TO: City Council

FROM: Greg George, Development Services Director

PRESENTER: Kerri Burchett, Current Planning

TITLE:

AN ORDINANCE VACATING THE EXCLUSIVE UTILITY EASEMENT LOCATED ON PORTIONS OF LOT 2, BLOCK 1, AND LOT 1, BLOCK 1, CIVIC CENTER SECOND SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO

DESCRIPTION:

A legislative action to consider an ordinance on second reading vacating portions of a utility easement within the Civic Center Campus on Lots 1 and 2, Block 1 Civic Center Second Subdivision. The applicant is the City of Loveland Parks and Recreation Department.

BUDGET IMPACT:

Yes No

SUMMARY:

The application proposes to vacate two portions of a utility easement occupied by the new building additions for the Library and Chilson Recreation Center. The easement to be vacated is located around the new footprint of each building and is not necessary to serve either facility. The first reading of the vacation ordinance was adopted, unanimously, by City Council on September 6, 2011.

LIST OF ATTACHMENTS:

- A. Easement vacation ordinance
- B. Staff report

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

“Move to make the findings in Section V of the staff memorandum dated September 6, 2011 and, based on those findings, adopt on second reading, “AN ORDINANCE VACATING THE EXCLUSIVE UTILITY EASEMENT LOCATED ON PORTIONS OF LOT 2, BLOCK 1, AND LOT 1, BLOCK 1, CIVIC CENTER SECOND SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO”

REVIEWED BY CITY MANAGER:

FIRST READING: September 6, 2011

SECOND READING: September 20, 2011

ORDINANCE NO. ____

**AN ORDINANCE VACATING THE EXCLUSIVE UTILITY EASEMENT LOCATED
ON PORTIONS OF LOT 2, BLOCK 1, AND LOT 1, BLOCK 1, CIVIC CENTER
SECOND SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO**

WHEREAS, the City Council, at a regularly scheduled meeting, considered the vacation of portions of the exclusive utility easement described below, located on Lot 2, Block 1, and Lot 1, Block 1, Civic Center Second Subdivision, City Of Loveland, Larimer County, Colorado.

WHEREAS, the City Council finds and determines that no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement; and

WHEREAS, the City Council finds and determines that the portions of the exclusive utility easement to be vacated are no longer necessary for the public use and convenience; and

WHEREAS, the City Council further finds and determines that the application filed at the Development Center was signed by the owners of more than 50% of property abutting the portions of the easement to be vacated.

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

Section 1. That the following portions of the exclusive utility easement dedicated on the plat of Civic Center Second Subdivision, Loveland, Colorado recorded September 28, 1999 at Reception #1999-0085420 be and the same is hereby vacated:

- (a) that portion of Lot 2, Block 1, Civic Center Second Subdivision, Loveland, Colorado described on Exhibit A and depicted on Exhibit C attached hereto and incorporated herein by this reference; and
- (b) that portion of Lot 1, Block 1, Civic Center Second Subdivision, Loveland, Colorado described on Exhibit B and depicted on Exhibit C attached hereto and incorporated herein by this reference.

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 3. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this ____ day of _____, 2011.

ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:

J. Yost Schmidt
Deputy City Attorney

EXHIBIT A

A portion of Lot 2, Block 1, Civic Center Second Subdivision, located in the Southeast 1/4 of Section 13, Township 5 North, Range 69 West of the 6th Principal Meridian, City of Loveland, County of Larimer, State of Colorado being more particularly described as follows:

Considering the West line of Lot 1, Block 1, Civic Center Second Subdivision as bearing N00°08'11"W with all bearings contained herein relative thereto.

COMMENCE at the Northwest corner of Lot 2, Block 1, Civic Center Second Subdivision; thence S55°33'17"E a distance of 132.64 feet to the POINT OF BEGINNING; thence S32°53'26"E a distance of 51.70 feet; thence N57°06'34"E a distance of 57.60 feet; thence N32°53'26"W a distance of 19.60 feet; thence N57°06'34"E a distance of 88.40 feet; thence S32°53'26"E a distance of 11.40 feet; thence N57°06'34"E a distance of 12.00 feet; thence S32°53'26"E a distance of 37.50 feet; thence N57°06'34"E a distance of 18.50 feet; thence S32°53'26"E a distance of 125.00 feet; thence S57°06'34"W a distance of 20.60 feet; thence S32°53'26"E a distance of 14.00 feet; thence S57°06'34"W a distance of 64.00 feet; thence S32°53'26"E a distance of 7.22 feet; thence S11°40'16"W a distance of 14.93 feet; thence S57°06'34"W a distance of 7.34 feet; thence S32°53'26"E a distance of 76.50 feet; thence N57°06'34"E a distance of 42.00 feet; thence S32°53'26"E a distance of 85.30 feet; thence S57°06'34"W a distance of 22.80 feet; thence S32°53'26"E a distance of 5.00 feet; thence S13°23'10"W a distance of 14.68 feet; thence S57°06'34"W a distance of 4.95 feet; thence S32°53'26"E a distance of 22.70 feet; thence S57°06'34"W a distance of 50.00 feet; thence N32°53'26"W a distance of 28.00 feet; thence S57°06'34"W a distance of 33.30 feet; thence N32°53'26"W a distance of 60.00 feet; thence S57°06'34"W a distance of 12.00 feet; thence N32°53'26"W a distance of 83.83 feet; thence N12°06'34"E a distance of 19.98 feet; thence N77°53'26"W a distance of 35.57 feet; thence S57°06'34"W a distance of 36.90 feet; thence N32°53'26"W a distance of 45.70 feet; thence S57°06'34"W a distance of 48.00 feet; thence N32°53'26"W a distance of 57.30 feet;

thence S57°06'34"W a distance of 24.00 feet;
thence N32°53'26"W a distance of 91.30 feet;
thence N57°06'34"E a distance of 43.30 feet;
thence N32°53'26"W a distance of 32.10 feet;
thence N57°06'34"E a distance of 94.20 feet to the Point of Beginning.

Containing 1.78 acres (77,643 sq. ft.), more or less, and being subject to all easements and rights of way of record.

EXHIBIT B

A portion of Lot 1, Block 1, Civic Center Second Subdivision, located in the Southeast 1/4 of Section 13, Township 5 North, Range 69 West of the 6th Principal Meridian, City of Loveland, County of Larimer, State of Colorado being more particularly described as follows:

Considering the West line of Lot 1, Block 1, Civic Center Second Subdivision as bearing N00°08'11"W with all bearings contained herein relative thereto.

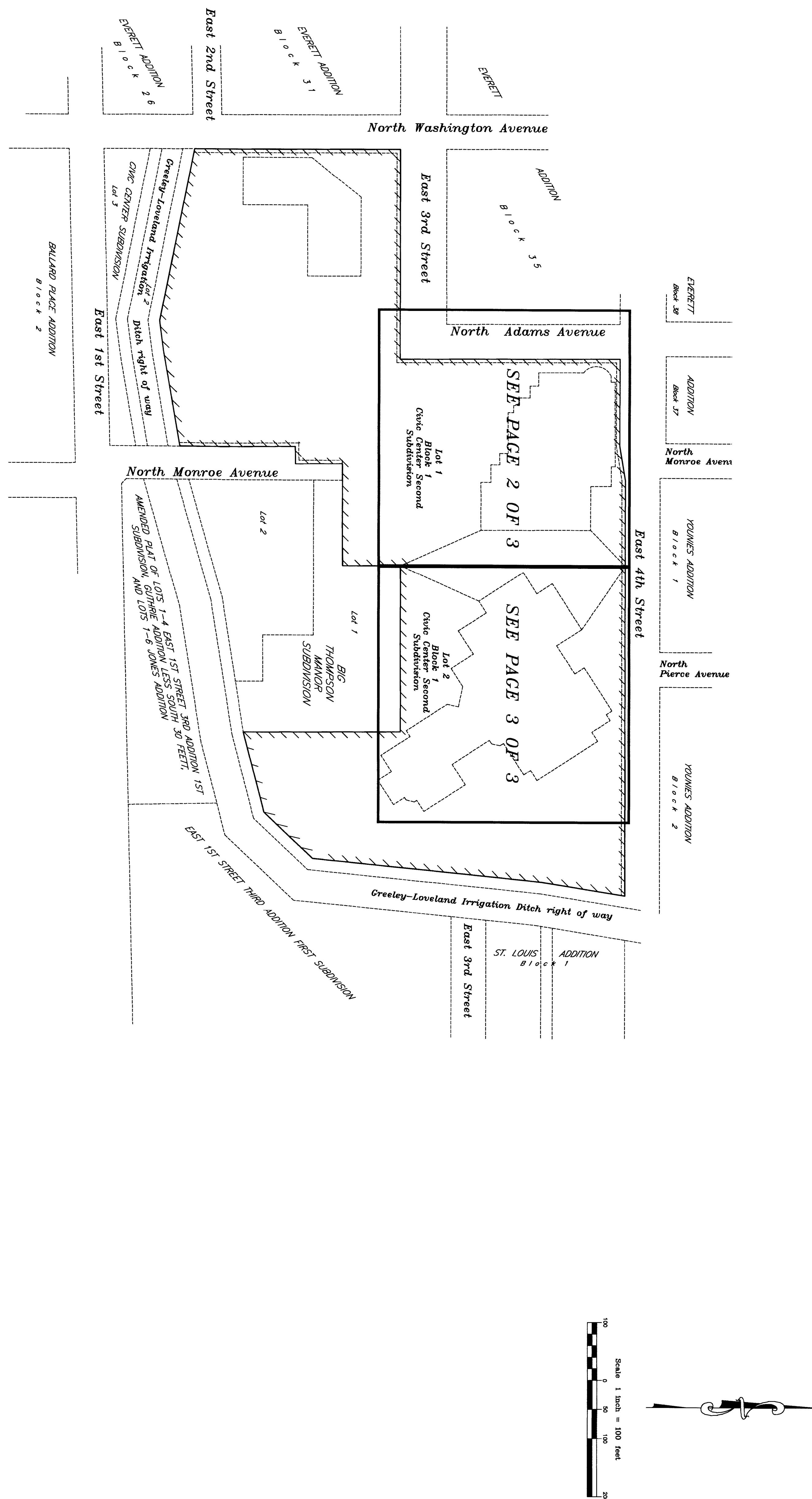
COMMENCE at the Northeast corner of Lot 1, Block 1, Civic Center Second Subdivision; thence S45°54'34"W a distance of 86.18 feet to the POINT OF BEGINNING; thence S00°14'01"E a distance of 189.90 feet; thence S89°45'59"W a distance of 82.60 feet; thence N00°14'01"W a distance of 17.30 feet; thence S89°45'59"W a distance of 30.00 feet; thence N00°14'01"W a distance of 15.40 feet; thence S89°45'59"W a distance of 19.70 feet; thence N00°14'01"W a distance of 14.70 feet; thence S89°45'59"W a distance of 70.30 feet; thence N00°14'01"W a distance of 9.60 feet; thence S89°45'59"W a distance of 12.10 feet; thence N00°14'01"W a distance of 10.00 feet; thence S89°45'59"W a distance of 13.30 feet; thence N00°14'01"W a distance of 18.30 feet; thence S89°45'59"W a distance of 20.69 feet; thence N00°14'01"W a distance of 15.00 feet; thence S89°45'59"W a distance of 23.00 feet; thence N00°14'01"W a distance of 77.78 feet to a non-tangent curve to the right; thence on the arc of said curve a distance of 57.38 feet, having a radius of 27.60 feet, a delta of 119°07'24" and a chord of 47.59 feet bearing N 06°59'53"E to a point of non-tangency; thence N89°46'09"E a distance of 10.54 feet; thence N00°14'01"W a distance of 7.00 feet; thence N89°45'59"E a distance of 145.80 feet; thence S00°14'01"E a distance of 7.00 feet; thence N89°45'59"E a distance of 33.70 feet; thence S00°14'00"E a distance of 35.40 feet; thence N89°45'59"E a distance of 75.65 feet to the Point of Beginning.

Containing 1.14 acres (49,723 sq. ft.), more or less, and being subject to all easements and rights of way of record.

EXHIBIT C

Site Plan

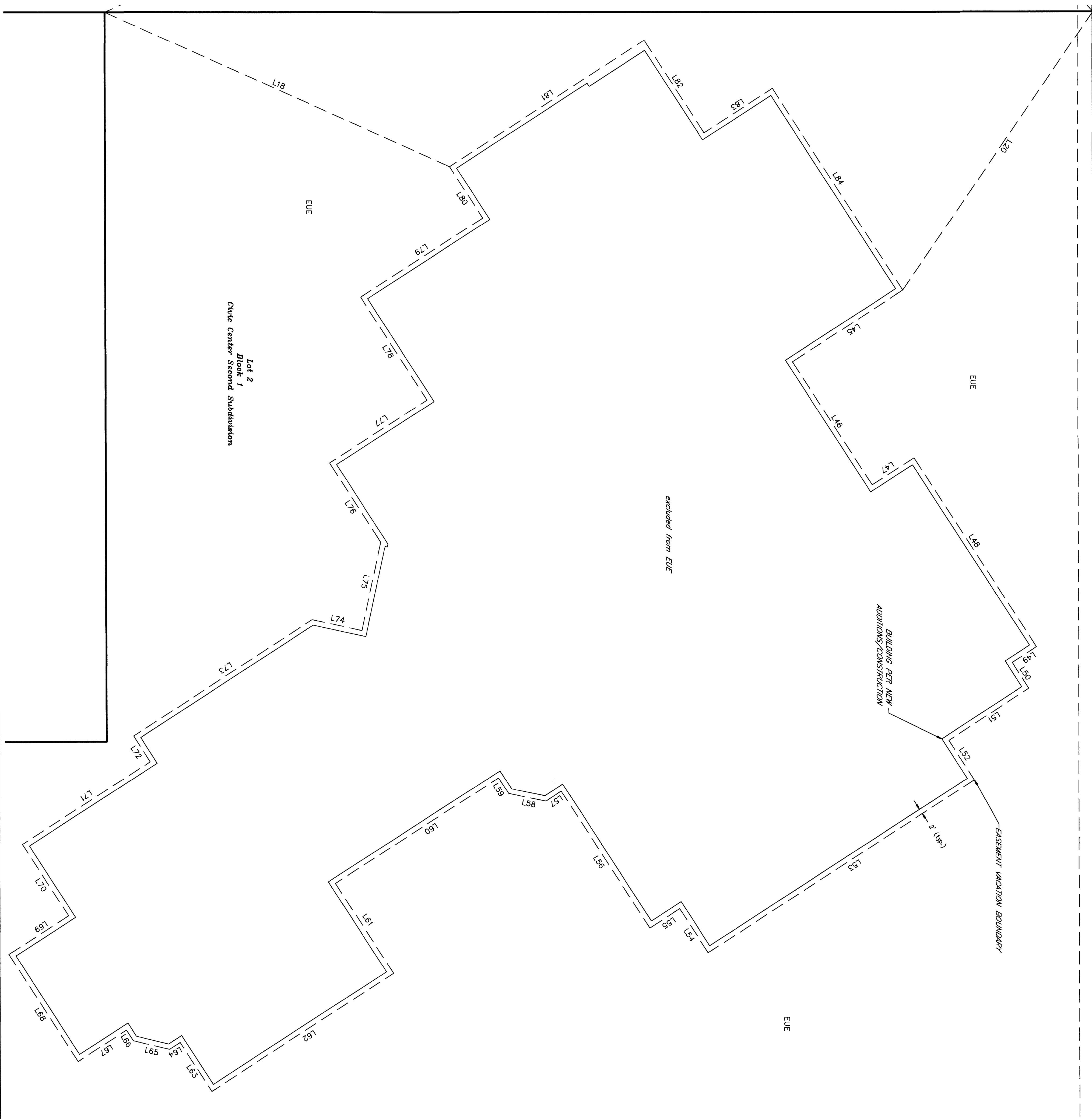
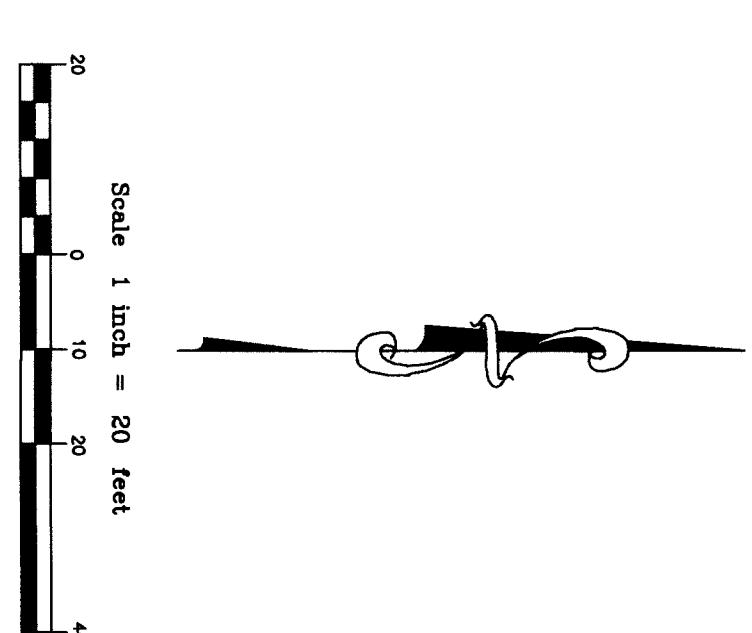
**Lot 1 & Lot 2, Block 1, CIVIC CENTER SECOND SUBDIVISION,
City of Loveland, Larimer County, Colorado**



PROJECT NO.		SHEET NO.	N. OF SHEETS
TITLE		1	3
LOT 1 AND LOT 2, BLOCK 1, CIVIC CENTER SECOND SUBDIVISION		1	3
110' x 75.00' a			
Section 13, Twp 5 N, Range 39 W, City of Loveland, CO			
PLS Group LLC			
109 Coronado Court - Bldg No. 7 Fort Collins, Colorado 80525			
Phone: (970) 282-3466 FAX: (970) 377-6767			
KEY MAP			
Date 6/1/2011 Drawn JRM			
By _____ Description _____			
Part Chief _____ Checked _____ MBS			
Date _____ By _____ Description _____			
Scale 1"=100' Approved MBS			
CLIENT			
City of Loveland			

class 4 in Street

Lot 1 & Lot 2, Block 1, CIVIC CENTER SECOND SUBDIVISION,
City of Loveland, Larimer County, Colorado



Curve#	Delta	Radius	Length	Chord	Chord Bearing
C1	119°07'24"	27.60'	57.39'	47.59'	S065°59'53" W

LINE NO.	BEARING	LENGTH	LINE NO.	BEARING	LENGTH
			L45	S32'53"26"E	51.70'
			L46	N57'06'34"E	57.60'
			L47	N32'53'26"W	19.60'
			L48	N57'06'34"E	88.40'
			L49	S32'53'26"E	11.40'
			L50	N57'06'34"E	12.00'
			L51	S32'53'26"E	37.50'
			L52	N57'06'34"E	18.50'
			L53	S32'53'26"E	125.00'
			L54	S57'06'34"W	20.60'
			L55	S32'53'26"E	14.00'
			L56	S57'06'34"W	64.00'
			L57	S32'53'26"E	7.22'
			L58	S11'40'16"W	14.93'
			L59	S57'06'34"W	7.34'
			L60	S32'53'26"E	76.50'
L17	N23'52'13"W	152.13'	L61	N57'06'34"E	42.00'
L18	N24'02'05"E	148.55'	L62	S32'53'26"E	85.30'
L19	S45'54'34"W	86.18'	L63	S57'06'34"W	22.80'
L20	S55'33'17"E	132.64'	L64	S32'53'26"E	5.00'
L21	S00'14'01"E	189.90'	L65	S13'23'10"W	14.68'
L22	S89'45'59"W	82.60'	L66	S57'06'34"W	4.95'
L23	N00'14'01"W	17.30'	L67	S32'53'26"E	22.70'
L24	S89'45'59"W	30.00'	L68	S57'06'34"W	50.00'
L25	N00'14'01"W	15.40'	L69	N32'53'26"W	28.00'
L26	S89'45'59"W	19.70'	L70	S57'06'34"W	33.30'
L27	N00'14'01"W	14.70'	L71	N32'53'26"W	60.00'
L28	S89'45'59"W	70.30'	L72	S57'06'34"W	12.00'
L29	N00'14'01"W	9.60'	L73	N32'53'26"W	83.83'
L30	S89 45'59"W	12.10'	L74	N12'06'34"E	19.98'
L31	N00'14'01"W	10.00'	L75	N77'53'26"W	35.57'
L32	S89'45'59"W	13.30'	L76	S57'06'34"W	36.90'
L33	N00'14'01"W	18.30'	L77	N32'53'26"W	45.70'
L34	S89'45'59"W	20.69'	L78	S57'06'34"W	48.00'
L35	N00'14'01"W	15.00'	L79	N32'53'26"W	57.30'
L36	S89'45'59"W	23.00'	L80	S57'06'34"W	24.00'
L37	N00'14'01"W	77.78'	L81	N32'53'26"W	91.30'
L38	N89'46'09"E	10.54'	L82	N57'06'34"E	43.30'
L39	N00'14'01"W	7.00'	L83	N32'53'26"W	32.10'
L40	N89'45'59"E	145.80'	L84	N57'06'34"E	94.20'
L41	S00'14'01"E	7.00'			
L42	N89'45'59"E	33.70'			
L43	S00'14'01"E	35.40'			
L44	N89'45'59"E	75.65'			

*Lot 2
Block 1
Civic Center Second Subdivision*

EUE

L18

L19

L20

L78

L79

L75

L76

L74

L61

L62

L63

L59

L58

L57

excluded from EU

The diagram shows a property boundary line with the following labels:

- BUILDING PER NEW ADDITIONS/CONSTRUCTION**: A label pointing to a vertical line segment on the left side of the main boundary.
- EASEMENT/INeAVATION BOUNDARY**: A label pointing to the right side of the main boundary line.
- 52**: A label indicating a distance of 52 units along the main boundary line.
- 5**: A label indicating a distance of 5 units along the main boundary line.
- i (typ.)**: A label indicating a distance of i (typical) units along the main boundary line.

EUE

Civic Center Second Subdivision

Block 1



**Development Services
Current Planning**

500 East Third Street, Suite 310 • Loveland, CO 80537
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

MEMORANDUM

TO: City Council
FROM: Kerri Burchett, Current Planning Division
DATE: September 6, 2011
SUBJECT: Vacation of portions of a utility easement on Lots 1 and 2, Block 1, Civic Center Second Subdivision

I. ATTACHMENTS

1. Vacation Exhibit
2. Site Plan

II. KEY ISSUES

Staff believes that there are no outstanding issues regarding this requested easement vacation.

III. PROJECT DESCRIPTION

The application proposes to vacate two portions of a utility easement occupied by the new building additions for the Library and Chilson Recreation Center within the Civic Center Campus. The platted utility easement covers both Lots 1 and 2, Block 1 of the Civic Center Second Subdivision, exempting only the existing building footprints. With the expansions of both facilities, a vacation of the portion of the easement that surrounds the new building footprints is necessary. The easement to be vacated does not contain utilities and is not necessary to serve either facility.

IV. VICINITY MAP



V. FINDINGS and ANALYSIS

The following two findings must be met in order for the City Council to vacate the utility easement. These findings are included in section 16.36.010.B of the Loveland City Code.

1. *That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.*

Current Planning: Staff believes that this finding can be met. The easement proposed for vacation is located internal to the Civic Center Campus, adjacent to the building footprints of the Library and Chilson Recreations Center, and does not involve the vacation of any existing public or private street rights-of-way.

2. *That the easement to be vacated is no longer necessary for the public use and convenience.*

Water/Wastewater: Staff believes that this finding can be met. The property is within the City's current service area for both water and wastewater. The Department finds that:

- The existing easement to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development.
- The existing easement to be vacated is no longer necessary for public use and convenience.

Power: Staff believes that this finding can be met due to the following:

- Underground three-phase power is located along the north/south property line between the Library and the Chilson Center. A three-phase transformer is also located between the two buildings.
- The vacating of the blanket easement for the properties will not affect the electric service to the buildings and is not needed to serve the buildings.

Stormwater: Staff believes that this finding can be met due to the following:

- The proposed easement vacation is found to be acceptable because it does not affect any public or private stormwater/drainage infrastructure.

VI. RECOMMENDATION

Staff recommends, subject to any further information that may be presented at the public hearing, that City Council approve the vacation ordinance on first reading.

VII. CONDITIONS

There are no recommended conditions for this application.

PLS Group, LLC

Land Surveying • Mapping

109 Coronado Court • Building 7 • Fort Collins, Colorado 80525
970.669.2100 Main • 970.282.3446 Office • 970.377.6767 fax

Description: (Vacation of a portion of Exclusive Utility Easement for the Civic Center)

A portion of Lot 2, Block 1, Civic Center Second Subdivision, located in the Southeast 1/4 of Section 13, Township 5 North, Range 69 West of the 6th Principal Meridian, City of Loveland, County of Larimer, State of Colorado being more particularly described as follows:

Considering the West line of Lot 1, Block 1, Civic Center Second Subdivision as bearing N00°08'11"W with all bearings contained herein relative thereto.

COMMENCE at the Northwest corner of Lot 2, Block 1, Civic Center Second Subdivision; thence S55°33'17"E a distance of 132.64 feet to the POINT OF BEGINNING; thence S32°53'26"E a distance of 51.70 feet; thence N57°06'34"E a distance of 57.60 feet; thence N32°53'26"W a distance of 19.60 feet; thence N57°06'34"E a distance of 88.40 feet; thence S32°53'26"E a distance of 11.40 feet; thence N57°06'34"E a distance of 12.00 feet; thence S32°53'26"E a distance of 37.50 feet; thence N57°06'34"E a distance of 18.50 feet; thence S32°53'26"E a distance of 125.00 feet; thence S57°06'34"W a distance of 20.60 feet; thence S32°53'26"E a distance of 14.00 feet; thence S57°06'34"W a distance of 64.00 feet; thence S32°53'26"E a distance of 7.22 feet; thence S11°40'16"W a distance of 14.93 feet; thence S57°06'34"W a distance of 7.34 feet; thence S32°53'26"E a distance of 76.50 feet; thence N57°06'34"E a distance of 42.00 feet; thence S32°53'26"E a distance of 85.30 feet; thence S57°06'34"W a distance of 22.80 feet; thence S32°53'26"E a distance of 5.00 feet; thence S13°23'10"W a distance of 14.68 feet; thence S57°06'34"W a distance of 4.95 feet; thence S32°53'26"E a distance of 22.70 feet; thence S57°06'34"W a distance of 50.00 feet; thence N32°53'26"W a distance of 28.00 feet; thence S57°06'34"W a distance of 33.30 feet; thence N32°53'26"W a distance of 60.00 feet;

(continued on page 2)

(continued from page 1)

thence S57°06'34"W a distance of 12.00 feet;
thence N32°53'26"W a distance of 83.83 feet;
thence N12°06'34"E a distance of 19.98 feet;
thence N77°53'26"W a distance of 35.57 feet;
thence S57°06'34"W a distance of 36.90 feet;
thence N32°53'26"W a distance of 45.70 feet;
thence S57°06'34"W a distance of 48.00 feet;
thence N32°53'26"W a distance of 57.30 feet;
thence S57°06'34"W a distance of 24.00 feet;
thence N32°53'26"W a distance of 91.30 feet;
thence N57°06'34"E a distance of 43.30 feet;
thence N32°53'26"W a distance of 32.10 feet;
thence N57°06'34"E a distance of 94.20 feet to the Point of Beginning.

Containing 1.78 acres (77,643 sq. ft.), more or less, and being subject to all easements and rights of way of record.



Description: (Vacation of a portion of Exclusive Utility Easement for the Library)

A portion of Lot 1, Block 1, Civic Center Second Subdivision, located in the Southeast 1/4 of Section 13, Township 5 North, Range 69 West of the 6th Principal Meridian, City of Loveland, County of Larimer, State of Colorado being more particularly described as follows:

Considering the West line of Lot 1, Block 1, Civic Center Second Subdivision as bearing N00°08'11"W with all bearings contained herein relative thereto.

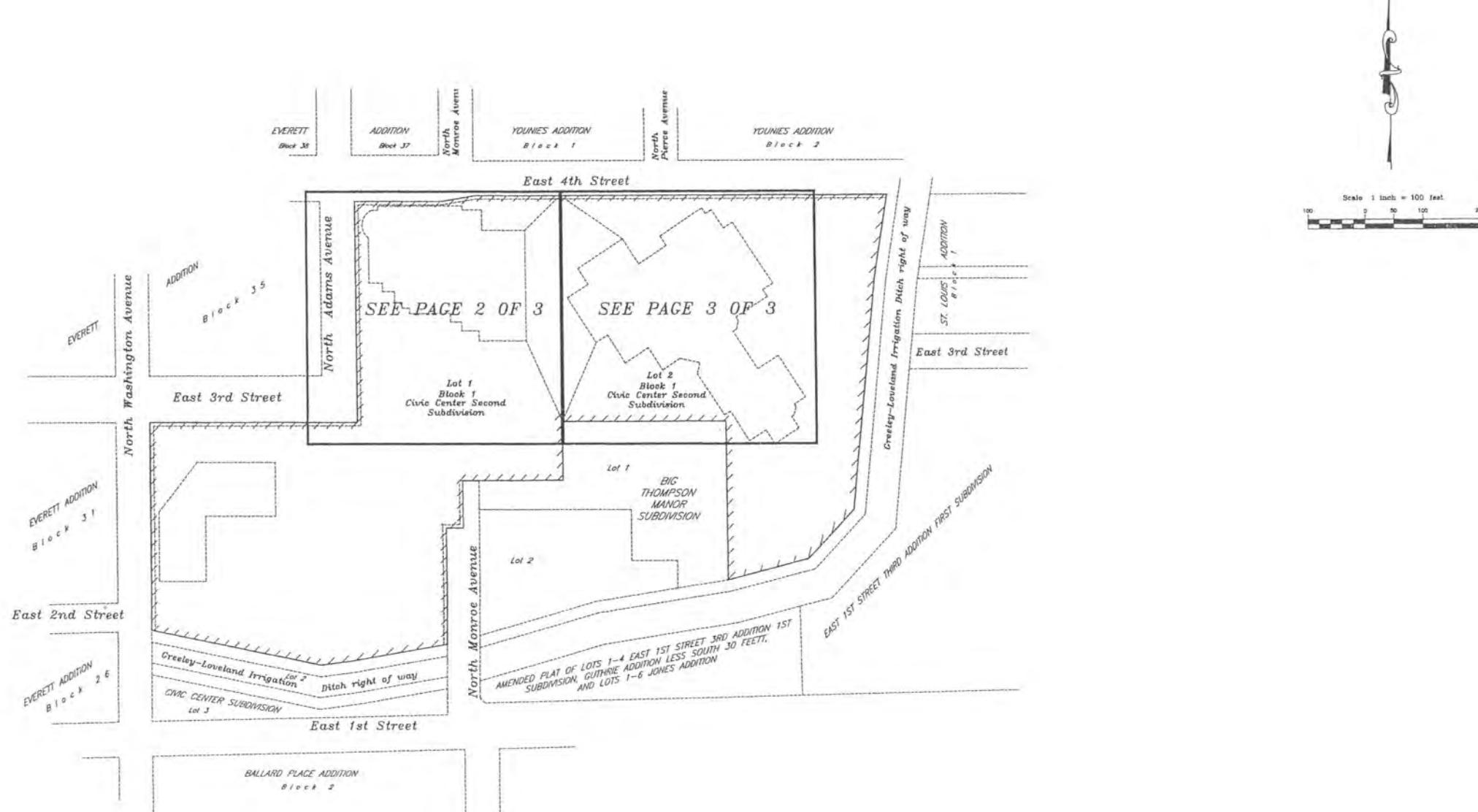
COMMENCE at the Northeast corner of Lot 1, Block 1, Civic Center Second Subdivision; thence S45°54'34"W a distance of 86.18 feet to the POINT OF BEGINNING; thence S00°14'01"E a distance of 189.90 feet; thence S89°45'59"W a distance of 82.60 feet; thence N00°14'01"W a distance of 17.30 feet; thence S89°45'59"W a distance of 30.00 feet; thence N00°14'01"W a distance of 15.40 feet; thence S89°45'59"W a distance of 19.70 feet; thence N00°14'01"W a distance of 14.70 feet; thence S89°45'59"W a distance of 70.30 feet; thence N00°14'01"W a distance of 9.60 feet; thence S89°45'59"W a distance of 12.10 feet; thence N00°14'01"W a distance of 10.00 feet; thence S89°45'59"W a distance of 13.30 feet; thence N00°14'01"W a distance of 18.30 feet; thence S89°45'59"W a distance of 20.69 feet; thence N00°14'01"W a distance of 15.00 feet; thence S89°45'59"W a distance of 23.00 feet; thence N00°14'01"W a distance of 77.78 feet to a non-tangent curve to the right; thence on the arc of said curve a distance of 57.38 feet, having a radius of 27.60 feet, a delta of 119°07'24" and a chord of 47.59 feet bearing N 06°59'53"E to a point of non-tangency; thence N89°46'09"E a distance of 10.54 feet; thence N00°14'01"W a distance of 7.00 feet; thence N89°45'59"E a distance of 145.80 feet; thence S00°14'01"E a distance of 7.00 feet; thence N89°45'59"E a distance of 33.70 feet; thence S00°14'00"E a distance of 35.40 feet; thence N89°45'59"E a distance of 75.65 feet to the Point of Beginning.

Containing 1.14 acres (49,723 sq. ft.), more or less, and being subject to all easements and rights of way of record.



Site Plan

Lot 1 & Lot 2, Block 1, CIVIC CENTER SECOND SUBDIVISION,
City of Loveland, Larimer County, Colorado



REVISIONS
Date _____ By _____ Description _____
Date _____ By _____ Description _____
Date _____ By _____ Description _____

Date 6/1/2011 Drawn JRM
Port Chief DCB Checked MBS
Scale 1"=100' Approved MBS

CLIENT

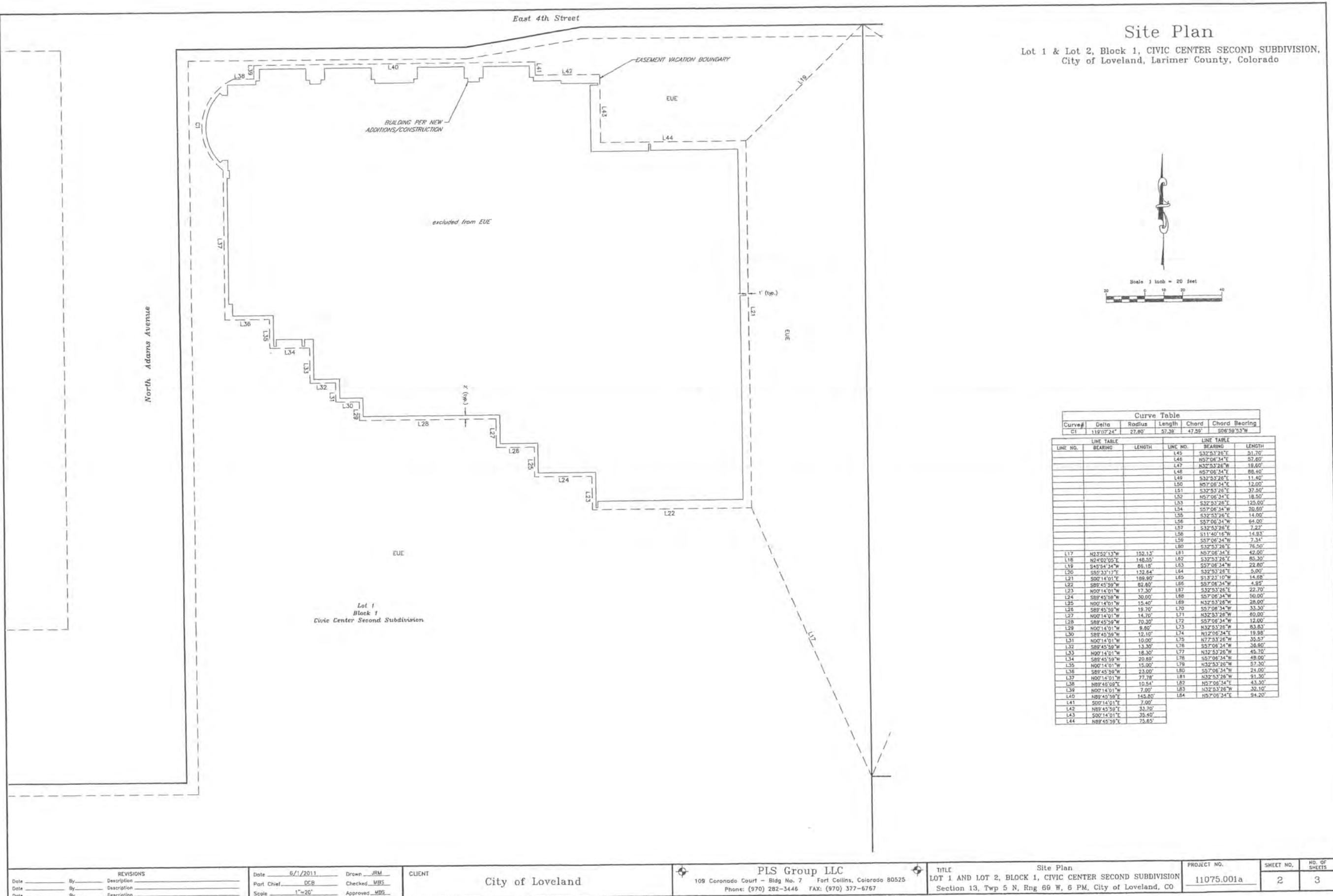
City of Loveland

PLS Group LLC
108 Ceranado Court - Bldg No. 7 Fort Collins, Colorado 80525
Phone: (970) 282-3446 FAX: (970) 377-6767

TITLE
LOT 1 AND LOT 2, BLOCK 1, CIVIC CENTER SECOND SUBDIVISION
Section 13, Twp 5 N, Rng 69 W, 6 PM, City of Loveland, CO

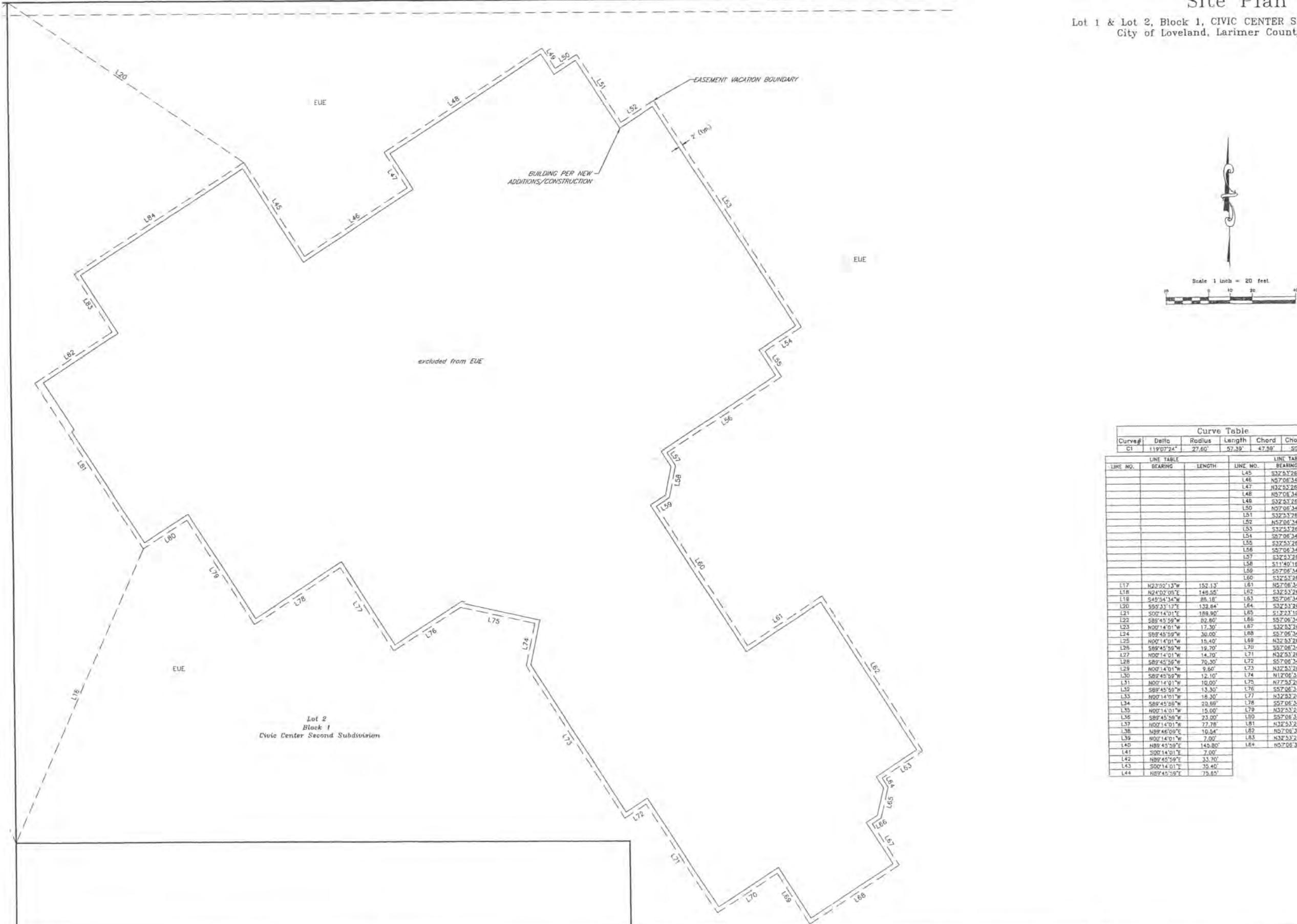
KEY MAP

ATTACHMENT 2



Site Plan

Lot 1 & Lot 2, Block 1, CIVIC CENTER SECOND SUBDIVISION,
City of Loveland, Larimer County, Colorado



Curve Table					
Curve #	Delta	Radius	Length	Chord	Chord Bearing
C1	119°07'24"	27.60'	57.39'	47.59'	50°58'53" W
LINE TABLE					
LINE NO.	BEARING	LENGTH	LINE NO.	BEARING	LENGTH
L1	N27°53'26"E	51.70'	L45	N57°06'34"E	57.60'
L2	N57°06'34"E	19.00'	L46	N32°53'26"E	86.40'
L3	N32°53'26"E	11.40'	L47	N32°53'26"E	19.00'
L4	N57°06'34"E	12.00'	L48	N57°06'34"E	12.00'
L5	N57°06'34"E	37.50'	L49	N27°53'26"E	12.00'
L6	N27°53'26"E	12.50'	L50	N57°06'34"E	16.50'
L7	N57°06'34"E	20.60'	L51	N27°53'26"E	14.00'
L8	N27°53'26"E	14.00'	L52	N57°06'34"E	64.00'
L9	N57°06'34"E	7.22'	L53	N27°53'26"E	7.22'
L10	N11°40'16"W	14.93'	L54	N57°06'34"E	7.24'
L11	N57°06'34"E	7.24'	L55	N27°53'26"E	76.50'
L12	N27°53'26"E	76.50'	L56	N57°06'34"E	42.00'
L13	N57°06'34"E	42.00'	L57	N27°53'26"E	5.00'
L14	N32°23'10"W	14.88'	L58	N57°06'34"E	4.95'
L15	N57°06'34"E	4.95'	L59	N27°53'26"E	22.70'
L16	N57°06'34"E	50.00'	L60	N27°53'26"E	50.00'
L17	N27°53'26"E	28.00'	L61	N57°06'34"E	14.00'
L18	N57°06'34"E	14.00'	L62	N27°53'26"E	85.30'
L19	N32°23'10"W	22.85'	L63	N57°06'34"E	22.85'
L20	N57°06'34"E	5.00'	L64	N27°53'26"E	5.00'
L21	N32°14'01"E	18.90'	L65	N11°40'16"W	19.98'
L22	N57°06'34"E	19.98'	L66	N27°53'26"E	12.00'
L23	N00°14'01"W	17.30'	L67	N57°06'34"E	12.00'
L24	N57°06'34"E	12.00'	L68	N27°53'26"E	10.00'
L25	N00°14'01"W	15.40'	L69	N27°53'26"E	10.00'
L26	N57°06'34"E	10.00'	L70	N57°06'34"E	33.30'
L27	N00°14'01"W	14.70'	L71	N27°53'26"E	60.00'
L28	N57°06'34"E	12.00'	L72	N57°06'34"E	12.00'
L29	N00°14'01"W	9.60'	L73	N27°53'26"E	83.83'
L30	N57°06'34"E	12.00'	L74	N11°40'16"W	19.98'
L31	N00°14'01"W	10.00'	L75	N57°06'34"E	35.57'
L32	N57°06'34"E	35.57'	L76	N27°53'26"E	36.80'
L33	N00°14'01"W	18.30'	L77	N27°53'26"E	45.70'
L34	N57°06'34"E	45.70'	L78	N57°06'34"E	48.00'
L35	N00°14'01"W	15.00'	L79	N27°53'26"E	57.30'
L36	N57°06'34"E	57.30'	L80	N57°06'34"E	54.00'
L37	N00°14'01"W	77.78'	L81	N32°53'26"E	91.40'
L38	N57°06'34"E	91.40'	L82	N57°06'34"E	43.30'
L39	N00°14'01"W	7.00'	L83	N32°53'26"E	32.10'
L40	N57°06'34"E	32.10'	L84	N57°06'34"E	94.20'
L41	N32°14'01"E	7.00'			
L42	N57°06'34"E	33.30'			
L43	N00°14'01"W	35.40'			

REVISIONS			Date 5/1/2011 Drawn JRM	CLIENT	PLS Group LLC 109 Coronado Court - Bldg No. 7 Fort Collins, Colorado 80525 Phone: (970) 282-3446 FAX: (970) 377-6767	TITLE Site Plan LOT 1 AND LOT 2, BLOCK 1, CIVIC CENTER SECOND SUBDIVISION Section 13, Twp 5 N, Rng 89 W, 8 PM, City of Loveland, CO	PROJECT NO. 11075.001a	SHEET NO. 3	NO. OF SHEETS 3
Date	By	Description	Port Chief DCB	Checked MBS					
Date	By	Description	Scale 1"=20'	Approved MBS					
Date	By	Description							



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
(970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 4

MEETING DATE: 9/20/2011

TO: City Council

FROM: Greg George, Development Services Department

PRESENTER: Bethany Clark, Community & Strategic Planning

TITLE:

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR HISTORIC PRESERVATION OUTREACH AND PUBLIC EDUCATION

DESCRIPTION:

An administrative action to consider approval on second reading of an ordinance to appropriate funding from donations received in 2010 for historic preservation outreach and public education.

BUDGET IMPACT:

Yes No

The total funding is from donations received by the Historic Preservation Commission from the Loveland Historical Society in September of 2010.

SUMMARY:

In 2010, the Historic Preservation Commission received a donation of \$2,770 from the Loveland Historical Society. The Commission wishes to use these funds for the purpose of providing educational outreach to the community and creating public awareness about historic preservation. On September 6, City Council unanimously approved the ordinance on first reading as part of the Consent Agenda.

LIST OF ATTACHMENTS:

1. Appropriation ordinance

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

move to adopt on second reading AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR HISTORIC PRESERVATION OUTREACH AND PUBLIC EDUCATION

REVIEWED BY CITY MANAGER:

FIRST READING September 6, 2011

SECOND READING September 20, 2011

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR HISTORIC PRESERVATION OUTREACH AND PUBLIC EDUCATION

WHEREAS, the City has reserved funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues in the amount of \$2,700 from donations received in the prior year in the General Fund 001 are available for appropriation. Revenues in the total amount of \$2,700 are hereby appropriated for historic preservation outreach and public education and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
General Fund - Historic Preservation Donation**

Revenues	
Fund Balance	2,770
Total Revenue	2,770
Appropriations	
001-1914-409-03-50-SP1103 Professional Services	2,770
Total Appropriations	2,770

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

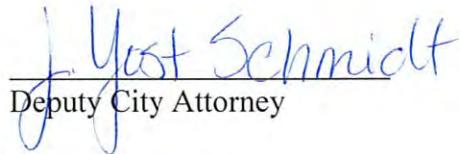
ADOPTED this ____ day of September, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 5

MEETING DATE: 9/20/2011

TO: City Council

FROM: Greg George, Development Services Department

PRESENTER: Bethany Clark, Community and Strategic Planning

TITLE:

AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE LARIMER COUNTY BANK BUILDING LOCATED AT 247 EAST FOURTH STREET IN LOVELAND, COLORADO

DESCRIPTION:

This item is a legislative action to consider approval on second reading of an ordinance to designate as a Historic Landmark the "Larimer County Bank Building" at 247 East 4th Street. The property would be designated a Historic Landmark under Section 15.56 of the Municipal Code. The application is owner-initiated and staff has met with the owner to review the benefits and obligations of historic designation.

BUDGET IMPACT:

Yes No

SUMMARY:

On August 15, 2011, the Historic Preservation Commission found the Larimer County Bank Building to be eligible for designation as detailed in the attached staff report. On September 6, City Council unanimously approved the ordinance on first reading as part of the Consent Agenda.

LIST OF ATTACHMENTS:

- Ordinance designating 247 East 4th Street to the Loveland Historic Register
- Staff Report

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion: move to adopt on second reading AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC LANDMARK THE LARIMER COUNTY BANK BUILDING LOCATED AT 247 EAST FOURTH STREET IN LOVELAND, COLORADO

REVIEWED BY CITY MANAGER:

FIRST READING: September 6, 2011

SECOND READING: September 20, 2011

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL DESIGNATING AS A HISTORIC
LANDMARK THE LARIMER COUNTY BANK BUILDING LOCATED AT 247 EAST
FOURTH STREET IN LOVELAND, COLORADO**

WHEREAS, Chapter 15.56 of the Loveland Municipal Code provides that the City Council may designate as a historic landmark an individual structure, site, or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value; and

WHEREAS, Section 15.56.100 of the Loveland Municipal Code further provides that landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social/cultural, or geographic/environmental significance; and

WHEREAS, the City of Loveland has, through the Historic Preservation Commission, worked to evaluate the nomination for designation as a landmark of certain property located at 247 East 4th Street in Loveland, Colorado, known historically as the Larimer County Bank; and

WHEREAS, on August 15, 2011, the Historic Preservation Commission recommended that the City Council designate the Larimer County Bank Building as a landmark; and

WHEREAS, the owner of the Larimer County Bank Building filed the application for the proposed landmark designation; and

WHEREAS, a duly noticed public hearing has been held on the proposed landmark designation.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF LOVELAND, COLORADO THAT:**

Section 1. The City Council finds that the Larimer County Bank Building, more particularly described on **Exhibit A**, attached hereto and incorporated herein, satisfies the age requirement and meets the following significant criteria for designation as a landmark to the Loveland Historic Register:

- a.) Architectural
 - 1. Represents a built environment of a group of people in an era of history.
- b.) Social/Cultural
 - 1. Exemplifies the cultural, political, economic or social heritage of the community.
- c.) Geographic/Environmental

1. Enhances sense of identity of community.
2. Is an established and familiar natural setting or visual feature of the community.

d.) Physical Integrity

1. Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
2. Retains original design features, materials, and/or character.
3. Retains its original location.

Section 2. The Larimer County Bank Building, described on **Exhibit A**, is hereby designated as a landmark to the Loveland Historic Register.

Section 3. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 4. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this _____ day of _____, 2011

Cecil A. Gutierrez, Mayor

Attest:

City Clerk

APPROVED AS TO FORM:

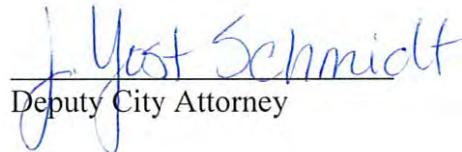

J. Yost Schmidt
Deputy City Attorney

Exhibit A

E 4 INCHES OF LOT 23, ALL OF 24, BLK 13, LOV, CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO



COMMUNITY & STRATEGIC PLANNING
Civic Center • 500 East Third Street • Loveland, Colorado 80537
(970) 962-2577 FAX (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

Loveland Historic Preservation Commission

Staff Report

From: Community and Strategic Planning
 Meeting Date: August 15, 2011
 Re: Application for Historic Landmark Property Designation, 247 E 4th Street

SITE DATA

Address: 247 E 4th Street
 Loveland, CO 80537

Request: Application for Historic Landmark Property Designation

Historic Name: Larimer County Bank

Architectural Style: Two-Part Commercial Block

**Current
Building Sq. Ft.:** 7,280 square feet
(Source: Larimer Co. Assessor Property Information)

**Construction
Date:** 1891

Legal Description: E 4 INCHES OF LOT 23, ALL OF 24, BLK 13, LOV
 City of Loveland, County of Larimer, State of Colorado

Owner(s): White Point Properties, LLC

Applicant(s): Dan Stroh – White Point Properties, LLC

Application Summary:

On May 26, 2011 staff and Commissioner Chair Ericson met with the property owner and discussed the process for designation and outlined the obligations and benefits of designating a property on the Loveland Historic Register. On July 15, 2011 staff verified a completed nomination application for the landmark designation of the property at 247 E 4th Street. Staff mailed a notification letter announcing the date of the public hearing to the property owner of 247 E 4th Street as required by ordinance. The Community and Strategic Planning Division also published notice of the public hearing for designation of the landmark property in the *Loveland Reporter-Herald*.

Larimer County Assessor records identify the property by the following address: 247 E 4th Street, Loveland, Colorado.

History:

Source: Colorado Cultural Resource Survey Architectural Inventory Form prepared by Carl McWilliams of Cultural Resource Historians. 2009.

This large two-story commercial building was constructed in 1891 by the house the Larimer County Bank and Trust Company. The original building had a corner entrance, with a rounded arch doorway. The entrance was faced with pressed brick, and was extensively outlined with red sandstone, quarried at the Stout Quarry, where Horsetooth Reservoir is now located. An ornate cornice extended from the corner along the building's south and east elevations. A 25' by 60' addition extended the building to the alley, in 1902. From the time it opened, until the early 1930s, the building was home to the Larimer County Bank and Trust Company. The bank closed its doors in 1931, a victim of the 1929 stock market crash and the deepening economic depression. Another bank, the Loveland State Bank, operated here for a time in the mid-1930s. In the late 1930s and during the 1940s, a number of stores and offices were located here. These include Hard (insurance) Agency, William C. Moore's real estate agency, Dunning Shoe Store, and Mock's Shoe Store. The Homestate Bank opened for business in the building in the early 1950s, and lasted until the mid-1960s. In the late 1960s or early 1970s, the building was acquired by Roy D. and Daniel G. Stroh. In business as auctioneers and realtors, the Stroh family has owned the building from that time to the present. The building's High Victorian appearance was replaced in a massive renovation in 1927. The stone and brick exterior walls were replaced by a new brick veneer, and the corner entrance was filled in, with the bank's entrance moving to the East Fourth Street side. The building has seen only modest façade alterations following the 1927 renovation.

Architectural Description:

Source: Colorado Cultural Resource Survey Architectural Inventory Form prepared by Carl McWilliams of Cultural Resource Historians, 2009.

Among Loveland' most prominent commercial buildings, the Larimer County Bank/Stroh Building is located at the northwest corner of East Fourth Street and North Lincoln Avenue, in the heart of downtown Loveland. The building's façade, located on the south elevation, fronts onto a wide concrete sidewalk, which parallels East Fourth Street. The east elevation also fronts onto a concrete sidewalk, paralleling North Lincoln Avenue, and the north elevation fronts onto a paved alley. The building's west elevation is abutted by the building at 241-243 East Fourth Street. The two story structure is of masonry construction and features a rectangular plan, measuring 140' north-south, by 26' east-west. Dating to a 1927 renovation, the building's exterior walls are comprised of dark red brick, laid in common bond, with projecting header courses at irregular intervals. The foundation is concrete, and the roof is flat, with built-up gravel/tar composition roofing material. Distinctive parapet walls, with recessed blond brick panels, are located at the tops of the south and east elevations. These parapet walls, along with the use of blond and red brick in belt courses and in panels, on the south and east elevations, form notable architectural elements, which define the building's distinct style, and give it a horizontal emphasis. A stained natural brown wood-paneled door, with transom and sidelights, is located within a recessed entryway, near the west end of the façade. Two single-light, fixed-pane storefront windows penetrate the façade on the first

story, and there are three single-hung sash second story windows on the façade.

The building's east elevation is penetrated by five doors, leading into businesses along North Lincoln Avenue. First story windows on the east elevation include ten single-light fixed-pane storefront display windows, with a continuous brick sill, broken by the doorways. On the second story, on the east elevation, there are thirteen single-hung sash windows, with flanking sidelights, and with a continuous brick sill. On the building's north elevation, there are two painted beige color steel service doors, each with a transom light. Two single-hung sash windows, with flanking sidelights, penetrate the second story wall on the north elevation.

Significance:

The Larimer County Bank/Stroh Building is located at the northwest corner of East Fourth Street and North Lincoln Avenue, in downtown Loveland. Throughout its history, the building has been associated with the development of the city's downtown commercial district, beginning with its construction in 1891. As such, the building is significant under Loveland's "commerce and industry" context as it relates to the downtown area's commercial development, during the late 1800s, and during the first half of the twentieth century. The building is also architecturally significant as a locally notable example of a two-part (two-story) commercial block. Dating from its 1927 renovation, the building displays a high degree of historical integrity. This building is individually eligible for inclusion in the National Register of Historic Places under Criteria A and C.

Photographs:**Figure 1: South and East Elevations****Figure 2: South Elevation**



Figure 3: East Elevation



Figure 4: North Elevation

Determination of Significance and Integrity

Significance should be used as the starting point in determining eligibility for placement on a historic register. Significance has two distinct attributes – the “area of significance” which answers the question of context, or **what** is significant about a resource in terms of its association to agriculture, architecture, commerce and industry, education, politics and government, and transportation. The Larimer County Bank is significant for representing the built environment of a group of people during that era in history. In addition, the Larimer County Bank is an established familiar visual feature of the community, enhancing the sense of identity of the community, and exemplifying the cultural and social heritage of the community.

The second attribute of the *significance* of a structure is its “period of significance” which places the resource on a historic timeline and answers the question of **when** a resource was significant. As noted, the Larimer County Bank was built in 1891, making it greater than 50 years old.

Integrity refers to the ability of a structure to convey its original design or some later period of significance through the intactness of its historic form, original or historic use of materials, setting and site. Integrity has seven (7) particular aspects: location, setting, feeling, design, materials, workmanship, and association with some attribute of historic significance.

A historic building, for example, that retains its original or historically significant setting with little or no visible modifications that diminish the ability to relate its historic association demonstrates greater integrity than a building that has lost many of physical historical elements. A building with high physical integrity retains the following original or historically significant elements: massing; architectural detail; surface treatment; and windows and doors.

According to the list of features described in the owner’s application and the Cultural Resource Survey prepared by Carl McWilliams, and which is verified by current photographs, the Larimer County Bank has maintained a good amount of its integrity. The distinctive parapet walls, the recessed blond brick panels, and the use of blond and red brick in belt courses form notable architectural elements that have retained their integrity. Although the massive renovation in 1927 altered the building’s High Victorian appearance, only modest alterations have been performed since then and the renovation itself represents a period of significance and architecturally notable elements.

Staff Recommendation

To be considered eligible for designation as a historic landmark on the Loveland Historic Register, a property must be at least fifty (50) years old and must meet one (1) or more of the criteria for architectural, social cultural, or geographic/environmental significance as identified in Loveland Municipal Code 15.56.090. The Larimer County Bank satisfies the age requirement and meets the following criteria for designation as a Loveland Historic Register landmark of property:

- a.) Architectural
 - 1. Represents a built environment of a group of people in an era of history.
- b.) Social/Cultural
 - 1. Exemplifies the cultural, political, economic or social heritage of the community.
- c.) Geographic/Environmental
 - 1. Enhances sense of identity of the community.
 - 2. Is an established and familiar natural setting or visual feature of the community.
- d.) Physical Integrity
 - 1. Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
 - 2. Retains original design features, materials, and/or character.
 - 3. Retains its original location.

Given available information for the property at 247 E 4th Street, staff has determined that the Larimer County Bank exhibits both adequate *integrity* and *significance* to support its eligibility for designation as a Loveland historic landmark. This determination is based on the Colorado Historical Society's recommended framework for determining landmark eligibility. Staff recommends the Historic Preservation Commission recommend approval of this request for designation of the Larimer County Bank, located at 247 E 4th Street, as a Loveland Historic Register landmark property.

Attachments:

A. Location Map



B. Nomination Application submitted by applicant



FORM A

Application for Designation of a Historic Landmark

Please Type or Print Legibly

*One property only per Application Form.
If more than one Applicant, please attach additional sheet.*

APPLICANT(S) INFORMATION	
Owner of Proposed Landmark Property:	White Point Properties, LLC. Dan Stroh 247 E. 4th Street Loveland, CO 80537
Applicant:	<input checked="" type="checkbox"/> Property Owner <input type="checkbox"/> City Council (attach meeting minutes initiating action) <input type="checkbox"/> Commission Designees (pursuant to 15.56.169) <input type="checkbox"/> Historic Preservation Commission (attach meeting minutes initiating action)
Address:	247 E. 4th Street., Loveland, CO 80537
Telephone:	970-667-2837

PROPOSED LANDMARK INFORMATION	
Property Name:	Stroh & Co Realty & Auction
Address:	247 E. 4th Street., Loveland, CO 80537
Historic Use:	Bank, Office Building; Retail
Current and Proposed Use	Real Estate Office Building; Offices
Legal Description	See Attached Historic Building Inventory
Brief Description of Historical Qualities relating to Property	<i>Please attach additional sheets if necessary.</i> See Attached Historic Building Inventory



FORM A

Application for Designation of a Historic Landmark

DETAILED PROPERTY INFORMATION	
Historic Property Name:	Larimer County Bank
Current Property Name:	Stroh & CO Realty & Auction
Address:	247 E. 4th Street., Loveland, CO 80537
Legal Description	<p><i>Please attach copy of officially recorded document containing a legal description.</i></p> <p>See Attached Historic Building Inventory</p>
Owner Name & Address:	White Point Properties, LLC. Dan Stroh 247 E. 4th Street., Loveland, CO 80537
Style:	Two Story
Building Materials:	Brick walls, recessed brick wall pane, canvas awnings
Additions to main structure(s), and year(s) built.	N/A
Is the structure(s) on its original site?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, Date Moved _____
What is the historic use of the property?	Larimer County Bank, shoe store,& retail
What is the present use of the property?	Real Estate Office, offices, salon, Sugar Mill Productions
What is the date of construction?	Estimated: _____ Actual: _____ Original: <u>1891</u> Source: Historic Building Inventory



FORM A

Application for Designation of a Historic Landmark

DETAILED PROPERTY INFORMATION continued	
Describe the condition of the property.	Excellent
Who was the original architect?	Source: Unknown
Who was the original Builder/Contractor?	Source: Unknown
Who was the original Owner(s)?	Source: Larimer County Bank & Trust Company
Are there structures associated with the subject property not under the ownership of this applicant? Please describe.	NO
Detailed description of the architectural characteristics of the property.	<p><i>Please attach additional sheets if necessary.</i></p> <p>See Attached Historic Building Inventory</p>

**FORM A****Application for Designation of a Historic Landmark**

The Historic Preservation Commission and City Council will consider the following criteria when reviewing nominations of properties for designation.

Landmarks must be at least fifty (50) years old and meet one (1) or more of the following criteria for architectural, social/cultural, or geographic/environmental significance. A landmark may be less than fifty (50) years old if it is found to be exceptionally important in other criteria.

Age of Site is: 120

1. Proposed Historic Landmarks. Please check all that apply:

For prehistoric or historic archaeological sites, please go to Form A Section 2, pg. 5.

A) Architectural:

- 1) Exemplifies specific elements of an architectural style or period.
- 2) Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, or locally.
- 3) Demonstrates superior craftsmanship, or high artistic value.
- 4) Represents innovation in construction, materials, or design.
- 5) Represents a built environment of a group of people in an era of history.
- 6) Exhibits a pattern or grouping of elements representing at least one of the above criteria.
- 7) Is a significant historic remodel.

B) Social/Cultural

- 1) Is a site of an historic event that had an effect upon society.
- 2) Exemplifies the cultural, political, economic, or social heritage of the community.
- 3) Is associated with a notable person(s) or the work of notable person(s).

C) Geographical/Environmental

- 1) Enhances sense of identity of the community.
- 2) Is an established and familiar natural setting or visual feature of the community.

**FORM A****Application for Designation of a Historic Landmark**

2. Prehistoric and historic archaeological sites shall meet one (1) or more of the following. Complete this section only if the subject property is a prehistoric or historic archaeological site. Please check all that apply.

A) Architectural

1) Exhibits distinctive characteristics of a type, period, or manner of construction.

2) Is a unique example of a structure.

B) Social/Cultural

1) Has the potential to make an important contribution to the knowledge of the area's history or prehistory.

2) Is associated with an important event in the area's development.

3) Is associated with a notable person(s) or the work of notable person(s).

4) Is a typical example/association with a particular ethnic or other community group.

5) Is a unique example of an event in local history.

C) Geographical/Environmental

1) Is geographically or regionally important.

3. Each property or site will also be evaluated based on physical integrity using the following criteria (*a property need not meet all the following criteria*):

a) Shows character, interest, or value as part of the development, heritage or cultural characteristics of the community, region, state, or nation;

b) Retains original location or same historic context if it has been removed; or

c) Has been accurately reconstructed or restored based on documentation.



FORM A

Application for Designation of a Historic Landmark

Statement of Significance Please provide a brief statement summarizing the applicable criteria checked on previous pages.	<p><i>Please attach additional sheets if necessary.</i> Historic Building Inventory provided information on the Stroh Building</p>
Photographs of property as it appears today	<p><i>Include photos from all angles: front, rear, and side elevations.</i> See Attached</p>
Please identify all references used during the research of the property. Include titles, author, publisher, publication date, ISBN# (when applicable), and location of source such as public library, etc.	<p><i>Please attach additional sheets if necessary.</i> Historic Building Inventory</p>



City of Loveland

Page 7 - Signature Sheet

FORM A**Application for Designation of a Historic Landmark**

Please type or print legibly.

FORM A completed by:

Carrie WakefieldStroh Realty
Employee

Signature of Preparer:

Carrie Wakefield

Date:

7/11/11

Phone No.

970-667-2837

Address:

249 E 4th Street Loveland, Co 80537

Signature of Property/Site Owner(s) if different than Preparer:

John Stroh White Point Properties LLC

Date:

7-11-11

COLORADO HISTORICAL SOCIETY
Office of Archeology and Historic Preservation
1300 Broadway Denver, CO 80203

HISTORIC BUILDING INVENTORY

COUNTY: Larimer CITY: Loveland

HISTORIC BUILDING NAME: Larimer County Bank Building

CURRENT BUILDING NAME: Stroh Building

ADDRESS: 247 East Fourth Street
Loveland, CO 80537

OWNER(S) NAME AND ADDRESS: Daniel G. Stroh
0255 Weld County Road 46
Berthoud, CO 80513

Eligible for National Register yes no
date _____ initials _____
Contributes to a potential National Register District
 yes no
District Name: Loveland Downtown Historic District
Criteria A B C D
Eligible for State Register yes no
date _____ initials _____
Criteria A B C D E
Areas of Significance

Period of Significance
Needs Data date _____ initials _____

LOCAL LANDMARK DESIGNATION: No

P.M.: 6th Township: 5N Range: 69W
SW $\frac{1}{4}$ of SW $\frac{1}{4}$ section 13

UTM REFERENCE: ZONE: 13
EASTING: 493820
NORTHING: 4471460

USGS QUAD NAME: Loveland, Colo.
Year: 1962 (Photorevised 1984) 7.5'

Block: 13
Lots: 23, 24
Addition: Loveland



original location

moved
Date(s) of move(s): N/A

HISTORIC USE: Bank; Office building; Retail store

PRESENT USE: Office building; Retail stores

DATE OF CONSTRUCTION
estimate:
actual: 1891

SOURCE OF INFORMATION
Loveland City Directories
Sanborn maps

ARCHITECTURAL DESCRIPTION

Among Loveland's most prominent commercial buildings, the Larimer County Bank / Stroh Building is located at the northwest corner of East Fourth Street and North Lincoln Avenue, in the heart of downtown Loveland. The building's facade, located on the south elevation, fronts onto a wide concrete sidewalk which parallels East Fourth Street. The east elevation also fronts onto a concrete sidewalk, paralleling North Lincoln Avenue, and the north elevation fronts onto a paved alley. The building's west elevation is abutted by the Rydquist Jewelry building at 241-243 East Fourth Street. The two story structure is of masonry construction and features a rectangular plan, measuring 140' north-south, by 26' east-west. Dating to a 1927 renovation, the building's exterior walls are comprised of dark red brick, laid in common bond, with projecting header courses at irregular intervals. The foundation is concrete, and the roof is flat, with built-up gravel/tar composition roofing material. Distinctive parapet walls, with recessed blond brick panels, are located at the tops of the south and east elevations. These parapet walls, along with the use of blond and red brick in belt courses and in panels, on the south and east elevations, form notable architectural elements, which define the building's distinct style, and give it a horizontal emphasis. A stained natural brown wood-paneled door, with transom and sidelights, is located within a recessed entryway, near the west end of the facade. Above the entrance, a burgundy color canvas awning, emblazoned with the **Stroh & Co.** logo, extends out over the sidewalk along East Fourth Street. A sign with neon lights projects over the sidewalk at the building's southeast corner, and advertises: **STROH & CO. REALTY & AUCTIONS SINCE 1954.** Two single-light, fixed-pane storefront windows penetrate the facade on the first story, and there are three single-hung sash second story windows on the facade, all with burgundy color canvas awnings.

The building's east elevation is penetrated by five doors, leading into businesses along North Lincoln Avenue. From south to north, these include: a wood-paneled door, providing access to Stroh and Company; a set of paired glass-in-wood-frame doors, leading to Empire Sales Co. upstairs at 407 N. Lincoln Ave.; a glass-in-steel-frame door, providing access to Colorado Interior Concepts at 411 N. Lincoln Ave.; A glass-in-steel-frame door, leading into Bob' Barber Shop at 415 N. Lincoln Ave.; and a glass-in-wood-frame door to 417 N. Lincoln Ave., currently vacant. First story windows on the east elevation include ten single-light fixed-pane storefront display windows, with a continuous brick sill, broken by the doorways, and with burgundy color metal awnings. On the second story, on the east elevation, there are thirteen single-hung sash windows, with flanking sidelights, and with a continuous brick sill. Each of these windows is covered by a beige color metal awning. On the building's north elevation, there are two painted beige color steel service doors, each with a transom light. Two single-hung sash windows, with flanking sidelights, penetrate the second story wall on the north elevation. Another signband here advertises **Stroh & Co. REALTY & AUCTIONS SINCE 1854.**

PHOTOGRAPHS (include photographs showing each side of building and any associated buildings)

Film Roll No: CM-4 Photographer: Carl McWilliams

Negative No(s).: 17-21

Location of Negatives: City of Loveland, Cultural Services Department

CONSTRUCTION HISTORY (include description and dates of major additions, alterations, or demolitions)

This building was constructed in 1891 to house the Larimer County Bank. As originally built, the two-story structure had a corner entrance, faced with pressed brick trimmed in red sandstone. An ornate cornice extended along the building's south and east elevations, paralleling what became East Fourth Street and North Cleveland Avenue. A 25' by 60' addition extended the building to the alley, in 1902. The building's High Victorian appearance was replaced in a massive renovation in 1927. The stone and brick exterior walls were replaced by a new brick veneer, and the corner entrance was filled in, with the bank's entrance moving to the East Fourth Street side. The building has seen only modest facade alterations following the 1927 renovation.

ARCHITECT: **unknown**

SOURCE OF INFORMATION: **n/a**

BUILDER / CONTRACTOR:
unknown

SOURCE OF INFORMATION:
n/a

ORIGINAL OWNER:
Larimer County Bank and Trust Company

SOURCE OF INFORMATION:
"Before and After: Larimer County Bank Near Centennial." Loveland Daily Reporter-Herald September 1-2, 1979, p. 1.

ARCHITECTURAL STYLE:
Two-Part Commercial Block

BUILDING TYPE:
Building

MATERIALS:
**Brick walls; Recessed brick wall pane.
Canvas awnings; Neon sign**

STORIES: **Two**

SQUARE FOOTAGE: **~7280**

PLAN / SHAPE: **Rectangular**

ASSOCIATED BUILDINGS: **No**

TYPE: **n/a**

HISTORICAL BACKGROUND

This large two-story commercial building was constructed in 1891 by the Larimer County Bank and Trust Company. The original building had a corner entrance, with a rounded arch doorway. The entrance was faced with pressed brick, and was extensively outlined with red sandstone, quarried at the Stout Quarry, where Horsetooth Reservoir is now located. An ornate cornice extended line extended from the corner, along the top of the building's south and east elevations. From the time it opened, until the early 1930s, the building was home to the Larimer County Bank and Trust Company. The bank closed its doors in 1931, a victim of the 1929 stock market crash and the deepening economic depression. Another bank, the Loveland State Bank, operated here for a time in the mid-1930s. In the late 1930s and during the 1940s, a number of stores and offices were located here. These include Hards (insurance) Agency, William C. Moore's real estate agency, Dunning Shoe Store, and Mock's Shoe Store. The Homestead Bank opened for business in the building in the early 1950s, and lasted until the mid-1960s. In the late 1960s or early 1970s, the building was acquired by Roy D. and Daniel G. Stroh. In business as auctioneers and realtors, the Stroh family has owned the building from that time to the present. In addition to Stroh and Company the building's current (1999) occupants are Empire Sales Company, Fine Line General Contractors Inc., Colorado Interior Concepts, and Bob's Barber Shop.

INFORMATION SOURCES (be specific):

"A Guide to Historic Loveland," on file at the City of Loveland Museum Gallery.

"A Walking Tour of Historical Commercial Buildings in Loveland," on file at the City of Loveland Museum Galle

"Before and After: Larimer County Bank Nears Centennial." *Loveland Daily Reporter-Herald*, September 1-2, 19

Loveland "Commercial Property Appraisal Record" card, on file at the City of Loveland Museum Gallery.

Loveland City Directories, generally published annually 1908-1998, (various publishers).

Sanborn Fire Insurance Maps, dated June 1886, December 1890, September 1893, November 1900, March 19 May 1911, April 1918, August 1927, and August 1937.

SIGNIFICANCE (check appropriate categories)**Architectural Significance:**

represents the work of a master
 possesses high artistic value
 represents a type, period or method of construction

Historical Significance:

associated with significant person(s)
 associated with significant event
 associated with a pattern of events
 contributes to a historic district

National Register Eligibility:

Individual yes no
 Criteria: A B C D

Contributes to a potential district:

yes no

District Name: **Loveland Downtown Historic District**

Area(s) of Significance: **Commerce; Architecture**

Period of Significance: **1891-1950**

STATEMENT OF SIGNIFICANCE (briefly justify the significance checked above)

The Larimer County Bank Building / Stroh Building is located at the northwest corner of East Fourth Street and North Lincoln Avenue, in downtown Loveland. Throughout its history, the building has been associated with the development of the city's downtown commercial district, beginning with its construction in 1891. As such, the building is significant under Loveland's "commerce and industry" context as it relates to the downtown area's commercial development, during the late 1800s, and during the first half of the twentieth century. The building is also architecturally significant as a locally notable example of a two-part (two-story) commercial block. Dating from its 1927 renovation, the building displays a high degree of historical integrity. This building is individually eligible for inclusion in the National Register of Historic Places under Criteria A and C, and it is also eligible as a contributing resource within the potential Loveland Downtown Historic District.

INVENTORY COMPLETED BY: Carl McWilliams and Jason Marmor

DATE: 24 October 1999

AFFILIATION: Retrospect

Cultural Resource Historians

PHONE: 970/482-3115; 970/493-52

ADDRESS: 1512 Briarcliff Road

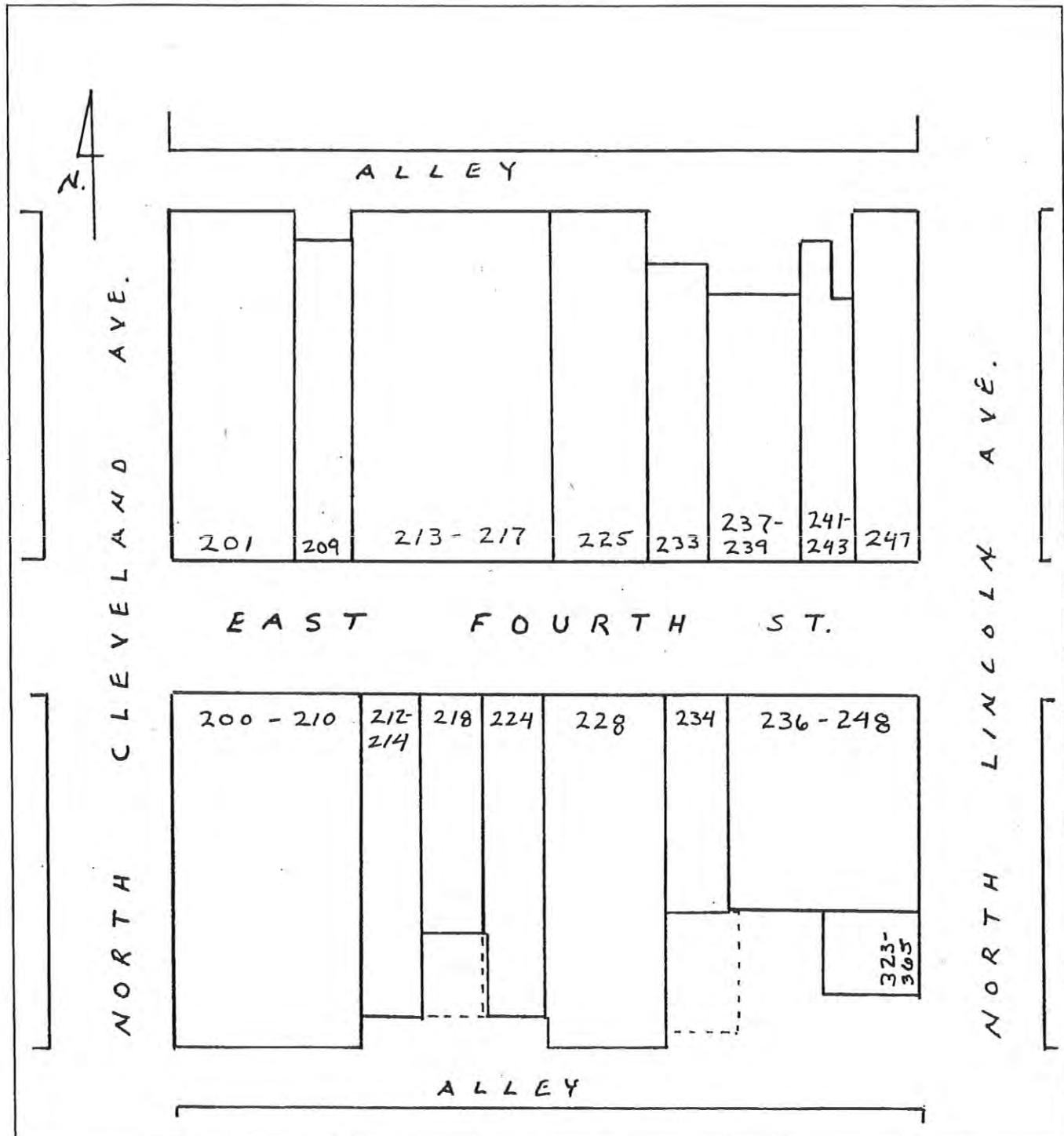
1607 Dogwood Court

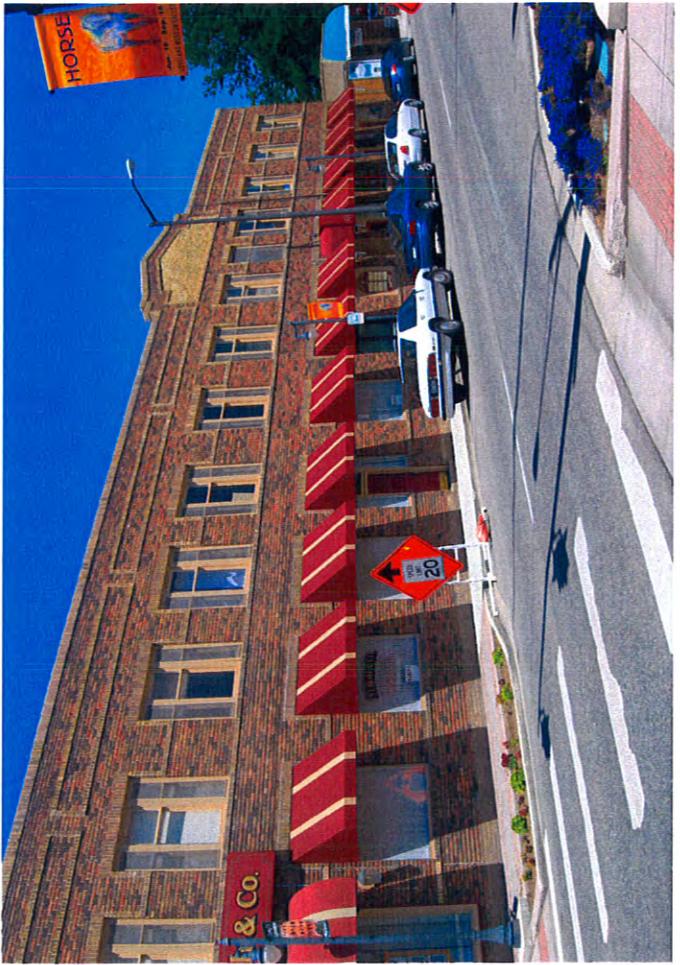
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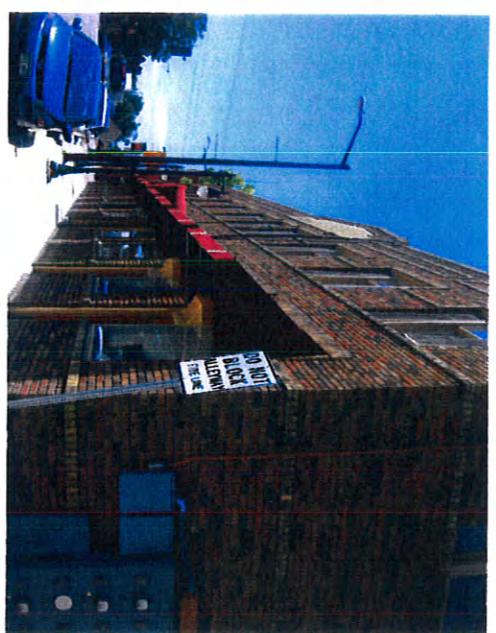
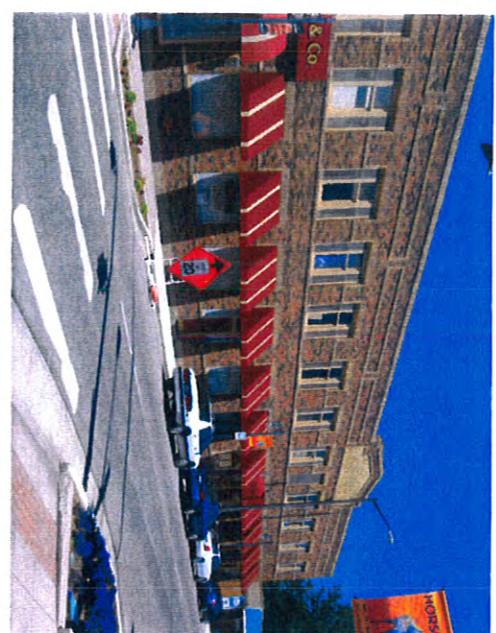
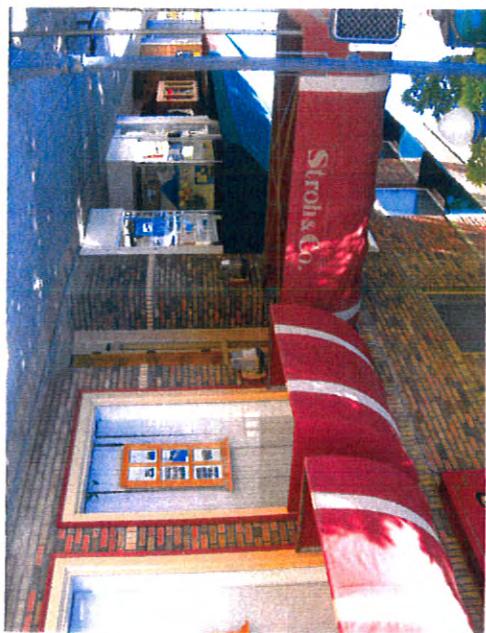
Fort Collins, CO 80524

Fort Collins, CO 80525

Loveland Historic Preservation Survey

SITE PLAN • • • Approximate Scale $\frac{1}{4}'' = 15'$





11-11-16



CITY OF LOVELAND
PUBLIC WORKS DEPARTMENT
Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537
(970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

AGENDA ITEM: 6

MEETING DATE: 9/20/2011

TO: City Council

FROM: Keith Reester, Director, Public Works Department

PRESENTER: David Klockeman, City Engineer

TITLE:

Consideration of an ordinance on second reading enacting a Supplemental Budget and Appropriation to the 2011 City of Loveland budget for the installation of 7th Street and Garfield Avenue (Truscott Elementary) Sidewalk Improvements

DESCRIPTION:

This is an administrative action to consider on second reading an ordinance to appropriate Federal Safe Routes to School (SRTS) funds for the installation of 7th Street and Garfield Avenue (Truscott Elementary) Sidewalk Improvements. The Ordinance was approved unanimously on first reading at the September 6, 2011 City Council Meeting.

BUDGET IMPACT:

Yes No

The project is funded from grant funds and City funds. The source of City funds is the approved 2011 budget for the Transportation Capital Program.

SUMMARY:

CDOT will provide federal funds to the City of Loveland to reimburse it for the costs, up to \$85,880, of installing sidewalk and associated improvements along the north side of Truscott Elementary School on 7th Street from Grant Avenue to Garfield Avenue. Construction is planned for late 2011 or early 2012.

Funding Summary:

Federal Funds	\$ 85,880
Local Agency Match Funds*	\$ 0
Local Agency Overmatch Funds **	<u>\$ 30,000</u>
Subtotal Local Funds	<u>\$ 30,000</u>
Total Project Funds:	\$115,880

* Local Agency Match Funds are defined as funding required to be provided by a local entity as part of the Federal grant process. For Safe Routes to School Funds, a Local Agency Match is not required. (Typically, the Federal funds account for 80 percent of the project cost and the Local Agency Match Funds account for the remaining 20 percent.) Therefore, the amount shown above for that line is \$0.

** Local Agency Overmatch Funds are defined as funding provided by a local entity above the required amount of Local Agency Match Funds in order to complete a project. In this case, the difference between the Federal grant and the cost of completing the project is \$30,000. Since no Local Agency Match Funds were required, but providing local funds is encouraged, this amount was included in the grant application and the entire amount is shown as an “overmatch”.

An ordinance is required to appropriate the Federal Funds as the award of this project occurred after the 2011 budget was adopted. City Council unanimously approved the First Reading of this Ordinance at the September 6, 2011 meeting.

LIST OF ATTACHMENTS:

An Ordinance Enacting a Supplemental Budget and Appropriation to the 2011 City of Loveland Budget for Installation of 7th Street and Garfield Avenue (Truscott Elementary) Sidewalk Improvements

RECOMMENDED CITY COUNCIL ACTION:

Approve the ordinance on second reading.

REVIEWED BY CITY MANAGER:

FIRST READING September 6, 2011

SECOND READING September 20, 2011

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR 7TH STREET AND GARFIELD AVENUE AREA (TRUSCOTT ELEMENTARY) SIDEWALK IMPROVEMENTS

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues in the amount of \$85,880 from a Federal Safe Routes to School (SRTS) Grant in the Capital Projects Fund 02 are available for appropriation. These revenues are appropriated for the installation of sidewalk and related improvements along the north side of Truscott Elementary (7th Street from Grant Avenue to Garfield Avenue). The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

**Supplemental Budget
Capital Projects Fund 02 – 7th and Garfield Sidewalk Improvements**

Revenues		
002-0270-334-48-00-EN1103	Federal Grants – Sidewalk Improvements	\$85,880
Total Revenue		\$85,880
Appropriations		
002-0270-409-09-60-EN1103	Construction – Sidewalk Improvements	\$85,880
Total Appropriations		\$85,880

Section 2. That as provided in City Charter Section 11-5(d), this Ordinance shall be effective upon final adoption.

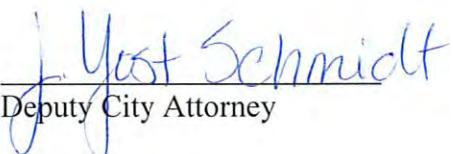
ADOPTED this ____ day of September, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney

**CITY OF LOVELAND**

PUBLIC WORKS DEPARTMENT

Administration Offices • 410 East Fifth Street • Loveland, Colorado 80537

(970) 962-2555 • FAX (970) 962-2908 • TDD (970) 962-2620

AGENDA ITEM: 7**MEETING DATE:** 9/20/2011**TO:** City Council**FROM:** Keith Reester, Director, Public Works Department**PRESENTER:** David Klockeman, City Engineer**TITLE:**

Public Hearing and Consideration of an Ordinance on First Reading enacting a Supplemental Budget and Appropriation to the 2011 Loveland General Improvement District #1 for Traffic Signal Pole and Arm Upgrades

DESCRIPTION:

This is an administrative action for consideration of an ordinance on first reading. The ordinance appropriates reserved funds not appropriated at the time of adoption of the General Improvement District #1 budget for 2011 for traffic signal pole, arm and street lighting upgrades at Cleveland Avenue (US 287) and 4th Street. The funds will provide decorative signal pole bases, luminaire arms and LED lighting in concert with the recent Downtown plan. This funding request and appropriation is for \$11,000.

BUDGET IMPACT:

Yes No

The request appropriates funding from reserved funds within the General Improvement District #1 fund.

SUMMARY:

These funds will be used to upgrade the appearance of the signal poles and support arms and purchase upgraded LED street lights to be attached to the signal poles at Cleveland and 4th Street in Downtown Loveland. Funding for the larger signal rebuild project was obtained as a part of a prior separate traffic signal maintenance agreement with CDOT and was matched by the City of Loveland. This additional funding request of \$11,000 included in this supplemental budget and appropriation allows for this work to be completed in 2011.

LIST OF ATTACHMENTS:

An Ordinance enacting a Supplemental Budget and Appropriation to the 2011 Loveland General Improvement District #1 for Traffic Signal Pole and Arm Upgrades

RECOMMENDED CITY COUNCIL ACTION:

Conduct a Public Hearing and approve the ordinance on first reading.

REVIEWED BY CITY MANAGER:

FIRST READING September 20, 2011

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 LOVELAND GENERAL IMPROVEMENT DISTRICT #1 FOR TRAFFIC SIGNAL POLE AND ARM UPGRADES

WHEREAS, the District has reserved funds not appropriated at the time of the adoption of the District budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, ACTING AS THE EX OFFICIO BOARD OF DIRECTORS OF THE LOVELAND GENERAL IMPROVEMENT DISTRICT #1:

Section 1. That revenues in the amount of \$11,000 from reserves in the Loveland General Improvement District #1 Fund 025 are available for appropriation. Revenues in the total amount of \$11,000 are hereby appropriated for traffic signal pole and arm upgrades at the Lincoln and Cleveland Avenue intersections with U.S. 287 and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

Supplemental Budget
Loveland General Improvement District #1 Fund 025

Revenues	
Fund Balance	11,000
Total Revenue	11,000
Appropriations	
025-0303-409-09-60-EN1005 Construction	11,000
Total Appropriations	11,000

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

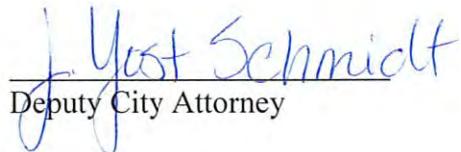
ADOPTED this ____ day of October, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney



CITY OF LOVELAND
HUMAN RESOURCES DEPARTMENT
Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2371 • FAX (970) 962-2919 • TDD (970) 962-2620

AGENDA ITEM: 8

MEETING DATE: 9/20/2011

TO: City Council

FROM: City Manager and Human Resources

PRESENTER: Bill Cahill

TITLE: Setting Special Council Meeting Dates

DESCRIPTION:

This is an administrative action requesting City Council call special meetings on the following dates: September 27, 2011 for the purpose of discussing and considering any necessary actions regarding matters related to the ACE Manufacturing and Innovation Park and September 28 and October 5, 2011 for the purpose of holding Executive Sessions to finalize the evaluation process and to conduct evaluations with Council appointed Staff.

BUDGET IMPACT:

Yes No

SUMMARY:

The City of Loveland is working on an economic development project known as ACE Manufacturing and Innovation Park. The purpose of the September 27, 2011 special meeting is to discuss and consider any necessary actions concerning matters related to the ACE Manufacturing and Innovation Park.

The special meeting on September 28, 2011 is to conduct an executive session to finalize appointed positions annual evaluation forms and ratings. The October 5, 2011 special meeting is to conduct evaluation meetings with Council appointed staff.

LIST OF ATTACHMENTS: None

RECOMMENDED CITY COUNCIL ACTION: Approve a motion calling a special meeting for September 27, 2011 to be located in the Council Chambers, 500 E. Third St, Loveland, CO

beginning at 6:30 pm for the purpose of discussing and considering any necessary actions concerning matters related to the ACE Manufacturing and Innovation Park and special meetings for September 28, 2011 and October 5, 2011, to be located in the City Manager's Conference Room, 500 E. Third St, Loveland, CO beginning at 5:30 p.m. for the purpose of calling Executive Sessions to review the evaluation process and to conduct evaluations with Council appointed Staff.

REVIEWED BY CITY MANAGER:



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
 Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
 (970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: **9**

MEETING DATE: September 20, 2011

TO: City Council

FROM: Greg George, Development Services Director

PRESENTER: Steven Williams, Current Planning

TITLE:

AN ORDINANCE VACATING A PORTION OF A UTILITY AND DRAINAGE EASEMENT ON
 LOT 2, BLOCK 1, AMENDED PLAT OF LOTS 1 & 2, BLOCK 1, OF THE AMENDED PLAT OF
 LOTS 3 & 5, BLOCK 1, MCKEE MEADOWS 9TH SUBDIVISION

DESCRIPTION:

A public hearing and legislative action to consider an ordinance on first reading vacating a 1,295 square foot portion of a utility and drainage easement located in Lot 2, Block 1, Amended Plat of Lots 1 & 2, Block 1, of the Amended Plat of Lots 3 & 5, Block 1, McKee Meadows 9th Subdivision. The applicant is Hal Rogers, the owner of the subject property.

BUDGET IMPACT:

Yes No

SUMMARY: The applicant proposes to vacate a portion of a utility and drainage easement located at 1497 E. Eisenhower Blvd. This property is generally located on the north side of E. Eisenhower Boulevard between N. Madison Avenue and N. Boise Avenue (within the larger shopping center that also includes Home State Bank and the former Albertsons). The building is occupied by Liquor Max and the vacation is necessary to allow for the construction of a drive-up facility on the west side of the building (see Vicinity Map and Site Plan in the attached staff memo). The easement currently contains an underground power line. This power line will be relocated due west of the existing easement. A new public utility easement has been dedicated to accommodate the relocated underground electric line. With the relocation of the electric line, there will no longer be any public or private utility lines in the existing easement. All providers of public utilities have reviewed the vacation application and recommend approval.

LIST OF ATTACHMENTS:

- A. Easement vacation ordinance
- B. Staff memorandum with attachments

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to make the findings in Section V of the staff memorandum dated September 20, 2011 and, based on those findings, adopt on first reading, AN ORDINANCE VACATING A PORTION OF A UTILITY EASEMENT ON LOT 2, BLOCK 1, AMENDED PLAT OF LOTS 1 & 2, BLOCK 1, OF THE AMENDED PLAT OF LOTS 3 & 5, BLOCK 1, MCKEE MEADOWS 9TH SUBDIVISION.

REVIEWED BY CITY MANAGER:

FIRST READING:September 20, 2011

SECOND READING: _____

ORDINANCE NO.

**AN ORDINANCE VACATING A PORTION OF A UTILITY AND DRAINAGE
EASEMENT ON LOT 2, BLOCK 1, AMENDED PLAT OF LOTS 1 & 2, BLOCK 1, OF
THE AMENDED PLAT OF LOTS 3 & 5, BLOCK 1, MCKEE MEADOWS 9TH
SUBDIVISION**

WHEREAS, the City Council, at a regularly scheduled meeting, considered the vacation of a portion of a utility and drainage easement described below, located in Lot 2, Block 1, Amended Plat Of Lots 1 & 2, Block 1, Of The Amended Plat Of Lots 3 & 5, Block 1, McKee Meadows 9th Subdivision to the City of Loveland, County of Larimer, State of Colorado;

WHEREAS, the City Council finds and determines that the portion of the utility and drainage easement to be vacated is no longer necessary for the public use and convenience; and

WHEREAS, the City Council further finds and determines that the application filed at the Development Center was signed by the owners of more than 50% of property abutting the easement to be vacated.

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

Section 1. That the following described portion of a utility and drainage easement be and the same is hereby vacated:

That portion of PORTION OF A UTILITY AND DRAINAGE EASEMENT ON LOT 2, BLOCK 1, AMENDED PLAT OF LOTS 1 & 2, BLOCK 1, OF THE AMENDED PLAT OF LOTS 3 & 5, BLOCK 1, MCKEE MEADOWS 9TH SUBDIVISION, situate in the Southwest $\frac{1}{4}$ of Section 7, Township 5 North, Range 68 West of the 6th P.M., City Of Loveland, Larimer County, Colorado, being more particularly described as follows:

Considering the South line of the said Lot 2 as bearing North 89°09'29" West and with all bearings contained herein relative thereto;

Beginning at the Southwest corner of said Lot 2; thence along the Westerly line of said Lot 2 the following three (3) courses and distances, North 01°00'00" East 154.70 feet; thence South 88°59'56" East 93.89 feet; thence North 01°00'00" East 51.07 feet to a point on the South line of an existing 20-foot Utility Easement per said Amended Plat Of Lots 1 & 2, Block 1, Of The Amended Plat Of Lots 3 & 5, Block 1, McKee Meadows 9th Subdivision; thence departing said Westerly line and along said South line, South 89°05'00" East 14.96 feet to the TRUE POINT OF BEGINNING; thence continuing along said South line, South 89°05'00" East 15.00 feet; thence departing said South line, South 01°00'00" West 56.95 feet; thence South 88°59'56" East

3.37 feet; thence South 01°00'00" West 24.00 feet; thence North 88°59'56" West 18.37 feet; thence North 01°00'00" East 80.93 feet to the South line of said existing 20-foot Utility Easement and the TRUE POINT OF BEGINNING.

The above described Vacated Easement contains 1,295 square feet (0.03 acres), more or less.

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 3. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this ____ day of _____, 2011.

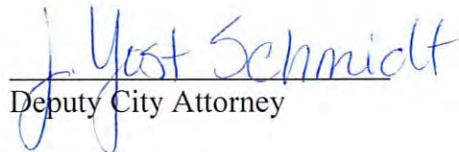
ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:



J. Yost Schmidt
Deputy City Attorney

**Development Services
Current Planning**

500 East Third Street, Suite 310 • Loveland, CO 80537
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

M E M O R A N D U M

TO: City Council

FROM: Steven Williams, Current Planning Division

DATE: September 20, 2011

SUBJECT: Vacation of a portion of a utility and drainage easement on Lot 2, Block 1, Amended Plat of Lots 1 & 2, Block 1, of the Amended Plat of Lots 3 & 5, Block 1, McKee Meadows 9th Subdivision

I. ATTACHMENTS

1. Site Plan
2. Vacation Exhibit
3. Applicant's Request for Vacation

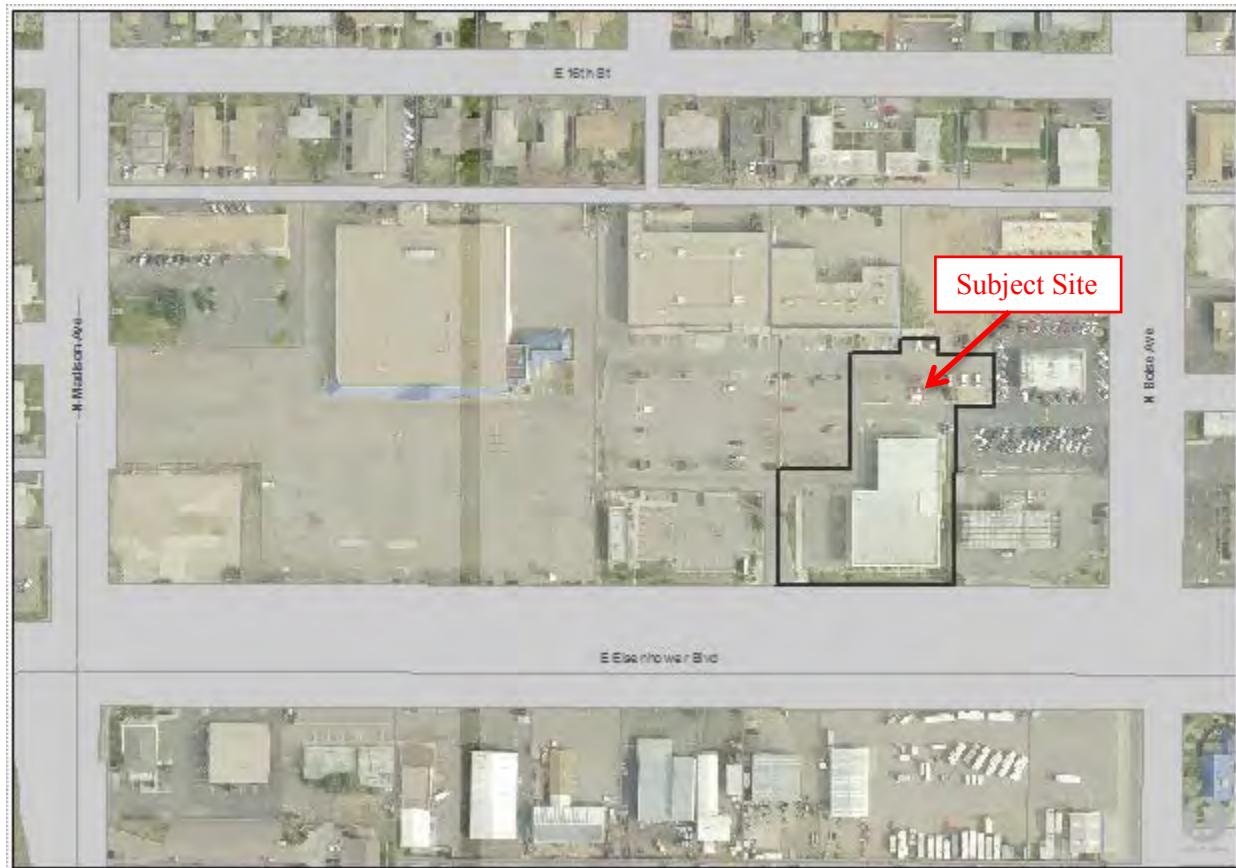
II. KEY ISSUES

Staff believes that there are no outstanding issues regarding this requested easement vacation.

III. PROJECT DESCRIPTION

The application proposes to vacate a 1,295 square foot portion of a utility and drainage easement located at 1497 E. Eisenhower Blvd. The building is occupied by Liquor Max and the vacation proposal is necessary to allow for the construction of a drive-up facility on the west side of the existing structure. The easement currently contains an underground electric line. This electric line will be relocated west of the existing easement and a new public utility easement has been dedicated to accommodate the relocated underground electric line. With the relocation of the electric line, there will no longer be any public or private utility lines in the easement.

IV. VICINITY MAP



V. FINDINGS and ANALYSIS

The following two findings must be met in order for the City Council to vacate the utility and postal easement. These findings are included in section 16.36.010.B of the Loveland City Code.

1. *That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.*

Current Planning: Staff believes this finding can be met because the vacation is internal to the property and being conducted to accommodate the location of the new building.

Transportation: Staff understands per the easement vacation application information received, that this is a proposed vacation of an existing utility and drainage easement on the property. The proposed vacation does not include any existing public street or alley rights-of-way, or access easements, which presently exist to serve vehicular access to the property.

Since the vacation of this easement does not involve the vacation of any existing public street or alley rights-of-way, or public access or private access easements, no land will be left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement. (This utility and drainage easement vacation will not leave adjoining land without access to the existing public street/alley system).

2. *That the easement to be vacated is no longer necessary for the public use and convenience.*

Transportation: Since this vacation is for a utility and drainage easement only, and does not include any existing alley or street rights of way (or public access easements or private shared access easements), the vacation of the utility and drainage easement has no bearing to the existing public use and convenience in regards to access.

In light of all of the above, staff has no objection to the vacation of the utility and drainage easement (no public street or alley right-of-way, and no public access easement or private access easement, is included in this easement vacation).

Fire: Staff believes the proposed easement is not needed for fire protection can support the vacation.

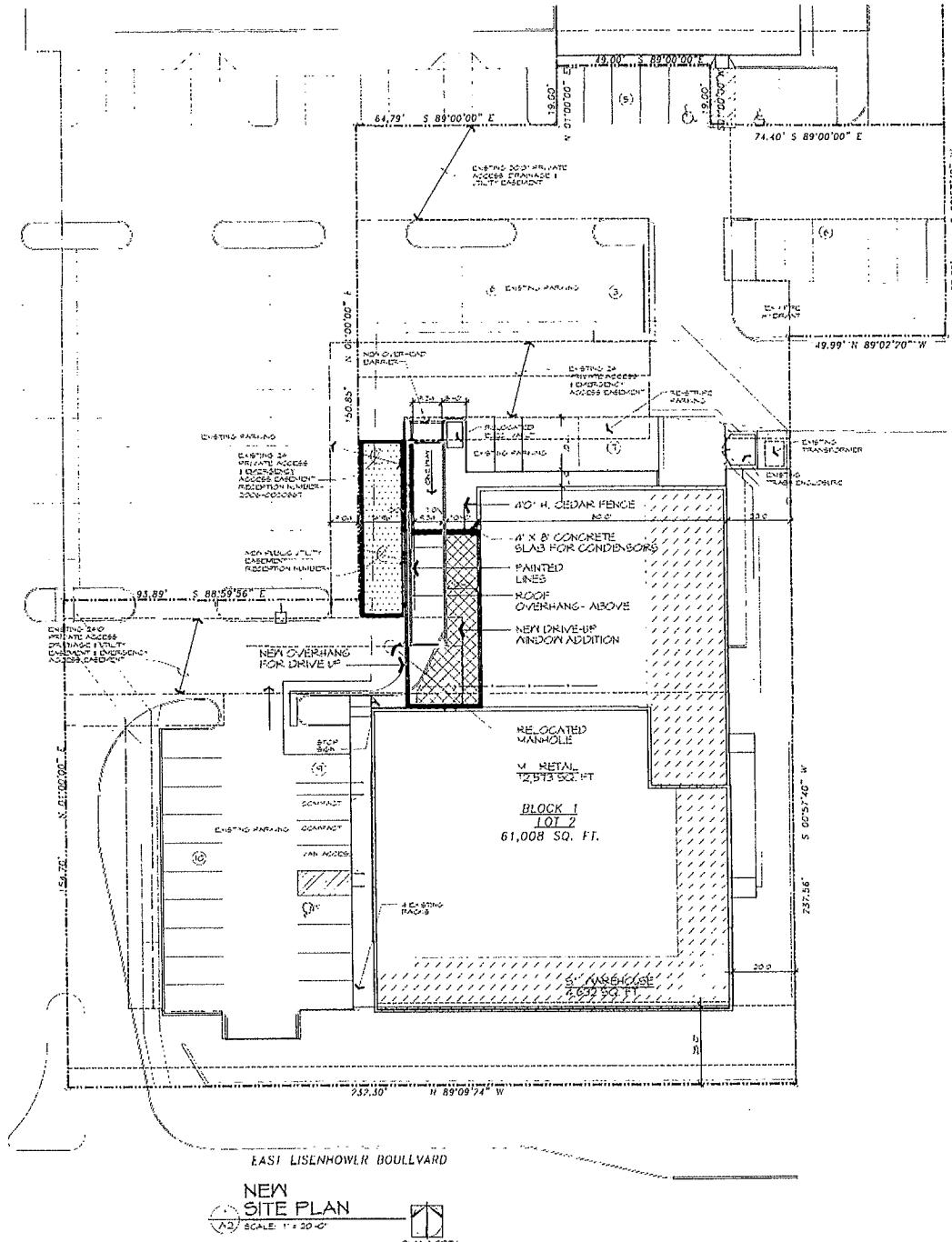
Power: There is an existing three-phase underground vault located near the north-west corner of the building which feeds the three-phase transformer located at the north-east corner of the building. This power line is located the existing easement that runs along the west and north sides of the building. The proposed drive-up window does require this vacation of this easement. In order for this easement to be vacated, the new underground primary cable and conduit will need to be relocated at the developer's expense. With the dedication of the new easement, staff finds that the easement to be vacated is no longer necessary for the public use and convenience.

Water/Wastewater: The subject area to be vacated is within the City's current service area for both water and wastewater. Staff finds that the existing easement to be vacated does not impact the existing water and wastewater utility configuration within and adjacent to this development, and that the existing easement to be vacated is no longer necessary for public use and convenience.

Stormwater: Staff believes that this finding can be met because existing utility easement, to be vacated, is not used to convey stormwater and thus is not necessary for the public use and conveyance of stormwater.

VI. RECOMMENDATION

Staff recommends, subject to any further information that may be presented at the public hearing, that City Council approve the vacation ordinance on first reading.



Proposed Addition

Proposed Vacation

Proposed Easement

Intermill Land Surveying



1301 N. Cleveland Ave.
Loveland, Colorado 80537

(970) 669-0516
Fax: (970) 635-9775
E-mail: intermill@qwestoffice.net



P-11-6964

June 7, 2011

Easement Vacation Description (Lot 2, Block 1, Amended Plat Of Lots 1 & 2, Block 1, Of The Amended Plat Of Lots 3 & 5, Block 1, McKee Meadows 9th Subdivision):

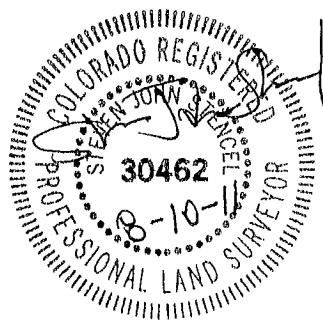
That portion of Lot 2, Block 1, Amended Plat Of Lots 1 & 2, Block 1, Of The Amended Plat Of Lots 3 & 5, Block 1, McKee Meadows 9th Subdivision to the City of Loveland, County of Larimer, State of Colorado, being more particularly described as follows;

Considering the South line of the said Lot 2 as bearing North 89°09'29" West and with all bearings contained herein relative thereto;

Beginning at the Southwest corner of said Lot 2; thence along the Westerly line of said Lot 2 the following three (3) courses and distances, North 01°00'00" East 154.70 feet; thence South 88°59'56" East 93.89 feet; thence North 01°00'00" East 51.07 feet to a point on the South line of an existing 20-foot Utility Easement per said Amended Plat Of Lots 1 & 2, Block 1, Of The Amended Plat Of Lots 3 & 5, Block 1, McKee Meadows 9th Subdivision; thence departing said Westerly line and along said South line, South 89°05'00" East 14.96 feet to the TRUE POINT OF BEGINNING; thence continuing along said South line, South 89°05'00" East 15.00 feet; thence departing said South line, South 01°00'00" West 56.95 feet; thence South 88°59'56" East 3.37 feet; thence South 01°00'00" West 24.00 feet; thence North 88°59'56" West 18.37 feet; thence North 01°00'00" East 80.93 feet to the South line of said existing 20-foot Utility Easement and the TRUE POINT OF BEGINNING.

The above described Vacated Easement contains 1,295 square feet (0.03 acres), more or less.

Prepared By And On Behalf Of:
INTERMILL LAND SURVEYING, INC.
Steven John Stencel
Colorado P.L.S. 30462
Date: 8-10-11



Intermill Land Surveying



1301 N. Cleveland Ave.
Loveland, Colorado 80537

(970) 669-0516
Fax: (970) 635-9775
E-mail: intermill@qwestoffice.net



P-11-6964

June 21, 2011

City of Loveland Development Services
Current Planning Division
500 East 3rd Street
Loveland, Colorado 80537
(970) 962-2525

RE: Proposed Utility Easement Vacation for Lot 2, Block 1, Amended Plat of Lots 1 and 2, Block 1, Amended Plat of Lots 3 and 5, Block 1, McKee Meadows Ninth Subdivision to the City of Loveland, Colorado (1497 East Eisenhower Blvd., Loveland, CO 80537)

To Whom It May Concern:

This letter is being prepared on behalf of Hal Rogers, applicant/owner, and shall act as a letter of request and explanation for the proposed Utility Easement Vacation. Mr. Rogers is the owner of Lot 2, Block 1, Amended Plat of Lots 1 and 2, Block 1, Amended Plat of Lots 3 and 5, Block 1, McKee Meadows Ninth Subdivision. The property is addressed as 1497 East Eisenhower Blvd., Loveland, CO and currently contains the Liquor Max liquor store.

Mr. Rogers is planning on constructing a drive-up addition to the existing Liquor Max store. The addition will expand onto an existing Utility Easement and place an existing underground electric line under the proposed building addition.

With this Utility Easement Vacation Request, we propose on vacating the existing easement and relocate the underground electric line. The relocated underground electric line will be to the West of the current location. A new Utility Easement will be dedicated to encompass the relocated underground electric line.

Please review this letter and the accompanying documents for this Utility Easement Vacation. If any City of Loveland staff members have any questions on this request, please feel free to call me at (970) 669-0516.

Respectfully Submitted,

INTERMILL LAND SURVEYING, INC.
Jim Bunkers
Project Manager

For and On Behalf Of Hal Rogers



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
(970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 10

MEETING DATE: 9/20/2011

TO: City Council

FROM: Greg George, Development Services Director

PRESENTER: Kerri Burchett, Current Planning

TITLE:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO APPROVING AN AMENDMENT TO THE ANNEXATION AGREEMENT FOR CERTAIN PROPERTY LOCATED WITHIN THE OZZIE'S FIRST ADDITION, CITY OF LOVELAND, COUNTY OF LARIMER, COLORADO

DESCRIPTION:

A public hearing and consideration of a legislative action for adoption of an ordinance on first reading to amend the Ozzie's First Addition Annexation Agreement. The agreement pertains to the Loveland Habitat for Humanity Restore located at 5250 N. Garfield Avenue. The property is approximately 2.16 acres in size and zoned B – Developing Business. The owner of the property is Loveland Habitat for Humanity, Inc.

BUDGET IMPACT:

Yes No

SUMMARY:

The proposed amendment to the annexation agreement would revise a condition of approval related to the timing of roadway improvements on US Highway 287. The agreement requires ultimate roadway improvements, including curb, gutter and sidewalk, to be constructed along Highway 287 prior to the issuance of any building permit. Habitat for Humanity is requesting the amendment so that a building permit for a 120 square foot modular structure can be issued without triggering roadway improvements. The modular structure is being used as an office for automobile sales. The proposed revision would exempt building permits that would create an insignificant traffic impact, as defined in the Larimer County Urban Area Street Standards, from the conditions requiring ultimate roadway improvements on Highway 287.

LIST OF ATTACHMENTS:

- A. Ordinance
- B. Staff Memorandum

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to adopt on first reading AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO APPROVING AN AMENDMENT TO THE ANNEXATION AGREEMENT FOR CERTAIN PROPERTY LOCATED WITHIN THE OZZIE"S FIRST ADDITION, CITY OF LOVELAND, COUNTY OF LARIMER, COLORADO

REVIEWED BY CITY MANAGER:

FIRST READING: September 20, 2011

SECOND READING: _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LOVELAND, COLORADO APPROVING AN AMENDMENT TO
THE ANNEXATION AGREEMENT FOR CERTAIN PROPERTY
LOCATED WITHIN OZZIE'S FIRST ADDITION, CITY OF
LOVELAND, COUNTY OF LARIMER, COLORADO**

WHEREAS, on November 5, 2002, under Ordinance No. 4750, the Loveland City Council approved annexation of certain property known as Ozzie's First Addition to the City of Loveland, Colorado, more particularly described in **Attachment 1**, attached hereto and incorporated herein, (the "Property"); and

WHEREAS, Ozzie's First Addition is subject to an Annexation Agreement which was approved by Loveland City Council also under Ordinance No. 4750 (the "Annexation Agreement"); and

WHEREAS, the Annexation Agreement was recorded with the Larimer County Clerk and Recorder on April 29, 2003, under Reception No. 20030051670; and

WHEREAS, the Annexation Agreement requires that prior to any building permits issued for the Property, the ultimate roadway improvements for US 287 including curb and gutter, and the sidewalk adjacent to the property must be constructed or a cash-in-lieu payment for the same be provided to the City; and

WHEREAS, the owners of the Property desire to modify this requirement to allow a certain amount of flexibility regarding issuance of building permits; and

WHEREAS, City staff has reviewed the owners' amendment request and have no objection to adopting an Amendment to the Annexation Agreement to allow for some flexibility regarding issuance of building permits.

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

Section 1. That the "First Amendment to the Annexation Agreement" ("Amended Annexation Agreement") pertaining to Ozzie's First Addition to The City of Loveland, Larimer County, Colorado, attached hereto and incorporated herein by reference as **Exhibit A**, is hereby approved.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to approve changes to the form of the Amended Annexation Agreement provided that such changes do not impair the intended purpose of the Amended Annexation Agreement as approved by this Ordinance. The City Manager and the City Clerk are authorized and directed to execute the Amended Annexation Agreement on behalf of the City of Loveland.

Section 3. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading, unless the Ordinance has been amended since first reading, in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 4. That the City Clerk is hereby directed to record this Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with state statutes.

Dated this _____ day of _____, 2011.

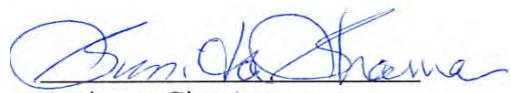
ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:



Assistant City Attorney

EXHIBIT A**FIRST AMENDMENT TO ANNEXATION AGREEMENT**

This FIRST AMENDMENT TO ANNEXATION AGREEMENT pertaining to Ozzie's First Addition to the City of Loveland, Larimer County, Colorado, is entered into this _____ day of _____, 2011 ("First Amendment"), by and among the CITY OF LOVELAND, COLORADO, a home rule municipality ("City"); and MTC Enterprises LLC, and Loveland Habitat for Humanity, together jointly referred to herein as ("the Parties").

WITNESSETH

WHEREAS, on November 5, 2002, MTC Enterprises LLC, Stephen and Jeneal McKinley, and Loveland Habitat for Humanity, (the "Developers") entered into an Annexation Agreement Pertaining to Ozzie's First Addition to the City of Loveland, Larimer County, Colorado, ("the Annexation Agreement") regarding certain property, more particularly described in **Attachment 1**, attached hereto and incorporated herein; and

WHEREAS, on November 5, 2002, the Loveland City Council passed on second reading, Ordinance No. 4750 approving the Annexation Agreement and such Agreement was recorded on April 29, 2003 with the Larimer County Clerk and Recorder under Reception Number 20030051670; and

WHEREAS, the Annexation Agreement provides that it may only be amended by written Agreement signed by the Loveland City Council and the Developers, and

WHEREAS, Stephen and Jeneal McKinley are no longer owners of the Property, but the Property is now owned solely by MTC Enterprises LLC and Loveland Habitat for Humanity, Inc., as the Developers; and

WHEREAS, the Parties now desire to make certain changes to the Annexation Agreement.

NOW, THEREFORE, by and in consideration of mutual covenants contained herein and other good and valuable consideration, the Parties hereto agree to the following:

1. Paragraph 3 of the Annexation Agreement is amended to read in full as follows:

3. Roadway Improvements.

- a. Unless waived under the provisions of the Larimer County Urban Street Standards (“LCUASS”) section 1.9.2.D, regarding Insignificant Traffic Impact Developments, or a variance is granted per LCUASS Section 1.9.4, prior to the issuance of any building permits within the Property, the ultimate roadway improvements for US 287, adjacent to the property for which the building permit will be issued, shall be constructed including curb, gutter and sidewalk. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved by the City Engineer.
 - b. At such time of development or redevelopment of the Parcels within the Property, the access to each property from US 287 will be reevaluated and may be eliminated if access can be provided through cross access easements on adjacent properties unless otherwise approved by the City Engineer.
 - c. All future development within the Property shall comply with the public improvement design and construction standards adopted January 2001 (Larimer County Urban Area Street Standards) and the Transportation Plan adopted July 2000 and any updates to either in effect at the time of development application.
2. Except for the changes set forth above, all of the terms and conditions of the Annexation Agreement shall continue in full force and effect and shall continue to be binding on all parties thereto. Any modification from the original Annexation Agreement or this First Amendment must be in writing, signed by both Parties, and shall require approval from City Council.
3. The City shall record this First Amendment with the Larimer County Clerk and Recorder.

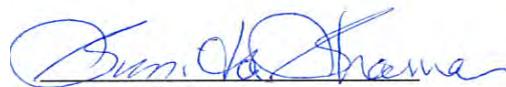
ATTEST:

City Clerk

CITY OF LOVELAND, COLORADO:

William D. Cahill, City Manager

APPROVED AS TO FORM:



Brian D. Schrama
Assistant City Attorney

EXECUTED this _____ day of _____, 2011.

MTC Enterprises, LLC

By: _____
Dennis Kissler, Vice President
404 S. Lincoln Avenue
Loveland, CO 80537

STATE OF COLORADO)
)ss
County of _____)

Subscribed and sworn to before me this _____ day of _____, 2011, by

_____ as _____ for MTC Enterprises, LLC.

WITNESS my hand and official seal.

My commission expires _____.

SEAL

Notary Public

EXECUTED this _____ day of _____, 2011.

By: _____
Gwen Stephenson, Executive Director
Loveland Habitat for Humanity

Subscribed and sworn to before me this _____ day of _____, 2011
By _____, as _____ for Loveland Habitat for Humanity.

WITNESS my hand and official seal.

My commission expires _____.

SEAL

ATTACHMENT 1

Ozzie's First Addition to the City of Loveland, Colorado

That portion of the Northeast Quarter of Section 35 and the Northwest Quarter of Section 36, Township 6 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows:

Considering the West line of the Northwest Quarter of said Section 36 as bearing South 00°07'00" East and with all bearings contained herein relative thereto:

Beginning at the Northwest corner of the Northwest Quarter of said Section 36; thence along the West line of the Northwest Quarter of said Section 36 South 00°07'00" East 1324.24 feet, more or less, to the Northwest corner of the South Half of the Northwest Quarter of said Section 36 and the TRUE POINT OF BEGINNING; thence along the North line of the South Half of the Northwest Quarter of said Section 36 South 89°43'28" East 499.05 feet to the Northwest corner of Tract "A", Shade Tree Park Fourth Addition to the City of Loveland, County of Larimer, State of Colorado; thence departing said North line and along the Westerly lines of said Tract "A", Shade Tree Park Fourth Addition and along the Northerly and Westerly lines of Lot 2, Block 1, Shade Tree Park First Subdivision to the City of Loveland, County of Larimer, State of Colorado and along the Northerly line of Lot 1, Block 1, Shade Tree Park First Subdivision to the City of Loveland, County of Larimer, State of Colorado and along the Northerly line of Shade Tree Park Fifth Addition to the City of Loveland, County of Larimer, State of Colorado the following six

(6) courses and distances:

1)	South 00°07'18" East	28.57 feet;
2)	North 89°46'11" East	99.83 feet;
3)	South 00°09'40" East	172.65 feet;
4)	North 89°47'00" West	224.83 feet;
5)	South 00°07'00" East	337.72 feet;
6)	North 89°44'05" West	424.18 feet,

more or less, to a point on the Westerly right-of-way line of U.S. Highway No. 287; thence departing said Northerly line of said Shade Tree Park Fifth Addition and along said Westerly right-of-way line of U.S. Highway No. 287 North 00°07'00" West 538.37 feet; thence departing said Westerly right of Way line and along the Westerly prolongation of the North line of the South Half of the Northwest Quarter of said Section 36 South 89°43'28" East 50.00 feet, more or less, to the Northwest corner of the South Half of the Northwest Quarter of said Section 36 and the TRUE POINT OF BEGINNING.

The above-described parcel contains 6.21 acres, more or less, and is subject to all easements and rights-of-way of record or existing.



DEVELOPMENT SERVICES Current Planning

500 East Third Street, Suite 310 • Loveland, CO 80537
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

MEMORANDUM

TO: City Council

FROM: Kerri Burchett, Principal Planner
Jeff Bailey, Senior Civil Engineer

DATE: September 20, 2011

RE: Ozzie's First Addition Annexation Agreement Amendment

I. EXHIBITS

1. Letter of request to amend the Annexation Agreement
2. Annexation Agreement (recorded copy for reference)
3. Habitat for Humanity Special Review Plan (for reference)

II. PROJECT SUMMARY

A. Description

Loveland Habitat for Humanity is requesting an amendment to the annexation agreement for Ozzie's First Addition. The amendment would revise a condition of approval related to the timing of roadway improvements on US Highway 287. The property is located at 5250 N. Garfield Avenue, which is the location for the Habitat for Humanity Restore. The annexation agreement stipulates the following timing for roadway improvements on Hwy. 287:

3.A Prior to the issuance of any building permits within the Property, the ultimate roadway improvements for US 287, adjacent to the property for which the building permit will be issued, shall be constructed including curb and gutter. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved by the City Engineer.

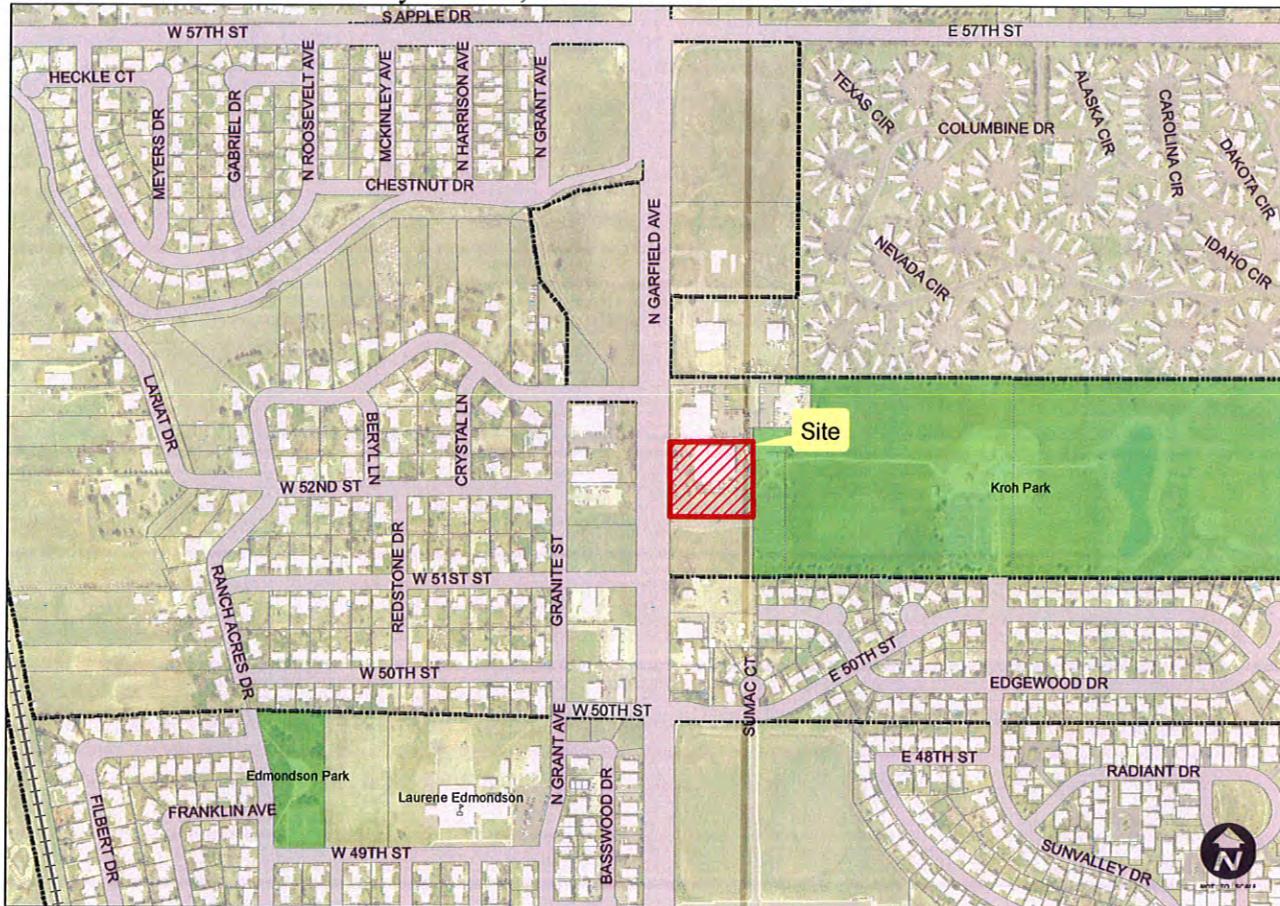
3.B Prior to the issuance of any building permits within the Property, the sidewalk adjacent to the property for which the building permit will be issued shall be constructed at its ultimate location in accordance with City Standards.

Habitat for Humanity is requesting that these provisions be amended in order to obtain a building permit for a 120 square foot modular structure that was placed on the site. Without an amendment

to the annexation conditions, ultimate roadway improvements on Hwy. 287 including curb, gutter and sidewalk would need to be constructed or financially secured with the City prior to issuance of the building permit. The modular structure is currently being used for an automotive sales office, which was authorized in a recently approved special review.

B. Property Location

Loveland Habitat for Humanity Restore, 5250 N. Garfield Avenue



C. Key Issues

Staff has not identified any key issues associated with the request.

D. Background Information

The Habitat for Humanity Restore property was annexed into the City in November of 2002 as part of Ozzie's First Addition and zoned B-Developing Business. The annexation agreement set forth development and redevelopment standards including roadway and access improvements, utility improvements and site design, landscaping and architectural requirements. As the Habitat Restore was annexed as an existing use, site improvements were generally triggered with the development/redevelopment of the site or prior to issuance of a building permit.

Along with the sales of donated merchandise, Habitat for Humanity received a State License in 2002 to sell automobiles. In July of 2007, Habitat applied for and received an electrical permit from the City to install electric service to a 120 square modular shed that was placed on the site. The modular structure was subsequently used as a car sales office. The use of automobile sales in the B zone district requires a special review approval. A special review permit and a city building permit for the sales office was not obtained. In the summer of 2010, the City received a compliant regarding the automobile sales use occurring on the site. After receiving notification from the City's Code Enforcement Division, Habitat for Humanity submitted a special review application to remedy the use violation. The special review was approved on July 27, 2011. Through the review of the application, the applicant was informed of the annexation agreement conditions related to Hwy. 287 roadway improvements. Staff recommended that the applicant pursue an amendment to the annexation agreement.

Notice of the City Council hearing was posted on site and mailed to property owners within 300 feet of the subject property 15 days prior to the August 16, 2011 City Council hearing. Additionally, a neighborhood meeting was held on July 7, 2011 concerning the special review proposal. No neighbors attended the meeting and City staff has not received any verbal or written correspondence from the neighborhood as of the date of this memorandum.

E. Proposed Amendment

City staff is recommending that Annexation Condition 3.a and 3.b be amended as follows. Text shown in red indicates newly proposed language; text shown in strike-out is proposed to be eliminated.

3.a Unless waived under the provisions of LCUASS Section 1.9.2.D, regarding Insignificant Traffic Impact Developments, or a variance is granted per LCUASS Section 1.9.4, prior to the issuance of any building permits within the Property, the ultimate roadway improvements for US 287, adjacent to the property for which the building permit will be issued, shall be constructed including curb, gutter **and sidewalk. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved by the City Engineer.**

3.b ~~Prior to the issuance of any building permits within the Property, the sidewalk adjacent to the property for which the building permit will be issued shall be constructed at its ultimate location in accordance with City Standards.~~



Loveland

Habitat
for Humanity®

P. 141

PO Box 56 - 1154 SE 2nd Street

Loveland, CO 80539-0056

phone: 970.669.9769

fax: 970.278.1307

www.LovelandHabitatForHumanity.org

May 16, 2011

Dear City Representatives:

Loveland Habitat for Humanity has thrived in our community for 23 years. Strong city support has enabled Habitat to enrich the lives of many citizens. Its major accomplishment has been the building of 100 quality homes in the Loveland area.

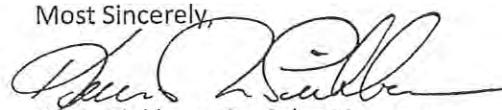
A crucial revenue generator for the affiliate is the ReStore. The sales of donated merchandise and automobiles have been its lifeblood. Located at 5250 N Garfield, the property was annexed from Larimer County to the City of Loveland in 2002. Provisions for legal zoning of the automobile program were not implemented at that time. Additionally, a city building permit for the auto sales office was not obtained. Loveland Habitat for Humanity comes to council in a responsible manner to resolve these issues to maintain the auto sales portion of the ReStore operation.

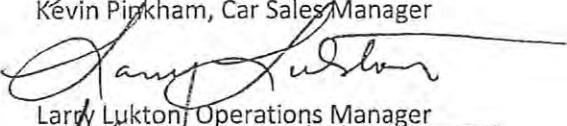
We are a State of Colorado licensed and approved Auto Sales Dealer. At any given time, we have from 5 to 10 cars displayed on our premises for sale. The display area is accompanied by a 10'X14'X10' car sales office. On average, we sell 6 vehicles per month. Hours of operation are Wednesday to Saturday 10am to 5:30 pm.

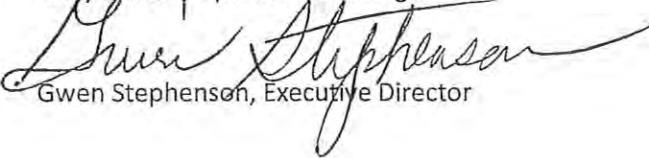
Loveland Habitat for Humanity is requesting that the City of Loveland release a building permit for the auto sales office without triggering improvements to Highway 287.

Habitat would like to thank the City of Loveland Staff and the Loveland City Council for their understanding, assistance and patience during this process.

Most Sincerely,


Kevin Pinkham, Car Sales Manager


Larry Lukton, Operations Manager


Gwen Stephenson, Executive Director

ATTACHMENT 1



#143297

SCOTT DOYLE, RECORDER, LARIMER COUNTY CO
 RCPTN# 2003-0051670 04/29/2003 10:03:34
 PAGES - 16 FEE \$81.00 DOC \$0.00

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (the "Agreement") is entered into this 5th day of November, 2002, by and between MTC Enterprises LLC, Stephen and Jeneal McKinley, and Loveland Habitat for Humanity (the "Developers"); and the CITY OF LOVELAND, COLORADO (the "City").

RECITALS

WHEREAS, the Developers own approximately 6.2 acres of real property located in Larimer County, Colorado, more particularly described in Exhibit A, attached hereto and by this reference incorporated herein (the "Property"); and

WHEREAS, the Property consists of five (5) contiguous Parcels, more particularly described in Exhibit B, attached hereto and by this reference incorporated herein; and

WHEREAS, the Developers are requesting that the City annex the Property, and zone the Property to allow for the coordinated development of the Property to the benefit of the parties, including the City; and

WHEREAS, the City is unable to annex the Property under the terms and conditions of this Agreement without the consent of the Developers.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

AGREEMENT

1. Consent to annexation. Developers have petitioned for the annexation of the Property described in the attached Exhibit A. The Developers hereby consent to the annexation of the Property subject to the terms and conditions of the Petition for Annexation and this Agreement. In the event the City enters into this Agreement prior to approval by the City Council of the annexation, the parties agree that the binding effect of this Agreement and the effectiveness of the annexation and zoning of the Property in accordance with the Developers' application is expressly conditioned upon such approval by the City Council and the execution and delivery of this Agreement by all parties thereto.

2. Dedication of additional rights-of-way.
 - a. Prior to or concurrent with approval of any final plat or special review within Parcel 1, additional right-of-way shall be dedicated along U.S. Highway 287 such that the total east one-half (1/2) right-of-way is seventy (70) feet.

✓
 CITY OF LOVELAND
 CITY CLERK'S OFFICE

8.

- b. Prior to approval of any redevelopment or change of use for Parcel 5; additional right-of-way shall be dedicated along US 287 such that the total east one-half (1/2) right-of-way is 70 feet.
- 3. Roadway Improvements.
 - a. Prior to the issuance of any building permits within the Property, the ultimate roadway improvements for US 287, adjacent to the property for which the building permit will be issued, shall be constructed including curb and gutter. A cash-in-lieu payment may be accepted for all or part of the improvements, if approved by the City Engineer.
 - b. Prior to the issuance of any building permits within the Property, the sidewalk adjacent to the property for which the building permit will be issued shall be constructed at its ultimate location in accordance with City Standards.
 - c. At such time of development or redevelopment of the Parcels within the Property, the access to each property from US 287 will be reevaluated and may be eliminated if access can be provided through cross access easements on adjacent properties unless otherwise approved by the City Engineer.
 - c. All future development within the Property shall comply with the public improvement design and construction standards adopted January 2001 (Larimer County Urban Area Street Standards) and the Transportation Plan adopted July 2000 and any updates to either in effect at the time of development application.
- 4. Utility Improvements.
 - a. Regarding potable water service, the Developers shall either connect to the City of Loveland's 8" water main on the west side of US 287 or Ft. Collins/Loveland Water District's 6" water main on the east side of US 287. In the case of a connection to the District's water main, the Developers shall remain a customer of the City of Loveland; paying all impact and water rights fees per the City's Municipal Code.
 - b. Regarding sanitary sewer service, the Developers shall connect to the City's 8" sanitary sewer main that exists near the center of the subject annexation.
- 5. Fire Prevention. Prior to approval of any development or redevelopment proposal, a fire flow analysis shall be completed and approved by the Fire Chief. This analysis shall include a determination of required fire flows for the proposed buildings and if the available fire flows can support fire department operations and sprinkler system demands for the proposed use.
- 6. Access Improvements. An access easement at least 24 feet wide shall be provided along the northeast corner of the Property that is immediately adjacent to Kroh

7. Park. This easement shall be dedicated to the City of Loveland prior to approval of a special review or building permit.

7. Development/Redevelopment Standards.

1. All signs which are prohibited, illegal or nonconforming in accordance with City standards as determined by the City, or which are determined by the City to be abandoned or hazardous signs, including but not limited to off-premises signs and billboards located on the Property, with the exception of Parcel 5, shall be removed from the Property prior to recordation of the annexation map. Signs located on Parcel 5 shall be brought into compliance with City requirements at the time of redevelopment of said Parcel.
2. All development/re-development of the Property shall comply with City of Loveland Major Arterial Corridor Design Guidelines.
3. In the event that a Parcel within the Property is developed or redeveloped as a non-residential use, the following standards shall apply:
 - a. At least one (1) main entrance of any commercial or mixed-use building shall face and open onto a walkway that is connected to an adjacent public sidewalk. Such a connection may be established with a band of a raised, patterned, scored, and/or colored concrete at least 8' in width, clearly defining the space as a pedestrian walkway.
 - b. The vertical plane of any structure shall not exceed a height to width ratio of 1:3 without substantial variation in massing that includes a change in height and a projecting or recessed element.
 - c. Bay doors shall not face a public right-of-way, and any bay doors located at an angle to the public-right-of-way or visible from any public right-of-way shall be noticeably recessed into the façade of the building, shall include windows or other architectural feature, and shall not exceed 8' in height and 8' in width.
 - d. No wall facing a street or connecting walkway shall have a blank, uninterrupted length exceeding thirty (30) feet without including at least two (2) of the following: (i) change in plane; (ii) change in texture or masonry pattern; (iii) windows; (iv) trellage with vines; or (v) an equivalent element that subdivides the wall into human scale proportions.
 - e. All sides of the building visible from the public right-of-way shall include materials and design characteristics consistent with those on the front of the building. Use of inferior or lesser quality materials for side or rear facades shall be prohibited.

- f. Facades that face streets or connecting pedestrian frontage shall be subdivided and proportioned using features such as windows, entrances, arcades, change in plane or in exterior materials, arbors, awnings, treillage with vines, along no less than fifty (50) percent of the facade.
- g. Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade, or portico in order to provide shelter from the summer sun and winter weather.
- h. Awnings shall be no longer than a single storefront.
- i. All facades visible from the public right-of-way shall have a recognizable "base" consisting of: (i) thicker walls, ledges, or sills; (ii) integrally textured materials such as stone or other masonry; (iii) integrally colored and patterned materials such as smooth-finished stone or tile; (iv) lighter or darker colored materials, mullions, or panels; or (v) planters.
- j. All facades shall have a recognizable "top" consisting of: (i) cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or different colored materials; (ii) sloping roof with overhangs and brackets; or (iii) stepped parapets.
- k. Facades greater than one hundred (100) feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 12" from the surface of the building, and extending at least twenty (20) percent of the length of any façade. No uninterrupted length of any façade shall exceed one hundred (100) horizontal feet.
- l. Where principal buildings contain additional, separately owned stores that occupy less than twenty-five thousand (25,000) square feet of gross floor area, with separate, exterior customer entrances, the street level façade of such stores shall be transparent between the height of three (3) feet and eight (8) feet above the walkway grade for no less than sixty (60) percent of the horizontal length of the building façade of such additional stores.
- m. Customer drop-off areas shall be fully screened with landscaping and masonry elements matching in design and materials to the architecture of the main structure, and shall not to be visible from the public-right-of-way.
- n. Parking lot light fixtures, including the concrete base, shall not be over twenty (20) feet in height. Lighting must not contribute to Light pollution within the city limits. Dust, water, vapor and other particles will reflect and scatter any stray or reflected light that is emitted into the atmosphere. The result is sky glow. Ground reflected light could account for up to 20% of sky glow. In order to control light pollution, development on the Property must (1) propose a lighting plan that does not cause upward emission of any light, including

shading fixtures to throw all light to the ground; (2) minimize non-target light, such as that used at night to enhance architectural features, security lighting is, of course, allowed to the extent necessary; and (3) minimize light fixtures that are not intended for a specific use.

- o. Façade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, or fluorescent colors is prohibited.
- p. Predominant exterior building materials shall be high quality materials, including, but not limited to: stucco, brick, sandstone, other native stone and tinted/textured concrete masonry units.
- q. Building trim and accent areas may feature brighter colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.
- r. Except for walls that are not in public view, no exterior building materials shall include smooth-faced concrete block, tilt-up concrete panels, or prefabricated steel panels. Should any portion of any wall project above an adjacent building so that such wall is in public view, then the portion of the wall in view shall be subject to compliance with this design standard.
- s. All exterior HVAC and other similar equipment shall be screened from view from all nearby public rights-of-way. Screen materials shall consist of quality materials and colors that are harmonious with and or match the primary materials and colors used on the exterior of the principle structure. Building permit plans shall include details demonstrating compliance with this design standard.
- t. Fences and walls shall be constructed of material similar to, or compatible with and complementary to, the primary building material and architecture. Chain link type fences with or without wood slats or other inserts are not acceptable. Solid wood fences needed for security of a business and not visible from public right of-way are acceptable. E elevations for fences are subject to review and approval by the Current Planning Manager at the site plan review for building permit or special review permit.
- u. All building elevations that are visible from a public right-of-way shall not include loading docks, primary delivery doors and areas, trash containers or enclosures, or any features that are deemed unsightly in accordance with the City of Loveland Site Development Performance Standards and Guidelines.
- v. Parking lot screening adjacent to Highway 287 shall comply with the descriptions and depictions on Figure 6.18 and 6.20 of the Corridor Plan, as incorporated into the 1994 Loveland Comprehensive Master Plan.

w. In addition to the standards set forth in Title 18 of the Loveland Municipal Code, all signs shall comply with the design guidelines set forth on page 6.21 of the Corridor Plan, as incorporated into the 1994 Comprehensive Master Plan. All internally illuminated signs shall have sign faces that are either opaque or routed so as to allow illumination through or around only the sign graphics.

x. All commercial uses shall be screened from Kroh Park with intensive landscaping, an opaque fence or a masonry wall. Elevations for this feature shall be submitted and approved by the Current Planning Manager as part of any development or redevelopment proposal on Parcel 4.

8. Compliance with Larimer County Urban Area Street Standards. The Developers shall design and construct all public improvements in conformance with the Larimer County Urban Area Street Standards adopted on January 2, 2001, or any subsequent amendments thereto in effect at the time of application for a final development plan.

9. Application of City of Loveland Site Development Standards and Performance Guidelines. Notwithstanding Section 1.02.A. of the City of Loveland Site Development Standards and Performance Guidelines, all portions of the Property shall be governed by the provisions of said Site Development Standards and Performance Guidelines.

10. Incorporation. The terms and conditions of this Agreement shall be deemed to be incorporated into the Developers' Petition for annexation of the Property.

11. Integration and Amendment. This Agreement represents the entire Agreement between the parties with respect to the Property and supersedes all prior written or oral agreements or understandings with regard to the obligations of the parties with regard to the Property. If conflicts between the Annexation Conditions listed in the Staff Report for City Council on October 15, 2002, and the terms and conditions of this Annexation Agreement occur, this Annexation Agreement shall prevail. This Agreement may only be amended by written agreement signed by the Developers and the City. Only the City Council, as a representative of the City, shall have authority to amend this Agreement.

12. Remedies. In the event that a party breaches its obligations under this Agreement, the injured party shall be entitled to monetary damages, equitable relief, including specific performance, and such other remedies at law or in equity as may be available under applicable law. In the event of litigation relating to or arising out of this Agreement, the prevailing party, whether plaintiff or defendant, shall be entitled to recover costs and reasonable attorneys' fees.

13. Effective Date. This Agreement shall become effective on the date that it is executed and delivered and has been approved by the City Council. If the City does not annex the Property, this Agreement shall become null and void and of no force or effect

whatsoever. If the City does not annex the Property, no party will be liable to any other for any costs that the other party has incurred in the negotiation of this Agreement or in any other matter related to the potential annexation of the Property.

14. Binding Effect and Recordation. The promises made in this Agreement by the Developers shall be deemed to have been made by any corporation or other business affiliated with Developers that acquires ownership or possession of all or any portion of the Property. The parties agree to execute a memorandum of this Agreement that the City shall record with the Clerk and Recorder for Larimer County, Colorado. It is the intent of the parties that their respective rights and obligations set forth in this Agreement shall constitute equitable servitudes that run with the Property and shall benefit and burden any successors to the parties. The Final Annexation Map for the Property shall be recorded by the Developers within thirty (60) days of final adoption of the ordinance annexing the Annexation Property, such Map shall contain a note that the Property is subject to this Agreement and shall recite the book and page or reception number where the memorandum of this Agreement is recorded. The note shall recite that all lien holders, if any, agree to the terms and conditions of this Agreement and subordinate their interests to this Agreement. The Developers agree to all promises made by the Developers, which shall constitute equitable servitudes that run with the land.
15. Notices. Whenever notice is required or permitted hereunder from one party to the other, the same shall be in writing and shall be given effect by hand delivery, or by mailing same by certified, return receipt requested mail, to the party for whom it is intended. Notices to any of the parties shall be addressed as follows:

To City:

City Clerk
City of Loveland
500 E. Third Street
Loveland, CO 80537

To Developers:

MTC Enterprises, LLC
5224 Carefree Place
Fort Collins, CO 80525

Stephen & Jeneal R. McKinley
5350 North Garfield Avenue
Loveland, CO 80538

Loveland Habitat for Humanity
C/o Ron Weak, President
5250 North Garfield Avenue
Loveland, CO 80538

A party may at any time designate a different person or address for the purposes of receiving notice by so informing the other party in writing. Notice by certified,

return receipt requested mail shall be deemed effective as of the date it is deposited in the United States mail.

16. Waiver. No waiver by the City or Developers of any term or condition of this Agreement shall be deemed to be or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach of the same provision of this Agreement.
17. Applicable Law/Severability. This Agreement shall be construed in accordance with the laws of the State of Colorado. The parties to this Agreement recognize that there are legal restraints imposed upon the City by the constitution, statutes and laws of the State of Colorado, and that, subject to such restraints, the parties intend to carry out the terms and conditions of this Agreement. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement or any application thereof to a particular situation shall be held invalid by a court of competent jurisdiction, such provision or application thereof shall be ineffective only to the extent of such invalidity without invalidating the remainder of such provision or any other provision of this Agreement. Provided, however, if any obligation of this Agreement is declared invalid, the party deprived of the benefit thereof, shall be entitled to an equitable adjustment in its corresponding obligations and/or benefits and, in that event, the parties agree to negotiate in good faith to accomplish such equitable adjustment.
18. Paragraph Headings. Paragraph headings in this Agreement are for convenience only and are not to be construed as a part of this Agreement or in any way limiting or amplifying the provisions hereof.

IN WITNESS WHEREOF, the parties have caused this Annexation Agreement to be executed as of the date first written above.



THE CITY OF LOVELAND, COLORADO

By: Kathleen R. Gilliland
Mayor

Donna Visconti
City Clerk

APPROVED AS TO FORM:

John D. Dill
Assistant City Attorney

STATE OF COLORADO)
) ss
County of Larimer)

The foregoing Annexation Agreement was executed before me this 5th day of
November, 2002, by Kathleen R. Gilliland as
Mayor, and by Donna Visconti, as City Clerk, of the City of Loveland,
Colorado, a municipal corporation.

WITNESS my hand an official seal.

My commission expires 2/15/06.



Virginia A. Roberts
Notary Public

10

EXECUTED this 30th day of OCTOBER, 2002.

MTC Enterprises, LLC

By:

Dennis Kissler, Vice President
404 S. Lincoln Avenue
Loveland, CO 80537

STATE OF COLORADO)
County of Larimer)
ss

Subscribed and sworn to before me this 30th day of October, 2002 by
Dennis Kessler for MTC Enterprises, LLC.

WITNESS my hand and official seal.

My commission expires 10/7/06



John H. M. M.

Notary Public

EXECUTED this 1st day of November, 2002.

By: S. L. McKinley
Stephen McKinley
5350 N. Garfield Avenue
Loveland, CO 80538

STATE OF COLORADO)
County of Larimer)
ss

Subscribed and sworn to before me this 1st day of November, 2002 by
Stephen McKinley

WITNESS my hand and official seal.

My commission expires 10/07/03

SEAL



H. Lamm
N.Y. Public

Notary Public

EXECUTED this 1st day of November, 2002.

By: Jeneal McKinley
Jeneal R. McKinley
5350 N. Garfield Avenue
Loveland, CO 80538

STATE OF COLORADO)
County of Larimer)
ss

Subscribed and sworn to before me this 1st day of November, 2002 by

Jeneal R. McKinley

WITNESS my hand and official seal.

My commission expires 10/07/02




Notary Public

Notary Public

EXECUTED this 7th day of November, 2002.

By: Ron Weeks
Ron Weeks, President
Loveland Habitat for Humanity

STATE OF COLORADO)
County of Larimer)
ss

Subscribed and sworn to before me this 7th day of November, 2002 by

Ron Weaks, as President of the Board of Directors of
Loveland Habitat for Humanity

WITNESS my hand and official seal.

My commission expires 8-28-05.



Ivan M. Bogg

EXHIBIT A

Ozzie's First Addition to the City of Loveland, Colorado

That portion of the Northeast Quarter of Section 35 and the Northwest Quarter of Section 36, Township 6 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows:

Considering the West line of the Northwest Quarter of said Section 36 as bearing South 00°07'00" East and with all bearings contained herein relative thereto:

Beginning at the Northwest corner of the Northwest Quarter of said Section 36; thence along the West line of the Northwest Quarter of said Section 36 South 00°07'00" East 1324.24 feet, more or less, to the Northwest corner of the South Half of the Northwest Quarter of said Section 36 and the TRUE POINT OF BEGINNING; thence along the North line of the South Half of the Northwest Quarter of said Section 36 South 89°43'28" East 499.05 feet to the Northwest corner of Tract "A", Shade Tree Park Fourth Addition to the City of Loveland, County of Larimer, State of Colorado; thence departing said North line and along the Westerly lines of said Tract "A", Shade Tree Park Fourth Addition and along the Northerly and Westerly lines of Lot 2, Block 1, Shade Tree Park First Subdivision to the City of Loveland, County of Larimer, State of Colorado and along the Northerly line of Lot 1, Block 1, Shade Tree Park First Subdivision to the City of Loveland, County of Larimer, State of Colorado and along the Northerly line of Shade Tree Park Fifth Addition to the City of Loveland, County of Larimer, State of Colorado the following six (6) courses and distances:

1)	South 00°07'18" East	28.57 feet;
2)	North 89°46'11" East	99.83 feet;
3)	South 00°09'40" East	172.65 feet;
4)	North 89°47'00" West	224.83 feet;
5)	South 00°07'00" East	337.72 feet;
6)	North 89°44'05" West	424.18 feet,

more or less, to a point on the Westerly right-of-way line of U.S. Highway No. 287; thence departing said Northerly line of said Shade Tree Park Fifth Addition and along said Westerly right-of-way line of U.S. Highway No. 287 North 00°07'00" West 538.37 feet; thence departing said Westerly right of Way line and along the Westerly prolongation of the North line of the South Half of the Northwest Quarter of said Section 36 South 89°43'28" East 50.00 feet, more or less, to the Northwest corner of the South Half of the Northwest Quarter of said Section 36 and the TRUE POINT OF BEGINNING.

The above-described parcel contains 6.21 acres, more or less, and is subject to all easements and rights-of-way of record or existing.

EXHIBIT B

Site plan identifying Parcels 1 through 5.

REZONING NO. 271 - OZZIE'S FIRST ADDITION

BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 35 AND THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 6 NORTH, RANGE 69 WEST OF THE 6TH P.M. TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO.

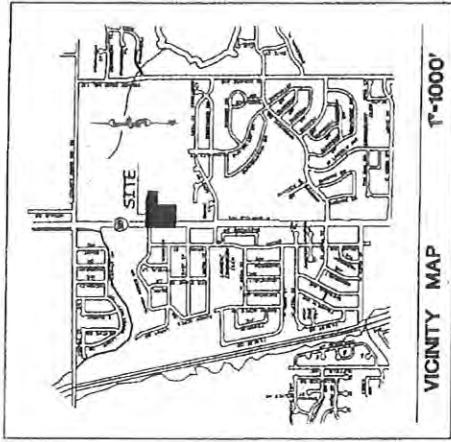
PORTION OF RANCH ACRES SUBDIVISION
(NO LOT OR BLOCK LABELED)
UNINCORPORATED LAMMER COUNTY
DOUGLAS COUNTY, COLORADO

(KODAK SAFETY FILM - 250' 35MM KODAK SAFETY FILM)

GOALS • GOALS

PARK FOURTH ADDITION
TRACT A, SHADY TREE

UNINCORPORATED LARIMER COUNTY
REGISTRATION NO. 11 - HEALTH & HAZARD COUNTY



VICINITY MAP T=1000'

al/av



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
(970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 11

MEETING DATE: 9/20/2011

TO: City Council

FROM: Greg George, Development Services Director

PRESENTER: Brian Burson, Current Planning Division

TITLE:

AN ORDINANCE VACATING A PORTION OF A UTILITY AND DRAINAGE EASEMENT LOCATED ON LOT 7, BLOCK 2, WINDEMERE 1st SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO.

DESCRIPTION:

A public hearing to consider a legislative action to adopt an ordinance, on first reading, vacating a portion of a utility and drainage easement on Lot 7, Block 2, Windemere 1st Subdivision, aka 2629 West 28th Street.

BUDGET IMPACT:

Yes No

SUMMARY:

The site is located along the north side of West 28th Street, approximately 450 feet east of North Wilson Avenue. The application proposes to vacate a 4 foot x 20 foot portion of the easement that lies along the rear of the lot to allow the property owner to install a storage shed/workshop on this residential property. This easement was originally dedicated by the subdivision plat of Windemere 1st Subdivision approved in 1976. City staff and other providers of utilities have determined that this portion of the platted easement on this property is no longer needed.

Planning Commission action is not required for vacation of a utility easement. No Planning Commission staff report or minutes are attached.

LIST OF ATTACHMENTS:

- A. Vacation ordinance
- B. Staff memorandum dated September 20, 2011, with exhibits.

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to make the findings in Section V. of the staff memorandum dated September 20, 2011, and approve, on first reading, AN ORDINANCE VACATING A PORTION OF A UTILITY AND DRAINAGE EASEMENT LOCATED ON LOT 7, BLOCK 2, WINDEMERE 1st SUBDIVISION, CITY OF LOVELAND, LARIMER COUNTY, COLORADO.

REVIEWED BY CITY MANAGER:

FIRST READING: September 20, 2011

SECOND READING: _____

ORDINANCE NO.

**AN ORDINANCE VACATING A PORTION OF A UTILITY AND DRAINAGE
EASEMENT ON LOT 7, BLOCK 2, WINDEMERE FIRST SUBDIVISION**

WHEREAS, the City Council, at a regularly scheduled meeting, considered the vacation of a portion of a utility and drainage easement described below, located in Lot 7, Block 2, Windemere First Subdivision to the City of Loveland, County of Larimer, State of Colorado;

WHEREAS, the City Council finds and determines that the portion of the utility and drainage easement to be vacated is no longer necessary for the public use and convenience; and

WHEREAS, the City Council further finds and determines that the application filed at the Development Center was signed by the owners of more than 50% of property abutting the easement to be vacated.

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

Section 1. That the following described portion of a utility and drainage easement be and the same is hereby vacated:

A portion of Lot 7, Block 2, WINDEMERE FIRST SUBDIVISION, to the City of Loveland, County of Larimer, State of Colorado being more particularly described as follows:

That portion of the Southerly Four (4) Feet of the Northerly Ten (10) Feet of said of Lot 7, Block 2, WINDEMERE FIRST SUBDIVISION more particularly described as follows:

Beginning at the Northwest corner of said of Lot 7, Block 2, WINDEMERE FIRST SUBDIVISION; thence along the Westerly line of said of Lot 7, Block 2, WINDEMERE FIRST SUBDIVISION South 00°53'00" West 6.00 feet and again South 89°07'00" East 7.00 feet to a point on the Easterly line of an existing Seven (7) foot Utility Easement and the TRUE POINT OF BEGINNING; thence continuing South 89°07'00" East 20.00 feet; thence South 00°53'00" West 4.00 feet, more or less, to a point on the Southerly line of an existing Ten (10) Foot Utility Easement; thence along said Southerly line of said existing Ten (10) Foot Utility Easement North 89°07'00" West 20.00 feet, more or less, to a point on said Easterly line of said existing Seven (7) foot Utility Easement; thence departing said Southerly line of said existing Ten (10) Foot Utility Easement and along said Easterly line of said existing Seven (7) foot Utility Easement North 00°53'00" East 4.00 feet to the TRUE POINT OF BEGINNING.

Containing 80.0 Square Feet (0.0018 Acres), more or less.

Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

Section 3. That the City Clerk is hereby directed to record the Ordinance with the Larimer County Clerk and Recorder after its effective date in accordance with State Statutes.

Signed this ____ day of _____, 2011.

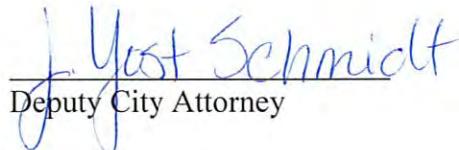
ATTEST:

CITY OF LOVELAND, COLORADO:

City Clerk

Mayor

APPROVED AS TO FORM:



J. Yost Schmidt
Deputy City Attorney



**Development Services
Current Planning**

500 East Third Street, Suite 310 • Loveland, CO 80537
(970) 962-2523 • Fax (970) 962-2945 • TDD (970) 962-2620
www.cityofloveland.org

MEMORANDUM

TO: City Council

FROM: Brian Burson, Current Planning Division

DATE: September 20, 2011

SUBJECT: Vacation of a portion of utility and drainage easement on Lot 7, Block 2, Windemere 1st Subdivision

I. EXHIBITS

1. Vicinity Map
2. Applicant's letter of request
3. Vacation Exhibits

II. KEY ISSUES

Staff believes that there are no outstanding issues regarding this requested easement vacation.

III. STAFF SUMMARY

A. Project Description

The application proposes to vacate a 4 foot X 20 foot portion of the easement that lies along the rear of this lot to allow the property owner to install a storage shed/workshop. This easement was originally dedicated by the plat of Windemere 1st Subdivision, as approved in 1976. City staff and other providers of utilities have determined that this portion of the platted easement on this property is no longer needed. The proposed storage shed/workshop will meet minimum setbacks for accessory structures.

B. Site location

The site is located along the north side of West 28th Street, approximately 450 feet east of North Wilson Avenue. The property is one of eight (8) lots platted along the north side of this stretch of West 28th Street, between North Wilson Avenue and Glendevey Drive.



IV. BACKGROUND

3/2/76 - annexation of Windemere 2nd Addition
4/6/76 - approval of Windemere 1st Subdivision

V. FINDINGS and ANALYSIS

The following two findings must be met in order for the City Council to vacate the water line easement. These findings are included in section 16.36.010.B of the Loveland Municipal Code.

1. *That no land adjoining any right-of-way to be vacated is left without an established public or private right-of-way or easement connecting said land with another established public or private right-of-way or easement.*

Transportation: Public street right-of-way, dedicated as West 28th Street, exists to serve as vehicular and pedestrian access to the property. Since the proposed vacation of the utility easement does not involve the vacation of any existing public street or alley rights-of-way, no land will be left without an established public or private right-of-way or easement connecting said land with the established public or private right-of-way or easement.

2. *That the easement to be vacated is no longer necessary for the public use and convenience.*

Transportation: The vacation is solely for a utility and drainage easement along the rear of the property. The vacation of the easement has no bearing on the existing public use and convenience in regards to vehicular access.

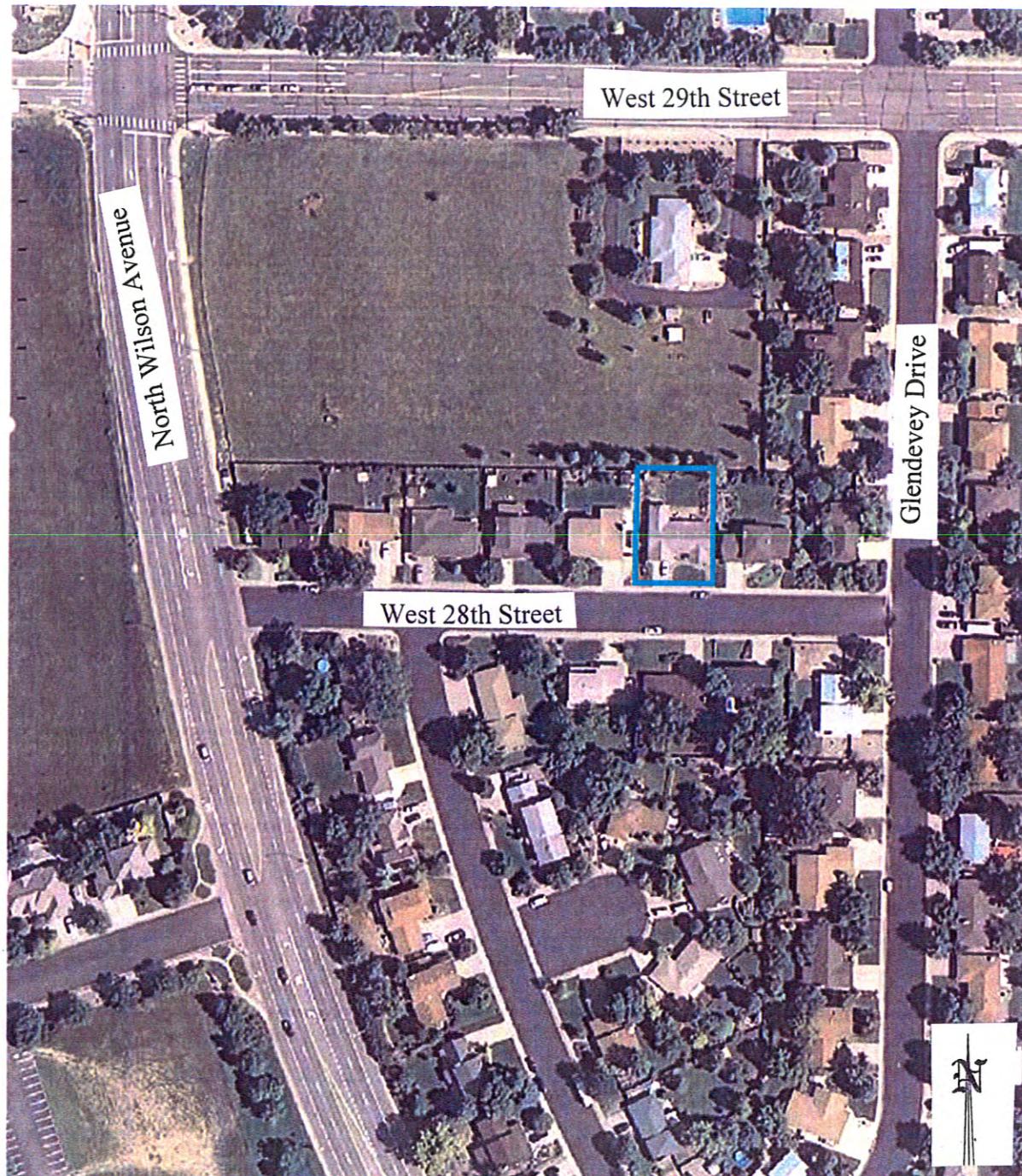
Water/Wastewater: The property in which this easement lies is within the City's current service area for both water and wastewater. The vacation of this portion of the easement will not impact the existing water and wastewater utility configuration within and adjacent to this development. The portion of the easement to be vacated is not needed for the public use and convenience.

Power: This property is currently served from a pedestal in the southeast corner of the adjacent property at 2641 W 28th Street. A single phase primary conductor runs along the rear property line and secondary underground conductor runs along the west property line. The proposed portion of the easement to be vacated is not needed for the public use and convenience.

Stormwater: The existing utility and drainage easement, of which a 4 foot by 20 foot area is to be vacated, is not used to convey stormwater and thus is not necessary for the public use and conveyance of stormwater.

VI. CONDITIONS

No City departments or other review agencies have submitted any recommended conditions for this application.



VICINITY MAP

EXHIBIT 1

June 27, 2011

To: Planning Division
500 East Third Street
Loveland, CO 80537

From: Clark Judy
2629 West 28th Street
Loveland, CO 80538
970-667-9158

Re: Request for the partial vacation of an easement

I am requesting that a section of the easement along the back side of our lot, 4 feet deep x 20 feet wide, be vacated for the purpose of constructing a storage shed/workshop. The existing shed (which is on the easement) will be removed. We plan to install a Tuff Shed TRS-800 building with paint and roofing to match our house. The vacation of the front 4 feet of the easement will allow better utilization of our yard, while preserving access and honoring the 5 foot setback requirement for the structure.

The documents listed on the "vacation submittal checklist" are attached.

I sent a letter and site sketch to the following; copies of their emails are attached:

Xcel Energy, Terry Stencel, responded via email:

"After reviewing your request I don't see any problem vacating that portion of the easement."

COMCAST, Bill Blair, verbally agreed with the vacation during a site visit.

Loveland Water & Power, Melissa Morin, responded via email:

"The water and wastewater utility division is willing to allow you to vacate the utility easement as shown within the shaded portion of your exhibit."

Loveland Water & Power, Kathleen Porter, responded via email:

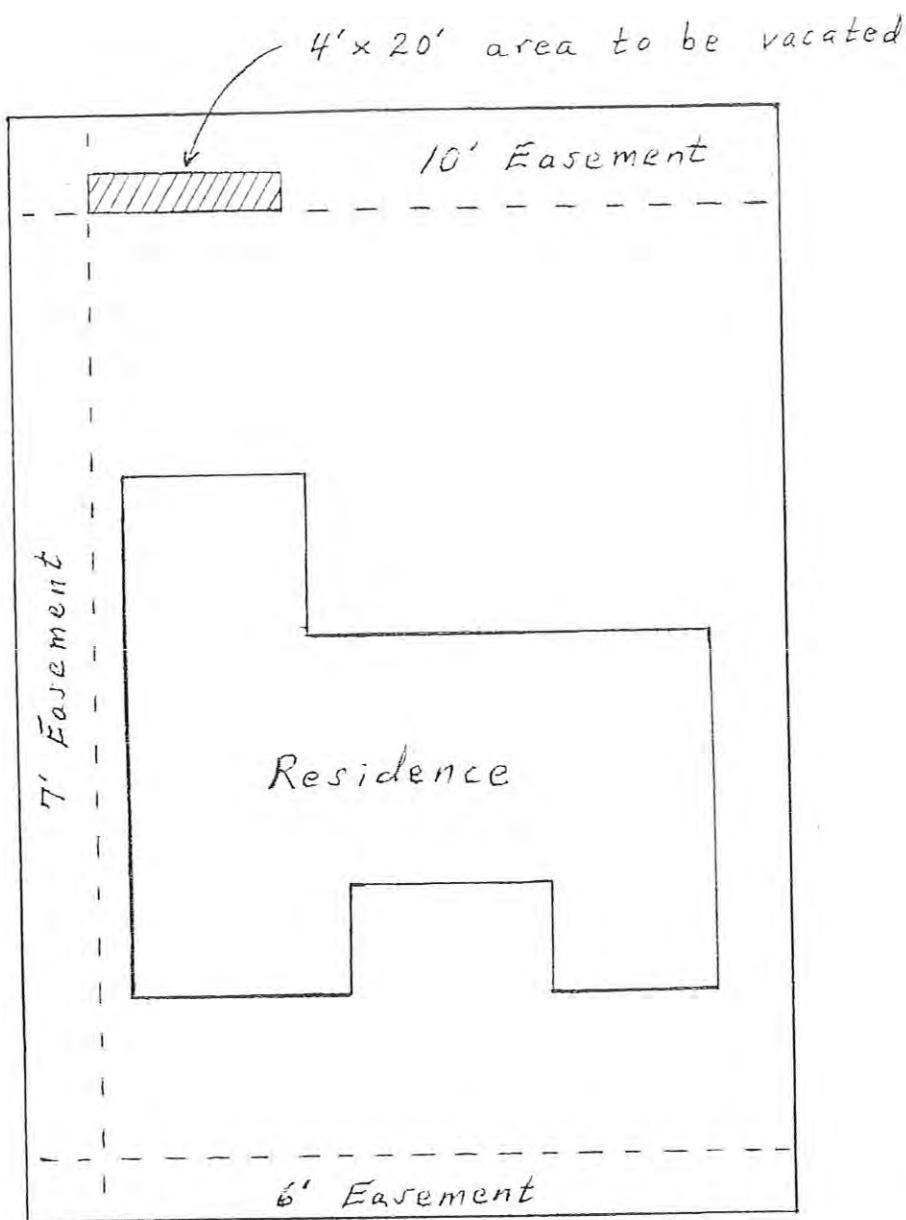
"We can vacate a portion of the utility easement in question, but not the whole length of the property."

Qwest, Donna Mastriona, did not respond.

Kathleen Porter qualified her approval by restricting the vacated area to the foot print of the proposed structure, which we addressed by limiting our request to an area 20 feet wide (starting at the edge of the easement along the west side of the yard and extending 20 feet to the east).

RECEIVED
JUL 27 2011

EXHIBIT 2



2629 W 28th Street

RECD BY [initials] JUL 27 2011

N

0' 20'

EXHIBIT 3

INTERMILL LAND SURVEYING, INC.
 1301 North Cleveland Avenue – Loveland, Colorado 80537
 P: (970) 669-0516 F: (970) 635-9775
 E: intermill@qwestoffice.net

P-11-7018

July 25, 2011

PROPERTY DESCRIPTION FOR EASEMENT VACATION

That portion of Lot 7, Block 2, WINDEMERE FIRST SUBDIVISION, to the City of Loveland, County of Larimer, State of Colorado being more particularly described as follows:

The Southerly Four (4) Feet of the Northerly Ten (10) Feet of said of Lot 7, Block 2, WINDEMERE FIRST SUBDIVISION, EXCEPTING THEREFROM the Westerly Seven (7) Feet thereof, the entire Easement Vacation Area being more particularly described as follows:

Beginning at the Northwest corner of said of Lot 7, Block 2, WINDEMERE FIRST SUBDIVISION; thence along the Westerly line of said of Lot 7, Block 2, WINDEMERE FIRST SUBDIVISION South $00^{\circ}53'00''$ West 6.00 feet and again South $89^{\circ}07'00''$ East 7.00 feet to a point on the Easterly line of an existing Seven (7) foot Utility Easement and the TRUE POINT OF BEGINNING; thence continuing South $89^{\circ}07'00''$ East 20.00 feet; thence South $00^{\circ}53'00''$ West 4.00 feet, more or less, to a point on the Southerly line of an existing Ten (10) Foot Utility Easement; thence along said Southerly line of said existing Ten (10) Foot Utility Easement North $89^{\circ}07'00''$ West 20.00 feet, more or less, to a point on said Easterly line of said existing Seven (7) foot Utility Easement; thence departing said Southerly line of said existing Ten (10) Foot Utility Easement and along said Easterly line of said existing Seven (7) foot Utility Easement North $00^{\circ}53'00''$ East 4.00 feet to the TRUE POINT OF BEGINNING.

Containing 80.0 Square Feet (0.0018 Acres), more or less.

PREPARED BY AND ON BEHALF OF:

INTERMILL LAND SURVEYING, INC.
 1301 North Cleveland Avenue
 Loveland, Colorado 80537
 P: (970) 669-0516
 F: (970) 635-9775
 E: intermill@qwestoffice.net

Robert George Persichitte
 Colorado PLS 34174

Date: 07/25/2011





CITY OF LOVELAND
FINANCE DEPARTMENT

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 12

MEETING DATE: 9/20/2011

TO: City Council

FROM: Renee Wheeler, Finance Department

PRESENTER: John Hartman, Budget Officer

TITLE:

A Resolution establishing a date, time, and place for a Public Hearing on the 2012 Recommended Budget for the City of Loveland, Colorado.

DESCRIPTION:

This is an administrative action. The resolution sets the date for the public hearing for October 4, 2011.

BUDGET IMPACT:

Yes No

SUMMARY:

The City Charter requires an action to set the date, time, and place for a public hearing on the 2012 Recommended Budget, after it has been submitted by the City Manager for Council consideration. This action satisfies that requirement. The resolution sets the date for the public hearing for October 4, 2011, to coincide with consideration of the budget ordinances to adopt the 2012 Budget on first reading.

LIST OF ATTACHMENTS:

1. Resolution establishing the date, time and place for a Public Hearing on the 2012 Recommended Budget for the City of Loveland, Colorado.

RECOMMENDED CITY COUNCIL ACTION:

Approval of the Resolution.

REVIEWED BY CITY MANAGER:

RESOLUTION #R-54-2011**A RESOLUTION ESTABLISHING A DATE, TIME, AND PLACE FOR A PUBLIC HEARING ON THE 2012 RECOMMENDED BUDGET FOR THE CITY OF LOVELAND, COLORADO**

WHEREAS, pursuant to Section 11-2(b) of the Loveland City Charter, the City Manager is required to submit to the City Council, on or before the first Tuesday in October of each year, a proposed budget for the City for the next ensuing fiscal year; and

WHEREAS, on September 13, 2011, the City Manager submitted the 2012 Recommended Budget, including the 2012-2016 Recommended Capital Projects Program, to the City Council; and

WHEREAS, in accordance with Section 11-4(a) of the Loveland City Charter, the City Council desires to set a date, time, and place for a public hearing on the 2012 Recommended Budget.

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

Section 1. That a public hearing is hereby scheduled to consider the adoption of the 2012 Recommended Budget for October 4, 2011 at 6:30 p.m., at which time objections of the electors of the City of Loveland shall be considered. Said hearing shall be held at the Loveland Municipal Complex, 500 East Third Street, Loveland, Colorado.

Section 2. That the City Clerk shall give notice of said hearing in the manner prescribed by Section 11-4(b) of the Loveland City Charter and § 29-1-106, C.R.S.

Section 3. That this Resolution shall be effective as of the date of its adoption.

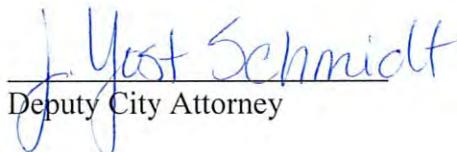
ADOPTED this 20th day of September, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney



CITY OF LOVELAND
BUSINESS DEVELOPMENT OFFICE
Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 13

MEETING DATE: 9/20/2011

TO: City Council

FROM: Betsey Hale, Economic Development

PRESENTER: Betsey Hale

TITLE:

A Resolution approving Amendment Number One to Fee Deferral Agreement

DESCRIPTION: This is an administrative action to consider a resolution approving an amendment to a fee deferral agreement approved by Council in 2006. Pine Hill Partners, LLLP, has requested that in consideration of a payment of \$5,000.00 on or before November 1, 2011, the payment date for capital expansion fees and building permit fees which were deferred until October 31, 2011 under the Deferral Agreement be extended until November 1, 2014. Deferred capital expansion fees and building permit fees will be reduced by City sales tax from the Esplanade Park Event Center collected and paid to the City through November 1, 2014.

BUDGET IMPACT:

Yes No

SUMMARY: City Council Resolution No. 66-2006 adopted July 25, 2006 approved a sales tax credit based incentive for the deferral of \$160,000.00 in capital expansion fees and building permit fees related to the construction of an event center. The agreement provided that 100% of the sales taxes collected by activity in or from the event center for a period of 36 months would be credited against the amount of deferred fees, up to but not to exceed \$160,000.00. Any balance due the City after 36 months would be paid by the owners, and this payment was the subject of a personal guarantee. The estimated balance due the City upon October 31, 2011 is \$110,575.00.

The Fee Deferral Agreement approved in 2006, permitted Esplanade Park to assign its interest in the agreement to Pine Hill Partners, LLLP, a Colorado limited liability limited partnership. An assignment of the agreement was completed with a form acceptable by the City Manager, as required by the agreement, and was approved June 14, 2011.

City Staff in the legal, finance and the economic development departments met with the owners on numerous occasions in 2010 and 2011 to discuss the performance agreement. Due to unforeseen economic conditions, the business has not generated the sales tax originally projected. However; the business is a going concern and a benefit to the local economy. The Event Center continues to generate sales tax and should meet the projections over time. City staff worked with the owners to draft the amendment and believe it is the best resolution to meet the intent of the original agreement.

Pine Hill Partners, LLLP, is requesting the City consider an extension of the deferral period until November 1, 2014 and Pine Hill would make a payment of \$5,000.00 on or before November 1, 2011. All City sales tax collected with respect to taxable transactions in or from the event center and paid to the City during the 36 month extension will be credited to the outstanding balance due the City.

LIST OF ATTACHMENTS:

1. Resolution and Amendment Number One to Fee Deferral Agreement
2. Assignment of agreement to Pine Hill Partners, LLLP

RECOMMENDED CITY COUNCIL ACTION: Approve Resolution**REVIEWED BY CITY MANAGER:**

RESOLUTION #R-55-2011**A RESOLUTION APPROVING AMENDMENT NUMBER ONE TO FEE DEFERRAL AGREEMENT**

WHEREAS, Eslan Park, LLC, a Colorado limited liability company (“Eslan Park”) and the City entered into that certain Eslan Park Event Center Fee Deferral Agreement dated July 25, 2006 (the “Agreement”), approved by City Council by adoption of Resolution No. 66-2006; and

WHEREAS, the Agreement permitted Eslan Park to assign its interest in the Agreement to Pine Hill Partners, LLLP, a Colorado limited liability limited partnership (“Pine Hill”) provided that Pine Hill assumed all of Eslan Park’s obligations under the Agreement, and such an assignment has been accomplished and accepted and approved on behalf of the City pursuant to that certain Assignment of Agreement dated June 14, 2011 (the “Assignment”); and

WHEREAS, the Agreement deferred, for a period of 36 months ending October 31, 2011, payment of certain Fees, including CEF’s and building permit fees, in the total amount of \$160,000.00 due in connection with construction of an Event Center (the “Deferred Fees”), as more specifically set forth in the Agreement; and

WHEREAS, the Agreement further provided that one hundred percent (100%) of the City’s sales taxes collected from sales at the Event Center during the 36 month deferral period be credited to the payment of the Deferred Fees, with the balance of the Deferred Fees, if any, to be paid to the City on November 1, 2011 (the “Payment Date”); and

WHEREAS, the Hamid Eslan and Janice Eslan (collectively, the “Eslans”), as managers and members of Eslan Park, guaranteed any payment of the Deferred Fees due under the Agreement; and

WHEREAS, Pine Hill and the Eslans have requested that the Payment Date for the Deferred Fees be extend to November 1, 2014, and in consideration of such extension has offered to make a payment of \$5,000.00 on or before November 1, 2011 to be credited against the Deferred Fees, all as more fully set forth in Amendment Number One to Eslan Park Center Fee Deferral Agreement attached hereto as **Exhibit A** and incorporated herein by this reference (“Amendment Number One”); and

WHEREAS, the City Council believes the execution of Amendment Number One will further the public purposes of providing significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased property tax revenues to the City, that were served by the Agreement and,

therefore, that the provisions of Amendment Number One are in the best interests of the public and the City.

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

Section 1. That the City Council finds that the Amendment Number One will further the public purposes of providing the social and economic benefits to the citizens of Loveland in the form of jobs, economic development, and increased property tax revenues to the City that were served by the Agreement and, therefore, that Amendment Number One is in the best interest of the public and the City.

Section 2. That Amendment Number One is hereby approved.

Section 3. That the City Manager is authorized, following consultation with the City Attorney, to modify Amendment Number One in form or substance as deemed necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 4. That the City Manager and the City Clerk are hereby authorized and directed to execute Amendment Number One on behalf of the City of Loveland.

Section 5. That this Resolution shall be effective as of the date and time of its adoption.

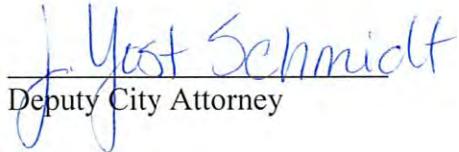
ADOPTED this 20th day of September, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney

AMENDMENT NUMBER ONE TO FEE DEFERRAL AGREEMENT

THIS AMENDMENT NUMBER ONE TO FEE DEFERRAL AGREEMENT
(Amendment Number One") is made this ____ day of _____, 2011, by and between the **City of Loveland, Colorado**, a home rule municipality ("City") and **Pine Hill Partners, LLLP**, a Colorado limited liability limited partnership ("Pine Hill") and **Hamid Eslan and Janice Eslan** (collectively, the "Eslans").

WHEREAS, Eslan Park, LLC, a Colorado limited liability company ("Eslan Park") and the City entered into that certain Eslan Park Event Center Fee Deferral Agreement dated July 25, 2006 (the "Agreement"), approved by City Council by adoption of Resolution No. 66-2006; and

WHEREAS, the Agreement permitted Eslan Park to assign its interest in the Agreement to Pine Hill provided that Pine Hill assumed all of Eslan Park's obligations under the Agreement, and such an assignment has been accomplished and accepted and approved on behalf of the City pursuant to that certain Assignment of Agreement dated June 14, 2011 (the "Assignment"); and

WHEREAS, the Agreement deferred, for a period of 36 months ending October 31, 2011, payment of certain Fees, including CEF's and building permit fees, in the total amount of \$160,000.00 due in connection with construction of an Event Center (the "Deferred Fees"), as more specifically set forth in the Agreement; and

WHEREAS, the Agreement further provided that one hundred percent (100%) of the City's sales taxes collected from sales at the Event Center during the 36 month deferral period be credited to the payment of the Deferred Fees, with the balance of the Deferred Fees, if any, to be paid to the City on November 1, 2011 (the "Payment Date"); and

WHEREAS, the Eslans, as managers and members of Eslan Park, guaranteed payment of the Deferred Fees under the Agreement; and

WHEREAS, Pine Hill and the Eslans have requested that the Payment Date for the Deferred Fees be extend to November 1, 2014, and in consideration of such extension has offered to make a payment of \$5,000.00 on or before November 1, 2011 to be credited against the Deferred Fees, all as more fully set forth in this Amendment Number One; and

WHEREAS, by adoption of Resolution No. ____, the City Council has made a finding that the execution of this Amendment Number One will further the public purposes of providing significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased property

tax revenues to the City, that were served by the Agreement and, therefore, that the provisions of this Amendment Number One are in the best interests of the public and the City.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. In recognition and implementation of the Assignment and the assumption of all obligations of Eslan Park, LLC, a Colorado limited liability company, all references in the Agreement to Eslan Park, LLC, a Colorado limited liability company, shall hereinafter be deemed to refer to Pine Hill Partners, LLLP, a Colorado limited liability limited partnership.
2. Paragraph 2 of the Agreement is hereby deleted in its entirety and the following substituted in lieu thereof:

“2. Payment of Fees.”

A. Pine Hill, as successor to Eslan Park, promises to pay to the City the Fees in the sum of One Hundred Sixty Thousand Dollars (\$160,000), less credits available as set forth in Paragraph 3 below and less any amounts paid pursuant to paragraph 2.B below (the “Net Deferred Amount”), on or before November 1, 2014 (the “Payment Date”); provided however, that in the event that the operation of the Event Center as a business is discontinued for any reason other than a Permitted Reason (as defined below) at any time prior to the Payment Date, Pine Hill shall pay the total amount required in this paragraph 2 on the date that is sixty (60) days after the date business is so discontinued. As used herein, “Permitted Reasons” shall mean (i) damage or destruction due to casualty; (ii) force majeure, (iii) condemnation, (iv) labor disputes, or (v) periods of remodel, remerchandising, renovation or repair. So long as Pine Hill is not in default of this payment, such amount shall bear no interest.

B. Pine Hill shall pay the amount of Five Thousand Dollars (\$5,000) to the City on or before October 31, 2011 to be credited against the Fees due hereunder (the “2011 Payment”). In the event that Pine Hill does not make the 2011 Payment on or before October 31, 2011, then notwithstanding the Payment Date set forth above or the provisions of paragraph 3 below, the Net Deferred Amount shall become due and payable on or before December 31, 2011.”

3. Paragraph 3 of the Agreement is hereby deleted in its entirety and the following substituted in lieu thereof:

“3. Credit for City Sales Taxes Collected and Paid”

Subject to the provisions of paragraph 4 below, Pine Hill may reduce the payment required in paragraph 2 above and credit against the deferred Fees of \$160,000.00, an amount equal to one hundred percent (100%) of all City sales taxes collected by Pine Hill and received by the City with respect to taxable transactions in or from the Event Center during the period commencing on the first day of the month following the date upon which the Event Center opened to the public for business and terminating on the Payment Date.

This credit, however, shall only be taken for City sales taxes so collected that have in fact been paid to the City. In addition, the total amount of the credits granted herein shall in no event exceed the \$160,000 of the Fees deferred in this Agreement.”

3. By their signature below, the Eslans acknowledge and agree that their unconditional guarantee of Pine Hill’s full and punctual performance of any and all obligations under the Agreement, including but not limited to payment of the Net Deferred Amount, shall remain in full force and effect in accordance with the provisions of the Agreement, as modified by this Amendment Number One.
4. Except as expressly modified by this Amendment Number One, the Agreement shall remain in full force and effect in accordance with its terms.

DATED THIS _____ DAY OF _____, 2011.

[remainder of page intentionally left blank]

“PINE HILL”

PINE HILL PARTNERS, LLLP
a Colorado limited liability limited partnership

By: _____
Hamid Eslan, Manager and Member

By: _____
Janice Eslan, Manager and Member

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011 by Hamid Eslan and Janice Eslan as Managers and Members of Pine Hill Partners, LLLP, a Colorado limited liability limited partnership.

Notary Public

(S E A L)

“ESLANS”

Hamid Eslan, individually

Janice Eslan, individually

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011 by Hamid Eslan and Janice Eslan as individuals.

Notary Public

(S E A L)

“CITY”

CITY OF LOVELAND,
a Colorado home rule municipality

By: _____
William D. Cahill, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM

Deputy City Attorney

STATE OF COLORADO)
 ⁾ ss.
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011 by William D. Cahill, City Manager, City of Loveland, Colorado.

Notary Public

(S E A L)

ASSIGNMENT OF AGREEMENT

THIS ASSIGNMENT, made and entered into this 14th day June, 2011, by and between **Eslan Park, LLC, a Colorado limited liability company ("Assignor") and Hamid Eslan and Janice Eslan, ("Eslans")**, and **Pine Hill Partners, LLLP, a Colorado limited liability limited partnership (the "Assignee")**.

WHEREAS, the Assignor, as a party to the "Eslan Park Center Fee Deferral Agreement" as amended by the "Amendment Number One To Eslan Park Center Fee Deferral Agreement" [collectively the "Agreement"] with the City of Loveland, Colorado (the "City") as the other party to the Agreement; and

WHEREAS, the Eslans, as manager and members of Assignee, have guaranteed Assignee's performance of its obligations under the Agreement, including payment of the Deferred Fees, if any, due thereunder; and

WHEREAS, subject as hereinafter provided, the Assignor desires to assign the Agreement to the Assignee; and

WHEREAS, subject as hereinafter provided, the Assignee agrees to assume and perform the Assignor's obligations under the Agreement; and

WHEREAS, the City has consented to such assignment.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Assignor hereby assigns, transfers, and quit claims unto the Assignee all rights, title, and interest of the Assignor in and to the Agreement as of the date of this Assignment.
2. The Assignee hereby agrees to accept assignment of the Agreement, and hereby assumes and agrees to perform all obligations, duties, responsibilities, and liabilities of Assignor as a party thereunder, whether accruing before or after the date of this Assignment. The Assignor shall not remain responsible and for the performance of any obligation of the Assignor under the Agreement.
3. By their signature below, the Eslans acknowledge and agree that their unconditional guarantee of full and punctual performance of any and all obligations under the Agreement, including but not limited to payment of any amounts due thereunder, shall remain in full force and effect in accordance with the provisions of the Agreement, notwithstanding this Assignment.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the day and year first above written.

ASSIGNOR

Eslan Park, LLC,
a Colorado limited liability company

By: Hamid Eslan
Hamid Eslan, Manager and Member

By: Janice Eslan
Janice Eslan, Manager and Member

State of Colorado)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this 14th day of June, 2011 by Hamid Eslan and Janice Eslan as Managers and Members of Eslan Park, LLC, a Colorado limited liability company.

Danielle Hill-Fidmark
Nursing

Notary Public
(S E A L)

John H. Elsham

Hamid Eslan, individually

Janice M. Eslan
Janice Eslan, individually

State of Colorado

)

) ss.

County of Larimer

11

The foregoing instrument was acknowledged before me this 14th day of June, 2011 by Hamid Eslan and Janice Eslan as individuals.

John and Janice Estan as individuals.
Shirley Lee Hill Redmark
Notary Public

Notary Public

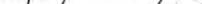
(See Exhibit D)



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ASSIGNEE

Pine Hill Partners, LLLP,
a Colorado limited liability limited partnership

By: 
Hamid Eslan, as General Partner

State of Colorado)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this 14th day of June, 2011 by Hamid Eslan, as General Partner of Pine Hill Partners, LLLP, a Colorado limited liability limited partnership.

Notary Public
(S E A L)

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ACCEPTED AND APPROVED
CITY OF LOVELAND,
a Colorado home rule municipality

By: William D. Cahill
William D. Cahill, City Manager

ATTEST:

Jannie M. Weaver
City Clerk Deputy

APPROVED AS TO FORM

Jeff Schmidt
Deputy City Attorney

State of Colorado)
)
County of Larimer)
)



The foregoing instrument was acknowledged before me this 16 day of June, 2011 by
William D. Cahill, City Manager, City of Loveland, Colorado.

Mary Skipworth
Notary Public
(S E A L)





CITY OF LOVELAND
BUSINESS DEVELOPMENT OFFICE
 Civic Center • 500 East Third • Loveland, Colorado 80537
 (970) 962-2304 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 14

MEETING DATE: 9/20/2011

TO: City Council

FROM: Betsey Hale, Economic Development

PRESENTER: Betsey Hale

TITLE: Holding Costs for ACE Park Campus

DESCRIPTION: This is an information only item. The City purchased the former Agilent Technologies campus on June 23, 2011. At that time, funding was appropriated to cover two months of holding costs for the operations of the site. City staff is conservatively estimating the City may own the property until April of 2012.

BUDGET IMPACT:

Yes No

Staff is estimating total holding costs for 8 months to be \$490,000.00. Because the incentive fund is currently appropriated, the only new funding not currently appropriated is \$245,000 for the January to April 2012 time frame. This funding will be incorporated into the 2012 Budget.

SUMMARY: City holding costs for the former Agilent property for the remainder of 2011 are estimated to be \$245,000. This amount is available in the City Council incentive fund and is an appropriate use of these funds. The current balance in the fund is \$705,000, so the use for this purpose leaves \$460,000 available in the incentive fund for 2011. These costs (\$245,000) can be administratively transferred to the Facilities Management Division, and will be transferred unless the Council directs otherwise. The holding costs for the months of January-April 2012 will be appropriated in the 2012 budget also from the City Council incentive fund and this is also estimated to be \$245,000.00.

LIST OF ATTACHMENTS: None

RECOMMENDED CITY COUNCIL ACTION:

No action required at this time.

REVIEWED BY CITY MANAGER:



CITY OF LOVELAND
CITY MANAGER
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(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 15

MEETING DATE: 9/20/2011

TO: City Council

FROM: City Manager's Office

PRESENTER: Bill Cahill

TITLE:

A Resolution Amending the Scheduled Meeting Dates of the City of Loveland Board of Retirement

DESCRIPTION:

This is an administrative action to change the meeting dates of the City of Loveland Board of Retirement from the fourth Thursday of January, April, July and October of each calendar year to the second Thursday of February, May, August and November of each calendar year.

BUDGET IMPACT:

Yes No

SUMMARY:

The City of Loveland Board of Retirement currently meets on the fourth Thursday of January, April, July and October of each calendar year. These meeting dates do not provide the City's retirement plan consultant, Innovest, with sufficient time to review the quarterly and annual financial performance data of the City of Loveland Employees' Retirement Plan and provide the Board with feedback at the quarterly meetings. On August 31, 2011, the Board approved a motion to recommend that City Council change the Board meeting dates to the Second Thursday of February, May, August and November of each calendar year in order to provide Innovest with an opportunity to review and prepare an analysis of the financial performance data prior to the Board's quarterly meetings.

LIST OF ATTACHMENTS:

A Resolution Amending the Scheduled Meeting Dates of the City of Loveland Board of Retirement

RECOMMENDED CITY COUNCIL ACTION:

Motion to approve the resolution.

REVIEWED BY CITY MANAGER:

RESOLUTION #R-56-2011**A RESOLUTION AMENDING THE SCHEDULED MEETING DATES OF THE CITY OF LOVELAND BOARD OF RETIREMENT**

WHEREAS, on December 7, 2010, City Council adopted Resolution #R-67-2010 setting forth the 2011 meeting dates for the City's boards and commissions, including the City of Loveland Board of Retirement (the "Board"); and

WHEREAS, the Board meeting time is currently set on the fourth Thursday of January, April, July and October of each calendar year at 2:00 p.m. in the Main Floor Conference Room, 500 East Third Street, Loveland, Colorado; and

WHEREAS, the City's retirement consultant, Innovest Portfolio Solutions, LLC ("Innovest"), is unable to review and provide the Board with analysis on the financial performance data of the City of Loveland Employees' Retirement Plan because the financial data is released too closely to the current Board meeting dates; and

WHEREAS, on August 31, 2011, the Board approved a motion to recommend that City Council change the Board meeting dates to provide Innovest sufficient time to review the financial performance data prior to the Board's quarterly meetings.

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

Section 1. That the meeting dates adopted in Resolution #R-67-2010 are hereby amended to change the Board's meeting dates from the fourth Thursday of January, April, July and October of each calendar year to the Second Thursday of February, May, August and November of each calendar year. The meeting time and location shall remain the same: 2:00 p.m. in the Main Floor Conference Room, 500 East Third Street, Loveland, Colorado.

Section 2. That Resolution #R-67-2010, as amended herein and by prior resolutions, shall remain in full force and effect.

Section 3. That pursuant to City Code Section 2.14.020B, the City Clerk is directed to publish the revised meeting dates established by this Resolution within seven days after the date of this Resolution to be published in a newspaper of general circulation in the City and in addition post such notice of revised meeting dates in a conspicuous place in the City Municipal Building.

Section 4. That this Resolution shall take effect as of the date and time of its adoption.

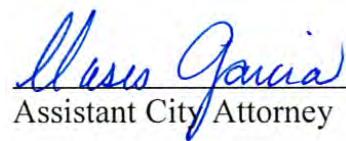
ADOPTED this ____ day of September, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



Assistant City Attorney

A RESOLUTION AMENDING THE SCHEDULED MEETING DATES OF THE CITY OF LOVELAND BOARD OF RETIREMENT (2011)



CITY OF LOVELAND
CITY MANAGER'S OFFICE
Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 16

MEETING DATE: 9/20/2011

TO: City Council

FROM: City Manager's Office

PRESENTER: Alan Krcmarik, Executive Fiscal Advisor

TITLE:

A Resolution to Amend the 1966 Intergovernmental Agreement between the City of Loveland and the Loveland Rural Fire Protection District to Modify the Composition of the Board of Trustees of the Consolidated Firemen's Pension Fund of Loveland and Rural District and to Set Attendance Requirements

DESCRIPTION:

This is an administrative action to amend the 1966 intergovernmental agreement between the City of Loveland and the Loveland Rural Fire Protection District ("LRFPD") to modify the board composition of the Consolidated Firemen's Pension Fund of Loveland and Rural District (the "Consolidated Pension Fund"), effective January 1, 2012, to reflect the reality of fewer volunteer firefighters being available to serve on the board, the lack of any formal volunteer firefighter organization to designate representatives to the board, and the need to assure participation by board members. The proposed composition of the board is as follows: three representatives appointed by City Council with preference for a volunteer firefighter in one position, three representatives appointed by the LRFPD with preference for a volunteer firefighter in one position, and one representative appointed by the sitting members of the board with a preference for a volunteer firefighter.

BUDGET IMPACT:

Yes No

SUMMARY:

Since 1966 the City and the LRFPD have jointly participated in the Consolidated Pension Fund for their volunteer firefighters. The Consolidated Pension Fund is currently comprised of seven members: three representatives from the volunteer firefighters, two representatives appointed by City Council, and two representatives appointed by the LRFPD. Over the past 25 years the

number of volunteer firefighters available to serve on the Consolidated Pension Fund board has diminished significantly because participation in the City's fire and rescue department, which also serves the LRFPD, has shifted from primarily volunteer firefighters to paid City employee firefighters. Also, the organization which previously acted as a voice for the volunteer firefighters and designated volunteer firefighters for the Consolidated Pension Fund board is no longer in existence. These changes have left the Consolidated Pension Fund board unable to maintain sufficient members to properly fulfill its obligations.

As a result, the City and the LRFPD desire to modify the composition of the Consolidated Pension Fund board to reflect the reality of fewer volunteer firefighters being available to serve on the board and the lack of any formal volunteer firefighter organization to designate representatives to the board. This modification will maximize the opportunity for volunteer firefighters to act as representatives on the Consolidated Pension Fund board by considering retired volunteer firefighters and retired volunteer firefighters returned to active service as volunteer firefighters, if there are no current volunteer firefighters able, willing and qualified to act as board members.

The City and the LRFPD propose the following composition of the Consolidated Pension Fund board: three representatives appointed by City Council with preference for a volunteer firefighter in one representative position, three representatives appointed by the LRFPD with preference for a volunteer firefighter in one representative position, and one representative appointed by the Consolidated Pension Fund board with preference for a volunteer firefighter. Because the board meets quarterly, the City and the LRFPD also propose attendance requirements that prohibit a board member from missing three or more meetings within four consecutive calendar quarters to assure participation by members. If a board member violates the attendance requirements, he or she will be deemed to have resigned their position with the board, unless the absences are excused by the remaining board members.

The LRFPD will be considering a counter-part resolution.

LIST OF ATTACHMENTS:

1. Resolution to Amend the 1966 Intergovernmental Agreement between the City of Loveland and the Loveland Rural Fire Protection District to Modify the Composition of the Board of Trustees of the Consolidated Firemen's Pension Fund of Loveland and Rural District and to Set Attendance Requirements
2. Exhibit A: Second Amendment to Agreement of May 17, 1966, Regarding the Consolidated Firemen's Pension Fund of Loveland and Rural District

RECOMMENDED CITY COUNCIL ACTION:

Adoption of the Resolution

REVIEWED BY CITY MANAGER:

RESOLUTION #R-57-2011**A RESOLUTION TO AMEND THE 1966 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE LOVELAND RURAL FIRE PROTECTION DISTRICT TO MODIFY THE COMPOSITION OF THE BOARD OF TRUSTEES OF THE CONSOLIDATED FIREMEN'S PENSION FUND OF LOVELAND AND THE RURAL DISTRICT AND TO SET ATTENDANCE REQUIREMENTS**

WHEREAS, in 1966 the City of Loveland (the "City"), by and through its Trustees for the Loveland Firemen's Pension Fund, entered into an agreement with the Loveland Rural Fire Protection District ("LRFPD"), by and through its Trustees for the Loveland Rural Fire Protection District Firemen's Pension Fund, to consolidate the pension funds for their respective volunteer firefighters into a Consolidated Firemen's Pension Fund of Loveland and Rural District (the "Consolidated Pension Fund Agreement"); and

WHEREAS, the Consolidated Pension Fund Agreement established a board comprised of seven members: three representative from the volunteer firefighters, three representatives appointed by the City Council, and one representative appointed by the LRFPD, with each representative having a two-year term (the "Consolidated Pension Fund Board"); and

WHEREAS, in 1984 the City and the LRFPD amended the Consolidated Pension Fund Agreement pursuant to an intergovernmental agreement titled "Amendment to Agreement of May 17, 1966" (the "First Amendment") to increase the term of each board member from two years to four years and to change the composition of the seven member board as follows: three representatives from the volunteer firefighters, two representatives appointed by the City Council, and two representatives appointed by the LRFPD; and

WHEREAS, over the past twenty-five (25) years, the number of volunteer firefighters available to serve on the Consolidated Pension Fund Board has diminished significantly because participation in the City's fire and rescue department, which pursuant to an intergovernmental agreement also serves the LRFPD jurisdiction, has shifted from primarily volunteer firefighters to paid City employee firefighters; and

WHEREAS, Loveland Volunteer Fire Department, Inc., the organization which previously acted as a voice for the volunteer firefighters and designated volunteer firefighters for the Consolidated Pension Fund Board, is no longer in existence; and

WHEREAS, the City and the LRFPD desire to amend the 1966 intergovernmental agreement to modify the composition of the Consolidated Pension Fund Board to reflect the reality of fewer volunteer firefighters being available to serve on the board and the lack of any formal volunteer firefighter organization to designate representatives to the board by modifying the board composition as follows: three representatives appointed by the City Council with preference for a volunteer firefighter in one representative position, three representatives appointed by the LRFPD with preference for a volunteer firefighter in one representative position, and one representative appointed by the Consolidated Pension Fund Board with preference for a volunteer firefighter; and

WHEREAS, the City and the LRFPD also desire to maximize the opportunity for volunteer firefighters to act as representatives on the Consolidated Pension Fund Board by expanding the definition of a volunteer firefighter to include retired volunteer firefighters and retired volunteer firefighters returned to active service, in the event there are no current volunteer firefighters able, willing and qualified to act as a Consolidated Pension Fund Board representative; and

WHEREAS, the City and the LRFPD also desire to set attendance requirement for those appointed to serve as members of the Consolidated Pension Fund board to further ensure that the board is adequately staffed to fulfill its designated functions; and

WHEREAS, the City Council finds that it is in the best interests of the City and its citizens to enter into the "Second Amendment to Agreement of May 17, 1966, Regarding the Consolidated Firemen's Pension Fund of Loveland and Rural District," attached hereto as Exhibit A and incorporated by reference (the "Agreement"), to address the lack of volunteer firefighters available to serve on the Consolidated Pension Fund Board and to ensure participation of appointed board members; and

WHEREAS, pursuant to C.R.S. § 29-1-203(1), the City and the LRFPD are authorized to cooperate with one another to provide any function or service lawfully authorized to each, and are therefore each authorized under C.R.S. § 29-1-203(1) to enter into the Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO as follows:

Section 1. That the Agreement is hereby approved.

Section 2. That the City Manager is hereby authorized and directed to enter into the Agreement, subject to such modifications in form or substance as the City Manager, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this resolution or to protect the interests of the City.

Section 3. That this Resolution shall go into effect as of the date and time of its adoption.

Dated this _____ day of _____, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Mario Garcia
Assistant City Attorney

A RESOLUTION TO AMEND THE 1966 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE LOVELAND RURAL FIRE PROTECTION DISTRICT TO MODIFY THE COMPOSITION OF THE BOARD OF TRUSTEES OF THE CONSOLIDATED FIREMEN'S PENSION FUND OF LOVELAND AND THE RURAL DISTRICT AND TO SET ATTENDANCE REQUIREMENTS

**SECOND AMENDMENT TO AGREEMENT OF MAY 17, 1966, REGARDING
THE CONSOLIDATED FIREMEN'S PENSION FUND OF LOVELAND
AND RURAL DISTRICT**

WHEREAS, the City of Loveland (the "City") and the Loveland Rural Fire Protection District (the "LRFPD") desire to amend their agreement dated May 17, 1966, as first amended by the Amendment to Agreement of May 17, 1966, dated November 20, 1984 (collectively, the "Agreement") that created the Consolidated Firemen's Pension Fund of Loveland and Rural District (the "Consolidated Pension Fund"); and

WHEREAS, the purpose this second amendment ("Second Amendment") is to modify the composition of the Board of Trustees of the Consolidated Pension Fund, effective January 1, 2012, to reflect the reality of fewer volunteer firefighters being available to serve on the board, the lack of any formal volunteer firefighter organization to designate representatives to the board, and the need to assure participation by board members.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the LRFPD agree as follows:

1. Part 4 of the Agreement is hereby superseded and amended to read in full as follows:
 4. Board of Trustees.
 - A. The Consolidated Firemen's Pension Fund of Loveland and Rural District shall be administered by a board of trustees which shall consist of seven members of whom no more than three shall be current volunteer firefighters. Representation on the board shall be as follows:
 - (i) Three members of the board shall be appointed by the City Council of the City of Loveland and one such board member, if possible, shall be a volunteer firefighter;
 - (ii) Three members of the board shall be appointed by the Board of Directors of the Loveland Rural Fire Protection District and one such board member, if possible, shall be a volunteer firefighter; and
 - (iii) One member of the board shall be appointed by a majority vote of the members of the board appointed by the City Council of the City of Loveland and by the Board of Directors of the Loveland Rural Fire Protection District and, if possible, shall be a volunteer firefighter.
 - B. If reasonable efforts are made to recruit a current volunteer firefighter to serve as a member of the board of trustees and there is none able, willing and qualified to serve, retired volunteer firefighters and retired volunteer firefighters returned to active service shall be considered volunteer firefighters for the purposes of appointing members to the board of trustees.
 - C. A member of the board of trustees shall serve for a term of four (4) years, or until his or her successor is appointed; except that a board member who is absent from

three (3) or more board meetings in any four (4) consecutive calendar quarters shall be deemed to have resigned from the board, unless a majority of the remaining board members vote to excuse such absences. Except for a vacancy of the board member position appointed by the board of trustees, vacancies occurring on the board shall be filled by either the City Council of the City of Loveland or the Board of Directors of the Loveland Rural Fire Protection District, which ever entity originally appointed the board member vacating the seat on the board. A vacancy of the position appointed by the board of trustees shall be filled as provided in section (iii) of paragraph A above.

2. The effective date of the Second Amendment shall be January 1, 2012.
3. All other terms and conditions of the Agreement shall remain in full force and effect.

Dated this _____ day of _____, 2011.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement of May 17, 1966, Regarding the Consolidated Firemen's Pension Fund of Loveland and Rural District as of the date above written.

CITY OF LOVELAND, COLORADO

By:

William D. Cahill, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

LOVELAND RURAL FIRE
PROTECTION DISTRICT

By:

Dave Legits, President

ATTEST:

Secretary

APPROVED AS TO FORM:

Legal Counsel



CITY OF LOVELAND
CULTURAL SERVICES /MUSEUM •ART IN PUBLIC PLACES
503 N. Lincoln Avenue • Loveland, Colorado 80537
(970) 962-2410 • FAX (970) 962-2910 • TDD (970) 962-2833

AGENDA ITEM: 17

MEETING DATE: 9/20/2011

TO: City Council

FROM: Susan Ison, Cultural Services Department

PRESENTER: Susan Ison

TITLE:

Public Hearing and an ordinance on first reading enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for Museum programs and exhibits.

DESCRIPTION:

This is an administrative action. Donations received by the Department are appropriated for programs and exhibit expenses.

BUDGET IMPACT:

Yes No

The appropriation is totally funded by donations received from outside entities.

SUMMARY:

The Cultural Services Department seeks donations and grants throughout the year to support programming not fully funded by the department's budget. The following programs would not have been possible without our donors' generous support: Foote Lagoon Summer Concerts; Rita Dove, poet laureate, lecture and reading; *Chuck Close* exhibit; and *Hobos to Homeless* exhibit. Donors were: the Erion Foundation (\$17,000); Colorado Creative Industries (\$8500); Medical Center of the Rockies (\$5,000); First Western Trust (\$7,725); Audiology and Hearing Center (\$1,000); Kroh Foundation (\$8,685) and Poet Laureate Silver Sponsors (\$2,000). Total donation amount is \$49,910.

LIST OF ATTACHMENTS:

1. An ordinance on first reading enacting a supplemental budget and appropriation to the 2011 City of Loveland budget for Museum programs and exhibits.

RECOMMENDED CITY COUNCIL ACTION:

Conduct a Public Hearing and approve the ordinance on first reading.

REVIEWED BY CITY MANAGER:

FIRST READING September 20, 2011

SECOND READING _____

ORDINANCE NO. _____

AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2011 CITY OF LOVELAND BUDGET FOR MUSEUM PROGRAMS AND EXHIBITS

WHEREAS, the City has received funds not anticipated or appropriated at the time of the adoption of the City budget for 2011; and

WHEREAS, the City Council desires to authorize the expenditure of these funds by enacting a supplemental budget and appropriation to the City budget for 2011, as authorized by Section 11-6(a) of the Loveland City Charter.

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

Section 1. That revenues in the amount of \$49,910 from donations in the General Fund 001 are available for appropriation. Revenues in the total amount of \$49,910 are hereby appropriated for Museum programs and exhibits and transferred to the funds as hereinafter set forth. The spending agencies and funds that shall be spending the monies supplementally budgeted and appropriated are as follows:

General Fund 001 - Museum Programs and Exhibits

Revenues

001-5220-363-90-00	Contributions/Donations	49,910
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Total Revenue	49,910
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Appropriations

001-5220-409-02-08	Art Exhibit	8,500
001-5220-409-02-28	History Exhibit	20,690
001-5220-409-03-38	Marketing	6,000
001-5220-409-04-89	Artist Fees	14,720

Total Appropriations	49,910
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Section 2. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect upon final adoption, as provided in City Charter Section 11-5(d).

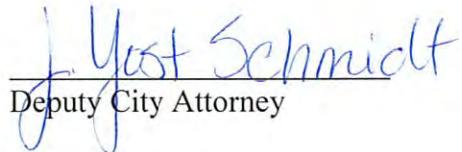
ADOPTED this ____ day of October, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney



CITY OF LOVELAND
DEVELOPMENT SERVICES DEPARTMENT
Civic Center • 500 East 3rd Street • Loveland, Colorado 80537
(970) 962-2346 • FAX (970) 962-2945 • TDD (970) 962-2620

AGENDA ITEM: 18

MEETING DATE: 9/20/2011

TO: City Council

FROM: Greg George, Development Services Director

PRESENTER: Brian Burson, Current Planning Division

TITLE:

AN ORDINANCE AMENDING TITLE 18 OF THE LOVELAND MUNICIPAL CODE REGARDING
REGULATION AND ZONING OF SMALL WIND ENERGY SYSTEMS.

DESCRIPTION:

A public hearing to consider a legislative action to adopt an ordinance, on first reading, to add provisions to Title 18 of the Municipal Code to allow Small Wind Energy Systems (small wind turbines) on residential properties, and establish standards and procedures for City review and approval of such devices.

BUDGET IMPACT:

Yes No

SUMMARY:

The ordinance proposes to allow Small Wind Energy Systems as an accessory use on residential properties in the City. Specific requirements and limitations are included in the code in the form of standards. Small Wind Energy Systems that fully comply with the proposed standards would be a use permitted by right, but subject to written notice to adjacent property owners and residents who would have the right to appeal. Small Wind Energy Systems that do not fully comply with all of the specific standards would be a use permitted only by special review, subject to the normal procedures for such, which also involves neighborhood notification and the right to appeal. Staff believes the proposed standards and procedures will appropriately balance the growing interest in alternative forms of energy generation and other important considerations such as peace and tranquility in, and the appearance and character of, residential areas in the city.

LIST OF ATTACHMENTS:

- A. Ordinance.
- B. Staff Memorandum dated September 20, 2011, with exhibits.

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to approve, on first reading, AN ORDINANCE AMENDING TITLE 18 OF THE LOVELAND MUNICIPAL CODE REGARDING REGULATION AND ZONING OF SMALL WIND ENERGY SYSTEMS.

REVIEWED BY CITY MANAGER:

FIRST READING: September 20, 2011

SECOND READING: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 18 OF THE LOVELAND MUNICIPAL CODE REGARDING REGULATION AND ZONING OF SMALL WIND ENERGY SYSTEMS

WHEREAS, City Council finds that amendment of Title 18 of the Loveland Municipal Code is necessary and required in the interest of the health, safety and welfare of the people; and

WHEREAS, the Planning Commission held a public hearing on August 8, 2011 to consider amendments to Title 18 of the Loveland Municipal Code to allow small wind energy systems (small wind turbines) on all residential properties in the City, subject to specific standards and processes, and recommended that City Council approve amendments to Chapters 18.04, 18.07, 18.08, 18.12, 18.13, 18.16, 18.20, 18.24, 18.28, 18.29, 18.30, 18.38 and 18.48 thereof; and

WHEREAS, the City Council desires to amend the Loveland Municipal Code to allow small wind energy systems (small wind turbines) on all residential properties in the City subject to specific regulations as hereinafter set forth.

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

Section 1. That Chapter 18.04 of the Loveland Municipal Code is hereby amended to add Subsections 18.04.113.3, 18.04.164.5 and 18.04.355.5 as follows:

18.04.113.3 Building-mounted small wind energy system defined.

“Building-mounted small wind energy system” means a small wind energy system which is permanently attached to the roof, wall, gable or eave of a building, but not attached or anchored into the ground.

18.04.164.5 Freestanding small wind energy system defined.

“Freestanding small wind energy system” means a small wind energy system which is permanently attached to and supported by a tower which is attached or anchored into the ground.

18.04.355.5 Small wind energy system defined.

“Small wind energy system” means any device or mechanism such as a wind charger, windmill, wind turbine, wind generator, or wind alternator which converts wind energy to

a form of original useable electrical energy, and which has a maximum output rating of 10 kilowatts (kW), including associated external components, elements or features such as base, tower, wiring, connections, batteries, and associated control equipment.

Section 2. That Section 18.07.040 of the Loveland Municipal Code is hereby amended to add subsections H. and I. as follows:

H. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

I. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 3. That Section 18.07.050 of the Loveland Municipal Code is hereby amended to add subsections K. and L. as follows:

K. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

L. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 4. That Section 18.08.010 of the Loveland Municipal Code is hereby amended to add subsections G. and H. as follows:

G. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

H. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 5. That Section 18.08.020 of the Loveland Municipal Code is hereby amended to add subsections O. and P. as follows:

O. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

P. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 6. That Section 18.12.010 of the Loveland Municipal Code is hereby amended to add subsections G. and H. as follows:

G. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

H. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 7. That Section 18.12.020 of the Loveland Municipal Code is hereby amended to add subsections O. and P. as follows:

O. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

P. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 8. That Section 18.13.020 of the Loveland Municipal Code is hereby amended to add subsections I. and J. as follows:

I. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

J. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 9. That Section 18.13.030 of the Loveland Municipal Code is hereby amended to add subsections M. and N. as follows:

M. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

N. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 10. That Section 18.16.010 of the Loveland Municipal Code is hereby amended to add subsections M. and N. as follows:

M. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with standards set forth in section 18.48.110.

N. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 11. That Section 18.16.020 of the Loveland Municipal Code is hereby amended to add subsections BB. and CC. as follows:

BB. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

CC. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 12. That Section 18.20.010 of the Loveland Municipal Code is hereby amended to add subsections K. and L. as follows:

K. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

L. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 13. That Section 18.20.020 of the Loveland Municipal Code is hereby amended to add subsections W. and X. as follows:

W. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

X. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 14. That Section 18.24.020 of the Loveland Municipal Code is hereby amended to add subsections YY. and ZZ. as follows:

YY. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

ZZ. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 15. That Section 18.24.030 of the Loveland Municipal Code is hereby amended to add subsections X. and Y. as follows:

X. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Y. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 16. That Section 18.28.010 of the Loveland Municipal Code is hereby amended to add subsections RR. and SS. as follows:

RR. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

SS. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 17. That Section 18.28.020 of the Loveland Municipal Code is hereby amended to add subsections OO. and PP. as follows:

OO. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

PP. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 18. That Section 18.29.020 of the Loveland Municipal Code is hereby amended to add subsections SS. and TT. as follows:

SS. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

TT. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 19. That Section 18.29.030 of the Loveland Municipal Code is hereby amended to add subsections Q. and R. as follows:

Q. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

R. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 20. That Section 18.30.020 of the Loveland Municipal Code is hereby amended to add subsections MM. and NN. as follows:

MM. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

NN. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 21. That Section 18.30.030 of the Loveland Municipal Code is hereby amended to add subsections X. and Y. as follows:

X. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Y. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 22. That Subsection 18.38.010 of the Loveland Municipal Code is hereby amended to read as follows:

18.38.010 Uses permitted by right.

A. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

B. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

Section 23. That Section 18.38.020 of the Loveland Municipal Code is hereby amended to add subsections J. and K. as follows:

J. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

K. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Section 24. That Chapter 18.48 of the Loveland Municipal Code is hereby amended to add Sections 18.48.110 as follows:

18.48.110 Small wind energy systems.

A. Purpose.

1. To allow opportunities for certain alternative forms of electrical energy generation in appropriate areas of the City by installation and operation of small wind energy systems;
2. To assure that small wind energy systems comply with the provisions for accessory uses, as set forth in this chapter;
3. To assure that potential negative impacts on public and private safety, aesthetics, economy and convenience that may result from a small wind energy system are adequately mitigated; and,
4. To assure that small wind energy systems are reasonably compatible with the character of the neighborhood in which they are to be located.

B. General Provisions.

1. A small wind energy system shall be deemed, and is hereby declared to be, an accessory use in designated zone districts, provided it complies with the standards set forth in this chapter, or is otherwise approved by the City pursuant to the provisions of chapter 18.40 of this title.
2. The City hereby declares that the provisions of this section shall not be deemed to establish, grant, require, assure, reserve, preserve, or imply, any easement or right of access to wind for the function of any small wind energy system approved by the City; and the City hereby expressly declares that it shall not be party to any effort, negotiation or acquisition of any such access or right to wind.
3. The allowance of small wind energy systems is not intended, nor shall it be construed, to abrogate or otherwise modify other zoning restrictions, subdivision restrictions, covenants, or other restrictions that may apply to a premise.
4. It is unlawful for any person to operate a small wind energy system that does not conform to the provisions of this section, or the conditions of approval as stated on the small wind energy system permits.

C. Definitions.

As used in this section, the following words and phrases shall have the following meanings:

1. "Abutting property" means all real property which is contiguous to the property upon which a small wind energy system is proposed, including those properties which have contiguity at only a single point of contact.
2. "Tower" means a self-supporting monopole, or other similar structure approved by the City, that is designed and constructed primarily for the purpose of supporting a small wind energy system or portion thereof.

D. General standards.

The following standards shall apply to all small wind energy systems except as otherwise approved by a special review pursuant to the provisions of chapter 18.40 of this title:

1. There shall be no more than one (1) small wind energy system per property and it shall be located on the same property as the principal dwelling for which it is an accessory use.
2. The small wind energy system shall have a maximum rated capacity not to exceed 10 kilowatts (kW).
3. Irrespective of the zoning district in which the small wind energy system is located, the small wind energy system shall be located a minimum distance of twenty (20) feet from all property lines of the property upon which the small wind energy system is located. A small wind energy system may not be located in a dedicated easement or right-of-way.
4. Notwithstanding sub-section 18.48.110.D.3, no small wind energy system shall be located in the front yard of any property, as defined in subsection 18.04.420.1 of this title.
5. The small wind energy system shall comply, at all times, with the maximum allowable noise levels set forth in chapter 7.32 of the municipal code.
6. The small wind energy system shall be designed and installed in compliance with all applicable provisions of chapter 15 of this title as determined by the building official.
7. For properties which receive electrical power from the City of Loveland, the small wind energy system shall be in compliance with "The Standard for Interconnecting Distributed Resources with the City of Loveland Power Department," including a site inspection by a representative of the water and power department prior to approval of a building permit. For properties which receive electrical power from another public provider of electric power, no building permit shall be approved until the applicant has submitted written verification from said provider that they have reviewed the permit application and have determined that the small wind energy system will meet all

requirements of said provider. Off-grid systems shall be exempt from these requirements.

8. No advertising or signs may be placed on the small wind energy system other than those incorporated by the manufacturer.

9. Colors of all external surfaces of the small wind energy system must uniformly be matte grey or other neutral or muted colors approved by the City which best blends the small wind energy system into its surroundings.

10. No illumination of the small wind energy system shall be allowed unless required by the regulations of the Federal Aviation Administration, by the manager for the Loveland-Fort Collins Airport, or if said illumination is not directly visible beyond the property upon which the small wind energy system is located.

11. The small wind energy system shall be equipped with a manual override system to allow shut-down in case of an emergency.

12. The small wind energy system shall be equipped with an automatic braking, governing, or feathering system to assure that over-rotation cannot occur.

13. Any small wind energy system that is out of service for a continuous period of twelve (12) months may be deemed by the City to be abandoned and the permit for the small wind energy system may be revoked, whereupon the small wind energy system shall be deemed a violation of this title and subject to removal by the property owners pursuant to the provisions of chapter 18.68 of this title.

14. The electrical energy produced by a small wind energy system shall be stored, used or consumed only on the same property upon which the small wind energy system is located, except when connected to a public provider system in compliance with "The Standards for Interconnecting Distributed Resources with the City of Loveland Power Department" or other applicable standards adopted by said other public provider of electrical power to the property.

15. Electrical lines or ground wires connecting a small wind energy system to other functional components, elements, or features, including service cabinets, battery cabinets, and accessory components, or to a building on the property shall be located internal to, or attached immediately upon, the external surfaces of the small wind energy system or the building upon which the small wind energy system is attached.

E. Additional standards for building-mounted small wind energy systems.

In addition to the general standards set forth in sub-section D. above, all building-mounted small wind energy systems shall comply with the following standards except as otherwise approved pursuant to the provisions of chapter 18.40 of this title:

1. A building-mounted small wind energy system shall be permanently attached to a permitted principal or accessory building on the property.
2. The maximum total height of a building-mounted small wind energy system which is attached directly to the roof of a building shall be ten (10) feet above the highest point of the roof upon which the small wind energy systems is attached. The maximum total height of a small wind energy system which is attached to a building in some manner other than directly to the roof shall be ten (10) feet above the highest point of the roof to which it is most closely located.
3. Any guy wires, tether wires, or stabilizing wires needed to affix the small wind energy system to a building shall be attached only to the building upon which the small wind energy system is attached.
4. When a building-mounted small wind energy system is attached to the wall, gable or eave of a building, the support structure shall be positioned and attached to the building so that its relative position is as close to the building as can be practically and reasonably accomplished by standard construction techniques, as determined by the current planning manager and building official.

F. Additional standards for freestanding small wind energy systems.

In addition to the general standards set forth in section D. above, all freestanding small wind energy system shall comply with the following standards except as otherwise approved pursuant to the provisions of chapter 18.40 of this title:

1. The tower upon which the small wind energy system is attached shall be a self-supporting mono-pole with no other means of support or stabilization such as guy wires, tether wires, or stability wires. However, on a case-by-case basis, the current planning manager may approve other types of towers, based upon a determination that the proposed tower will not have a negative visual impact on the neighborhood or adjacent properties, and provided the tower is designed by a professional engineer currently licensed in the State of Colorado. When submitted to the City, the plans for all towers shall be stamped by the designing professional engineer.
2. The maximum total height of any freestanding small wind energy system shall be thirty-five (35) feet above grade directly below, as defined in sub-section 18.04.113.2 of this title.
3. The distance between the bottom of rotor blades, at their lowest point of arc, to grade, as defined in sub-section 18.04.113.2 of this title, shall be a minimum of fifteen (15) feet.
4. No permanently attached mechanism for access to or onto the tower, which mechanism is incorporated or attached to the tower such as foot pegs, steps, rungs or ladders, shall be within twelve (12) feet of the grade directly below.

5. Appropriate warning signage shall be placed on both the small wind energy system and tower in accordance with the manufacturer's recommendations.
6. The minimum horizontal distance between the small wind energy system, and all property lines shall be ten percent (10%) greater than the total height of the small wind energy system.
7. The horizontal distance between the tower and all overhead public utility lines shall be twenty-five percent (25%) greater than the total height of the small wind energy system.

G. Application and review procedure.

1. No person shall install a small wind energy system within the City without first obtaining the appropriate permits from the City, as determined by the current planning manager and the building official at the time of application. The applicant shall submit the required applications to the City on forms required by the City, including the application fee, as determined by City Council resolution, and all other items set forth on the submittal checklist determined by the current planning manager.
2. Upon completion of review by the City, the City shall notify the applicant whether a final decision can be made, or if the application must be revised and further reviewed. Upon City determination that a final decision can be made, the City shall issue its final decision in the form of a written notice.
3. Upon issuance of the final decision, a copy of the written notice shall be mailed by the City to the applicant and to all owners and tenants of abutting properties, as indicated on the mailing list. All notified persons shall have ten (10) days from the date of mailing to submit an appeal of the final decision, pursuant to the provisions of chapter 18.80 of this title.
4. No permit shall be issued by the City until the City determines that the small wind energy system will be installed and operated in compliance with all requirements determined by the City, and that all appeal processes have concluded in a manner which allows issuance of the permit.

H. Issuance of permits.

1. Upon completion of any appeal process regarding the proposed small wind energy system, and if the application is approved, the City shall issue all permits necessary to allow installation and operation of the small wind energy system as described in the application and in accordance with any conditions placed on the permits by the City.
2. Prior to the issuance of said permits, the applicant shall certify that he or she will install and operate the small wind energy system in conformity with the provisions of

this title and any conditions determined by the City as part of the review and approval process.

I. Revocation of permits and appeal provisions.

Any permits issued by the City for a small wind energy system may be revoked by the City if the City finds any of the following:

1. The small wind energy system no longer conforms to the provisions of this section or the conditions of approval accompanying the approval of the permits.
2. The mailing list provided by the applicant was faulty.
3. The applicant failed to follow the application, review and appeal process.

Written notification of said revocation shall be mailed to the last known address of the permit holder and shall include findings in support of the revocation and the applicant's rights of appeal. The date of the mailing shall be the date of notification. The permit holder and/or the current owner of the property may file a written appeal of the City's decision as provided for in chapter 18.80 of this title.

Section 25. That as provided in City Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full. This Ordinance shall be in full force and effect ten days after its final publication, as provided in City Charter Section 4-8(b).

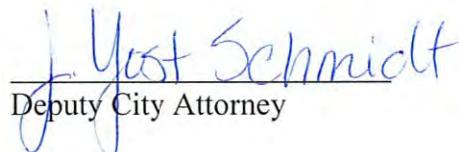
ADOPTED this _____ day of _____, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


J. Yost Schmidt
Deputy City Attorney



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Memorandum

TO: City Council

FROM: Brian Burson, Current Planning Division

DATE: September 20, 2011

SUBJECT: Amendments to Title 18 to allow small wind energy systems (wind turbines)

I. EXHIBITS

- A. August 8, 2011 Planning Commission staff report, with Attachments 1-2
- B. Approved August 8, 2011 Planning Commission minutes

II. EXECUTIVE SUMMARY

A. Project Description

This application proposes to allow small wind energy systems, (small wind turbines) as an accessory use on all residential properties in the City, subject to specific standards and process. Small wind energy systems could be either building-mounted (including roof-mounted or gable-mounted) or freestanding (pole-mounted).

As set forth in Chapter 18.48 of the Municipal Code, all accessory uses are required to be a subordinate use on the property which is:

- Clearly incidental to the principal use of the property;
- Customary in connection with the principal building or use;
- Ordinarily located on the same property as the principal use

The proposed standards are written to assure that small wind energy systems would be an accessory use that is not likely to prompt significant concern or objection by adjacent property owners or the neighborhood. However, since small wind energy systems will be a new allowed use, it is impossible to say they are currently "customary" in connection with any residential uses in the City. This is always

a problem for allowing the first of anything. In order to address this issue, the proposed code expressly stipulates that a small wind energy system will be deemed as an accessory use.

Small wind turbines that fully comply with all of the specific standards would be an accessory use that could be approved by the City through staff review and issuance of the appropriate permits. Small wind turbines that do not fully comply with all of the specific standards could prompt some measure of concern or objection by the adjacent property owners or neighborhood, and therefore would be a use-by-special review. If approved as a use-by-special review, the small wind energy system would still be deemed as an accessory use. The basic elements of the amendments are as follows:

- Limited to one wind turbine per property, with a maximum rating of 10 kilowatts;
- Limit the height to 10 feet above the ridge line of the roof for building-mounted small wind energy systems; or 35 feet from grade for freestanding small wind energy systems;
- Require appropriate distances from all property lines and all overhead utility lines to limit the impacts and prevent damage to other property and improvements;
- Minimize visual impacts by requiring neutral or muted colors, minimizing guy wires, and prohibiting signs and lights on the devices or towers;
- Assure compliance with the existing noise ordinance for residential properties.

All of the proposed code is new content, except for striking the first line of text from Section 18.38.010. of the DR-Developing Resources Zoning District. Rather than include the entire proposal as strike-out and red-line text to portray this element, it is included below for clarification. The accompanying ordinance includes a complete compilation of the proposed additions to the code.

"18.38.010 Uses permitted by right.

~~There are no uses permitted by right in a DR district."~~

- A. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.
- B. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

B. Key Issues

During the process for this code amendment, the following concerns have been identified and evaluated. Staff believes the proposed code adequately addresses each of these issues in a manner that balances the growing interest in alternative forms of energy production with the important issues of appearance and character of residential neighborhoods.

1. Visual clutter and obtrusive appearance
2. Noise
3. Safety of devices and towers
4. Signs and illumination on devices and towers
5. Impacts to birds and animals
6. Impacts to adjacent properties and neighborhood

7. Compliance with local and state codes
8. Safety and compatibility with public power supply
9. Abandonment/disuse
10. Lack of overarching testing and approval entity such as Underwriters Laboratory

Staff has researched information from various sources such as U.S. Energy Department, the State of Colorado, Rocky Mountain Land Use Institute, American Planning Association, American Wind Energy Association and other regional, state, and local governments, to determine if small wind-energy systems could become a viable source of renewable alternative energy in Loveland. This research has indicated the following which addresses these matters of concern:

- A small wind energy generator is generally considered as one with the capacity of 100 kilowatts (kW) or less. Most communities cap these at 10 kilowatts due to the current size of the generators and associated towers, as well as the complications that result to public providers of electric energy.
- The average household in the U.S. consumes 9,400 kWh per year, 783 per month, 26 kWh per week. (For comparison, the City of Loveland Power Department recently reports that the electric power consumed by the average residence in Loveland is currently 728 kWh per month.) Expert sources indicate that this average demand could be supplied by a 10 kW small wind-energy generator operating at 50% capacity for approximately 40% of an average twenty-four hour period.
- Certain regions of the U.S. are more suitable than others for use of wind as an alternative source of energy. Some estimates indicate that the wind energy potential in the state of North Dakota could provide up to 25% of the total U.S. demand. However, the northern front range of Colorado has a fairly low average wind speed, and therefore limited potential for effective use of small wind energy generators.
- Wind maps that are available for areas of the U.S. typically measure wind speeds at 150 feet height above the surface. Small wind generators cannot reach “full capacity” unless they are in “good” wind areas and the generator height is approximately 150 feet above the surrounding surface. Capacity drops dramatically as generator height diminishes, and reaching 50% capacity requires a height of approximately 65 feet. The potential capacity is lower in poor wind areas, and lower still with generator heights of less than 65 feet.
- Most sources agree that for any meaningful capacity, generator height must be at least 80 feet, which is normally far taller than traditionally allowed by local zoning codes. One source indicated that, “Limiting small wind generators to 35 feet is like installing a solar panel in the shade.” Heights less than 80 feet subject the generator to increased fluctuations in wind speed and increased turbulence which diminishes its effectiveness and may even damage the generator.
- Expert sources indicate that for wind generators to be reasonably effective at any height, , the generator must be at least 30 feet taller than any other obstacle within a distance of approximately 300 feet, including structures, trees, ridges, etc.

- According to wind maps published by the U.S. Energy Department, average wind speed in the Loveland-Fort Collins area is approximately 7 mph. Many small wind generators currently on the market do not even function below wind speeds of 5 mph. These are useful only for very limited power generation, as described above. Therefore, with current technology, small wind generators can be sufficient only for such things as charging boat, motorcycle and cell phone batteries, or for “trickle charging” a system of battery-operated power, etc. With ongoing technological advances, limited power systems for residential properties are likely to be achieved.
- Small wind energy generators can be mounted on either structures or towers (monopoles, lattice towers, etc.). However, the U.S. Energy Department strongly discourages mounting them on structures due to the vibrations which are transferred to the structure, which can increase the noise levels from the generator and can cause long term damage to the structure itself.
- Noise levels emanating from small wind energy generators are typically 50–60 db(A), which is approximately the same as a residential refrigerator or large ceiling fan. Mounting the generator on a building can increase this noise unless mounted in a manner that does not transfer the vibrations to the structure itself. City of Loveland noise ordinance limits noise in residential areas to 55 db(A) during the day and 50 db(A) at night. The noise ordinance is not part of the zoning code, and the noise produced by small wind energy generators will be investigated and enforced in the same manner as all other noise complaints in the City.
- Bird and bat kills by rotating small wind generators are far less than feared, except in specific areas and flyways. Research has shown that more birds and bats are killed each year by sliding glass doors/picture windows and household cats. The Audubon Society has issued a formal statement supporting wind energy generation as long as special areas and flyways are appropriately identified and protected.
- Small wind generators do not normally interfere with radio, TV and cell phone signals; they do not create “flicker shadow” on nearby structures and areas; they do not emit vibrations in high winds; and they do not throw ice or blades. They are all typically designed to withstand winds up to 130 mph.
- Although a qualified person may be able to design and build their own small wind generator, most will be acquired as a “kit” from established manufacturers of these devices. The manufacturer usually provides a device that is designed and stamped by an engineer, but he/she may not be an engineer licensed in the State of Colorado.
- Even with design by a licensed engineer, the overall assembly and installation will not be performed, supervised or assured by a licensed engineer.

C. Planning Commission Recommendation

On August 8, 2011, the Planning Commission held a public hearing to consider the code amendments. No one from the public attended or offered either written or verbal testimony.

At the hearing, staff recognized that some further minor refinements were needed to a few portions of the proposed code to assure that the difference between building-mounted small wind energy systems and freestanding small wind energy systems was clear; that the provisions for maximum height for each could be clearly and consistently administered; and to assure that support structures for building mounted small wind energy systems had a limited visual impact. The refinements affected the definitions for each of the types of devices, as well as one of the standards for building mounted small wind energy systems. These revisions have been made to the proposed code, as follows:

18.04. 113.3 Building-mounted small wind energy system defined.

“Building-mounted small wind energy system” means a small wind energy system which is permanently attached to the roof, walls, ~~or~~ gable **or eave** of a building, but not attached or anchored into the ground.

18.04.164.5 Freestanding small wind energy system defined.

“Freestanding small wind energy system” means a small wind energy system which is permanently attached to and supported by a tower which is attached or **anchored into** the ground.

18.48.110.E. 4. When a building-mounted small wind energy system is attached ~~in the manner described in sub-section 18.04.113.3.b~~ **to the wall, gable, or eave of a building**, the support structure shall be positioned and attached to the building so that its relative position is as close to the building as can be practically and reasonably accomplished by standard construction techniques, as determined by the Current Planning Manager **and Chief Building Official**.

D. Subsequent to Planning Commission

Since the Planning Commission hearing, no inquiries or concerns from the general public have been received by the Current Planning staff.

(For further analysis, please see the August 8, 2011 Planning Commission staff report included with this staff memorandum as **Exhibit A.**)



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Planning Commission Staff Report

August 8, 2011

Agenda #:	Regular Agenda - 2	Staff Recommendation
Title:	Amendments to Title 18 to allow small wind energy systems (wind turbines) on residential properties	Subject to additional evidence presented at the public hearing, City staff recommends the following motion:
Applicant:	City of Loveland Current Planning Division	Recommended Motion:
Request:	Amendments to Title 18	<i>"Move to recommend the City Council approve the amendments to Title 18 of the Loveland Municipal Code, as set forth in Attachment #3 of the attached Planning Commission staff memorandum, dated August 8, 2011, as amended on the record; and to authorize the City Attorney's Office to correct spelling, punctuation, and clerical and typographical errors, and make other such other modifications in form, but not substance, as necessary to effectuate the purposes of the recommended amendments."</i>
Staff Planner:	Brian Burson	

Summary of Analysis:

This is a public hearing to consider amendments to Title 18 of the City of Loveland Municipal Code to allow small wind energy systems, (small wind turbines) on all residential properties in the City, subject to specific standards and process. Small wind energy systems could be either building-mounted or freestanding. Small wind turbines that fully comply with all of the specific standards would be a use-by-right as an accessory use. Small wind turbines that do not fully comply with all of the specific standards would be a use-by-special review. If approved as a use-by-special review, the small wind energy system would still be deemed as an accessory use.

In early 2009, City staff received an inquiry from a Loveland resident expressing interest in installing a small wind-energy generator on his property, as well as marketing the devices in the region. Currently, there are no provisions in the City code to allow these devices. City staff has been working with the Title 18 Committee to propose code amendments that would allow such devices on residential properties, subject to specific standards and process and in a manner that balances private, neighborhood, and public interests. Staff has also consulted with the Loveland Utilities Commission and the Construction Advisory Board. Study sessions have been held with the Planning Commission and City Council which resulted in positive response and general support. When allowed as a use-by-right, written notice to all adjacent property owners and residents will be required before City approval. When proposed as a use-by-special review, the normal written and posted notice to the neighborhood will be required as part of the normal process.

I. ATTACHMENTS:

1. Red-line draft of proposed Title 18 amendments
2. Clean draft of proposed Title 18 amendments

II. SUMMARY OF PROPOSED AMENDMENTS:

The proposed amendments would allow small wind energy systems, (small wind turbines) as an accessory use on all residential properties in the City, subject to specific standards and process. Small wind energy systems could be either building-mounted (including roof-mounted or gable-mounted) or freestanding (pole-mounted). As set forth in Chapter 18.48 of the Municipal Code, all accessory uses are required to be a subordinate use on the property which is:

- Clearly incidental to the principal use of the property;
- Customary in connection with the principal building or use;
- Ordinarily located on the same property as the principal use

The proposed standards are written to assure that small wind energy systems would truly be an accessory use, not likely to prompt significant concern or objection by the adjacent property owners or neighborhood. However, since small wind energy systems will be a new allowed use, it is impossible to say they are "customary" in connection to residential uses in the City. This is always a problem for allowing the first examples of anything. In order to address this issue, the proposed code expressly stipulates that a small wind energy system will be deemed as an accessory use.

Small wind turbines that fully comply with all of the specific standards would be an accessory use that could be approved by the City through staff review and issuance of the appropriate permits. Small wind turbines that do not fully comply with all of the specific standards could prompt some measure of concern or objection by the adjacent property owners or neighborhood, and therefore would be a use-by-special review. If approved as a use-by-special review, the small wind energy system would still be deemed as an accessory use.

The basic elements of the amendments are as follows:

- Limited to one per property, with a maximum rating of 10 kilowatts;
- Limit the height to 10 feet above the ridge line of the roof or 35 feet from grade for freestanding;
- Require appropriate distances from all property lines and all overhead utility lines to limit the impacts and prevent damage to other property and improvements;
- Minimize visual impacts by requiring neutral or muted colors, minimizing guy wires, and prohibiting signs and lights on the devices or towers;
- Assure compliance with the existing noise ordinance for residential properties.

III. BACKGROUND

In early 2009, City staff received an inquiry from a Loveland resident expressing interest in installing small wind-energy generators on his property, as well as marketing the devices in the region. Based on the current zoning code, staff determined that the current zoning code would not allow installation of the desired device, because it cannot be considered as "customary" under the current code provisions. This prompted staff to initiate research to determine what would be necessary and appropriate in order to allow small wind turbines in residential areas of the City.

Growing concerns about rising costs, interrupted or diminishing supplies and available energy resources are prompting citizen interest in alternative sources of energy for both the immediate and long-term future. As the public and private interest increases for alternative and renewable forms of energy, cities and counties around the nation are adopting local codes to appropriately accommodate such devices. The federal government is encouraging and supporting development and use of various forms of alternative energy. The state government has also adopted incentives, and has passed legislation to limit the powers of private home owners associations to inappropriately interfere with installation of certain alternative energy devices on residential properties. The policies, incentives and support forthcoming thus far emphasize the need for a variety of measures on multiple levels to meet the rising future demand on energy resources, including smaller applications which can be implemented by individual citizens. This array of factors has prompted staff to initially focus on allowances for small wind-energy generators (traditional wind turbines) which could be used for augmentation to normal electrical energy resources for residential users.

Staff has endeavored to strike an appropriate balance between respecting the overall purposes of the zoning code and the long term public and private interest in this form of alternative energy. These amendments would be the first step in a larger overall effort to allow other forms of alternative energy to be pursued by residents of the City, as appropriate. Additional amendments are anticipated in the future to allow alternative energy in non-residential zones. This would take a much larger effort on the part of the City.

IV. RESEARCH

Staff has researched information from various sources such as U.S. Energy Department, the State of Colorado, Rocky Mountain Land Use Institute, American Planning Association, American Wind Energy Association and other local governments around the nation, to determine if small wind-energy systems could become a viable source of renewable alternative energy in Loveland. Staff research has discovered that, since potential for wind energy is governed by basic principles of physics and the current state of technology, there is a remarkable consensus within the public and private sectors regarding design, installation and use of small wind-energy generators, as well as the viable potential of such devices.

These available sources of expertise clearly indicate that the potential for viable electric power by small wind energy generators on individual residential properties in Loveland is very limited. Under the current technology, prevailing wind speeds and patterns are not likely to generate a substantial amount of electrical power from a small generator with a height that is appropriate for

residential zones. Expert sources indicate that, in order for a wind turbine to operate with reasonable capacity, it must be at least 80 feet above the ground, and 30 feet above all other objects within 300 feet of the generator. To function at full capacity, a wind turbine must be 120 feet above the ground. This is not viable for most home owners and most neighborhoods. The information available to staff indicates that, with current technology, the available wind energy in the Loveland area is only sufficient for basic emergency lighting or such limited uses as charging the batteries of motor-cycles, boats or cell phones. However, as viewed from a larger perspective, the potential for shrinking or unavailable resources at the national and international level, the forward impetus in technology, and the growing demand for alternative energy sources, accommodating alternative sources may be in the best long-term interest of the City.

Another issue that has clearly surfaced in the research is that use of currently available forms of alternative energy sources can often be inadvertently hindered by traditional local regulations, especially for traditional residential areas. Much of the current City of Loveland zoning code was adopted in 1973-1993, when the need for alternative renewable energy was not keenly felt, and certain elements of technology were not available. Therefore the current zoning code does not adequately accommodate some of the typical devices now available, especially on private residential properties. The main body of the current zoning code was written in the early 1970s and it was never amended to accommodate any type of alternative energy devices such as solar hot-water systems, solar panels, wind generators, etc. Solar panels are now considered acceptable under the parameters of "customary and incidental" under the Accessory Uses section of the code. However, the currently available forms of small wind-energy devices would not be considered "customary and incidental" and cannot currently be allowed unless the code is amended.

Primary sources consulted by staff further recommend that regulation of small wind turbines be held to a strict minimum, to hold down costs and other discouraging factors. Although staff can easily understand the desire to keep the use of alternative energy a relatively simple matter for a property owner to achieve, the visual and noise impact issues sometimes linked to wind turbines also prompts concern from some participants. Therefore this updated draft includes provisions to assure written notice to adjacent owners and residents and appeal rights, under the procedures of the recently adopted Chapter 18.80.

V. PROCESS FOLLOWED

The proposed amendments have been thoroughly discussed with the Title 18 Committee, as well as various City departments to assure that any proposed code amendments will be consistent and compatible with the other City codes, standards and procedures. Consultations, presentations and discussions of the proposal have occurred as follows:

Title 18 Committee: September 14, 2009
October 22, 2009
November 19, 2009
May 27, 2011

Planning Commission
study session: October 26, 2009

Loveland Utilities
Commission: April 21, 2010

Construction Advisory
Board: April 21, 2010

City Council
study session: April 27, 2010

VI. MAJOR COMPONENTS

The basic elements of the amendments are as follows:

1. Use the term "Small wind-energy system" (SWES) for these devices. This is becoming the common term in the industry and would accommodate developing and future forms other than the traditional wind turbine which is currently popular on the market.
2. Allow building-mounted and free-standing SWES upon all residential properties in the City, including grandfathered residential uses in the DR zone, as an accessory use. This would require compliance with all normal limitations and requirements for any other accessory use, along with other specific standards for the SWES to balance the need for alternative forms of energy with the overall purposes of the zoning code. The proposed standards include:
 - a. Limit the rated capacity of the SWES to 10 kW;
 - b. Allow only one per property;
 - c. Limit the height to 35 feet from grade, or 10 feet above the ridge line of the roofline;
 - d. Require minimum distance from property lines and easements to assure that any collapse of the device or a support tower will not result in danger to adjacent properties or public utilities. No freestanding SWES would be allowed in the front yard of a property.
 - e. Require SWES to be equipped with manual override system, automatic braking system, and governing or feathering system to allow shut down and prevent over-rotation;
 - f. Require a minimum of 15 feet between the bottom arc of the blades to the ground below (freestanding SWES only).
 - g. Allow no permanent access mechanisms such as foot pegs, steps, rungs or ladders within 12 feet of the ground below;

- h. Require compliance with all pertinent Building and Electric Codes and requirements of the City of Loveland Power Department or any other public provider of electric power for the property;
- i. Require uniform neutral or muted colors approved by the City to blend into the surroundings;
- j. Allow no illumination allowed unless required by FAA or the Airport Manager for purposes of safety;
- k. Allow no signs to be installed on, or be part of, the SWES or its support members;
- l. Require towers for freestanding SWES to be monopoles. Other types of support structures, such as the traditional "triangular web-joist" or "lattice towers", could be approved through the special review process, or on a case-by-case basis, by the Current Planning Manager;
- m. Restate that the maximum noise levels set forth in the City noise ordinance applies to the SWES. This limits noise in residential areas to 55 db(A) during the day and 50 db(A) at night, measured 25 feet beyond the property line. This is compared to the noise produced by the average household refrigerator, and would be less noise than produced from an external residential AC unit. There is no need to include noise provisions in the Title 18 amendments other than to reference them for awareness and consistency. The City noise ordinance is not part of the zoning code, and cannot be varied by any provisions of the zoning code or related standards.

3. Allow building-mounted and freestanding SWES which do not fully comply with these standards as a use-by-special review in all residential zones. If the non-conforming element(s) of the Applicant's proposal is related to building code, electric code, etc., it could also require approval through other advisory bodies, such as Construction Advisory Board.

4. The proposed code does not require the design or plans for each individual turbine device to be stamped and signed by a Colorado PE. All professional and technical sources of information urge that this should not be done because it escalates the costs prohibitively, and adds nothing to the safety issues. The continuing absence of any overarching review and approval/certification entity, such as URL, is a problem that cannot be resolved by the City. If other pertinent codes, such as building code or electric code require this, it will be determined as part of the permit review by the Building Division.

5. The U.S. Energy Department recommends that SWES not be mounted on the roof of a building, due to potential of increased noise and vibrations, possibly resulting in structural damage over time. However, after considerable discussion on this matter by the Title 18 Committee and other participants, the proposed code does not include provisions for prevention or dampening of noise or vibrations to the structure at the mounting points upon which it is mounted. This will be treated as a "buyer-beware" issue for the owner to consider. If dependable model codes are offered in the future, the City can consider adding it in the future.

Attachments # 1 and #2 to this staff memorandum describe the staff proposal, in the form of actual code amendments that will be needed to implement the allowance for Small wind-energy systems (SWES) for residential properties in Loveland. We believe this will be an important first step in a longer and more valuable effort of the City to be better prepared for the energy needs of the future.

PROPOSED TITLE 18 AMENDMENTS
SMALL WIND ENERGY SYSTEMS - Red-lines

PLANNING COMMISSION PUBLIC HEARING
August 8, 2011

A. Add definitions:

1. Add sub-section 18.04.355.5 to read as follows:

18.04.355.5 Small wind energy system defined.

“Small wind energy system” means any device or mechanism such as a wind charger, windmill, wind turbine, wind generator, or wind alternator which converts wind energy to a form of original useable electrical energy, and which has a maximum output rating of 10 kilowatts (kW), including associated external components, elements or features such as base, tower, wiring, connections, batteries, and associated control equipment.

2. Add sub-section 18.04.113.3 to read as follows:

18.04.113.3 Building-mounted small wind energy system defined.

“Building-mounted small wind energy system” means a small wind energy system which is permanently attached to the roof, walls, or gable of a building, but not attached or anchored into the ground.

3. Add sub-section 18.04.164.5 to read as follows:

18.04.164.5 Freestanding small wind energy system defined

“Freestanding small wind energy system” means a small wind energy system which is permanently attached to and supported by a tower which is anchored into the ground.

B. Allow both building-mounted and freestanding small wind energy systems which comply with the specific standards in chapter 18.48 on all residential properties in the City as a use-by-right accessory use. This would include residential properties in the Be, B, MAC and E zones, and on properties in the DR zone which have a grandfathered residential use. Also allow building-mounted and freestanding SWES which does not comply with the normal standards as a use-by-special review on all such properties:

1. ER District:

- a. Add sub-sections 18.07.040. H. and I. as follows:

H. Building–mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

I. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.07.050. K. and L. as follows:

K. Building–mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

L. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

2. R1e District:

a. Add subsections 18.08.010. G. and H. as follows:

G. Building–mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18. 48.110.

H. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.08.020. O. and P. as follows:

O. Building–mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

P. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

3. R1 District:

a. Add sub-sections 18.12.010. G. and H. as follows:

G. Building–mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18. 48.110.

H. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.12.020. O. and P. as follows:

O. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

P. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

4. R2 District:

a. Add sub-sections 18.13.020. I. and J. as follows:

I. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18. 48.110.

J. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.13.030. M. and N. as follows:

M. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

N. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

5. R3e District:

a. Add sub-sections 18.16.010. M. and N. as follows:

M. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with standards set forth in section 18. 48.110.

N. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.16.020. BB. and CC. as follows:

BB. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

CC. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

6. R3 District:

a. Add sub-sections 18.20.010. K. and L. as follows:

K. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18. 48.110.

L. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.20.020. W. and X. as follows:

W. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

X. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

7. Be District:

a. Add sub-sections 18.24.020. YY. and ZZ. as follows:

YY. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

ZZ. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.24.030. X. and Y. as follows:

X. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

Y. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

8. B District:

a. Add sub-sections 18.28.010. RR. and SS. as follows:

RR. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

SS. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.28.020. OO. and PP. as follows:

OO. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

PP. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

9. MAC District:

a. Add sub-sections 18.29.020. SS. and TT. as follows:

SS. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

TT. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.29.030. Q. and R. as follows:

Q. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

R. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

10. E District:

a. Add sub-sections 18.30.020. MM. and NN. as follows:

MM. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

NN. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.30.030. X. and Y. as follows:

X. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

Y. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

11. DR District:

a. Amend sub-section 18.38.010. to read as follows:

18.38.010 Uses permitted by right.

There are no uses permitted by right in a DR district.

A. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

B. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.38.020. J. and K. as follows:

J. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

K. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

C. Establish a new sub-section in Chapter 18.48 to allow small wind energy systems, as follows:

18.48.110 Small wind energy systems

A. Purpose.

1. To allow opportunities for certain alternative forms of electrical energy generation in appropriate areas of the City by installation and operation of small wind energy systems;
2. To assure that small wind energy systems comply with the provisions for accessory uses, as set forth in this chapter;
3. To assure that potential negative impacts on public and private safety, aesthetics, economy and convenience that may result from a small wind energy system are adequately mitigated; and,
4. To assure that small wind energy systems are reasonably compatible with the character of the neighborhood in which they are to be located.

B. General Provisions

1. A small wind energy system shall be deemed, and is hereby declared to be, an accessory use in designated zone districts, provided it complies with the standards set forth in this chapter, or is otherwise approved by the City pursuant to the provisions of chapter 18.40 of this title.
2. The City hereby declares that the provisions of this section shall not be deemed to establish, grant, require, assure, reserve, preserve, or imply, any easement or right of access to wind for the function of any small wind energy system approved by the City; and the City hereby expressly declares that it shall not be party to any effort, negotiation or acquisition of any such access or right to wind.
3. The allowance of small wind energy systems is not intended, nor shall it be construed, to abrogate or otherwise modify other zoning restrictions, subdivision restrictions, covenants, or other restrictions that may apply to a premise.

C. Definitions. As used in this section, the following words and phrases shall have the following meanings:

1. "Abutting property" means all real property which is contiguous to the property upon which a small wind energy system is proposed, including those properties which have contiguity at only a single point of contact.
2. "Tower" means a self-supporting monopole, or other similar structure approved by the City, that is designed and constructed primarily for the purpose of supporting a small wind energy system or portion thereof.

D. General standards. The following standards shall apply to all small wind energy systems except as otherwise approved by a special review pursuant to the provisions of chapter 18.40 of this title:

1. There shall be no more than one (1) small wind energy system per property and it shall be located on the same property as the principal dwelling for which it is an accessory use.

2. The small wind energy system shall have a maximum rated capacity not to exceed 10 kilowatts (kW).
3. Irrespective of the zoning district in which the small wind energy system is located, the small wind energy system shall be located a minimum distance of twenty (20) feet from all property lines of the property upon which the small wind energy system is located. A small wind energy system may not be located in a dedicated easement or right-of-way.
4. Notwithstanding sub-section 18.48.110.D.3, no small wind energy system shall be located in the front yard of any property, as defined in subsection 18.04.420.1 of this title.
5. The small wind energy system shall comply, at all times, with the maximum allowable noise levels set forth in chapter 7.32 of the municipal code.
6. The small wind energy system shall be designed and installed in compliance with all applicable provisions of chapter 15 of this title as determined by the chief building official.
7. For properties which receive electrical power from the City of Loveland, the small wind energy system shall be in compliance with "The Standard for Interconnecting Distributed Resources with the City of Loveland Power Department", including a site inspection by a representative of the water and power department prior to approval of a building permit. For properties which receive electrical power from another public provider of electric power, no building permit shall be approved until the applicant has submitted written verification from said provider that they have reviewed the permit application and have determined that the small wind energy system will meet all requirements of said provider. Off-grid systems shall be exempt from these requirements.
8. No advertising or signs may be placed on the small wind energy system other than those incorporated by the manufacturer.
9. Colors of all external surfaces of the small wind energy system must uniformly be matte grey or other neutral or muted colors approved by the City which best blends the small wind energy system into its surroundings.
10. No illumination of the small wind energy system shall be allowed unless required by the regulations of the Federal Aviation Administration, by the manager for the Loveland-Fort Collins Airport, or if said illumination is not directly visible beyond the property upon which the small wind energy system is located.
11. The small wind energy system shall be equipped with a manual override system to allow shut-down in case of an emergency.
12. The small wind energy system shall be equipped with an automatic braking, governing, or feathering system to assure that over-rotation cannot occur.

13. Any small wind energy system that is out of service for a continuous period of twelve (12) months may be deemed by the City to be abandoned and the permit for the small wind energy system may be revoked, whereupon the small wind energy system shall be deemed a violation of this title and subject to removal by the property owners pursuant to the provisions of chapter 18.68 of this title.

14. The electrical energy produced by a small wind energy system shall be stored, used or consumed only on the same property upon which the small wind energy system is located, except when connected to a public provider system in compliance with "The Standards for Interconnecting Distributed Resources with the City of Loveland Power Department" or other applicable standards adopted by said other public provider of electrical power to the property.

15. Electrical lines or ground wires connecting a small wind energy system to other functional components, elements, or features, including service cabinets, battery cabinets, and accessory components, or to a building on the property shall be located internal to, or attached immediately upon, the external surfaces of the small wind energy system or the building upon which the small wind energy system is attached.

E. Additional standards for building-mounted small wind energy systems.

In addition to the general standards set forth in sub-section D. above, all building-mounted small wind energy systems shall comply with the following standards except as otherwise approved pursuant to the provisions of chapter 18.40 of this title:

1. A building-mounted small wind energy system shall be permanently attached to a permitted principal or accessory building on the property.

2. The maximum total height of a building-mounted small wind energy system which is attached directly to the roof of a building shall be ten (10) feet above the highest point of the roof upon which the small wind energy system is attached. The maximum total height of a small wind energy system which is attached to a building in some manner other than directly to the roof shall be ten (10) feet above the highest point of the roof to which it is most closely located.

3. Any guy wires, tether wires, or stabilizing wires needed to affix the small wind energy system to a building shall be attached only to the building upon which the small wind energy system is attached.

4. When a building-mounted small wind energy system is attached in the manner described in sub-section 18.04.113.3.b, the support structure shall be positioned and attached to the building so that its relative position is as close to the building as can be practically and reasonably accomplished by standard construction techniques, as determined by the Current Planning Manager.

F. Additional standards for freestanding small wind energy systems.

In addition to the general standards set forth in section D. above, all freestanding small wind energy system shall comply with the following standards except as otherwise approved pursuant to the provisions of chapter 18.40 of this title:

1. The tower upon which the small wind energy system is attached shall be a self-supporting mono-pole with no other means of support or stabilization such as guy wires, tether wires, or stability wires. However, on a case-by-case basis, the Current Planning Manager may approve other types of towers, based upon a determination that the proposed tower will not have a negative visual impact on the neighborhood or adjacent properties, and provided the tower is designed by a professional engineer currently licensed in the State of Colorado. When submitted to the City, the plans for all towers shall be stamped by the designing professional engineer.
2. The maximum total height of any freestanding small wind energy system shall be thirty-five (35) feet above grade directly below, as defined in sub-section 18.04.113.2 of this title.
3. The distance between the bottom of rotor blades, at their lowest point of arc, to grade, as defined in sub-section 18.04.113.2 of this title, shall be a minimum of fifteen (15) feet.
4. No permanently attached mechanism for access to or onto the tower, which mechanism is incorporated or attached to the tower such as foot pegs, steps, rungs or ladders, shall be within twelve (12) feet of the grade directly below.
5. Appropriate warning signage shall be placed on both the small wind energy system and tower in accordance with the manufacturer's recommendations.
6. The minimum horizontal distance between the small wind energy system, and all property lines shall be ten percent (10%) greater than the total height of the small wind energy system.
7. The horizontal distance between the tower and all overhead public utility lines shall be twenty-five percent (25%) greater than the total height of the small wind energy system.

G. Application and review procedure.

1. No person shall install a small wind energy system within the City without first obtaining the appropriate permits from the City, as determined by the Current Planning Manager and the Chief Building Official at the time of application. The applicant shall submit the required applications to the City on forms required by the City, including the application fee, as determined by City Council resolution, and all other items set forth on the submittal checklist determined by the Current Planning Manager.
2. Upon completion of review by the City, the City shall notify the applicant whether a final decision can be made, or if the application must be revised and further reviewed. Upon City

determination that a final decision can be made, the City shall issue its final decision in the form of a written notice.

3. Upon issuance of the final decision, a copy of the written notice shall be mailed by the City to the applicant and to all owners and tenants of abutting properties, as indicated on the mailing list. All notified persons shall have ten (10) days from the date of mailing to submit an appeal of the final decision, pursuant to the provisions of chapter 18.80 of this title.

4. No permit shall be issued by the City until the City determines that the small wind energy system will be installed and operated in compliance with all requirements determined by the City, and that all appeal processes have concluded in a manner which allows issuance of the permit.

H. Issuance of permits.

1. Upon completion of any appeal process regarding the proposed small wind energy system, and if the application is approved, the City shall issue all permits necessary to allow installation and operation of the small wind energy system as described in the application and in accordance with any conditions placed on the permits by the City.

2. Prior to the issuance of said permits, the applicant shall certify that he or she will install and operate the small wind energy system in conformity with the provisions of this title and any conditions determined by the City as part of the review and approval process.

I. It is unlawful for any person to operate a small wind energy system that does not conform to the provisions of this section, or the conditions of approval as stated on the small wind energy system permits.

J. Revocation of permits and appeal provisions.

Any permits issued by the City for a small wind energy system may be revoked by the City if the City finds any of the following:

1. The small wind energy system no longer conforms to the provisions of this section or the conditions of approval accompanying the approval of the permits.
2. The mailing list provided by the applicant was faulty.
3. The applicant failed to follow the application, review and appeal process.

Written notification of said revocation shall be mailed to the last known address of the permit holder and shall include findings in support of the revocation and the applicant's rights of appeal. The date of the mailing shall be the date of notification. The permit holder and/or the current owner of the property may file a written appeal of the City's decision as provided for in chapter 18.80 of this title.

PROPOSED TITLE 18 AMENDMENTS
SMALL WIND ENERGY SYSTEMS - Clean copy

PLANNING COMMISSION PUBLIC HEARING
August 8, 2011

A. Definitions:

1. Add sub-section 18.04.355.5 to read as follows:

18.04.355.5 Small wind energy system defined.

“Small wind energy system” means any device or mechanism such as a wind charger, windmill, wind turbine, wind generator, or wind alternator which converts wind energy to a form of original useable electrical energy, and which has a maximum output rating of 10 kilowatts (kW), including associated external components, elements or features such as base, tower, wiring, connections, batteries, and associated control equipment.

2. Add sub-section 18.04.113.3 to read as follows:

18.04.113.3 Building-mounted small wind energy system defined.

“Building-mounted small wind energy system” means a small wind energy system which is permanently attached to the roof, walls, or gable of a building, but not attached or anchored into the ground.

3. Add sub-section 18.04.164.5 to read as follows:

18.04.164.5 Freestanding small wind energy system defined

“Freestanding small wind energy system” means a small wind energy system which is permanently attached to and supported by a tower which is anchored into the ground.

B. Allow both building-mounted and freestanding small wind energy systems which comply with the specific standards in chapter 18.48 on all residential properties in the City as a use-by-right accessory use. This would include residential properties in the Be, B, MAC and E zones, and on properties in the DR zone which have a grandfathered residential use. Also allow building-mounted and freestanding SWES which does not comply with the normal standards as a use-by-special review on all such properties:

1. ER District:

- a. Add sub-sections 18.07.040. H. and I. as follows:

H. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

I. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.07.050. K. and L. as follows:

K. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

L. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

2. R1e District:

a. Add subsections 18.08.010. G. and H. as follows:

G. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

H. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.08.020. O. and P. as follows:

O. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

P. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

3. R1 District:

a. Add sub-sections 18.12.010. G. and H. as follows:

G. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

H. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.12.020. O. and P. as follows:

O. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

P. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

4. R2 District:

a. Add sub-sections 18.13.020. I. and J. as follows:

I. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18. 48.110.

J. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.13.030. M. and N. as follows:

M. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

N. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

5. R3e District:

a. Add sub-sections 18.16.010. M. and N. as follows:

M. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with standards set forth in section 18. 48.110.

N. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.16.020. BB. and CC. as follows:

BB. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

CC. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

6. R3 District:

a. Add sub-sections 18.20.010. K. and L. as follows:

K. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18. 48.110.

L. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.20.020. W. and X. as follows:

W. Building-mounted small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

X. Freestanding small wind energy system, as an accessory use to the permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

7. Be District:

a. Add sub-sections 18.24.020. YY. and ZZ. as follows:

YY. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

ZZ. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.24.030. X. and Y. as follows:

X. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

Y. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

8. B District:

a. Add sub-sections 18.28.010. RR. and SS. as follows:

RR. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

SS. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.28.020. OO. and PP. as follows:

OO. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

PP. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

9. MAC District:

a. Add sub-sections 18.29.020. SS. and TT. as follows:

SS. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

TT. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.29.030. Q. and R. as follows:

Q. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

R. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18.48.110.

10. E District:

a. Add sub-sections 18.30.020. MM. and NN. as follows:

MM. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

NN. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.30.030. X. and Y. as follows:

X. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

Y. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

11. DR District:

a. Amend sub-section 18.38.010. to read as follows:

18.38.010 Uses permitted by right.

A. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

B. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is in compliance with the standards set forth in section 18.48.110.

b. Add sub-sections 18.38.020. J. and K. as follows:

J. Building-mounted small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

K. Freestanding small wind energy system, as an accessory use to a permitted residential use, which is not in compliance with one or more of the standards set forth in section 18. 48.110.

C. Establish a new sub-section in Chapter 18.48 to allow small wind energy systems, as follows:

18.48.110 Small wind energy systems

A. Purpose.

1. To allow opportunities for certain alternative forms of electrical energy generation in appropriate areas of the City by installation and operation of small wind energy systems;

2. To assure that small wind energy systems comply with the provisions for accessory uses, as set forth in this chapter;
3. To assure that potential negative impacts on public and private safety, aesthetics, economy and convenience that may result from a small wind energy system are adequately mitigated; and,
4. To assure that small wind energy systems are reasonably compatible with the character of the neighborhood in which they are to be located.

B. General Provisions

1. A small wind energy system shall be deemed, and is hereby declared to be, an accessory use in designated zone districts, provided it complies with the standards set forth in this chapter, or is otherwise approved by the City pursuant to the provisions of chapter 18.40 of this title.
2. The City hereby declares that the provisions of this section shall not be deemed to establish, grant, require, assure, reserve, preserve, or imply, any easement or right of access to wind for the function of any small wind energy system approved by the City; and the City hereby expressly declares that it shall not be party to any effort, negotiation or acquisition of any such access or right to wind.
3. The allowance of small wind energy systems is not intended, nor shall it be construed, to abrogate or otherwise modify other zoning restrictions, subdivision restrictions, covenants, or other restrictions that may apply to a premise.

C. Definitions. As used in this section, the following words and phrases shall have the following meanings:

1. "Abutting property" means all real property which is contiguous to the property upon which a small wind energy system is proposed, including those properties which have contiguity at only a single point of contact.
2. "Tower" means a self-supporting monopole, or other similar structure approved by the City, that is designed and constructed primarily for the purpose of supporting a small wind energy system or portion thereof.

D. General standards. The following standards shall apply to all small wind energy systems except as otherwise approved by a special review pursuant to the provisions of chapter 18.40 of this title:

1. There shall be no more than one (1) small wind energy system per property and it shall be located on the same property as the principal dwelling for which it is an accessory use.

2. The small wind energy system shall have a maximum rated capacity not to exceed 10 kilowatts (kW).
3. Irrespective of the zoning district in which the small wind energy system is located, the small wind energy system shall be located a minimum distance of twenty (20) feet from all property lines of the property upon which the small wind energy system is located. A small wind energy system may not be located in a dedicated easement or right-of-way.
4. Notwithstanding sub-section 18.48.110.D.3, no small wind energy system shall be located in the front yard of any property, as defined in subsection 18.04.420.1 of this title.
5. The small wind energy system shall comply, at all times, with the maximum allowable noise levels set forth in chapter 7.32 of the municipal code.
6. The small wind energy system shall be designed and installed in compliance with all applicable provisions of chapter 15 of this title as determined by the chief building official.
7. For properties which receive electrical power from the City of Loveland, the small wind energy system shall be in compliance with "The Standard for Interconnecting Distributed Resources with the City of Loveland Power Department", including a site inspection by a representative of the water and power department prior to approval of a building permit. For properties which receive electrical power from another public provider of electric power, no building permit shall be approved until the applicant has submitted written verification from said provider that they have reviewed the permit application and have determined that the small wind energy system will meet all requirements of said provider. Off-grid systems shall be exempt from these requirements.
8. No advertising or signs may be placed on the small wind energy system other than those incorporated by the manufacturer.
9. Colors of all external surfaces of the small wind energy system must uniformly be matte grey or other neutral or muted colors approved by the City which best blends the small wind energy system into its surroundings.
10. No illumination of the small wind energy system shall be allowed unless required by the regulations of the Federal Aviation Administration, by the manager for the Loveland-Fort Collins Airport, or if said illumination is not directly visible beyond the property upon which the small wind energy system is located.
11. The small wind energy system shall be equipped with a manual override system to allow shut-down in case of an emergency.
12. The small wind energy system shall be equipped with an automatic braking, governing, or feathering system to assure that over-rotation cannot occur.

13. Any small wind energy system that is out of service for a continuous period of twelve (12) months may be deemed by the City to be abandoned and the permit for the small wind energy system may be revoked, whereupon the small wind energy system shall be deemed a violation of this title and subject to removal by the property owners pursuant to the provisions of chapter 18.68 of this title.

14. The electrical energy produced by a small wind energy system shall be stored, used or consumed only on the same property upon which the small wind energy system is located, except when connected to a public provider system in compliance with "The Standards for Interconnecting Distributed Resources with the City of Loveland Power Department" or other applicable standards adopted by said other public provider of electrical power to the property.

15. Electrical lines or ground wires connecting a small wind energy system to other functional components, elements, or features, including service cabinets, battery cabinets, and accessory components, or to a building on the property shall be located internal to, or attached immediately upon, the external surfaces of the small wind energy system or the building upon which the small wind energy system is attached.

E. Additional standards for building-mounted small wind energy systems.

In addition to the general standards set forth in sub-section D. above, all building-mounted small wind energy systems shall comply with the following standards except as otherwise approved pursuant to the provisions of chapter 18.40 of this title:

1. A building-mounted small wind energy system shall be permanently attached to a permitted principal or accessory building on the property.

2. The maximum total height of a building-mounted small wind energy system which is attached directly to the roof of a building shall be ten (10) feet above the highest point of the roof upon which the small wind energy system is attached. The maximum total height of a small wind energy system which is attached to a building in some manner other than directly to the roof shall be ten (10) feet above the highest point of the roof to which it is most closely located.

3. Any guy wires, tether wires, or stabilizing wires needed to affix the small wind energy system to a building shall be attached only to the building upon which the small wind energy system is attached.

4. When a building-mounted small wind energy system is attached in the manner described in sub-section 18.04.113.3.b, the support structure shall be positioned and attached to the building so that its relative position is as close to the building as can be practically and reasonably accomplished by standard construction techniques, as determined by the Current Planning Manager.

F. Additional standards for freestanding small wind energy systems.

In addition to the general standards set forth in section D. above, all freestanding small wind energy system shall comply with the following standards except as otherwise approved pursuant to the provisions of chapter 18.40 of this title:

1. The tower upon which the small wind energy system is attached shall be a self-supporting mono-pole with no other means of support or stabilization such as guy wires, tether wires, or stability wires. However, on a case-by-case basis, the Current Planning Manager may approve other types of towers, based upon a determination that the proposed tower will not have a negative visual impact on the neighborhood or adjacent properties, and provided the tower is designed by a professional engineer currently licensed in the State of Colorado. When submitted to the City, the plans for all towers shall be stamped by the designing professional engineer.
2. The maximum total height of any freestanding small wind energy system shall be thirty-five (35) feet above grade directly below, as defined in sub-section 18.04.113.2 of this title.
3. The distance between the bottom of rotor blades, at their lowest point of arc, to grade, as defined in sub-section 18.04.113.2 of this title, shall be a minimum of fifteen (15) feet.
4. No permanently attached mechanism for access to or onto the tower, which mechanism is incorporated or attached to the tower such as foot pegs, steps, rungs or ladders, shall be within twelve (12) feet of the grade directly below.
5. Appropriate warning signage shall be placed on both the small wind energy system and tower in accordance with the manufacturer's recommendations.
6. The minimum horizontal distance between the small wind energy system, and all property lines shall be ten percent (10%) greater than the total height of the small wind energy system.
7. The horizontal distance between the tower and all overhead public utility lines shall be twenty-five percent (25%) greater than the total height of the small wind energy system.

G. Application and review procedure.

1. No person shall install a small wind energy system within the City without first obtaining the appropriate permits from the City, as determined by the Current Planning Manager and the Chief Building Official at the time of application. The applicant shall submit the required applications to the City on forms required by the City, including the application fee, as determined by City Council resolution, and all other items set forth on the submittal checklist determined by the Current Planning Manager.
2. Upon completion of review by the City, the City shall notify the applicant whether a final decision can be made, or if the application must be revised and further reviewed. Upon City

determination that a final decision can be made, the City shall issue its final decision in the form of a written notice.

3. Upon issuance of the final decision, a copy of the written notice shall be mailed by the City to the applicant and to all owners and tenants of abutting properties, as indicated on the mailing list. All notified persons shall have ten (10) days from the date of mailing to submit an appeal of the final decision, pursuant to the provisions of chapter 18.80 of this title.

4. No permit shall be issued by the City until the City determines that the small wind energy system will be installed and operated in compliance with all requirements determined by the City, and that all appeal processes have concluded in a manner which allows issuance of the permit.

H. Issuance of permits.

1. Upon completion of any appeal process regarding the proposed small wind energy system, and if the application is approved, the City shall issue all permits necessary to allow installation and operation of the small wind energy system as described in the application and in accordance with any conditions placed on the permits by the City.

2. Prior to the issuance of said permits, the applicant shall certify that he or she will install and operate the small wind energy system in conformity with the provisions of this title and any conditions determined by the City as part of the review and approval process.

I. It is unlawful for any person to operate a small wind energy system that does not conform to the provisions of this section, or the conditions of approval as stated on the small wind energy system permits.

J. Revocation of permits and appeal provisions.

Any permits issued by the City for a small wind energy system may be revoked by the City if the City finds any of the following:

1. The small wind energy system no longer conforms to the provisions of this section or the conditions of approval accompanying the approval of the permits.
2. The mailing list provided by the applicant was faulty.
3. The applicant failed to follow the application, review and appeal process.

Written notification of said revocation shall be mailed to the last known address of the permit holder and shall include findings in support of the revocation and the applicant's rights of appeal. The date of the mailing shall be the date of notification. The permit holder and/or the current owner of the property may file a written appeal of the City's decision as provided for in chapter 18.80 of this title.

**CITY OF LOVELAND
PLANNING COMMISSION MINUTES
August 8, 2011**

The meeting of the City of Loveland Planning Commission was held in the City Council Chambers on August 8, 2011 at 6:30 p.m. Members present: Chair Molloy; Vice Chair Meyers; and Commissioners Crescibene, Middleton, Dowding and Leadbetter. Commissioners Absent: Krenning, Ray and Fancher. City Staff present: Troy Bliss, Current Planning; Brian Burson Current Planning; Robert Paulsen, Current Planning Manager; Sunita Sharma, Assistant City Attorney.

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

STAFF MATTERS

Assistant City Attorney Judy Schmidt briefly introduced herself to the Planning Commission explaining that she would soon be assuming the duties of Assistant City Attorney that Ms. Sharma has been performing. She indicated that the change is simply an ongoing effort within the City Attorney's Office to cross-train and work with other city departments and the various boards and commissions.

Robert Paulsen, Current Planning Manager, reported that he provided the Commission with a memorandum regarding the Comprehensive Plan update. He stated that ten (10) revised and consolidated objectives have been identified and he asked the Planning Commission to review the objectives prior to the discussion at the August 22, 2011 Planning Commission Meeting.

APPROVAL OF MINUTES

Commissioner Meyers made a motion to adopt the June 27, 2011 meeting minutes. Upon a second by Commissioner Dowding the motion was unanimously adopted. Commissioner Crescibene abstained.

After a brief discussion regarding the lack of a quorum at the July 25, 2011 Planning Commission meeting, **Assistant City Attorney Sunita Sharma** reported there were no minutes from July 25, 2011 to approve, as no action other than continuance of agenda items was taken.

COMMITTEE REPORTS

Vice Chair Meyers stated that the Title 18 Committee will not meet in August and the items before the Commission are the items that they have been working on.

CONSENT AGENDA

1. Lee Farm 1st Subdivision

SUMMARY OF AGENDA ITEM: Consideration of a request for a two year extension for the approval of the Lee Farm 1st Subdivision preliminary plat, consisting of 246.86 acres. The preliminary plat was originally approved by the Planning Commission on August 23, 2010.

With the original approval of the related Lee Farm 1st Subdivision PUD Preliminary Development Plan, vested rights were acquired, assuring the validity of the PDP for three years. Since the preliminary plat and PDP are interrelated, it is appropriate to grant validity to the preliminary plat for the same length of time.

This application involves administrative action by the Planning Commission. Absent an appeal, the Planning Commission's action is final.

Commissioner Middleton made a motion to approve the Consent Agenda. Upon a second by Commissioner Crescibene the motion was unanimously adopted.

REGULAR AGENDA

1. Amendments to Title 18 Regarding Signs Not Subject to Permit-Exempt Signs and Project Marketing Signs.

SUMMARY OF AGENDA ITEM: This is a public hearing to consider the proposed amendments to Title 18 which are focused on the City's exempt sign and project marketing sign provisions. The amendments are considered minor and are associated with the larger set of Temporary Sign amendments reviewed and recommended for approval by the Planning Commission on June 27, 2011.

Troy Bliss, Project Planner, gave a staff presentation on this item. He reported that staff had initiated some minor adjustments to the signage provisions for government flags and real estate marketing signs following the July 25, 2011 Planning Commission hearing. These adjustments responded to issues raised during the discussion of Temporary signs.

He stated that the proposed amendments are to the City's exempt and project marketing sign provisions, specifically structured in three main areas of focus:

- Expanding and clarifying the use of flags as exempt forms of signs;
- Providing greater allowances for real estate marketing and advertisement needs specifically relating to flying banners-type signs; and
- Allowing a longer duration period for the use of project marketing signs for new residential developments.

He reported that these amendments were presented to the Title 18 Committee on July 14 and received full support of the Committee. He stated that with the Planning Commission's review of these amendments, staff intends to incorporate them into the Temporary Sign amendments when they are presented to the City Council in early September.

Vice Chair Meyers thanked staff for their patience and flexibility in accommodating real estate and business owners. He stated he fully supported the item.

Commissioner Dowding stated that at the June 27, 2011 meeting the Planning Commission supported provisions to accommodate flying banners that were 13 foot high with a total of 25 square feet in area. She questioned why the new amendment specifies a maximum width allowances rather than a square footage limit; she suggested that the standards be consistent on all temporary signage.

Mr. Bliss concurred that the width limitation was not specified in the original Temporary Sign amendments. He clarified that in the new amendments staff is specifying a width of 4 feet, not a specific square footage limitation on the size of the banner.

Vice Chair Meyers he stated that there is no industry standard and that all signs are custom made.

Mr. Bliss clarified that the Commission approved a maximum height of 13 feet and maximum square footage allowance of 25 square feet for flying banners used in commercial applications; he further stated that staff had not specified a width limit. He asked if the Commission would like to keep the height to 13 feet with the maximum width of 25 square feet.

Commissioner Dowding asked if the Commission was comfortable with maintaining a different standard for business and real estate signs.

Vice Chair Meyers reemphasized there are no industry standards for the tear drop banners and that the temporary signs for businesses have already been determined, and for clarification the Commission is only looking at temporary real estate signs. He stated that most signs made are customized.

Mr. Bliss stated staff's intent is to allow a height and width standard for residential banners, vs. the commercial provisions that only identify height and square footage. He further commented that commercial businesses are allowed to have four (4) banners (approx. 100 square ft.) without a permit, and residential banners are limited to two (2) banners and when the height and width is calculated it is approximately the same in square footage.

Vice Chair Meyers, after alluding to the previous hearing, commented that he would not support the 4 foot width and stated that he would support what was approved at the hearing on June 27, 2011.

Assistant City Attorney Sharma noted that she believed that there was an error in the minutes of the June 27, 2011 hearing that were previously adopted. She stated that she believed that the intent of the Commission was for flying banners to be limited to 25 square feet in total area and that the reference in the minutes to "width" was incorrect.

PUBLIC COMMENT

There was no public comment.

Upon closing the public comment portion of the hearing, there was a discussion involving several Commissioners to the effect that the amendment regarding flying banners should include a height limit of 13 feet, a width limit of 4 feet, and a square footage limit of 25 feet for each flying banner type sign. This position appeared to represent a consensus of the Commission.

Vice Chair Meyers made a motion to recommend that City Council approve the amendments to Title 18 regarding signs not subject to permit-exempt signs and project marketing signs as described in the August 8, 2011 Planning Commission staff report, as amended on the record, and to authorize the City Attorney's Office to correct spelling, punctuation, and clerical and typographical errors, and make other such modifications in form, but not substance, as necessary to effectuate the purposes of the recommended amendments. Upon a second by Commissioner Leadbetter the motion was unanimously adopted.

2. Amendments to Title 18 to allow small wind energy systems (wind turbines) on residential properties

SUMMARY OF AGENDA ITEM: This is a public hearing to consider amendments to Title 18 of the City of Loveland Municipal Code to allow small wind energy systems, (small wind turbines) on all residential properties in the City, subject to specific standards and process. Small wind energy systems could be either building-mounted or freestanding. Small wind turbines that fully comply with all of the specific standards would be a use-by-right as an accessory use. Small wind turbines that do not fully comply with all of the specific standards would be a use-by-special review. If approved as a use-by-special review, the small wind energy system would still be deemed as an accessory use.

Brian Burson, Project Planner, gave a brief history and staff report on this item. He commented that information from the American Wind Energy Association was very helpful in guiding staff in drafting the proposed regulations. He stated that the majority of the sources that staff utilized in developing the regulations encouraged the removal of regulatory obstacles in making allowances for small wind energy systems.

Mr. Burson commented that Loveland is considered to be a poor wind generating community (it is located in an area which has relatively low potential for wind power generation) and the amount of energy that could be generated would be used for limited functions; however, future technological advancements could although with on-going technology staff believes that could change. He reported that the majority of the small-scale wind generators come in a kit and can be mounted on a pole or a roof. He stated that the wind systems can be purchased in numerous

places and that the purchaser or a contractor can mount them. He stated that the manufacturers generally provide devices that are designed and stamped by an engineer; the proposed regulations do not require that a Colorado PE stamp the plans for such units. . He stated that the installation of turbines, whether pole or roof-mounted, would be subject to applicable building codes and inspections.

He outlined the proposed standards as follows:

- Limit of one per property, with a maximum rating of 10 kilowatts;
- Limit the height to 10 feet above the ridge line of the roof or 35 feet from grade for freestanding;
- Require appropriate distances from all property lines and all overhead utility lines to limit the impacts and prevent damage to other property and improvements;
- Minimize visual impacts by requiring neutral or muted colors, minimizing guy wires, and prohibiting signs and lights on the devices or towers;
- Assure compliance with the existing noise ordinance for residential properties.

Mr. Burson noted that under the recommended motion, a reference was made to Attachment #3; the reference should read Attachment #2. He concluded by stating that staff is requesting that small wind power generators be allowed as uses by right on all residential properties.

Commissioner Crescibene stated he did not support the proposed amendments and felt that that the small wind turbines would be an eye sore and create visual clutter. He questioned their benefit if Loveland is not in an area that produces a sufficient amount of wind and stated he was opposed to allowing them to be in the City limits, specifically not in a residential area.

Vice Chair Meyers commented that he felt it was important to allow citizens a choice on whether they want to use this type of alternative energy. He spoke of the advances in technology that have recently occurred, stating that there are bladeless generators that can operate with winds of 5 miles per hour.

Mr. Burson responded to a question from Commissioner Middleton, and clarified that a building permit would be required.

Commissioner Middleton stated he supported the amendment and felt that we were behind the green power curve on the alternative power issue in the United States.

Commissioner Dowding stated she support the proposed amendment but expressed concerns that it may potentially create a battleground with Homeowner's Associations.

Commissioner Crescibene commented that due to federal regulations any issue regarding energy supersedes any regulations that a Homeowner's Association may have.

Mr. Burson clarified that the Colorado State Legislature passed legislation that prohibits Homeowner's Associations from denying the generators, but stated they can control how they look and where they are located.

Commissioner Leadbetter stated that he is not a proponent of seeing these generators going up, but he believed there is a need for this type of alternative energy and that it is necessary to have regulations in place. He clarified that his concern was that there be a permitting process to make sure that they are properly erected and that the mounting should be stamped by a local engineer.

Chair Molloy commented that currently the generators may not produce much electricity but believed with time and with advances in technology they will become more efficient. He stated that a reduction in energy usage was a benefit to the community.

PUBLIC COMMENT

There was no public comment.

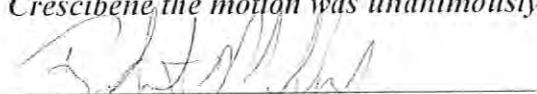
Commissioner Middleton made a motion to recommend the City Council approve the amendments to Title 18 of the Loveland Municipal Code, as set forth in Attachment #2 of the attached Planning Commission staff memorandum, dated July 25, 2011, as amended on the record, and to authorize the City Attorney's Office to correct spelling, punctuation, and clerical and typographical errors, and make other such modifications in form, but not substance, as necessary to effectuate the purposes of the recommended amendments. Upon a second by Vice Chair Meyers the motion was adopted 5-1 (Commissioner Crescibene voting Nay).

(Secretary's note: There was a brief recess)

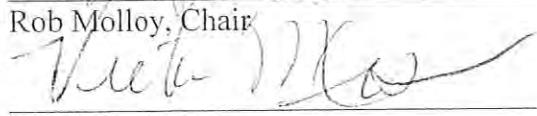
Vice Chair Meyers made a motion to redact his previous motion to approve the June 27, 2011 meeting minutes. Upon a second by Commissioner Middleton the motion was unanimously adopted.

ADJOURNMENT

Commissioner Middleton made a motion to adjourn. Upon a second by Commissioner Crescibene the motion was unanimously adopted.



Rob Molloy, Chair



Vicki Mesa, Secretary