



## CITY COUNCIL AGENDA

**NOTICE TO READERS:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) and Citizen Presentations (Section 12) are reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration except when addressing the City Council during Section 12 of the agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
  - A. City Manager's Report
5. City Council Comments
6. Presentations
  - A. Pay (Paw) It Forward Day Proclamation
  - B. National Drinking Water Week Proclamation
7. Citizen Communication (5 minutes or less)

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

8. Consent Agenda
  - A. Financial Report for March 2010
  - B. Quarterly Insurance Claim Report: January – March 2010
  - C. Land Trade with the Colorado Department of Transportation re 80<sup>th</sup> Avenue Bridge over US Highway 36
  - D. Police and Fire Departments Purchase of Replacement Mobile Computers
  - E. Shoenberg Farm Barn Rehabilitation Construction Contract
  - F. Meadowlark and Transit Oriented Development Waterline Project Design and Construction Management Contract
  - G. Bond and Disclosure Counsel re Utility Enterprise & Taxable Water & Wastewater Revenue Bond Issue, Series 2010
9. Appointments and Resignations
10. Public Hearings and Other New Business
  - A. Public Hearing re Miscellaneous Amendments to the Comprehensive Land Use Plan
  - B. Councillor's Bill No. 12 re Miscellaneous Amendments to the Comprehensive Land Use Plan
  - C. Public Hearing re Rezone and Combined PUD and ODP for Amberwood Estates (101<sup>st</sup> Ave. & Sheridan Blvd)
  - D. Councillor's Bill No. 13 re Rezone the Proposed Amberwood Estates from Open to PUD
  - E. Combined Preliminary and Official Development Plan for Amberwood Estates
  - F. Public Hearing re Annexation, CLUP Amendment and Zoning for the Feldman Property (128<sup>th</sup> Ave. & Pecos St.)
  - G. Councillor's Bill No. 14 re Annexation of the Feldman Property
  - H. Councillor's Bill No. 15 re CLUP Amendment for the Feldman Property to City Owned Open Space
  - I. Councillor's Bill No. 16 re Rezone of the Feldman Property from Adams County A-3 to Westminster Open District
  - J. Councillor's Bill No. 17 re 68<sup>th</sup> Avenue and Utica Street Project Supplemental Appropriation
  - K. 68<sup>th</sup> Avenue and Utica Street Roadway Reconstruction Project Contract
  - L. Resolution No. 12 re Colorado Water Conservation Board – Proposed Floodplain Regulation Revisions
11. Old Business and Passage of Ordinances on Second Reading

**GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

- A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.
  
- B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
  
- C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
  
- D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
  
- E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
  
- F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
  
- G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
  
- H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;
  
- I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
  
- J.** Final comments/rebuttal received from property owner;
  
- K.** Final comments from City Staff and Staff recommendation.
  
- L.** Public hearing is closed.
  
- M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, APRIL 12, 2010 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mayor McNally led the Council, staff and audience in the Pledge of Allegiance.

ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem Chris Dittman, and Councillors Bob Briggs, Mark Kaiser, Mary Lindsey, Scott Major, and Faith Winter were present at roll call. J. Brent McFall, City Manager, Marty McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Major moved, seconded by Dittman, to approve the minutes of the regular meeting of March 22, 2010, as distributed. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reported that City Council would have a post-meeting in the Council Board Room following this meeting. The public was welcome to attend. Following the post-meeting, Council would convene in executive session to discuss strategy and progress on the potential lease of certain City-owned real property and the City's position relative thereto, pursuant to Westminster Municipal Code Sections 1-11-3 (C)(2) and(7) and Colorado Revised Statutes Sections 24-6-402(4)(a) and (e).

CITY COUNCIL COMMENTS

Councillor Briggs reported that Council had met in retreat with Department Heads and budget staff the previous weekend, at which time core services identified by each department were reviewed. The listings were impressive and he was appreciative of the session and to see the services provided encapsulated.

Councillor Lindsey announced that Councillor Faith Winter had been named Woman of the Year by the Northwest Metro Chapter of the Colorado Business Women's Association.

Mayor McNally reported that Council and staff had been in strategic plan mode over the weekend, as Councillor Briggs mentioned earlier. Having identified core services, difficult choices would have to be made to create a financially sustainable service model for the community's future.

PRESENTATIONS

Councillor Winter presented Linda Merrick of the Fair Pay Coalition and National Working Women 9-5 with a proclamation declaring April 20, 2010 Equal Pay Day in the City.

Councillor Briggs presented to members of the Westminster Area Community Awareness Action Team Board of Directors a proclamation issued by the Mayor to declare April 25 through May 1, 2010, to be Just Say No to Drugs Week.

Councillor Lindsey presented a proclamation for Arbor Day/Earth Day to be celebrated April 17. Keith Wood of the Colorado State Forest Service presented the 25<sup>th</sup> consecutive Tree City USA award to Councillor Lindsey and City Forester Rob Wood. Accepting the proclamation were Rob Wood and Carey Rangel, Environmental Analyst.

Mayor McNally proclaimed May 8, 2010, to be Community Pride Day and presented the proclamation to Patti Wright, Open Space Volunteer Coordinator.

## CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: approve the Revised Council Assignments per discussion at the February 22 post-meeting briefing; authorize the City Manager to execute a contract with Cutwater Asset Management for investment advisor services; authorize the City Manager to execute a \$174,821 contract with a \$10,489 contingency for 2010 with options for two additional one-year renewals (2011 and 2012) for Citywide Lane Line Striping and Pavement Markings to the low bidder, RoadSafe Traffic Systems, Inc.; based on the City Manager's recommendation, determine that the public interest would be best served by approving Utilities Operations Division cumulative purchases in 2010 with various waterworks supply vendors that might exceed the \$50,000 limit and authorize cumulative purchases from Dana Kepner Company, HD Waterworks and Ferguson Waterworks in amounts not to exceed \$100,000 for each vendor in 2010; find that the Western States Contracting Alliance pricing meets City Charter bidding requirements and authorize staff to proceed with 2010 calendar year purchases of computer servers, disk hardware, memory, printers and software through Dell Computer Corporation in an amount not to exceed \$93,100; award the bid for 2010 desktop and laptop computer purchases to Dell Computer and authorize staff to proceed with the purchases of desktop computers, monitors, laptop computers and memory upgrades through Dell Computer Corporation in an amount not to exceed \$195,000; authorize the City Manager to sign a \$98,650 contract with Alpine Software to purchase the RedAlert Fire/EMS Records Management System to serve as the Fire Department's data and records management system and authorize a \$10,000 contingency for Alpine conversion, training or support services as might be needed during implementation of the new system; based on the City Manager's recommendation, determine that the public interest would be best served by awarding contracts to the following vendors and approve 2010 expenses with Titleist up to a maximum of \$70,000 and Nike U.S.A. Golf Division up to a maximum of \$52,000; authorize the City Manager to enter into long-term leasebacks with individual Farmers Reservoir and Irrigation Company-Standley shareholders who sell their shares to the City, subject to certain conditions, and authorize the City Manager to enter into short-term leases of water rights currently in excess of the City's needs, subject to certain conditions; authorize the City Manager to sign the first amendment to the existing lease agreement with the Rocky Mountain Metropolitan Airport (formerly Jefferson County Airport Authority); authorize the City Manager to sign the Amended Intergovernmental Agreement with the Urban Drainage and Flood Control District and Adams County for the final design and construction of drainage improvements on the Shaw Heights Tributary between Circle Drive and Rotary Park; authorize the Mayor to sign an Intergovernmental Agreement with the City and County of Broomfield for a license to install and operate a flow monitoring station on Big Dry Creek at the Westminster Big Dry Creek Wastewater Treatment Facility; and final passage of Councillor's Bill No. 11 on second reading authorizing the City Manager to sign an amended redevelopment assistance package with Parkwood East, LLC relative to the Northgate Shopping Center located at the southeast corner of 72<sup>nd</sup> Avenue and Federal Boulevard.

Mayor Pro Tem Dittman moved, seconded by Councillor Major, to approve all items on the consent agenda except Item 8D entitled Utility System Materials Purchases. The motion carried.

## UTILITY SYSTEM MATERIALS PURCHASES

Based on the City Manager's recommendation, Mayor Pro Tem Dittman moved to determine that the public interest would be best served by approving Utilities Operations Division cumulative purchases in 2010 with various waterworks supply vendors that might exceed the \$50,000 limit and authorize cumulative purchases from Dana Kepner Company, HD Waterworks and Ferguson Waterworks in amounts not to exceed \$100,000 for each vendor in 2010. Councillor Lindsey seconded the motion. Councillor Kaiser announced that he would abstain from voting due to a possible conflict of interest. The motion passed by a 6:1 vote with Councillor Kaiser abstaining.

## PUBLIC HEARING TO DESIGNATE CHURCH'S STAGE STOP WELL A LOCAL HISTORIC LANDMARK

At 7:29 p.m. the Mayor opened a public hearing to consider an application to designate the Church's Stage Stop Well at 10395 Wadsworth Boulevard as a local historic landmark. Patrick Caldwell of the Planning Division provided background information concerning the application and entered into the record the public notice publication, the on-site posting, and the agenda memorandum with all attachments. He provided a vicinity map identifying the site of the well and described its historic significance.

Council members had no questions and no one in the audience wished to speak regarding the application. The Mayor closed the hearing at 7:40 p.m.

RESOLUTION NO. 10 DESIGNATING THE CHURCH'S STAGE STOP WELL A HISTORIC LANDMARK

It was moved by Councillor Lindsey, seconded by Councillor Briggs, to adopt Resolution No. 10 designating the Church's Stage Stop Well at 10395 Wadsworth Boulevard a local historic landmark pursuant to Section 11-13-7 of the Westminster Municipal Code. The motion passed unanimously at roll call.

RESOLUTION NO. 11 AUTHORIZING GRANT APPLICATION – AUTOMOBILE THEFT PREVENTION

It was moved by Mayor Pro Tem Dittman and seconded by Councillor Kaiser to adopt Resolution No. 11 authorizing the Police Department to pursue a 2010 Colorado Automobile Theft Prevention Authority supplemental grant with the Colorado Department of Public Safety to purchase an additional Automated License Plate Reader, mount system and service plan. At roll call, the motion passed with all Council members voting affirmatively.

CITIZEN PRESENTATION

Local veterinarians voiced concern about changes made in 2007 to the City's taxation regulations without their knowledge and for which they had not collected and remitted sales tax. The failure to collect the tax had been discovered during a sales tax audit at Adams County Animal Hospital. Those who addressed Council were: Andrew Berman of Adams County Animal Hospital; Don Pfretzschner of Arrowhead Animal Hospital; George Strober of Animal Central; William Gillett and his accountant of Gillett Veterinary Clinic; Cindy Grimm of Northside Emergency Pet Clinic; and Neil Pomerantz of Silverstein & Pomerantz, tax attorney representing some of the veterinarians. They asked Council to repeal applicable provisions of Councillor's Bill No. 33, Series 2007, so that the law relative to exempting prescriptive drugs read as it had prior to adoption of said bill. Mr. McFall indicated he would discuss these concerns with staff and report to Council.

ADJOURNMENT

There being no further business to come before the Council, it was moved by Mayor Pro Tem Dittman, seconded by Briggs, to adjourn. The motion carried, and the meeting adjourned at 8:17 p.m.

ATTEST:

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City Clerk

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Mayor



## Agenda Item 6 A

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010

**SUBJECT:** Pay (Paw) It Forward Day Proclamation

**Prepared By:** Linda Yeager, City Clerk

**Recommended City Council Action**

Mayor McNally, to present the proclamation for Pay (Paw) It Forward Day in the City of Westminster.

**Summary Statement**

- The K9 c.a.r.e.s. Victim Support organization supports victims of crime and personal tragedy through a combination of victim advocacy and animal assisted therapy.
- The heart of the program serves law enforcement and the criminal justice system, but the organization also promotes well being throughout the community by taking registered therapy canines on visits to domestic violence shelters, child advocacy centers, hospitals, and community events.
- Carolyn Corbett of the K9 c.a.r.e.s. Victim Support organization will accept the proclamation.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**SUBJECT:** Pay (Paw) It Forward Proclamation

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**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

Canine therapy teams work with local law enforcement agencies and the criminal justice system to positively impact the lives of victims of crime and personal tragedy. Modeled after the Pay It Forward concept of random acts of kindness, K9 therapy teams “Paw It Forward” by unconditionally visiting all types of people throughout the community to provide comfort and improve quality of life. In an effort to carry forward good deeds, people visited between April 18 and 29 will be given a bracelet to remember the visit and to be reminded to do a good deed for someone else someday and pass on the bracelet.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

**WHEREAS**, the *Pay It Forward* novel, written by Catherine Ryan Hyde in 2000, has inspired the creation of a movie, a non-profit foundation, and a movement that has been vital in inspiring many thousands of good deeds all over the world; and

**WHEREAS**, the aim of the Pay It Forward concept is to promote community spirit through intentional random acts of kindness; and

**WHEREAS**, K9 c.a.r.e.s. Victim Support, a Westminster non-profit organization, models the Pay It Forward concept by supporting victims of crime and personal tragedy through a combination of victim advocacy and animal assisted therapy; and

**WHEREAS**, While K9 c.a.r.e.s. Victim Support primarily serves law enforcement and the criminal justice system, it also serves the community by taking registered therapy canines to visit local libraries, domestic violence shelters for women and children, child advocacy centers, hospitals, community events and more; and

**WHEREAS**, K9 c.a.r.e.s. Victim Support lives a Paw-It-Forward lifestyle by unconditionally visiting all types of people in various situations to lighten their hearts and brighten their days.

**NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado**, on behalf of the entire City Council and staff, to hereby proclaim April 29, 2010 to be

**PAY (PAW) IT FORWARD DAY**

Signed this 26<sup>th</sup> day of April, 2010.

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Nancy McNally, Mayor



## Agenda Item 6 B

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Proclamation re National Drinking Water Week

**Prepared By:** Steve Ramer, Chemist/Program Coordinator

**Recommended City Council Action**

City Councillor Briggs to present proclamation for declaring the week of May 2 through 8, 2010 as “National Drinking Water Week” in the City of Westminster.

**Summary Statement**

- City Council is requested to proclaim the week of May 2 through 8, as “National Drinking Water Week” in the City of Westminster.
- Steve Ramer, Chemist and Program Coordinator for the Westminster Water Week Program, will be at the City Council meeting to accept the proclamation.
- The objective of National Drinking Water Week is to educate and inform the public of the importance of a safe, reliable public water source; the need for wise use of water and water conservation and protection; and to encourage each local water utility to involve its citizens in water promotion activities.
- This Proclamation represents Council’s continued support of the City’s goal to promote a safe domestic water supply for its residents.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

The City has supported the National Drinking Water Week program for over two decades. The 2010 National Drinking Water Week program, scheduled for the week of May 2 through 8, will be coordinated by the Public Works and Utilities Department's Utilities Planning and Engineering Division. Information on caring for the City's precious water resource will be available in the lobby at Westminster's MAC Senior Center 3 P.M. - 7 P.M. and on display at the City Park Recreation Center during the month of May.

In conjunction with this activity, a poster contest for elementary school students and an essay contest for junior high school students will be conducted. The winning posters and essays will be on display at the Semper Water Treatment Facility for the remainder of the year.

The City's National Drinking Water Week program meets the City's goal of a Safe and Secure Community and a Beautiful and Environmentally Sensitive City.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment: Proclamation

**WHEREAS**, citizens' health, comfort and standard of living depend on an abundant supply of safe, high quality water; and

**WHEREAS**, the problems and challenges of meeting future water supply needs are many and growing in complexity; and

**WHEREAS**, the ever increasing need for domestic water makes storage, supply and distribution facilities, and water quality monitoring and continued training of skilled personnel essential.

**NOW, THEREFORE, I, Nancy McNally, Mayor of the City of Westminster, Colorado, on behalf of the entire City Council and Staff, do hereby proclaim the week of May 2 through 8, 2010, as**

### **NATIONAL DRINKING WATER WEEK**

in the City of Westminster and ask all citizens to join in extending our appreciation to the dedicated men and women of our Westminster Municipal water system, and urge that Westminster citizens participate in National Drinking Water Week activities and become more informed about Westminster's water supply and system.

Signed this 26th day of April 2010.

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Nancy McNally, Mayor



WESTMINSTER  
COLORADO

Agenda Memorandum

City Council Meeting  
April 26, 2010



**SUBJECT:** Financial Report for March 2010  
**Prepared By:** Tammy Hitchens, Finance Director

**Recommended City Council Action**

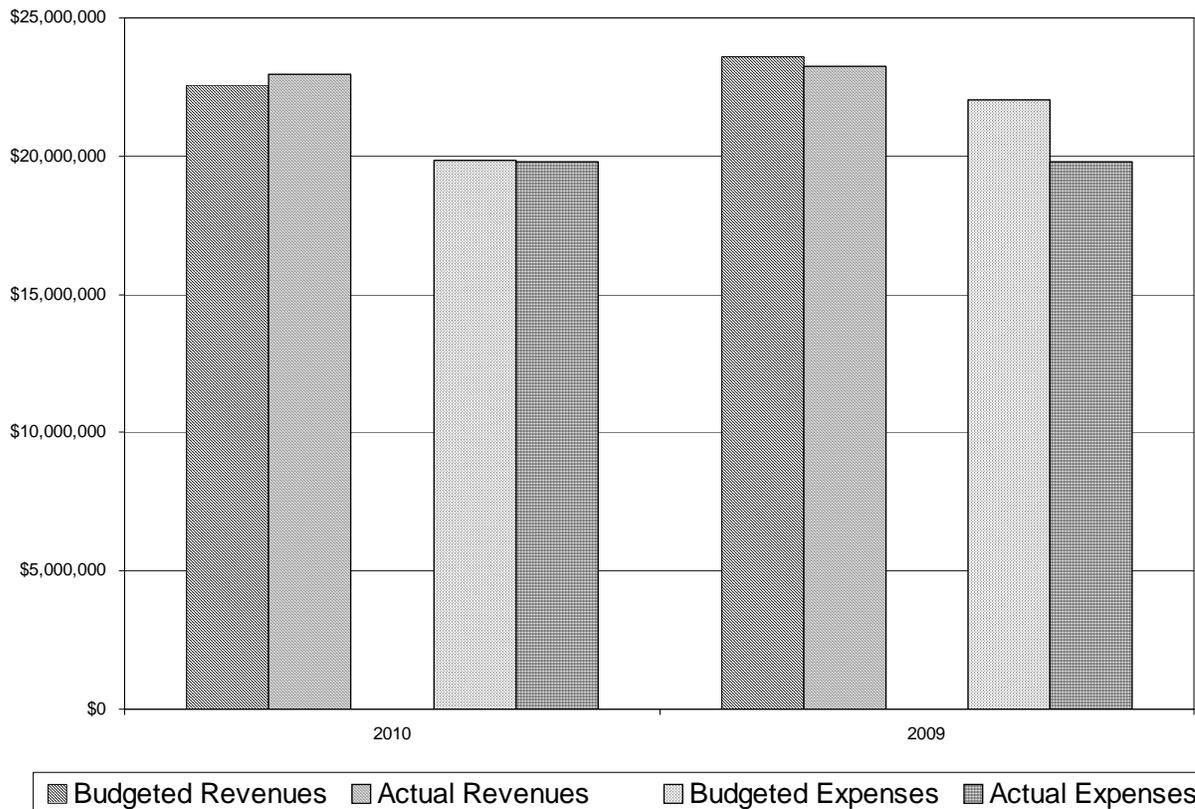
Accept the Financial Report for March as presented.

**Summary Statement**

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, "budget" refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 5-year historical averages.

The General Fund revenues and carryover exceed expenditures by \$3,143,484. The following graph represents Budget vs. Actual for 2009-2010.

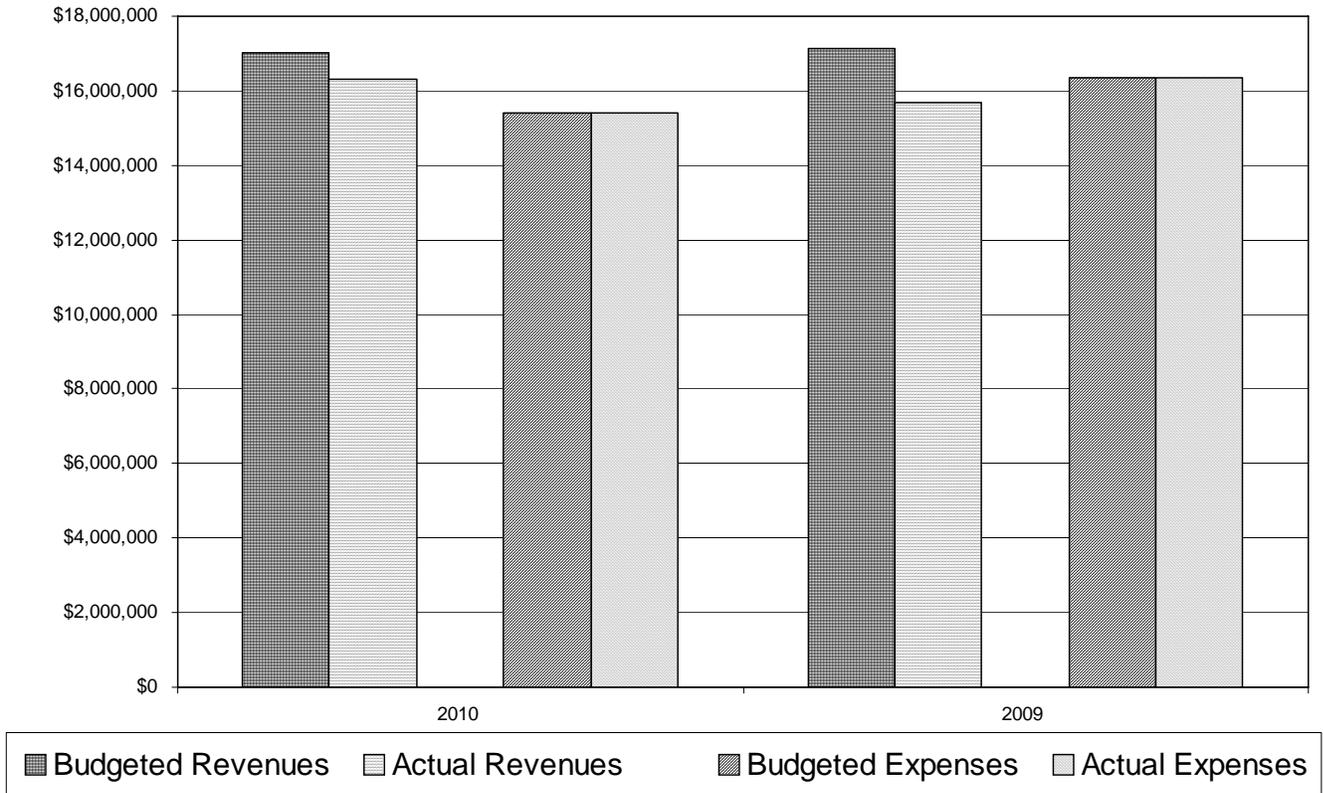
**General Fund  
Budget vs Actual**



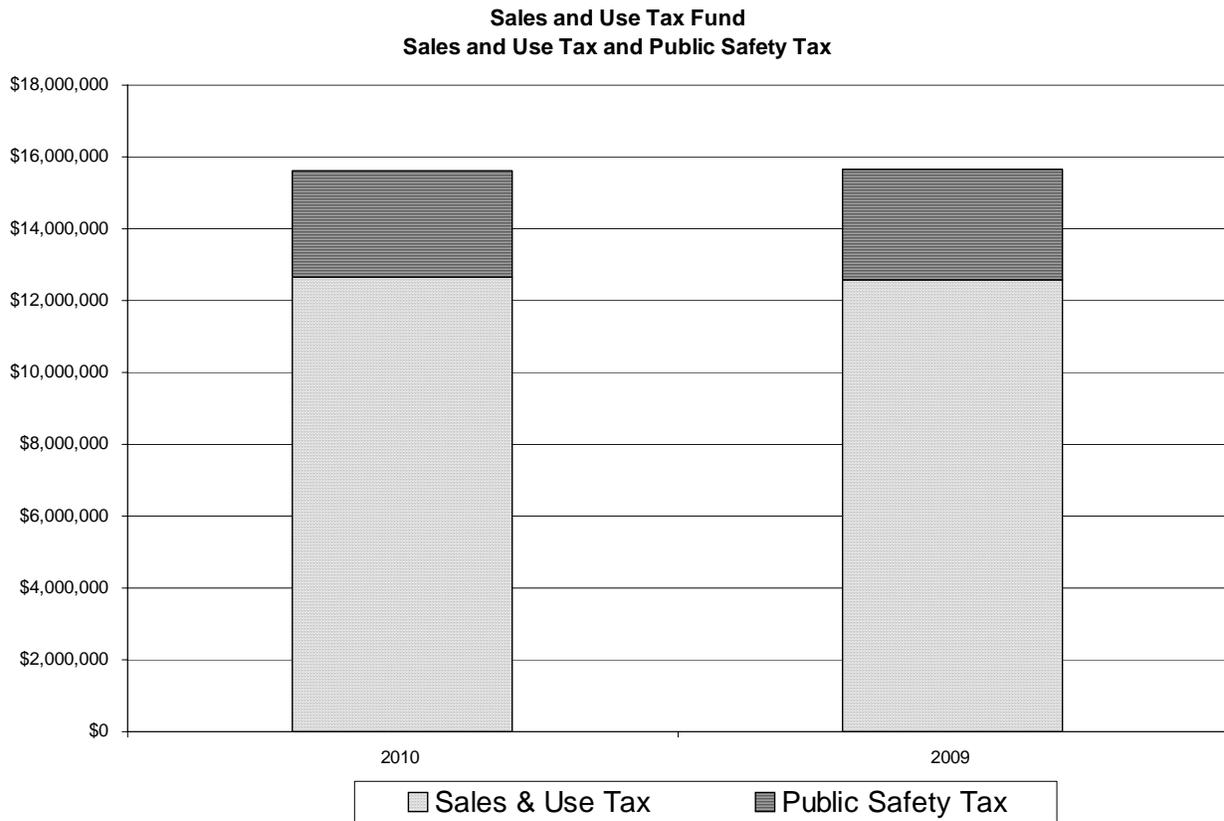
The Sales and Use Tax Fund revenues and carryover exceed expenditures by \$891,295.

- On a year-to-date cash basis, sales & use tax returns are up 0.9% from 2009.
- On a year-to-date basis, across the top 25 shopping centers before including Urban Renewal Area adjustments, total sales & use tax receipts are down 4.6% from the prior year.
- Sales & use tax receipts from the top 50 Sales Taxpayers, representing about 62% of all collections, were up 2.5% after Urban Renewal Area adjustments.
- Urban renewal areas make up 42.4% of gross sales tax collections. After urban renewal area and economic development assistance adjustments, 11.0% of this money is available for General Fund use.
- The Westminster Mall is down 44.0% on a year-to-date basis.
- Building Use Tax is down 27.9% year-to-date from 2009.

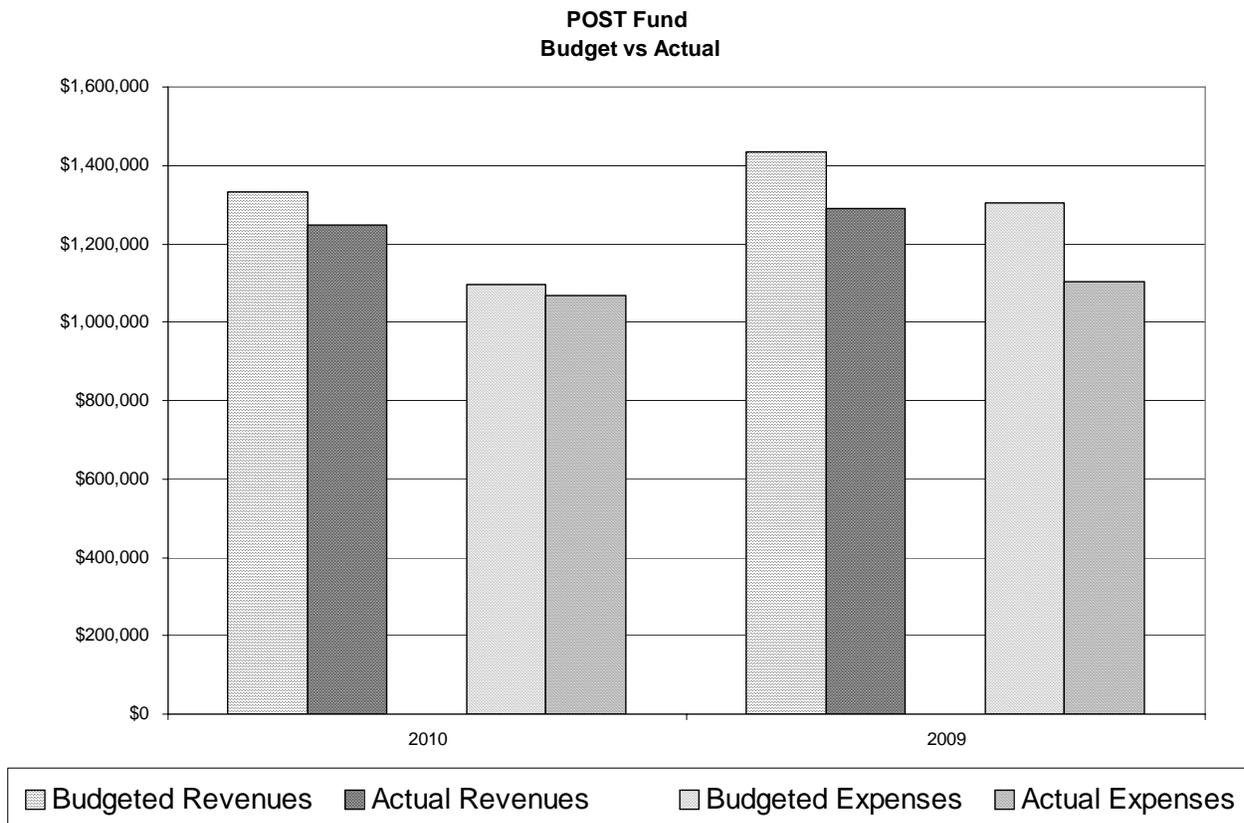
**Sales & Use Tax Fund  
Budget vs Actual**



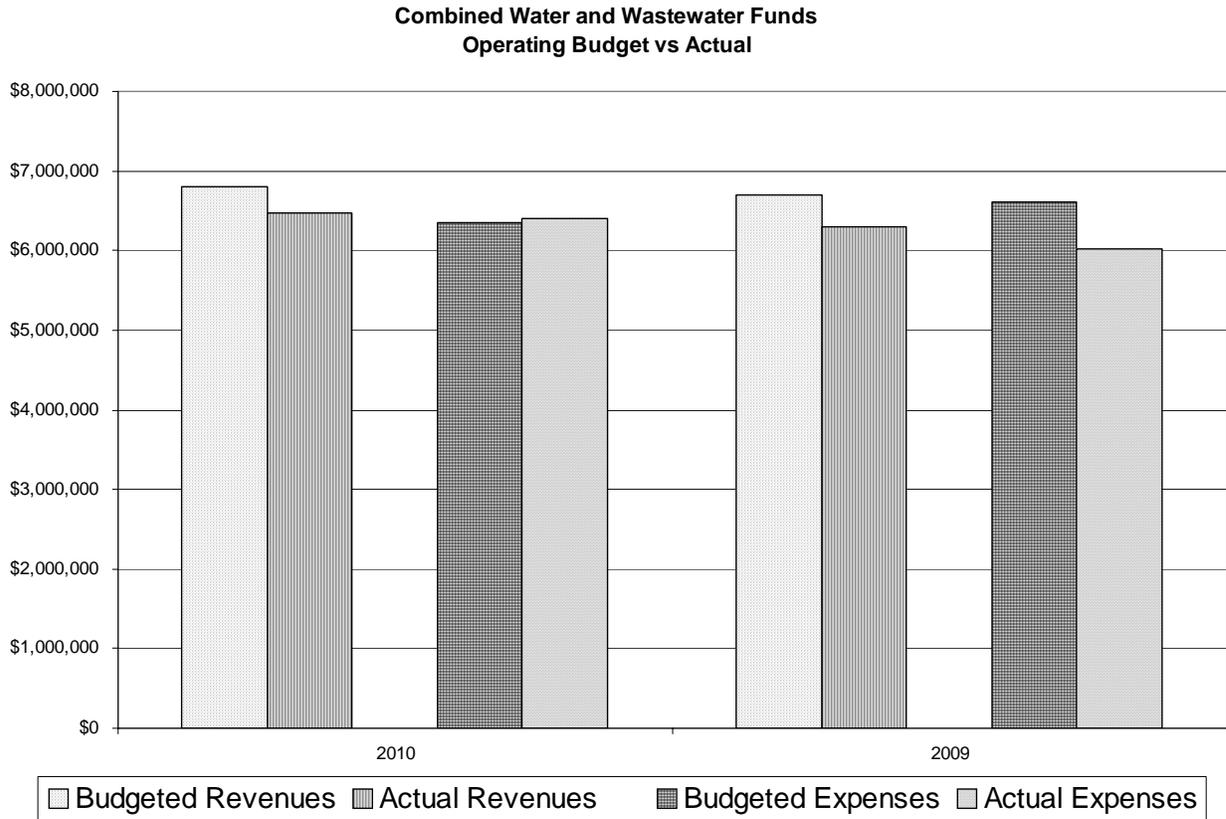
The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.



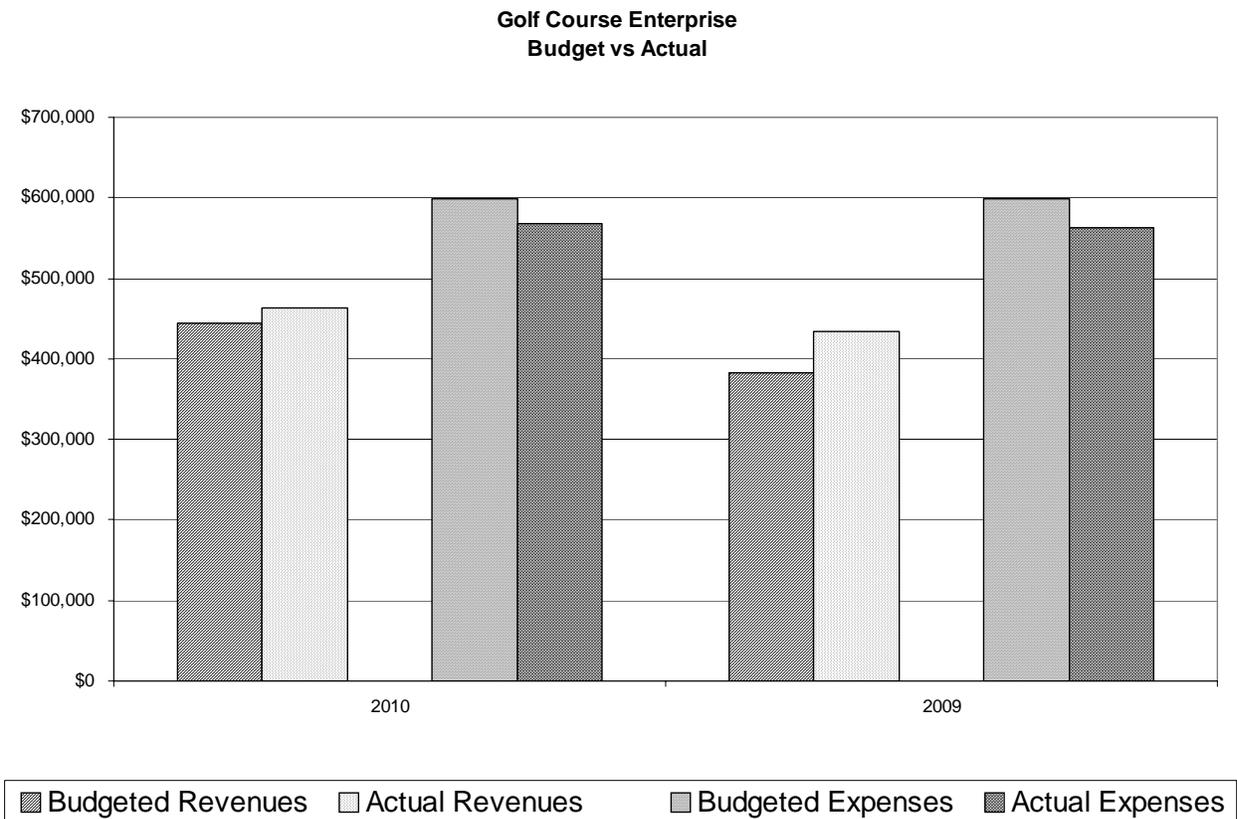
The Parks Open Space and Trails Fund revenues exceed expenditures by \$179,908.



The combined Water & Wastewater Fund revenues exceed expenses by \$1,270,640. \$38,438,000 is budgeted for capital projects and reserves.



The combined Golf Course Fund expenses exceed revenues by \$103,970.



**Policy Issue**

A monthly review of the City’s financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

**Alternative**

Conduct a quarterly review. This is not recommended, as the City’s budget and financial position are large and complex, warranting a monthly review by the City Council.

**Background Information**

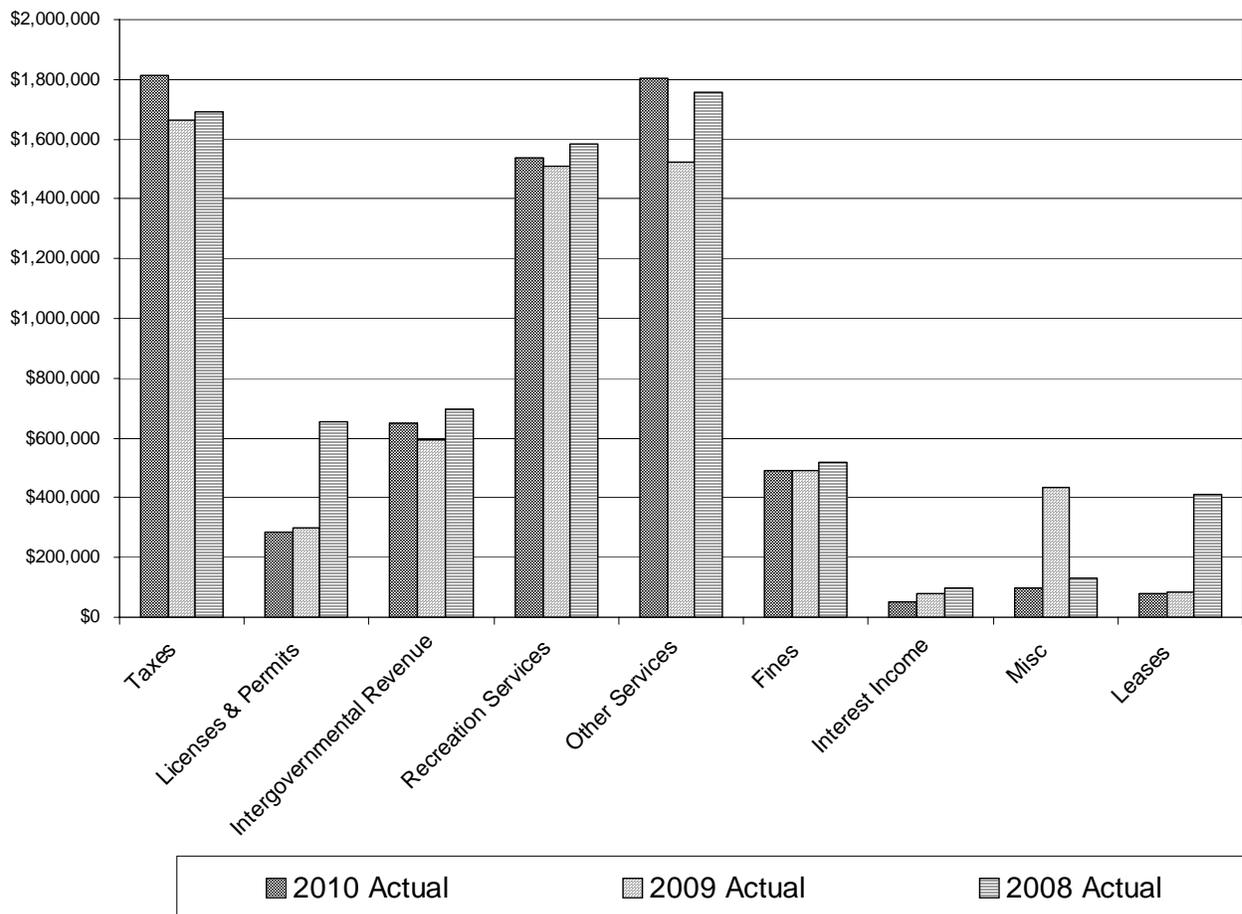
This section includes a discussion of highlights of each fund presented.

**General Fund**

This fund reflects the result of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions: City Manager, City Attorney, Finance, and General Services.

The following chart represents the trend in actual revenues from 2008 – 2010 year-to-date.

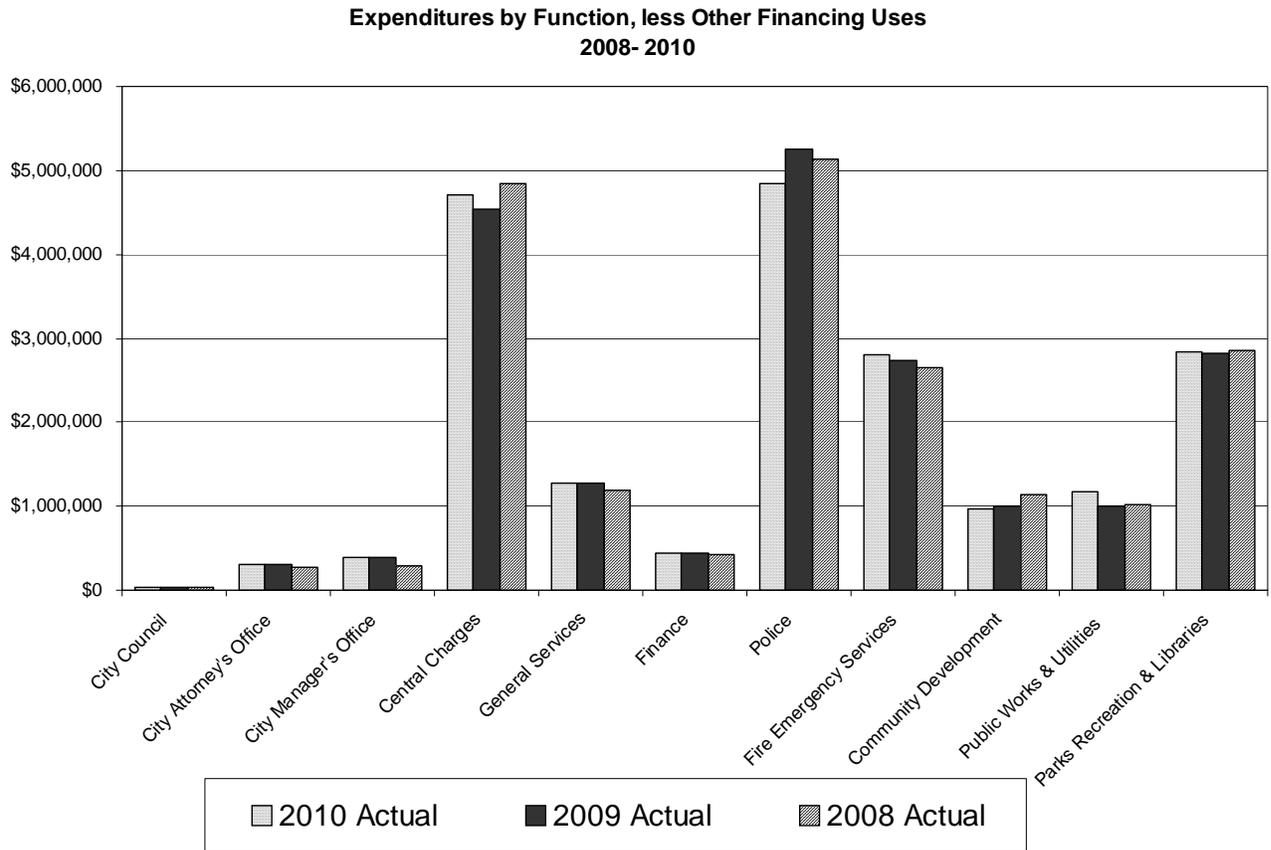
**General Fund Revenues without Transfers, Carryover, and Other Financing Sources  
2008- 2010**



Significant differences between years in General Fund revenue categories are explained as follows:

- The variance in Taxes is primarily due to Admissions Tax.
- Other Services exceeds the prior year mostly as a result of Franchise and EMS fees.
- Miscellaneous reflects a timing difference in certain receipts.

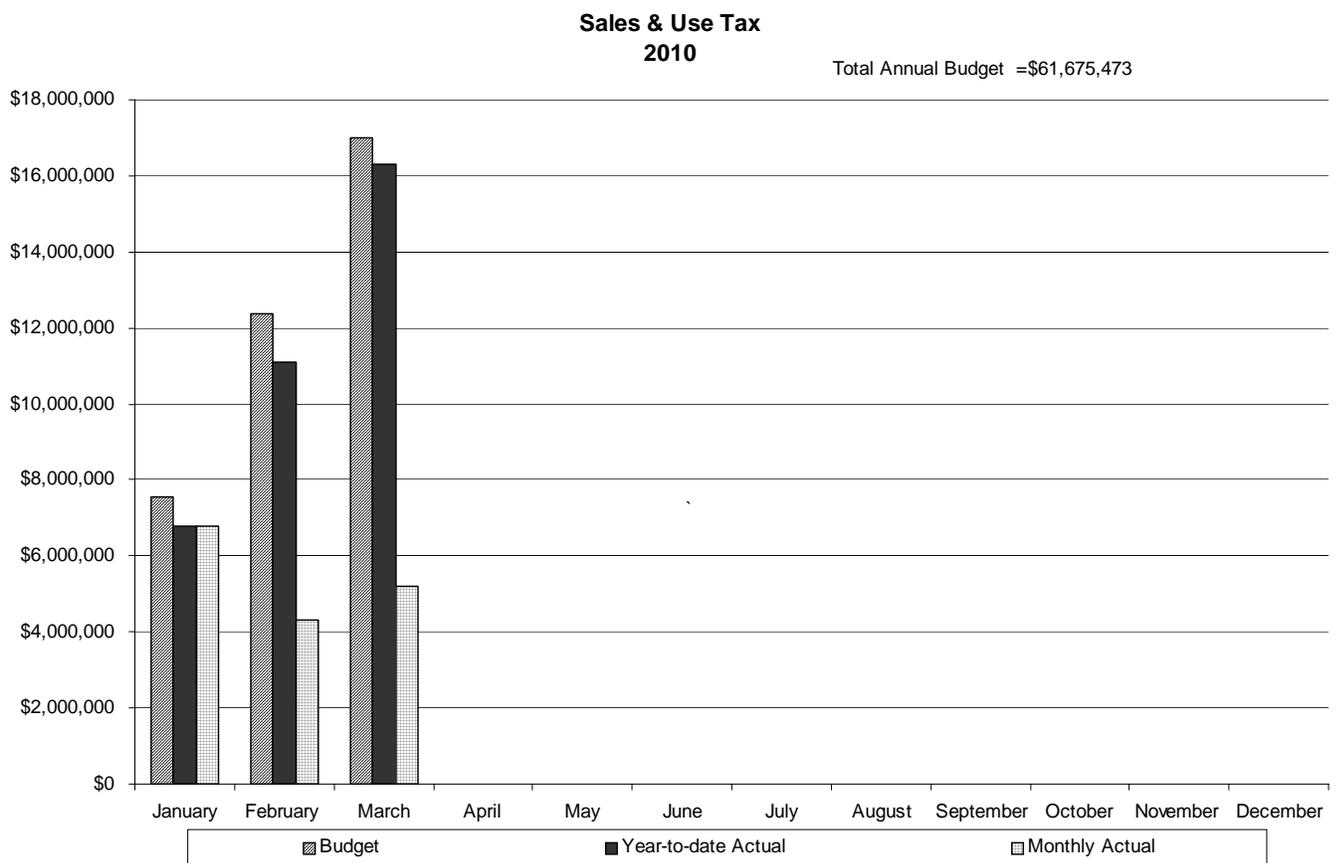
The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2008 –2010.



**Sales and Use Tax Funds (Sales & Use Tax Fund and Parks Open Space and Trails Sales & Use Tax Fund)**

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the General Capital Improvement Fund, the Debt Service Fund and the Heritage Golf Course Fund. The Parks, Open Space, and Trails Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space land, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenses.

This chart indicates how the City's Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Parks, Open Space, and Trails Sales & Use Tax.

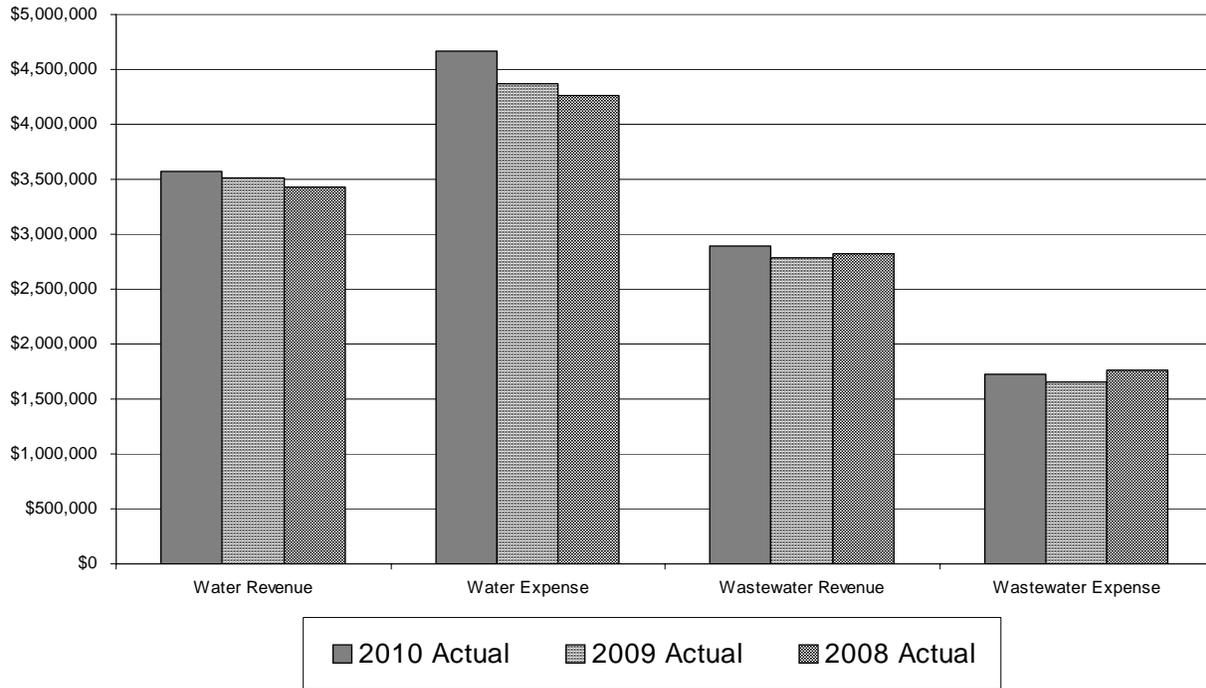


**Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)**

This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects and reserves.

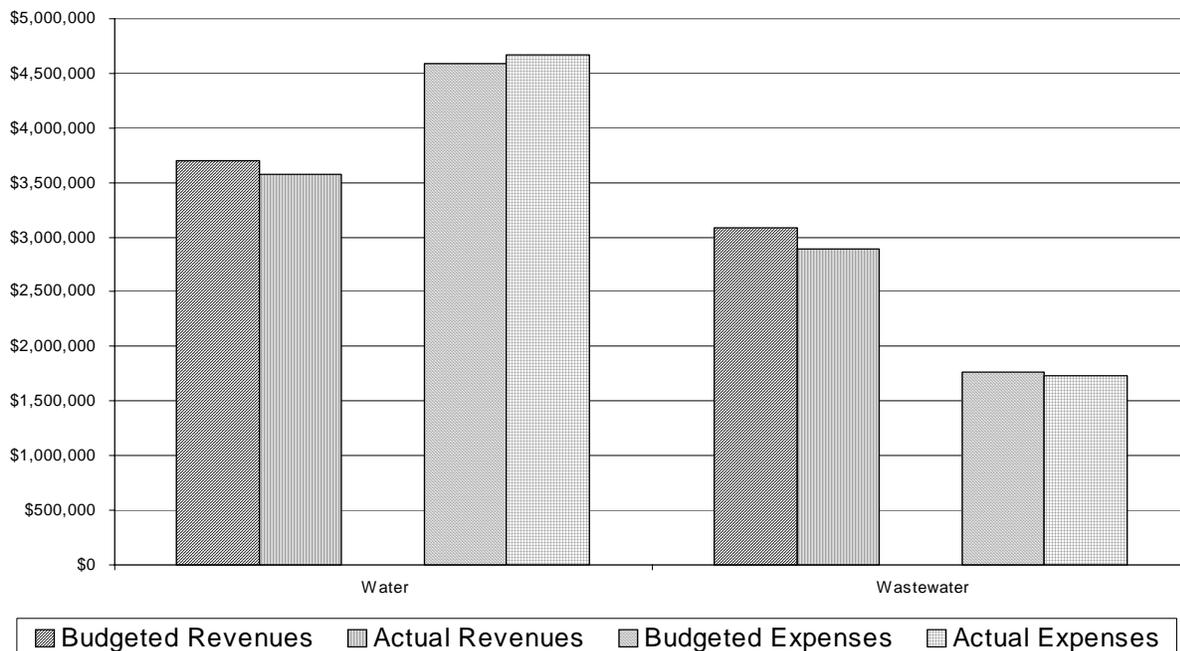
These graphs represent the segment information for the Water and Wastewater funds.

**Water and Wastewater Funds  
Operating Revenue and Expenses 2008-2010**



The water expenditure increase for 2010 is due to Farmers High Line Canal and Farmers Reservoir and Irrigation Company ditch assessments of \$241,358 being paid in March rather than in April as in previous years.

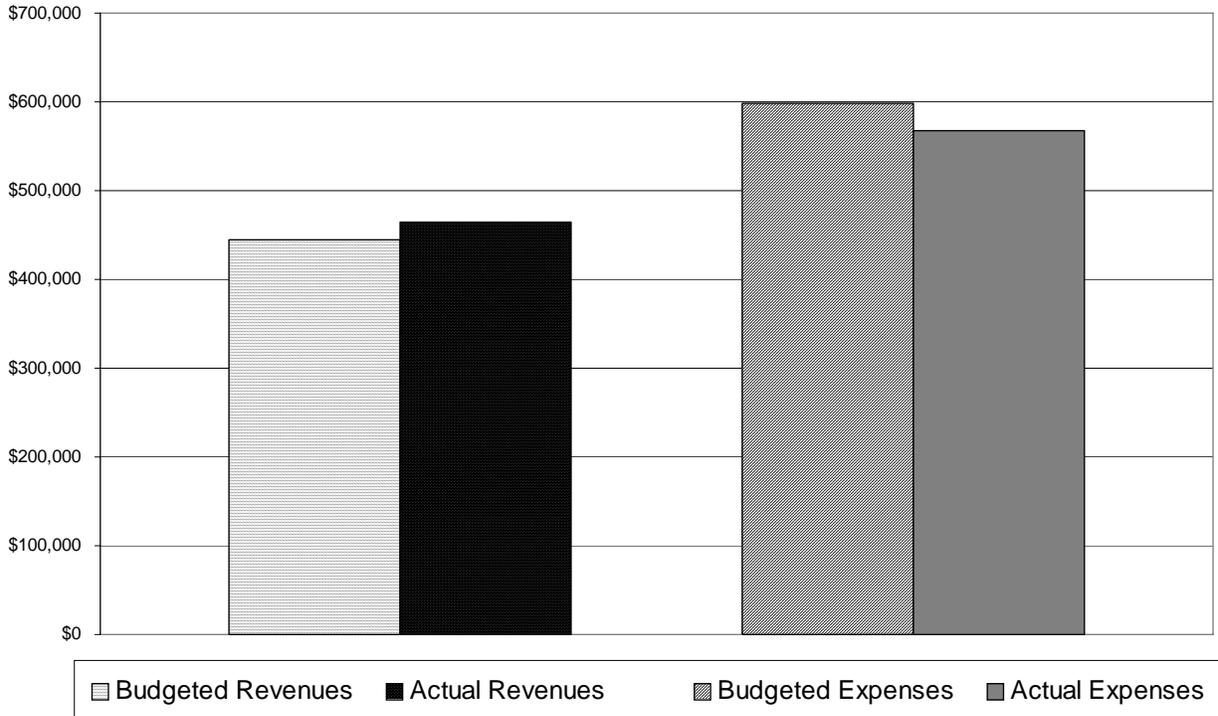
**Water and Wastewater Funds  
2010 Operating Budget vs Actual**



**Golf Course Enterprise (Legacy and Heritage Golf Courses)**

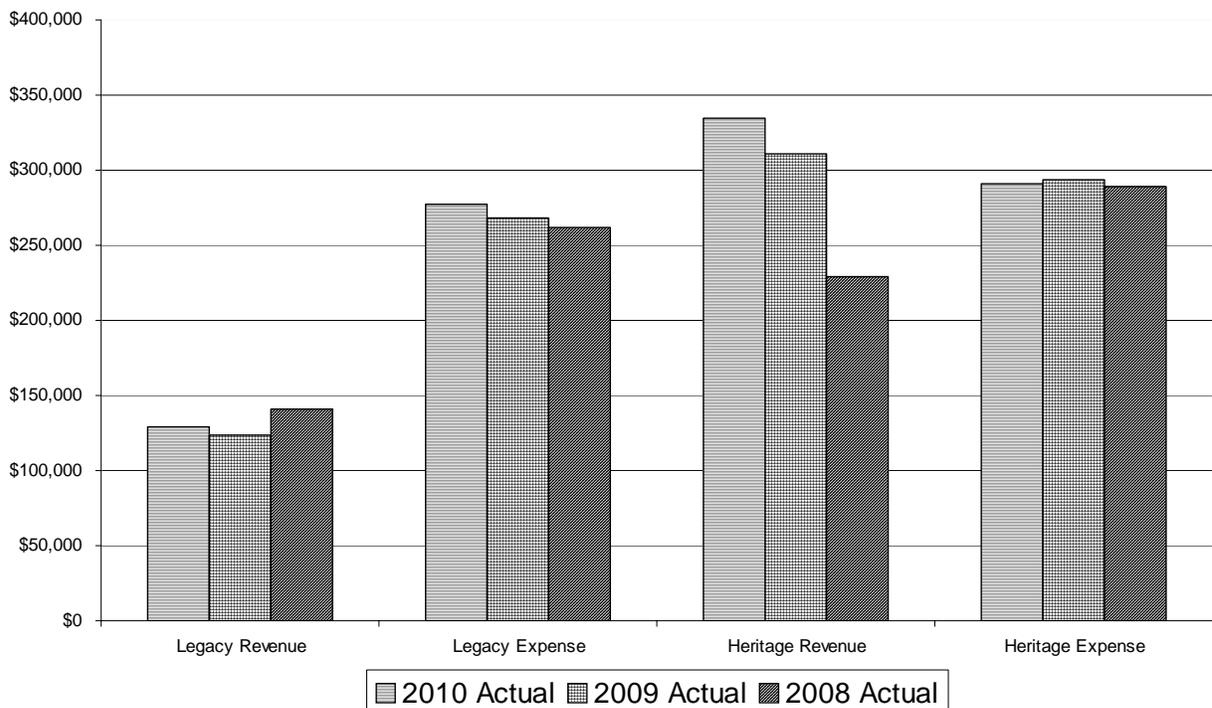
This enterprise reflects the operations of the City's two municipal golf courses.

**Combined Golf Courses  
2010 Budget vs Actual**

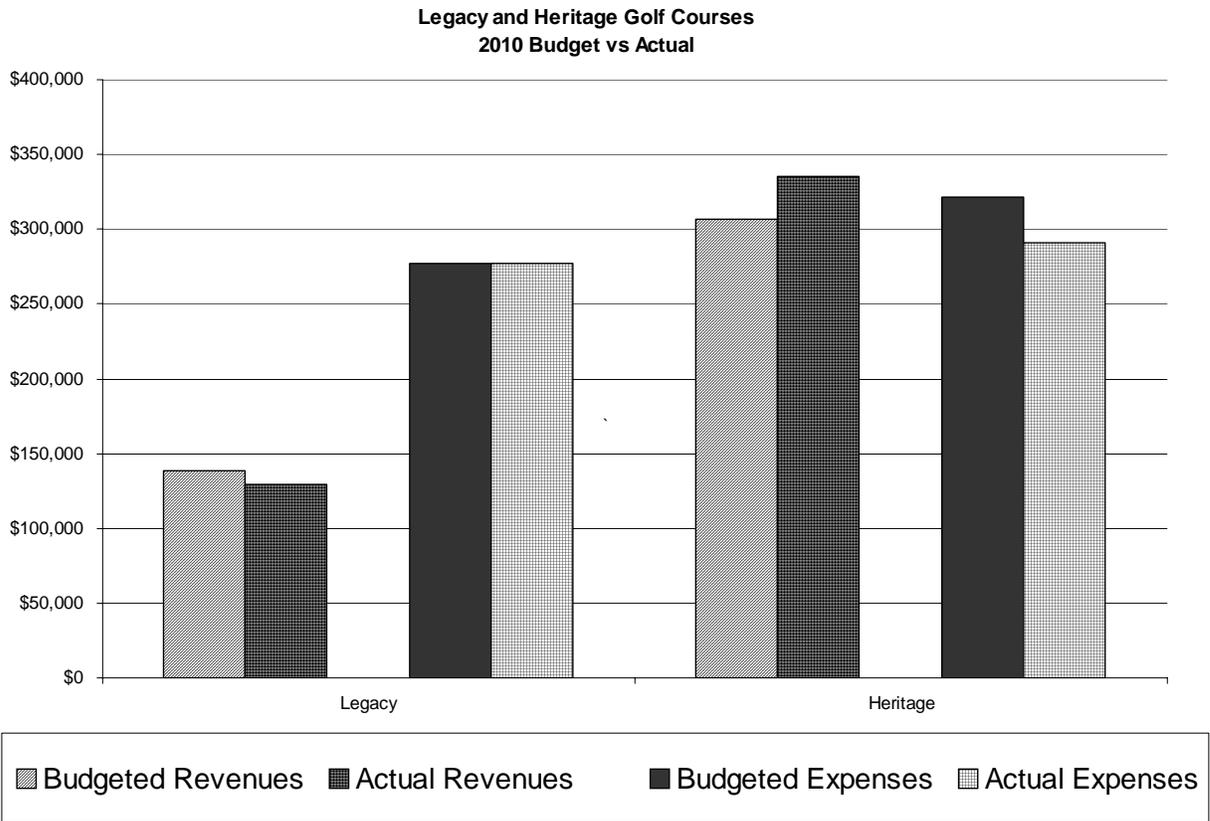


The following graphs represent the information for each of the golf courses.

**Legacy and Heritage Golf Courses  
Revenue and Expenses 2008-2010**



Inter-fund transfers impact this revenue representation. Isolating Charges for Services revenue indicates a decrease in year to date operating revenues at Legacy of \$5,341 and at Heritage of \$4,897 compared to the same period in 2009.



Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	%
General Fund						Budget
<b>Revenues</b>						
Taxes	5,678,400	1,522,668		1,813,109	290,441	119.1%
Licenses & Permits	1,371,178	336,806		285,427	(51,379)	84.7%
Intergovernmental Revenue	5,239,602	668,888		647,722	(21,166)	96.8%
Charges for Services						
Recreation Services	6,219,206	1,326,728		1,538,467	211,739	116.0%
Other Services	8,757,562	1,704,754		1,803,456	98,702	105.8%
Fines	2,262,105	553,247		491,367	(61,880)	88.8%
Interest Income	425,000	65,113		49,544	(15,569)	76.1%
Misc	1,625,161	166,697		95,943	(70,754)	57.6%
Leases	328,023	82,006		80,618	(1,388)	98.3%
Interfund Transfers	64,517,612	16,129,403		16,129,403	0	100.0%
Revenues	<u>96,423,849</u>	<u>22,556,310</u>		<u>22,935,056</u>	<u>378,746</u>	<u>101.7%</u>
<b>Expenditures</b>						
City Council	222,312	45,329		41,604	(3,725)	91.8%
City Attorney's Office	1,156,960	267,330		297,747	30,417	111.4%
City Manager's Office	1,611,334	369,044		388,843	19,799	105.4%
Central Charges	25,228,633	4,367,228		4,714,039	346,811	107.9%
General Services	5,937,816	1,340,377		1,275,031	(65,346)	95.1%
Finance	2,027,516	464,296		443,257	(21,039)	95.5%
Police	20,806,919	4,808,980		4,847,982	39,002	100.8%
Fire Emergency Services	11,847,237	2,715,534		2,805,659	90,125	103.3%
Community Development	4,273,620	986,029		972,962	(13,067)	98.7%
Public Works & Utilities	7,798,534	1,210,921		1,169,020	(41,901)	96.5%
Parks, Recreation & Libraries	15,512,968	3,285,544		2,835,428	(450,116)	86.3%
Total Expenditures	<u>96,423,849</u>	<u>19,860,612</u>		<u>19,791,572</u>	<u>(69,040)</u>	<u>99.7%</u>
Revenues Over(Under)						
Expenditures	<u>0</u>	<u>2,695,698</u>		<u>3,143,484</u>	<u>447,786</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Sales and Use Tax Fund</b>						
<b>Revenues and Carryover</b>						
Sales Tax						
Sales Tax Returns	40,321,375	11,211,442		10,785,646	(425,796)	96.2%
Sales Tx Audit Revenues	711,876	236,117		156,803	(79,314)	66.4%
S-T Rev. STX	<u>41,033,251</u>	<u>11,447,559</u>		<u>10,942,449</u>	<u>(505,110)</u>	95.6%
Use Tax						
Use Tax Returns	7,010,205	1,460,172		1,395,752	(64,420)	95.6%
Use Tax Audit Revenues	785,000	266,115		309,330	43,215	116.2%
S-T Rev. UTX	<u>7,795,205</u>	<u>1,726,287</u>		<u>1,705,082</u>	<u>(21,205)</u>	98.8%
Total STX and UTX	<u><u>48,828,456</u></u>	<u><u>13,173,846</u></u>		<u><u>12,647,531</u></u>	<u><u>(526,315)</u></u>	96.0%
Public Safety Tax						
PST Tax Returns	11,616,517	3,035,593		2,862,123	(173,470)	94.3%
PST Audit Revenues	315,500	54,875		93,191	38,316	169.8%
Total Rev. PST	<u>11,932,017</u>	<u>3,090,468</u>		<u>2,955,314</u>	<u>(135,154)</u>	95.6%
Total Interest Income	235,000	58,750		27,318	(31,432)	46.5%
Carryover	680,000	680,000		680,000	0	100.0%
Total Revenues and Carryover	<u>61,675,473</u>	<u>17,003,064</u>		<u>16,310,163</u>	<u>(692,901)</u>	95.9%
<b>Expenditures</b>						
Central Charges	<u>61,675,473</u>	<u>15,418,868</u>		<u>15,418,868</u>	0	100.0%
Revenues and Carryover Over(Under) Expenditures	<u>0</u>	<u>1,584,196</u>		<u>891,295</u>	<u>(692,901)</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description POST Fund	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Revenues</b>						
Sales & Use Tax	4,865,857	1,290,018		1,231,064	(58,954)	95.4%
Intergovernmental Revenue	1,635,000	0		0	0	
Interest Income	55,000	13,750		18,148	4,398	132.0%
Miscellaneous	83,977	27,992		86	(27,906)	0.3%
Interfund Transfers	209,000	0		0	0	
<b>Total Revenues</b>	<u>6,848,834</u>	<u>1,331,760</u>		<u>1,249,298</u>	<u>(82,462)</u>	93.8%
<b>Expenditures</b>						
Central Charges	6,499,646	1,030,006		1,037,843	7,837	100.8%
Park Services	349,188	65,012		31,547	(33,465)	48.5%
	<u>6,848,834</u>	<u>1,095,018</u>		<u>1,069,390</u>	<u>(25,628)</u>	97.7%
<b>Over(Under) Expenditures</b>	<u>0</u>	<u>236,742</u>		<u>179,908</u>	<u>(56,834)</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Water and Wastewater Funds - Combined</b>						
<b>Operating Revenues</b>						
License & Permits	75,000	18,750		23,040	4,290	122.9%
Rates and Charges	41,600,438	6,668,715		6,419,072	(249,643)	96.3%
Miscellaneous	435,000	108,750		26,194	(82,556)	24.1%
Total Operating Revenues	<u>42,110,438</u>	<u>6,796,215</u>		<u>6,468,306</u>	<u>(327,909)</u>	95.2%
<b>Operating Expenses</b>						
Central Charges	6,051,028	1,548,241		1,572,038	23,797	101.5%
Finance	705,372	179,164		175,511	(3,653)	98.0%
Public Works & Utilities	20,131,933	3,905,788		3,964,656	58,868	101.5%
Parks, Recreation & Libraries	147,979	36,995		7,480	(29,515)	20.2%
Information Technology	2,821,595	682,826		675,112	(7,714)	98.9%
Total Operating Expenses	<u>29,857,907</u>	<u>6,353,014</u>		<u>6,394,797</u>	<u>41,783</u>	100.7%
Operating Income (Loss)	<u>12,252,531</u>	<u>443,201</u>		<u>73,509</u>	<u>(369,692)</u>	
<b>Other Revenue and Expenses</b>						
Tap Fees	3,193,061	974,021		950,086	(23,935)	97.5%
Interest Income	1,450,000	362,500		247,045	(115,455)	68.2%
Other Financing Sources	28,300,000	0		0	0	
Debt Service	(6,757,592)	0		0	0	
Total Other Revenue (Expenses)	<u>26,185,469</u>	<u>1,336,521</u>		<u>1,197,131</u>	<u>(139,390)</u>	89.6%
	<u>38,438,000</u>	<u>1,779,722</u>		<u>1,270,640</u>	<u>(509,082)</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Water Fund</b>						
<b>Operating Revenues</b>						
License & Permits	75,000	18,750		23,040	4,290	122.9%
Rates and Charges	29,360,461	3,582,093		3,524,409	(57,684)	98.4%
Miscellaneous	425,000	106,250		24,794	(81,456)	23.3%
Total Operating Revenues	<u>29,860,461</u>	<u>3,707,093</u>		<u>3,572,243</u>	<u>(134,850)</u>	96.4%
<b>Operating Expenses</b>						
Central Charges	4,258,103	1,100,010		1,117,640	17,630	101.6%
Finance	705,372	179,164		175,511	(3,653)	98.0%
Public Works & Utilities	13,801,624	2,587,939		2,690,944	103,005	104.0%
PR&L Standley Lake	147,979	36,995		7,480	(29,515)	20.2%
Information Technology	2,821,595	682,826		675,112	(7,714)	98.9%
Total Operating Expenses	<u>21,734,673</u>	<u>4,586,934</u>		<u>4,666,687</u>	<u>79,753</u>	101.7%
Operating Income (Loss)	<u>8,125,788</u>	<u>(879,841)</u>		<u>(1,094,444)</u>	<u>(214,603)</u>	
<b>Other Revenue and Expenses</b>						
Tap Fees	2,600,000	772,400		736,948	(35,452)	95.4%
Interest Income	800,000	200,000		196,457	(3,543)	98.2%
Other Financing Sources	28,300,000	0		0	0	
Debt Service	(5,253,788)	0		0	0	
Total Other Revenues (Expenses)	<u>26,446,212</u>	<u>972,400</u>		<u>933,405</u>	<u>(38,995)</u>	96.0%
Increase (Decrease) in Net Assets	<u>34,572,000</u>	<u>92,559</u>		<u>(161,039)</u>	<u>(253,598)</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Wastewater Fund</b>						
<b>Operating Revenues</b>						
Rates and Charges	12,239,977	3,086,622		2,894,663	(191,959)	93.8%
Miscellaneous	10,000	2,500		1,400	(1,100)	56.0%
Total Operating Revenues	<u>12,249,977</u>	<u>3,089,122</u>		<u>2,896,063</u>	<u>(193,059)</u>	93.8%
<b>Operating Expenses</b>						
Central Charges	1,792,925	448,231		454,398	6,167	101.4%
Public Works & Utilities	6,330,309	1,317,849		1,273,712	(44,137)	96.7%
Total Operating Expenses	<u>8,123,234</u>	<u>1,766,080</u>		<u>1,728,110</u>	<u>(37,970)</u>	97.9%
Operating Income (Loss)	<u>4,126,743</u>	<u>1,323,042</u>		<u>1,167,953</u>	<u>(155,089)</u>	
<b>Other Revenue and Expenses</b>						
Tap Fees	593,061	201,621		213,138	11,517	105.7%
Interest Income	650,000	162,500		50,588	(111,912)	31.1%
Debt Service	(1,503,804)	0		0	0	
Total Other Revenues (Expenses)	<u>(260,743)</u>	<u>364,121</u>		<u>263,726</u>	<u>(100,395)</u>	72.4%
Increase (Decrease) in Net Assets	<u>3,866,000</u>	<u>1,687,163</u>		<u>1,431,679</u>	<u>(255,484)</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Storm Drainage Fund</b>						
<b>Revenues</b>						
Charges for Services	2,000,000	500,000		501,324	1,324	100.3%
Interest Income	80,000	20,000		20,153	153	100.8%
Miscellaneous	0	0		15	15	
Total Revenues	<u>2,080,000</u>	<u>520,000</u>		<u>521,492</u>	<u>1,492</u>	100.3%
<b>Expenses</b>						
General Services	92,000	7,452		4,658	(2,794)	62.5%
Community Development	147,000	34,986		31,410	(3,576)	89.8%
PR&L Park Services	200,000	50,000		12,000	(38,000)	24.0%
Public Works & Utilities	291,000	34,920		34,000	(920)	97.4%
Total Expenses	<u>730,000</u>	<u>127,358</u>		<u>82,068</u>	<u>(45,290)</u>	64.4%
Increase (Decrease) in Net Assets	<u>1,350,000</u>	<u>392,642</u>		<u>439,424</u>	<u>46,782</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Golf Course Funds - Combined</b>						
<b>Operating Revenues</b>						
Charges for Services	2,970,719	243,599		259,126	15,527	106.4%
Interest Income	0	0		3,631	3,631	
Interfund Transfers	804,591	201,148		201,148	0	100.0%
Total Operating Revenues	<u>3,775,310</u>	<u>444,747</u>		<u>463,905</u>	<u>19,158</u>	104.3%
<b>Operating Expenses</b>						
Central Charges	230,085	56,102		61,622	5,520	109.8%
Recreation Facilities	3,047,135	542,913		506,253	(36,660)	93.2%
Total Operating Expenses	<u>3,277,220</u>	<u>599,015</u>		<u>567,875</u>	<u>(31,140)</u>	94.8%
Operating Income (Loss)	498,090	(154,268)		(103,970)	50,298	
<b>Other Expense</b>						
Debt Service	498,090	0		0	0	
Increase (Decrease) in Net Assets	<u>0</u>	<u>(154,268)</u>		<u>(103,970)</u>	<u>50,298</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Legacy Ridge Fund</b>						
<b>Operating Revenues</b>						
Charges for Services	1,597,500	130,995		117,927	(13,068)	90.0%
Interest Income	0	0		3,631	3,631	
Interfund Transfers	29,433	7,358		7,358	0	100.0%
Total Operating Revenues	<u>1,626,933</u>	<u>138,353</u>		<u>128,916</u>	<u>(9,437)</u>	93.2%
<b>Operating Expenses</b>						
Central Charges	122,030	30,385		32,916	2,531	108.3%
Recreation Facilities	1,504,903	246,804		244,295	(2,509)	99.0%
Total Operating Expenses	<u>1,626,933</u>	<u>277,189</u>		<u>277,211</u>	<u>22</u>	100.0%
Increase (Decrease) in Net Assets	<u>0</u>	<u>(138,836)</u>		<u>(148,295)</u>	<u>(9,459)</u>	

**City of Westminster  
Financial Report  
For Three Months Ending March 31, 2010**

Description	Budget	Pro-rated for Seasonal Flows	Notes	Actual	(Under) Over Budget	% Budget
<b>Heritage at Westmoor Fund</b>						
<b>Operating Revenues</b>						
Charges for Services	1,373,219	112,604		141,199	28,595	125.4%
Interfund Transfers	775,158	193,790		193,790	0	100.0%
Total Operating Revenues	<u>2,148,377</u>	<u>306,394</u>		<u>334,989</u>	<u>28,595</u>	109.3%
<b>Operating Expenses</b>						
Central Charges	108,055	25,717		28,706	2,989	111.6%
Recreation Facilities	1,542,232	296,109		261,958	(34,151)	88.5%
Total Operating Expenses	<u>1,650,287</u>	<u>321,826</u>		<u>290,664</u>	<u>(31,162)</u>	90.3%
Operating Income	498,090	(15,432)		44,325	59,757	
<b>Other Expense</b>						
Debt Service	<u>498,090</u>	<u>0</u>		<u>0</u>	<u>0</u>	
Increase (Decrease) in Net Assets	<u><u>0</u></u>	<u><u>(15,432)</u></u>		<u><u>44,325</u></u>	<u><u>59,757</u></u>	

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
MONTH OF MARCH 2010

Center Location Major Tenant	/----- Current Month -----/			/----- Last Year -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	343,822	1,261	345,084	318,892	1,418	320,310	8	-11	8
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	272,471	17,535	290,006	233,104	10,748	243,852	17	63	19
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	201,819	347	202,166	203,399	613	204,012	-1	-43	-1
COUNTRYDALE BUSINESS PARK S SIDE 108TH & WADSWORTH BALL CORPORATION	8	191,619	191,627	52	13,332	13,384	-84	1337	1332
SHOPS AT WALNUT CREEK 104TH & REED TARGET	189,849	1,180	191,029	178,653	3,284	181,937	6	-64	5
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	183,169	338	183,507	180,406	2,370	182,776	2	-86	0
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	170,112	324	170,436	158,590	12	158,602	7	2548	7
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	108,636	32,169	140,805	112,986	13,616	126,602	-4	136	11
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	136,777	415	137,192	165,754	2,055	167,809	-17	-80	-18
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	133,043	1,173	134,216	136,007	961	136,967	-2	22	-2
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	111,335	1,349	112,684	243,716	1,770	245,486	-54	-24	-54
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	110,150	336	110,486	180,285	472	180,758	-39	-29	-39
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	97,295	313	97,607	96,891	113	97,003	0	178	1
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	65,646	82	65,728	63,625	6	63,631	3	1181	3
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	59,603	196	59,799	70,317	305	70,621	-15	-36	-15

CITY OF WESTMINSTER  
 GENERAL RECEIPTS BY CENTER  
 MONTH OF MARCH 2010

Center Location Major Tenant	Current Month			Last Year			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	53,545	84	53,630	55,895	241	56,136	-4	-65	-4
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH SAFEWAY	48,870	315	49,185	47,965	235	48,200	2	34	2
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	47,110	62	47,173	43,734	1,022	44,756	8	-94	5
STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH SAFEWAY	39,966	115	40,080	41,640	108	41,748	-4	7	-4
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	38,837	183	39,020	38,768	175	38,942	0	5	0
WILLOW RUN 128TH & ZUNI SAFEWAY	33,984	162	34,145	43,557	450	44,007	-22	-64	-22
RANCHO PLAZA SE CORNER 72ND & FEDERAL RANCHO LIBORIO	31,418	382	31,800	27,538	0	27,538	14	*****	15
LUCENT/KAISER CORRIDOR 112-120 HURON - FEDERAL LUCENT TECHNOLOGY	4,682	24,643	29,325	4,563	32,231	36,794	3	-24	-20
COMPASS BANK BUILDING SW CORNER 92ND & SHER COMPASS BANK	10,885	13,287	24,173	12,231	185	12,416	-11	7073	95
CHURCH RANCH CORPORATE CENTER CHURCH RANCH BOULEVARD LA QUINTA	22,497	1,120	23,617	7,328	10,022	17,351	207	-89	36
	2,515,529	288,989	2,804,518	2,665,895	95,745	2,761,640	-6	202	2

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
MARCH 2010 YEAR-TO-DATE

Center Location Major Tenant	YTD 2010			YTD 2009			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total	Sales	Use	Total
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART 92ND	1,187,858	4,129	1,191,987	1,172,933	11,114	1,184,047	1	-63	1
THE ORCHARD 144TH & I-25 JC PENNEY/MACY'S	1,040,336	59,361	1,099,697	884,035	44,833	928,868	18	32	18
INTERCHANGE BUSINESS CENTER SW CORNER 136TH & I-25 WALMART 136TH	712,189	1,200	713,389	722,317	2,117	724,434	-1	-43	-2
SHOPS AT WALNUT CREEK 104TH & REED TARGET	697,904	4,317	702,221	662,269	9,317	671,586	5	-54	5
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	621,320	1,150	622,470	616,463	2,782	619,246	1	-59	1
SHOENBERG CENTER SW CORNER 72ND & SHERIDAN WALMART 72ND	578,818	1,370	580,188	549,164	4,584	553,747	5	-70	5
WESTMINSTER MALL 88TH & SHERIDAN 3 DEPARTMENT STORES	505,581	4,082	509,663	900,072	4,244	904,316	-44	-4	-44
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	476,818	3,138	479,957	494,694	6,945	501,640	-4	-55	-4
SHERIDAN CROSSING SE CORNER 120TH & SHER KOHL'S	475,426	2,435	477,861	475,518	8,279	483,797	0	-71	-1
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN BARNES & NOBLE	381,708	1,917	383,625	606,098	2,596	608,694	-37	-26	-37
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SOOPERS	372,939	1,592	374,531	388,933	2,427	391,360	-4	-34	-4
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	350,481	90,247	440,728	381,854	46,902	428,756	-8	92	3
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	258,027	699	258,726	290,282	1,356	291,638	-11	-48	-11
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SOOPERS	256,755	341	257,096	252,503	904	253,407	2	-62	1
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER	219,365	1,141	220,505	179,746	940	180,686	22	21	22

CITY OF WESTMINSTER  
GENERAL RECEIPTS BY CENTER  
MARCH 2010 YEAR-TO-DATE

Center Location Major Tenant	YTD 2010 General Sales	YTD 2010 General Use	Total	YTD 2009 General Sales	YTD 2009 General Use	Total Sales	%Change	Use	Total
GUIAR STORE WESTMINSTER CROSSING 136TH & I-25	150,584	154	150,738	154,616	2,535	157,151	-3	-94	-4
LOWE'S WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH	141,509	11,760	153,270	154,294	764	155,058	-8	1439	-1
SAFEWAY STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH	124,483	733	125,216	146,546	2,459	149,005	-15	-70	-16
SAFEWAY VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON	115,991	948	116,939	123,667	832	124,498	-6	14	-6
CB & POTTS WILLOW RUN 128TH & ZUNI	102,921	728	103,649	145,876	903	146,779	-29	-19	-29
SAFEWAY RANCHO PLAZA SE CORNER 72ND & FEDERAL	99,128	666	99,794	45,903	0	45,903	116	*****	117
RANCHO LIBORIO MISSION COMMONS W SIDE WADSWORTH 88-90TH	71,284	169	71,453	72,075	305	72,380	-1	-45	-1
BIG 5 SPORTS NORTHVIEW 92ND AVE YATES TO SHERIDAN	64,226	461	64,687	64,833	845	65,678	-1	-45	-2
SALTGRASS ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED	59,737	1,386	61,123	73,728	1,725	75,452	-19	-20	-19
ELWAY MOTORS STANDLEY PLAZA SW CORNER 88TH & WADS	58,445	960	59,405	52,012	1,465	53,477	12	-34	11
WALGREENS									
	9,123,833	195,086	9,318,919	9,610,430	161,172	9,771,602	-5	21	-5



## Agenda Item 8 B

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
April 26, 2010



**SUBJECT:** Quarterly Insurance Claim Report: January - March 2010

**Prepared By:** Martee Erichson, Risk Management Officer

### Recommended City Council Action

Accept the First Quarter 2010 Insurance Claims Report.

### Summary Statement

- The attached report provides detailed information on each claim including the City's claim number, date of loss, claimant's name and address, a summary of the claim, and the claim's status. Since all claims represent a potential liability to the City, Risk Management Staff works closely with the City Attorney's Office on litigated claims to make sure that the interests of both the City and the citizen are addressed in each instance. The listing of the claims in this report is provided in accordance with Westminster Municipal Code 1-30-3.
- In accordance with Code provisions, the Risk Management Officer, acting as the City Manager's designee, has the authority to settle claims of less than \$30,000. However, under the City's contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjuster and settlement of claims proceed with the concurrence of both CIRSA and the Risk Management Officer. The City retains the authority to reject any settlement recommended by CIRSA, but does so at the risk of waiving its insurance coverage for such claims.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

Information on the status of each claim received during the 1st quarter of 2010 is provided on the attached spreadsheet. All Incident Report forms are signed and reviewed by appropriate supervisors, Safety Committee representatives and department heads. Follow up action, including discipline if necessary, is taken on incidents where City employees are at fault.

For the first quarter of 2010, Staff has noted the following summary information:

- Four of the 12 claims reported in the first quarter of 2010 are closed at this time.
- Total claims for the quarter and year-to-date breakdown by department as follows:

	1st Qtr 2010			YTD
Department	Total Claims	Open	Closed	Total
Police	3	2	1	3
PR&L	6	6	0	6
PWU - Streets	3	0	3	3
<b>TOTAL</b>	12	8	4	12

The Risk Management program addresses Council’s Strategic Plan goals of Financially Sustainable City Government and Safe and Secure Community by working to mitigate the cost of claims to the City and maintaining a loss control program to keep our City streets and facilities safe for the general public.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

**Quarterly Insurance Report  
January – March 2010**

<b>Claim Number</b>	<b>Loss Date</b>	<b>Dept.</b>	<b>Claimant</b>	<b>Address</b>	<b>Claim Description</b>	<b>Payment</b>	<b>Status</b>	<b>Notes</b>
2010-009	1/5/2010	PWU - Streets	Jeremiah Crane	1030 E 10th Ave. #105, Broomfield CO 80020	Claimant alleges damage to his vehicle occurred when he drove over a pothole.	\$0.00	Closed	Claimant was referred to CDOT as the pothole was located on CDOT maintained portion of Sheridan Blvd.
2010-030	1/30/2010	PD	Jasmine Owen	6193 Garrison St., Arvada CO 80005	Claimant alleges officer lost her cell phone when the officer placed it on the top of the patrol vehicle and forgot to remove it before driving off.	\$0.00	Open	CIRSA Investigating
2010-055	2/21/2010	PWU - Streets	Jody (Chris) Loza	6022 W 113th Ave., Westminster CO 80020	Claimant alleges the employee driver of a City snowplow ran a red light causing the claimant to run into the plow truck with his personal vehicle.	\$0.00	Closed	Both drivers claimed to have the green light and there were no independent witnesses to the accident. CIRSA denied the claim as the investigation found the City driver at no more fault than the claimant; determined both parties should handle their own damages.
2010-061	2/22/2010	PD	Don Fitzpatrick	3022C W 107th Pl., Westminster CO 80031	Westminster officer deployed stop sticks on a roadway to assist the State Patrol in pursuit of a suspect. When the spikes were no longer needed, the officer pulled the string to remove them from the roadway, but the string broke and the claimant ran over the spikes damaging two tires on his vehicle.	\$215.00	Closed	
2010-077	2/25/2010	PRL	Nicole Mares	1165 James Ct., Lafayette CO 80026	Notice of Claim received from Constitution State Services on behalf of their insured, AMC theaters, states that the claimant slipped and fell on steps outside the theater due to ice.	\$0.00	Open	CIRSA Investigating in case claimant pursues a claim against the City, however, Promenade property management company has agreed to pay claimant under their Automatic Medical Pay coverage.
2010-095	2/25/2010	PRL	Connie Murray	1195 Sparta Dr., Lafayette CO 80026	Notice of Claim received from Constitution State Services on behalf of their insured, AMC theaters, states that the claimant slipped and fell on steps outside the theater due to ice.	\$0.00	Open	CIRSA Investigating in case claimant pursues a claim against the City, however, Promenade property management company has agreed to pay claimant under their Automatic Medical Pay coverage.
2010-078	3/11/2010	PD	Jack Hudson	8300 N Sheridan Blvd. #22C, Westminster CO 80003	Officer transported claimant to St. Anthony North. The officer was following an ambulance that was transporting the claimant's daughter. When claimant reached up and grabbed passenger door to exit the police car, the officer accidentally shut the door on his fingers. Claimant's wedding ring had to be cut off by hospital staff for x-rays.	\$0.00	Open	CIRSA Investigating
2010-093	3/25/2010	PRL	Gabe Vigil & Angie Nicholson	1311 W 135th Dr., Westminster CO 80234	Claimants allege City crew damaged their fence while plowing snow from the sidewalk on 136th.	\$0.00	Open	CIRSA Investigating

Claim Number	Loss Date	Dept.	Claimant	Address	Claim Description	Payment	Status	Notes
2010-093	3/25/2010	PRL	Anita Benton	1451 W 135th Dr., Westminster CO 80234	Claimant alleges City crew damaged her fence while plowing snow from the sidewalk on 136th.	\$0.00	Open	CIRSA Investigating
2010-093	3/25/2010	PRL	Lisa Eakeley	1351 W 135th Dr., Westminster CO 80234	Claimant alleges City crew damaged her fence while plowing snow from the sidewalk on 136th.	\$0.00	Open	CIRSA Investigating

**CLAIMS SUBMITTED RECENTLY WITH OCCURRENCE DATE PRIOR TO 1st QUARTER 2010:**

2009-416	11/17/2009	PRL	Zillah Gresham	6870 W 91 <sup>st</sup> Ave. #6306, Westminster CO 80021	A Notice of Claim was received from Constitution State Services on behalf of AMC theaters regarding claimant's slip and fall on the steps outside the AMC at the Promenade allegedly due to ice.	\$0.00	Open	CIRSA Investigating
2009-412	12/26/2009	PWU - Streets	Devin Cummings	9060 Cody Ct., Westminster CO 80021	Claimant alleges damage to his driveway from incident where City driver of snowplow/salt truck lost a portion of his load on the road in front of the claimant's driveway.	\$0.00	Closed	Claim denied due to no negligence on the part of the City.
					<b>Total</b>	<b>\$215.00</b>		



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Land Trade with the Colorado Department of Transportation

**Prepared By:** Dave Downing, City Engineer

**Recommended City Council Action**

Authorize the City Manager to execute documents to accomplish a trade of land with the Colorado Department of Transportation to accommodate the reconstruction of the 80<sup>th</sup> Avenue Bridge over US Highway 36.

**Summary Statement**

- The new 80<sup>th</sup> Avenue Bridge will be offset slightly to the south of the existing structure. As part of this project, Colorado Department of Transportation (CDOT) will also straighten the existing curve in 80<sup>th</sup> Avenue located immediately east of the bridge. These two actions make it necessary for new construction to occur within a portion of City-owned open space located at the southeast quadrant of the existing bridge (Parcel 2 on the attached drawing).
- The open space was originally acquired by the City from CDOT in 1992 at a price of \$0.033 (i.e. less than 4 cents) per square foot. The terms of the closing documents for that transaction dictated that CDOT could repurchase this land from the City at any point in the future if needed for a highway project at that same \$0.033 per square foot price.
- The total area of open space land needed for the bridge reconstruction equals 51,407 square feet. In light of the small amount of revenue that would be generated by such a purchase by CDOT (\$1,696), City staff requested that the Department instead trade to the City a comparable sized parcel of State-owned land in the immediately vicinity of the open space. A 46,753 square foot parcel located to the north of 80<sup>th</sup> Avenue (Parcel 4 on the attached drawing) has been identified for this purpose.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City agree to the proposed land trade with the Colorado Department of Transportation to accommodate the reconstruction of the 80<sup>th</sup> Avenue Bridge over US Highway 36?

**Alternative**

The City is contractually required to relinquish the portion of the open space land needed for the bridge project to CDOT. As an alternative, the City could request that CDOT purchase the land at the price of \$0.033 per square foot, or a total of \$1,696. This alternative is not recommended due to the small amount of revenue that would be generated by such a purchase.

**Background Information**

CDOT opened bids for the 80<sup>th</sup> Avenue Bridge project on April 1, 2010. The low bid from Structures, Inc., a well-respected construction firm that recently completed the Big Dry Creek Bridge over Wadsworth Boulevard for the City, was approximately \$6.9 million, or approximately \$1 million below the engineer's estimate. The bid has not yet been formally awarded to the contractor due in part to the pending completion of various right-of-way issues, including this proposed land trade between the City and the Department. CDOT staff is rapidly attempting to prepare the necessary land acquisition documents, but they have not yet been finalized. In an effort to hasten this process so that the bid can be promptly awarded and construction can commence as quickly as possible, it is requested that City Council authorize the City Manager to execute the land acquisition documents once they are prepared with the understanding that the documents will first be reviewed and approved by the City Attorney.

Parcel 2, the portion of the City-owned open space needed by CDOT for the construction of the project, equals 51,407 square feet in size. However, only approximately one-half of that area will actually be encompassed by 80<sup>th</sup> Avenue roadway improvements. The remainder of Parcel 2 will serve as slope stabilization for the elevated roadway. While City staff generally does not recognize such slope areas as appropriate for open space uses, CDOT staff has requested that the slope embankment be considered an acceptable offset of the difference in size between Parcel 2 and the 46,753 square foot Parcel 4 that the City will receive in return. The City has limited ability to negotiate this matter further.

It is anticipated that the construction of this project will commence before the end of May, and CDOT representatives still believe that the new bridge will be available to traffic before the end of 2010.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment - Map





## Agenda Item 8 D

### WESTMINSTER COLORADO

#### Agenda Memorandum

City Council Meeting  
April 26, 2010



**SUBJECT:** Police and Fire Departments Purchase of Replacement Mobile Computers

**Prepared By:** Darrin Bacca, Police Projects Specialist  
Scott Rope, Information Systems Manager  
Rich Welz, Technical Services Coordinator

#### Recommended City Council Action

Authorize the Police and Fire Department's purchase of 90 fully ruggedized General Dynamics Itronix GD8000 (MDT's) from Global Mounting in an amount not to exceed \$433,814.

#### Summary Statement

- On June 22, 2009, City Council approved the staff recommendation to enter into a one year extended, no questions asked, warranty contract with Itronix to provide maintenance and repair services on 79 ruggedized MDT's. The warranty allowed the City to extend the replacement period to five years and delay the costs associated with replacement of the units until 2010. The average useful life for the MDT's is 4-5 years. The total cost of the contract was \$60,688 and the funds for the extended warranty were paid from the Police and Fire Departments' General Fund Operating Budget.
- In the originally Adopted 2010 General Fund Police and Fire Department operating budgets, City Council authorized replacement of the MDT's through a lease/purchase for a total cost of \$159,096.
- In the amended 2010 Budget approved in October 2009, City Council was advised that E-911 agreed to cover the base price of replacement vehicle ruggedized MDT's, a four year "no questions asked" warranty, and a four year battery warranty for each MDT. This amounts to \$3,600 per unit, or \$324,000 total, that E-911 will pay directly to Global Mounting. The purchase by E-911 does not require any commitment from the City. However, the City is responsible for paying the price difference for these units, which will not exceed \$85,000.
- Since the MDT's are being purchased outright, there is a savings in lease purchase costs of \$74,097 in 2010 and approximately \$160,000 savings per year from 2011-2013. There will also be an additional reduction in cost to the City because General Dynamics will buy back the decommissioned MDT's at a reimbursement up to \$650 per unit. The City's portion of the expenditure (not to exceed \$85,000) will be decreased depending on the total amount General Dynamics agrees to on the buy back of the returned MDT's.
- Adequate funds are budgeted in the Police and Fire Departments' General Fund operating budgets to pay the City's portion of the total cost for the MDT purchase through Global Mounting.

**Expenditure Required:** Not to exceed \$433,814

**Source of Funds:** General Fund - Police and Fire Department Operating Budget (not to exceed \$85,000)  
Jefferson County E-911 Authority Board (\$324,000)  
Laptop Trade In (\$24,814)

## **Policy Issue**

Should the City of Westminster enter into a purchase agreement, in partnership with the E-911 Authority Board, with Global Mounting for 90 new General Dynamics Itronix GD8000 MDT's to replace the existing out-of-date MDT's currently in place?

## **Alternatives**

1. Enter into an additional one year extended warranty contract with Itronix, thereby extending the mobile computers to six years. Staff does not recommend this alternative because the E-911 Authority Board may not be able or willing to pay for the MDT's in 2011 and the City would then have lost the opportunity to purchase the MDT's at a substantial savings of \$324,000. In addition, Global Mounting may not offer the buyback agreement on the sixth year of use. The extended warranty contract, if available, would likely cost as much as the City will be paying for the new MDT's under the partnership with the E-911 Authority Board.
2. Continue to utilize the current MDT's that are five years old and repair them on a time and materials basis. While General Dynamics is a leader in mobile computing technology and reliability, the costs to repair a failed unit is estimated at \$1,200 per incident. With an estimated average failure rate of six units per month, the cost of an extended warranty is less than the estimated cost to repair the computers on a time and materials basis. Additionally, soft dollar costs associated with time and materials repair would increase as additional work would be required to be performed by the Information Technology Staff. Therefore Staff does not recommend this alternative.

## **Background Information**

In July 2000, the Police and Fire Departments implemented the Intergraph Corporation Computer Aided Dispatch and Records Management System. The capabilities of this system allow a police officer or a firefighter to perform the majority of his/her duties in the field with the use of ruggedized MDT's. These computers are essential and allow the officers to receive calls for service; access interactive maps to aid in locating addresses; prepare and route incident reports to the Intergraph Records Management System; and access the Colorado Bureau of Investigation Crime database to check for wants or warrants on individuals and vehicles. Additionally, with the MDT integrated GPS capabilities, Police and Fire Dispatch staff can monitor the physical location of all Police, Animal Management, Code Enforcement officers, and Fire personnel allowing dispatch staff to send immediate help to an exact location should an emergency situation be declared. The use of MDT's and interactive map functions also enable firefighters to create a plan of attack for structure fires and aids paramedics in quickly locating obscure addresses to provide faster medical attention. The interactive map function also aids Police Department's SWAT Unit in locating physical boundaries and other obstacles that are crucial when setting up perimeters to major in-progress crimes by utilizing aerial photography.

The MDT's have been on a four year replacement program since inception. City Council had authorized replacement of the MDT's in the 2009 Police and Fire General Fund Operating Budgets at a total lease cost of \$479,168 over four years. However, on June 22, 2009, City Council approved the Staff recommendation to enter into a one year extended, no questions asked, warranty contract with General Dynamics to provide maintenance and repair services on the ruggedized MDT's. Under the warranty, all parts, including battery replacement, are covered at no cost to the City and the total cost of the warranty contract was \$60,688. The warranty allowed the City to extend the replacement period to five years and delay the costs associated with replacement of the units until 2010. The MDT's were in relatively good condition due to the "no questions asked" warranty services that are provided by General Dynamics during the four years of use. The funds for the extended warranty were paid from the Police and Fire Department's operating budgets from funds originally planned for the lease/purchase.

City Council had authorized replacement of the MDT's in the adopted 2010 General Fund Police and Fire Operating Budgets through a first year lease/purchase payment of \$159,096. In mid 2009, the E-911 Authority Board advised the City of Westminster that they would provide funding in the amount of \$324,000 (\$3,600 per laptop) toward the purchase of 90 MDT's. The City has held an excellent long term relationship with the E-911 Authority Board and has partnered with the Authority Board in the past through supplemental funding or direct purchases of equipment by E-911 for the Public Safety Communications Center. The Amended 2010 Budget reflected a revised cost to the City of \$85,000 for these MDT replacements.

Since the MDT's are being purchased outright, there is a savings in lease purchase costs in 2010 of \$74,097 and approximately \$160,000 savings per year from 2011-2013. An additional reduction in cost will be realized because General Dynamics will buy back the old MDT's at a reimbursement up to \$650 per unit. Therefore, the City's portion of the expenditure will be decreased (by as much as \$51,350 for 79 units) depending on the total amount General Dynamics agrees to on the buy back of the returned MDT's.

The City currently owns 79 MDTs. With this acquisition, Staff is recommending the purchase of 90 units. Of these 11 additional units, one will be placed in the replacement heavy rescue unit ordered last year for the Fire Department. The heavy rescue unit did not have an MDT and to be functional for the cross staffing proposed for this unit, it needs to have a MDT assigned/installed to make the unit ready to roll when called. The remaining 10 units will be utilized in the Police and Fire Departments as spares to minimize the down time of a patrol or fire unit due to having to wait for a replacement MDT. Staff believes this will improve internal customer service and make the police and fire units better prepared for service in the community.

The Information Technology Department researched the model and pricing for the MDT's and obtained quotes from three vendors (Global Mounting, Group Mobile, and General Dynamics) and from General Services Administration (GSA). Ultimately, Global Mounting was selected as the vendor of choice. Their quote was the lowest of the three quotes received from vendors and was also lower than GSA. Staff also agreed that Global Mounting provided the best product, price, service warranty and Staff is familiar with the company and their service history. Staffs from both the Police and Fire Departments were included in the final recommendation. The total cost of the General Dynamics Itronix GD8000 fully ruggedized mobile laptops includes the four year no fault maximum warranty, four year battery warranty, and the mounting docks that secure the MDT's in the vehicles.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Shoenberg Farm Barn Rehabilitation Construction Contract

**Prepared By:** Vicky Bunsen, Community Development Projects Coordinator

**Recommended City Council Action**

Based on the report of the City Manager, City Council finds that the public interest would be best served by accepting the bid for this work from TC Squared Construction Inc.; authorize the City Manager to award and execute a contract with TC Squared Construction Inc. in the amount of \$294,665 for the rehabilitation of the Shoenberg Farm barn, and authorize a construction contingency of 10% in the amount of \$29,764, subject to final budget approval by the grant agency, the State Historical Fund.

**Summary Statement**

- The Shoenberg Farm barn is part of a seven-structure City Council-designated local historic landmark located at 5202 West 73<sup>rd</sup> Avenue.
- Using State Historical Fund grants, the barn was assessed and construction drawings were prepared for rehabilitation. A grant application was filed April 1, 2008, with the State Historical Fund to complete the rehabilitation project.
- The Request for Bids for the construction of this project was posted on the City website and forwarded to five contractors known to be experienced with historic preservation projects. The bids were opened on April 8, 2010. Ten bids were received. The qualifications of the five lowest bidders were further investigated.
- Staff has reviewed the bids and recommends award of the contract to the third-lowest bidder, TC Squared Construction Inc., based on the fact that its bid is within the grant-funded budget, the firm and its subcontractors demonstrated more extensive experience with this type of project, and the firm demonstrated a clear understanding of the specifications of the project as directed by the State Historical Fund. A 10% contingency of \$29,764 is also recommended for a total project budget of \$324,429.

**Expenditure Required:** \$324,429

**Source of Funds:** \$ 96,031 - Shoenberg Farm CIP  
\$228,398 - State Historical Fund

**Policy Issue**

Should the City proceed with the rehabilitation of the Shoenberg Farm barn, a local historic landmark located at 5202 West 73<sup>rd</sup> Avenue?

**Alternatives**

Alternatives include postponing or abandoning the construction of this project. Given the availability of 75% grant funding that will be lost if the project is not completed on schedule, these alternatives are not recommended.

**Background Information**

The bid results are as follows:

<u>Contractor</u>	<u>Submitted Bid</u>
Kunkel Construction Inc.	\$220,902
Colon-Collawn Construction	\$275,891
TC 2 (Squared), Inc.	\$293,665
Avondale Construction	\$299,303
Walsh Construction	\$311,711
Barba & Sons Construction	\$340,779
White Construction	\$341,808
W.M.Brown	\$350,200
Deneuve Construction	\$388,423
Spectrum General Contractors	\$394,221

The Shoenberg Farm barn project requires a number of specialized tasks that must be carried out in strict compliance with State Historical Fund requirements. In particular, the masonry, window restoration and the particular historical profile of the metal roof were areas where contractors and their subcontractors were required to demonstrate their expertise. The bid package included a detailed explanation that prior experience with historic preservation projects would be weighed against the amount of the bid in order to select a bidder who was most capable of high-quality performance within the available project budget. This information was repeated at the bid opening and the bidders were told that they would be contacted to provide further information on their qualifications if their bid fell within the available budget.

The qualifications of the five lowest bidders were investigated by Staff. Based on the responses from these bidders, it was determined that TC Squared Construction would be best able to carry out the requirements of this project. This firm's bid would allow the project to carry a 10% contingency, an important consideration for this type of project where unknown conditions are commonly found during construction. Also TC Squared completed an entirely satisfactory rehabilitation of the Semper Farmhouse for the City of Westminster. They plan to use Rocky Mountain Building Restoration and Phoenix Window Restoration as subcontractors, both of whom have extensive historic preservation experience. The proposed construction superintendent has supervised a number of complex historic preservation projects such as the \$2,266,789 Boettcher Mansion restoration project on Lookout Mountain. Finally, their roofing subcontractor demonstrated a complete understanding of the metal roof profile and how to install it in a manner to meet the requirements of the State Historical Fund.

Kunkel, Colon-Collawn and Avondale did not demonstrate this high level of experience and understanding of the details of this project. Walsh Construction appears to be highly qualified, but it was determined that the bid would not leave a sufficient contingency for the project.

**SUBJECT:** Shoenberg Farm Barn Rehabilitation Construction Contract

Page 3

The funding for this project comes from two sources: The State Historical Fund and the Shoenberg Farm CIP account. In addition to the barn rehabilitation, this project budget has also funded drainage improvements to prevent any further on-site flooding.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Meadowlark and Transit Oriented Development Waterline Project Design and Construction Management Contract

**Prepared By:** Dan Strietelmeier, Senior Engineer  
Steve Grooters, Senior Projects Engineer

**Recommended City Council Action**

Based on the recommendation of the City Manager, find that the public interest would best be served by authorizing the City Manager to execute a contract with Burns and McDonnell Engineering Company, Inc. in the amount of \$263,961 to provide engineering design and construction management services for the Meadowlark and Transit Oriented Development Waterline Project and authorize a 10% contingency in the amount of \$26,396, for a total expenditure of \$290,357.

**Summary Statement**

- The Utility System Infrastructure Master Plan identified the need for several improvements to the potable water distribution system to improve pressure, flow and reliability within the system. Included was the Meadowlark and Transit Oriented Development (TOD) Waterline Project.
- This project replaces waterlines in two areas (see attached maps): the Meadowlark subdivision by 104<sup>th</sup> Avenue and Bryant Street and the TOD area along 71<sup>st</sup> Avenue and Irving Street.
- Pipe replacement in both areas is necessary due to existing pipe age and break history. The TOD area pipe replacement is also necessary to accommodate anticipated flow demands.
- Combining these two similar pipeline projects into one contract is cost efficient and streamlines the project schedule. Both projects are being scheduled now to be ahead of planned street repairs.
- Of three proposals received, Staff believes Burns and McDonnell Company, Inc. (Burns and McDonnell) provides the best value to the City.
- Burns and McDonnell has a history of successful projects of similar size and scope including a waterline projects for the City.
- Burns and McDonnell's experience with Westminster waterline work and knowledge of the City's specifications should result in a quality design product.
- Staff recommends awarding the contract to Burns and McDonnell based on their competitive pricing, proposed scope of work, familiarity with the City's infrastructure and the successful experience of their proposed project team.
- This contract includes engineering services to be provided through the design, bidding and construction administration phases. Design is expected to be completed by the end of August and construction is scheduled to begin in September.
- Adequate funds were included in the 2009 Utility Fund Capital Improvement Budget and are available for this expense.

**Expenditure Required:** \$290,357

**Source of Funds:** Utility Fund CIP – Open Cut Waterline Replacement

**Policy Issue**

Should Council proceed with awarding the engineering contract to Burns and McDonnell Engineering Company, Inc.?

**Alternatives**

1. City Council could decline to approve the contract and place the project on hold. This is not recommended since it would result in delaying the waterline replacement and could result in increased maintenance and repair expenses and possible service impacts to the residents. Street rehabilitation is scheduled for the project areas in 2011. Construction of the pipeline in advance of street rehabilitation is highly desirable.
2. City Council could choose to award the contract to one of the other consultants that submitted proposals; however, this is not recommended as Staff believes that Burns and McDonnell Engineering Company, Inc. provides the best value for this project. They also have gained a familiarity with the City's infrastructure, standards and specifications. This will streamline key project tasks.

**Background Information**

The 2006 Utility System Infrastructure Master Plan recommended improvements to the City's potable water distribution system. The older metallic pipes in the system have experienced a relatively high rate of failure (water breaks) that is expected to continue or increase unless preventive action is taken. By improving waterlines in the project areas in advance of planned street improvements, the City will reduce overall system costs and future utility related impacts to residents and businesses. This project consists of replacement of existing local waterlines in two areas of the City: The Meadowlark Subdivision, Filing No.1 and the TOD area of the City along 71<sup>st</sup> Avenue and Irving Street.

Phase 1 of the project will occur in the Meadowlark Subdivision, Filing No. 1 where there have been multiple pipeline breaks. A number of valves are operable but leak severely when closed. The Meadowlark area waterline replacement should consist of mostly new eight inch diameter pipe. Fire hydrant replacement will also be examined to ensure that adequate fire protection coverage is available. The schedule for this work is timely for getting ahead of planned street repairs. See the attached map for a layout of the new waterlines in this area.

Also included in the Meadowlark area will be the construction of a larger (twelve inch) waterline within Decatur Street and replacement of the temporary Pressure Relief Valve (PRV) installed at 106<sup>th</sup> Avenue and Decatur Street. The existing PRV is a used unit installed as a temporary fix for pressure control. A larger, higher quality and more sophisticated PRV vault will be designed and installed at this location.

Phase 2 of the project will occur in the TOD area of the City. The project will replace existing waterlines to improve water flow and pressures in advance of the proposed TOD construction. Existing waterlines are aged, undersized and have a history of relatively high frequencies of water breaks. Large scale redevelopment is proposed and a new twelve inch waterline is needed in Irving Street and in 71<sup>st</sup> Avenue to provide the required fire flow and maximum day demands to this area. Refer to attached maps for a layout of the proposed waterline alignments. Provisions will be made such that the 71<sup>st</sup> Avenue waterline can be extended via future projects by others across Federal Boulevard to serve future development. It has been determined that the City sewer lines in both of these areas do not need rehabilitation at this time. This project may also include connecting new customers to the City's distribution system in the TOD area who are currently served by the Crestview Water and Sanitation District.

In March of 2010, Staff sent a Request for Proposals to five engineering firms qualified in waterline replacement project design and construction management. The City received three proposals on April 2, 2010. The proposals addressed all services to be provided through design, bidding and construction management. The following is a summary of the firms that submitted a proposal with the proposed costs.

<b>Engineering Firm</b>	<b>Total Fee</b>
HDR Engineering, Inc.	\$259,860
Burns & McDonnell Engineering Company, Inc.	\$263,961
Brown and Caldwell, Inc.	\$276,193 (1)

(1) Brown and Caldwell, Inc.’s submitted cost was \$209,553. Staff normalized this fee to match the duration of field services specified in the City Request for Proposals. Based on their submitted rates, normalizing their effort results in a cost of \$276,193.

Staff carefully evaluated each technical proposal and ranked each firm based on their technical approach to the project, the experience of their project team on similar projects and their administrative ability to complete the project within the City’s requirements. Based on these evaluations, Staff determined that Burns and McDonnell Engineering Company, Inc. provided the most comprehensive and responsive proposal and provided a project team with proven successful waterline construction project experience.

The project team proposed by Burns and McDonnell Engineering Company, Inc. has successfully completed work similar in scope to this project including the recently completed South Pressure Zone 1 Water Transmission Pipeline Project (South Pressure Zone 1 Project) with BT Construction as the construction contractor. Key scope items from the South Pressure Zone 1 Project are common to this project, including surveying, permitting, preparing construction plans for water pipelines and appurtenances, bidding phase services and construction administration. Included in their proposal is a complete project schedule through construction.

The additional benefit of using Burns and McDonnell Engineering Company, Inc. is their use of the same project team (including the same resident project representative) used on the South Pressure Zone 1 Project. The resident project representative or resident engineer, who will have a majority of the labor hours on the project, was successful in dealing with the public, coordinating traffic control and new connections to the water system on the South Pressure Zone 1 Project. The project should run more efficiently with the relevant experience that they have in coordinating with City Staff and with the construction contractor. This should result in reduced overall project costs for construction and the typical complexities during construction can be anticipated and resolved more efficiently. Often times, this type of waterline construction is disruptive to the neighborhood and the experience of Burns and McDonnell Engineering Company, Inc.’s resident engineer will be valuable in helping the project to progress smoothly. Burns and McDonnell Engineering Company, Inc. provided a comprehensive proposal that addressed all the project requirements and Staff believes Burns and McDonnell Engineering Company, Inc. will provide the best value and level of service to the City.

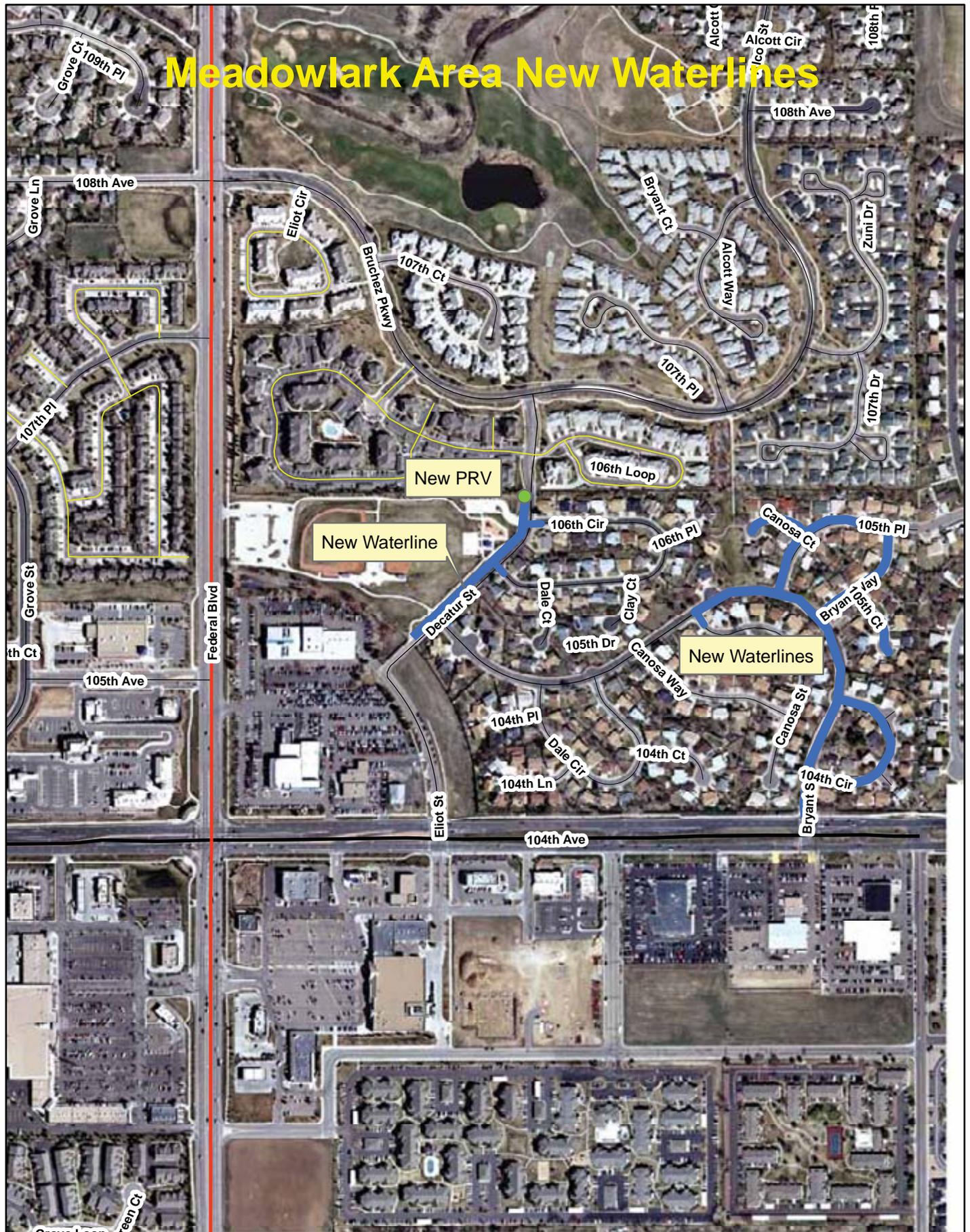
The Meadowlark and TOD Waterline Replacement Project helps achieve the City Council’s Strategic Plan Goal of “Financially Sustainable City Government” by contributing to the objective of well-maintained City infrastructure and facilities.

Respectfully submitted,

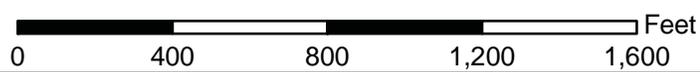
J. Brent McFall  
City Manager

Attachments: Meadowlark Area New Waterlines (map)  
TOD Area New Waterline Alignment (map)

# Meadowlark Area New Waterlines



City of Westminister



# TOD Area New Waterline Alignment



City of Westminster





## Agenda Item 8 G

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Bond and Disclosure Counsel for Approximately \$30 Million Water and Wastewater Utility Enterprise, Taxable and/or Tax-exempt Water and Wastewater Revenue Bond Issue, Series of 2010

**Prepared By:** Martin R. McCullough, City Attorney  
Tammy Hitchens, Finance Director

**Recommended City Council Action**

Authorize the City Manager to execute an agreement for bond counsel services with Sherman & Howard for a fee not to exceed \$30,000, plus actual expenses not to exceed \$1,000; and an agreement for disclosure counsel services with Kutak Rock for a total fee not to exceed \$28,000, plus actual expenses not to exceed \$250 in connection with the proposed issuance of approximately \$30 Million Water and Wastewater Utility Enterprise, Taxable and/or Tax-exempt Water and Wastewater Revenue Bonds, Series of 2010, in the form attached.

**Summary Statement**

- All special counsel agreements are subject to approval by the City Council in accordance with City Charter requirements.
- Sherman & Howard has acted as bond and special counsel for the City on several past financings, including the Open Space Sales and Use Tax Revenue Bond issues, the Certificate of Participation (COP) issue for the City's Capital Facilities Financing, and the City's previous Park, Open Space, and Trails (POST) bond issue.
- Kutak Rock has also acted on several past financings as disclosure counsel for the City, including the Sales and Use Tax, POST, and COP refundings, Open Space Sales and Use Tax Revenue Bond issues, the City's Capital Facilities Financing, and the previous POST bond issue.
- The proposed fees are well within the range of fees experienced for similar financings in the past and will be included as part of the issuance cost for this financing.

**Expenditure Required:** \$58,000, plus expenses not to exceed \$1,250

**Source of Funds:** Utility Revenue Bond proceeds

**Policy Issue**

Should the City retain bond and disclosure counsel on behalf of the City for the upcoming issuance of the City's approximately \$30 Million Water and Wastewater Utility Enterprise, Taxable and/or Tax-exempt Water and Wastewater Revenue Bonds, Series of 2010?

**Alternative**

Do not retain special legal counsel for this transaction. This is not recommended because the bond issue cannot be closed without an opinion of bond counsel and an Official Statement prepared by disclosure counsel.

**Background Information**

Public Works and Utilities staff identified several water and wastewater capital projects that would commence between 2009 and 2010. Council approved a Reimbursement Resolution on August 24, 2009, permitting payment of project expenses ahead of bond issuance to be reimbursed with bond proceeds. This action was deemed prudent given a very favorable market for the City to request bids from contractors to engage in large construction projects, with bids being submitted well below previous cost estimates. Thus, it was advantageous for the water and wastewater utilities division to commence work on some of its large capital projects.

The major capital projects that Public Works and Utilities staff identified to be undertaken between 2009 and 2010 include:

- Reclaimed Plant Expansion
- Reclaimed Treated Effluent Storage
- Southern Zone 1 Transmission Line
- Open Cut Water Line Replacements
- Water Pressure Zone Enhancements
- NWTF Membrane Expansion

On May 10, 2010, Staff anticipates submitting to Council an agenda item requesting authorization to issue the proposed bonds. Staff and the bond financing team have been collecting the information and data required to be integrated into the documents for Council's review, such as the Official Statement and Bond Ordinance.

The proposed bonds will reimburse expenses already paid, as well as future expenses for the projects identified above and within the Reimbursement Resolution. Staff anticipates the issuance of approximately \$29.6 million in a mix of 20-year tax exempt revenue bonds and taxable Build America Bonds, depending on market conditions at the time of issuance, scheduled to close in late May 2010. The bond proceeds will fund capital projects of approximately \$27.8 million, a debt service reserve of \$1.6 million, and pay for expenses associated with the sale of the bonds of approximately \$0.2 million.

As with all public, tax-exempt financings, these financings will require an opinion from a nationally recognized law firm regarding certain tax-related matters. Mr. Dee Wisor of Sherman & Howard has served as the City's bond counsel on numerous other issues and is thoroughly familiar with the City's Charter, ordinances, and outstanding bond covenants.

In addition, federal securities laws require the City to issue an Official Statement in connection with these financings. Kutak Rock is a recognized expert in disclosure matters under the federal securities laws. This firm has acted in this capacity on numerous other bond issues and financings, and is familiar with the City's financial position, the general economic condition of the City, the City's detailed financial information, and other material facts related to the City preparation of a satisfactory Official Statement in connection with this bond issuance.

The fees quoted by the recommended firms are reasonable and in line with past financings, and the familiarity of these firms with the City and its financial and legal documents is very valuable. The efficiencies in retaining these firms are significant and will help assure an expeditious closing of these very important financings.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

**Sherman & Howard L.L.C.**

ATTORNEYS & COUNSELORS AT LAW  
633 SEVENTEENTH STREET, SUITE 3000  
DENVER, COLORADO 80202  
TELEPHONE: (303)297-2900  
FAX: (303)298-0940

March 11, 2010

City Council  
City of Westminster  
4800 West 92<sup>nd</sup> Avenue  
Westminster, Colorado 80030

Attention: Martin McCullough, Esq., City Attorney

Re: Proposed Issuance of approximately \$30,000,000 City of Westminster, Colorado, Water and Wastewater Utility Enterprise, Taxable Water and Wastewater Revenue Bonds (Direct Pay Build America Bonds), Series 2010

Dear Marty:

We are pleased to confirm our engagement as bond counsel to the City of Westminster, Colorado (the "City"). We appreciate your confidence in us and will do our best to continue to merit it. This letter sets forth the role we propose to serve and the responsibilities we propose to assume as bond counsel to the City in connection with the issuance of the above captioned bonds (the "Bonds").

Personnel. Dee Wisor and Kim Crawford will be principally responsible for the work performed by Sherman & Howard L.L.C. on your behalf and they will report to and take direction from the City Finance Manager. Where appropriate, certain tasks may be performed by other attorneys or paralegals. At all times, however, Mr. Wisor will coordinate, review, and approve all work completed for the City.

Scope of Services. Bond counsel is engaged as a recognized expert whose primary responsibility is to render an objective legal opinion with respect to the authorization and issuance of bonds. As your bond counsel, we will: examine applicable law; consult with the parties to the transaction prior to the issuance of the Bonds; prepare customary authorizing and operative documents, which may include proceedings relating to: the authorization of the sale and issuance of the Bonds, and closing certificates; review a certified transcript of proceedings; and undertake such additional duties as we deem necessary to render the opinion. Subject to the completion of proceedings to our satisfaction, we will render our opinion relating to the validity of the Bonds, the enforceability of the security for the Bonds, and the treatment of the interest paid on the Bonds (subject to certain limitations which may be expressed in the opinion) for federal income tax purposes and for Colorado income tax purposes.

As bond counsel, we will not assume or undertake responsibility for assisting in the preparation of the Official Statement with respect to the Bonds (the "Official Statement"), nor are we responsible for performing an independent investigation to determine the accuracy, completeness or sufficiency of the Official Statement. We understand that Kutak Rock LLP is acting as special counsel to the City in connection with the Official Statement and: (i) will prepare the Official Statement, and (ii) will provide a letter with respect to compliance with the state and federal securities laws upon which the City may rely. Our responsibility as bond counsel will include the preparation or review of any description in the Official Statement of: (i) Colorado and federal law pertinent to the validity of and security for the Bonds, as well as the tax treatment of interest paid thereon, (ii) the terms of the Bonds, and (iii) our opinion. In addition, we would like to review a draft copy of the Official Statement so that we may have an opportunity to comment on it; however, such review is only for the protection of our firm and would not serve to protect the City or purchasers of the Bonds.

Our opinion will be addressed to the City and will be executed and delivered by us in written form on the date the Bonds are exchanged for their purchase price (the "Closing"). The opinion will be based on facts and law existing as of its date.

Our services as bond counsel are limited to those contracted for explicitly herein; the City's execution of this letter constitutes an acknowledgment of those limitations. Specifically, but without implied limitation, our responsibilities do not include any representation by Sherman & Howard L.L.C. in connection with any IRS audit or any litigation involving the City or the Bonds, or any other matter. Neither do we assume responsibility for the preparation of any collateral documents (e.g., environmental impact statements) which are to be filed with any state, federal or other regulatory agency. Nor do our services include financial advice (including advice about the structure of the Bonds) or advice on the investment of funds related to the Bond issue. If such services are requested of us, we suggest that we discuss the nature and extent of those services and an estimate of our fee at the time of the request.

Attorney-Client Relationship. In performing our services as bond counsel and as special counsel, the City will be our client and an attorney-client relationship will exist between us. We will represent the interests of the City rather than its City Council, its individual members, or the City's employees. We assume that other parties to the transaction will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction.

Conflicts of Interest. Our firm sometimes represents, in other unrelated transactions, certain of the financial institutions that may be involved in this Bond transaction, such as underwriters, credit enhancers, and banks that act as paying agents or trustees. We do not believe that there is a significant risk that any of these representations will materially limit our ability to provide competent and diligent representation of the City in connection with the Bonds, even though such representations may be characterized as adverse under the Colorado Rules of Professional Conduct (the "Rules"). In any event, during the term of our engagement

hereunder, we will not accept a representation of any of these parties in any matter in which the City is an adverse party. However, pursuant to the Rules, we do ask that you consent to our representation of such parties in transactions that do not directly or indirectly involve the City. Your execution of this letter will signify the City's prospective consent to such adverse representations in matters unrelated to the Bonds while we are serving as bond counsel hereunder.

Fee Arrangement. Based upon: (i) our current understanding of the terms, structure, size and schedule of the financing, (ii) the responsibilities we will undertake pursuant to this letter, (iii) the time we anticipate devoting to the financing, and (iv) the skill and experience required to complete the services properly, we estimate that our fee as bond counsel and special counsel will be \$30,000. Such fee may vary: (i) if the principal amount of Bonds actually issued differs significantly from the amount stated above, (ii) if material changes in the structure of the financing occur, (iii) if unusual or unforeseen circumstances arise which require a significant increase in our time or our responsibilities; or (iv) if the Bonds are not delivered to the purchasers by July 1, 2010. If, at any time, we believe that circumstances require an adjustment of our original fee estimate, we will consult with you and prepare an amendment to this engagement letter.

In addition, this letter authorizes us to make disbursements on your behalf, which we estimate will not exceed \$1,000. The City agrees to reimburse us for such disbursements, including travel costs, photocopying, deliveries, filing fees, computer assisted research, and other necessary office expenses.

We understand and agree that our contingent fees will be paid at Closing out of Bond proceeds. If the financing is not consummated, we understand and agree that we will not be paid. If you prefer, we can provide you with a non-contingent fee arrangement based upon an hourly rate or a fixed transaction fee.

Document Retention. At or within a reasonable period after Closing, we will review the file to determine what materials should be retained as a record of our representation and those that are no longer needed. We will provide you with a copy of the customary transcript of documents after Closing and will return any original documents obtained from you (if a copy is not included in the transcript). We will retain for several years a copy of the transcript and such other materials as correspondence, final substantive work product, documents obtained from you, and documents obtained from third parties. We will not retain such materials as duplicates of the above-described material, or drafts and notes that do not appear needed any longer.

Ordinarily the firm will keep the retained materials until seven years after the final maturity of the Bonds. At the end of that time, unless you advise us in writing to the contrary, we will destroy the bulk of the file. If the file is especially voluminous, we may

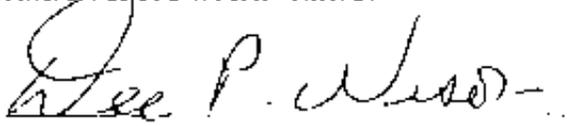
destroy all or portions of it earlier, as our storage facilities are limited. If you prefer other arrangements for retention or disposition of our files in this matter, please advise us in writing.

Termination of Engagement. Upon delivery of our approving opinion, our responsibilities as bond counsel and as special counsel will terminate with respect to the Bonds, and our representation of the City and the attorney-client relationship created by this engagement letter will be concluded. Should the City seek the advice of bond counsel on a post-closing matter or seek other, additional legal services, we would be happy to discuss the nature and extent of our separate engagement at that time.

Approval. If the foregoing terms of this engagement are acceptable to you, please so indicate by returning the duplicate original of this letter signed by the officer so authorized, retaining the other original for your files.

We are pleased to have the opportunity to serve as your bond counsel and special counsel and look forward to a mutually satisfactory and beneficial relationship. If at any time you have questions concerning our work or our fees, we hope that you will contact us immediately.

SHERMAN & HOWARD L.L.C.

By: 

Accepted and Approved:

CITY OF WESTMINSTER, COLORADO

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

Dpw:jw  
Enclosures

**KUTAK ROCK LLP**

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1801 CALIFORNIA STREET  
DENVER, COLORADO 80202-2826

303-297-2400  
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[www.kutakrock.com](http://www.kutakrock.com)

March 9, 2010

ATLANTA  
CHICAGO  
DES MOINES  
FAYETTEVILLE  
IRVINE  
KANSAS CITY  
LITTLE ROCK  
LOS ANGELES  
OKLAHOMA CITY  
OMAHA  
PHILADELPHIA  
RICHMOND  
SCOTTSDALE  
WASHINGTON  
WICHITA

THOMAS M. PELTZ  
thomas.peltz@kutakrock.com  
(303) 292-7807

Martin R. McCullough, Esq.  
City Attorney  
City of Westminster  
4800 West 92nd Avenue  
Westminster, CO 80030

Re: Proposed issuance of Utility Revenue Bonds, Series 2010

Dear Marty:

We are pleased to submit this letter for our engagement as special counsel to the City of Westminster (the "City") in the issuance of the above referenced Utility Revenue Bonds, Series 2010 (the "Bonds"). The Bonds are currently expected to be issued on a principal amount of \$20,000,000 to \$35,000,000, be issued on a parity with other outstanding revenue bonds of the City and to close in the second quarter of 2010.

**Scope of Engagement**

*Official Statement.*

In this engagement, we expect to render legal advice to the City in the preparation of an official statement to be used in the offer and sale of the Bonds (the "Official Statement"). In connection with this service, Kutak Rock LLP ("Kutak Rock") will represent to the City that, while we are not passing upon, and do not assume responsibility for, the accuracy, completeness or fairness of the statements contained in the Official Statement, nothing has come to the attention of the attorneys in our firm who have worked on this engagement which leads us to believe that the final Official Statement (other than the financial, statistical or engineering data and information contained therein, any expressions of opinion or projections contained therein, and information provided for inclusion by any bond insurer or other providers of credit enhancement as to which we express no view or belief) as of its date contained, or as of the date hereof contains, any untrue statement of a material fact or as of its date omitted, or as of the date hereof omits, to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

Martin R. McCullough, Esq.  
March 9, 2010  
Page 2

***Bond Purchase Agreement.***

In our engagement, we also are expected to draft a Bond Purchase Agreement between the City and the Underwriter relating to the purchase of the Bonds by the Underwriter and the sale of the Bonds by the City.

***Limitation of Duties.***

Our duties in this engagement are limited to those expressly set forth above. Among other things, our duties do not include preparing blue sky or investment surveys with respect to the Bonds or making an investigation or expressing any view as to the creditworthiness of the City or the Bonds.

***Responsible Attorney.***

The lead attorney assigned to this engagement will be Tom Peltz. Tom has been acting as counsel to the City for more than 20 years. Assisting Tom will be an associate, Hester Parrot, and a paralegal, Ardie White.

**Attorney-Client Relationship**

Upon execution of this engagement letter, the City will be our client and an attorney-client relationship will exist between us. We assume that all other parties will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that in this transaction we represent only the City, we are not counsel to any other party, and we are not acting as an intermediary among the parties. Our services as Special Counsel are limited to those contracted for in this letter; the City's execution of this engagement letter will constitute an acknowledgment of those limitations. Our representation of the City and the attorney-client relationship created by this engagement letter will be concluded upon issuance of the Bonds.

**Conflicts**

As you are aware, our firm represents many political subdivisions, companies and individuals. It is possible that during the time that we are representing the City, one or more of our present or future clients will have transactions with the City. It is also possible that we may be asked to represent, in an unrelated matter, one or more of the entities involved in the issuance of the Bonds. We do not believe such representation, if it occurs, will adversely affect our ability to represent you as provided in this letter, either because such matters will be sufficiently different from the issuance of the Bonds so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the issuance of the Bonds. Execution of this letter will signify the

## KUTAK ROCK LLP

Martin R. McCullough, Esq.  
March 9, 2010  
Page 3

City's consent to our representation of others consistent with the circumstances described in this paragraph.

### **Fees**

Based upon: (a) our current understanding of the terms, structure, size and schedule of the financing represented by the Bonds; (b) the duties we will undertake pursuant to this engagement letter; (c) the time we anticipate devoting to the financing; and (d) the responsibilities we will assume in connection therewith, our fee will be \$28,000. Our fee may vary: (i) if the principal amount of Bonds actually issued differs by more than \$15,000,000 from the highest amount stated above; (ii) if material changes in the structure or schedule of the financing occur; or (iii) if unusual or unforeseen circumstances arise which require a significant increase in our time or responsibility. If, at any time, we believe that circumstances require an adjustment of our original fee estimate, we will advise you. In addition, we will expect to be reimbursed for all client charges made or incurred on your behalf, such as deliveries, facsimile charges, filing fees, and related expenses. We estimate that such charges will not exceed \$250.

We understand and agree that our fees will be paid at the Closing. If the financing is not consummated, we understand and agree that we will not be paid for services rendered to the City pursuant to this engagement.

### **Records**

At your request, papers and property furnished by you will be returned. Our own files, including lawyer work product, pertaining to the transaction will be retained by us. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other materials retained by us after the termination of this engagement.

If the foregoing terms are acceptable to you, please so indicate by returning the enclosed copy of this engagement letter dated and signed by an authorized officer, retaining the original for your files. We look forward to working with you.

KUTAK ROCK LLP

By \_\_\_\_\_  
Thomas M. Peltz, Partner

**KUTAK ROCK LLP**

Martin R. McCullough, Esq.  
March 9, 2010  
Page 4

Accepted and Approved

CITY OF WESTMINSTER

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

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



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Councillor's Bill No. 12 re Miscellaneous Amendments to the Comprehensive Land Use Plan

**Prepared By:** Walter Patrick, Planner I

**Recommended City Council Action**

1. Hold a public hearing.
2. Pass Councillor's Bill No. 12 on first reading approving the miscellaneous Comprehensive Land Use Plan amendments as proposed. This recommendation is based on a finding that the proposed amendments will be in the public good and that:
  - a) There is justification for the proposed changes and the Plan is in need of revision as proposed;
  - b) The amendments are in conformance with the overall purpose and intent and the goals and policies of the Plan;
  - c) The proposed amendments are compatible with existing and planned surrounding land uses; and
  - d) The proposed amendments would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems.

**Summary Statement**

- City staff monitors the Comprehensive Land Use Plan (CLUP) in order to assure that the Plan is up to date and free from errors. Staff brings any required changes to the Planning Commission and City Council for approval.
- This year there are 35 separate CLUP map updates that will be listed and explained in the Background Section of this memo. The updates proposed are predominately on City-owned properties that need revising as a result of Open Space purchases or the recent re-designation of property between parks and open space. The approval to re-designate the open space and public parks properties was given by City Council in December 2009. The CLUP designation for these properties should now be amended and reflected on the City's CLUP map.
- Properties re-designated as open space are natural in character, and meet the criteria for open space preservation and management. Properties re-designated as public parks are properties with more active characteristics, already have recreation facilities, or could be developed into an active park or recreation facility in the future.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Planning Commission Recommendation**

The Planning Commission reviewed this proposal on April 13, 2010, and voted unanimously (7-0) to recommend the City Council approve the Comprehensive Land Use Plan amendments as proposed.

### **Policy Issue**

Should the City approve the proposed Comprehensive Land Use Plan amendments as proposed by City Staff?

### **Alternative**

Make a finding that none or some of the proposed changes to the Comprehensive Land Use Plan as proposed by staff be made. If this action is taken, the CLUP map may not accurately indicate the use of these properties or City's goals as delineated in the CLUP.

### **Background Information**

#### Nature of Request

As stated on Page VI-5 of the CLUP, "the Plan should be reviewed, revised and updated on a regular basis, to respond to changing conditions of the City." This year, there are 35 separate amendments proposed by staff to reflect such changes. The changes are shown on 35 maps as listed and described below. (Please refer to the attached corresponding maps.)

1. Two adjacent parcels of land located at the northwest corner of 100<sup>th</sup> Avenue and Simms Street are proposed to change from "R 2.5" to "City Owned Open Space." The revision reflects the purchase of the Mormon Church and the BYU parcels by the City of Westminster in 2006 and 2007.
2. Two parcels of land located on the east side of Sheridan Boulevard just north of 72<sup>nd</sup> Avenue are proposed to change from "Office/Residential" and "Business Park" to "City Owned Open Space." The revision reflects the purchase of the DePalma and Spresser parcels by the City in 2009.
3. A parcel of land located on the east side of Lowell Boulevard, south of the Burlington Northern Santa Fe Railroad, is proposed to be changed from "Industrial" to "City Owned Open Space." The revision reflects the purchase of the Lowell Group property by the City in 2009.
4. Three parcels of land along Tanglewood Creek located south of 128<sup>th</sup> Avenue and west of Interstate 25 are proposed to be changed from "Public/Quasi Public" and "Major Creek Corridor" to "City Owned Open Space." The revision reflects the acquisition of these parcels from Adams 12 Five Star Schools in 2007.
5. A portion of Big Dry Creek Park located at the southwest corner of 128<sup>th</sup> Avenue and Pecos Street proposed to be changed from "City Owned Open Space" to "Public Parks." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
6. Two parcels located at Federal Parkway and 122<sup>nd</sup> Avenue are proposed to be changed from "Public-Quasi Public," "Business Park," and "Major Creek Corridor" to "City Owned Open Space." The revision reflects the purchase of the former Doulos property in 2008 and a portion of the Arabian Horse property in 2006.
7. A section of the western portion of Foxshire Park located near 108<sup>th</sup> Avenue and Alcott Street is proposed to be changed from "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
8. The land surrounding Airport Creek and Trail located north of 112<sup>th</sup> Avenue is proposed to be changed from "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.

9. Parkland in the Amherst Subdivision at Pecos Street and 134<sup>th</sup> Avenue is proposed to be changed from "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
10. The northern portion of Sunset Park located east of the Burlington Northern Santa Fe Railroad at 80<sup>th</sup> Avenue is proposed to be changed from "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
11. A large vacant parcel located south of Countryside Drive at Quail Street is proposed to be changed from "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
12. The natural riparian area within Willowbrook Park located northeast of Bannock Street and Delaware Drive is proposed to be changed from "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
13. College Hills Public Land Dedication, located at 116<sup>th</sup> Avenue and Irving Street is proposed to be changed from "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
14. Maulis Park located at the Burlington Northern Santa Fe Railroad and 92<sup>nd</sup> Avenue is proposed to be changed from "District Center" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
15. A portion of Trendwood Park and the adjacent drainage area located southeast of 96<sup>th</sup> Avenue and Pierce Street is proposed to be changed from "Private Parks" and "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
16. A strip of land in Bradburn Public Land Dedication, located at the southern boundary of the park at 117<sup>th</sup> Avenue and 116<sup>th</sup> Way is proposed to be changed from "Public Parks" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
17. The McKay Lake Drainage area located southwest of the 144<sup>th</sup> Avenue and Huntington Trails Parkway intersection is proposed to be changed from "R-2.5" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
18. Two parcels located along the Allen Ditch west of Federal Boulevard are proposed to be changed from "Retail Commercial" and "R-3.5" to "City Owned Open Space." The revision reflects the recent acquisition of these parcels by the City.
19. Three parcels that are remnant parcels from the construction of Church Ranch Boulevard located where the Burlington Northern Santa Fe Railroad crosses Church Ranch Boulevard are proposed to be changed from "Public/Quasi Public" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
20. Three parcels of the Sheridan Green Public Land Dedication located north of City Park surrounding Big Dry Creek are proposed to be swapped between "Public Parks" and "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
21. A section of the Cambridge Farms Public Land Dedication north of Burlington Northern Santa Fe Railroad east of Wadsworth Boulevard is proposed to be changed from "R-3.5" to "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
22. A portion of land at the western edge of Westfield Village Park located at 115<sup>th</sup> Avenue and Wolff Street is proposed to be changed from "City Owned Open Space" to "Public Parks." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
23. A section of land near Vogel Pond located at the northeast corner of 112<sup>th</sup> Avenue and Ranch Parkway is proposed to be changed from "City Owned Open Space" to "Public Parks." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.

24. Sensory Park located west of Church Ranch Boulevard at Walnut Creek is proposed to be changed from "City Owned Open Space" to "Public Parks." The re-designation of this portion of land was previously approved by Council in December 2009.
25. A portion of the Reed Street right-of-way located adjacent to existing open space southeast of Church Ranch Boulevard is proposed to be changed from "Retail Commercial" to "City Owned Open Space." The re-designation of this portion of land was previously approved by Council in December 2009.
26. Portions of Wolff Run Open Space and Wolff Run Park located south of 117<sup>th</sup> Avenue are proposed to include several changes between "Public Parks" and "City Owned Open Space." The revision reflects the re-designation of City owned lands as previously approved by Council in December 2009.
27. Several portions of land within the Westmoor/Heritage Golf Course are proposed to be changed between "Golf Course," "City Owned Open Space," and "Public Parks." The revision reflects the fact that, at the time of acquiring land for the Heritage Golf Course, the Open Space program contributed about \$636,000 to purchase approximately 45 acres of Open Space to be intertwined within the golf course. Current City maps incorrectly show much less acreage than was paid for by the Open Space Program. Staff is proposing to re-draw the boundaries around the golf course to bring the total acreage of Open Space to 45 acres.
28. Portions of the Legacy Ridge Golf Course are proposed to be changed from "Golf Course" and "Private Parks" to "City Owned Open Space." This revision reflects the fact that as part of the Legacy Ridge project in 1992, Open Space funds totaling \$2,039,007 were used to purchase approximately 38 acres of open space along the Farmers' High Line Canal, Big Dry Creek, and Margaret's Pond. Current City maps show less acreage than was paid for by the Open Space program. Staff is proposing to re-draw some of the Legacy ridge boundaries to accurately reflect 38 acres of open space. This includes protecting the riparian area along Farmers' Highline Canal, and some additional natural areas adjacent to North Hylands Creek Open Space. The re-designation of these portions of land was previously approved by Council in December 2009.
29. Portions along the southern edge of the Legacy Ridge Golf Course are proposed to be changed from "Golf Course" to "City Owned Open Space." This revision reflects the need to accurately show the correct acreage of Open Space for this area (see #28 above).
30. Two adjacent parcels of the Hyland Greens Public Land Dedication located south of 104<sup>th</sup> Avenue at the Farmers' High Line Canal are proposed to be changed from "Private Parks" to "City Owned Open Space." The re-designation of these portions of land was previously approved by Council in December 2009.
31. A parcel located on Grove Street north of 104<sup>th</sup> Avenue is proposed to be changed from "R-3.5" to "City Owned Open Space." This revision reflects the recent acquisition of the Thompson Property by the Open Space program.
32. The Savory Farms property located along Federal Boulevard is proposed to be changed from "R-3.5" to "City Owned Open Space." This revision reflects the recent purchase of this property by the Open Space program.
33. A portion of land located on Wadsworth Parkway adjacent to the existing Walnut Creek Open Space is proposed to be changed from "Retail Commercial" to "City Owned Open Space." This revision reflects the recent purchase of the property by the Open Space program.
34. A portion of City Park used for disc golf located north of 104<sup>th</sup> Avenue at Big Dry Creek is proposed to be changed from "City Owned Open Space" to "Public Parks." This revision reflects the active use of the park in this area. The re-designation of this portion of land was previously approved by Council in December 2009.
35. A parcel of land located along Walnut Creek east of 104<sup>th</sup> Avenue and Wadsworth Parkway is proposed to be changed from Private Parks/Open Space to City Owned Open Space. The City acquired a conservation easement on this property in 1999.

Comprehensive Land Use Plan Amendment

The Westminster Municipal Code requires the owner of the property requesting an amendment to the Comprehensive Land Use Plan (CLUP) to prove the amendment is in the public good and in overall compliance with the purpose and intent of the CLUP. Further, the CLUP provides four criteria to be used when considering a CLUP amendment. Staff has reviewed these criteria and has provided the following comments on each.

1. The proposed amendment must, "Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed." As stated above, the CLUP should be periodically updated to reflect changes in policy and land use patterns. As the City acquires new open space properties, their CLUP map designation should be updated to reflect the change from previous designations.
2. The proposed amendment must, "Be in conformance with the overall purpose, intent, goals, and policies of the Plan." Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan.  
**Goal H1** - Provide new and upgrade existing parks, recreational, and cultural facilities based on the needs of the community.  
**Policy H1a** - Identify the need for new parks, recreational and cultural facilities based on an ongoing analysis of the community's needs as the City continues to grow, as determined by the Parks and Recreation Master Plan.  
**Goal H4** - Enhance the City's open space system to preserve and protect natural areas, vistas and view corridors, and to complete the open space and trail system.  
**Policy H4a** - Use acquisition of open space as a tool to channel growth into appropriate locations and to shape the overall design of the community.

Based upon these goals and policies, these proposed amendments will be in conformance with the overall purpose, intent, goals, and policies of the Plan.

3. The proposal must, "Be compatible with existing and surrounding land uses." City staff has evaluated each of the proposed amendments and each proposed change would be compatible with the existing and surrounding land uses. Open space and park lands contribute to the quality of life of surrounding residents and businesses.
4. The proposal must, "Not result in detrimental impacts to the City's existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City." No detrimental impacts are foreseen with these changes.

Public Notification

Westminster Municipal Code 11-5-13 requires the following public notification procedures:

Published Notice: Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least four days prior to City Council public hearings. Notice was published in the Westminster Window on April 15, 2010.

Property Owner

City of Westminster  
4800 W. 92nd Avenue  
Westminster, Colorado 80031

**SUBJECT:** Councillor's Bill re Amendments to the Comprehensive Land Use Plan

Page 6

Site Plan Information

Not Applicable

Service Commitment Category

Not Applicable

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Ordinance
- Comprehensive Land Use Plan Maps (1-35)

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **12**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE WESTMINSTER  
COMPREHENSIVE LAND USE PLAN**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. The City has initiated amendments to the Westminster Comprehensive Land Use Plan pursuant to W.M.C. §11-4-16(D) that are necessary to alter the designation of the following properties depicted on the attached exhibit maps, which are incorporated herein by reference as follows:

- Map #1: From R-2.5 to City-Owned Open Space.
- Map #2: From Office/Residential and Business Park to City-Owned Open Space.
- Map #3: From Industrial to City-Owned Open Space.
- Map #4: From Public/Quasi Public and Major Creek Corridor to City-Owned Open Space.
- Map #5: From City-Owned Open Space to Public Parks.
- Map #6: From Business Park, Major Creek Corridor, and Public/Quasi Public to City-Owned Open Space.
- Map #7: From Public Parks to City-Owned Open Space.
- Map #8: From Public Parks to City-Owned Open Space.
- Map #9: From Public Parks to City-Owned Open Space.
- Map #10: From Public Parks to City-Owned Open Space.
- Map #11: From Public Parks to City-Owned Open Space.
- Map #12: From Public Parks to City-Owned Open Space.
- Map #13: From Public Parks to City-Owned Open Space.
- Map #14: From District Center to City-Owned Open Space.
- Map #15: From Private Parks and Public Parks to City-Owned Open Space.
- Map #16: From Public Parks to City-Owned Open Space.
- Map #17: From R2.5 to City-Owned Open Space.
- Map #18: From Retail Commercial and R-3.5 to City-Owned Open Space.
- Map #19: From Public/Quasi Public to City-Owned Open Space.
- Map #20: From Public Parks and City-Owned Open Space to City-Owned Open Space and Public Parks.
- Map #21: From R-3.5 to City-Owned Open Space.
- Map #22: From City-Owned Open Space to Public Parks.
- Map #23: From City-Owned Open Space to Public Parks.
- Map #24: From City-Owned Open Space to Public Parks.
- Map #25: From Retail Commercial to City-Owned Open Space.
- Map #26: From Public Parks and City-Owned Open Space to City-Owned Open Space and Public Parks.
- Map #27: From Golf Courses and City-Owned Open Space to Golf Courses, City-Owned Open Space, and Public Parks.
- Map#28: From Golf Courses and Private Parks to City-Owned Open Space.
- Map #29: From Golf Courses to City-Owned Open Space.
- Map #30: From Private Parks to City-Owned Open Space.
- Map #31: From R-3.5 to City-Owned Open Space.
- Map #32: From R-3.5 to City-Owned Open Space.

Map #33 From Retail Commercial to City-Owned Open Space.  
Map #34 From City-Owned Open Space to Public Parks.  
Map #35 From Private Parks/Open Space to City-Owned Open Space.

b. That such amendment has been referred to the Planning Commission, which body held a public hearing thereon on April 13, 2010, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendment.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. §11-4-16(B).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly the goal that encourages the enhancement of the City's open space system to preserve and protect natural areas, vistas, and view corridors, and to complete the open space and trial system.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designations of the property more particularly depicted in attached Maps 1-35.

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 4. This ordinance shall take effect upon its passage after second reading.

Section 5. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26<sup>th</sup> day of April, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of May, 2010.

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Mayor

ATTEST:

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City Clerk

APPROVED AS TO LEGAL FORM:

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City Attorney's Office

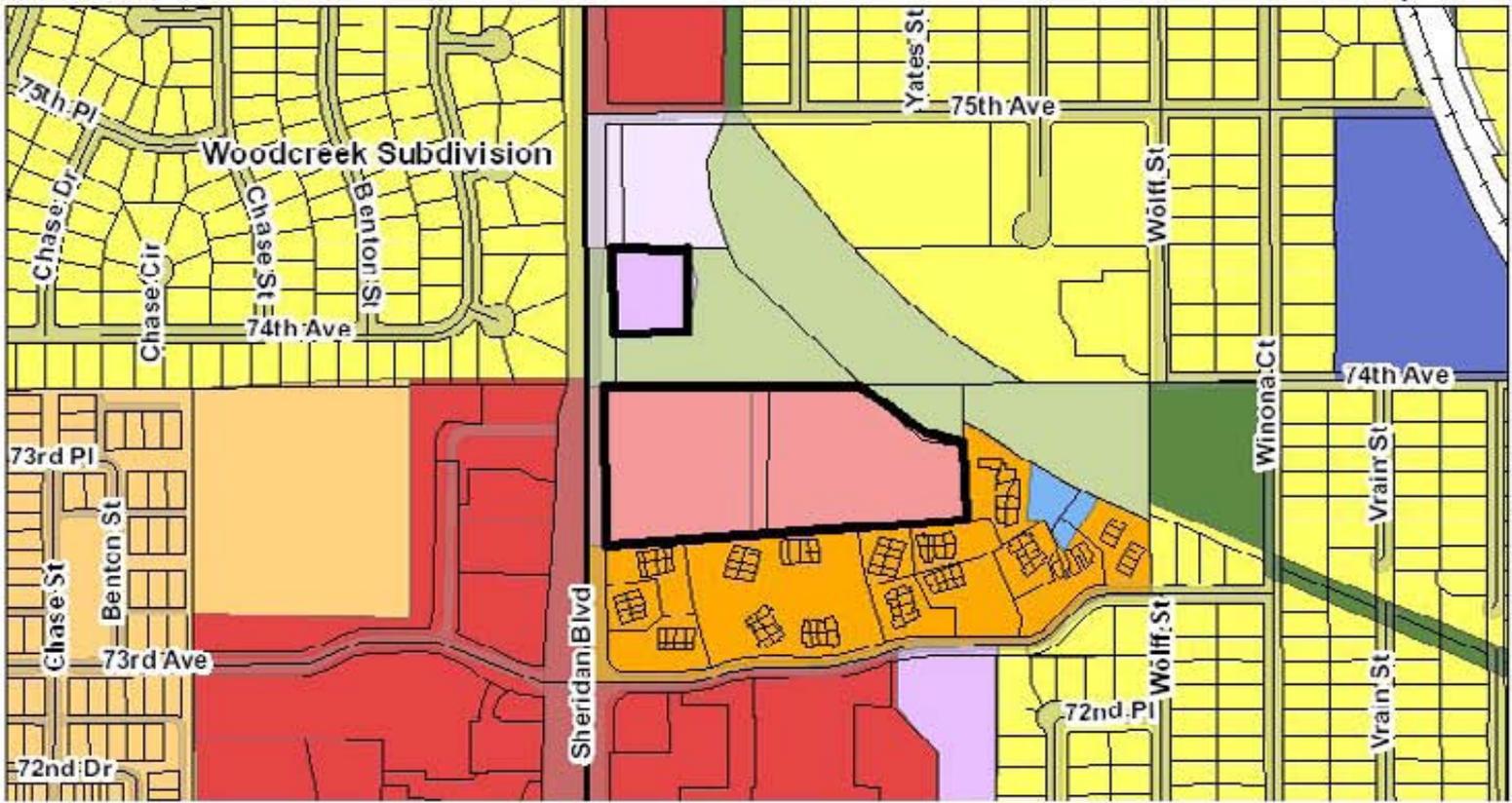


Change From: R 2.5

	R-1		R-18		Office/Residential		Private Parks/Open Space
	R-2.5		Retail Comm.		District Center		Golf Courses
	R-3.5		Office		Traditional Mixed Use		Public/Quasi Public
	R-5		Industrial		City Owned Open Space		N.F. Comp. Dev. Plan
	R-8		Business Park		Public Parks		

Change To: City Owned Open Space

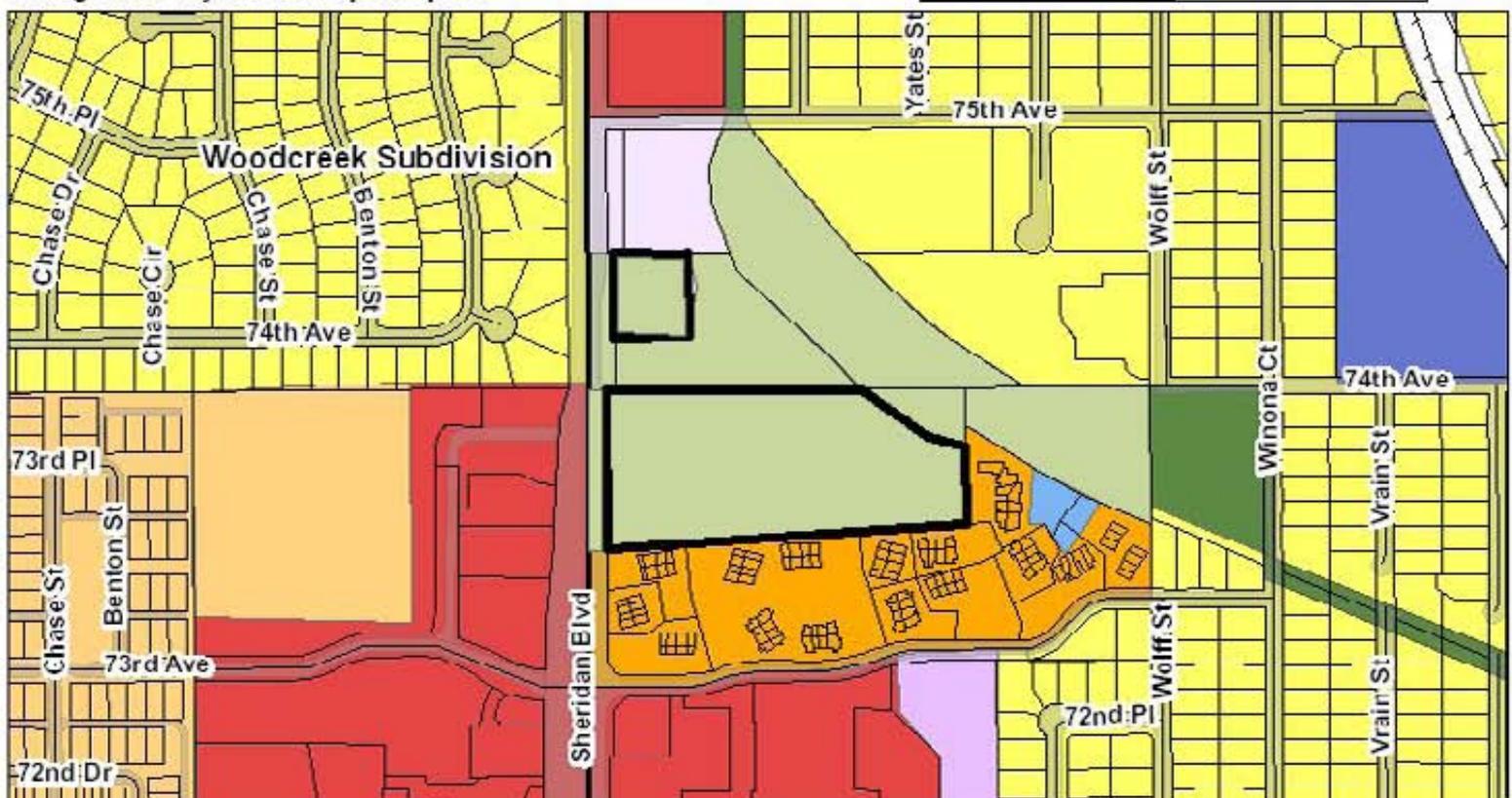
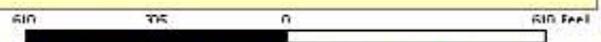


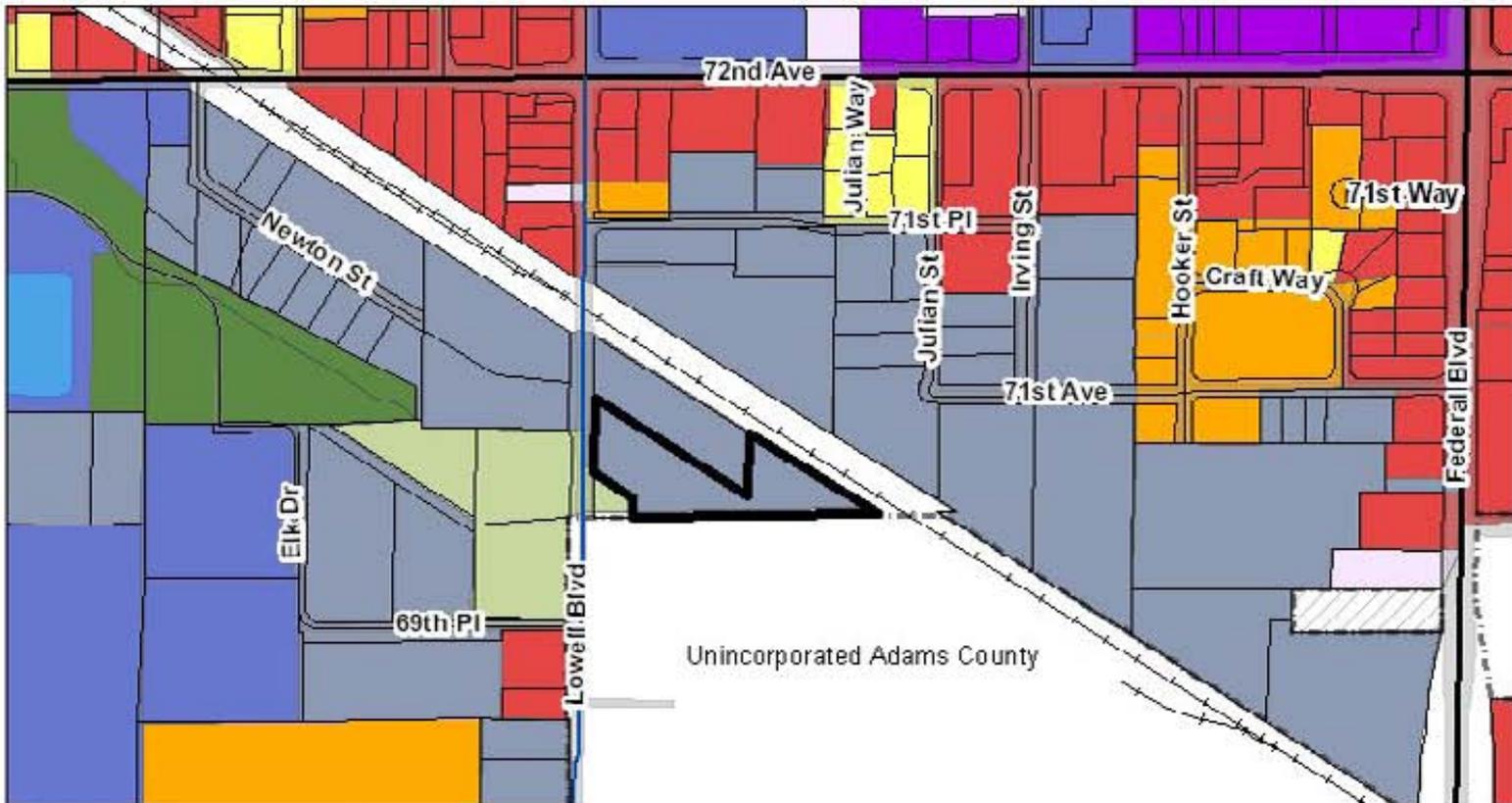


Change From: Office/Residential and Business Park

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space

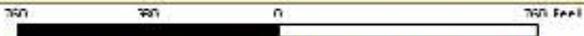
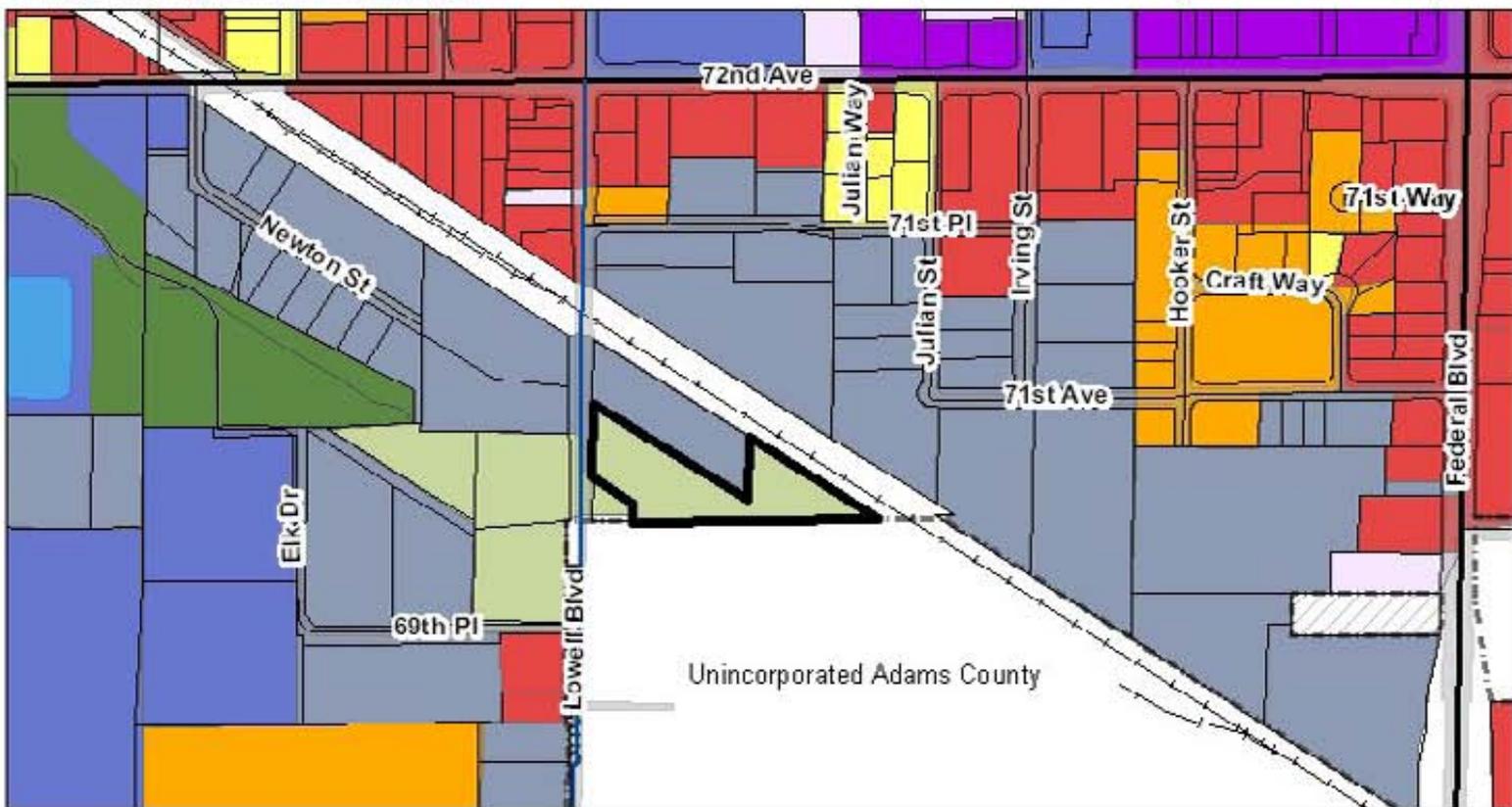


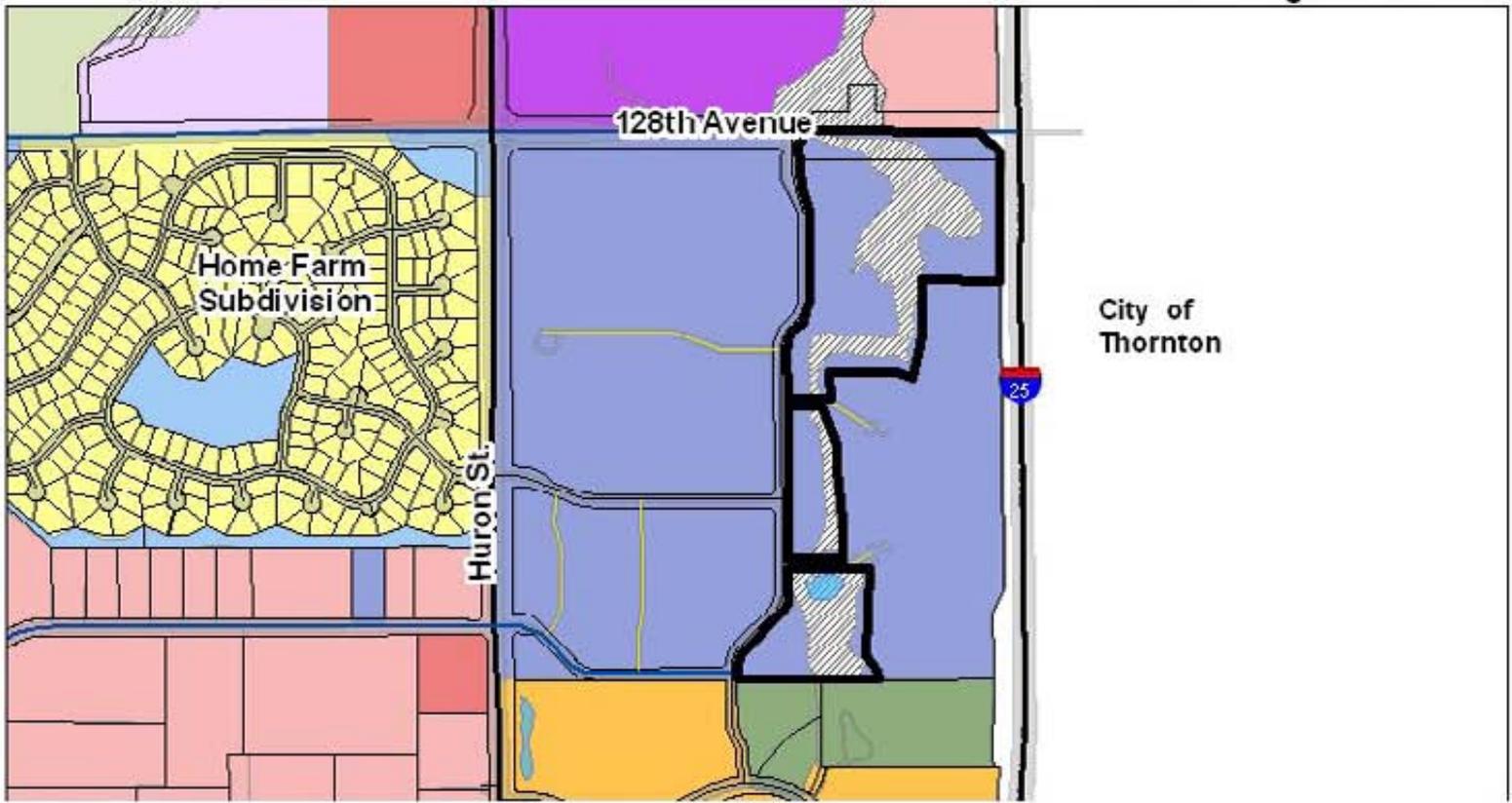


**Change From: Industrial**

	R-1		R-18		Office/Residential		Private Parks/Open Space
	R-2.5		Retail Comm.		District Center		Golf Courses
	R-3.5		Office		Traditional Mixed Use		Public/Quasi Public
	R-5		Industrial		City Owned Open Space		N.F. Comp. Dev. Plan
	R-8		Business Park		Public Parks		

**Change To: City Owned Open Space**

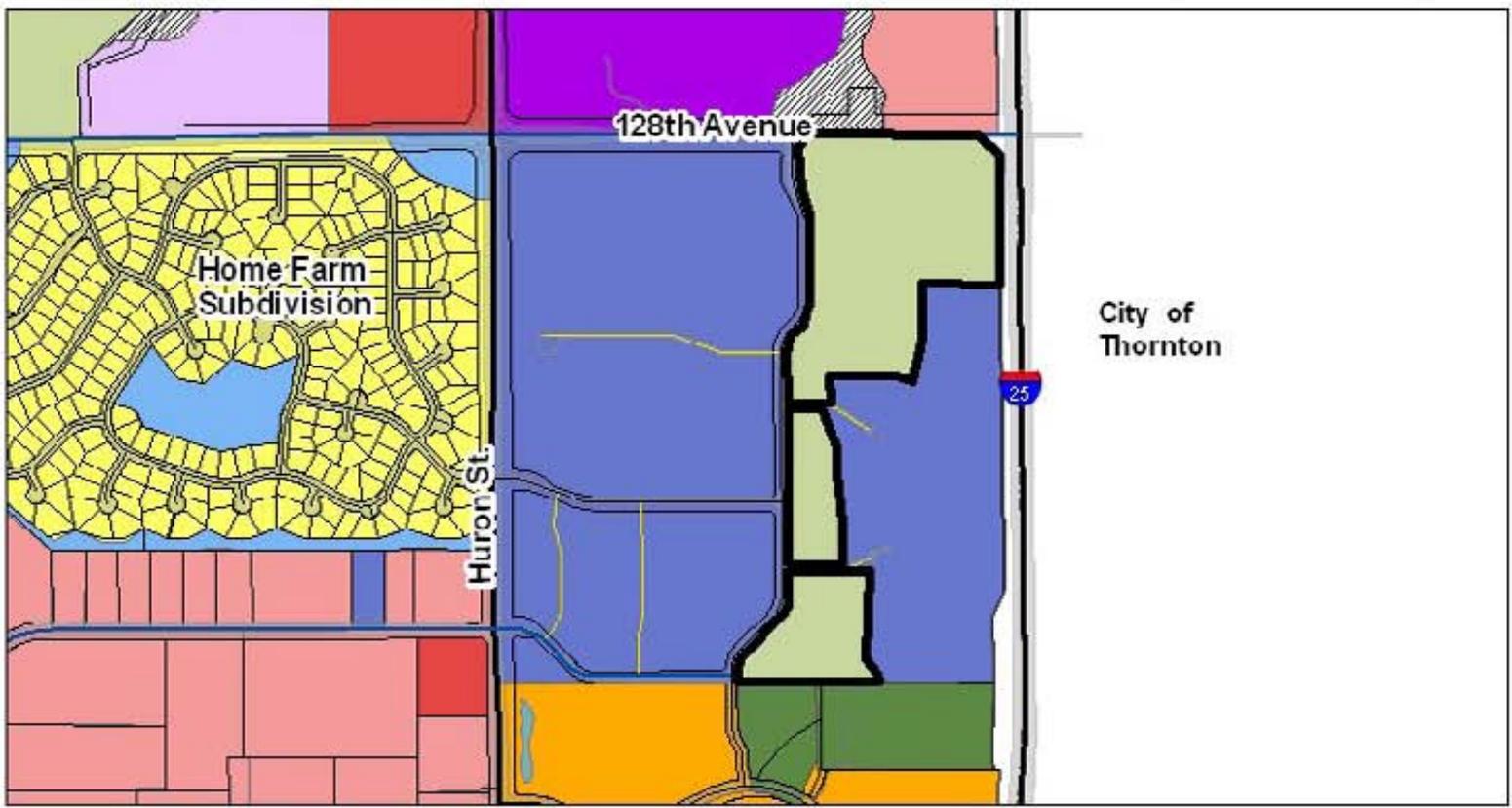


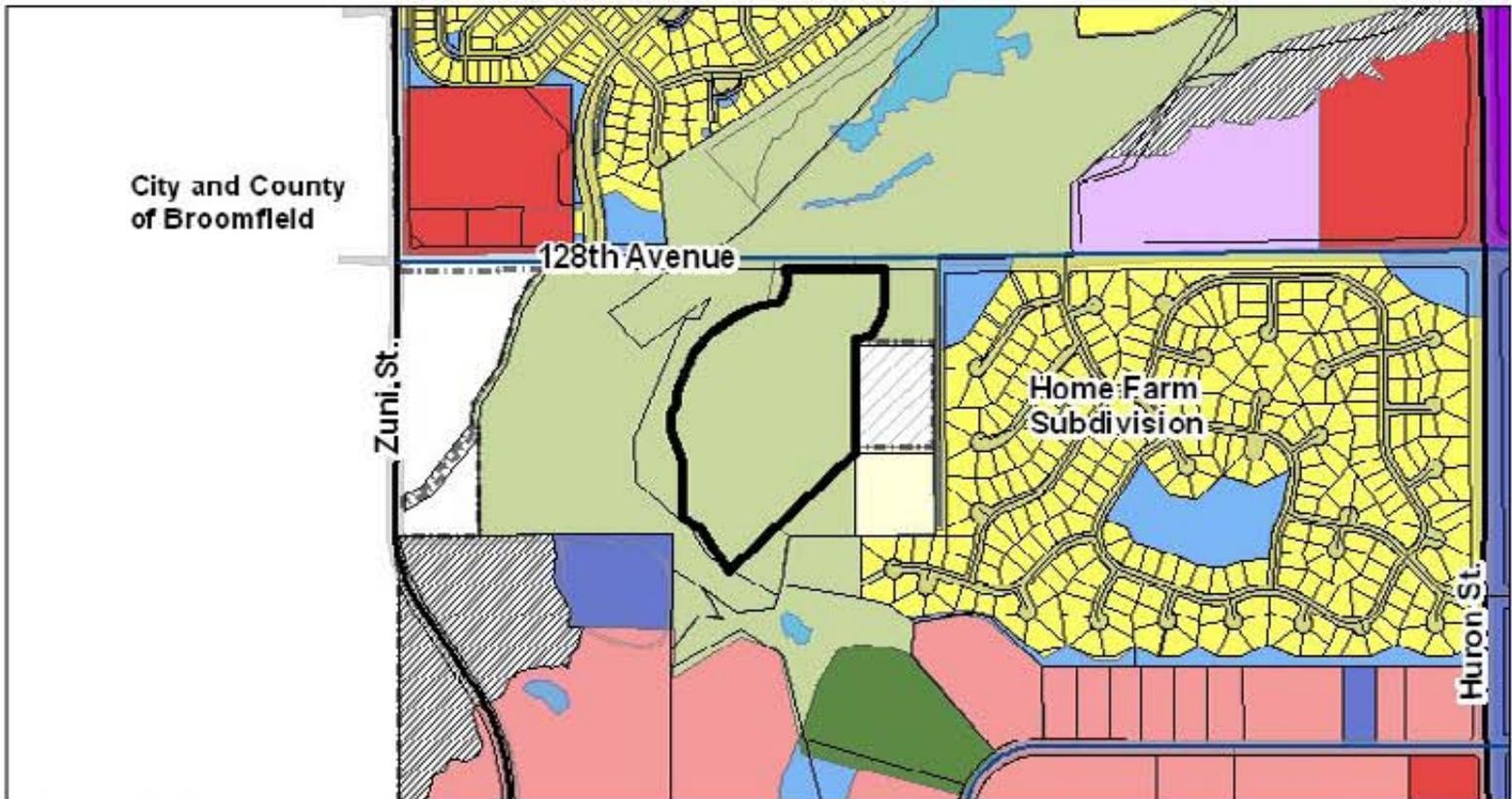


**Change From: Public/Quasi Public and Major Creek Corridor**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**

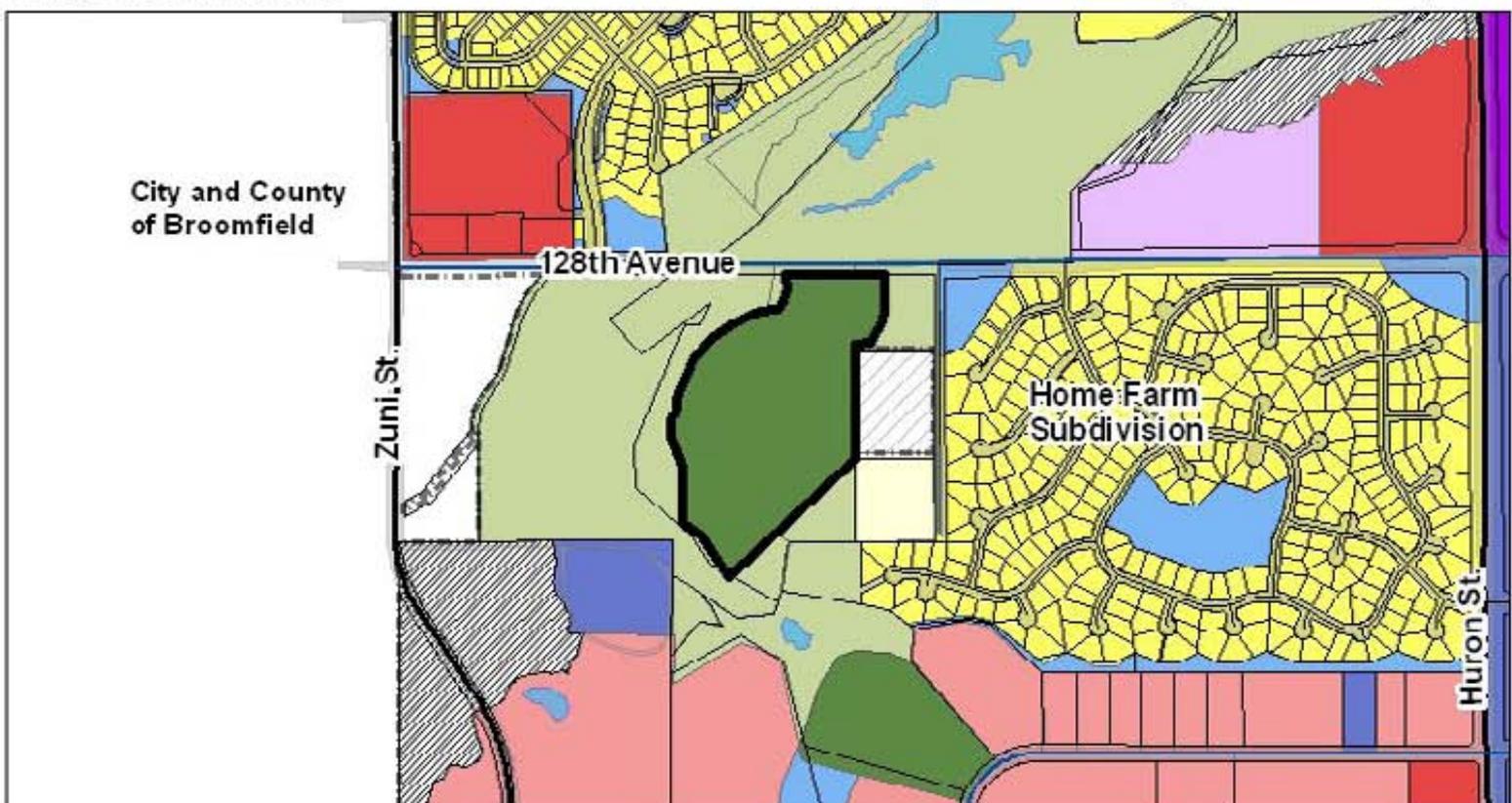
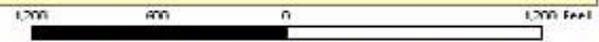




Change From: City Owned Open Space

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: Public Parks



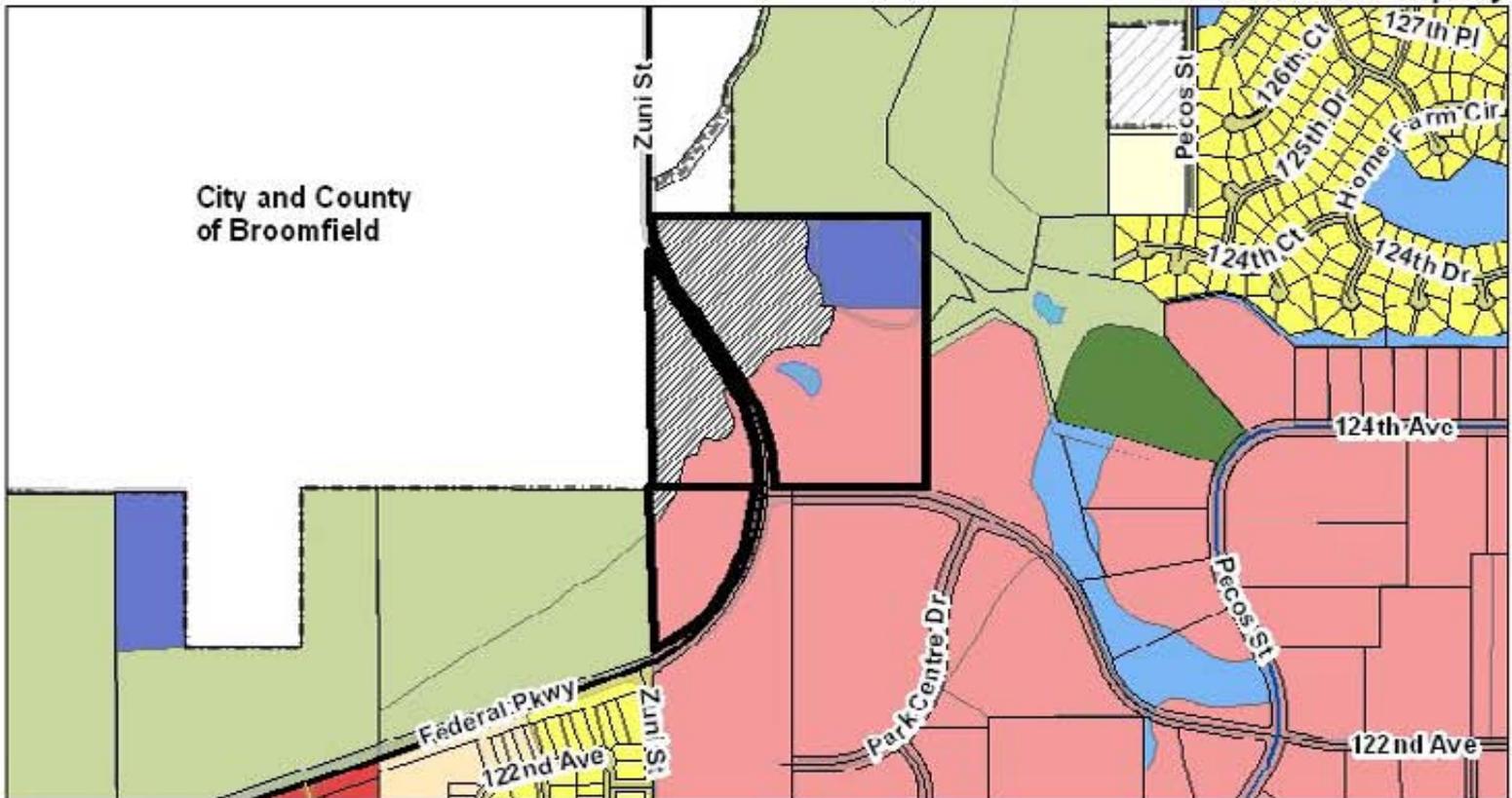
City and County of Broomfield

128th Avenue

Zuni St.

Home Farm Subdivision

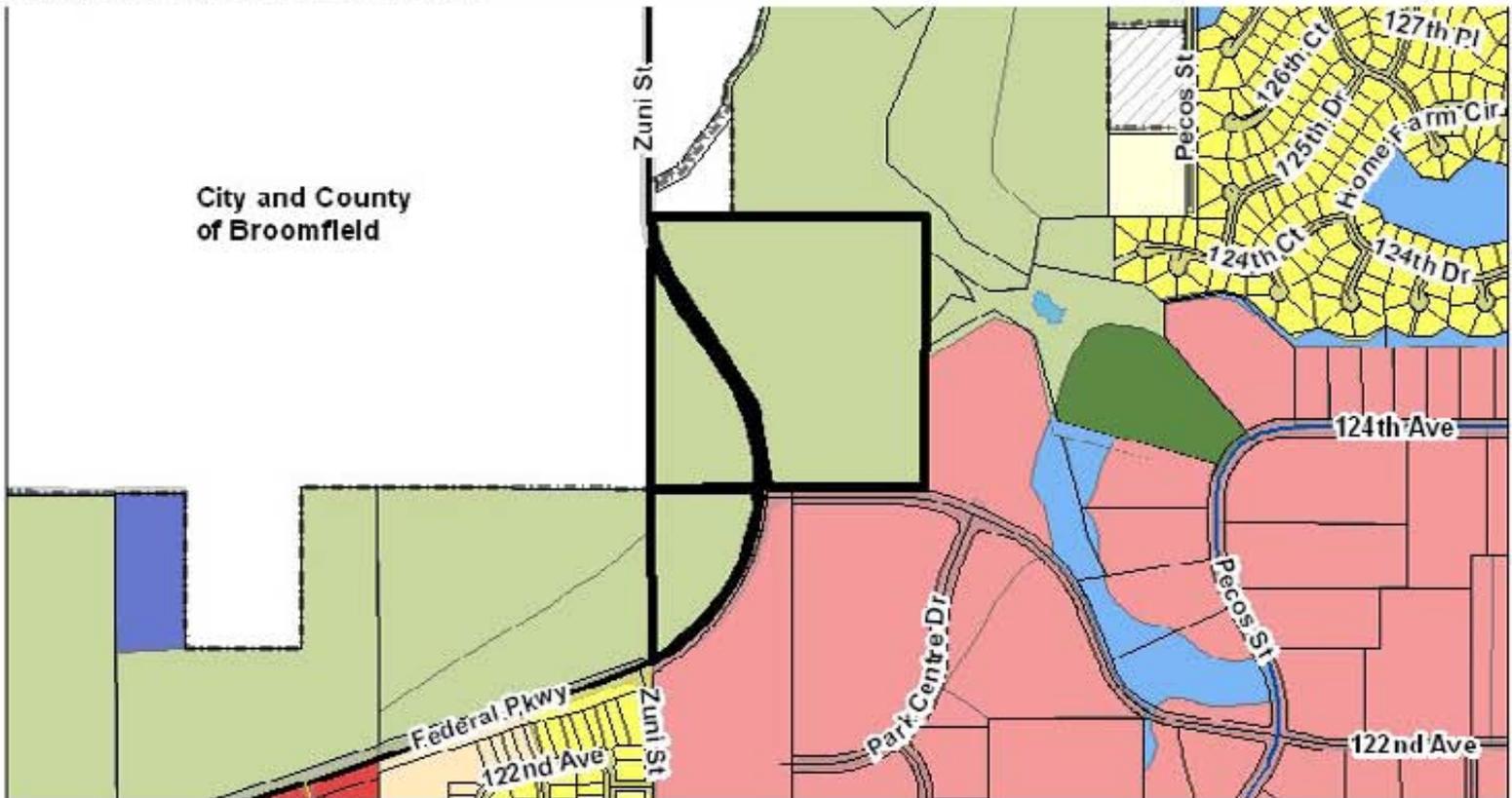
Huron St.



Change From: Business Park, Major Creek Corridor, and Public/Quasi Public

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space





**Change From: Public Parks**

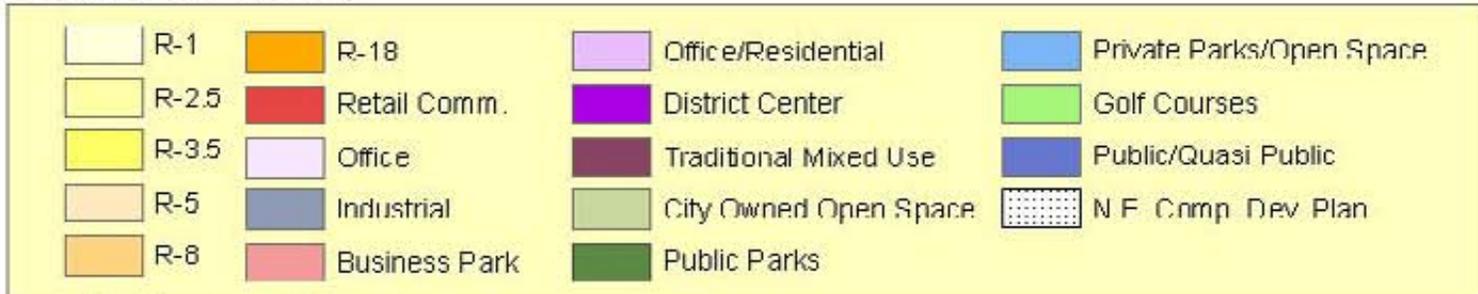
R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**





**Change From: Public Parks**

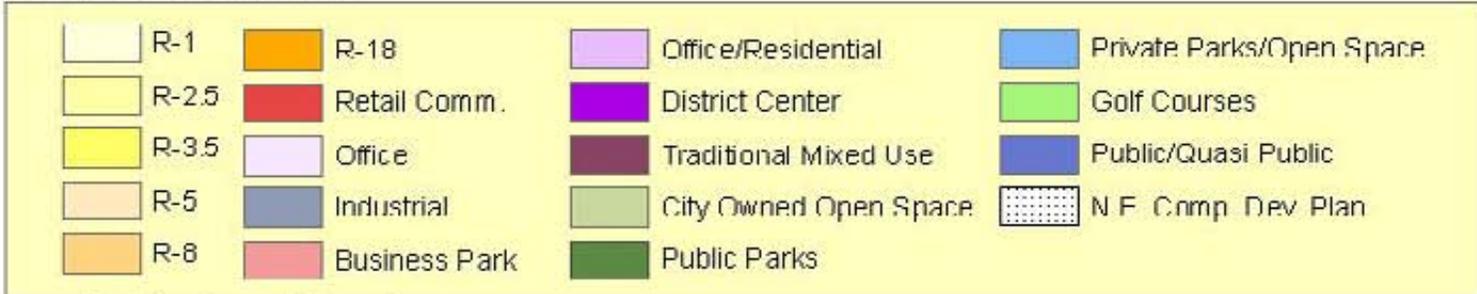


**Change To: City Owned Open Space**

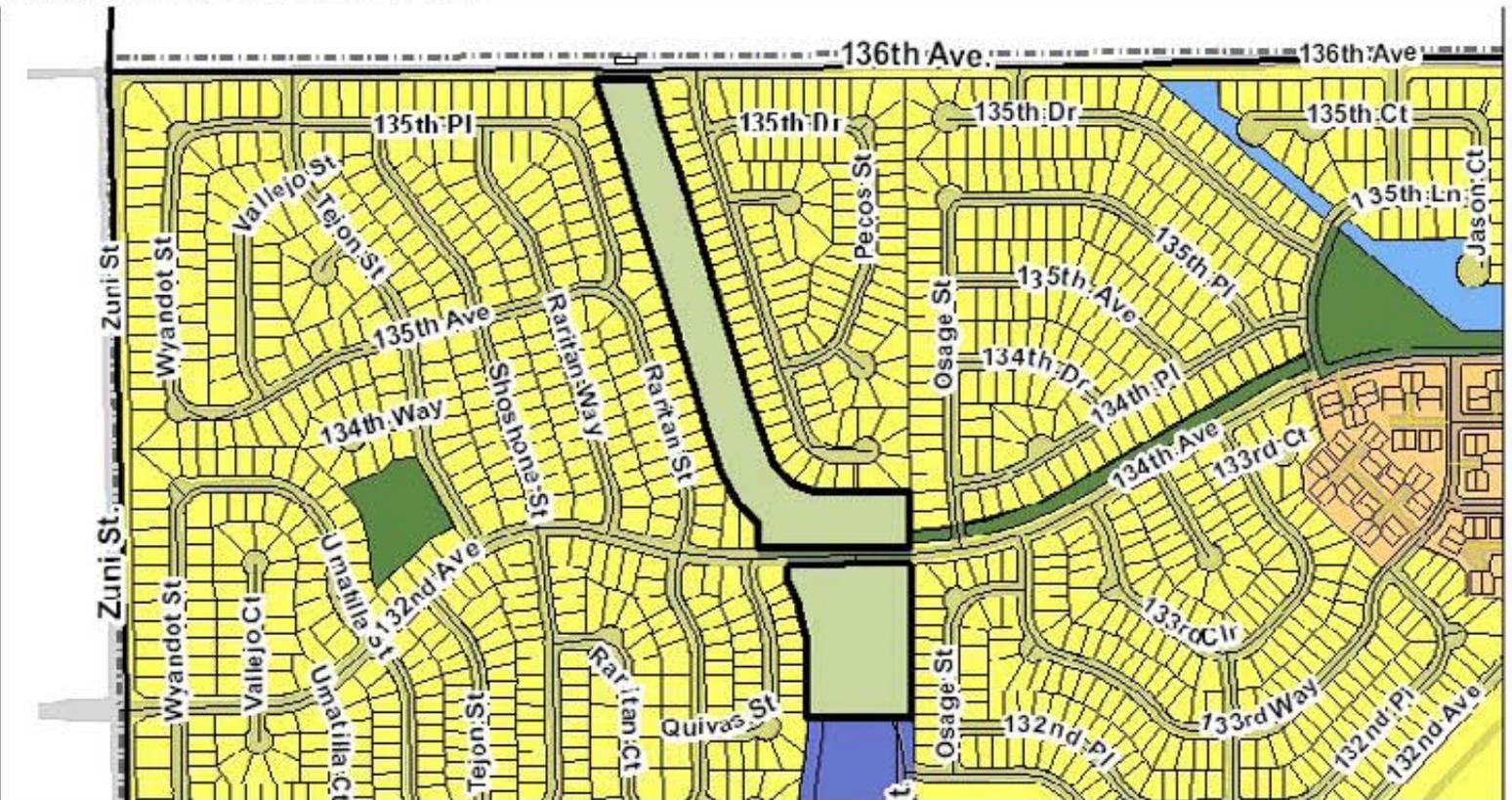




Change From: Public Parks



Change To: City Owned Open Space





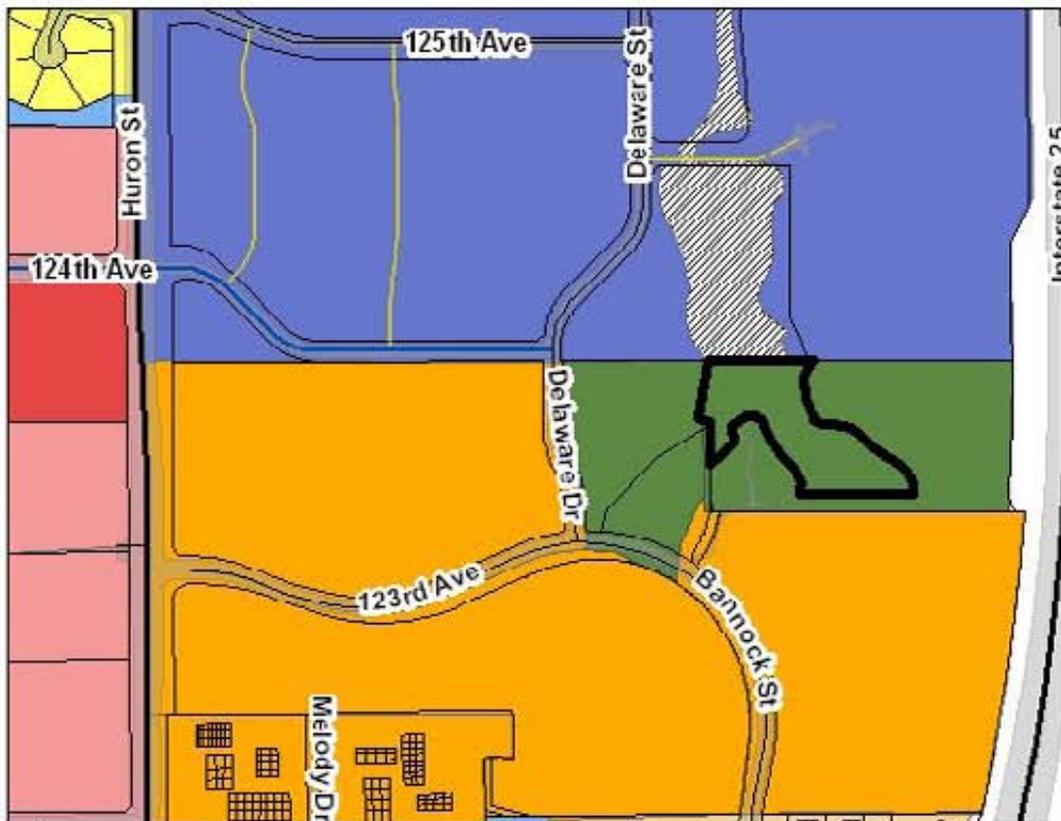
**Change From: Public Parks**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-6	Business Park	Public Parks	

**Change To: City Owned Open Space**







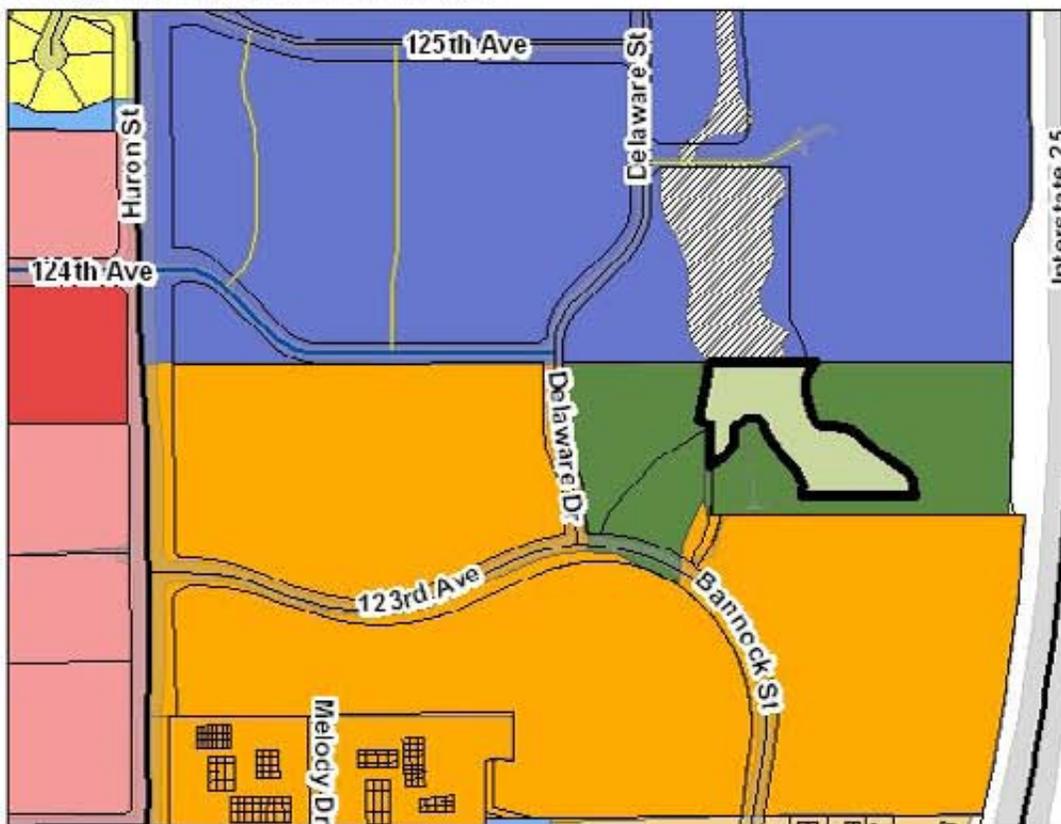
Interstate 25

City of Thornton

**Change From: Public Parks**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**



Interstate 25

City of Thornton

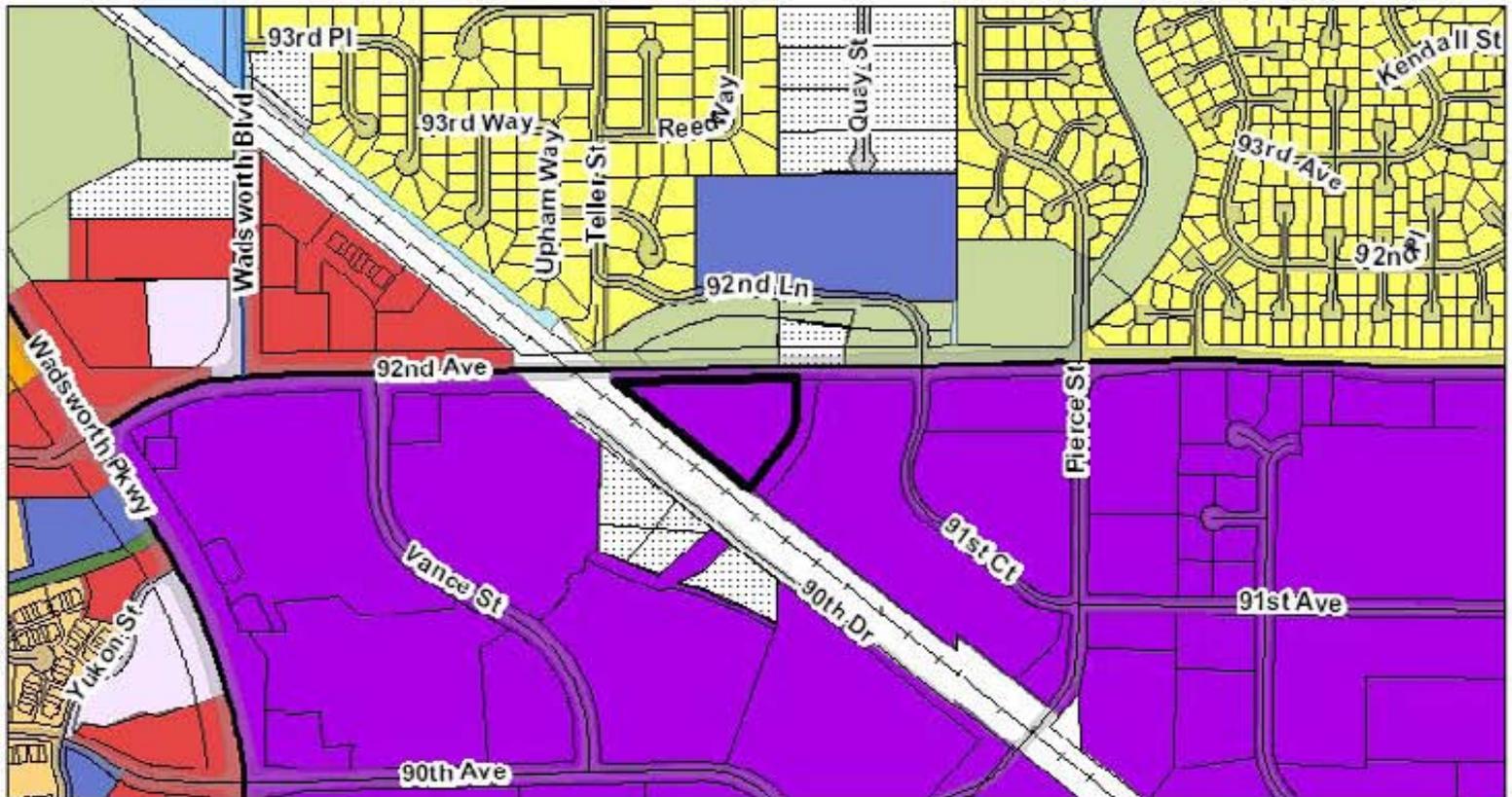


**Change From: Public Parks**

	R-1		R-18		Office/Residential		Private Parks/Open Space
	R-2.5		Retail Comm.		District Center		Golf Courses
	R-3.5		Office		Traditional Mixed Use		Public/Quasi Public
	R-5		Industrial		City Owned Open Space		N.F. Comp. Dev. Plan
	R-8		Business Park		Public Parks		

**Change To: City Owned Open Space**

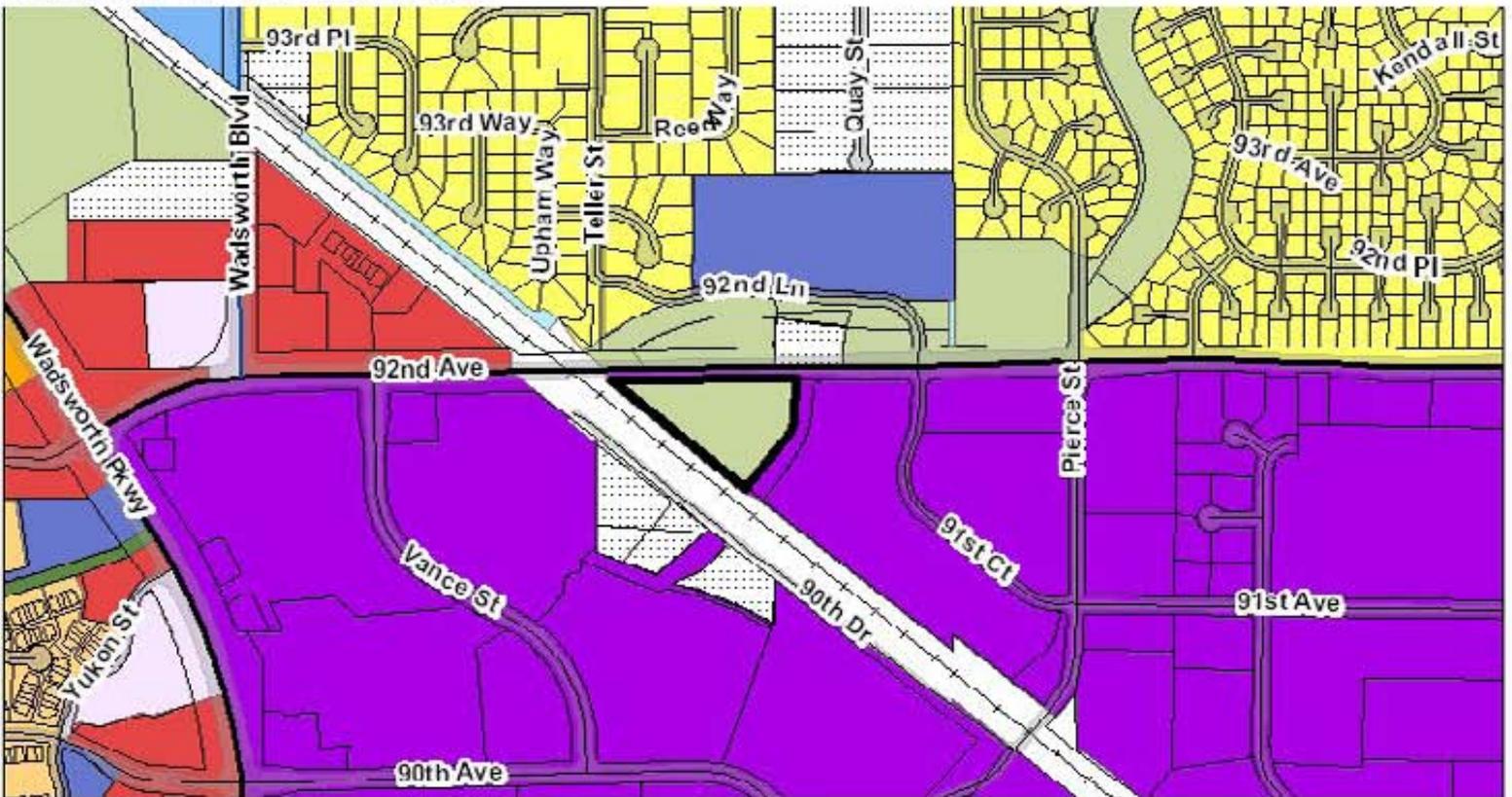


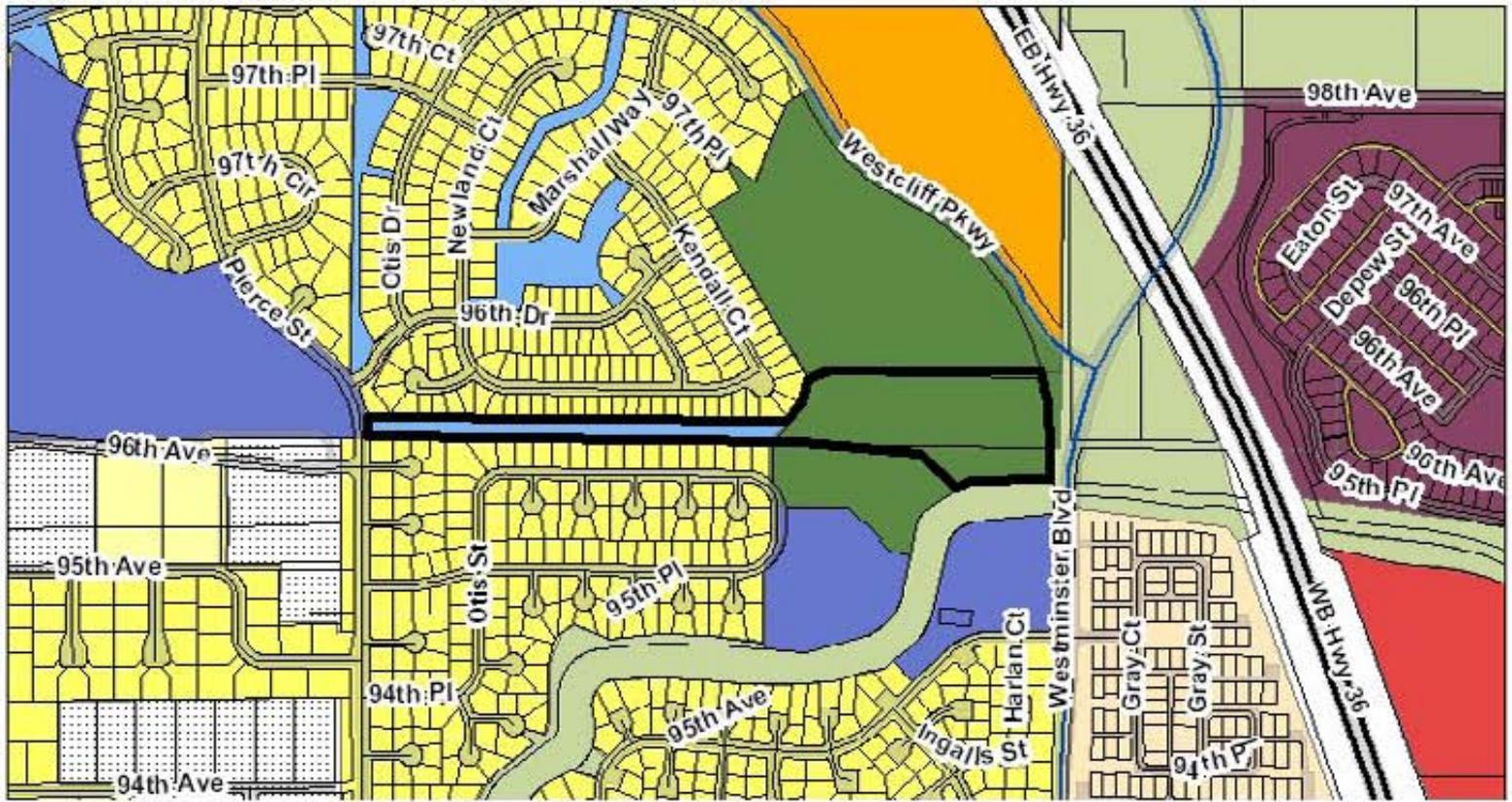


**Change From: District Center**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**

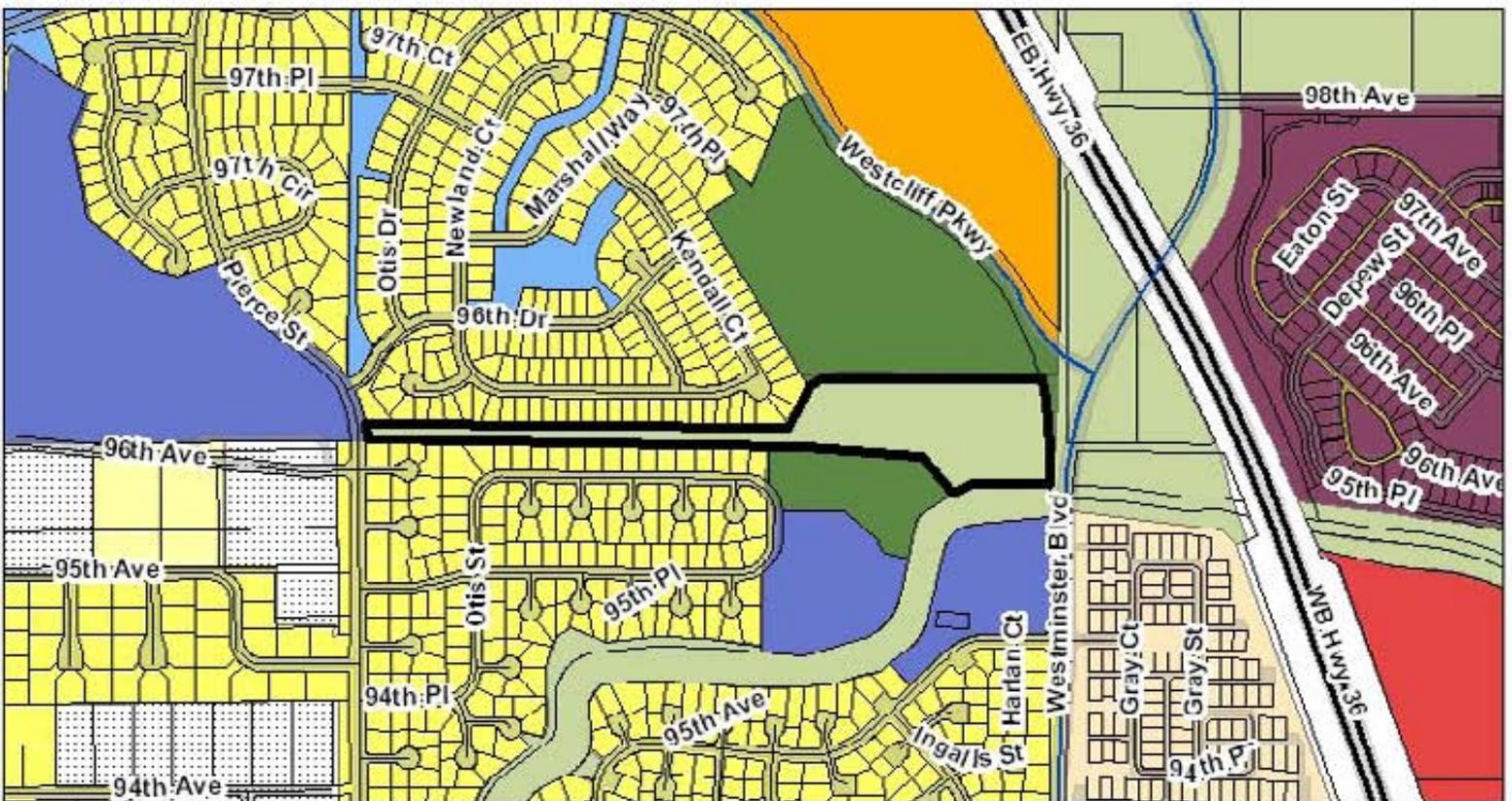




**Change From: Private Parks and Public Parks**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**





**Change From: Public Parks**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**



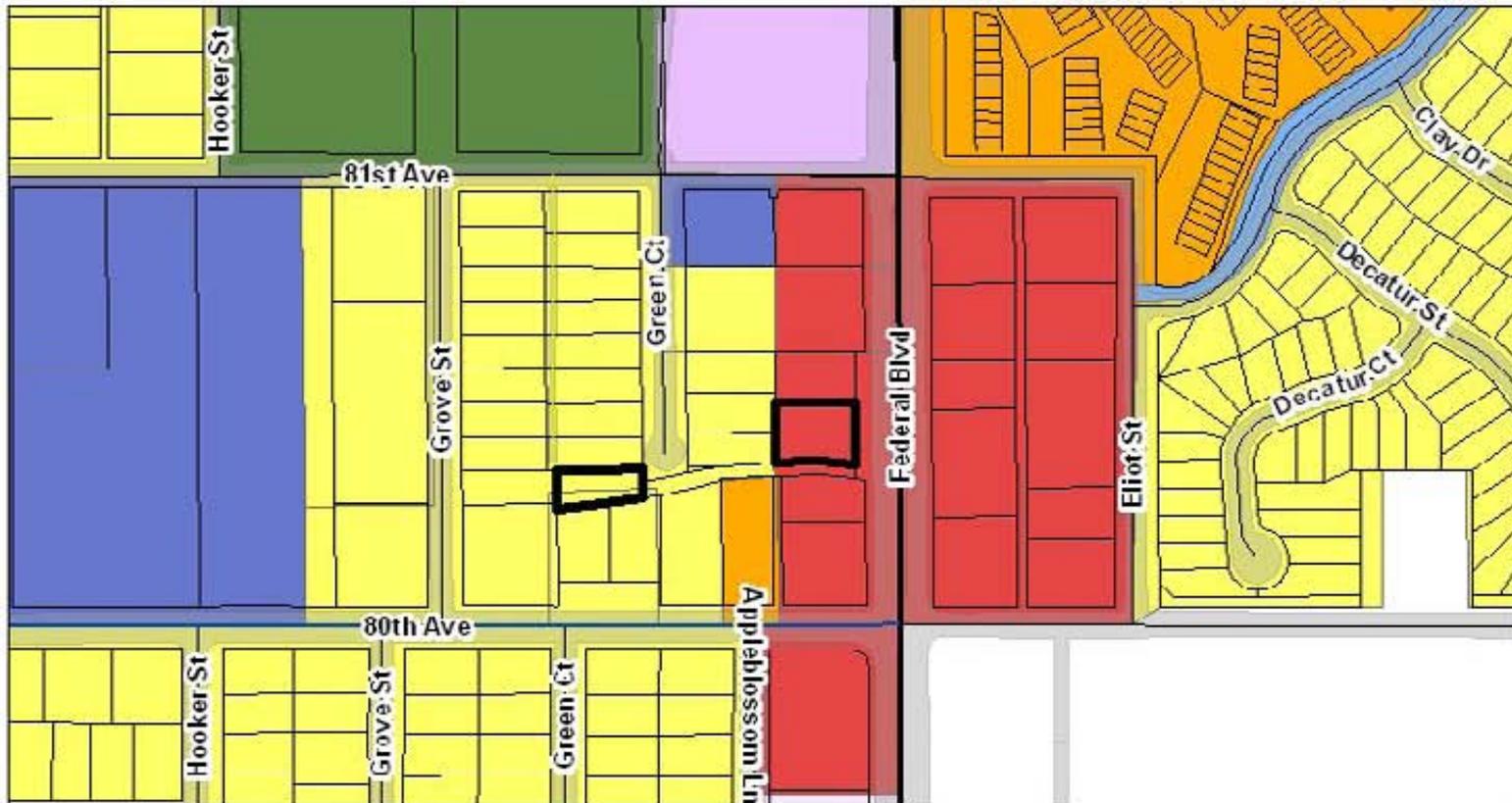


Change From: R-2.5

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space





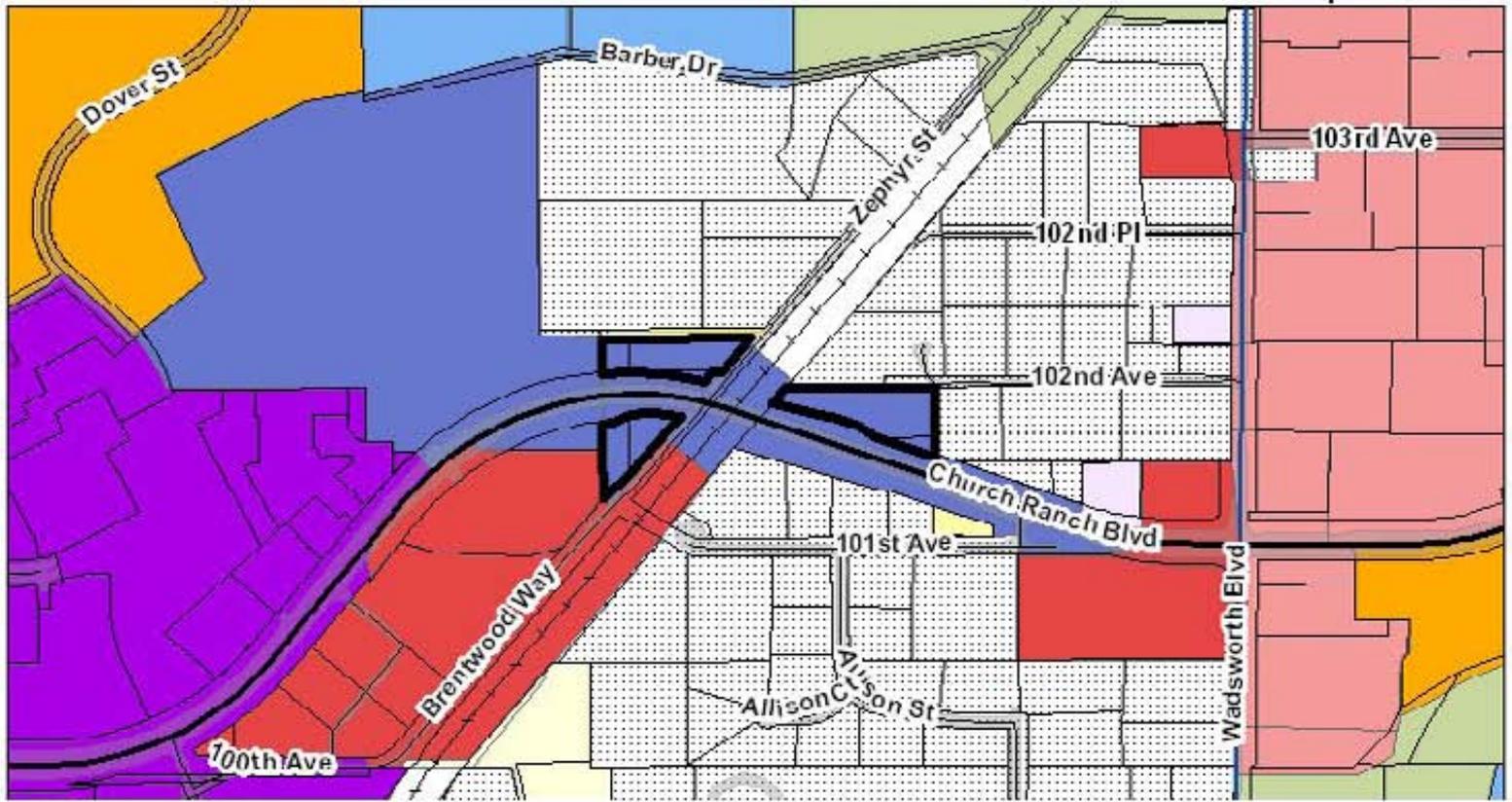
Change From: Retail Commercial and R-3.5

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space



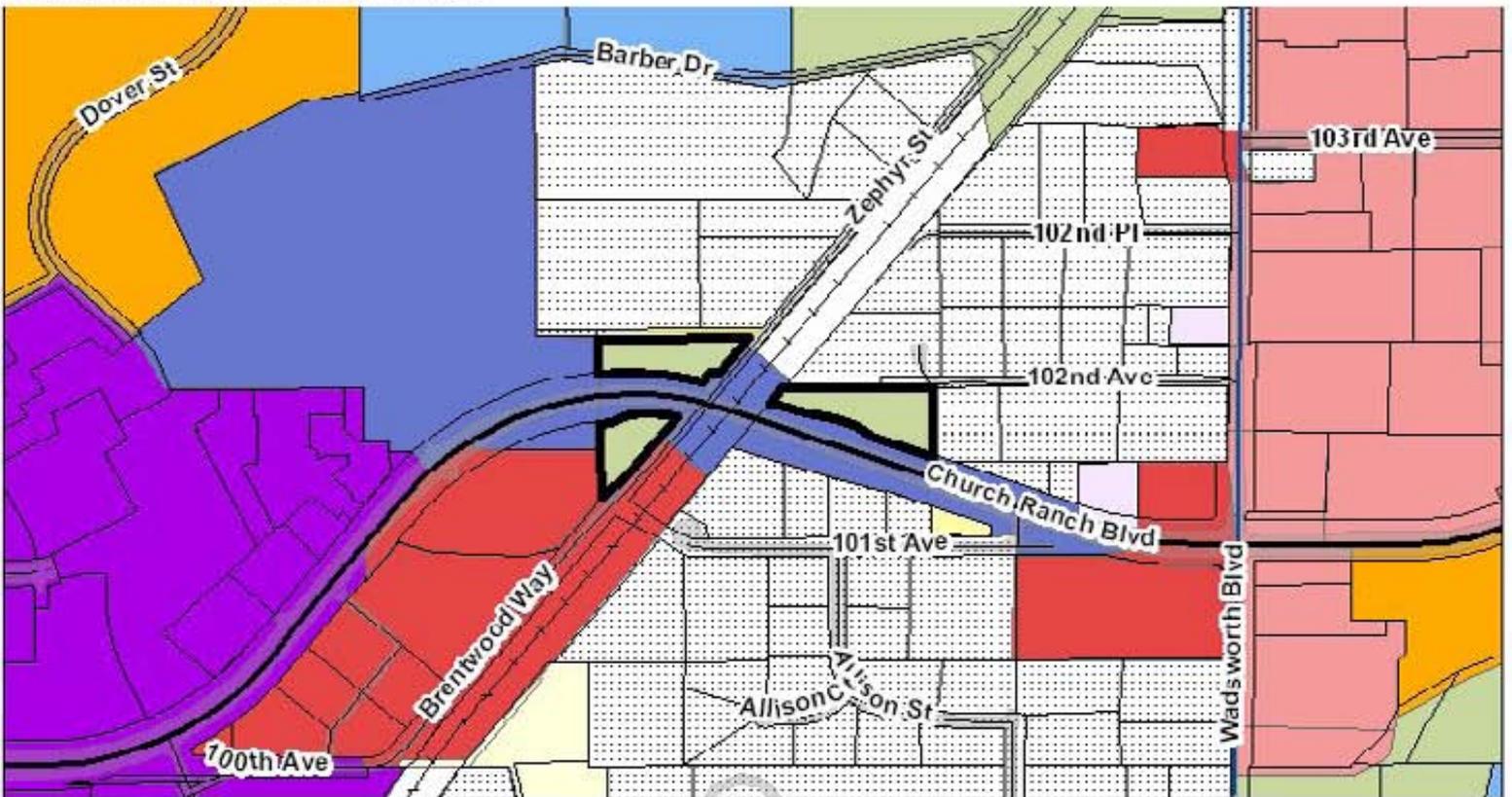
MAP 19 - Church Ranch Blvd. Improvements

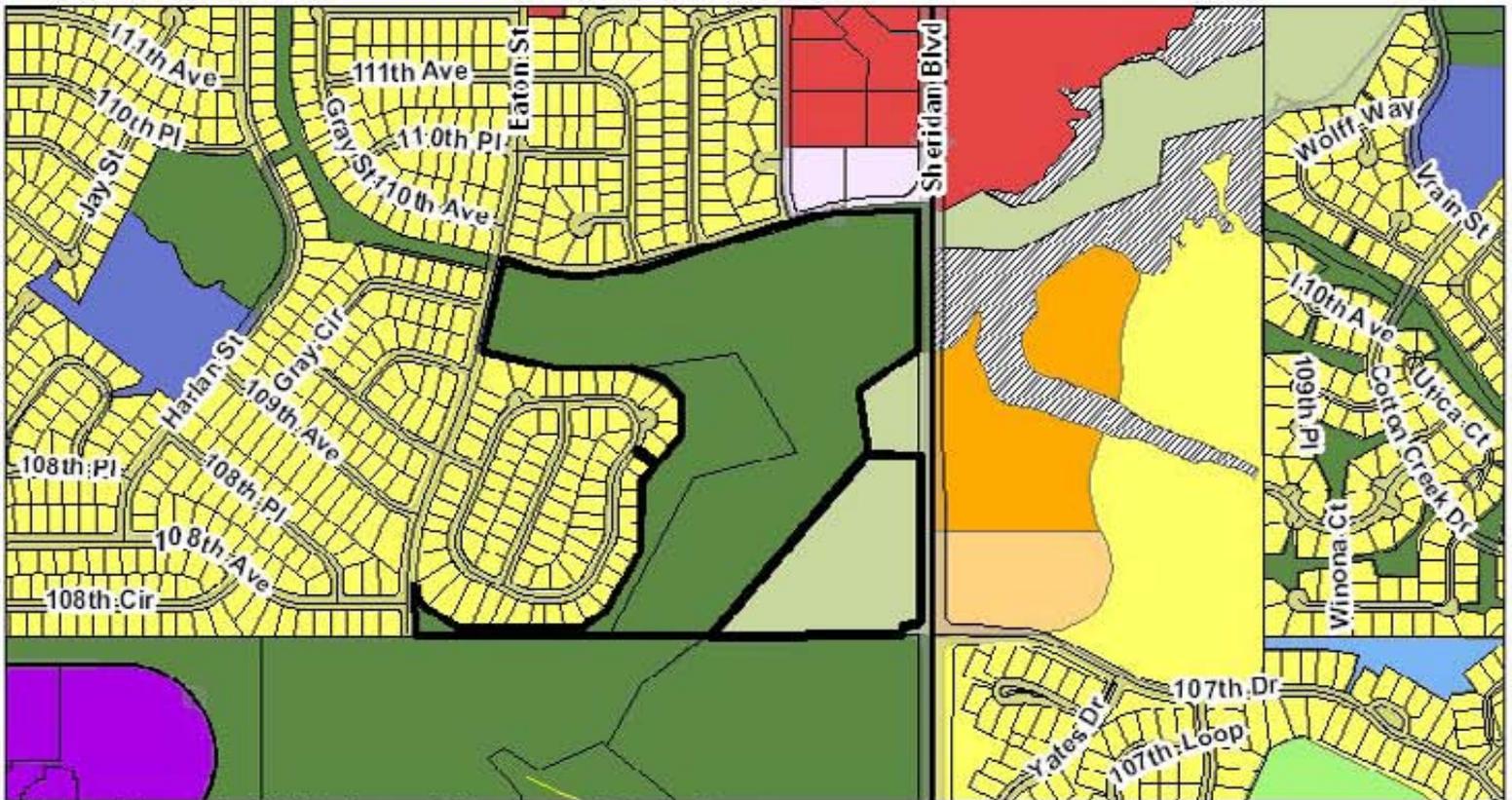


Change From: Public/Quasi Public

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space

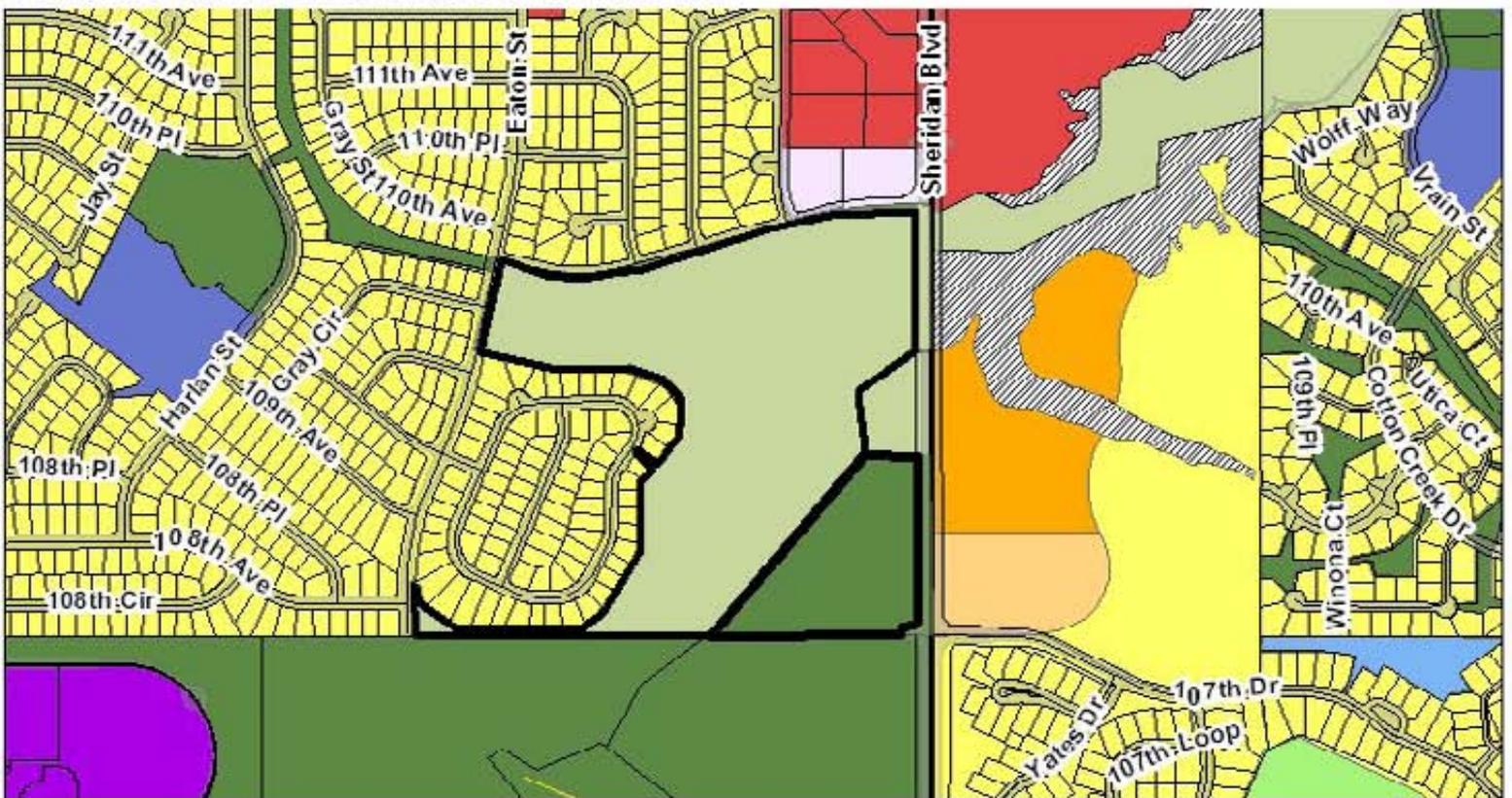


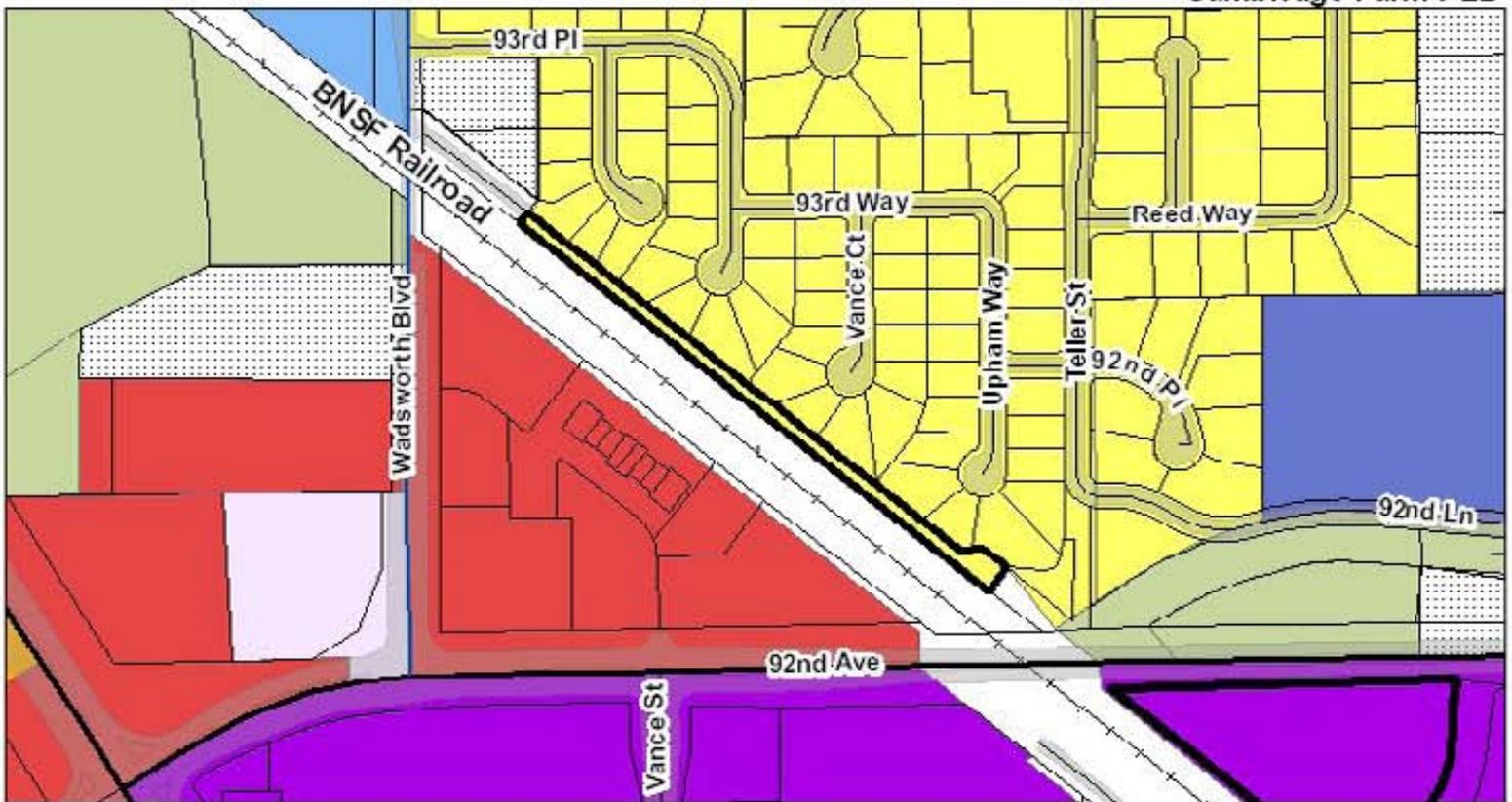


Change From: Public Parks and City Owned Open Space

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space and Public Parks

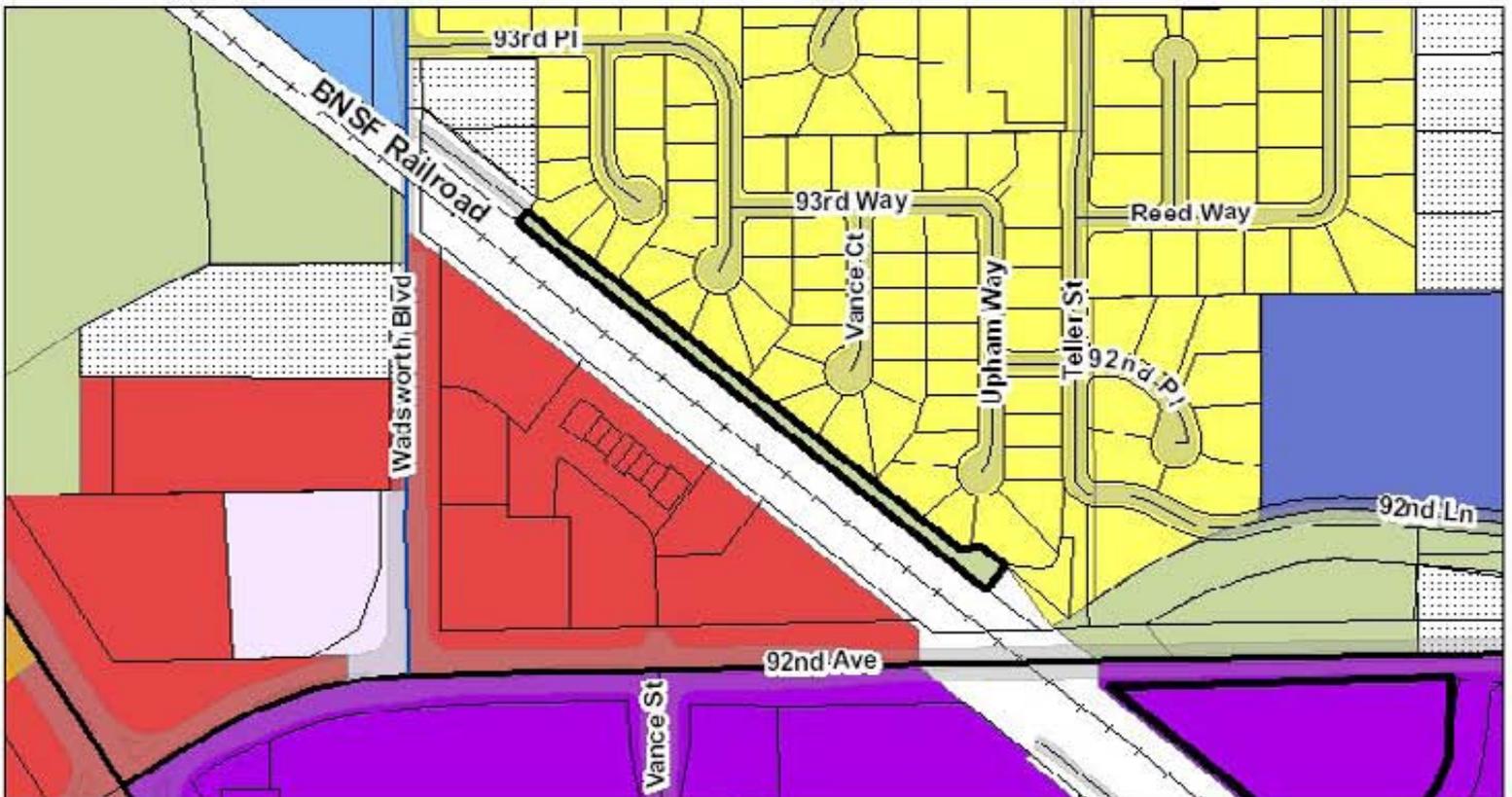




Change From: R-3.5

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space





Change From: City Owned Open Space

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: Public Parks



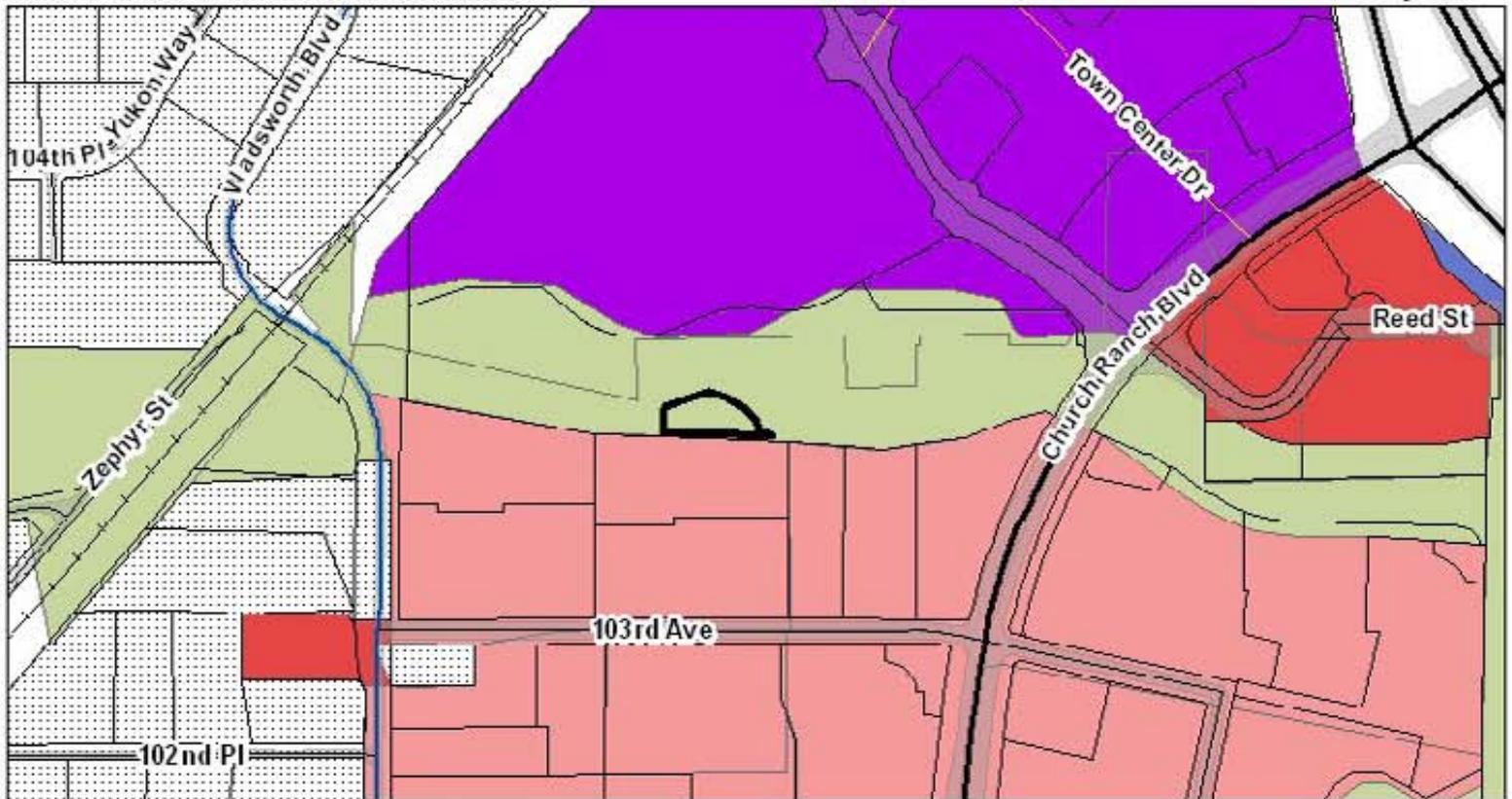


**Change From: City Owned Open Space**

	R-1		R-18		Office/Residential		Private Parks/Open Space
	R-2.5		Retail Comm.		District Center		Golf Courses
	R-3.5		Office		Traditional Mixed Use		Public/Quasi Public
	R-5		Industrial		City Owned Open Space		N.F. Comp. Dev. Plan
	R-8		Business Park		Public Parks		

**Change To: Public Parks**

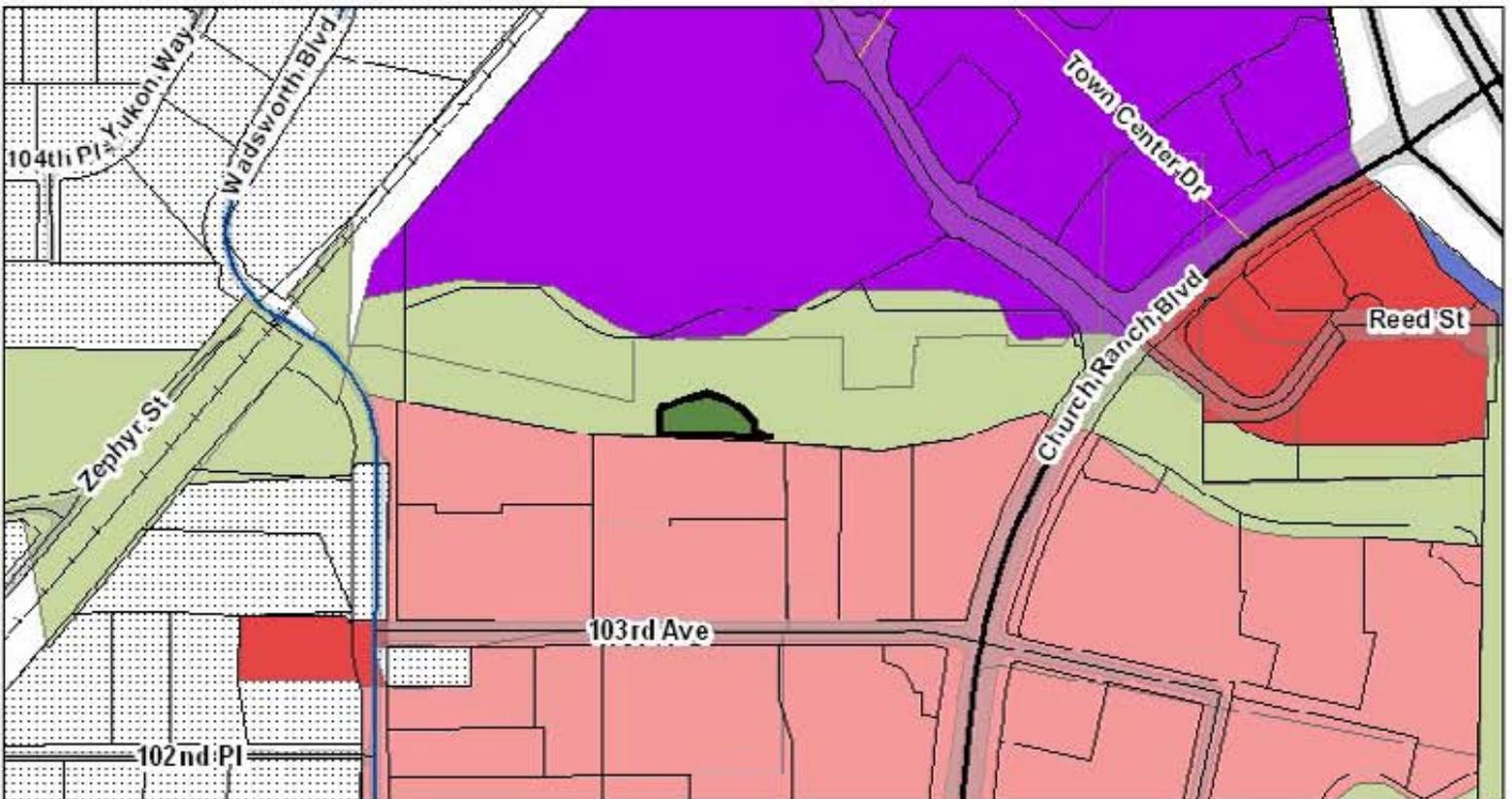




**Change From: City Owned Open Space**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: Public Parks**

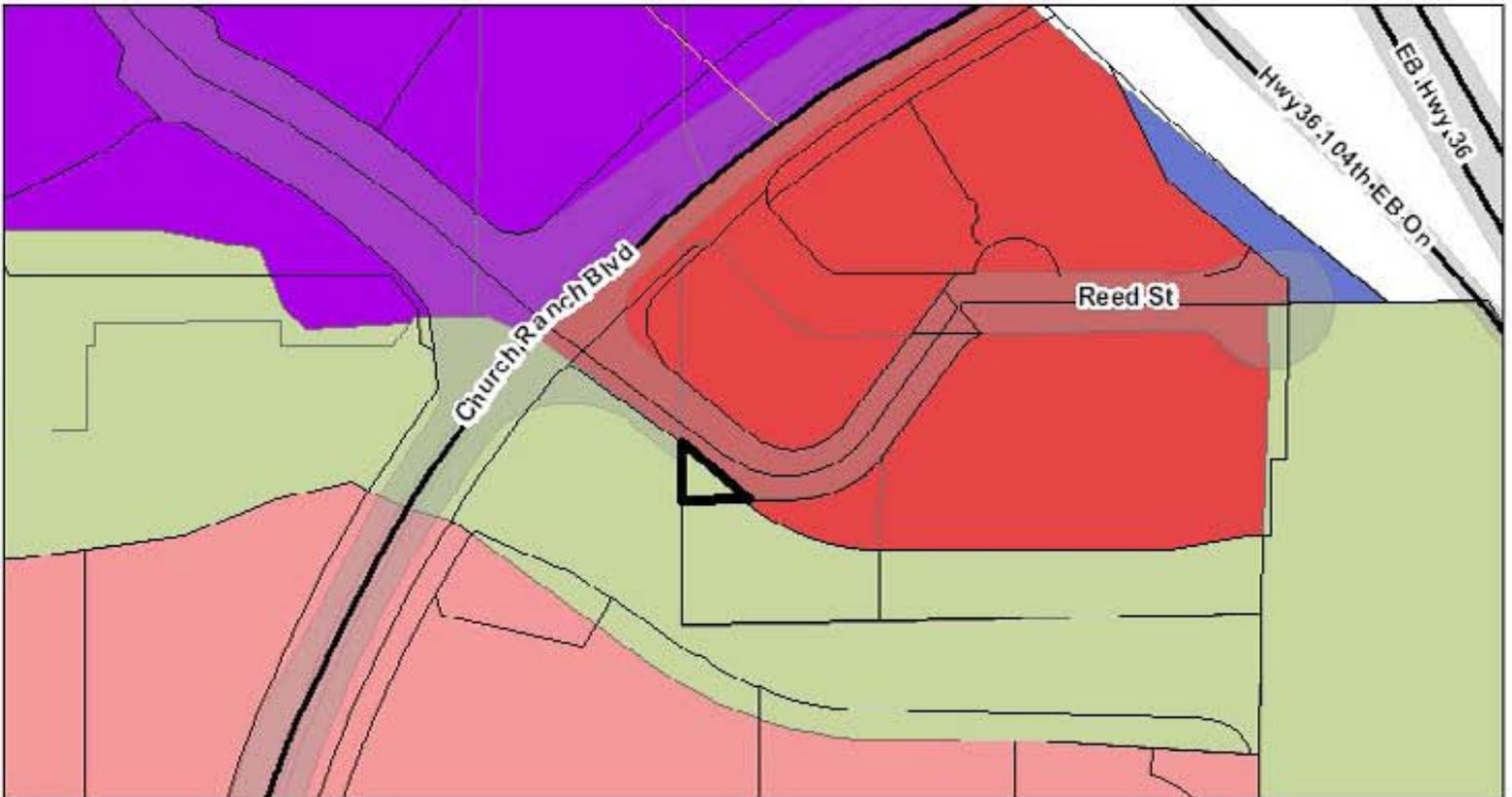




**Change From: Retail Commercial**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**





**Change From: Public Parks and City Owned Open Space**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space and Public Parks**





**Change From: Golf Courses and City Owned Open Space**

R-1	R-18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.F. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space, Golf Courses, and Public Parks**



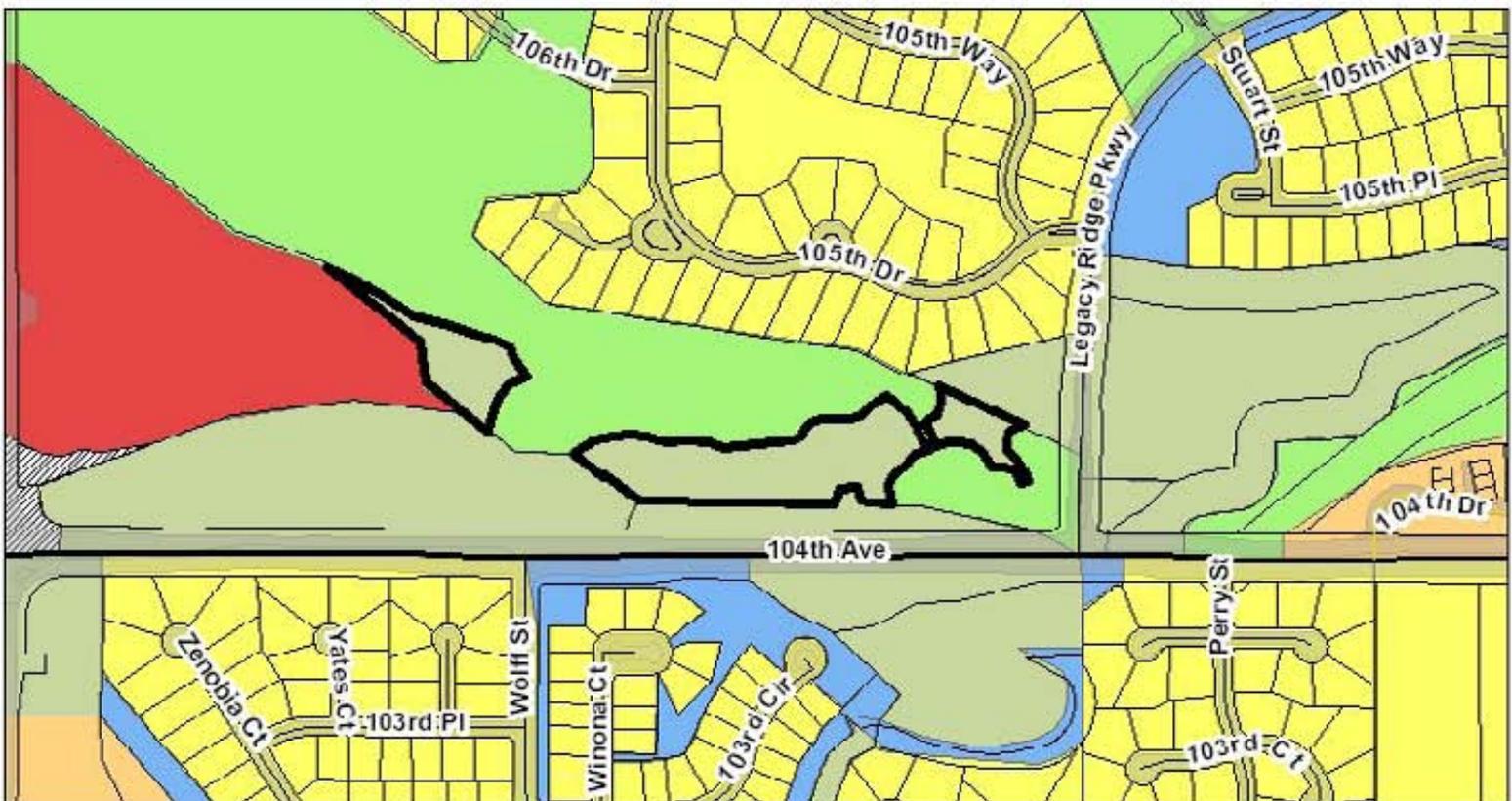




**Change From: Golf Courses**

	R-1		R 18		Office/Residential		Private Parks/Open Space
	R-2.5		Retail Comm.		District Center		Golf Courses
	R-3.5		Office		Traditional Mixed Use		Public/Quasi Public
	R-5		Industrial		City Owned Open Space		N.E. Comp. Dev. Plan
	R-8		Business Park		Public Parks		

**Change To: City Owned Open Space**



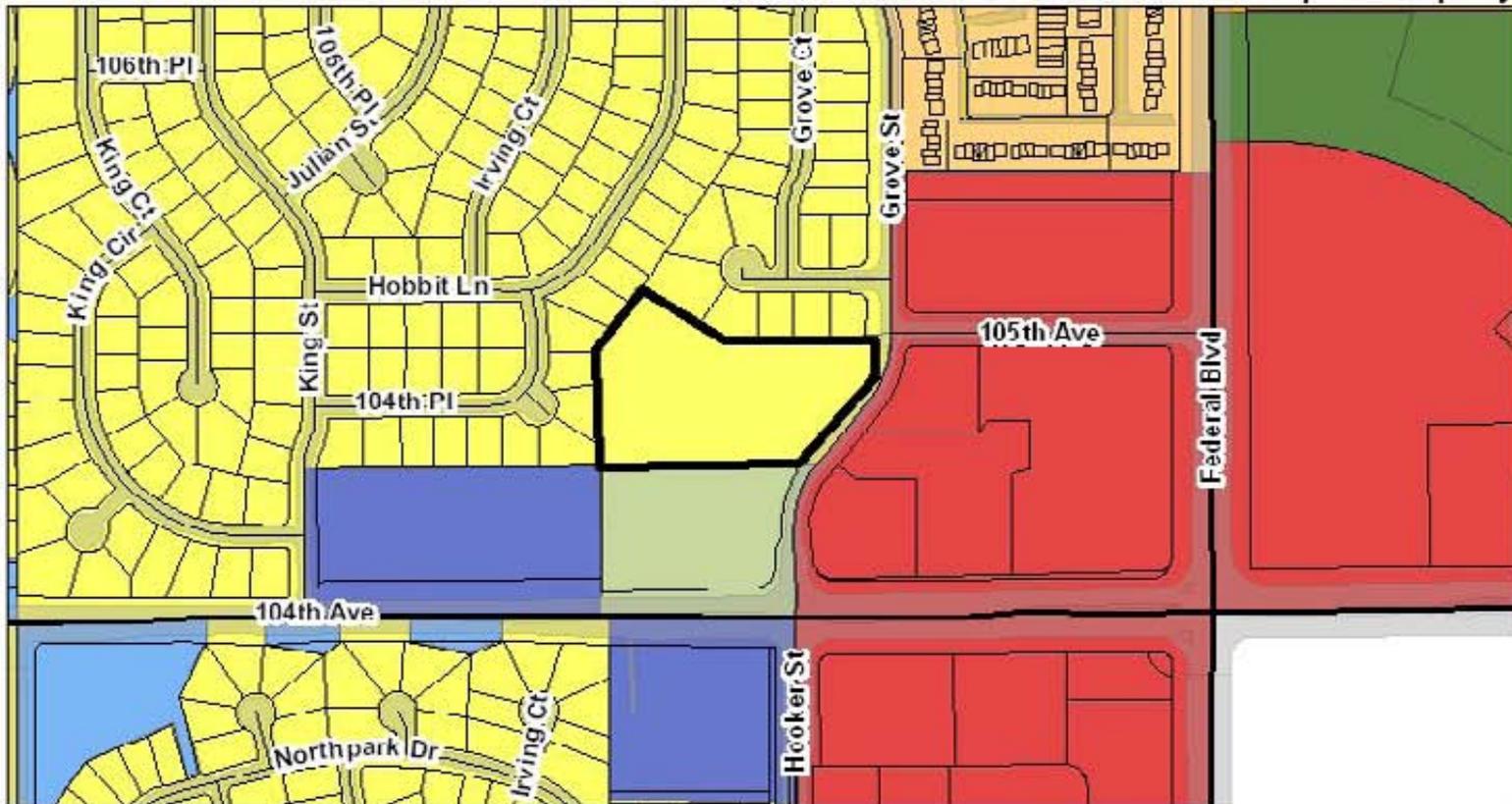


**Change From: Private Parks**

R-1	R 18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**

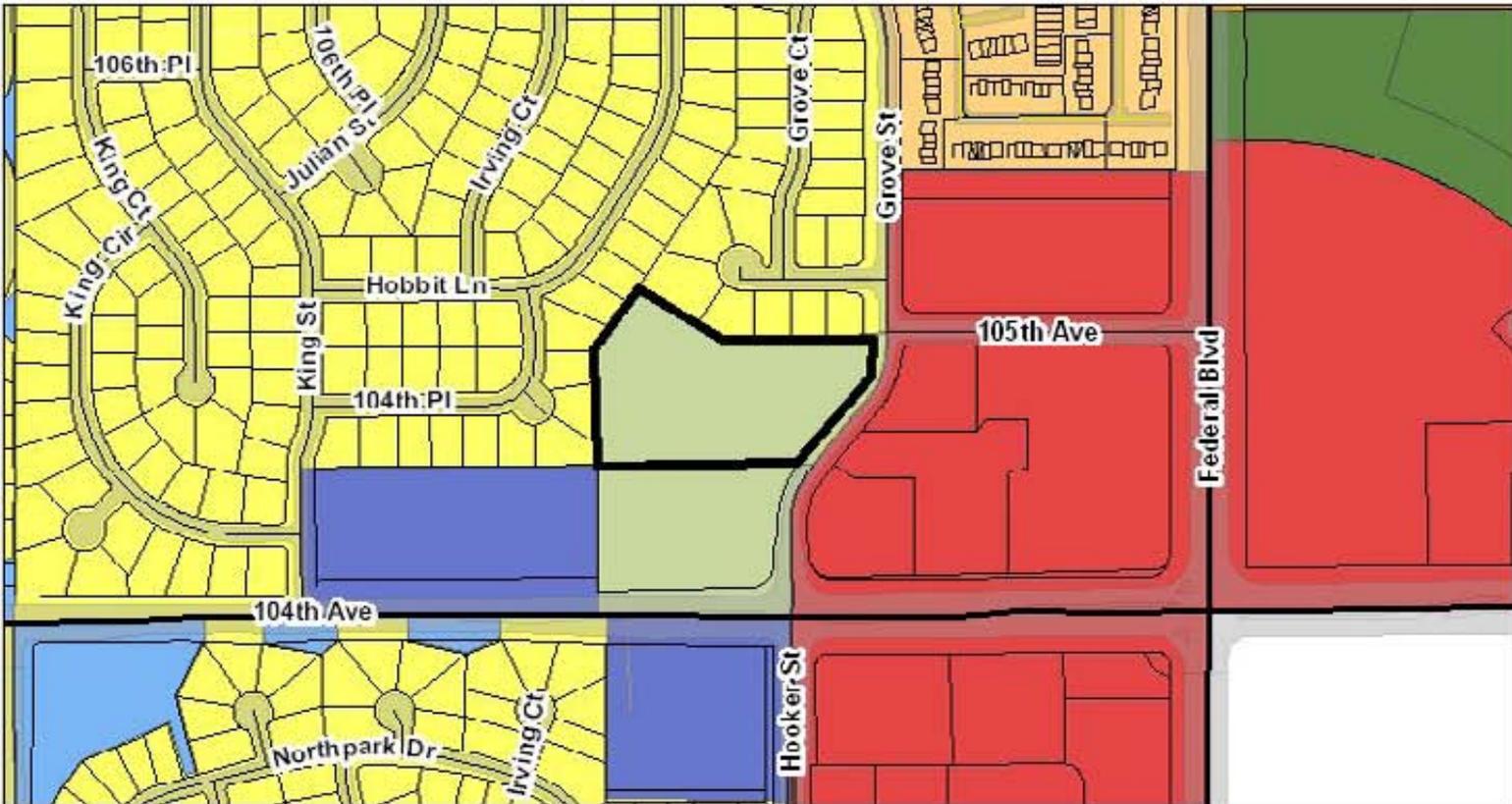


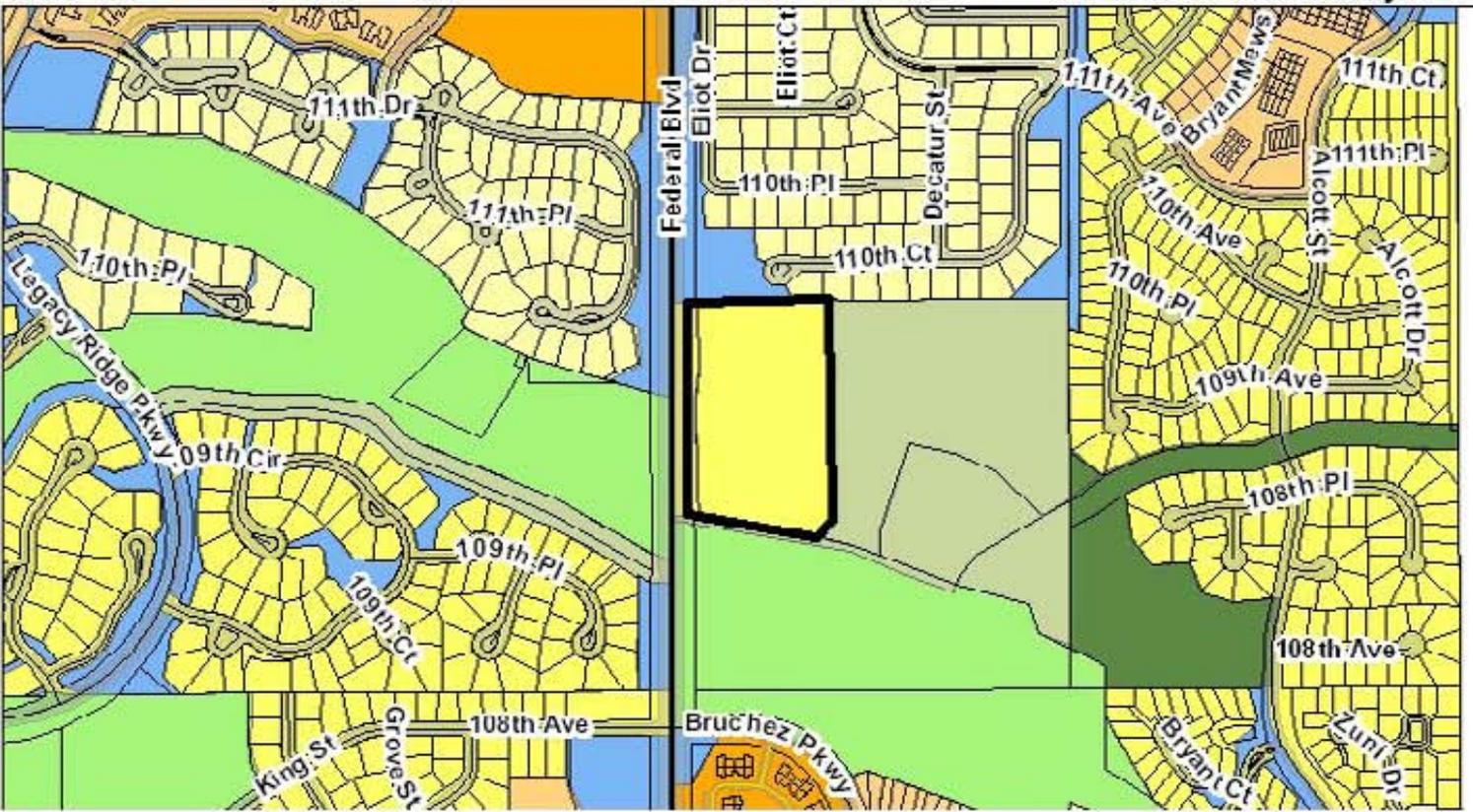


Change From: R-3.5

R-1	R 18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space

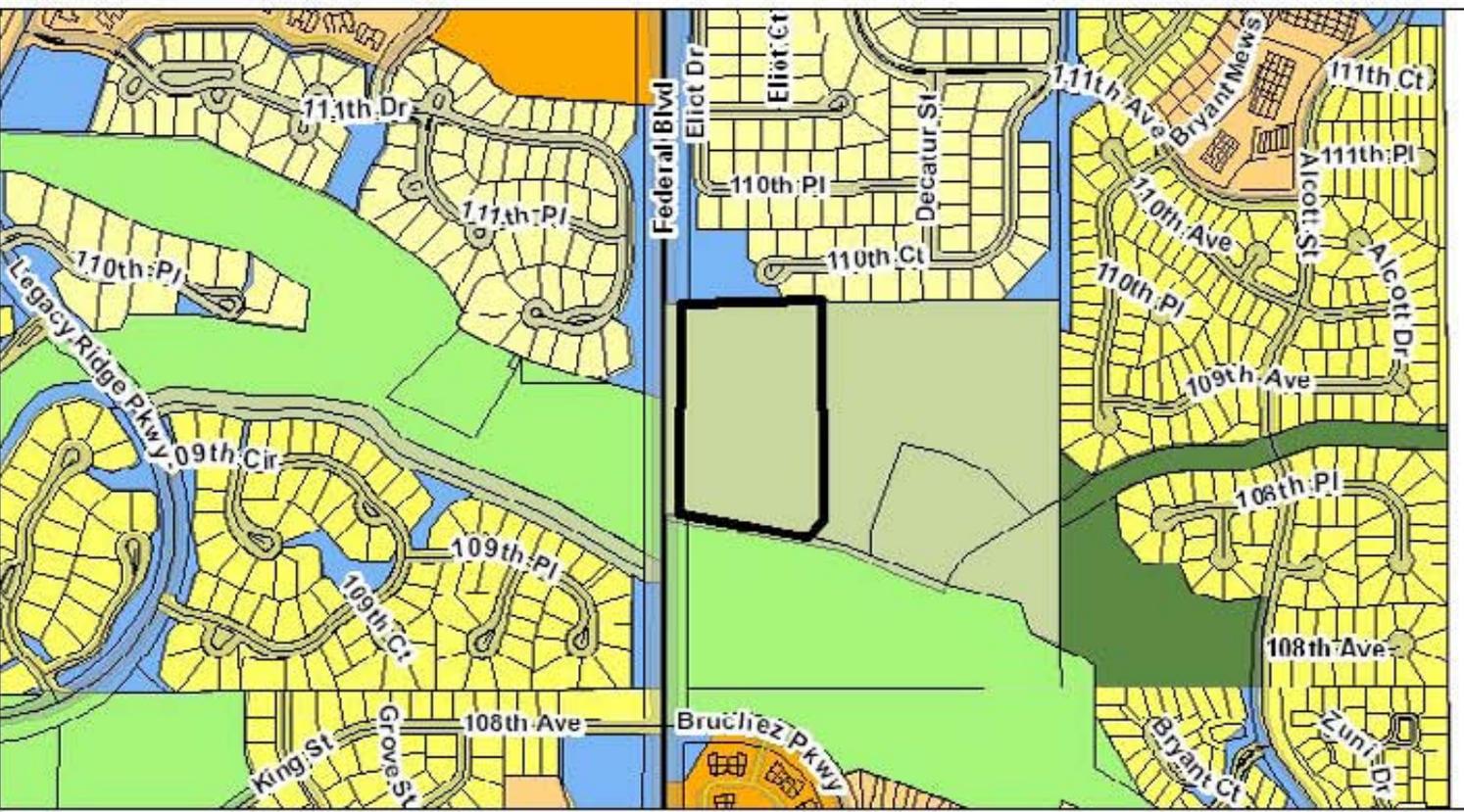


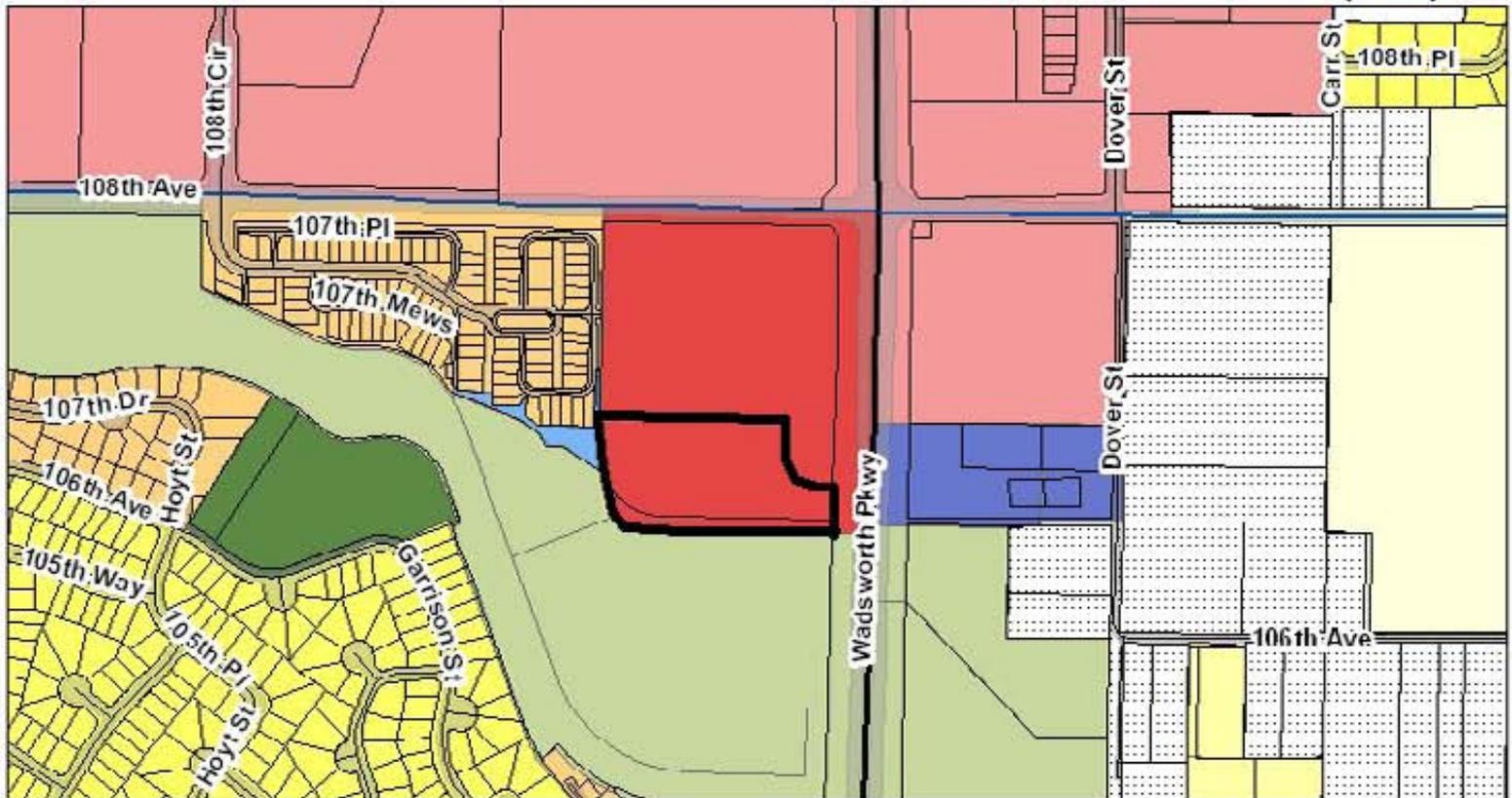


Change From: R-3.5

R-1	R 18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space





**Change From: Retail Commercial**

R-1	R 18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comp. Dev. Plan
R-8	Business Park	Public Parks	

**Change To: City Owned Open Space**

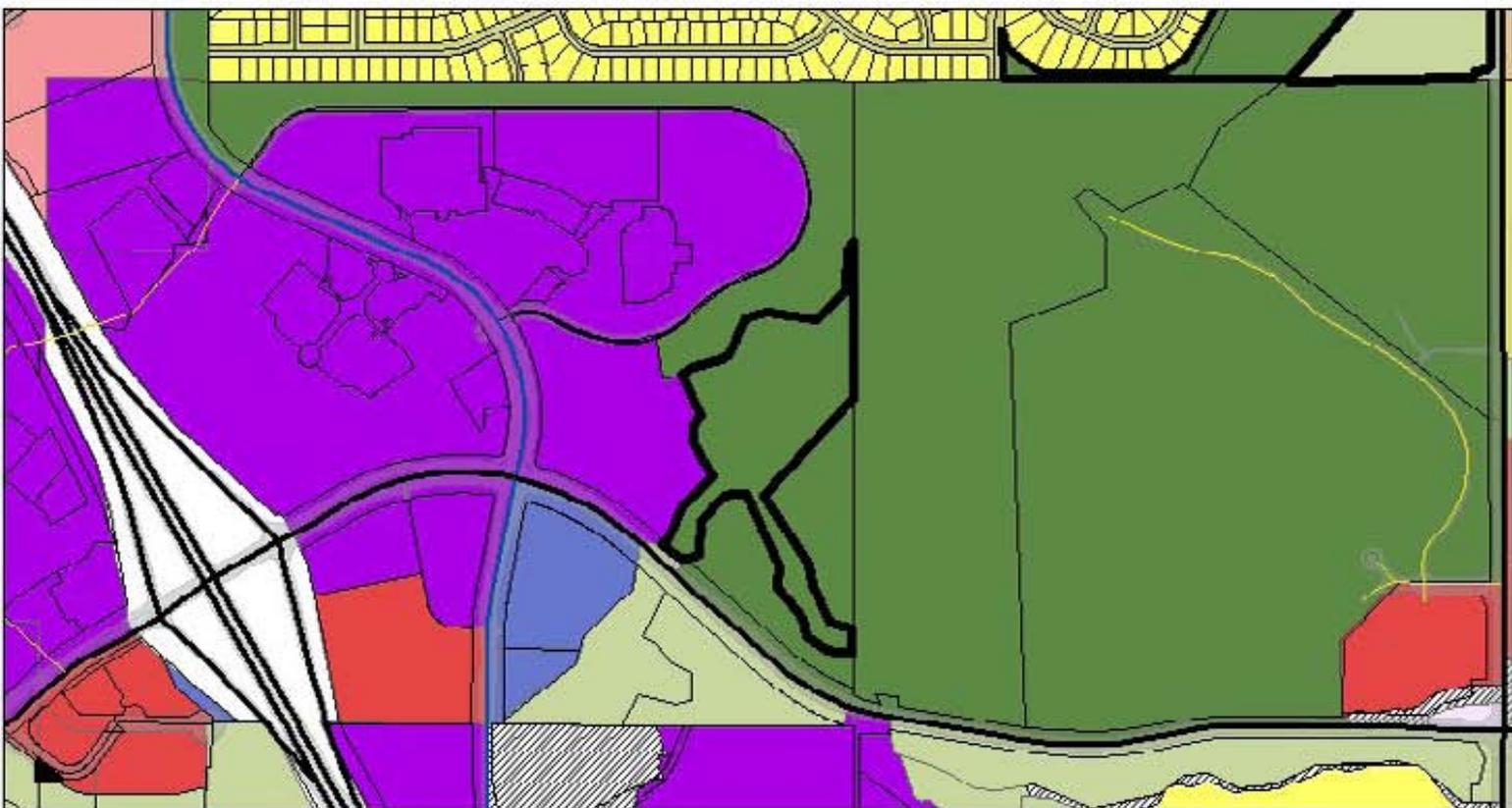


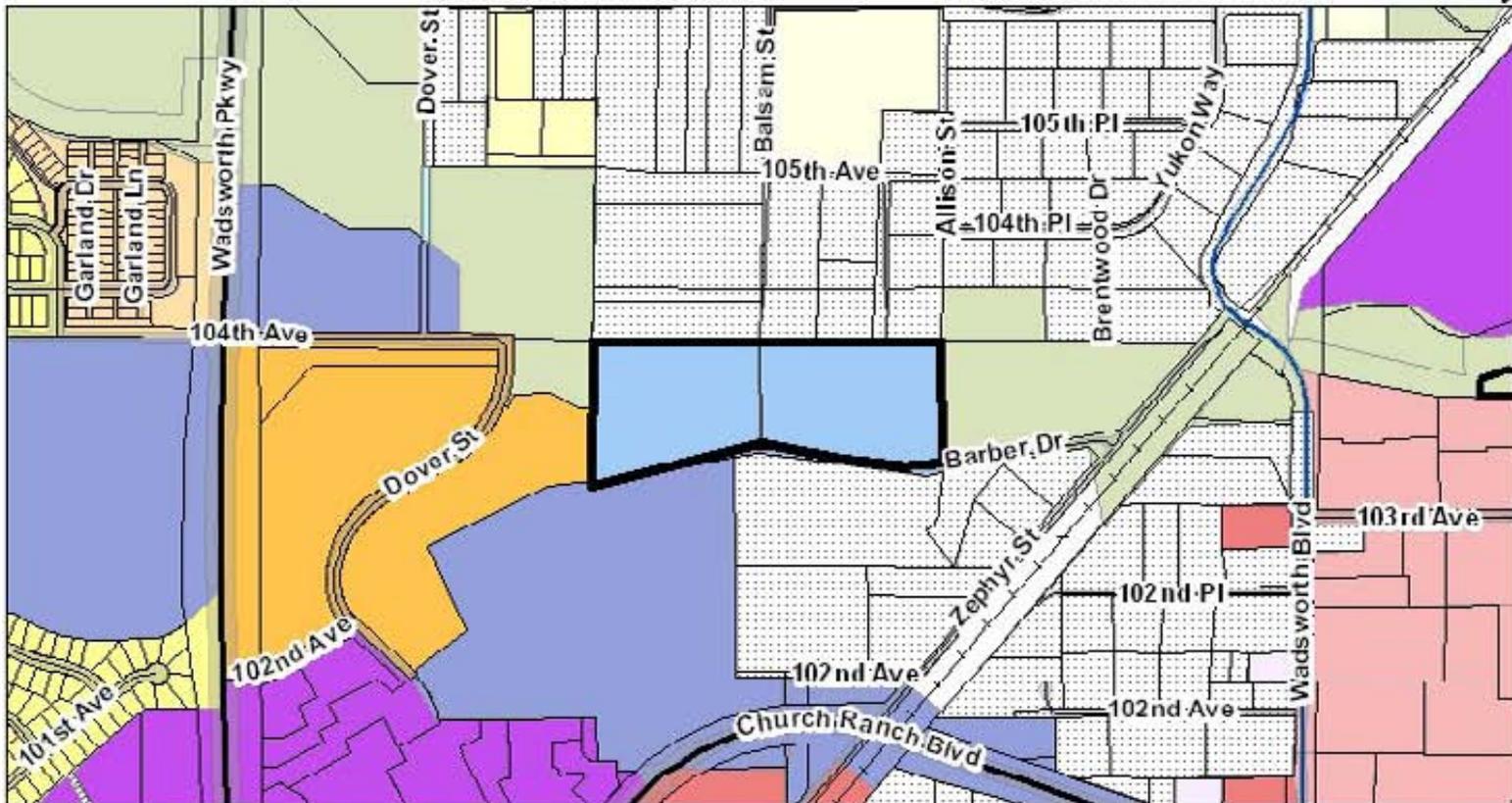


Change From: City Owned Open Space

R-1	R 18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: Public Parks

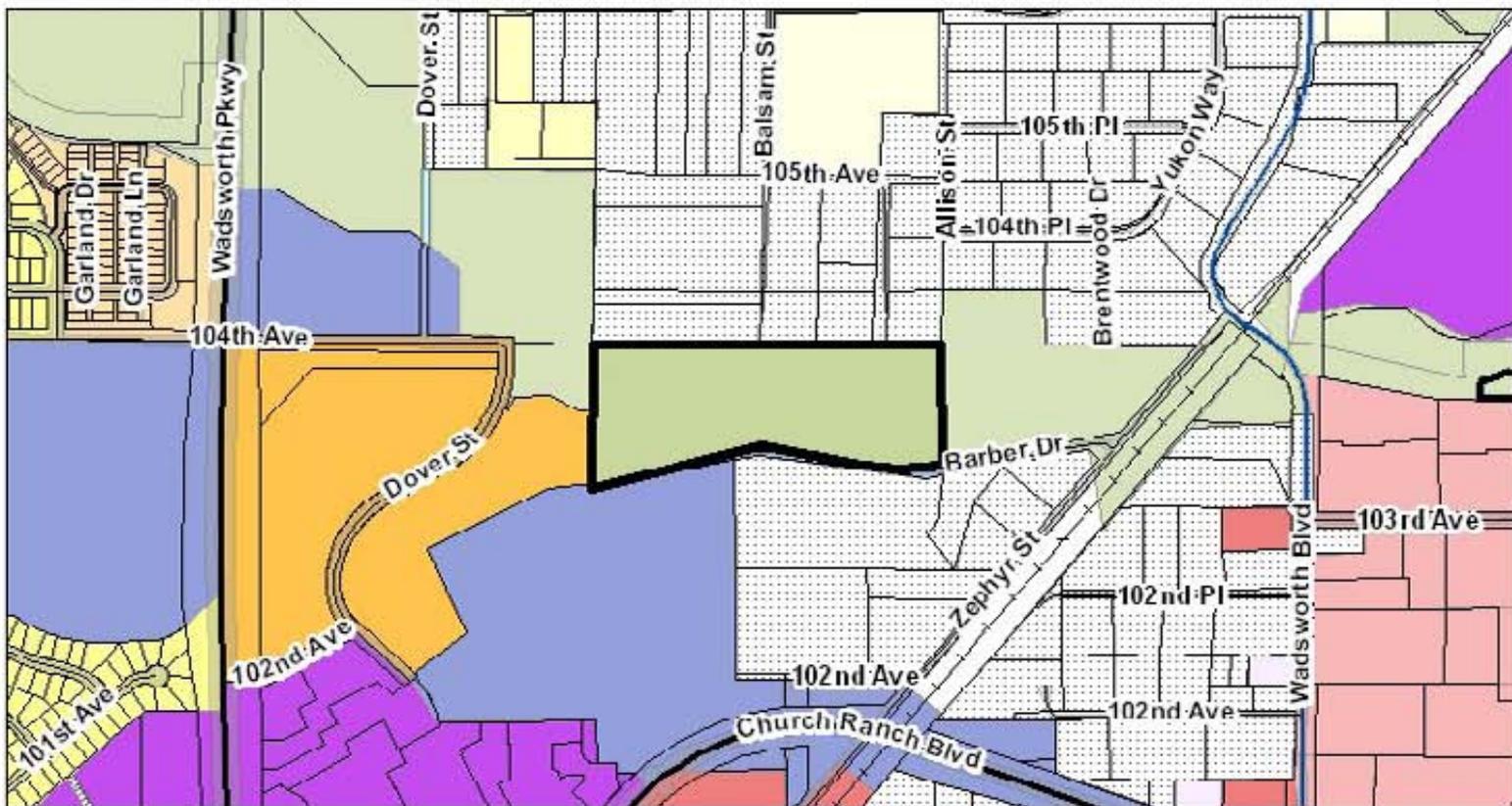




Change From: Private Parks/Open Space

R-1	R 18	Office/Residential	Private Parks/Open Space
R-2.5	Retail Comm.	District Center	Golf Courses
R-3.5	Office	Traditional Mixed Use	Public/Quasi Public
R-5	Industrial	City Owned Open Space	N.E. Comp. Dev. Plan
R-8	Business Park	Public Parks	

Change To: City Owned Open Space





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Councillor's Bill No. 13 re Rezoning and Combined Preliminary and Official Development Plan for Amberwood Estates

**Prepared By:** Michele McLoughlin, Planner III

**Recommended City Council Action**

1. Hold a public hearing.
2. Approve Councillor's Bill No. 13 rezoning the proposed Amberwood Estates residential project from Open (O-1) to Planned Unit Development. This recommendation is based on a finding that the criteria set forth in Section 11-5-3 of the Westminster Municipal Code have been met.
3. Approve the combined Preliminary and Official Development Plan for Amberwood Estates. This recommendation is based on a finding that the criteria set forth in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code have been met.

**Summary Statement**

- The 4.54-acre parcel of vacant land is located at the southwest corner of Sheridan Boulevard and 101<sup>st</sup> Avenue.
- The developer is proposing 13 single-family detached lots, for a density of 2.86 dwelling units per acre. Residential uses currently exist on all four sides of the property.
- The developer will construct 101st Avenue between Sheridan Boulevard and Benton Street with financial participation from the City. A left turn lane for northbound Sheridan Boulevard to westbound 101st Avenue will also be constructed with this development. The Sheridan Boulevard/101st Avenue intersection already has a traffic signal.
- Setbacks for the lots along the northern portion of the property have been reduced for the purpose of providing adequate right-of-way for 101<sup>st</sup> Avenue. The City's Single-Family Detached Residential Design Guidelines call for 25 foot front and rear yard setbacks. The required front setback is proposed to be reduced from 25 feet to 20 feet and the required rear setback is proposed to be reduced from 25 feet to 22 feet.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Planning Commission Recommendation**

The Planning Commission reviewed this proposal on April 13, 2010, and voted unanimously (7-0) to recommend the City Council approve the rezoning of the proposed Amberwood Estates residential project from Open (O-1) to Planned Unit Development based on a finding that the criteria set forth in Section 11-5-3 of the Westminster Municipal Code have been met. Planning Commission further recommended unanimously (7-0) that City Council approve the combined Preliminary and Official Development Plan for Amberwood Estates based on a finding that the criteria set forth in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code have been met.

### **Policy Issues**

- 1) Should the City approve the rezoning of the proposed Amberwood Estates residential project from Open (O-1) to Planned Unit Development (PUD)?
- 2) Should the City approve the combined Preliminary and Official Development Plan for Amberwood Estates?

### **Alternatives**

- 1) Deny the rezoning of the Amberwood Estates project from O-1 to Planned Unit Development (PUD). This alternative is not supported by City staff because staff believes that the proposed rezoning is in compliance with provisions of City Code regarding approval of rezonings.
- 2) Deny the Preliminary and Official Development Plan for Amberwood Estates. This alternative is not supported by City staff because the proposed Preliminary and Official Development Plan is in compliance with provisions of City Code regarding approval of Preliminary and Official Development Plans.

### **Background Information**

#### Nature of Request

The applicant, Edward Ruvins, is proposing to rezone a vacant 4.54-acre parcel of land with the intention of building 13 single-family homes, a private open space area, as well as the 101<sup>st</sup> Avenue connection between Sheridan Boulevard and Benton Street.

#### Location

The site is located between Sheridan Boulevard and Benton Street and south of 101<sup>st</sup> Avenue alignment.

#### Public Notification

Westminster Municipal Code §11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearings. Notice was published in the Westminster Window on April 8, 2010.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Two signs were posted on the property on April 14, 2010.
- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowners' associations registered with the City within 300 feet of the subject property. The applicant has provided the Planning Manager with a certification that the required notices were mailed on March 26, 2010.

#### Applicant/Property Owner

Edward Ruvins  
Amberwood Estates, LLC  
26 Royal Ann Drive,  
Greenwood Village, Colorado 80111

Surrounding Land Use and Comprehensive Land Use Plan Designation

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Use</b>
North: Semper Gardens	O-1	R-3.5 Residential	Residential
West: Waverly Acres	PUD	R-3.5 Residential	Residential
East: Hyland Greens	PUD	R-3.5 Residential	Residential
South: Hyland Meadows	PUD	R-8 Residential	Residential

Site Plan Information

The following site plan information provides examples of how the proposal complies with the City’s land development regulations and guidelines; and the criteria contained in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code (attached). This parcel is designated at R-3.5 in the City’s Comprehensive Land Use Plan (CLUP). The net density of 3.5 du/ac and gross density of 2.86 du/ac complies with the CLUP density requirements for the R-3.5 category.

- Traffic and Transportation: The developer will be constructing 101<sup>st</sup> Avenue between Sheridan Boulevard to Benton Street with cost sharing from the City. A left turn lane will be constructed for northbound Sheridan Boulevard to westbound 101<sup>st</sup> Avenue traffic with cost sharing from the City. The City will pay 100% of the cost to modify the traffic signal at the intersection of 101<sup>st</sup> Avenue and Sheridan Boulevard to a four-way signalized intersection. A 5-foot wide pedestrian path will connect to 101<sup>st</sup> Avenue from the end of the cul-de-sac, in the new development.
- Site Design: Access to the site is via 101<sup>st</sup> Court from Benton Street. The lots are arranged along a cul-de-sac. There are 7 lots along the north side of the cul-de-sac and 6 lots, plus a detention pond, along the south side. There is a private open space area at the end of the cul-de-sac with extensive landscaping, pedestrian lighting, benches, central mailbox, and a path that extends up to 101<sup>st</sup> Avenue near Sheridan Boulevard.
- Landscape Design: The proposed landscaping meets the City’s Residential Design Guidelines for single-family detached developments and will include a continuous tree lawn along both sides of the cul-de-sac, as well as a homeowner association maintained private open space area. The required number of trees and shrubs will be included for each lot.
- Public Land Dedication/School Land Dedication: The developer will pay cash-in-lieu in the amount of \$72,163 for Public Land Dedication and \$876 per unit for School Land Dedication.
- Architecture/Building Materials: The exterior materials of the homes will include stucco, stone, timberline shingle roofs, and accent trim. This meets the City’s minimum design standards for single family detached residential homes. The developer has also agreed to a Growth Management Program Category B incentive to provide 50% or more stone on all sides of the homes. The developer is proposing four distinctly different models with two variations for each model.
- Signage: There is one entry monument identification sign proposed at the entrance off of Benton Street that will be constructed of brick with a stone sign panel.
- Lighting: The developer will be installing three 14-foot tall street lights along the cul-de-sac, as well as two 12-foot tall pedestrian lights along the private path that extends from the end of the cul-de-sac to 101<sup>st</sup> Avenue.

Growth Management Program/Service Commitment Category

City Council awarded a total of 16 Service Commitments to this project as a result of the 2006 Category B-1 Competition for new single-family detached residential developments. A Service Commitment extension was approved in December of 2009. This development will require 13 Service Commitments from Category B-1.

Referral Agency Responses

A copy of the proposed plans was sent to the following agencies: Xcel Energy, Qwest, Comcast, and Jefferson County R-1 School District. A standard response regarding easements was received from Xcel Energy.

Neighborhood Meeting and Public Comments

A neighborhood meeting was held on June 17, 2008. Neighbors to the south in Hyland Meadows were concerned about drainage into their backyards. The Official Development Plan provides for a swale to be constructed on the Amberwood property directing flows toward the detention pond at the southwest corner of the site. Staff believes that this improvement will address the Hyland Meadows residents' concerns.

Two letters were received from the Holtzclaws, residents to the north, and one letter was received from Nathan Larson, an out-of-state property owner to the west, in support of the application and request for pedestrian access (provided) from Benton to Sheridan.

At the Planning Commission meeting on April 13, 2010, Mr. Leonard Holtzclaw, the property owner to the north, had the following concerns:

- A retaining wall would need to be installed along the north side of 101<sup>st</sup> Avenue to support his fence and prevent erosion onto 101<sup>st</sup> Avenue.
- Tree branches overhanging 101<sup>st</sup> Avenue would need to be removed for safety.
- If the construction of 101<sup>st</sup> Avenue causes trees to be damaged on the Holtzclaw property, the developer would need to remove them.
- 101<sup>st</sup> Avenue will require some infill for leveling and this would require a retaining wall to prevent dirt from falling onto the Holtzclaw property.

Staff addressed Mr. Holtzclaw's concerns; the development would provide the following:

- A maximum 2-foot tall retaining wall is shown at the west end of 101st Avenue to prevent erosion.
- 101st Avenue will be graded, with fill provided as necessary, to create a 4.5% grade and adequate drainage.
- Several trees will be removed from the site for the construction of 101st Avenue. (Tree mitigation is outlined in the PDP/ODP, Sheet 6.)

Mr. Richard Waters of 10110 Benton Street, a neighbor to the Holtzclaws, expressed his concern that the Holtzclaws be treated fairly and that they not incur any potential expense as a result of developing Amberwood Estates. The applicant assured Mr. Waters that his concerns will be addressed. The developer will install 101st Avenue. The developer will pay for the south side street improvements, and the City will pay for the north side street improvements. A recovery fund will be set up for reimbursement of the City's portion so that, in the future, when the Holtzclaw property is developed, the developer of that property will reimburse the City for its costs.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Zoning Ordinance
- Exhibit A - Legal Description
- Exhibit B - Zoning Map
- Exhibit C - Criteria and Standards for Land Use Applications
- Exhibit D - PDP/ODP Amberwood Estates
- Exhibit E - Holtzclaw Letters
- Exhibit F - Larson Letter

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR' BILL NO. **13**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE ZONING OF  
A 4.54 ACRE PARCEL OF LAND AT THE SOUTHWEST CORNER OF 101<sup>ST</sup> AVE.  
ALIGNMENT AND SHERIDAN BLVD.  
JEFFERSON COUNTY, COLORADO FROM O-1 TO PUD**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the rezoning of the properties generally located at the southwest corner of W. 101<sup>st</sup> Ave. alignment and Sheridan Blvd, as described in attached Exhibit A, from the O-1 zone to the PUD zone has been submitted to the City for its approval pursuant to W.M.C. §11-5-2.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such application has been referred to the Planning Commission, which body held a public hearing thereon on April 13, 2010 and has recommended approval of the requested amendment.

d. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code and has considered the criteria in W.M.C. § 11-5-14.

e. That based on the evidence produced at the public hearing, a rezoning to the proposed PUD zoning complies with all requirements of City Code, including, but not limited to, the provisions of W.M.C §11-5-14, regarding standards for approval of planned unit developments and §11-4-3, requiring compliance with the Comprehensive Land Use Plan.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property described in Exhibit A, attached hereto and incorporated herein by reference, from the O-1 zoning district to the PUD zoning district, as depicted on the map marked Exhibit B, attached hereto.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of April, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office

Exhibit A  
Legal Description  
101<sup>st</sup> and Sheridan Blvd.  
Amberwood Estates

A portion of tract 32, Semper Gardens, located in the Northeast Quarter of Section 13, Township 2 South, Range 69 West of the Sixth Principal Meridian, City of Westminster, County of Jefferson, State of Colorado.

Commencing at the Southeast corner of the Northeast quarter of Section 13, Township 2 South, Range 69 west, of the Sixth Principal Meridian, City of Westminster, County of Jefferson, State of Colorado.

Thence North 00 degrees 07 minutes 45 seconds west, 330.52 feet; thence South 89 degrees 52 minutes 15 seconds West 66.50 feet to the Point of Beginning; thence North 89 degrees 31 minutes 22 seconds West along the North line of Hyland Meadows Subdivision amended, 609.70 feet to a point on the East right of way of Benton Street; thence North 00 degrees 06 minutes 01 seconds West along said right of way, 322.27 feet; thence South 89 degrees 55 minutes 17 seconds East, 609.59 feet to a point on the West right of way of Sheridan Boulevard; thence South 00 degrees 07 minutes 45 seconds East along said right of way, 326.52 feet to the Point of Beginning. Said parcel contains 197,771 square feet (4.540 acres) more or less

Nathan M. Larson  
8221 SE 65<sup>th</sup> Street  
Mercer Island, WA 98040

March 18, 2010

Planning Commission  
City of Westminster  
4800 West 92<sup>nd</sup> Avenue  
Westminster, CO 80031

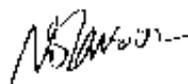
RE: Preliminary and Official Development Plan for Amberwood Estates

I own the property located at 10076 Chase Street in Waverly Acres, west of the proposed Amberwood Estates development. I am writing to express my comments regarding this development because I will be unable to attend your meeting on March 23, 2010, at which public comment regarding this development will be heard. Here are my comments:

- I support the use of the subject property for single-family residential development and concur with the staff recommendations to approve rezoning and to approve the Preliminary and Overall Development Plan.
- I request on behalf of my tenants and neighbors that the City direct the proposer to include in the development physical means for pedestrians and cyclists to travel safely and directly through the site from east to west; that is, between Benton Street and the Sheridan Blvd./101<sup>st</sup> Avenue signalized intersection. Because there is a bus stop and signalized intersection crossing located at that intersection, such a connection is important for those residents of Waverly Acres that can not or choose not to drive. It could be physical means as extensive as a separate paved path running along the north edge of the site, or, more preferably, a simple path between two building lots, connecting the sidewalk at or near the Sheridan/101<sup>st</sup> intersection to the proposed development's internal street.

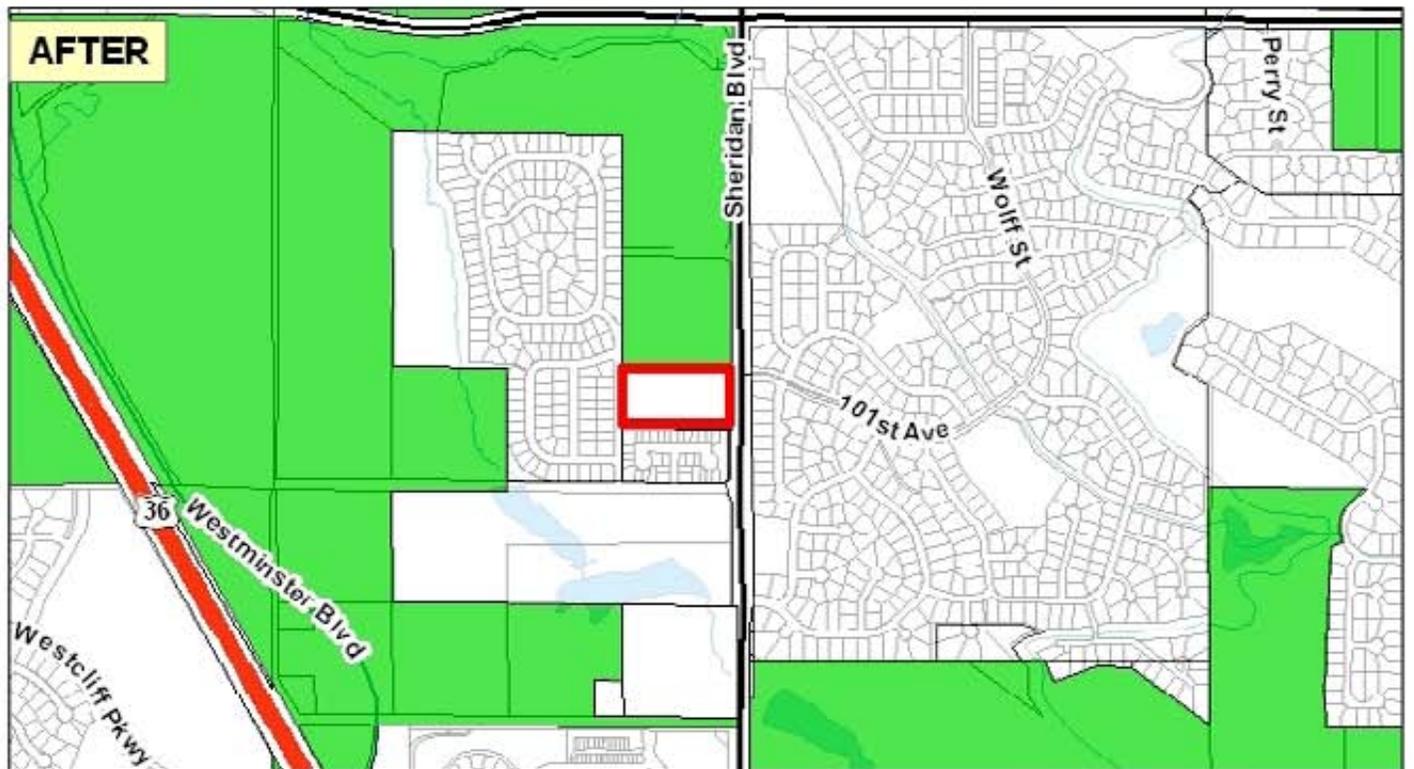
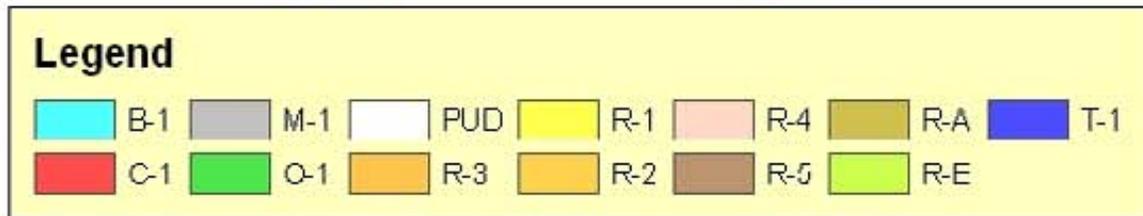
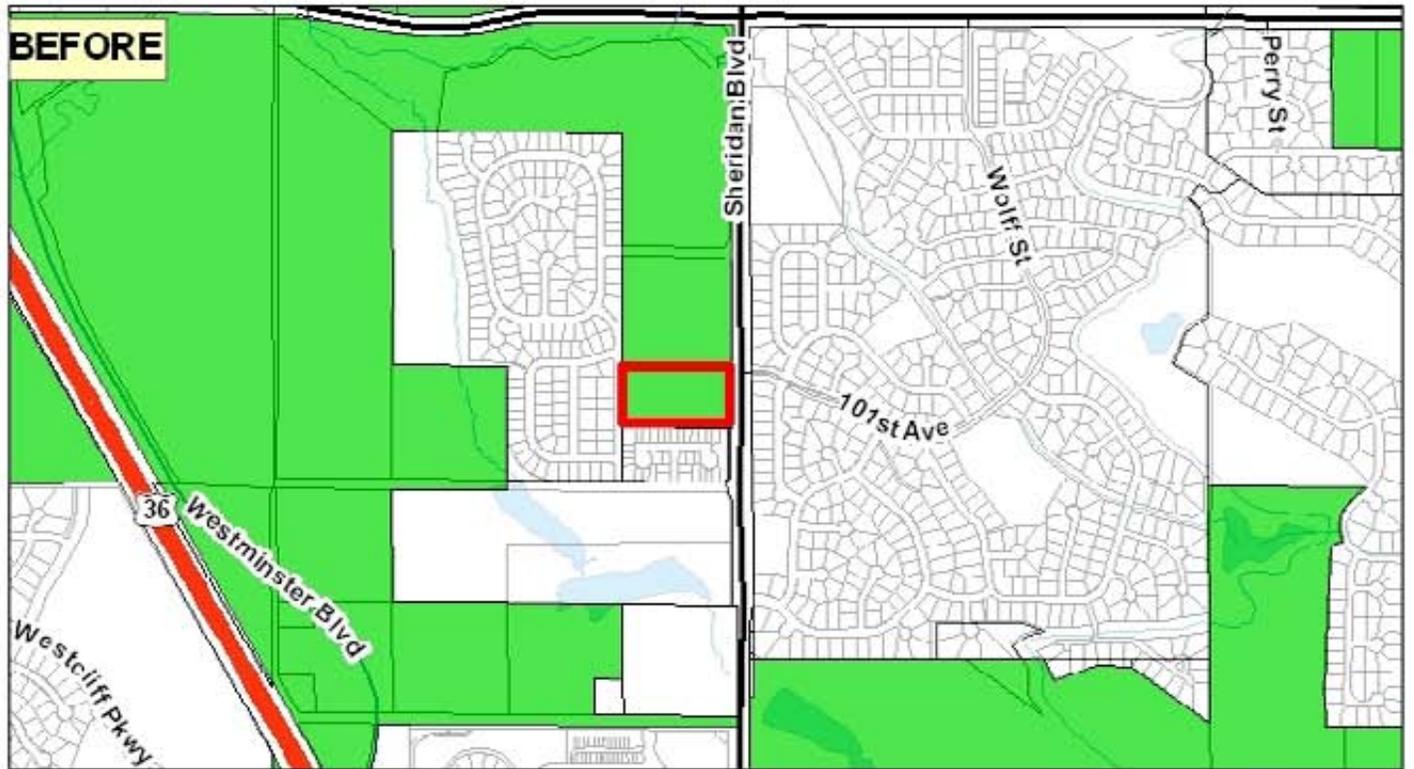
Thank you for the opportunity to comment.

Sincerely,



Nathan M. Larson

# Zoning Change from O-1 to PUD for Amberwood Estates



## Criteria and Standards for Land Use Applications

### *Comprehensive Land Use Plan Amendments*

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

### *Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)*

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area.
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.

9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

***Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)***

**11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)**

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

***City Initiated Rezoning***

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

***Official Development Plan (ODP) Application***

**11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)**

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.

2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

Revised 04-06-10

Exhibit B

TO: CITY OF WESTMINSTER, COLORADO  
ATTENTION: PLANNING COMMISSION

FROM: LEONARD & RUBY HOLTZCLAW  
10115 SHERIDAN BLVD.  
WESTMINSTER, CO. 80020-4111

TOPIC: AMBERWOOD ESTATES PROJECT

CONCERN INVOLVING EXTENSION OF  
WEST 101ST AVENUE FROM SHERIDAN  
BOULEVARD TO BENTON STREET,

CONCERN I: The Holtzclaw's south fence is adjacent to the 101st Avenue extension. A retaining wall should be used to support the fence and prevent soil and sub-soil erosion onto 101st Avenue.

CONCERN II: For public safety, tree branches that overhang 101st Avenue should be removed to prevent the branches from falling onto 101st Avenue in case of heavy snow and/or high winds.

(continued on next sheet.)

(Continued from first sheet.)

CONCERN III: The Amberwood Estates property slopes to the south. Some of the trees on the Hottelzlaw property could have the tree roots damaged. If the tree roots are damaged, the trees should be removed. The trees of most concern are two large SILVER MAPLE trees and one NOT a larger

CONCERN IV: The construction of 101st Avenue will require some fill-in for a short distance to provide for a level approach to Sheridan Boulevard. A retaining wall will be needed to prevent the fill-in dirt from falling onto the Hottelzlaw property.

TO: CITY OF WESTMINSTER, COLORADO  
Department of Community Development  
MAC CUMMINS

FROM: LEONARD & RUBY HOLTZCLAW  
10115 SHERIDAN BOULEVARD  
WESTMINSTER, CO 80020-4111

TOPIC: AMBER WOOD ESTATE'S PROJECT  
EXTENSION OF WEST 101ST Avenue from  
SHERIDAN BOULEVARD TO BENTON

CONCERN I: Two large Silver Maple Trees  
on the HOLTZCLAW property will  
have the tree roots damaged by  
the installation of the WATER  
LINE from East side of SHERIDAN  
BOULEVARD westward on West  
101st Avenue.

We request that the DEVELOPER  
be required to pay for the  
expenses of the removal of the  
damaged trees.

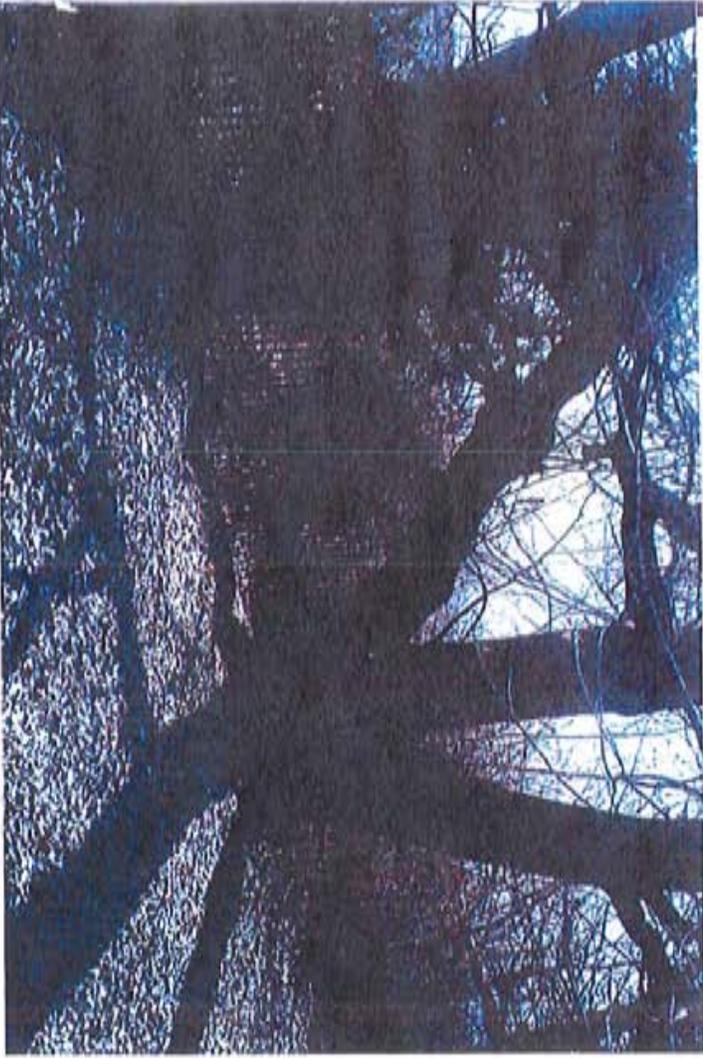
CONCERN II: The construction of 101st Avenue  
extension adjacent to the South  
property fence of the HOLTZCLAW  
property will require lowering the  
existing ground level in some  
places and raising the existing  
ground level in other places.

(continued on next sheet)

(Continued from first sheet)

The fence will need to be supported in places of lowering the existing ground level to keep the fence and dirt from falling into the street.

In places where the existing ground level is raised a barrier will be needed to prevent the fillin dirt from going into the HOLTZMAN property.







**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Councillor's Bills No. 14, 15, and 16 re the Annexation, Comprehensive Land Use Plan Amendment, and Zoning for the Feldman Property

**Prepared By:** Patrick Caldwell, Planner II

**Recommended City Council Action**

1. Hold a public hearing.
2. Pass Councillor's Bill No. 14 on first reading annexing the Feldman property into the City.
3. Pass Councillor's Bill No. 15 on first reading approving the Comprehensive Land Use Plan amendment for the Feldman property designating the property as City Owned open space. This recommendation is based on a finding that the proposed amendment will be in the public good and that:
  - a) There is justification for the proposed change and the Plan is in need of revision as proposed; and
  - b) The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
  - c) The proposed amendment is compatible with existing and planned surrounding land uses; and
  - d) The proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems.
4. Pass Councillor's Bill No. 16 on first reading changing the zoning for the Feldman property from A-3 (Adams County) to City of Westminster Open District (O-1).

**Summary Statement**

- The Feldman property consists of about 4.5 acres and is located approximately 350 feet south of 128<sup>th</sup> Avenue just west of Pecos Street.
- The property was purchased by the City in 2008 for open space purposes.
- The site is an enclave and has been entirely surrounded by the City for at least 3 years.
- The structures on the site will be removed and the property will be restored to native vegetation.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Planning Commission Action**

The Planning Commission reviewed this proposal on April 13, 2010, and voted unanimously (7-0) to recommend City Council approve the annexation of the Feldman property into the City, approve the Comprehensive Land Use Plan amendment designating the property as City Owned open space, and zone the property as City of Westminster Open District (O-1).

### **Policy Issues**

1. Should the City annex the Feldman property?
2. Should the City approve a Comprehensive Land Use Plan (CLUP) amendment for the Feldman property to designate the site as City Owned Open Space?
3. Should the City approve the rezoning of the Feldman property from Adams County A-3 to City of Westminster O-1?

### **Alternatives**

1. Recommend a finding that there is no community of interest with the Feldman property and take no further action. If this action is taken, the City-owned property will remain unincorporated and subject to Adams County regulations.
2. Deny the Comprehensive Land Use Plan amendment or assign a different designation. Any different designation would be inconsistent with the City's long range plans for the site.
3. Deny the rezoning of the Feldman property from Adams County A-3 to City of Westminster O-1, or designate an alternative zoning category.

### **Background Information**

#### Nature of Request

The City purchased this property in 2008 to be used for open space purposes. This property expands open space use along the Big Dry Creek corridor and enhances the improved Big Dry Creek Park adjacent to the west.

#### Location

The site is located approximately 350 feet south of 128<sup>th</sup> Avenue just west of Pecos Street. (Please see attached annexation map shown as Exhibit A).

#### Comprehensive Land Use Plan Amendment

The Westminster Municipal Code requires the owner of the property requesting an amendment to the Comprehensive Land Use Plan (CLUP) to prove the amendment is in the public good and is in overall compliance with the purpose and intent of the CLUP. Further, the CLUP provides four criteria to be used when considering a CLUP amendment. Staff has reviewed these criteria and has provided the following comments on each.

1. The proposed amendment must, "Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed." The amendment is allowing the City to further the City goals and policies of enhancing and expanding the City's Open Space system.

2. The proposed amendment must, "Be in conformance with the overall purpose, intent, goals, and policies of the Plan." Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan. They include:
  - Goal H4 – Enhance the City's open space system to preserve and protect natural areas, vistas and view corridors, and to complete the open space and trail system.
  - Policy H4a – Use acquisition of open space as a tool to channel growth into appropriate locations and to shape the overall design of the community.

Based upon these goals and policies, this proposed amendment would be in conformance with the overall purpose, intent, goals, and policies of the Plan.

3. The proposal must, "Be compatible with existing and surrounding land uses." The land use to the north and west is open space and park. Immediately south is a large lot residential use. The land use on the east side of Pecos Street is entirely residential in the Home Farm Subdivision. Open space land use is very compatible with residential and park uses.
4. The proposal must, "Not result in detrimental impacts to the City's existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City." No development is proposed on this parcel; therefore, no detrimental impacts are anticipated.

#### Impact Report

The site is less than 10 acres, so no impact report is required.

#### Public Notification

Because the site is an enclave, as defined in the Colorado Revised Statutes, and is owned by the City, public notice is not required for the annexation of the property. Westminster Municipal Code Section 11-5-13 requires the following three public notification procedures for rezoning and amendments to the CLUP.

- Published Notice: Notice of public hearings scheduled at least four days prior to City Council public hearings. Notice was published in the Westminster Window on April 15, 2010.
- Property Posting: Notice of public hearings shall be posted on the property with 1 sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. One sign was posted on the property on April 16, 2010.
- Written Notice: At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner's associations registered with the City within 300 feet of the subject property. The required notices were mailed on March 24, 2010.

#### Applicant/Property Owner

City of Westminster  
4800 West 92<sup>nd</sup> Avenue  
Westminster, Colorado 80031

Surrounding Land Use and Comprehensive Land Use Plan Designation

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Use</b>
North: City owned open space	O-1	City Open Space	Open Space
West: City owned open space	R-3	City Open Space	Open Space
East: Home Farm Subdivision	PUD SF Residential	R-3.5 Residential	Single Family Residential
South: Property known as Egging Parcel	PUD Rural Estate Residential	R-1	Large Lot Residential

Site Plan Information

No development is proposed.

Service Commitment Category

Not applicable.

Referral Agency Responses

Not applicable.

Neighborhood Meeting(s) and Public Comments

Not applicable. No development is proposed. There was no public comment at the Planning Commission meeting.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Annexation Ordinance
- Exhibit A - Annexation Map
- Comprehensive Land Use Plan Ordinance
- Exhibit B - Comprehensive Land Use Plan Map
- Zoning Ordinance
- Exhibit C - Zoning Map
- Exhibit D - Criteria and Standards for Land Use Application

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **14**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE ANNEXING A PARCEL OF LAND LOCATED IN SECTION 23,  
TOWNSHIP 1 SOUTH, RANGE 68 WEST, 6TH P.M., ADAMS COUNTY, COLORADO**

WHEREAS, pursuant to the laws of the State of Colorado

WHEREAS, the City of Westminster is the sole owner of a parcel of land, which parcel is eligible for annexation under the provisions of Sections 31-12-104(a) and 31-12-105, C.R.S.; and

WHEREAS, the property to be annexed is not solely a public street or right-of-way and is therefore eligible to be annexed pursuant to Section 31-12-106(3), C.R.S.;

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the parcel of land, below described, meets the requirements of Sections 31-12-104(a) and 31-12-105, C.R.S. and annexation of the following described contiguous unincorporated territory, situate, lying and being in the County of Adams, State of Colorado, is hereby accomplished by and to the City of Westminster, State of Colorado:

A PARCEL OF LAND BEING A PART OF NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE NORTH QUARTER CORNER OF SAID SECTION 33;

THENCE ALONG THE EASTERLY LINE OF SAID NORTHWEST QUARTER SOUTH 00°28'19" EAST, A DISTANCE OF 404.91 FEET;

THENCE DEPARTING SAID EASTERLY LINE SOUTH 89°31'41" WEST, A DISTANCE OF 40.00 FEET TO THE WESTERLY LINE OF THE MCGUIRE PROPERTY ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXZATION MAP RECORDED UNDER RECEPTION NO. 20050310000248610 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER'S OFFICE AND THE **POINT OF BEGINNING**.

THENCE ALONG SAID WESTERLY LINE SOUTH 00°28'19" EAST, A DISTANCE OF 521.86 FEET TO THE NORTHERLY LINE OF THE EGGING PARCEL ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXATION MAP RECORDED UNDER RECEPTION NO. C0397605 IN SAID RECORDS;

THENCE ALONG SAID NORTHERLY LINE SOUTH 89°19'07" WEST, A DISTANCE OF 377.72 FEET TO THE EASTERLY LINE OF THE STINGRAY PROPERTY ANNEXATION TO THE CITY OF WESTMINSTER WITH THE ANNEXATION MAP RECORDED UNDER RECEPTION NO. 956482 IN SAID RECORDS;

THENCE ALONG SAID EASTERLY LINE NORTH 00°18'11" WEST, A DISTANCE OF 521.87 FEET TO THE SOUTHERLY LINE OF SAID MCGUIRE PROPERTY ANNEXATION;

THENCE ALONG SAID SOUTHERLY LINE NORTH 89°19'07" EAST, A DISTANCE OF 376.18 FEET TO THE **POINT OF BEGINNING** CONTAINING AN AREA OF 4.516 ACRES (196,714 SQUARE FEET) MORE OR LESS.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26<sup>th</sup> day of April, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10<sup>th</sup> day of May, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **15**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE WESTMINSTER  
COMPREHENSIVE LAND USE PLAN**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described in attached Exhibit A, incorporated herein by reference, requesting a change in the land use designations from "Adams County Public designation" to "City of Westminster City Owned Open Space designation" for the 4.5 acre Feldman Property located at 12261 Pecos Street.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on April 13, 2010, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. §11-4-16(D).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly that the amendment is in conformance with the overall purpose and intent and goals and policies of the Plan.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the property more particularly described on attached Exhibit A to "City Owned Open Space," as depicted on the map attached as Exhibit B.

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 4. This ordinance shall take effect upon its passage after second reading.

Section 5. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED  
PUBLISHED this 26th of April, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED  
this 10th day of May, 2010.

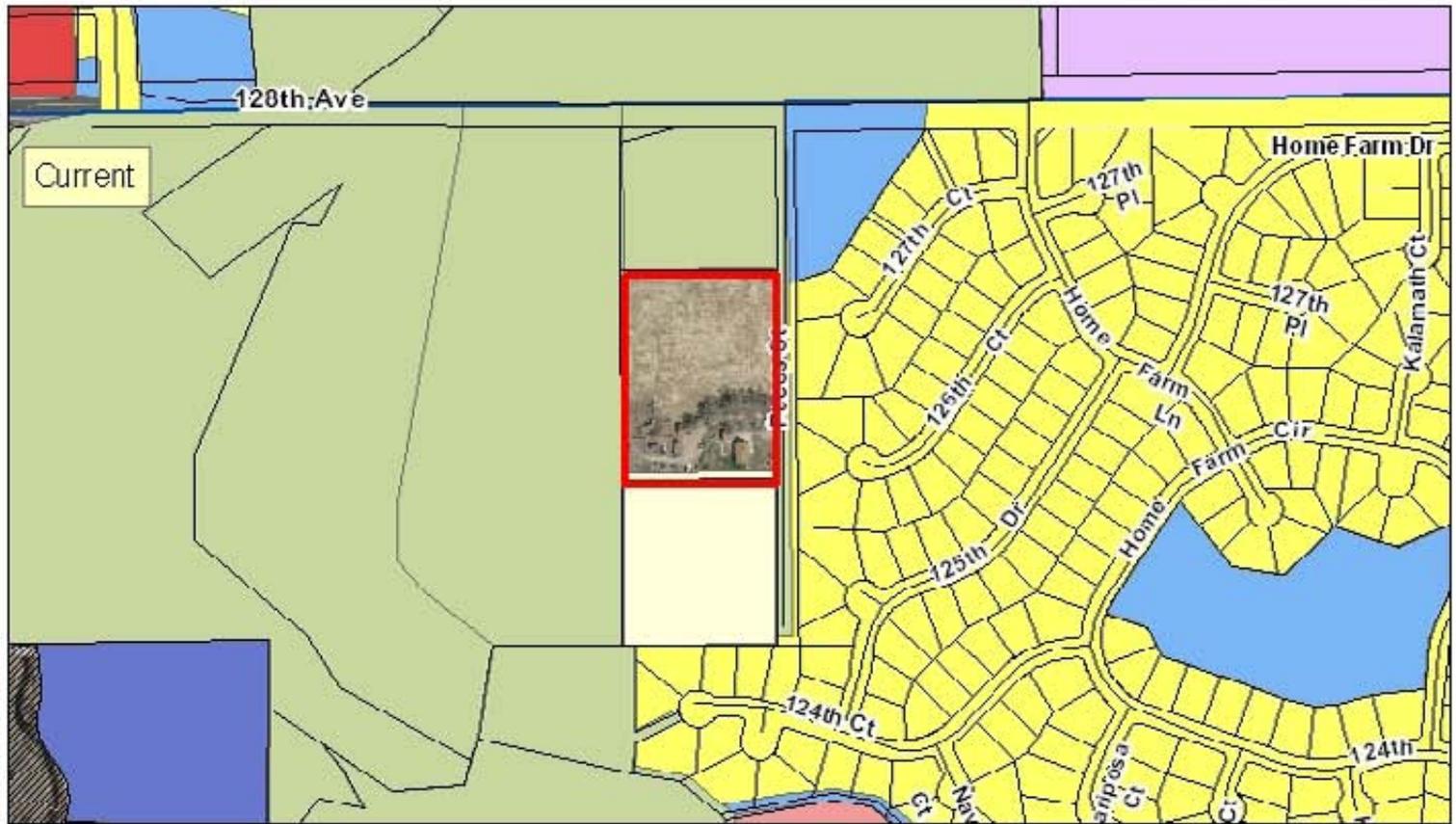
ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

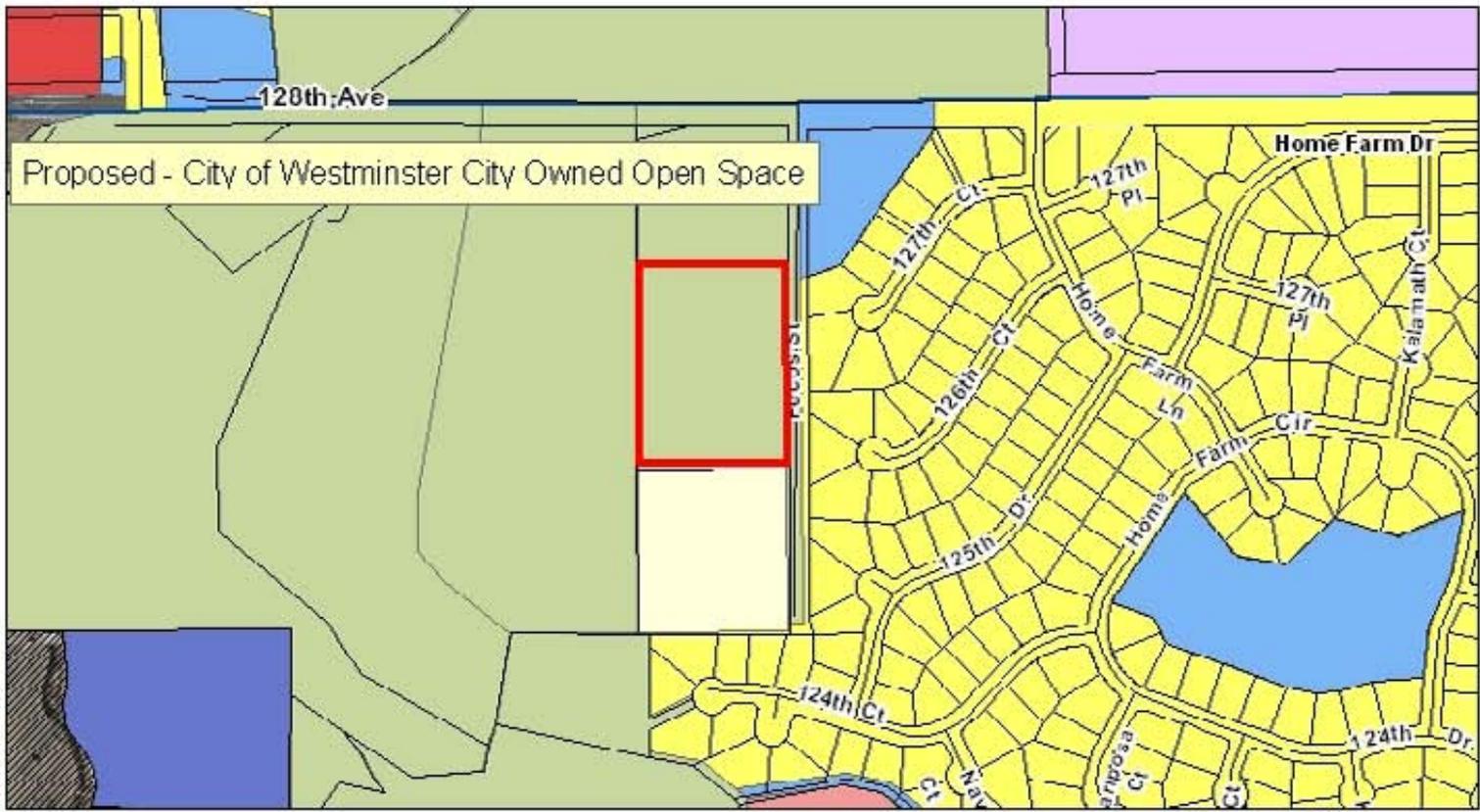
\_\_\_\_\_  
City Attorney's Office



**Legend**

<b>CompPlan</b>	R-3.5	Retail Commercial	Office/Residential	Public Parks	N.E. Comprehensive Land Use Plan
<b>CP_DESIG</b>	R-5	Office	District Center	Private Parks/Open Space	Major Creek Corridor Non Public
	R-1	Industrial	Traditional Mixed Use	Golf Courses	
	R-2.5	R-18	Business Park	Public/Quasi Public	

N  
↑



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **16**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE ZONING OF  
THE 4.5 ACRE FELDMAN PROPERTY AT 12661 PECOS STREET,  
ADAMS COUNTY, COLORADO FROM  
ADAMS COUNTY A-3 TO CITY OF WESTMINSTER O-1**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That a rezoning of the property generally located at 12661 Pecos Street, as described in attached Exhibit A, incorporated herein by reference, from the Adams County A-3 zone to a O-1 zone is desirable because:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such rezoning has been referred to the Planning Commission, which body held a public hearing thereon on April 13, 2010 and has recommended approval of the requested amendments.

d. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code and has considered the criteria in W.M.C. §11-5-3(A).

e. That based on the evidence produced at the public hearing, a rezoning to the proposed O-1 zoning complies with all requirements of City Code, including, but not limited to, the provisions of W.M.C. §11-4-3, requiring compliance with the Comprehensive Land Use Plan, and the criteria of W.M.C. §11-5-3(A).

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property, described in Exhibit A, attached hereto and incorporated herein by reference, from the Adams County A-3 zoning district to the O-1 zoning district, as depicted on Exhibit B, attached hereto.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 26th day of April, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 10th day of May, 2010.

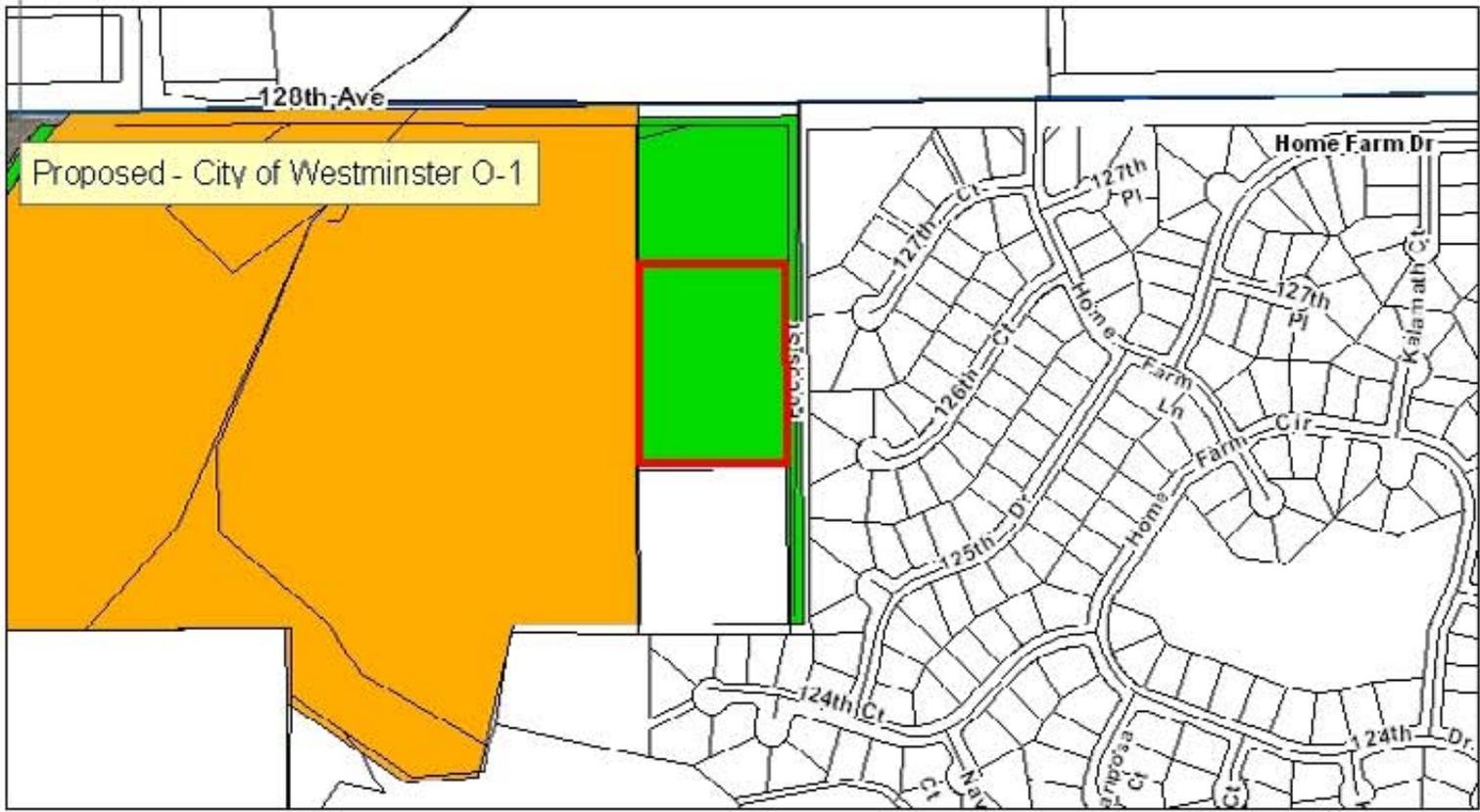
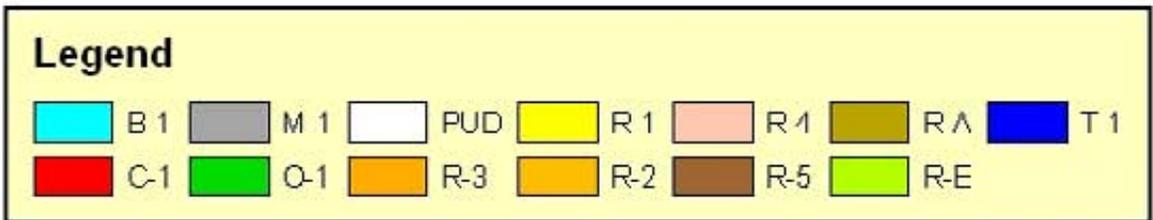
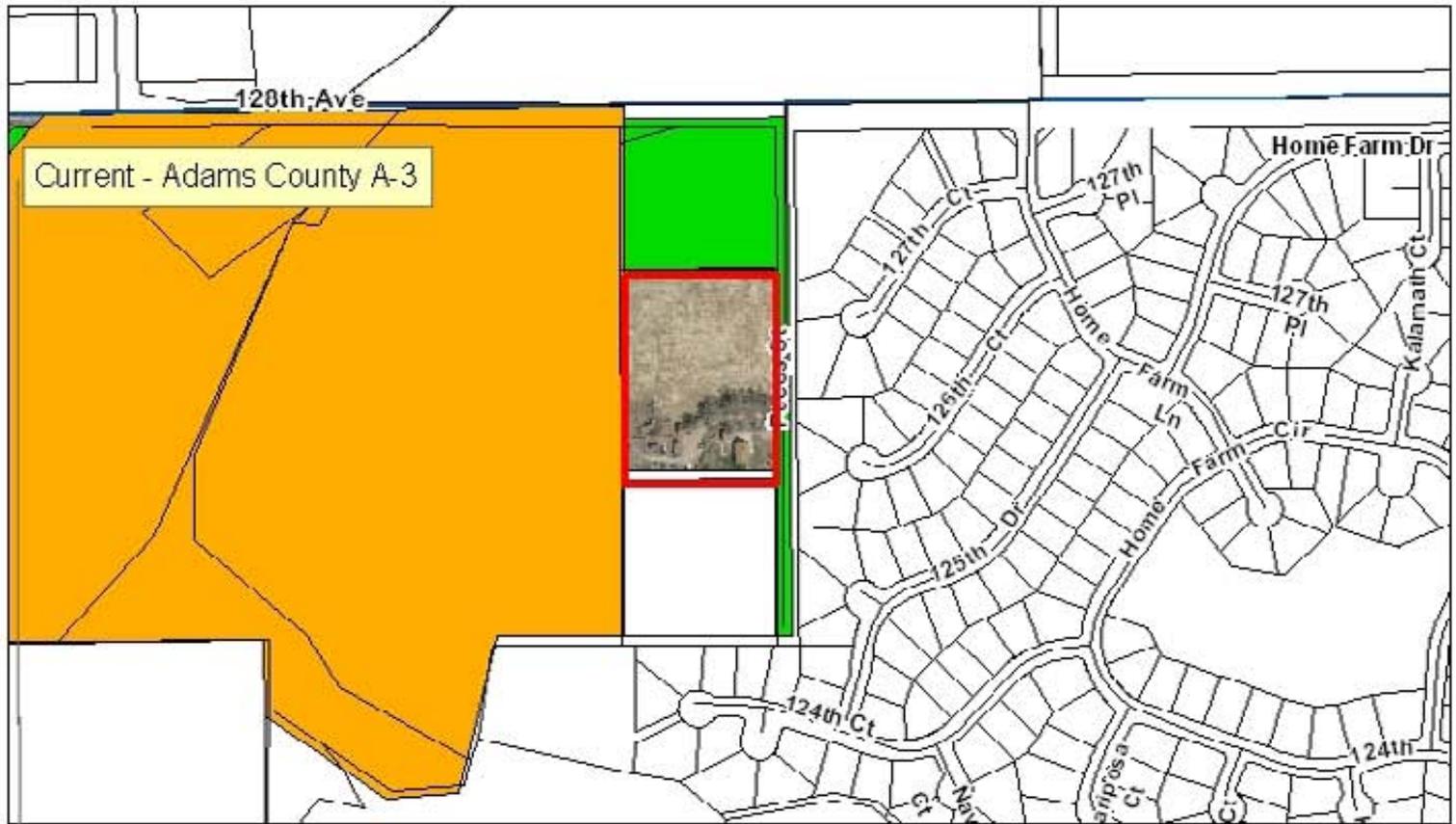
\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office



## **Criteria and Standards for Land Use Applications**

### ***Comprehensive Land Use Plan Amendments***

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

### ***Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)***

11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

### ***City Initiated Rezoning***

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Councillor’s Bill No. 17 re 68<sup>th</sup> Avenue and Utica Street Project Supplemental Appropriation and Construction Contract

**Prepared By:** David W. Loseman, Senior Projects Engineer

**Recommended City Council Action**

1. Pass Councillor’s Bill No. 17 on first reading appropriating \$1,100,000 to the 68<sup>th</sup> Avenue and Utica Street project.
2. Authorize the City Manager to execute a contract with the low bidder, Premier Paving, Inc. in the amount of \$739,537.30 for the construction of the 68<sup>th</sup> Avenue and Utica Street Roadway Reconstruction Project; authorize a construction contingency in the amount of \$75,000; and authorize the payment of an amount not to exceed \$105,100 to Xcel Energy for the design and installation of street lights for the project.

**Summary Statement**

- School District 50 is nearing completion of the new Westminster High School and School District 50 administrative offices at the northwest corner of 68<sup>th</sup> Avenue and Utica Street.
- The current Intergovernmental Agreement (IGA) between the City and School District 50 requires a payment from the District to the City of \$1,200,000, of which \$100,000 has already been received for design. In addition, George Kast will pay the City \$81,529 for the installation of a sanitary sewer main and water and sanitary services for his proposed development along the south side of 68<sup>th</sup> Avenue. This payment will not be received until after the construction of his project and only when development occurs. The planning documents for this development project are currently under review by the City.
- Of the total construction costs, \$159,314.30 will be paid from the General Fund operating budget of the Department of Public Works and Utilities, Street Division. A portion of these funds were earmarked for the reconstruction of 68<sup>th</sup> Avenue between the east boundary of the school and Lowell Boulevard as a separate project but was combined with the 68<sup>th</sup> Avenue and Utica Street project because experience has shown that lower prices are obtained with a larger combined project.
- The Request for Bids for the construction of this project was advertised in the Daily Journal for four weeks, and bids were opened on April 15. Eight bids were received, and the lowest bidder is Premier Paving, Inc. with a bid of \$739,537.30. Staff has reviewed the bids and recommends awarding this construction contract to Premier Paving, Inc. A \$75,000 contingency is also recommended.
- Thirteen new street lights will be needed to appropriately illuminate the newly reconstructed portions of 68<sup>th</sup> Avenue and Utica Street. The cost for the installation of these lights is approximately \$105,100.

**Expenditure Required:** \$919,637.30

**Source of Funds:** \$760,323.00 General Capital Improvement Fund  
\$159,314.30 General Fund, Street Division Operating Budget

**Policy Issues**

1. Should the City proceed with the construction of the 68<sup>th</sup> Avenue and Utica Street reconstruction project?
2. Should the City front the cost of the infrastructure needed to service the proposed development by George Kast along the south side of 68<sup>th</sup> Avenue?

**Alternatives**

1. Council could consider postponing or abandoning the construction of this project. Given the very favorable bids for the construction of this project, the contractual terms of the City’s IGA with School District 50 and the desire to enhance the roadway network in this portion of the City, these alternatives are not recommended.
2. Council could consider an alternative to remove the installation of the water and sanitary sewer infrastructure for the George Kast development as part of the overall project. The City would need to front the cost of \$81,529 for the installation of this infrastructure and would only be reimbursed prior to the developer platting his development project. The possibility exists that the project development would not occur and the City would not be reimbursed immediately, if at all. Staff recommends fronting these infrastructure costs because the developer has submitted planning documents for review and appears to be moving forward on this development project. Staff recommends this approach because project funds exist to pay for these improvements and delaying the installation of the infrastructure would mean that the developer would have to install them at a later date, requiring excavations in a newly paved roadway.

**Background Information**

The improvements to 68<sup>th</sup> Avenue between Lowell Boulevard and Utica Street and the widening of Utica Street between 68<sup>th</sup> Avenue and 70<sup>th</sup> Avenue are important due to the near completion of the new Westminster High School that will increase traffic on these streets when the school opens in August 2010. This project is a City obligation identified in the IGA between School District 50 and the City. The widening of 68<sup>th</sup> Avenue between the east boundary of the Westminster High School property and Lowell Boulevard is a project identified for rehabilitation as part of the city’s maintenance program funded in the Street Division’s operating budget. The installation of a sanitary sewer main and water and sanitary sewer services to the development property along the south side of 68<sup>th</sup> Avenue is also included in the project at the request of the developer so that digging in a newly paved roadway could be avoided. Staff believes it makes sense to join the three projects into one to obtain lower bid prices on the project and to save project administrative costs.

Calibre Engineering, Inc. was hired to complete the final design of these roadway improvements, which were completed in February 2010. In March 2010, requests for bids for the construction of this project were advertised in The Daily Journal for four weeks, and bids were opened on April 15.

The bid results are as follows:

<b><u>Contractor</u></b>	<b><u>Submitted Bid</u></b>
Premier Paving, Inc.	\$739,537.30
Asphalt Specialties, Inc.	\$781,783.55
Brannan Sand and Gravel, Inc.	\$801,876.38
Lafarge West, Inc.	\$872,233.05
North Star Concrete	\$947,469.00
U.S. Roads	\$1,030,876.90
Technology Constructors Inc.	\$1,089,787.00
New Design Construction, Inc.	\$1,118,950.73
<b>Engineer’s Estimate</b>	<b>\$1,228,280</b>

The difference between the engineer’s estimate and the actual bids reflects the volatile state of the economy and the extremely low current oil prices, which resulted in lower material delivery and asphalt costs. The material prices bid are generally lower than what has been the norm over the past several years. This coupled with the large number of bidders on this project resulted in very favorable bids for the City.

Staff and Calibre have reviewed the results of the bidding procedure and recommend that the low bidder, Premier Paving, Inc., be awarded the contract for construction in the amount of \$739,537.30. Both Staff and Calibre have previous successful experiences with Premier Paving Inc., which is pre-qualified with the Colorado Department of Transportation and is very capable of constructing this type of project. The contingency amount of \$75,000 is approximately 10% of the cost of construction. Staff believes that this is an adequate contingency for a project of this size and complexity.

The funding for this project comes from two sources, with later reimbursement from a developer: (1) funds received from Adams 50 School District in accordance with the terms of our IGA and (2) funds budgeted under the City’s roadway maintenance program. Reimbursements for the installation of water and sanitary sewer infrastructure as part of the project are also expected from George Kast, the developer for the project south of 68<sup>th</sup> Avenue, at a later date. The budget for this project is as follows:

<u>ITEM</u>	<u>COST</u>
Design cost	\$48,703
Right-of-Way costs	\$ 127,515
Construction engineering costs.	\$ 36,220
Street lighting costs	\$105,100
Construction costs	\$739,438
Contingency	\$75,000
<b>Total anticipated project costs</b>	<b>\$1,131,976</b>

Approval of the attached Councillor’s Bill is necessary to appropriate a portion of the school’s costs to a project budget. This appropriation will amend the General Capital Improvement Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
Other Intergovernmental	7500.40345.0000	\$0	<u>\$1,100,000</u>	\$1,100,000
<b>Total Change to Revenues</b>			<u>\$1,100,000</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
68 <sup>th</sup> Avenue and Utica Street Project	80975030946.80400.8888	\$25,833	<u>\$1,100,000</u>	\$1,125,833
<b>Total Change to Expenses</b>			<u>\$1,100,000</u>	

Respectfully submitted,

J. Brent McFall  
City Manager

**Attachments**

- Councillor’s Bill
- Project Diagram

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **17**

SERIES OF 2010

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE AMENDING THE 2010 BUDGET OF THE GENERAL CAPITAL  
IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM  
THE 2010 ESTIMATED REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2010 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3432 is hereby increased by \$1,100,000. This increase is due to the appropriation of cost participation from Adams County School District 50 for construction costs necessary for the 68<sup>th</sup> Avenue and Utica Street roadway widening project.

Section 2. The \$1,100,000 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda, Item 10 J&K, dated April 26, 2010 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Capital Improvement Fund	<u>\$1,100,000</u>
Total	<u>\$1,100,000</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED  
PUBLISHED this 26th day of April, 2010.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED  
this 10th day of May, 2010.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

70TH AVENUE

LOWELL BLVD

FOR CONTINUATION  
SEE LOWER RIGHT

68TH AVENUE

UTICA STREET

WESTMINSTER HIGH SCHOOL

68TH AVENUE

PROJECT A  
PROJECT B

FOR CONTINUATION  
SEE UPPER LEFT



**LEGEND:**

-  INDICATES PROPOSED FLOWLINE OF CURB AND GUTTER
-  INDICATES PROPOSED EDGE OF SIDEWALK
-  INDICATES FUTURE/EXISTING FENCE LINE
-  INDICATES LIMITS OF EXISTING PAVEMENT

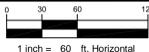
PATH: P:\COW\68TH\ADD\EXHIBITS\X-PUBLIC\MtgExhibit.DWG  
PLOT BY: RLS  
DATE: 3/23/10  
PLOT DATE: 3/23/10  
PLOT TIME: 10:54:15 AM  
PLOT SCALE: 1/8"=1'-0"

DATE	REVISION DESCRIPTION

**CITY of WESTMINSTER**  
4800 WEST 92ND AVENUE  
WESTMINSTER, COLO. 80031

Drawing Name: X-PublicMtgExhibit.dwg  
Job Number: COW 68th  
Prepared For: CITY OF WESTMINSTER  
Designer: RLS  
Drafter: JAH  
Checked: TAJ

Scale: 1 inch = 60 ft. Horizontal



**Calibre**  
Calibre Engineering, Inc.  
8201 Southpark Lane, Unit 200  
Littleton, CO 80120 (303) 730-0434  
www.calibre-engineering.com  
Construction Management Civil Engineering Surveying

**WEST 68th AVENUE AND UTICA STREET**  
ROADWAY PLANS  
PRESENTATION EXHIBIT

Sheet **X1** of 1  
Date: MARCH 23, 2010



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
April 26, 2010



**SUBJECT:** Resolution No. 12 re Colorado Water Conservation Board - Proposed Floodplain Regulation Revisions

**Prepared By:** John Burke, P.E., CFM  
Dave Loseman, P.E., PLS

**Recommended City Council Action**

Adopt Resolution No. 12 setting forth the City of Westminster’s concerns with the Colorado Water Conservation Board’s proposed revisions to the “Rules and Regulations for Regulatory Floodplains in Colorado.”

**Summary Statement**

- The Colorado Water Conservation Board (CWCB) is authorized as the State of Colorado’s regulatory floodplain agency per Colorado Revised Statutes §37-60-106(1)(c).
- The CWCB first published floodplain rules and regulations for the State of Colorado in 1988. These rules and regulations were amended in 2005, and the proposed changes discussed herein would amend this document again in 2010 (see Exhibit A).
- The most significant parts of the proposed revisions to the regulations, which exceed Federal Emergency Management Agency (FEMA) requirements, can be narrowed down to two items: 1) A mandate requiring local jurisdictions to restrict the construction of “Critical Facilities” inside the 500-year floodplain, including a provision that existing “Critical Facilities” that are currently located within the 500-year floodplain will need to be relocated or flood-proofed when there is a “Substantial Change” to a structure; and 2) Local jurisdictions will be required to use a ½-foot rise criteria for the delineation of the floodway.
- Most cities, including the City of Westminster, do not have an accurately mapped 500-year floodplain, so these new requirements would force the local jurisdictions to go through the costly effort to accurately map the 500-year floodplain in order to implement these new requirements.
- The adoption of this resolution will allow City staff and City Council to formally state their position and concerns with the proposed changes to the State Floodplain Regulations.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should the City Council take formal action to express the City's concerns regarding the Colorado Water Conservation Board's proposed floodplain regulation revisions?

**Alternative**

The City Council could be silent on the issue and wait until the final rules and regulations have been formally adopted by the State. City staff does not recommend this alternative given the financial ramifications associated with the proposed regulations.

**Background Information**

City staff was first notified of the proposed changes to the State's floodplain regulations by the Colorado Water Conservation Board (CWCB) on February 24, 2010. Though the changes were presented as somewhat inconsequential, staff performed a detailed review and identified that the proposed revisions were potentially more significant than what was being stated by the CWCB.

The proposed regulations are more restrictive than Federal Emergency Management Agency (FEMA) regulations as FEMA does not regulate "Critical Facilities" in the 500-year floodplain. FEMA also uses a less restrictive one-foot rise criteria for the floodway. As clarification, the 500-year flood has a 0.2% chance of occurring in any given year, and a floodway is the portion of a floodplain that carries the majority of the storm flows. The use of a ½ foot rise criteria would mean that less adjacent land could be reclaimed from the floodplain than could be reclaimed under a one-foot rise criteria.

The primary concern for the City pertains to the unfunded mandate to update floodplain maps to more accurately depict the 500-year floodplain. Additionally, the land use restrictions proposed would potentially cause a diminished opportunity for the City to develop parcels of land that are within the 500-year floodplain or make "Substantial Changes" to existing "Critical Facilities" already constructed within the 500-year floodplain.

The CWCB took great liberty in defining "Critical Facilities" (see Rule 6 beginning on page 11 of Exhibit A). The "Critical Facilities" that could directly impact the City of Westminster include public safety and public utility plant facilities. Though the City doesn't have accurate 500-year floodplain information, staff is fairly confident that Fire Stations #2, Fire Station #4 and the Big Dry Creek Waste Water Treatment Plant are located within the 500-year floodplain. Should the City decide to make any "Substantial Change" (see definition on page 11 of Exhibit A) to those facilities, the City would either need to relocate them outside the 500-year floodplain or flood-proof the buildings. This would be a very expensive undertaking with very little tangible benefit to the City.

One potential unintended consequence of mapping and regulating the 500-year flood is that flood insurance is currently not required for homes located outside of the 100-year floodplain. Mortgage companies may see this as a risk and require flood insurance for homes that are currently in the 500-year floodplain. This may lead to lower property values and a heightened concern for safety in areas that have been fully developed under the current 100-year floodplain regulations.

Staff has discussed the proposed rule changes with floodplain managers in other jurisdictions and have received opinions on both sides of this issue. Most of the small water districts serving mountain communities appear to be very concerned with the proposed new regulations as does the Regional Transportation District (RTD), the oil and gas industry and real estate agencies. Representatives of most local jurisdictions in the Urban Drainage and Flood Control District did not appear to know about the issue, but the majority of them when contacted by City staff did state a concern with the proposed new rules. At a meeting conducted by the CWCB on April 9, approximately 100 people attended representing

the groups mentioned above as well as private consulting firms. The CWCB staff presented the proposed changes and answered questions with the intent of making minor changes to the proposed rules when appropriate. The nature of the questions asked indicated a dissatisfaction with the notification process and the proposed rule changes.

On April 9, 2010, the CWCB filed the Notice of Rulemaking with the Secretary of State and the Department of Regulatory Agencies (DORA). Based on current information staff has, the last day to make formal comments and to file for Party Status is April 29, 2010. CWCB staff made it clear at the recent public meeting that they intend to proceed with making these rules effective by July 15, 2010 regardless of the lack of a true stakeholder process and possible significant financial ramifications to the local jurisdictions and their citizens. There has been some follow up conversation at CWCB in regard to changing the effective date of the rules; however, staff is unclear what, if any, impact this will have on the substance of the proposed rules. If Council chooses to adopt this resolution, City staff will prepare a letter summarizing the City's concerns as the CWCB continues to make revisions to the proposed regulations.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **12**

INTRODUCED BY COUNCILLORS

SERIES OF 2010

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**A RESOLUTION  
OPPOSING THE ADOPTION OF THE “RULES AND REGULATIONS  
FOR REGULATORY FLOODPLAINS IN COLORADO”  
BY THE COLORADO WATER CONSERVATION BOARD**

WHEREAS, the National Flood Insurance Program (NFIP) was established by the National Flood Insurance Act of 1968 for the purpose of reducing the mounting losses of life and property from floods; and

WHEREAS, the National Flood Insurance Act established the principle of providing federally subsidized flood insurance for existing structures in return for local government adoption and enforcement of Floodplain management and measures to reduce or avoid future flood losses; and

WHEREAS, the latest ordinance adopting the minimum standards of the NFIP by the City of Westminster (“City”) was on March 17, 1997; and

WHEREAS, one of the minimum standards of the NFIP is the regulation of the flood event having a 1% chance of happening in any given year (the 100-year flood); and

WHEREAS, the Colorado Water Conservation Board (“CWCB”) is the State coordinating agency for the NFIP and has the authority to establish state floodplain regulations under Colorado Revised Statutes §37-60-106(1)(c); and

WHEREAS, the CWCB is proposing changes in their “Rules and Regulations for Regulatory Floodplains in Colorado” that exceed NFIP standards to include the 500-year floodplain and a ½ foot rise criteria for floodways; and

WHEREAS, the City has limited resources to pay for the cost of complying with these higher regulatory standards to accurately map the 500-year floodplain and relocate or protect City-owned facilities that may be impacted by these higher standards.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER that the City of Westminster opposes the adoption by the Colorado Water Conservation Board of the proposed new rules identified in the “Rules and Regulations for Regulatory Floodplains in Colorado” as regulatory standards, but would support these new rules as advisory standards so local jurisdictions could adopt them if they choose to do so and receive credit under the Community Rating System for adopting these higher regulatory standards.

PASSED AND ADOPTED this 26<sup>th</sup> day of April, 2010.

ATTEST:

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Mayor

---

City Clerk

APPROVED AS TO LEGAL FORM:

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City Attorney’s Office

DEPARTMENT OF NATURAL RESOURCES  
COLORADO WATER CONSERVATION BOARD

**RULES AND REGULATIONS FOR REGULATORY  
FLOODPLAINS IN COLORADO**

**DRAFT March 2010**  
(Proposed Effective Date - July 2010)



# **RULES AND REGULATIONS FOR REGULATORY FLOODPLAINS IN COLORADO**

## **COLORADO WATER CONSERVATION BOARD DEPARTMENT OF NATURAL RESOURCES**

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Note: Statement of Basis and Purpose Follows last page of Rules

## **RULES AND REGULATIONS FOR REGULATORY FLOODPLAINS IN COLORADO**

**Rule 1.** **Title:** The formal title of the previous Rules and regulations was "Rules and Regulations for the Designation and Approval of Floodplains and of Storm or Floodwater Runoff Channels in Colorado" as approved in 1988. The title for these Rules and regulations was revised in 2005 to "Rules and Regulations for Regulatory Floodplains in Colorado," and amended here under the same title (referred to herein collectively as the "Rules" or individually as "Rule"). These 2009 Rules supersede both the 2005 and the 1988 Rules.

**Rule 2.** **Authority:** These Rules are promulgated pursuant to the authority granted the Colorado Water Conservation Board (Board or CWCB) in sections 37-60-106(1)(c), 37-60-106(1)(e), 37-60-106(1)(f), 37-60-106(1)(g), 37-60-106(1)(h), 37-60-106(1)(k), 37-60-108, 30-28-111(1) & (2), 31-23-301(1) & (3), 24-65.1-202(2)(a)(I) and 24-65.1-302(1)(b)&(2)(a) and 24-65.1-403(3) and 24-4-103, C.R.S. (2009).

**Rule 3.** **Purpose and Scope:**

**A.** **Purpose.** The purpose of these Rules is to provide uniform standards for regulatory floodplains (or floodplains) in Colorado, to provide standards for activities that may impact regulatory floodplains in Colorado, and to stipulate the process by which floodplains will be designated and approved by the CWCB. Rules for 100-year floodplains are of statewide concern to the State of Colorado and the Colorado Water Conservation Board in order to prevent flooding and the negative impacts of floods, as well as to assure public health, safety, welfare and property by limiting development in floodplains. These Rules will also assist the CWCB and communities in Colorado to develop sound floodplain management practices and implement the National Flood Insurance Program (NFIP). These Rules shall apply throughout the State of Colorado, without regard to whether a community participates in the National Flood Insurance Program. These Rules shall also apply to activities conducted by state agencies. These Rules shall also apply to Federal activities that are fully or partially financed by state funds. The Rules shall not apply to federal activities fully financed by the Federal government, although local governments shall retain the power to enforce these Rules at their discretion for such activities through local Rules or ordinances or permitting. These Rules also apply to projects or studies for which the Board has made a loan or grant pursuant to section 37-60-120(2) and 37-60-121(1)(b)(VII) & (IX)(C), C.R.S. (2009).

**B.** **Scope**

- (1) **Zoning.** These Rules apply to all floodplain information developed for zoning and for floodplain permitting purposes for waterways in the State of Colorado by, but not limited to, individuals, corporations, local government agencies, regional

government agencies, state government agencies, Indian tribes, and federal government agencies.

- (2) **Subdivisions.** These Rules generally apply to the approval of subdivision drainage reports that provide 100-year and 500-year floodplain information, which is a responsibility of local government and is covered in Rule 6. However, local governments should ensure that site-specific floodplain delineations prepared during development activities are consistent with floodplain information designated and approved by the Board.
- (3) **Design Criteria.** These Rules do not apply to the selection of optimal economic criteria for the construction of roads, bridges, irrigation structures, or any other facility in the floodplain.
- (4) **Dam Failure floodplain.** These Rules do not apply to the identification of the area potentially inundated by the catastrophic or sudden failure of any man-made structure such as a dam, canal, irrigation ditch, pipeline, or other artificial channel.

**Rule 4. Definitions:** The following definitions are applicable to these Rules and Regulations for Regulatory Floodplain in Colorado:

<u>Term</u>	<u>Definition</u>
<b>100-year Flood</b>	A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any year (1% chance exceedance probability). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.
<b>100-year Floodplain</b>	The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.
<b>500-year Flood</b>	A flood having a recurrence interval that has a .2-percent chance of being equaled or exceeded during any year (.2% chance exceedance probability). The term does not imply that the flood will necessarily happen once every five hundred years.
<b>500-year Floodplain</b>	The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.
<b>Alluvial Fans</b>	A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

<b>Approximate Floodplain Information</b>	Floodplain information that significantly reduces the level of detail for topographic mapping or hydraulic calculations to arrive at floodplain delineations without a comparison of water surface profiles with a topographic map of compatible accuracy. The level of detail for hydrology is consistent with that of detailed floodplain information.
<b>Base Flood</b>	Is synonymous with 100-year flood and is a flood having a one percent chance of being equaled or exceeded in any given year.
<b>Base Flood Elevation (BFE)</b>	The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.
<b>Basin</b>	The total land surface area from which precipitation is conveyed or carried by a stream or system of streams under the force of gravity and discharged through one or more outlets.
<b>Channel</b>	Low-lying area where water flows regularly or intermittently with a perceptible current between observable banks, although the location of banks may vary under different conditions.
<b>Channelization</b>	The artificial creation, enlargement or realignment of a stream channel.
<b>Code of Federal Regulations (CFR)</b>	The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. FEMA regulations are codified at 44 C.F.R. § 1.1 <i>et. seq.</i> The FEMA regulations are incorporated herein by reference and available for viewing at <a href="http://www.gpoaccess.gov/CFR/">www.gpoaccess.gov/CFR/</a> and for inspection at the CWCB offices at 1313 Sherman Street, Room 721, Denver CO 80203. The FEMA regulations incorporated herein by reference are only the rules in existence at the time of the promulgation of these Rules and Regulations for Regulatory Floodplains in Colorado and do not include later amendments to or editions of the incorporated material.

**Colorado Floodplain and Stormwater Criteria Manual**

The Manual prepared by the CWCB to aid local officials and engineers in the proper regulation and design of flood protected facilities. The Manual is advisory, rather than regulatory, in purpose.

**Community**

Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and Drainage and Flood Control Districts

**Conditional Letter of Map Revision**

**CLOMR.** FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

**Critical Facility or Facilities**

Means a facility, including without limitation, a structure, infrastructure, property, equipment or service, that if flooded may result in severe consequences to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Rule 6.

**Debris Flow**

Movement of mud and water downward over sloping terrain. The flow typically consists of a mixture of soil, rock, woody debris and water that flows down steep terrain.

**Designation and Approval**

Certification by formal action of the Board that technical information developed through scientific study using accepted engineering methods is suitable for local governments making land use decisions under statutorily authorized zoning powers.

**Detailed Floodplain Information**

Floodplain information prepared utilizing topographic base mapping, hydrologic analysis, and hydraulic calculations to arrive at precise water surface profiles and floodplain delineations suitable for making land use decisions under statutorily authorized zoning powers.

**Development**

Any man-made changes to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

<b>DFIRM Database</b>	Database (usually spreadsheets of data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.
<b>Digital Flood Insurance Rate Map (DFIRM)</b>	FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.
<b>Federal Register</b>	The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.
<b>FEMA</b>	Federal Emergency Management Agency.
<b>FEMA - Guidelines &amp; Specifications for Flood Hazard Mapping Partners</b>	Floodplain mapping specifications published by FEMA. The FEMA Mapping Specifications and Guidelines are incorporated herein by reference and available for viewing at <a href="http://www.fema.gov/fhm/dl_cgs.shtm">www.fema.gov/fhm/dl_cgs.shtm</a> and for inspection at the CWCB offices. The FEMA Mapping Specifications and Guidelines incorporated herein by reference are only those in existence at the time of the promulgation of these Rules and Regulations for Regulatory Floodplains in Colorado and do not include later amendments to or editions of the incorporated material.
<b>"Flood" or "Flooding"</b>	A general and temporary condition of partial or complete inundation of normally dry land areas from: <ol style="list-style-type: none"> <li>1. The overflow of water from channels and reservoir spillways;</li> <li>2. The unusual and rapid accumulation or runoff of surface waters from any source; or</li> <li>3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).</li> </ol>
<b>Flood Contour</b>	A line shown on a map joining points of equal elevation on the surface of floodwater that is perpendicular to the direction of flow.
<b>Flood Control Structure</b>	A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway.

<b>Flood Insurance Rate Map (FIRM)</b>	A FIRM is the official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community.
<b>Flood Mitigation Project</b>	A project within or adjacent to a flooding source that is specifically intended to reduce or eliminate the negative impacts caused by excessive floodwaters through improvement of drainage, flood control, flood conveyance or flood protection.
<b>Floodplain</b>	The area of land that could be inundated as a result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.
<b>Floodplain Management</b>	The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, zoning or land-use regulations, flood control works, and emergency preparedness plans.
<b>Floodplain Management Regulations</b>	Zoning ordinances, subdivision regulations, building codes, health regulations, land-use permits, special purpose ordinances (floodplain ordinance, grading ordinance, or erosion control ordinance) and other applications of regulatory powers. The term describes state/local regulations that provide standards for flood damage preservation and reduction.
<b>Floodplain Maps</b>	Maps that show in a plan view the horizontal boundary of floods of various magnitudes or frequencies. Such maps include, but are not limited to, Flood Hazard Boundary Maps (FHBM), Flood Insurance Rate Maps (FIRM), and Digital Flood Insurance Rate Maps (DFIRM) published by FEMA, Flood Prone Area Maps published by the U.S. Geological Survey (USGS), Flooded Area Maps published by the U. S. Army Corps of Engineers (COE), Floodplain Information Reports published by the CWCB or others, Flood Hazard Area Delineations (FHAD) published by the Urban Drainage and Flood Control District (UDFCD), and other locally adopted floodplain studies and master plans.
<b>Floodplain Studies</b>	A formal presentation of the study process, results, and technical support information developed for floodplain maps.
<b>Floodway</b>	The channel of a river or other watercourse and the adjacent land areas that must be kept free of obstructions

in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Foreseeable Development**

The potential future development of, or changes in, the land uses that are likely to take place during the period of time covered by a community's adopted master land use plan or comprehensive community plan, or if no time period is specified, over a 20-year period. If there is no adopted community plan, then potential development patterns based on zoning, annexations, and other relevant factors should be evaluated.

**Freeboard**

The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as bridge openings and the hydrological effect of urbanization of the watershed.

**Geographic Information Systems (G.I.S.)**

Computer software that utilizes databases and terrain mapping to store and display special and tabular data, such as floodplains, as layers (e.g. political boundaries, roadways, structures, topographic information) for natural resource management and other uses.

**Hydraulic analysis**

The determination of flood elevations and velocities for various probabilities based on a scientific analysis of the movement and behavior of floodwaters in channels or basins.

**Hydrologic Analysis**

The determination of the peak rate of flow, or discharge in cubic feet per second, for various selected probabilities for streams, channels, or basins based on a scientific analysis of the physical process.

**Letter of Map Revision (LOMR)**

An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevation.

**Letter of Map Revision Based on Fill (LOMR-F)**

FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

<b>Levee</b>	An artificial structure or land feature, in areas in which land falls away from a watercourse, that contains, controls, or diverts the flow of water. This structure may be built with or without the express purpose of containing, controlling, or diverting the flow of the watercourse.
<b>Low Impact Development (LID)</b>	Development design/construction strategy that maintains the predevelopment hydrologic regime to the extent possible. The goal of LID is to mimic the natural hydrograph in terms of magnitude, frequency, duration, timing, and rate of change of stream flows. LID focuses on small scale stormwater retention and detention, reduced impervious areas, and increased runoff periods.
<b>Mitigation</b>	The process of preventing disasters or reducing related hazards. Structural Mitigation, includes, but is not limited to, flood proofing structures, diverting floodwaters, detention ponds, floodwalls or levees. Nonstructural Mitigation includes, but is not limited to, education, planning, and design of flood prevention measures, emergency preparedness plans, elevating/relocating structures, purchasing property for open space, or early flood warning/detection systems.
<b>National Flood Insurance Program (NFIP)</b>	FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.
<b>Post-Wildfire Hydrology</b>	Methodologies and calculations developed to account for the increased stormwater runoff following forest fires. Post-wildfire hydrology is typically evaluated every 3 to 5 years to assess the need for further revision based on watershed recovery, forest regrowth, and other factors.
<b>Provisionally Accredited Levee (PAL)</b>	A levee that FEMA has previously credited with providing 1-percent chance annual protection on an effective FIRM or DFIRM, for which FEMA is awaiting data and/or documentation that will show the the Levee's compliance with Levee certification requirements of the NFIP regulations.
<b>Residual Risk</b>	The threat to the areas behind levees that may still be at risk for flooding. Although the probability of flooding

may be lower because a levee exists, the consequence to personal safety and property is much higher should a levee overtop or fail.

**Stream Alteration Activity**

Any manmade activity within a stream or floodplain that alters the natural channel, geometry, or flow characteristics of the stream for purposes other than Flood Mitigation Projects that are intended for the improvement of drainage, flood control, flood conveyance, environmental enhancement, water supply, recreational improvement, or flood protection.

**Substantial Change**

Any improvement to, or rehabilitation due to damage of, a structure for which the activity performed equals or exceeds 50% of the pre-improvement or pre-damaged value of the structure.

**Topography**

Configuration (relief) of the land surface; the graphic delineation or portrayal of that configuration in map form, as by contour lines.

**Water Surface Profile**

A graph that shows the relationship between the vertical elevation of the top of flowing water and of the streambed with the horizontal distance along the stream channel.

**Rule 5. State Regulatory Floodplain:** For all cases, except those involving Critical Facilities, the regulatory floodplain is the 100-year floodplain. When new Critical Facilities or Substantial Changes to existing Critical Facilities are proposed, the regulatory floodplain is the 500-year floodplain in reference to those Critical Facilities. "Storm or Floodwater Runoff Channels" are within the 100-year or 500-year floodplain, as appropriate. The General Assembly has deemed the designation of floodplains a matter of statewide importance and interest and gave the CWCB the responsibility for the designation of the 100-year and 500-year floodplains and to assure protection of public health, safety, welfare and property by limiting development in the 100-year and 500-year floodplains. §§ 24-65.1-202(2)(a)(1) and 24-65.1-302(1)(b)&(2)(a) and 24-65.1-403(3) and 24-65.1-101 and 24-65.1-404(3), C.R.S. (2009)

**Rule 6. Critical Facilities:**

A. **Definition.** "Critical Facility," for floodplain purposes, means a facility, including without limitation, a structure, infrastructure, property, equipment or service, that if flooded may result in severe consequences to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. A critical facility is classified under the following categories: (1) Essential Services; (2) Hazardous Materials; (3) At-risk Populations; and (4) Vital to Restoring Normal Services.

- (1) *Essential services facilities* include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and equipment, and transportation lifelines.

*Examples include:*

- a. *Public safety (police, fire and rescue, emergency management);*
- b. *Emergency response (emergency responders, emergency vehicle and equipment storage, emergency repair materials, alternative governmental work centers for continuity of government operations);*
- c. *Emergency medical (hospitals, ambulance services, urgent care facilities having emergency treatment functions);*
- d. *Designated emergency shelters;*
- e. *Communications (telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems);*
- f. *Public utility plant facilities and equipment for treatment, generation, storage, pumping and distribution (water, wastewater, power, gas); and*
- g. *Transportation lifelines (airports and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars), mass transit stations and terminals).*

- (2) *Hazardous materials facilities* include facilities that produce, distribute, use, store, or sell highly volatile, flammable, explosive, toxic and/or water-reactive materials.

*Examples include:*

- a. *Chemical and pharmaceutical plants (chemical plant, chemical company, pharmaceutical company);*
- b. *Laboratories;*
- c. *Refineries and bulk plants (bulk fuel);*
- d. *Hazardous waste storage and disposal sites; and*
- e. *Gasoline and propane sales stations (service station).*

Exemptions to this include: a. consumer products containing hazardous materials intended for household use, and b. buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a Colorado registered Professional Engineer that a release of the hazardous material does not pose a threat to the public. This exemption shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this Rule 6(A).

- (3) *At-risk population facilities* include medical care, congregate care, and schools.

*Examples include:*

- a. *Medical care (hospitals, clinics, nursing homes);*
- b. *Congregate care serving 12 or more individuals (, day care, assisted living);*
- c. *Public and private schools (pre-schools, K-12 schools, essential buildings for colleges and universities (dormitories, offices, and classrooms), vocational centers, before-school and after-school care serving 12 or more children);*

- (4) *Facilities vital to restoring normal services include public utility infrastructure, government operations, and parcel services.*

*Examples include:*

- a. Public utility infrastructure (water, wastewater, power, gas);*
- b. Government operations (public records and libraries, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);*
- c. Parcel Services (mail and parcel service).*

**B. Identification of Critical Facilities.** It is the responsibility of the local jurisdiction having land use authority to identify which structures meet the criteria outlined in Rule 6(A) and are deemed to be Critical Facilities. All structures that clearly meet these criteria shall be deemed Critical Facilities by that jurisdiction. For structures for which it is ambiguous if the criteria are met, the local jurisdiction shall have the discretion to determine if the structure is a Critical Facility.

**C. 500-year Flood Events.** The CWCB acknowledges that flooding does occur above and beyond 100-year (1% chance) events. Communities shall make practical use of the 500-year floodplain, if available, for regulating Critical Facilities within their jurisdictions. Regulation to a higher standard does not prohibit development in the 500 year floodplain. Flooding greater than 500-year (0.2% chance) events can and do occur as well, and loss of life and property is possible in areas mapped outside of both the 100-year and 500-year regulatory floodplains. For circumstances involving Critical Facilities in which the 500-year floodplain is not mapped, the floodplain for this frequency may be substituted with a delineation based on the Base Flood Elevation (100-year water surface elevation) plus two feet.

**D. Protection of Critical Facilities.** All new Critical Facilities and Substantial Changes to Critical Facilities shall be regulated to a higher standard than those structures not determined to be Critical Facilities. The higher standard for Critical Facilities shall be as follows:

1. For Critical Facilities located within the 100-Year Floodplain, the structure shall be protected according to Rule 11(B) herein, with the exception of a freeboard of two feet substituted for the standard one-foot freeboard. *The International Building Code (2006) and Flood Resistant Design and Construction (ASCE 24) (2009) can be used as reference tools for this standard, but are not incorporated by reference herein.*

2. For Critical Facilities located outside of the 100-Year Floodplain but within an identified 500-Year Floodplain, the structure shall be protected according to Rule 11(B) herein, with the exception of the 500-year flood elevation plus one foot freeboard substituted for the standard 100-year elevation plus one foot freeboard. Protection shall include one of the following:

- (1) Location outside the 500-year floodplain; or

- (2) Elevation or Floodproofing of the structure so that it is protected to the level indicated in this Rule 6(D).

3. New Critical Facilities shall, when practicable as determined by the local jurisdiction having land use authority, have continuous non-inundated access (ingress and egress) during a 500-year flood event. This is recommended for changes to existing Critical Facilities and use changes involving existing structures whose classification changes to Critical Facilities.

All other rules and regulations governing structures not deemed Critical Facilities remain in effect and unchanged

- E. **Floods Larger than 500-year Events.** Communities are encouraged, but not required, to identify areas prone to flooding outside of the 500-year floodplain where loss of life or substantial property damage may occur.
- F. **Variance Procedure.** For all Critical Facilities, the Variance procedure outlined in Rule 15 herein remains available and may be considered when deemed necessary and appropriate by the local jurisdiction having land use authority over the Critical Facility.

**Rule 7. Standards for Delineation of Regulatory Floodplain Information:**

- A. **Intent of this Rule.** This Rule contains standards for approximate and detailed floodplains. All floodplain information, with the exception of CLOMR, LOMR, and LOMR-F submittals and supporting documentation submitted to FEMA, shall be provided to the CWCB for designation and approval in order to enable local governments to regulate floodplains appropriately.
- B. **Level of Detail.**
  - (1) Approximate Floodplain Information will be based on detailed hydrology computed for 100-year and 500-year floods. Hydraulic information shall be produced using approximate, field, or limited techniques and best available topographic/survey data.
  - (2) Detailed Floodplain Information will be based on detailed hydrologic and hydraulic determinations for 100-year and 500-year floods. Flood profiles and floodplain delineations for 100-year flood and other frequencies, if any, shall be plotted, preferably using a digital method. The CWCB shall only designate and approve 100-year floodplain information and 500-year floodplain information.
- C. **Base Mapping.** Base mapping for floodplain studies shall meet the minimum standards as set forth in FEMA Guidelines and Specifications for Flood Hazard Map Partners, as incorporated herein by reference.

- D. **Topography and Surveys.** Topographic and field survey information for floodplain studies shall meet the minimum standards as set forth in FEMA Guidelines and Specifications for Flood Hazard Map Partners, as incorporated herein by reference.
- E. **Geographic Information Systems (GIS).** GIS information for floodplain studies in Colorado shall meet the minimum standards as set forth in FEMA Guidelines and Specifications for Flood Hazard Map Partners, as incorporated herein by reference.
- F. **Hydrology.** Hydrologic analyses for floodplain studies in Colorado shall be completed using the information set forth in FEMA Guidelines and Specifications for Flood Hazard Map Partners, as incorporated herein by reference. The Colorado Floodplain and Criteria Manual may be used as a reference document to aid in this analysis. In addition, hydrology studies must comply with the following:
- (1) All floodplain studies, regardless of the level of detail, (e.g., approximate or detailed) shall utilize detailed hydrologic information. The CWCB recognizes existing and future watershed conditions for the purposes of computing flood hydrology. The CWCB shall evaluate future watershed conditions, in addition to existing conditions when Foreseeable Development is expected.
  - (2) Any new study to evaluate hydrologic information and/or design storm criteria shall be completed in such a way that it is scientifically defensible and technically reproducible.
  - (3) All jurisdictions and communities affected by revised hydrologic data, due to their geographic proximity to the affected stream reach within a particular watershed, are encouraged to participate in the update process, and shall be given the opportunity by the study sponsor to review and comment on the revised information. Opponents to the revised information may present technically accurate and sound scientific data to the CWCB that clearly demonstrates that the information in question is inaccurate pursuant to Rule 12. The CWCB shall make the final determination regarding disputes.
  - (4) Within any given watershed, or hydrologic subregion, consistency in hydrologic data and runoff methodology shall be pursued to the extent possible through cooperation of all affected jurisdictions and entities.
- G. **Detailed Hydraulic Method.** Hydraulic analyses for floodplain studies in Colorado shall be completed using protocols set forth in FEMA Guidelines and Specifications for Flood Hazard Map Partners, as incorporated herein by reference.
- H. **Floodplain Delineations.** Floodplain delineations shall be completed using protocols set forth in FEMA Guidelines and Specifications for Flood Hazard Map Partners, as incorporated herein by reference, and shall comply with the technical quality assurance standards as follows:
- (1) The flood elevations and the floodplain delineations on the maps must correlate reasonably to the best available topographic information for the stream and adjacent corridor and must meet an acceptable level of technical accuracy.
  - (2) The planimetric features on the floodplain maps (including, but not limited to, streets and highways, stream centerlines, bridges and other critical hydraulic

features, corporate limits, section lines and corners, survey benchmarks) must be consistent with the best available aerial photographs or other suitable information for the stream and the adjacent corridor, as determined through prevailing industry practices, and must meet an acceptable level of technical accuracy.

- I. **Special Floodplain Conditions.** There are a number of special floodplain conditions, or natural flood hazards, in Colorado that fall outside of the standard riverine environment. Studies for the 100-year flood involving special conditions shall be completed using protocols set forth in FEMA Guidelines and Specifications for Flood Hazard Map Partners, as incorporated herein by reference. The special conditions are:
  - (1) Alluvial Fan and Debris Flow floodplains located within foothill and mountainous regions of Colorado shall be considered on a case-by-case basis.
  - (2) Post-wildfire hydrology shall be evaluated on a case-by-case basis in forested areas immediately following moderate to intense wildfires resulting in approximately 15% or greater burn area of the affected watershed. Interim flood advisory maps, based on burned watershed conditions, shall be produced at the request of the local governing authority or by Board initiative. The interim floodplain maps shall show increased runoff from hydrophobic soils and lack of vegetation. The post-wildfire maps shall be evaluated every 3 to 5 years to assess the need for further revision based on watershed recovery, forest regrowth, and other factors.
  - (3) Ice jam flooding shall be considered within stream reaches where this phenomenon is known to occur. Ice jam flooding may be analyzed utilizing methodologies available through the U.S. Army Corps of Engineers Cold Regions Research and Engineering Laboratory (CRREL), located in Hanover, New Hampshire.
  
- J. **Written reports and maps.** The results of the hydrologic analyses, hydraulic analyses, and floodplain delineations shall be summarized in a written report and submitted to the CWCB. All Approximate and Detailed Floodplain Information that is presented to the CWCB for designation and approval shall be properly titled, dated, organized, and bound as a stand-alone document. In addition to the hard copy final report, the CWCB requires that a digital copy of the final report be submitted in MS Word and PDF formats. All pertinent technical backup data such as GIS files, hydrologic and hydraulic models, and all pertinent technical backup data shall also be provided to the CWCB in acceptable digital formats. The CWCB shall electronically distribute to interested parties, to the extent possible, pertinent study information. Access to original GIS information shall be provided to local governments and other authorized users through a secure and protected website or other secure means.
  - (1) The flooded area maps shall show, at a minimum, the flood boundaries, the location of all cross sections used in the hydraulic analysis, the reference line drawn down the center of the floodplain or low flow channel, and a sufficient number of flood contours in order to reconstruct the flood water surface profiles.
  - (2) For new or revised detailed studies on stream reaches affecting identified Critical Facilities, the 500-year Floodplain shall be delineated.
  - (3) Flood contours, or Base Flood Elevations, shall be shown as wavy lines drawn perpendicular to the direction of flow of floodwater and shall extend completely

- across the area of the 100-year floodplain, or 500-year floodplain for Critical Facilities. Each flood contour shall indicate its elevation to the nearest whole foot.
- (4) The flooded area map scale shall be 1-inch equals 1000 feet or such map scale showing greater detail. FEMA map panels may also be published at 1 inch equals 500 feet, 1 inch equals 1,000 feet or 1 inch equals 2000 feet.
  - (5) Where discrepancies appear between flooded area maps and water surface profiles, any 100-year or 500-year water surface profile designated and approved by the Board shall take precedence over any corresponding flooded area map for the same stream reach or site location.

#### **K. Contractor Qualifications**

- (1) Qualified engineers licensed in Colorado shall direct or supervise the floodplain mapping studies and projects pertaining to the State Regulatory Floodplain. All floodplain maps, reports and project designs pertaining to the State Regulatory Floodplain shall be certified and sealed by the Colorado registered professional engineer of record.
- (2) Federal agencies or other recognized and qualified government authorities may produce floodplain mapping work as a study proponent or on behalf of a study proponent.

#### **Rule 8. Standards for Regulatory Floodways:**

- A. **Establishment of Floodway Criteria.** The CWCB recognizes that Designated Floodways are administrative limits and tools used by communities to regulate existing and future Floodplain developments within their jurisdictions. Communities shall delineate Floodways based on ½-foot rise criteria or based on more strict criteria (e.g. depth and velocity criteria, 0.0-foot rise, etc). This Rule is synonymous with communities' adopted floodway criteria. Where no local Floodway criteria exist, the the use of minimum 0.5-foot rise standard shall be observed. Letters of Map Revision to existing floodway delineations may continue to use the criteria in place at the time of the existing floodway delineation. However, all new Physical Map Revisions shall use ½ foot rise criteria, unless a stricter local regulation is in place. For reaches where a transition must be shown to connect new studies to existing studies with different floodway criteria, the transition length shall not exceed 2,000 feet.
- B. **Designation of floodways.** Designation and approval of Floodplain information shall also include the designation and approval of corresponding Floodway Information. For waterways with Base Flood Elevations for which Floodways are not computed, the community shall apply a ½ foot floodway regulation according to its own determination, as outlined in FEMA Regulation 44 C.F.R. § 60.3(c)(10) (2009), incorporated herein by reference, for a 1-foot floodway.
- C. **Incorporation of FEMA's Floodway Regulations.** All regulations defined in FEMA Regulation 44 C.F.R. § 60.3(c)(10) and 44 C.F.R. § 60.3(d) (2009) are hereby incorporated by reference into this Rule. These Rules do not include later amendments or editions to this incorporate material. All communities participating in the National Flood Insurance Program that have Base Flood Elevations defined for one or more of the waterways within