



## 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 (item 7) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed 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
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 citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.

8. Consent Agenda
  - A. Comprehensive Annual Financial Report
  - B. Contract Award for Phase I of the BDCWWTF Upgrade and Expansion; Sewer Interceptor Diversion
  - C. Open Space along Walnut Creek at 104<sup>th</sup> & Wadsworth Boulevard
  - D. Drainage Improvements at 104<sup>th</sup> & Bryant and Tennyson Ct.
  - E. Quarterly Insurance Claims Report 1st Quarter 2005
  - F. Second Reading CB No. 26 re Vacation of Easements within Ball Campus Subdivision
  - G. Second Reading CB No. 27 re Farmers High Line Canal Trail Construction
9. Appointments and Resignations
10. Public Hearings and Other New Business
  - A. TABLED Councillor's Bill No. 13 re Country Club Village Business Assistance Package
  - B. Councillor's Bill No. 29 re 2005 CDBG Fund Appropriation
  - C. Councillor's Bill No. 30 re Growth Management Program Amendment for Reclaimed Water Projects
  - D. Resolution No. 22 Allocating Service Commitments to the Reclaimed Water category
  - E. Public Hearing re 3<sup>rd</sup> Amended PDP for Northridge at Park Centre NWC 121<sup>st</sup> Ave & Pecos St
  - F. 3<sup>rd</sup> Amended PDP for Northridge
  - G. Public Hearing re Amendment to the Interchange Business Park PDP and an ODP for Wal-Mart (North)
  - H. 1<sup>st</sup> Amended PDP in Interchange Business Center PUD
  - I. Interchange Business Center ODP (Wal-Mart)
11. Old Business and Passage of Ordinances on Second Reading
12. Citizen Presentations (longer than 5 minutes) and Miscellaneous Business
  - A. City Council
13. Adjournment

## **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, JUNE 13, 2005 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Mayor McNally, Mayor Pro Tem Kauffman, and Councillors Davia, Dittman, Dixon, Hicks and Price were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Councillor Hicks moved, seconded by Price, to approve the minutes of the meeting of May 23, 2005. The motion passed unanimously.

CITY MANAGER COMMENTS

Mr. McFall reported on the annual Spring Fling at the golf courses that had been rained out two weeks earlier; the success of the Candidate Forum held June 9 at the Mayor's suggestion to enlightened potential candidates for Mayor and City Council of the time commitment involved and other relevant information concerning the Council-Manager form of government and the nomination procedure; and the status of Huron Street improvements between 128<sup>th</sup> and 140<sup>th</sup> Avenues.

CITY COUNCIL COMMENTS

Mayor Pro Tem Kauffman reported having attended with the Mayor the dedication of the Chabad House and a breakfast meeting with Councillor Dixon where Congressmen Udall and Beauprez had discussed issues of import to Westminster. Further, he attended the funeral of Mel Yost, a resident of Covenant Village who had touched the lives of many local residents.

Councillor Davia urged everyone to proudly display the American flag on Flag Day and presented an award from the Colorado Rural Housing Corporation that he had accepted on the City behalf in recognition on its contributions to the Neighborhood Works Homeownership Center at recent dedication ceremonies.

Councillor Hicks attended recent graduation ceremonies for 12 new firefighters. Additionally, the Council toured the City's open space and historical sites. Councillor Price appreciated the Open Space Advisory Board's participation in the tour.

Councillor Dixon reported on recent meetings of the Rocky Flats Coalition of Local Governments and stressed the importance of the cities of Westminster, Thornton, and Northglenn being represented on the LSO once created. As a member of the Adams County Extension Board, she emphasized the importance of passing Amendments C and D on the November ballot so programming offered by extension offices throughout the state could continue. Further, she had previewed on-line training that the Colorado Municipal League would offer and thought it would be a useful tool for newly elected Council members seeking to learn about local governance.

Mayor McNally reported that the Historical Society had moved into its office space. She had attended the Open House and thanked staff members for readying the facility.

CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: 2004 Comprehensive Annual Financial Report; award of a \$145,000 contract to Lillard & Clark Construction Inc. for the Big Dry Creek Wastewater Treatment facility renovation and expansion project; authority for the City Manager to execute an exchange agreement and closing documents to acquire 2 acres of open space from Camalick at 10425 Wadsworth Boulevard and to convey the house and surrounding lot of approximately 1.5 acres on City-owned property at 10620 Wadsworth Boulevard to Camalick; authority for the City Manager to execute a \$196,007 contract with Goodland Construction, Inc. for drainage improvements at 104<sup>th</sup> Avenue and Bryant Street and Tennyson Court; accept the 1<sup>st</sup> Quarter 2005 insurance claims report; passage on second reading of Councillor's Bill No. 26 vacating certain easements within lots 9 and 10 of the Ball Campus Subdivision; and passage on second reading of Councillor's Bill No. 27 authorizing the supplemental appropriation of grant funds for the Farmers' High Line Canal trail construction project.

Mayor McNally asked if any member of Council or the audience wished to remove an item from the consent agenda for discussion purposes or separate vote. There was no request.

Councillor Davia moved, seconded by Dixon, to approve the consent agenda items as presented. The motion carried unanimously.

COUNCILLOR'S BILL NO. 29 RE 2005 CDBG FUND APPROPRIATION

Councillor Dittman moved, seconded by Councillor Price to pass Councillor's Bill No. 29 on first reading to appropriate 2005 Community Development Block Grant funds in the amount of \$642,212. Councillor Davia recused himself from voting, as an organization with which he was affiliated was to receive a portion of these funds. At roll call, the motion passed by a 6:1 vote with Councillor Davia abstaining.

COUNCILLOR'S BILL NO. 30 RE GROWTH MANAGEMENT PROGRAM AMENDMENT

Upon a motion by Councillor Hicks, seconded by Councillor Davia, the Council voted unanimously at roll call to pass Councillor's Bill No. 30 on first reading to amend the Growth Management Program establishing annual allocations to the reclaimed water category that equal the Service Commitment supply figure for the reclaimed system.

RESOLUTION NO. 22 RE ALLOCATION OF SERVICE COMMITMENTS TO RECLAIMED WATER

It was moved by Councillor Hicks, seconded by Dixon, to adopt Resolution No. 22 allocating Service Commitments to the Reclaimed Water category. The motion passed unanimously at roll call.

PUBLIC HEARING RE NORTHRIDGE AT PARK CENTRE 3<sup>RD</sup> AMENDED PDP

At 7:18 P.M. the Mayor opened a public hearing to consider the 3<sup>rd</sup> amended preliminary development plan for the Northridge at Park Centre Planned Unit Development to increase allowed uses on lots 5, 6, and 7 by adding "post secondary vocational/technical education institute." Colorado Technical University was interested in leasing 25,000 square feet of the existing westerly building in Prime Center, lot 7. The requested use was already allowed on lots 9, 10, 11, 12, and 13 of the PDP. Michele McLoughlin of the Planning Division introduced the public hearing and entered the agenda memorandum and related documentation into the record. The PUD, encompassing approximately 106 acres, was located at the northwest corner of West 121<sup>st</sup> Avenue and North Pecos Street.

Testifying on behalf of the applicant was Ned White, 2000 West Littleton Boulevard, Littleton, Colorado, who provided detail about the location of interest to Colorado Technical University. Dan Ambrose of Chicago

represented the university. David Perez, 11999 Salisbury Street in Broomfield and the Pastor of Colorado Ridge Church to be built on lot 13, and Jack Jewel, 11187 Sheridan and a member of the church, voiced concern about an access improvement for which the church was being asked to bear the total financial burden.

Dave Downing, City Engineer, answered questions of Council regarding the referenced access improvements and the City's policies with respect to financial responsibility for infrastructure to new development. Mr. McFall suggested continuance to allow additional discussion with all parties about access improvements.

It was moved by Councillor Hicks, seconded by Dixon, to continue the hearing to the June 27, 2005 Council meeting so that staff could address the concerns raised. The motion passed unanimously.

#### PUBLIC HEARING RE INTERCHANGE BUSINESS PARK PDP AMENDMENT AND ODP (WAL-MART)

At 8:46 P.M. the Mayor opened a public hearing to consider the First Amended Interchange Business Center Preliminary Development Plan and the Interchange Business Center Official Development Plan. Dave Shinneman, Planner, entered copies of the agenda memorandum and other related items as exhibits. The property was in the North I-25 Corridor where retail uses were contemplated. Wal-Mart was the applicant. Public notice of this hearing had been published, the property had been posted, and landowners within 300 feet of the proposed location, as well as interested parties requesting same, had been provided individual notice via mail. A substantial amount of correspondence had been received, which Mr. Shinneman entered into the record.

Scott Crosby, 3033 East First Avenue in Denver and the realtor hired by Wal-Mart to identify potential properties for development, and Jim Shipman, 8480 East Orchard Road in Greenwood Village, represented Wal-Mart. They presented plans for subdivision of the property, identifying the pad sites for the store, as well as other retail uses, and showed the building design, access, and landscape plans. None of the outlying pads were under contract now.

Testifying in opposition to the proposal were: Dee Hoffmann, 1170 West 132<sup>nd</sup> Place; Deborah and Joe Halbeisen, 1620 West 130<sup>th</sup> Court; Patty Surman, 12223D Bannock Circle; Helen Gardner, 843 West 124<sup>th</sup> Drive; Bev and Gary Wheeler, 911 West 139<sup>th</sup> Court; Doug Group, 1395 West 139<sup>th</sup> Place; Stephen Smith, 13438 Quivas Street; Debby Laurita, 1227 Lexington Avenue; Megan and Jeremiah Lindemann, 930 West 133<sup>rd</sup> Circle #N; Eric Rieken, 2716 Quail Creek Drive; Sherry Metzger, 1640 West 130<sup>th</sup> Court; Tonya Pohlman, 13579 Wyandot Street; Scott Dunston; 13393 Osage Street; Bruce Jameson, 15055 York Street in Thornton; Dan Golightly, 1645 West 130<sup>th</sup> Court; Jennifer Gibson, 13343 Osage Street; Mike Smith, 13172 Umatila Street; Juan Zwierzynski, 13587 Quivas Street; Anthony Gerhards, 13177 Vallejo Court; Michele Kuska, 906 Lexington Avenue; Joseph and Pamela Hein, 1785 West 130<sup>th</sup> Place; Kirk Collins, 906 Lexington Avenue; Barbara Thorson, 930 West 133<sup>rd</sup> Cr, #F; Becky McGraw, 1079 West 135<sup>th</sup> Court; John Bourassa, 13300 Shoshone Street; Bryan Taylor, 3273 Prospect Street NW in Washington, DC; Kelli Schwartz, 1114 West 135<sup>th</sup> Lane; Doris Peterson, 887 Lexington Avenue; Bruce Leggett, 14087 Lexington Circle; Richard Wagner, 1506 Lexington Avenue; Fred Weisheit, 1179 West 135<sup>th</sup> Court; Mike Bains, 870 West 144<sup>th</sup> Avenue, and Alan Kramer, 1240 West 133<sup>rd</sup> Circle. Mr. Rieken submitted into evidence petitions purportedly signed by 2,360 people opposed to a Super Wal-Mart at the proposed location but not opposed to pedestrian-friendly, unique commercial development.

Asking that their name be entered into the record as opposed were: Brian Akridge, 13403 Quivas Street; Terry and Marilyn Garner, 912 West 139<sup>th</sup> Court; Cheryl Lang, 905 West 14<sup>th</sup> Drive; Sharon Hepp, 14142 Lexington Circle; Kerry J. Mandel, 13403 Quivas Street; Dona Lee Peters, 13418 Quivas Street;

Greg Ellison, 1409 West 134<sup>th</sup> Place; Patrizia Marziali, 1409 West 134<sup>th</sup> Place; Millisa Kitamura, 870 West 134<sup>th</sup> Avenue #J; Jennifer Bourassa, 13300 Shoshone Street; Steven Pilger, 13455 Pecos Street; and Erin Brown, 13455 Pecos Street.

Speaking in support of the requested action were: Jack Rickard, 1084 West 135<sup>th</sup> Lane; Fred Allen, 10140 Vrain Court; Robert L. Johnson, 1222 West 132<sup>nd</sup> Place, Susan Sorensen, 1223 West 132<sup>nd</sup> Place; and Tom Keriotis, 1105 West 125<sup>th</sup> Drive.

Clerk's Note: At the request of the applicant's representatives, Mayor McNally called a recess at 9:50 P.M. She reconvened the meeting at 10:01 P.M.

On behalf of the applicant, Mark Barnes, attorney with Brownstein, Hyatt, & Farber, P.C., 410 Seventeenth Street, Denver, responded to the issues and concerns raised during testimony.

Mr. Shinneman, Mr. Downing, Mr. McFall, Director of Planning John Carpenter, and Police Chief Dan Montgomery answered questions posed by the Mayor and Councillors.

The hearing was closed at 10:49 P.M.

FIRST AMENDED INTERCHANGE BUSINESS CENTER PDP

It was moved by Dittman, seconded by Davia, to approve the First Amended Interchange Business Center Preliminary Development Plan within the Interchange Business Center Planned Unit Development. This action was based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code had been met. Each member of City Council commented on the basis for their vote. At roll call, the motion passed unanimously.

INTERCHANGE BUSINESS CENTER ODP (WAL-MART)

Councillor Dittman moved, Davia seconded, to approve the Interchange Business Center Official Development Plan Wal-Mart within the Interchange Business Center Planned Unit Development. This action was based on a finding the criteria set forth in Section 11-5-15 of the Westminster Municipal Code had been met.

Councilor Dixon moved, seconded by Dittman, to amend the motion and modify provision V of the ODP to read, "Overnight camping and parking of semi tractor trailers, recreational vehicles, and commercial delivery trucks is prohibited and signs will be posted in the parking lots accordingly." The motion passed unanimously at roll call.

The roll was called on the amended motion, and it carried unanimously.

ADJOURNMENT:

There was no further business to come before Council, and the meeting adjourned at 11:34 P.M.

ATTEST:

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

\_\_\_\_\_  
Mayor



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** 2004 Comprehensive Annual Financial Report

**Prepared By:** Cherie Sanchez, Accounting Manager

**Recommended City Council Action:**

Accept the 2004 Comprehensive Annual Financial Report (CAFR).

**Summary Statement:**

The 2004 CAFR represents the culmination of the City's financial transactions that occurred during 2004 and its financial position at December 31, 2004. The financial statements can be used in assessing the City's financial and economic condition by Citizens, City Council, investors, creditors, and others.

Section 9.10 of the City Charter mandates an annual audit of the City's financial statements by certified public accountants, experienced in municipal accounting. This audit was performed by the City's independent audit firm, Clifton Gunderson, LLP. Clifton Gunderson rendered an unqualified opinion of the City's financial statements. An unqualified opinion means that the City's financial statements are fairly presented in all material respects in conformity with Generally Accepted Accounting Principles (GAAP).

Staff primarily responsible for completing the 2004 CAFR includes Interim Accounting Manager Cherie Sanchez, Accountants Vicki Adams and Sam Trevino, Internal Auditor Karen Creager, Financial Analyst Bob Byerhof, Accounting Technicians Leslie Krough and Karen Elrod, Pension Benefits Specialist Kim McDaniel, and Administrative Secretary Brenda Brock. Every element of City SPIRIT underlies the final 2004 CAFR as a result the hard work and dedication of this highly qualified team.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should Council accept the 2004 Comprehensive Annual Financial Report as presented? Colorado Revised Statute, Section 29-1-606 states that local government audits are required within six months after the close of the fiscal year. The City's independent audit firm, Clifton Gunderson, has performed an audit of the 2004 CAFR and has opined that the City's financial statements are fairly presented in all material respects in accordance with GAAP. The CAFR was presented to City Council at the June 6, 2005 Study Session for review and discussion. Upon Council's formal approval, the audit report will be filed with the State of Colorado. The deadline to submit the final audited CAFR to the State is June 30, 2005.

**Alternative**

Postpone acceptance of the 2004 Comprehensive Annual Financial Report to a later City Council meeting. Postponing the June 13 acceptance is not recommended due to the upcoming June 30 deadline to comply with Colorado State Statutes on audits of local governments. Delaying the acceptance may make meeting the June 30 deadline prohibitive, particularly if changes are requested. Consequences for not complying with the State mandate range from receiving delinquent notices to deferment of tax distributions from the counties.

**Background Information**

The 2004 Comprehensive Annual Financial Report contains an abundance of information that can be utilized to evaluate the City's financial condition and its operational and fiscal accountability for the year. Economic overviews, financial analyses, financial statements, disclosure notes, budgetary compliance schedules, trend information, and single audit information provide a comprehensive summary of the City's finances and other relevant information for the 2004 audit year.

In compliance with the Section 9.10 of the City Charter, Clifton Gunderson, LLP, conducted an independent audit of the City's financial statements for all funds reported in the Comprehensive Annual Financial Report and gave an unqualified opinion.

A financial analysis of the 2004 CAFR was presented to Council at the June 6, 2005 Study Session, at which time representatives from Clifton Gunderson were on hand to answer Council's questions and to discuss their recommendations to management.

Council is now requested to officially accept the City's 2004 Comprehensive Annual Financial Report as presented.

Printed copies of the CAFR will be available in two to four weeks after City Council officially accepts the report.

Respectfully submitted,

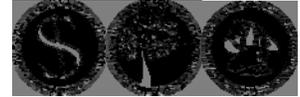
J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Contract Award for the Big Dry Creek Wastewater Treatment Facility Renovation and Expansion Project-Wastewater Interceptor Diversion

**Prepared By:** Kent W. Brugler, Senior Engineer, Public Works & Utilities  
Abel Moreno, Capital Projects and Budget Manager  
Jim Arndt, Director of Public Works & Utilities

**Recommended City Council Action:**

1. Based on the recommendation of the City Manager, the City Council finds that the public interest would best be served by awarding this work to Lillard & Clark Construction Inc. as the sole source of the work in the amount of \$145,000, along with a contingency in the amount of \$10,000;
2. Award the contract to Lillard & Clark Construction Inc. and charge the expense to the Utility Fund Capital Improvement Account.

**Summary Statement:**

- The design phase of the renovation and expansion of the Big Dry Creek Wastewater Treatment Facility is nearly complete, with construction anticipated to begin in late July.
- This project involves the construction of a wastewater interceptor diversion structure and pipeline to move flow from a smaller, older pipeline to a larger, newer pipeline upstream of the plant in preparation for the revised flow patterns associated with the main plant expansion and the pipeline changes being completed as part of the Huron Street widening project.
- The City competitively selected Lillard & Clark Construction Co., Inc. as the Construction Manager/General Contractor for the renovation and expansion project, and staff has successfully negotiated a competitive construction cost for this project involving the interceptor diversion. This cost has been independently verified as reasonable and competitive by Sorenson Engineering, Inc., acting as the City's Owner's Representative during the project.
- It is appropriate to award this project as a sole source contract due to the unique and thorough understanding that Lillard & Clark Construction, Inc. has developed due to their involvement in the expansion project to date, and due to the timing of the work as it relates to the Huron Street work and to the main plant expansion project.
- By awarding this project at this time, the wastewater flows can be diverted away from the Huron Street widening project work zone allowing that work to proceed on schedule. Delaying this work would likely result in a delay to the completion of the pipeline work associated with the Huron Street project.

**Expenditure Required:** \$155,000

**Source of Funds:** Utility Fund Capital Improvement Program-128<sup>th</sup> & Pecos Diversion Project

### **Policy Issue**

Should the City award the negotiated contract to Lillard & Clark Construction Company, Inc. for the wastewater diversion project portion of the Big Dry Creek Wastewater Treatment Facility Renovation and Expansion project?

### **Alternatives**

- Do not award the negotiated contract to Lillard & Clark and request proposals from other contractors. This would delay the start of construction by at least two months, cause a potential delay to the schedule for the Huron Street widening project, and may result in a higher cost to complete the work.
- Combine this project with the larger treatment plant expansion project and complete them both under one construction contract. This would delay the start of construction by approximately 1-1/2 months and may cause a delay to the schedule for the Huron Street widening project.

### **Background Information**

The Big Dry Creek Wastewater Treatment Facility must be renovated and expanded to accommodate increasing flows and organic loadings, improve the efficiency and reliability of the treatment process, meet emerging discharge standards and replace aging equipment that has reached its useful life. The planning and design phases of this project have recently been completed, and construction is anticipated to begin in late July. Due to the size and complexity of the project, the construction manager/general contractor process was selected as the preferred method to complete the design and construction of the project. Under this process, an engineering firm is selected to complete the design of the project and a contractor, acting as the construction manager/general contractor (CM/GC), is competitively selected to provide design phase assistance including cost estimating, constructability reviews of the design, establishing the sequence of the work and conducting value engineering reviews. The CM/GC and the City then negotiate the Guaranteed Maximum Price for the construction of the project, based on the construction phase expenses and overhead and profit mark-ups that the CM/GC provided during the competitive selection process. Camp, Dresser & McKee, Inc. was awarded the design contract on July 14, 2003, and Lillard & Clark Construction Company, Inc. was awarded the CM/GC contract for design phase services only on July 26, 2004. City staff is currently negotiating the Guaranteed Maximum Price contract for construction services with Lillard & Clark, and anticipate bringing this contract to City Council for approval on July 11. The total project costs, including all design, construction, inspection, project contingency, owner's representative services and other construction phase costs, are currently estimated to be \$44,725,000, with the construction costs estimated at \$38,000,000. This is in agreement with the 2005 Capital Improvement Program as modified by City Council on May 23, 2005.

In preparation for the start of the construction at the treatment facility and in conjunction with the Huron Street widening project currently under construction, wastewater flow upstream of the plant and west of Huron Street, near 128<sup>th</sup> and Pecos Street, must be diverted from an older, smaller pipeline to a newer, larger pipeline. This diversion will remove a large portion of the existing wastewater flow from the Huron Street work area in the vicinity of the bridge crossing over Big Dry Creek, and will facilitate the timely completion of the wastewater pipeline relocation on Huron Street. It will also move a larger percentage of the wastewater flow to a location entering the plant site that is more suitable for the revised layout of the expanded facility.

The design of this diversion project was completed by Sorenson Engineering, Inc., the same firm currently providing owner's representative services to the City for the plant renovation and expansion project, at a cost not to exceed \$19,900.

**SUBJECT:** Contract Award for the Big Dry Creek Wastewater Treatment  
Facility Renovation and Expansion Project-Wastewater Interceptor Diversion

Page 3

Using the costing framework provided under the CM/GC selection process for the plant renovation and expansion project, City staff negotiated a Guaranteed Maximum Price cost with Lillard & Clark for the construction of the diversion in the amount of \$145,000. This cost has been independently reviewed by Sorenson Engineering and found to be reasonable and competitive for this type of work. Staff recommends that a construction contingency of \$10,000 be established for this project to cover any unforeseen conditions that may be encountered during construction. These costs are within the \$175,000 budgeted for this project in the 2005 Capital Improvement Program.

Staff recommends that this project be awarded as a sole source contract and be completed as soon as possible in advance of the start of the main plant construction in order for the work related to the Huron Street project to proceed on schedule. Delaying this project by soliciting additional bids or by combining it with the main plant project will impact the start of construction by 1-1/2 to 3 months and will potentially cause a delay to the completion of the work associated with the Huron Street widening project.

The attached map shows the location of this diversion project.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Open Space along Walnut Creek at 104<sup>th</sup> & Wadsworth Boulevard

**Prepared By:** Ruth C. Becker, Open Space Coordinator

**Recommended City Council Action**

Authorize the City Manager to execute an Exchange Agreement and all necessary closing documents for the acquisition of the two (2) acre Camalick property located at 10425 Wadsworth Boulevard as open space, and the conveyance to the Camalicks of the house and a surrounding lot of approximately 1.5 acres on City open space located at 10620 Wadsworth Boulevard. The agreement will provide that the City will receive \$100,000 from the Camalicks in addition to the two (2) acre lot at 10425 Wadsworth Boulevard. Funds will be credited to the open space land purchases account.

**Summary Statement**

- Staff has negotiated the purchase of the two (2) acre Camalick parcel at 10425 Wadsworth Boulevard, along Walnut Creek, in exchange for a portion of the City's open space property at 10620 Wadsworth Boulevard and a payment of \$100,000 from the Camalicks to the City. The portion of the City's open space property to be conveyed to the Camalicks is the existing residence and a lot of approximately 1.5 acres that will be created around the existing residence, purchased from Sylvia Walker in 2004.
- The exchange will allow the City to expand the Walnut Creek corridor, without the expenditure of funds by the City. It will also allow the City to obtain an additional approximately \$100,000 for the open space land purchases account and eliminate a vacant house from City inventory.
- City Council previously approved the purchase of the eight (8) acre Camalick parcel along Walnut Creek, a #1 Priority for the Open Space Advisory Board. The Camalicks have been unwilling to sell the eight (8) acre parcel separately from the exchange described above. Approving the exchange will allow the City to complete its acquisition of the final link along the proposed Walnut Creek Trail.
- Acquiring the two (2) acre Camalick parcel provides the City with flexibility to preserve key open space and assemble a large parcel of open space along Walnut Creek.
- Selling the vacant Walker house allows the City to remove a vacant, unproductive asset from City inventory, eliminate a potential management problem and vandalism target from City inventory, and place the proceeds into the open space land purchases account to be used to acquire additional open space parcels in the future.

**Expenditure Required:** \$0. The exchange will bring income of approximately \$100,000 to the City's Open Space Land Purchases account.

**Source of Funds:** N/A

**Policy Issue:**

Should the City trade a portion of an existing City Open Space (a residence and surrounding lot) in order to obtain additional vacant land for open space and additional funds to apply to future open space purchases?

**Alternatives**

1. Not agree to the exchange. This alternative is not recommended because staff believes the acquisition is in a key location along Walnut Creek and the property owner will not sell his other eight (8) acre property along Walnut Creek, a #1 priority for the Open Space Advisory Board, to the City unless this exchange is finalized.
2. Sell the Walker house on the open market. This alternative is not recommended because staff believes the acquisition of the Camalick parcels along Walnut Creek are the City's key objective. While selling the house on the open market might generate some additional revenue, the City would not obtain the Camalick parcels, priority acquisitions for the open space program.

**Background Information**

The City acquired the Walker property for \$550,000 in March, 2004. The property includes a lot of approximately 4 acres, a residence and a barn. The Walker acquisition was important to preserve the shoreline of Lower Church Lake and to allow for a trail to be constructed around the lake in the future. The City purchased the Walker property, in spite of the residence, and with no plans for use of the residence. Since acquisition, the Walker residence has been vacant. As owner, the City is required to maintain the property and pay utilities, which are additional maintenance responsibilities and expenses for a department that is not in the business of owning houses. Continuing to allow the house to sit vacant is not good for the neighborhood and creates the potential for vandalism.

The Camalicks, who own property along Walnut Creek at 104<sup>th</sup>, west of Wadsworth Boulevard, expressed interest in acquiring the Walker house. City Council approved the purchase of the Camalicks eight (8) acre parcel along both sides of Walnut Creek at West 103<sup>rd</sup> Avenue and Zephyr Street for \$540,000 on October 25, 2004 (Agenda Item 8D). At that time, the Council also agreed to grant the Camalicks an option to purchase and move the Bott Log House (at 103<sup>rd</sup> and Wadsworth Boulevard) to the Camalicks two (2) acre parcel. The Camalicks investigated that possibility and found that it would not be possible to move the Bott house under the train tracks to their two (2) acre parcel. Negotiations have continued with the Camalicks, but they have not signed a purchase and sale agreement for the City to complete the acquisition of their eight (8) acre parcel for \$540,000. Recently, Jeff Camalick indicated to staff that he would be interested in acquiring the Walker house. Mr. Camalick also indicated to staff that he is not willing to sell his eight (8) acre parcel (a #1 priority for the Open Space Advisory Board) unless the City completes the exchange of the Walker property for his two (2) acre parcel, located just to the north of the Camalick's eight (8) acre parcel. The two (2) acre Camalick parcel, which is the subject of this exchange, is listed as a #2 open space priority for the Open Space Advisory Board. Staff recommends that the exchange be contingent upon the City closing on the purchase of the Camalicks' eight (8) acre parcel.

The negotiated purchase price for the Camalicks' eight (8) acre parcel, approved by City Council, is \$540,000 or approximately \$67,500 per acre or \$1.55 per square foot. If City Council approves the exchange, the City will acquire ten (10) acres of land along Walnut Creek for a purchase price of \$440,000 (\$540,000 less \$100,000 to be paid by the Camalicks to the City for the exchange). That equates to \$44,000 per acre for 10 acres or \$1.01 per square foot, from City revenues. (The City would also be conveying the residence and lot, an asset, but not a cash asset.) In addition, the City anticipates receiving funding from Urban Drainage and Flood Control District of up to \$200,000 to further reduce the purchase price for the Camalick property.

The City Code provides in Section 13-5-3 that “In certain cases, it may be necessary to acquire a total property in order to preserve a portion of the property as open space. In such cases, the City may determine to dispose of the remainder, and the open space fund shall be reimbursed the current market value of the disposed land at the time of its sale, or the cost of that land at the time of its original acquisition, whichever is higher.”

Staff believes that the proceeds of approximately \$100,000 from the exchange plus the two acre Camalick parcel have a combined value that is roughly equivalent to the value of the Walker property lot that is being conveyed to the Camalicks. The entire Walker parcel of approximately 4 acres and a residence was purchased by the City for \$550,000 in 2004. The City obtained appraisals for the Walker house and lot and for the Camalick two acre parcel. The Walker house and lot were valued at \$400,000 and the Camalick two acre parcel at \$205,000. The difference of \$195,000 is greater than the difference being paid by the Camalicks, but the Camalicks will only convey their other eight (8) acre parcel if the exchange is completed. The value to the City of obtaining the Walnut Creek priority open space parcels compensates for the difference between the appraised values and the exchange price.

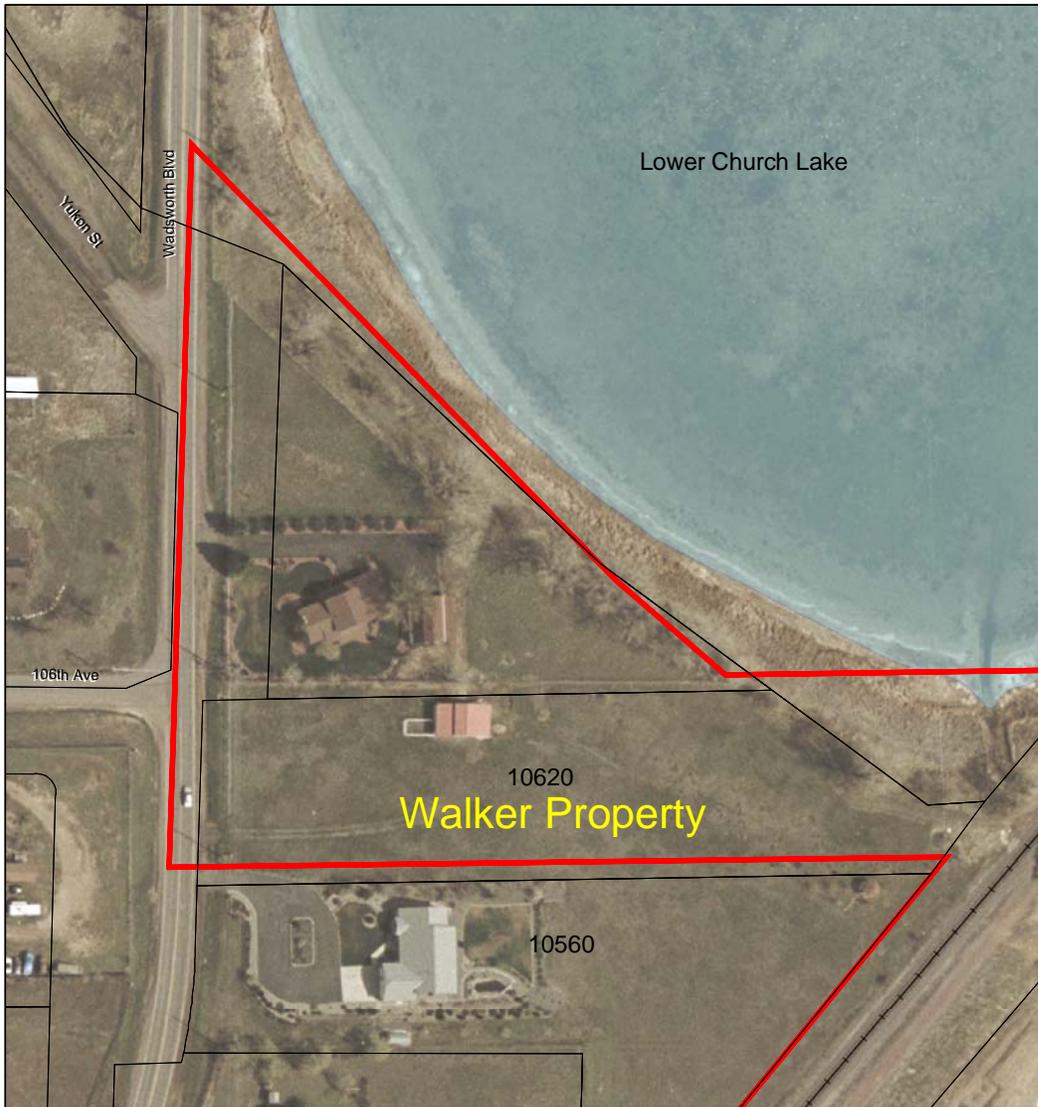
Staff believes this is an excellent exchange. Overall, the City acquires a Priority 1 open space parcel and a Priority 2 open space parcel, reduces the cash outlay by the City for the purchase, and eliminates a management responsibility, the Walker house. The City will retain the acreage around the Walker residence for a trail around Lower Church Lake and will also retain frontage along Wadsworth Boulevard for future widening of the road. The City might be able to sell the Walker house for more on the open market, but the City’s goal has been to purchase the Walnut Creek parcels, and that is only possible with the Camalicks’ cooperation.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment: Maps  
Walker House and Lot  
Camalick 8 acre parcel and 2 acre parcel

# Walker Property and Proposed Residence Lot

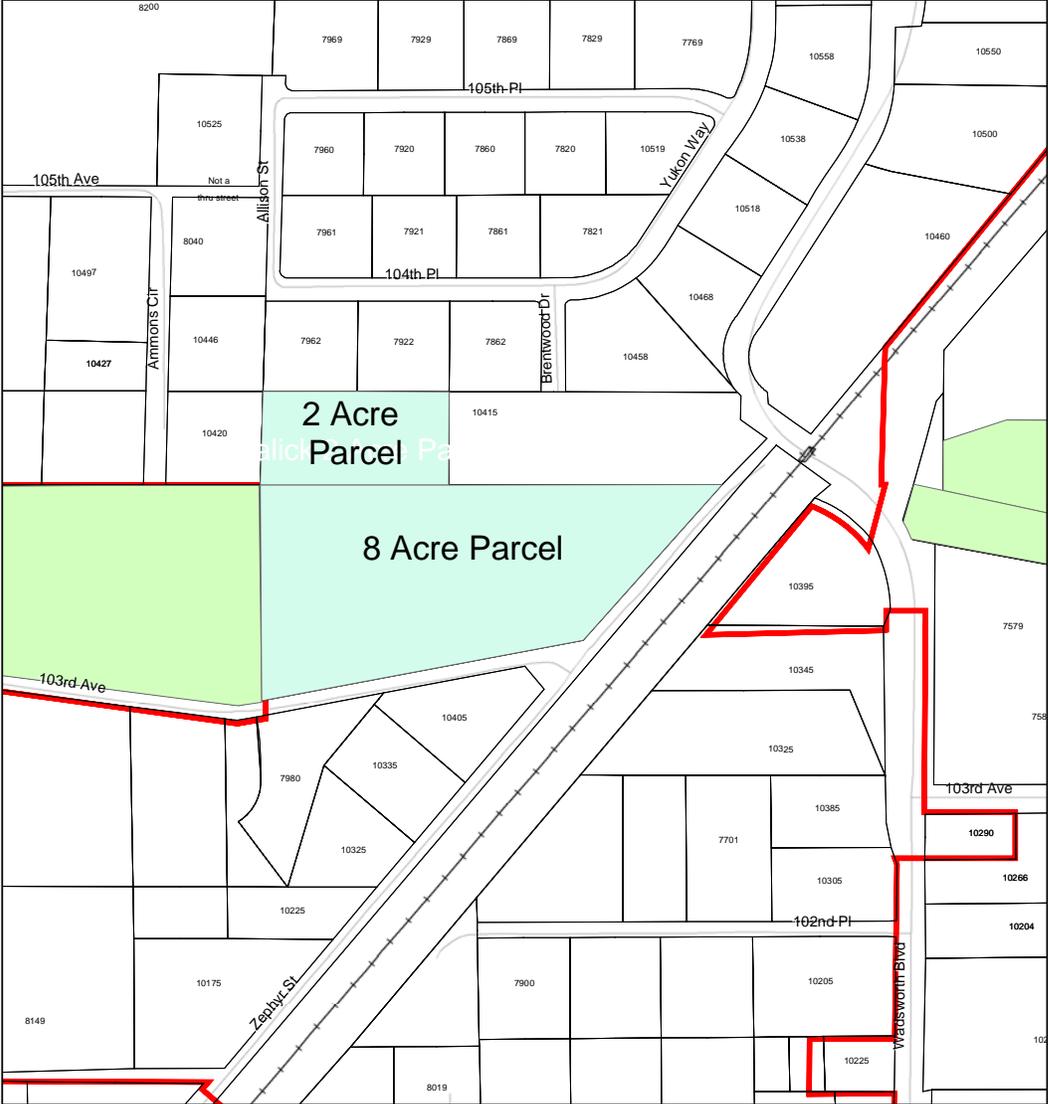


**City of Westminster**

Scale



# Camalick Parcels



City of Westminster

Scale

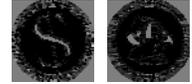




**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Drainage Improvements at 104<sup>th</sup> Avenue and Bryant Street and at Tennyson Court

**Prepared By:** John Burke, Senior Engineer

**Recommended City Council Action:**

Authorize the City Manager to execute a contract for the construction of drainage improvements at 104<sup>th</sup> Avenue and Bryant Street and Tennyson Court with the low bidder, Goodland Construction, Inc., in the amount of \$196,007.25 and authorize a total project budget of \$215,607.25, which includes a \$19,600 construction contingency.

**Summary Statement:**

- Severe rainstorms in 2004 impacted various areas in the City of Westminster. Two of the worst situations flooded the basement of a single family residence near 104<sup>th</sup> Avenue and Bryant Street and one at the end of a cul-de-sac at 10386 Tennyson Court.
- In response to this flooding, the City hired an engineering consultant to evaluate the situation and prepare construction drawings that will protect the properties as much as possible from future flooding.
- Storm Water Utility funds were utilized to pay the engineering design fees and will also be used for this construction project.
- City Council action is requested to award the bid for the drainage improvements at 104<sup>th</sup> Avenue and Bryant Street and Tennyson Court to Goodland Construction, Inc. and authorize the City Manager to execute that contract in the amount of \$196,007.25 along with a construction contingency of \$19,600 for the construction of drainage improvements at the two locations.

**Expenditure Required:** \$215,608

**Source of Funds:** Storm Water Utility Fund

**Policy Issue**

Should the City pursue construction work that will mitigate the flooding of homes at these two locations?

**Alternative**

The City has no legal obligation to undertake these projects. However, the City’s Storm Water Utility was established to address these very types of local drainage problems. Staff recommends that Storm Water Utility funds be put to use on these improvements projects.

**Background Information**

Severe rainstorms in 2004 impacted various areas in the City of Westminster. Two of the worst situations flooded the basement of a single family residence near 104<sup>th</sup> Avenue and Bryant Street and another one at the end of a cul-de-sac at 10386 Tennyson Court.

Specifically, runoff from a roadside ditch on 104<sup>th</sup> Avenue overtopped an inlet and continued to the north through the backyard of the residence at 2522 104<sup>th</sup> Circle, flooding the basement with approximately six feet of water. City crews installed some concrete barriers on the 104<sup>th</sup> Avenue sidewalk to temporarily alleviate this flooding. To permanently remedy this situation, a concrete retaining wall will be installed adjacent to the sidewalk in the area of flooding which will keep the storm water in the street versus the backyards of the single family homes.

The Tennyson Court flooding occurred as a result of a storm sewer system that reached capacity, thus allowing storm water to enter the window well of 10386 Tennyson Court. This project will construct an emergency overflow channel between two of the single family homes that will allow the storm runoff to spill into the Farmers’ High Line Canal. The City has obtained a license agreement with the Farmers’ High Line Canal to construct this overflow.

Bid requests for this project were sent to seven City of Westminster pre-qualified contractors. Two contractors submitted bids, the results of which are as follows:

<b>Contractor</b>	<b>Bid</b>
Goodland Construction, Inc.	\$196,007.25
Arrow J Landscape, Inc.	\$210,146.76

The unit prices for these bids were found to be comparable to unit prices on similar work completed in the City of Westminster. Additionally, the two independent bids were within seven percent of each other, which further confirms the total cost is reasonable for this project.

The low bidder, Goodland Construction, Inc., has met all of the bid requirements and has successfully completed projects for the City of Westminster in years past. Staff is recommending award of the contract to Goodland Construction, Inc. Construction will begin in early July and should be completed by mid-September 2005.

Respectfully submitted,

J. Brent McFall  
City Manager

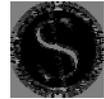


## Agenda Item 8 E

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
June 13, 2005



**SUBJECT:** Quarterly Insurance Report: January - March 2005

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

#### **Recommended City Council Action:**

Accept the 1<sup>st</sup> Quarter 2005 Insurance 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 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 our contract with the Colorado Intergovernmental Risk Sharing Agency (CIRSA), CIRSA acts as the City's claims adjustor 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 1<sup>st</sup> quarter of 2005 is provided on the attached spreadsheet.

For the 1<sup>st</sup> quarter of 2005, Staff has noted the following summary information:

- Only two of the six claims reported in the 1<sup>st</sup> quarter of 2005 remain open at this time.
- Total claims for the quarter breakdown by department as follows:

	1st Qtr 2005			YTD
Department	Total Claims	Open	Closed	Total
Fire	1	0	1	1
Police	2	1	1	2
PR&L	1	1	0	1
PWU - Streets	1	0	1	1
PWU - Utilities	1	0	1	1
<b>TOTAL</b>	<b>6</b>	<b>2</b>	<b>4</b>	<b>6</b>

The attached report provides detailed information on each claim made during the first quarter of 2005.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment





**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Second Reading of Councillor’s Bill No. 26 re Vacation of Easements within Lots 9 and 10 of the Ball Campus Subdivision

**Prepared By:** Melanie Walter, Senior Civil Engineer

**Recommended City Council Action:**

Pass Councillor’s Bill No. 26 on second reading vacating certain easements on Lots 9 and 10 of the plat for Ball Campus Subdivision recorded at Book No. 57, Page No. 6, and Reception No. 78096994 in the records of Jefferson County.

**Summary Statement**

- An 80-foot wide drainage easement and a 16-foot wide utility easement were granted to the City for public use by the final plat for Ball Campus Subdivision on October 18, 1978.
- Because a building expansion on Lot 9 is being planned, and since there are no existing or future utilities or public drainage facilities planned in these easements, the property owner is requesting the vacation of these easements. Minor on-site drainage needs will be met by creation of a smaller private drainage easement.
- A Councillor’s Bill authorizing the vacation, and including the legal description of both easements, is attached to this agenda memorandum for action by City Council.
- City Council action is requested to pass the attached Councillors Bill on second reading vacating certain easements on Lots No. 9 and 10 of the plat for Ball Campus Subdivision recorded at Book No. 57, Page No. 6, and Reception No. 78095994 in the records of Jefferson County.
- This Councillor’s Bill was passed on first reading on May, 23, 2005.

**Expenditure Required:** N/A

**Source of Funds:** N/A

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

BY AUTHORITY

ORDINANCE NO. **3211**  
SERIES OF 2005

COUNCILLOR'S BILL NO. **26**  
INTRODUCED BY COUNCILLORS  
**DITTMAN - PRICE**

A BILL

FOR AN ORDINANCE VACATING AN 80-FOOT DRAINAGE EASEMENT AND A 16-FOOT UTILITY EASEMENT WITHIN LOTS 9 AND 10 OF THE BALL CAMPUS SUBDIVISION

WHEREAS, certain easements were dedicated on the final plat for Ball Campus Subdivision, Book No. 57, Page No. 6, and Reception No.78095994 in the County of Jefferson; and

WHEREAS, the 16-foot utility easement between Lots 9 and 10 contains no utility facilities nor is it necessary for future drainage or utility purposes; and

WHEREAS, the 80-foot drainage easement on the west side of Lots 9 and 10 contains no utility facilities nor is it necessary for future public drainage or utility purposes in the future; and

WHEREAS, the property owner will provide a 20-foot wide drainage easement to satisfy local drainage needs and replace the 80 foot wide easement.

NOW THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the easements in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility and Drainage Easements: See attached legal description, exhibit A.

Section 3. This ordinance shall take effect upon its passage after second reading. 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 23rd day of May, 2005. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of June, 2005.

ATTEST:

\_\_\_\_\_  
Mayor

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

**EXHIBIT A**  
**BALL CAMPUS SUBDIVISION, LOTS 9 AND 10**

**DRAINAGE AND UTILITY EASEMENT VACATION**

VACATION OF A PORTION OF A 80 FOOT WIDE DRAINAGE EASEMENT WITHIN LOTS 9 AND 10 AS SHOWN ON THE BALL CAMPUS SUBDIVISION FINAL PLAT RECORDED BY RECEPTION NUMBER 78095994, ALL BEING LOCATED IN THE NORTHWEST ONE QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF SAID 80 FOOT WIDE DRAINAGE AND UTILITY EASEMENT LOCATED ALONG THE WESTERLY LINE OF LOTS 9 AND 10 WITHIN SAID BALL CAMPUS SUBDIVISION. SAID VACATED PORTION OF DRAINAGE AND UTILITY EASEMENT CONTAINS 2.10 ACRES (91,481 SQUARE FEET) MORE OR LESS.

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE CITY OF WESTMINSTER HORIZONTAL CONTROL NETWORK BEARING OF N00°15'42"W ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6<sup>TH</sup> P.M. AND BEING MONUMENTED BY A 2" PIPE WITH A 2 ½" CAP LS NO. 2149 AT THE WEST QUARTER CORNER OF SECTION 10 AND A 2" PIPE WITH A 2 ½" CAP IN MOUND OF STONES LS NO. 2149 AT THE NORTHWEST CORNER OF SECTION 10.

**UTILITY EASEMENT VACATION**

VACATION OF A PORTION OF A 16 FOOT WIDE UTILITY EASEMENT AS SHOWN ON THE BALL CAMPUS SUBDIVISION FINAL PLAT RECORDED BY RECEPTION NUMBER 78095994, ALL BEING LOCATED IN THE NORTHWEST ONE QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF SAID 16 FOOT WIDE UTILITY EASEMENT, BEING 8 FOOT IN WIDTH ON EACH SIDE OF THE COMMON LOT LINE BETWEEN LOTS 9 AND 10 WITHIN SAID BALL CAMPUS SUBDIVISION. SAID VACATED PORTION OF UTILITY EASEMENT CONTAINS 0.175 ACRES (7,604 SQUARE FEET) MORE OR LESS.

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE CITY OF WESTMINSTER HORIZONTAL CONTROL NETWORK BEARING OF N00°15'42"W ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE 6<sup>TH</sup> P.M. AND BEING MONUMENTED BY A 2" PIPE WITH A 2 ½" CAP LS NO. 2149 AT THE WEST QUARTER CORNER OF SECTION 10 AND A 2" PIPE WITH A 2 ½" CAP IN MOUND OF STONES LS NO. 2149 AT THE NORTHWEST CORNER OF SECTION 10.

PREPARED BY TOD BUNKER  
FOR AND ON BEHALF OF  
MARTIN/MARTIN, INC.  
12499 WEST COLFAX AVENUE  
LAKEWOOD, COLORADO 80215  
OCTOBER 18, 2004

**BALL CAMPUS  
DRAINAGE AND UTILITY EASEMENT VACATION**  
SHEET 3 OF 3

NW COR., SEC. 10 T2S, R69W,  
6TH P.M. FND. 2" POST W/ALUM.  
CAP LS #2149



NOTE: THIS EXHIBIT DOES NOT  
REPRESENT A MONUMENTED  
SURVEY. IT IS INTENDED ONLY  
TO DEPICT THE ATTACHED  
DESCRIPTION.

LOT 10,  
BALL CAMPUS  
SUBDIVISION

EXISTING UTILITY  
EASEMENT  
(REC. NO. 78095994)

VACATED UTILITY &  
DRAINAGE EASEMENT  
PARCEL  
2.100 AC.

N38°56'03"W 16.00'

WEST 108TH CIRCLE

EXISTING PSGO  
EASEMENT  
(REC. NO. 78095994)

S52°13'57"W 476.01'  
N52°13'57"E 486.53'

VACATED UTILITY  
EASEMENT PARCEL  
0.177 AC.

LOT 9,  
BALL CAMPUS  
SUBDIVISION  
(REC. NO. 78095994)

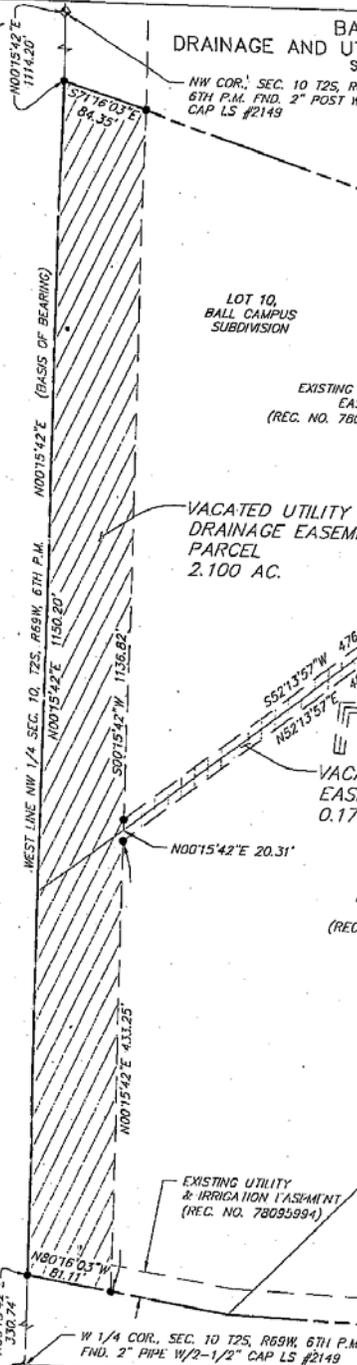
LOT 8,  
BALL CAMPUS  
SUBDIVISION  
(REC. NO. 78095994)

BASIS OF BEARINGS:  
BEARINGS ARE BASED ON AN ASSUMED  
BEARING OF N00°15'42"E ALONG THE  
WEST LINE OF THE NORTHWEST QUARTER  
OF SECTION 10.

OCTOBER 14, 2004

**MARTIN / MARTIN**  
CONSULTING ENGINEERS

12499 WEST COLFAX AVE.  
P.O. BOX 151500  
LAKEWOOD, CO 80216  
303.431.0100  
FAX 303.431.4028



PROJECT: BALL CAMPUS SUBDIVISION, SEC. 10, T2S, R69W, 6TH P.M. FND. 2" PIPE W/2-1/2" CAP LS #2149



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Second Reading of Councillor's Bill No. 27 re the Farmers' High Line Canal Trail Construction Supplemental Appropriation

**Prepared By:** Brad Chronowski, Landscape Architect II

**Recommended City Council Action:**

Pass Councillor's Bill No. 27 on second reading providing for a supplemental appropriation to the General Capital Improvement Fund.

**Summary Statement:**

- This Councillor's Bill will appropriate \$230,400 in grant money for the Farmers' High Line Canal Trail Construction project. The grantor is Transportation Equity Act of the 21<sup>st</sup> Century. The project is administered by the Colorado Department of Transportation.
- This grant money will be used to construct the Farmers' High Line Canal Trail between 91<sup>st</sup> Avenue and Wadsworth Parkway and 92<sup>nd</sup> Avenue and Pierce Street.
- This Councillor's Bill was passed on first reading on May 23, 2005.

**Expenditure Required:** \$230,400

**Source of Funds:** General Capital Improvement Funds

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO. **3212**  
SERIES OF 2005

COUNCILOR'S BILL NO. **27**  
INTRODUCED BY COUNCILLORS  
**DAVIA - DIXION**

**A BILL**

**FOR AN ORDINANCE AMENDING THE 2005 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2005 ESTIMATED REVENUES IN THE FUND.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2005 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3162 in the amount of \$7,587,000 is hereby increased by \$230,400 which, when added to the fund balance as of the City Council action on May 23, 2005 will equal \$8,068,650. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. The appropriation is due to the receipt of a TEA-21 grant from the Colorado Department of Transportation.

Section 2. The \$230,400 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

<b>REVENUES</b>				
Description	Account Number	Current Budget	Amendment	Revised Budget
Fed T-21	7500.40610.0019	\$0	\$230,400	\$230,400
Total Change to Revenues			\$230,400	

<b>EXPENSES</b>				
Description	Account Number	Current Budget	Amendment	Revised Budget
Trails Development	80175050167.80400.8888	\$512,425	\$(63,360)	\$449,065
Farmer's Hi Line Trail	80575050406.80400.8888	118,000	293,760	411,760
Total Change to Expenses			\$230,400	

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 AND PUBLISHED this 23rd day of May, 2005. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of June, 2005.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Councillor's Bill No. 29 re 2005 CDBG Fund Appropriation

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

**Recommended City Council Action:**

Pass Councillor's Bill No. 29 on first reading to appropriate 2005 CDBG funds in the amount of \$642,212.

**Summary Statement:**

- City Council action is requested to pass the attached Councillor's Bill on first reading appropriating the city's 2005 Community Development Block Grant (CDBG) funds in the amount of \$642,212, awarded by the U.S. Department of Housing and Urban Development (HUD).
- The 2005 CDBG allocation of \$642,212 was designated to fund the 2005 CDBG projects, pursuant City Council approval on November 22, 2004.
- CDBG funding has been decreasing for three years, from \$696,000 in 2003, to \$681,000 in 2004, and \$641,212 in 2005, a total reduction of \$54,788.
- HUD approved the City's 2005 CDBG Action Plan on April 25, 2005. The 2005 Action Plan outlines the City's goals and priorities, within the statutory mandate of the federal CDBG program, for use of the 2005 CDBG allocation.

**Expenditure Required:** \$642,212

**Source of Funds:** 2005 Community Development Block Grant Funds

**Policy Issues**

- Should the 2005 CDBG funds in the amount of \$642,212 be appropriated to the 2005 CDBG projects as previously approved by City Council on November 22, 2004?
- If the City fails to spend the money in a timely manner, HUD may reduce the City's allocation of CDBG funds in subsequent years.

**Alternative**

- Decline the Community Development Block Grant funding from the U.S. Department of Housing and Urban Development. This is not recommended due to the important projects funded with CDBG funds.

**Background Information**

The 2005 CDBG budget and projects were developed from input provided by Westminster residents, City Staff, and independent organizations operating in the City. Public notices and citizen comment periods were used to solicit community input on the development of the 2005 CDBG Action Plan approved by HUD on April 25, 2005. CDBG funds are used for community development projects, which primarily benefit the City's low- to moderate-income populations and address blight conditions in the City.

When City Council approved the 2005 projects on November 22, 2004, it was expected that the City's grant would be reduced about \$7,000 to \$674,000 in 2005. The grant was reduced, however, to \$642,212, requiring last-minute cuts to some CDBG-funded activities in 2005.

The projects approved for 2005 and the reductions in amounts allocated based on the smaller CDBG grant are as follows:

<b>Project</b>	<b>Anticipated Amount November, 2004</b>	<b>Actual Amount May, 2005</b>
Program administration (20% of grant)	\$134, 800	\$128,442.40
Lowell Blvd Streetscape Improvements (Phase I)	439,200	417,469.60
Human Services Advisory Board Recommendations (8 agencies)	100,000	96,300.00
<b>TOTAL</b>	<b>\$674,000</b>	<b>\$642,212.00</b>

**2005 CDBG Program Administration** **\$128,442.40**

HUD allows grantees to utilize up to 20% of the CDBG funding for administration and planning expenses. Program administration funds cover the salaries of the Community Development Programs Coordinator and one full-time Secretary. Administrative costs associated with the administration of the CDBG program include: professional/consultant fees, meeting expenses, professional training, supplies and materials, studies, and environmental reviews. HUD requires the City to provide a number of services that require a significant amount of staff time. Those duties include submission of the five-year Consolidated Plan, preparation of the annual action and performance reports, hosting citizen participation activities and community meetings, monitoring minority business contract reports, conducting environmental reviews, compliance with the Davis-Bacon wage act, national objective and eligibility review, contracting and procurement regulatory procedures. When the City began allocating CDBG funds to human services agencies in 2002, the amount of paperwork and monitoring activity by City staff increased significantly.

***Lowell Boulevard Streetscape Improvements (Construction Phase I)***

***\$417,469.60***

The proposed funding would be used in conjunction with \$274,000 of 2004 CDBG funds to provide the full construction funding necessary to complete Phase I of the project, beginning at 73<sup>rd</sup> Avenue and ending at either 75<sup>th</sup> or 76<sup>th</sup> Avenues dependent upon contractors' bids. The funds will be used to provide streetscape improvements including street reconstruction and repaving, decorative pedestrian street lighting, sidewalks, handicap-accessible curb ramps, incorporating an eight-foot wide sidewalk along the east side of the street to accommodate an off-street bicycle trail, landscaping improvements, and the undergrounding of overhead utilities. The project was provided 2002 and 2003 CDBG funds for the preparation of construction plans. Phase I is expected to be bid and built this summer.

***Human Service Advisory Board Non-Profit Funding Recommendations***

***\$96,300.00***

The following programs and projects, totaling \$96,300, were previously approved by City Council on November 22, 2004:

Adams County Housing Authority \$16,000

To pay for costs associated with the delivery of services under the Housing Counseling Program. The Housing Counseling Program services include homeless prevention, utility assistance, home ownership, foreclosure/eviction prevention, rental subsidy, reverse mortgage counseling and certification, money management, and post-counseling to ensure continued housing retention.

Community Reach Center \$20,300 (reduced from \$24,000 due to decreased 2005 funding, \$3,700 deficiency funded from General Fund)

To pay for costs associated with the delivery of outpatient counseling services that include 24-hour crisis telephone service, day treatment programs, and programs that provide education and training to prepare individuals for independent living and employment.

Alternatives to Family Violence \$13,500

To pay for costs associated with the provision of housing for battered women, 24-hour crisis counseling, information, referral and advocacy, individual and group counseling for women, children and adolescents.

Family Tree, Inc. \$13,000

To pay for costs associated with the provision of emergency housing and support services for victims of domestic violence. Services provided include: crisis intervention, legal advocacy, food, shelter, children's counseling, case management, and family therapy.

Jefferson Center for Mental Health \$10,000

To pay for costs associated with the provision of mental health services including outpatient counseling, 24-hour emergency services, hospital-alternative programs, residential care, case management, and vocational assistance.

The Senior Hub \$12,000

To pay for costs associated with the provision of adult day-care services, respite care to senior caregivers, and the Meals on Wheels program that delivers hot meals to homebound Westminster residents.

Clinica Campesina Family Health Services, Inc. \$6,500

To pay the costs associated with the provision of medical care and health promotion services, on a sliding fee scale basis, to the medically underserved, low-income households, and minority persons.

Adams County Interfaith Hospitality Network \$5,000

To pay the costs associated with the delivery of homeless services to families, case management, information and referral, community garden project, and children's outreach coordinator services.

Respectfully submitted,

BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. **29**

SERIES OF 2005

INTRODUCED BY COUNCILLORS

**A BILL**

**FOR AN ORDINANCE INCREASING THE 2005 BUDGET OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2005 ESTIMATED REVENUES IN THE FUND.**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. This is the initial appropriation for 2005 for the CDBG Fund. The appropriation of \$642,212 is the amount approved by the US Department of Housing and Urban Development (HUD) for the City for 2005.

Section 2. The \$642,212 increase in the CDBG Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Account Number	Current Budget	Increase (Decrease)	Final Budget
<b>Revenue</b>				
Block Grant-CDBG	7600.40610.0025	\$0	<u>\$642,212</u>	\$642,212
Total change to revenues			<u>\$642,212</u>	
<b>Expenses</b>				
Salaries	76030350.60200.0000	\$0	\$106,268	\$106,268
CDBG-05 Block Grant	80576030722.80400.8888	\$0	\$535,944	\$535,944
Total change to expenses			<u>\$642,212</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 AND PUBLISHED this 13th day of June, 2005. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27th day of June, 2005.

ATTEST:

\_\_\_\_\_  
Mayor

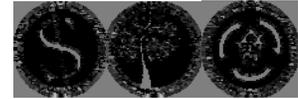
\_\_\_\_\_  
City Clerk



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Councillor's Bill No. 30 and Resolution No. 22 re Growth Management Program Amendment for Reclaimed Water Projects

**Prepared By:** Shannon Sweeney, Planning Coordinator

**Recommended City Council Action**

- Pass Councillor's Bill No. 30 on first reading amending the Growth Management Program establishing annual allocations to the reclaimed water category that equal the Service Commitment supply figure for the reclaimed system.
- Adopt Resolution No. 22 allocating Service Commitments to the Reclaimed Water category (Category R).

**Summary Statement**

- Following the May 16, 2005 Staff Report to City Council, Council directed City Staff to prepare a ordinance and resolution regarding an amendment to the City's Growth Management Program.
- The ordinance amends the annual allocation to the Reclaimed Water Category (Category R) from an anticipated demand basis to an amount matching the Service Commitment supply figure remaining each year in the reclaimed water system. The attached resolution allocates the current Service Commitment supply figure to the Reclaimed Water category.
- This change would eliminate the need to process supplemental Service Commitment allocation resolutions with City Council for this category during the year each time additional developers are able to connect to the reclaimed water system or if additional reclaimed Service Commitments are needed for a project. These situations are advantageous to the City by reducing the impact on the potable system and increasing use of the reclaimed system.
- The attached Councillor's Bill would not change the way in which Service Commitments are allocated to the potable water categories.

**Expenditure Required:** \$0

**Source of Funds:** N/A

## **Policy Issue**

Should the City change the way that annual Service Commitment allocations are made to the Reclaimed Water Category (Category R) within the City's Growth Management Program?

## **Alternative**

Do not pass the attached Councillor's Bill amending the Growth Management Program or adopt the attached resolution allocating Service Commitments. Direct Staff to process a supplemental allocation resolution for Council consideration allocating additional Service Commitments to the Reclaimed Category (Category R) to meet the additional reclaimed water needs required for Westfield Village Park (please see the Background section for additional information). Staff does not recommend this option and believes the proposed amendment is a more effective and efficient way to allocate Service Commitments from the reclaimed system. Staff does not anticipate any negative impacts with the proposed ordinance or resolution attached.

## **Background Information**

Each year, City Council allocates Service Commitments (SCs) to each of the various Growth Management Program categories to serve new development needs in the upcoming year, and SCs for all of the categories, with the exception of Category R that come from the City's potable water system.

With the potable water system, the City must ensure it does not allocate more SCs than the City can "effectively and safely absorb" to serve the growth. However, with the reclaimed water system, the effort is to maximize use of the system as soon as possible up to the capacity of the system to encourage use of reclaimed water, rather than potable water, for irrigation purposes.

Each year Staff lists the projects in the City's review process that will likely require SCs in the upcoming year, estimates the SCs that will be needed for each project, and reviews this information with City Council. Staff uses the most up-to-date information available when calculating the projections, but many variables can affect the amount allocated in any given year including:

- Changes to building size and landscape area can occur during the development review process, sometimes drastically changing the number of SCs needed for projects;
- Projects originally anticipated as potable water projects may be able to connect to the reclaimed system instead;
- New, unexpected projects may be submitted for review and require SCs in any given year;
- Anticipated projects may be withdrawn;
- Developers may overestimate or underestimate their anticipated timeline, making it difficult to know which year the award will be necessary for the project, particularly when the timeline falls near the end or beginning of a year.

In cases where the allocation set aside for a particular year cannot meet the needs of the new users, Staff drafts a supplemental allocation resolution for Council consideration, and if approved, the additional SCs needed are made available. This action has not been necessary in many years as Staff attempts to plan for all possible projects based on estimated timelines, and enough SCs have been available in the categories each year.

Recently, Water Resources and Treatment Division Staff within the Department of Public Works and Utilities and the Parks Division of the Department of Parks, Recreation and Libraries determined a greater number of reclaimed SCs would be necessary to accommodate the new Westfield Village Park at 114<sup>th</sup> Avenue and Wolff Street than was originally anticipated. A total of 32 SCs were set aside for the park in the reclaimed allocation for 2005, but the adjusted figure necessary is 102 SCs. Of the original total allocation of 137 reclaimed SCs, approximately 90 SCs remain, not enough to meet the needs of the new park and additional SCs that will be needed during the remainder of 2005.

**SUBJECT:** Councillor's Bill and Resolution re Growth Management Program Amendment for Reclaimed Water Projects Page 3

Rather than draft a supplemental allocation resolution for this category, Staff has prepared a Growth Management Program amendment changing the way in which SCs are allocated to the reclaimed water category (Category R). Since it is advantageous to the City to maximize use of the reclaimed system as soon as possible, Staff recommends annual allocations that match the SC supply figure for the reclaimed system (currently 2,500 SCs) and against using anticipated demand figures when establishing allocations for the reclaimed category. This is not the case with the potable water system where the goal is to manage SCs awards so that the City can provide the infrastructure and services necessary to serve that growth. Staff will continue to provide City Council with anticipated demand figures when determining annual allocations in the potable water categories.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Ordinance
- Resolution

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **30**

SERIES OF 2005

INTRODUCED BY COUNCILLORS

---

**A BILL**

**FOR AN ORDINANCE AMENDING CHAPTER 3 OF TITLE XI OF THE WESTMINSTER  
MUNICIPAL CODE CONCERNING THE GROWTH MANAGEMENT PROGRAM  
ALLOCATIONS TO THE RECLAIMED WATER CATEGORY**

THE CITY OF WESTMINSTER ORDAINS:

Section 1: Section 11-3-5, W.M.C., is hereby amended by THE ADDITION OF A NEW SUBSECTION (M) to read as follows:

11-3-5: ALLOCATION AND ISSUANCE OF SERVICE COMMITMENTS:

(M) ALLOCATIONS TO CATEGORY R (RECLAIMED WATER) WILL EQUAL THE SERVICE COMMITMENT CAPACITY OF THE RECLAIMED WATER SYSTEM.

Section 2. 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 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 13th day of June, 2005.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 27<sup>th</sup> day of June, 2005.

ATTEST:

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

\_\_\_\_\_  
Mayor

RESOLUTION

RESOLUTION NO. **22**

INTRODUCED BY COUNCILLORS

SERIES OF 2005

**ALLOCATING SERVICE COMMITMENTS TO CATEGORY R (RECLAIMED WATER) FOR THE YEAR 2005 PURSUANT TO THE CITY'S GROWTH MANAGEMENT PROGRAM AS SET FORTH IN CHAPTER 3, TITLE XI OF THE WESTMINSTER MUNICIPAL CODE**

WHEREAS, the City of Westminster has adopted by Ordinance a Growth Management Program through 2010; and

WHEREAS, the City's Growth Management Program as set forth in Chapter 3, Title XI of the Westminster City Code calls for the periodic determination of the availability of Service Commitments and allocation of such Service Commitments among various categories of potential users; and

WHEREAS, Category R is the Reclaimed Water category for irrigation use by projects that connect to the City's reclaimed water system; and

WHEREAS, it is the intent of the City to encourage connection to and use of the reclaimed water system to reduce demand on the City's potable water system; and

WHEREAS, it is in the City's best interest to encourage use of the reclaimed water system for irrigation purposes up to the capacity limits of the system as soon as possible; and

WHEREAS, the current reclaimed water system capacity is 2,508 Service Commitments.

NOW, THEREFORE, be it resolved that the City Council of Westminster, in accordance with Sections 11-3-4 and 11-3-5 of the Official Code of the City of Westminster, hereby determines that:

1. Based on all of the information available to the City Council on this date, for the period beginning January 1, 2005 through December 31, 2005, the City can make available 2,508 Service Commitments ("SCs") to Category R without adverse effect on existing water users and without in any way endangering the health, safety, and welfare of the citizens of Westminster and of other persons dependent upon the operation of a safe and efficient public water and sanitation system by the City.

2. This Resolution supersedes and replaces all previous Category R allocation resolutions by City Council.

Passed and adopted this 13th day of June, 2005.

ATTEST:

\_\_\_\_\_  
Mayor

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



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Public Hearing and Action on Northridge at Park Centre Third Amended Preliminary Development Plan

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

**Recommended City Council Action**

1. Hold a public hearing.
2. Approve the Third Amended Preliminary Development Plan for the Northridge at Park Centre Planned Unit Development. This recommendation is based on a determination that the findings set forth in Section 11-5-14 of the Westminster Municipal Code have been met.

**Summary Statement**

- The proposed amendment would add an additional use, “post secondary vocational/technical education institute,” to the allowable uses for Lots 5, 6, and 7 on the Preliminary Development Plan (PDP) for Northridge at Park Centre. This use has already been approved for Lots 9, 10, 11, 12, and 13. Colorado Technical University is interested in leasing 25,000 square feet of the existing westerly building in Prime Center, Lot 7.
- The original Preliminary Development Plan for Northridge at Park Centre was approved in October of 2000 and allowed for office/business park uses, containing a variety of employment-generating uses including office, research and development, light industrial, flex tech, warehousing and business related hotels.
- The First Amended Preliminary Development Plan for Northridge at Park Centre was approved in January of 2002 and added the “post secondary vocational/technical education institute” to the allowable uses for Lots 9, 10, 11, 12, and 13. DeVry University has since developed on Lot 12.
- The Second Amended Preliminary Development Plan for Northridge at Park Centre was approved in April of 2003 and added “church/religious assembly” use to Lot 13 only. An Official Development Plan (ODP) for Lot 13 is currently under review by City staff for Colorado Ridge Church.
- Northridge at Park Centre is located at the northwest corner of West 121<sup>st</sup> Avenue and North Pecos Street and encompasses approximately 106 acres.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Planning Commission Recommendation**

The Planning Commission reviewed this proposal on May 24, 2005 and voted (7-0) to recommend the City Council approve the Third Amended Preliminary Development Plan for the Northridge Planned Unit Development.

### **Policy Issue**

The policy issue is whether or not to approve the Third Amended Preliminary Development Plan for Northridge at Park Centre to add “post secondary vocational/technical education institute” to the list of allowable uses for Lots 5, 6, and 7. Staff believes that a vocational/technical school is a good use within a business park environment and would be an asset to the other businesses in the surrounding area.

### **Alternative**

Deny the Third Amended Preliminary Development Plan for the Northridge at Park Centre Planned Unit Development. Denial of this use would not allow for business or technical schools for Lots 5, 6 and 7 in the Northridge PUD.

### **Background Information**

#### ***Applicant/Property Owner***

Northridge Investors, LLC (Lots 5 and 6) 73-020 El Paseo Drive, Suite 4 Palm Desert, California 92260  
Contact: Russ Hatle

Orix Prime West Westminster Venture (Lot 7) 1873 S. Bellaire Street, Suite 500 Denver, Colorado 80222  
Contact: Carey Crain

#### **Surrounding Land Use and Comprehensive Land Use Plan Designation**

The existing surrounding land uses for Lots 5, 6, and 7 are:

North: Vacant and Technical University (DeVry)

South: Retail/Commercial, Daycare and Vacant

East: Vacant and Office

West: Office Warehouse and Vacant

The designated uses per the Westminster Comprehensive Land Use Plan are as follows:

North, East, and West: Business Park

South: Retail Commercial

#### **Site Plan Information**

Access to the Northridge at Park Centre development is currently from 121<sup>st</sup> Avenue via either Tejon Street or Pecos Street and 122nd Avenue via Pecos Street or Federal Parkway. The Northridge development slopes fairly extensively to the west and northwest towards Big Dry Creek. There is an area that runs along the west of Lots 1 through 4 that is a drainage easement called the “Northridge Reserve.” This area contains wetlands that will be maintained in their natural state. The developer has installed an 8-foot wide trail connecting Northridge to the City’s Big Dry Creek Open Space north. The Preliminary Development Plan also sets up specific architectural and site planning criteria for the development of each lot within Northridge.

Traffic and Transportation

The land use proposed for the Third Amended Northridge at Park Centre Preliminary Development Plan will have a minimal difference in the amount of traffic as indicated in the original traffic study. The difference in AM/PM peak hour movements is also minimal with only a slight change occurring because of the different in and out movements associated with a school.

Service Commitment Category

Service Commitments are available from Category C for non-residential development.

Referral Agency Responses

No referrals were sent for this proposed land use change.

Public Comments

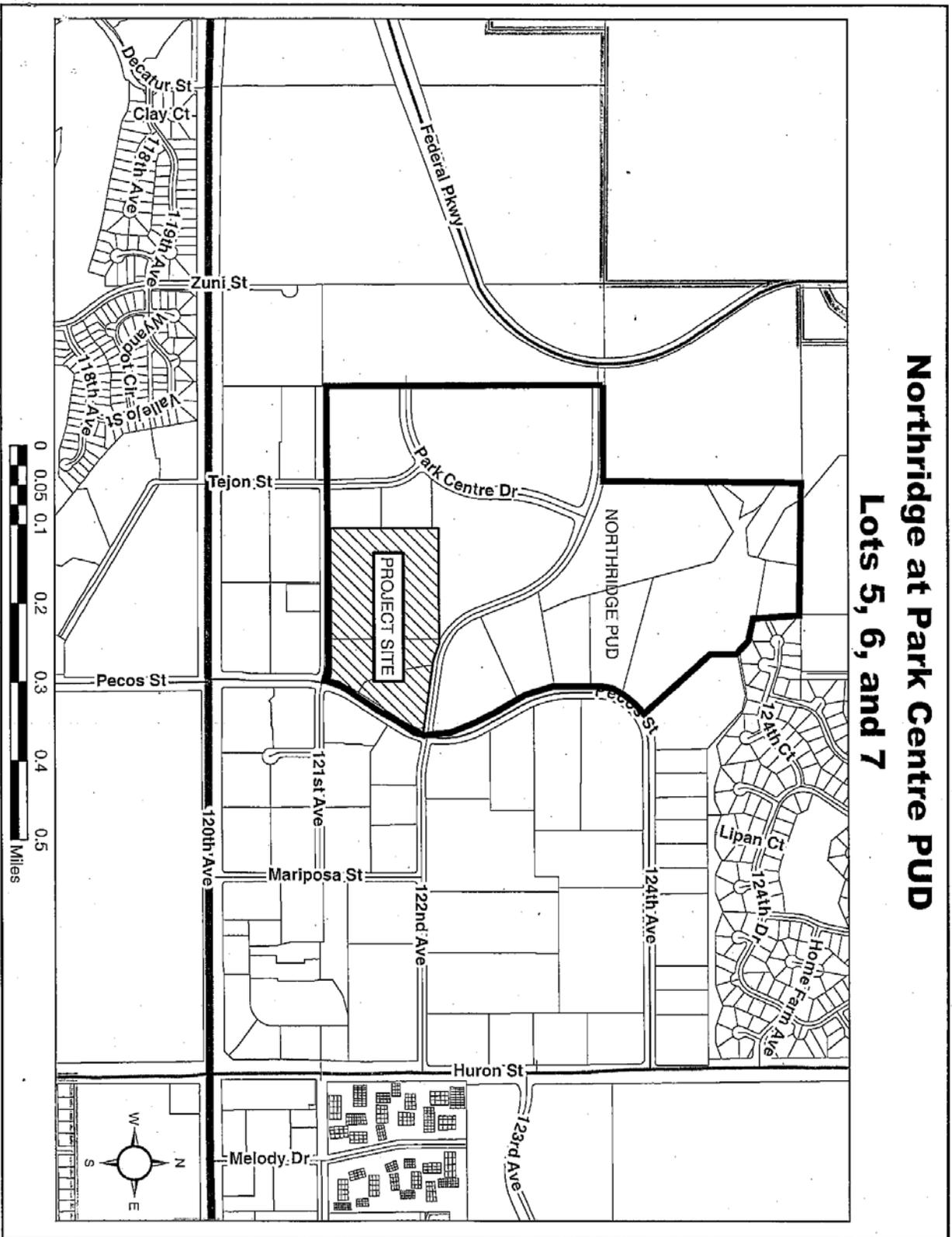
An informational packet was mailed to all property owners within 300 feet of this project. No responses were received.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

# Northridge at Park Centre PUD Lots 5, 6, and 7



# 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 (P.U.D.) 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 P.U.D. 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 P.U.D. is compatible and harmonious with existing public and private development in the surrounding area.
5. The P.U.D. 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 P.U.D. 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.



## Agenda Item 10 G, H & I

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
June 13, 2005



**SUBJECT:** Public Hearing and Action on the First Amended Interchange Business Center Preliminary Development Plan and the Interchange Business Center Official Development Plan (Wal-Mart)

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

**Recommended City Council Action:**

1. Hold a public hearing.
2. Approve the First Amended Interchange Business Center Preliminary Development Plan (PDP) within the Interchange Business Center Planned Unit Development. This recommendation is based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code have been met.
3. Approve the Interchange Business Center Official Development Plan (ODP) Wal-Mart within the Interchange Business Center Planned Unit Development (PUD). This recommendation is based on a finding that the criteria set forth in Section 11-5-15 of the Westminster Municipal Code have been met.

**Summary Statement:**

- This project is located within the City's North I-25 Corridor. The North I-25 Corridor Plan contemplated retail uses at the southeast corner of 136<sup>th</sup> Avenue and I-25.
- One of the top priorities of the 2005 City Council Strategic Plan policy agenda is to encourage retail development in the vicinity of the 136<sup>th</sup> Avenue interchange.
- The City's Comprehensive Land Use Plan most recently updated in 2004 designates the site for retail uses. The proposed amendment to the Interchange Business Center PDP defines the permitted land uses in more detail. The access locations, general lot sizes, street locations and widths and detention areas are designated for the eastern part of the PDP. The remainder of the PDP, labeled as Lot 7, will be amended at a future date when specific development is proposed there.
- The proposed ODP is approximately 37 acres in size. A north to south collector street to be known as Orchard Parkway will provide the main vehicular access to the western edge of the site. A right-in/right-out access is proposed along 136<sup>th</sup> Avenue.
- The Wal-Mart store is proposed on a 28+ acre parcel in the eastern half of the ODP site. The 208,877 square foot Wal-Mart proposal complies with the City's Design Guidelines and code requirements.
- Four pad sites are proposed at the western part of the site with frontage on Orchard Parkway. A fifth pad site will have frontage on 136<sup>th</sup> Avenue. The pads total approximately 5.3 acres in size. Future ODP's will be reviewed for any development proposed on the pads. The architectural style of the buildings and the landscape theme will be consistent with the quality and style of the Wal-Mart proposal.
- A parcel has been designated for outdoor public art at the northwest corner of the ODP. The size and location of the tract is identical to the proposed Lowe's outdoor public art site at the northeast corner of the 136<sup>th</sup> Avenue/Orchard Parkway intersection. The landscaping and artwork for the public art site will be reviewed on a future ODP. Wal-Mart will contribute \$37,000 for the artwork, an amount consistent with requirements in the City's Commercial Design Guidelines.
- The PDP and the ODP were reviewed by the Planning Commission on May 24, 2005 and by a 4-3 vote recommended for approval by the City Council.

**Expenditure Required:** \$ 0  
**Source of Funds:** N/A

### **Planning Commission Recommendation**

The Planning Commission reviewed the proposals on May 24, 2005, and voted 4-3 to recommend the City Council approve an amendment to the Interchange Business Center PDP and to recommend the City Council approve the Interchange Business Center – Wal-Mart ODP. Commissioners Barsoom, Brundage, English and Wiederspahn voted in favor of the PDP and ODP. Commissioners Anderson, Crocker and Boschert voted against the PDP and ODP.

Commissioner Wiederspahn stated that his motion was based upon compliance with all of the criteria in Section 11-5-14 and 11-5-15 of the Westminster Municipal code particularly 11-5-14 (A) 2, 4, 5, and 6, and 11-5-15 (A) 3, 5, 6, and 7.

#### 11-5-14 (A)

- (2) The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
- (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 or upon the future development of the immediate area.

#### 11-5-15 (A)

- (3) The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
- (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.

Commissioner Anderson voted against the recommendations and stated that as he evaluated the plan, looked through the documents and listened to the testimony, he actually did not find that the plan meets at least four of the criteria that are laid out by the City for land use application and referenced Section 11-5-14 (A) 2, 4, 5, and 6.

Commissioner Anderson also stated the City has a goal (Goal D3) that commercial should “serve the commercial needs of surrounding neighborhoods” and he thinks that is why the property is labeled and zoned the way it is because this property is an effective location for retail in this environment. Mr. Anderson does not think the Wal-Mart plan meets the goal in the CLUP of meeting the commercial needs of the surrounding neighborhood when so many residents of the surrounding neighborhood are opposed to the plan. If residents are unwilling to patronize a local neighborhood store, then that does not meet the objective to provide for commercial development locally.

Commissioner Boschert voted against the recommendation and stated that he was initially for the development but after listening to the testimony he felt that this development does not keep to the spirit of the Comprehensive Land Use Plan. The initial vision was of a business park, smaller businesses, and pedestrian friendly retail. Further, testimony that the City gave a very strong indication, maybe even a guarantee to the residents of Lexington that this would not be developed into this type of site in order to get their vote. He thinks that this is a violation of our integrity, so he could not support it.

Commissioner Crocker voted against the recommendation and stated that he was not enthralled with the project. He did not feel that it met the vision that he had for this area which was intended to be more inline with the Westminster Promenade.

To provide Council with information on these concerns, staff reviewed the issues regarding the Comprehensive Land Use Plan (CLUP), the “vision” for the area, and guarantee made in previous plans.

As to the CLUP, Goal A2 states the City will:

“Retain areas for commercial and industrial developments as significant revenue or employment generators on the remaining developable land.”

This development is located in the I-25 District Center and the area covered by the proposed Wal-Mart is shown as allowing Retail or Business Park uses. The proposed development is consistent with this goal.

The CLUP designates this area as District Center and further references the North I-25 Concept Plan. The area was designated on the concept plan for either retail or business park developments and the CLUP states “The southern portion of the District Center located between 136<sup>th</sup> Avenue and the Park Centre Development is planned for a mix of specialty retail, public use, and employment”. The policy issue here is one of interpreting the CLUP to allow for retail development as proposed.

The indication by a Lexington subdivision resident at the hearing that the City had guaranteed no commercial development of this type on this property was false. There were some agreements made in 1999 on the Foster property PDP located north of the Wal-Mart proposal and 136<sup>th</sup> Avenue and those agreements referenced site development standards on the property across from Lexington. The proposed Wal-Mart is not located on this property, and is over 2,600 feet southeast of the Lexington subdivision.

### **Policy Issues**

1. Should the City approve the First Amended Interchange Business Center PDP within the Interchange Business Center Planned Unit Development based upon a finding that all of the criteria in Section 11-5-14 of the Westminster Municipal Code have been considered and/or met?
2. Should the City approve the Interchange Business Center - Wal-Mart ODP within the Interchange Business Center Planned Unit Development based upon a finding that all of the criteria in Section 11-5-15 of the Westminster Municipal Code have been considered and/or met?

### **Alternatives**

1. Deny the First Amended Interchange Business Center PDP within the Interchange Business Center Planned Unit Development base upon the failure to meet one or more of the criteria contained in Section 11-5-14 of the Westminster Municipal Code.
2. Deny the Interchange Business Center ODP - Wal-Mart within the Interchange Business Center Planned Unit Development base upon the failure to meet one or more of the criteria contained in Section 11-5-15 of the Westminster Municipal Code.

### **Background Information**

The approximately 61 acre Interchange Business Center PDP was annexed to the City of Westminster in 1985 and zoned for retail, commercial, hotel, light industrial, office and storage uses. The site has remained vacant and has hosted intermittent agricultural use. Portions of the Bull Canal and Quail Creek that cross the PDP were reconstructed and slightly realigned by the City several years ago and that work removed most of the PDP from an identified 100 year floodplain. The ODP is a 37+ acre parcel with a Wal-Mart store as the proposed major tenant on 28+ acres along with five pad sites. Right-of-way for the proposed new north to south collector street known as Orchard Parkway is being dedicated at the western side of the ODP. Orchard Parkway will provide the main access to the Wal-Mart site.

Additionally, right-in/right-out access is proposed along 136<sup>th</sup> Avenue. Two detention ponds will provide water quality filtering and stormwater detention. These ponds are located at the southeast and southwest corners of the ODP. A landscaped berm along the south edge of the site will screen the building and outdoor storage areas from the City owned land (purchased as a buffer from Big Dry Creek Wastewater Treatment Facility) that is adjacent at the south side of the ODP as well as from I-25 and Orchard Parkway. A 10 foot wide concrete trail within a 25 foot public access easement will be constructed along the eastern part of the Wal-Mart site as a part of a planned I-25 bike path extending from 120<sup>th</sup> Avenue to 150<sup>th</sup> Avenue. There is an existing pedestrian underpass for this trail under 136<sup>th</sup> Avenue and one is planned for 144<sup>th</sup> Avenue.

A number of letters received by Staff during the review process raised concerns about increased crime that may be attracted by the Wal-Mart. The Westminster Police Department provided the information on police service events at a number of grocery stores and large retail operations in Westminster.

<b>POLICE SERVICE EVENTS, January 1, 2003 to April 18, 2005</b>				
<b>Business</b>	<b>Address</b>	<b>Square Footage</b>	<b>Police Events</b>	<b>Events/ 1000 Sq. Ft.</b>
Safeway	7353 Federal Blvd.	57,982	918	15.83
Shoenberg Center	5330 W 72 <sup>nd</sup> Ave.	47,250 <sup>1</sup>	641	13.57
Albertsons	5036 W 92 <sup>nd</sup> Ave.	42,457	297	7.00
King Soopers	10351 Federal Blvd.	72,000	477	6.63
Albertsons	5005 72 <sup>nd</sup> Ave.	50,042	310	6.19
Wal-Mart	9499 Sheridan Blvd.	125,137 <sup>2</sup>	707	5.65
King Soopers	9983 Wadsworth Pkwy.	57,688	304	5.27
Safeway	12900 Zuni Street	56,000	270	4.82
Dillard's	5301 W 88 <sup>th</sup> Ave.	147,433	633	4.29
J.C. Penny's	5453 W 88 <sup>th</sup> Ave.	177,493	654	3.68
Foley's	5613 W 88 <sup>th</sup> Ave.	150,000	505	3.37
Sears	5501 W 88 <sup>th</sup> Ave.	135,000	410	3.04

<sup>1</sup> Sq. Ft. includes entire center      <sup>2</sup> Sq. Ft. prior to current expansion

The proposed Wal-Mart building is located at the southeast section of the Interchange Business Center parcel adjacent to the 136<sup>th</sup> Avenue interchange with I-25. From the west wall of the Wal-Mart building, there is a distance of approximately 1,530 feet to the nearest residence along Huron Street. From there, it is another 100 feet to the nearest residences in the Quail Crossing subdivision. The nearest residence in the Lexington subdivision is approximately 2,660 feet from the northwest corner of the Wal-Mart building.

Five pad sites are proposed on the ODP. Four of the pad sites are oriented towards Orchard Parkway at the west side of the site. One of the pads, shown as Lot 4, has been identified as the preferred location for a gas station. All of the pad sites will require ODP's and will be reviewed by City staff to assure consistency of design, landscape elements and quality with the Wal-Mart store.

Applicant

Wal-Mart Stores, Inc. 702 SW 8<sup>th</sup> Street Bentonville, Arkansas 72716

Property Owner

E. Suzanne Mowery and Cindee Wood (joint 50% owners) 30611 County Road Crook, Colorado 80726

Surrounding Land Use and Comprehensive Land Use Plan Designations

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Current Use</b>
Foster PDP; north (not subdivided)	PUD	District Center	Agricultural (approved Lowe’s store)
136 <sup>th</sup> & Huron PDP; west of Huron St.	PUD	Retail and Residential	Agricultural
City of Westminster Wastewater Facility; south (not subdivided)	PUD	Public/Quasi public	Open Space and Wastewater Plant
City of Thornton; east	NA	NA	I-25 right of way and vacant land to the east

Site Plan Information

The following site plan information provides a few examples of how the proposed plan complies with the City’s land development regulations and guidelines; and the criteria contained in Section 11-5-14 and 11-5-15 of the Westminster Municipal Code (attached).

- **Access and Circulation (for vehicles and pedestrians):** The primary vehicular access point from the site is from three locations on Orchard Parkway. The northerly access is designed as a right-in/right-out access to the site. The two other access points are full movement turns and could be signalized if future traffic meets warrants. A right-in/right-out access is also proposed from 136<sup>th</sup> Avenue. Internal vehicular circulation is straightforward with the east to west and north to south drive lanes defined by landscaped islands to separate them from the parking fields. Internal pedestrian circulation is good with sidewalks on the perimeter streets that connect to the two larger north to south landscaped sidewalks.
- **Site Design:** Four pad sites are at the west side of the ODP adjacent to Orchard Parkway. A fifth pad site has frontage on 136<sup>th</sup> Avenue, but direct access to Orchard Parkway. The Wal-Mart site is at the east side of the ODP with the back of the proposed building facing the City owned property to the south. Landscaping, screen walls and a landscaped 6-foot berm will buffer the view of the loading and truck activity at the rear and sides of the building. A detention pond and landscaping provide additional separation and buffer area at the east side from I-25. At the northwest corner of the ODP at the intersection of 136<sup>th</sup> Avenue and Orchard Parkway, there is a small tract, labeled as Tract A that is designated as the location for outdoor public art. The landscaping and art choice will be shown on a future ODP amendment. The tract and associated landscaping and art are intended to be similar to the other corners at this intersection. Per the requirements of the City’s Commercial Design Guidelines, Wal-Mart will provide \$1,000 per developed acre for art. This totals \$37,000.
- **Landscaping Design:** The landscaping proposed for the ODP meets the City’s Landscape Design Guidelines. Plants with low water demand have been specified for some areas of the site. The irrigation system has been designed for the planting scheme. Along 136<sup>th</sup> Avenue, closely spaced and offset shade trees are proposed on both sides of the sidewalk to shade pedestrians. The offset design is consistent with a scheme shown in the City’s I-25 Corridor Study and will be matched along the remainder of 136<sup>th</sup> Avenue between Huron Street and I-25 for future development. A number of existing large trees must be removed for this development. As replacement, Wal-Mart will increase the caliper size of the new trees per the City’s Landscape Design Guidelines.
- **Public Land Dedication/School Land Dedication:** Public land dedication and school land dedications are not required for non-residential development.

- **Parks/Trails:** No parks are proposed for this ODP or are required by City Code for non-residential projects. A trail at the east side of the ODP roughly parallel to I-25 is consistent with the City's Parks and Trails Master Plan. The 10 foot wide concrete trail will be within a 25 foot wide public access easement. At the north, the trail will connect to the existing trail underpass under 136<sup>th</sup> Avenue. Wal-Mart will extend the trail 40 feet south into the adjacent City owned land. The trail will eventually extend south to 120<sup>th</sup> Avenue through the City owned land, and north beyond 144<sup>th</sup> Avenue through the Orchard Town Center development.
- **Architecture/Building Materials:** The primary building exterior material is brick with darker courses at the base and lighter brick courses at the top of the building. Cut stone columns are spaced at regular locations along the façade. A stucco cornice and cap enhances the top of the base elements. Stone pillars frame the raised rooflines at the main entrances to the building.
- **Signage:** Building signage is consistent with the City Sign Code. The proposed wall signs are individual letters that are internally lit. Wall signs are proposed at the north (front) facing 136<sup>th</sup> Avenue, at the east facing I-25, at the west facing Orchard Parkway and none are proposed at the south facing the City owned land. The proposed monument sign just east of the right-in/right-out access along 136<sup>th</sup> Avenue is 8 feet high with the stone and brick to match the Wal-Mart building materials. A 25-foot high monument sign is proposed at the southeast corner of the site adjacent to I-25.
- **Site Maintenance:** A number of letters received by the City expressed concern with poor maintenance at some existing Wal-Mart stores in other parts of the Denver metro area. To address this concern, Wal-Mart has agreed to place \$10,000 in an escrow account to be used by the City for maintenance costs if Wal-Mart fails to maintain the site to City standards. This account will be replenished by Wal-Mart to the \$10,000 minimum if it is ever drawn down. These funds are in addition to the Letter of Credit to assure the initial installation and maintenance of landscaping during the warranty period. The City's Code Enforcement Officers inspect sites on a complaint basis to assure compliance with City standards.
- **Lighting:** Wal-Mart has provided a Photometric Study of all exterior lights proposed for the Wal-Mart site. All wall mounted lights and all pole lights have been designed with down directed fixtures to minimize glare and "spillage" of light off their site. This light design scheme is consistent with the City's Commercial Design Guidelines. Future development on the pad sites will also comply with these guidelines.

### Traffic and Transportation

The ODP has frontage on I-25 and on 136<sup>th</sup> Avenue. No changes are proposed or needed to these existing rights-of-way. Orchard Parkway is proposed at the west side of the Wal-Mart site. As development occurs to the north Orchard Parkway will continue north as a collector level street for development between I-25 and Huron Street north to 144<sup>th</sup> Avenue. Orchard Parkway is proposed to continue to the south of the ODP, but no timeline or funding sources have been established for construction of the segment immediately south of the Wal-Mart ODP that will cross Quail Creek on a new bridge and intersect Huron Street at 132<sup>nd</sup> Avenue. Orchard Parkway is located approximately halfway between Huron Street and I-25 so that turn lanes with adequate stacking distance, appropriate signalization and coordination with future access to the remainder parcel in the PDP can be accommodated safely from 136<sup>th</sup> Avenue. As noted earlier, the Wal-Mart site will take its access primarily from Orchard Parkway. The northerly access is a right turn in and out access. The two other accesses along Orchard Parkway are full turn accesses and may be signalized when traffic volumes warrant.

**Traffic Study:** The proposed development is projected to generate approximately 10,850 new vehicle-trips per weekday and approximately 12,330 new weekend daily trips. This equates to approximately 418 vehicle-trips during the weekday morning peak hour, 795 vehicle-trips during the weekday afternoon peak hour, and 1,014 during the weekend peak hour.

The design of 136<sup>th</sup> Avenue and for Orchard Parkway south of 136<sup>th</sup> Avenue is adequate for the traffic volumes generated by the proposed development, adjacent developments and the regional traffic utilizing 136<sup>th</sup> Avenue.

Service Commitment Category

The Service Commitment Category is Category C for non-residential developments.

Referral Agency Responses

- Reclaimed Water: There is a reclaimed water line to be built by the City in Orchard Parkway. Wal-Mart intends to extend the line and to irrigate the landscaping on the entire ODP with reclaimed water.
- City Parks and Trails Master Plan: Per the Master Plan, Wal-Mart has agreed to construct a 10 foot wide concrete trail within a 25 foot wide public access easement along the east side of their site. This is shown on the ODP. At the time that the interchange for 136<sup>th</sup> and I-25 was constructed, a pedestrian underpass under 136<sup>th</sup> Avenue was installed. The trail will connect to the underpass and will continue to the north side of 136<sup>th</sup> Avenue to connect to the Lowe's development there.
- City Environmental Services: The City's Environmental Services Section has reviewed the Phase 1 Environmental Assessment performed in December 2004 provided by Wal-Mart representatives and has accepted the findings. The items of note are:
  - In March of this year, two adults and two fledgling Great Horned Owls were found to be nesting in a tree at the northeast part of the ODP. Information on the observation was provided by Crosswinds Environmental Consultants. They have stated that "by the middle of August, the young and the adult will disperse off the territory, thus no longer depending upon the tree or the nest until the breeding season begins again in mid to late December and the owls reestablish a territory." Wal-Mart does not anticipate site disturbance to begin until September 2005, and will be able to begin site work after certifying by observation that the owls have abandoned the nest.
  - In March of this year, a nest located on the City owned land approximately 200 feet to the south of the Wal-Mart site was found to be inhabited by red-tailed hawks and a young hawk. Information on the observation was provided by Crosswinds Environmental Consultants. They have stated that "the young will fledge within the next 4-5 weeks, no longer needing the nest tree and leaving the territory by the middle of July. The adults will also leave; no longer defend the territory, returning in January to reestablish a breeding territory for next year." Red-tailed hawks are protected within 1,800 feet of an active nest. Wal-Mart does not anticipate site disturbance to begin until September 2005, and will be able to begin site work after certifying by observation that the hawks have abandoned the nest.
- Colorado Department of Transportation: Wal-Mart is adjacent to I-25, a State controlled access highway, but no right-of-way changes are proposed. Ramp design for I-25 and design of 136<sup>th</sup> Avenue are not proposed to change with the development of the Wal-Mart site.

Public Comments

A neighborhood meeting was held on February 24, 2005. An estimated 120 persons attended the meeting. Written comments were received from 10 persons in attendance.

Numerous letters and phone calls of support and opposition regarding the Wal-Mart proposal were received by Staff and were presented to the Planning Commission at the May 24, 2005 public hearing. There were over 50 letters in opposition and 4 letters of support. These letters are available to the City Council.

At the May 24, 2005 public hearing of the Planning Commission, twenty people spoke to the Wal-Mart proposal. Most of those speaking were in opposition to the Wal-Mart. Speakers were concerned with the drainage system, potential flooding and increased pollution in the nearby streams from the runoff. The City Engineer, Dave Downing, and the Engineer representing Wal-Mart addressed these items.

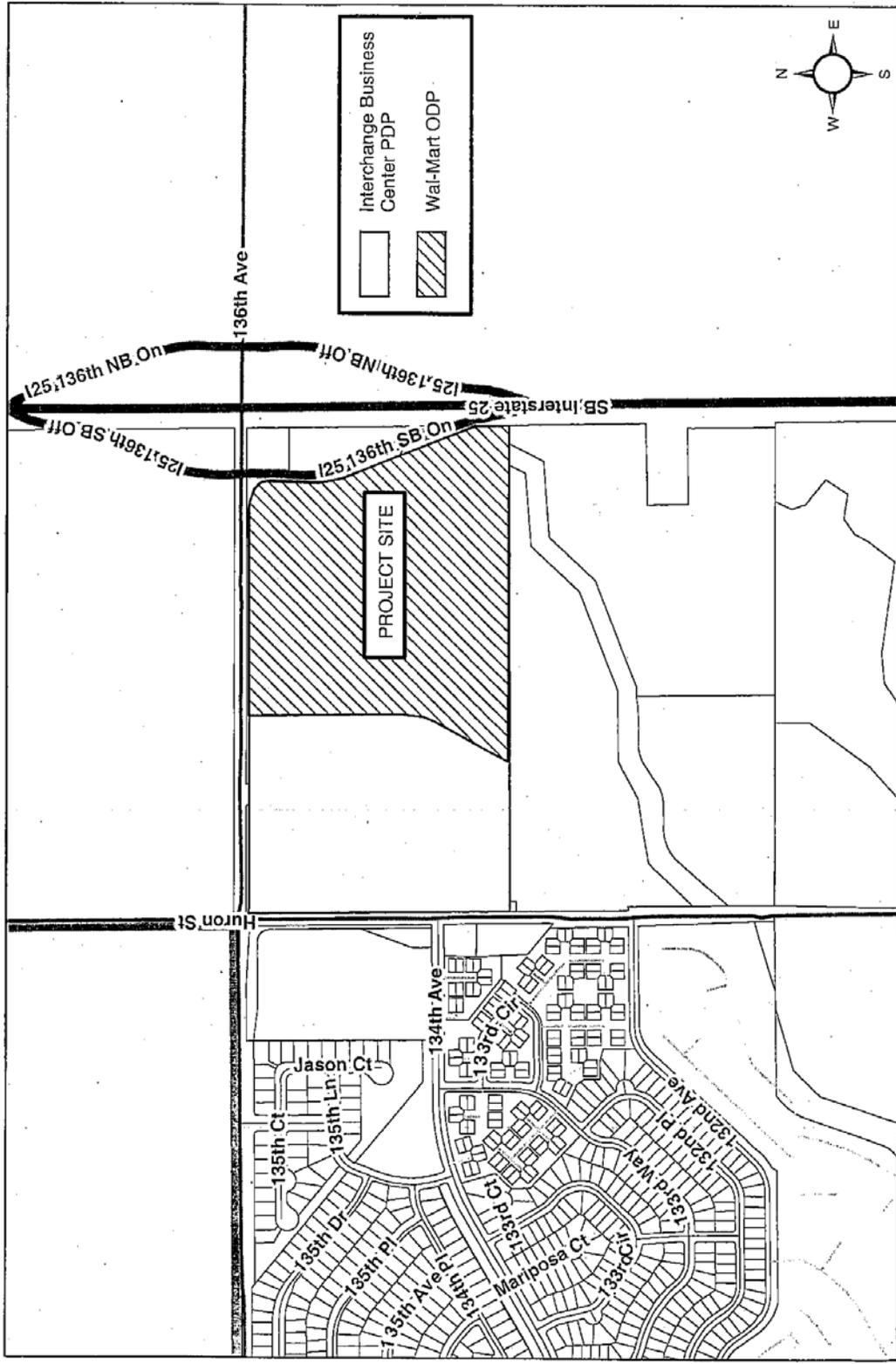
Other questions on the proposed trail system and future connections; prairie dog relocation; tax breaks for Wal-Mart of which there are none; and compatibility of the proposed retail use with surrounding land uses were addressed by Staff present at the hearing.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

# Interchange Business Center Wal-Mart ODP



# Brownstein | Hyatt | Farber

410 Seventeenth Street  
Twenty-Second Floor  
Denver, Colorado 80202-4437  
bhf-law.com

June 6, 2005

**Carolynne C. White**  
Attorney at Law  
T 303.223.1197  
F 303.223.0997  
cwhite@bhf-law.com

Dave Shinneman  
Director of Planning  
City of Westminster  
4800 West 92nd Avenue  
Westminster, CO 80031

**RE: First Amended Interchange Business Center Preliminary Development Plan and the Interchange Business Center Official Development Plan  
Wal-Mart - Statement of Applicant Regarding Approval Criteria**

Dear Dave:

On behalf of Wal-Mart Stores, Inc., this letter is submitted as a supplement to the record in the above-captioned case. This letter outlines how the proposed project meets the criteria in the Westminster City Code for approval of a Preliminary Development Plan (PDP) and Overall Development Plan (ODP).

The proposed project is part of an approximately 63 acre site, which will be anchored by an approximately 208,000 square foot Wal-Mart Supercenter (Lot 1), with a remote fuel station (Lot 4). The PDP and ODP documents outline the Lot 1 buildings, along with five additional lots (Lots 2, 3, 4, 5 and 6) that will be created for future retail/commercial development. The remaining approximately 25 acres (Lot 7) will be platted during this process, but developed by separate ODP documents at a later date.

The land is already zoned PUD, and designated for District Center uses in the Westminster Comprehensive Land Use Plan; no rezoning is proposed or required as part of this project. The land is part of a PDP called the First Interchange Business Center, approved when the property was annexed to the City in 1985. The proposed PDP is an amendment to the existing PDP, which defines the permitted land uses in more detail. The proposed Amended PDP which is the subject of this application covers the entire 63-acre site; the proposed ODP covers only the 37 acres east of Orchard Parkway, including the Wal-Mart Supercenter and lots 1 through 6.

No tax credits, rebates, exemptions or other incentives are requested or proposed as part of this project.

**Brownstein Hyatt & Farber, P.C.**  
Denver, Colorado T 303.223.1100 F 303.223.1111  
Washington, D.C. T 202.296.7353 F 202.296.7009  
Albuquerque, New Mexico T 505.244.0770 F 505.244.9266  
Aspen/Vail, Colorado T 970.945.5302 F 970.984.2360

**Notice**

Pursuant to Westminster City Code Section 11-5-13, all required notices were provided. A public hearing before the Planning Commission was scheduled by the City for May 24, 2005. Notice of the public hearing scheduled before the Planning Commission was published and posted at least 10 days before such hearing. A public hearing before City Council is scheduled for June 13, 2005. Notice of that public hearing was published and posted at least 4 days before such hearing.

Notice of the May 24, 2005, Planning Commission hearing was published by the City by publication in the official newspaper of the City, the Westminster Window. Notice for the City Council hearing scheduled for June 13, 2005 was submitted to the Westminster Window and is scheduled for publication on June 9, 2005.

Notice of the City Council public hearing was also posted on the subject parcel by the City using at least one sign with a minimum area of 30 square inches with lettering not less than 1 ¼ inches in height at an appropriate location which is reasonably visible to vehicular and pedestrian traffic passing adjacent to the site.

Additionally, mailed notice of the Planning Commission public hearing on May 24, 2005 was provided by sending such notice by first-class mail to all owners within the area covered by the PDP, any owners and any homeowner's associations registered with the City within 750' of the subject parcel on May 13, 2005. Mailed notice of the City Council hearing was similarly provided by first class mail to owners and homeowners within 750' of the subject parcel on May 13, 2005. Note that City code only requires notice to owners and homeowners within 300'. The homeowners within 300' were notified by certified mail.

The same notices, including first class and certified mail, were repeated on June 2, 2005, for the City Council hearing scheduled for June 13, 2005.

**A. Standards for Amendments to Preliminary Development Plans (PDPs) (See City Code, §11-5-14)**

Following are the criteria for review and approval of an amendment to a PDP, followed by an explanation of how the proposed project meets the code.

**1. The proposed land uses contained in the (amended) PDP are in conformance with the City's Comprehensive Plan and all City Codes, ordinances and policies.**

The first conceptual submittal for this proposed Wal-Mart Supercenter project was made on December 23, 2004. Since that time, the Wal-Mart consulting team has prepared, and City staff has reviewed, numerous iterations of the proposed project. In each iteration, City staff exhaustively reviewed the documentation, noted items that needed to be changed to conform with City code, ordinances, and policies and made other recommendations to improve the project. Only when the submitted documents revealed that all applicable City codes were met was the project

scheduled for its first hearing in front of the Planning Commission, on May 24, 2005. As noted in the staff report, City Staff finds that the project is in conformance with the City's Comprehensive Plan and all City Codes, ordinances and policies.

In addition to the City's Comprehensive Land Use Plan, and City Code, other applicable plans and/or regulations with which the proposed project complies include:

- Westminster Landscape Regulations, 2004
- Urban Drainage and Flood Control District (UDFDC) Urban Storm Drainage Criteria Manual
- Best Management Practices for Storm Drainage
- City of Westminster Commercial Design Guidelines
- 2005 City Council Strategic Plan
- Westminster Parks and Trails Master Plan
- City of Westminster Drainage Criteria Manual

The City's current Comprehensive Land Use Plan ("Land Use Plan"), adopted in 1997, and recently updated in 2004, designates five "District Centers," including the area east of Orchard Parkway and north of 124<sup>th</sup> Avenue, which is called the "I-25 District Center." The proposed project, located at 136<sup>th</sup> Avenue and I-25, is within the I-25 District Center.

The 2004 edition of the comprehensive plan also emphasizes a "balanced, quality approach to retail development," acknowledging that retail sales are and will continue to be essential to the City's economy. Because tax revenues provide a majority of the City's general fund income, the Plan notes that it is vitally important that the City retain, enhance and expand regional commercial development. The Land Use Plan envisions an additional 3,201,660 square feet of retail on some 210 acres within the City over the projected buildout period in the Land Use Plan. New development identified in the North I-25 Corridor has been identified as a "top priority" for Westminster in the Land Use Plan.

The proposed project is in conformance with the entirety of the Plan, and helps achieve many of the goals and policies outlined in the plan. This letter will highlight only a few of the most relevant goals and policies.

- Policy H4c: Continue to develop trails in accordance with the City's Trails Master Plan.
- Policy J1a: Support the goals, objectives, and policies of the Westminster Community Enhancement Master Plan with respect to the location and type of landscape design, public art, historical markers, and other enhancements needed to improve the image of the City.
- Policy J1c: Apply enhancement techniques and improvements on the highest priority travel corridors.
- Policy J2b: Continue to develop enhanced landscape improvements along arterial streets.
- Policy J2c: Encourage the placement of public art where appropriate.

- Policy J3a: Promote excellence in site planning, architecture, and the design of landscaping, lighting, and signage in all commercial and residential developments by means of design guidelines for each type of land use.
- Goal J6: New development shall incorporate water conservation measures in accordance with the City of Westminster Landscape Regulations, 2004 edition.
- K1c: The City will cooperate with surrounding communities for sound regional planning and development, including Jefferson County (Northeast Comprehensive Development Plan) and Thornton (I-25 Corridor Study)

The proposed development will also assist the City in achieving the following goals outlined in the I-25 Corridor Study:

- Reduce the traffic congestion and enhance mobility in the area with the construction of Orchard Parkway and its signalization.
- Renovate or develop the north I-25 corridor with the newly created zoning classification, District Center with retail, commercial area at the Interstate 25/136<sup>th</sup> Avenue interchange.
- Promote a network of regional trails that provide access to the parks, open spaces and waterways.
- Secure and improve additional public parks, opens space and trail connections, including additional trail connections.
- Enhance the aesthetic appearance of the area to make it more appealing to residents of the City, shoppers and employees.
- Increase tax revenues collected from the area.
- Improve property values in the area.

Additionally, one of the top priorities of the 2005 City Council Strategic Plan is to encourage economic development in the vicinity of the 136<sup>th</sup> Avenue interchange.

Therefore, the proposed PDP and ODP meet this criterion.

**2. The (amended) PDP exhibits the application of sound, creative, innovative and efficient planning principles.**

As previously noted, City staff recommended numerous revisions to the original site plan in order to improve the project with respect to the application of sound, creative, innovative and efficient planning principles. Numerous aspects of the site plan exhibiting these qualities have been detailed elsewhere in this letter.

---

By way of example, and not an exhaustive list, the PDP exhibits sound principles in the following ways:

- locating appropriate intensities of use along arterials and highways
- landscaping/berming and buffering to transition land uses from neighborhood to commercial
- improving pedestrian access/connections from street to our site, including detached sidewalks
- added landscaping next to building in planting beds
- location of truck docks on south side, away from neighborhood and adjacent to City owned water treatment plant.
- building oriented north, away from residential development to the west
- high intensity activities like the Tire and Lube Express and Garden Center oriented towards highway, away from the residential development to the west

**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 in the (amended) PDP.**

No exceptions from standard code requirements or limitations are proposed for this project.

---

Therefore, the proposed PDP and ODP meet this criterion.

**4. The (amended) PDP is compatible and harmonious with existing public and private development in the surrounding area.**

This is the right location for Wal-Mart because the City's Land Use Plan designates this site as compatible for commercial use.

The development focuses high intensity commercial retail activity at the intersection of two major access routes, in keeping with these planning principles. The property on which the proposed project is situated is located at the intersection of two major arterials for the north metro area, I-25, and 136<sup>th</sup> Avenue. This corridor features a mix of high-intensity commercial, retail and residential uses. With the I-25 and 136<sup>th</sup> Avenue interchange now operational, this corridor is ideally situated for retail activity. Westbound 136<sup>th</sup> Avenue currently has 18,550 weekday vehicle trips per day. The development will add about 3,800 weekday vehicle trips per day to 136<sup>th</sup> Avenue. 136<sup>th</sup> Avenue has a capacity of about 48,000 weekday vehicle trips per day. This development represents about 13 percent of 136<sup>th</sup> Avenue's traffic capacity.

---

The property is bounded by I-25 to the east, by the Westminster Water Treatment Plant to the south, and by a vacant parcel to the west. To the north of the property lies a 23 acre vacant parcel, zoned for commercial development, on which the Westminster City Council recently approved a 138,000 square-foot Lowe's store.

The proposed project is compatible with this surrounding development, and is consistent with the type of development envisioned by the City for this location. Not only is the property identified in the Land Use Plan for commercial uses, the City recently approved a similar large format retail project anchored by a Lowe's store immediately adjacent to the property proposed for the Wal-Mart Supercenter. These projects are similar in layout, parking, architecture, use and intensity. The City has already concluded that this property is suitable for large-format retail.

The proposed Wal-Mart Supercenter building is more than 1500 feet away from the closest residential development, Quail Crossing; and approximately 2600 feet away from the next closest residential development, Lexington Heights. The largest part of the project, the Supercenter building itself, is situated closest to I-25. Orchard Parkway is bordered by the proposed pad sites, designed for smaller, more specialty retail development, such as banks and restaurants. The entire scope of development proposed in this PDP/ODP is separated from residential development to the west by Lot 7, which is approximately 25 acres.

The site has been designed to place the building as close as possible to I-25, and as far away as possible from the residential developments to the west.

The development will enhance the region by providing a 10-foot wide regional trail running north-south along the east side, as outlined in the Northeast Area Plan section of the Westminster Comprehensive Land Use Plan, and a large landscape buffer between the site and Interstate 25. The regional trail will provide pedestrian and bicycle traffic safe access to Big Dry Creek and the associated open space. Upon approval of this project, the City will construct this southern extension through City open space. When the interchange for 136<sup>th</sup> and I-25 was constructed, a pedestrian underpass under 136<sup>th</sup> Avenue was installed. The trail will connect to the underpass and will continue to the north side of 136<sup>th</sup> Avenue to connect to the Lowe's development there, whose concrete pedestrian trail behind the store parallels Interstate 25.

Therefore, the proposed PDP and ODP meet this criterion.

**5. The (amended) PDP 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.**

This criterion is similar to criterion 4, in that it discusses the interaction and relationship between the proposed project and the surrounding development. As previously noted, the development is surrounded on three sides by vacant land, and

bordered on the east by I-25. Despite the lack of proximity to any existing development, the site is nonetheless designed to minimize any adverse impacts to surrounding areas.

**Site Layout.** The largest feature of the proposed development, the Wal-Mart Supercenter building itself, is situated in the far southeastern corner of the site, as close as possible to I-25, and as far away as possible from residential development to the west. The proposed smaller retail pad sites are situated along Orchard Parkway, nearest the existing residential development.

**Lighting.** The lighting plan is in conformance with the Westminster Retail Commercial Design Guidelines for lighting, and has been designed to minimize "light leakage" at the perimeter of the property. Parking lot light poles will be reduced to 25 feet in height, and will feature full cut-off fixtures that cast the light downward, instead of outward. A photometric plan showing the proposed lighting design illustrates that the lighting plan produces zero foot candles of light at the lot line.

**Sound.** The truck loading docks will be screened by a 10 foot high masonry screen wall on the south side. This wall will reduce noise emissions from trucks loading and unloading at the dock. The compressor and trash compactor, located on the west side of the building, will be similarly screened with a wall to reduce noise from this equipment. The landscape buffers surrounding the project will contain plantings of deciduous and evergreen trees and shrubs designed to reduce to the greatest extent possible any visual and audible impacts of the commercial activities on the properties to the south and west of the development.

**Drainage.** The drainage system designed for this project will not result in an increase of flows greater than the historical flows from the property. The system has been designed in accordance with the UDFDC Urban Storm Drainage Criteria Manual, Best Management Practices for Storm Drainage, and the City of Westminster's City Code. Westminster's City Engineer has reviewed and approved the proposed drainage system.

Therefore, the proposed PDP and ODP meet this criterion.

**6. The (amended) PDP has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.**

The property is surrounded on three sides by vacant land, and bordered by I-25 to the east. The only existing developments, the Quail Crossing subdivision and the Lexington Heights subdivision, are separated by large (20+ acres) vacant parcels of land. Therefore, there is little potential for adverse impacts on existing development. Nonetheless, the site plan has been carefully designed to mitigate any potential impacts on nearby residential development that could result from the operation of a Wal-Mart Supercenter. Many of these mitigation features have already been outlined in criterion 5, above.

Additionally, The PDP and ODP require that the property and landscaping be maintained at all times according to applicable City code. Maintenance issues which rise to the level of a Westminster City Code violation will be enforced per City Code. Additionally, the applicant has agreed to post with the City a \$10,000 bond, which the City can access in order to ensure appropriate maintenance.

The proposed project not only does not create adverse impacts upon future land uses, or future development; the proposed project will facilitate future development in accordance with the Land Use Plan. The project proposes to make significant public improvements that will not only accommodate the Wal-Mart Supercenter itself, but also facilitate the development of the 6 pad sites on the property itself, and open up adjacent properties for development in accordance with the Plan. In adopting the I-25 Corridor Study and designating this area as a "District Center," in the Land Use Plan, Westminster decided that the development along the I-25 corridor in should be encouraged and facilitated. The proposed development helps realize these goals by providing a commercial center, which will stimulate investment and development throughout the area. The proposed development will also provide significant infrastructure, including road improvements and a detention facility, which will improve existing land uses and facilitate future land uses in the immediate area.

As the Land Use Plan notes, in the last 30 years, Westminster has experienced one of the highest growth rates in the northern portion of the Denver Metropolitan area. The proposed Supercenter will help provide goods and services to serve that growing population.

Additionally, the proposed PDP/ODP incorporates stringent development and design standards to ensure the highest quality of landscaping, architecture, site design, and maintenance. Any subsequent development of lots 2 through 6 will be required to meet these standards.

Therefore, the proposed PDP and ODP meet this criterion.

**7. Streets, driveways, access points and turning movements are designed in a manner that promotes safe, convenient and free traffic flows on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.**

The applicant's traffic engineers, Felsburg, Holt and Ullevig (FHU), have prepared a complete Traffic Impact Analysis (TIA). City staff have reviewed and approved the traffic study. FHU is the City's engineer of record, and is also the consultant who designed the 136<sup>th</sup> Interchange; the proposed improvements for this project have been designed to be compatible with this design.

The traffic study suggests the following improvements to accommodate the projected traffic generated by the project:

- One partial access off 136h Avenue
- Two full movement and one partial access on north Orchard Parkway
- Construct Orchard Parkway adjacent to the site
- Construct traffic signal at the 136th Avenue/Orchard Parkway intersection
- Construct an additional through lane along eastbound 136th Avenue adjacent to the site
- Construct a continuous acceleration/deceleration lane along eastbound 136th Avenue between Orchard Parkway and the site access

The applicant proposes to construct these improvements, to City standards, as part of Phase I of the project.

As noted in the Staff Report for this project, "The proposed laneage for 136<sup>th</sup> Avenue and for Orchard Parkway south of 136<sup>th</sup> Avenue is expected to be adequate for the traffic volumes generated by the proposed development, adjacent developments and the regional traffic utilizing 136<sup>th</sup> Avenue."

The proposed truck route for deliveries to the back of the store accesses from I-25, and is designed to minimize conflicts with customer and neighborhood vehicles and traffic.

Therefore, the proposed PDP and ODP meet this criterion.

**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 (amended) PDP.**

The City has requested, and the applicant has agreed to dedicate, the following rights-of-way:

- A 25-foot access easement, containing a 10-foot wide pedestrian trail running north-south along the eastern property line;
- A 105-foot wide right-of-way for Orchard Drive
- A .07-acre tract (Tract A), on which will be located an entry feature and public art area.

Therefore, the proposed PDP and ODP meet this criterion.

**9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.**

All new utility systems are proposed to be placed underground, in accordance with the Westminster Retail Commercial Design Guidelines.

Stormwater detention for lots 1 through 6 will be provided in a proposed detention basin in the southeast portion of the development as part of the construction of the Wal-Mart Supercenter in Phase I. The pond will detain and release storm waters at the allowable 40-hour rate in order to maintain a generally dry pond condition. The pond will be attractively landscaped, turning a site constraint into a site amenity. The perimeter will be planted with a picturesque landscape arrangement that tolerates both wet and dry soil conditions. These plantings will include deciduous and evergreen trees and shrubs.

The proposed storm drainage facilities were designed in accordance with the Westminster Drainage Manual, and the standards contained in the Urban Storm Drainage Manual, Volume 1, 2 & 3, for the Urban Drainage and Flood Control District. In addition, the proposed system uses best management practices (BMP's) for storm drainage control.

Therefore, the proposed PDP and ODP meet this criterion.

**10. Performance standards are included that insure reasonable expectations of future ODP's being able to meet the Standards for Approval of an ODP.**

The PDP contains standards recommended and approved by staff for development of Lot 1 through 7 on architecture, public art dedication, maintenance, perimeter streets, signage, access, PUD quality, landscape and outside storage. These are expanded in the ODP for Lots 1 through 6.

Therefore, the proposed PDP and ODP meet this criterion.

**11. The applicant is not in default or does not have any outstanding obligations to the City.**

The applicant is not in default, nor does the applicant have any outstanding obligations to the City.

To the contrary, Wal-Mart has a longstanding relationship with the City of Westminster, beginning with the opening of its store at 92<sup>nd</sup> and Sheridan in 1994. That store was recently approved for expansion, and is currently under construction. Last year, the 92<sup>nd</sup> and Sheridan store contributed more than \$80,000 to the community through grants to local non-profit and community organizations.

Therefore, the proposed PDP and ODP meet this criterion.

**B. Criteria for Approval of Official Development Plans (ODP) (Code Section 11-5-15).**

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

This criterion is the same as criterion 1 under Section 11-5-14 of the Westminster Code governing PDP Approval. See explanation under A.1., above.

**2. The ODP is in conformance with an approved PDP or the provisions of the applicable zoning district if other than PUD.**

The ODP is in conformance with the PDP submitted for this project. The PDP and ODP are tracking through the process simultaneously.

**3. The OPD exhibits the application of sound, creative, innovative or efficient planning and design principles.**

This criterion is the same as criterion 2 under Section 11-5-14 of the Westminster Code governing PDP Approval. See explanation under A.2., above.

**4. For PUD's, any exceptions from standard code requirements or limitations are warranted by virtue of design of special amenities incorporated in the development proposal and are clearly identified on the ODP.**

No exceptions from standard code requirements or limitations are proposed for this project.

**5. The ODP is compatible and harmonious with existing public and private development in the surrounding area.**

This criterion is the same as criterion 4 under Section 11-5-14 of the Westminster Code governing PDP Approval. See explanation under A.4., above.

**6. The ODP 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.**

This criterion is the same as criterion 5 under Section 11-5-14 of the Westminster Code governing PDP Approval. See explanation under A.5., above.

**7. The ODP has no significant adverse impacts on future land uses and future development of the immediate area.**

This criterion is the same as criterion 6 under Section 11-5-14 of the Westminster Code governing PDP Approval. See explanation under A.6., above.

**8. The ODP 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.**

The site layout has been designed to create the impression of a unified project and overall sense of a unique or identifiable place.

As noted previously, the site was specifically designed to minimize the bulk and mass of the Wal-Mart Supercenter, by locating this building in the southeast corner of the lot, as close as possible to I-25, and as far away as possible from the residential development to the west. The smaller pad sites for additional retail are located along Orchard Parkway. This grouping provides a transition from less intensity to greater intensity as you move east towards I-25.

The materials proposed are of high quality, consistent with the city ordinances, and blend with the surrounding regional architecture in color and texture. Their use in this design is in response to the regional context, with an emphasis on earth tone materials that are not brash and insensitive, but are warm, contextual and bode a sense of permanence and architectural character.

The forms of the building are articulated to accentuate the major entries of the building while creating character and harmony with each individual component as an integrated whole. Although one building with many services provided that comprise the whole, the elevations are reflective of that component, by the sum of its architectural parts. The variations of the horizontal are consistent with the theme that was proposed by the city in the "Prairie Style" and draws upon the existing landscape of relatively gradual series of horizontal open plains of the foothills as symbolism of the architectural style of this project. Spaces have been given attention to the human scale and pedestrian experience and comfort with the use of landscaping and seating areas, canopies, special uplighting and downlighting of paths.

Careful attention has been given to all elevations as they relate to the site and given views by adjacent properties. Service areas have been screened as well as rooftop equipment and substantial additional architectural features have been incorporated in the full design of this building in addition to the substantial landscaping around the building.

The site entrances will be accented with attractive plantings including perennials and ornamental grasses to create a sense of arrival. Interior parking islands and landscaped pedestrian corridors will break up the parking, provide safe pedestrian circulation, and reduce asphaltic solar gain. The development also includes an entry feature and public art feature, to be dedicated to the City, and prominently placed at the intersection of Orchard Parkway and 136h Avenue. Wal-Mart will contribute approximately \$37,000 towards the public art feature, in accordance with the City of Westminster Retail Commercial Design Guidelines. This feature will include a well-designed base and landscaped area, and will create a sense of arrival and welcome into the rest of the project.

Future developers of the property west of future Orchard Parkway, Lot 7, will also be required to make a land and monetary dedication for an outdoor art display

Therefore, the proposed PDP and ODP meet this criterion.

**9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound principles and practice.**

The maximum building height allowed under the ODP is 43'. At least 20% of the lot is required to be covered by landscaping.

Therefore, the proposed PDP and ODP meet this criterion.

**10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms and materials.**

The proposed architecture for the project is in conformance with the Westminster Retail Commercial Design Guidelines, and is internally and externally compatible.

The Wal-Mart Supercenter building features "360 degree" architecture; all four sides of the building are treated with the same architectural style, use of materials, and details as the front elevation of the building. The front of the building will feature raised planters, colored concrete walkways, overhanging canopies with a central pergola-type element for pedestrian use, Architectural elements and projections of with pilasters and "Tower" elements at the corners as a transition form as well as an element to balance the overall design. The remaining sides and rear elevation are to have similar architectural character, architectural forms, and materials as directed by the city staff for a total design to achieve a high level of architectural excellence.

The architectural theme is based on a contemporary interpretation of a "prairie" style, with overhangs and an emphasis on the horizontal planes, with tower/vertical elements to accentuate the entry elements and orient the user. This theme and materials used is consistent with other recent developments in north Westminster, and with the architecture proposed for the Lowe's retail store located north across 136<sup>th</sup>, approved by Westminster City Council on May 23, 2005. Multiple coordination meetings with the city along with drawing submittals have been required for staff direction and approval on the total design on this development. Submittals and coordination have addressed issues and elements of design in response per the direction of the city staff planning by adding a high level of architectural design and additional materials and forms to the overall design. As submitted in response to city staff, the architecture is based on the symbolism of the horizontal emphasis which relates to the foothills of Colorado that intersect with the mountains. The proposed colors and materials respond to and are consistent with the traditional earth tones and materials commonly found in the State of Colorado, and outlined in the Westminster Retail Commercial Design Guidelines, Section V, Architectural Design.

Standards set forth on the PDP and ODP require that all future development within the ODP area conform to the same design guidelines.

The primary materials are required to be cultured stone and quick-brik, or an approved similar brick-like product. Accented products and materials such as EIFS and special color copings and cornices we be used to create a consistent context. "Franchise architecture" is discouraged. Inappropriate roof lights, roof forms, neon trim, internally illuminated awnings, banners and pennants, and overly bold brush colors that sacrifice the integrity of a streetscape to promote a single tenant must be avoided. Lighting treatments of architectural features and fixtures must be consisted with the approved development plan. Exterior building design, including roof style, material and colors, architectural forms and detailing, shall be consistent among all buildings in the complex to achieve design harmony and contiguity. Slight modifications will be acceptable for a unique tenant response to the theme of the development as approved by the city .

Therefore, the proposed PDP and ODP meet this criterion.

**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.**

As previously noted, the site plan features screen walls, berms, and extensive landscaping to provide appropriate screening. Light and noise from the development have been minimized with the use of specially designed lighting, and strategically placed screen walls.

Therefore, the proposed PDP and ODP meet this criterion.

**12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.**

The overall goal of the landscape plan is to soften the edges of the retail center and provide a unifying character throughout the development that ties into the surrounding landscape. The proposed landscaping not only meets, but exceeds, the City of Westminster Landscaping Regulations. For example, Wal-Mart proposes to plant 764 trees (762 required) and 3,523 shrubs (3,402 required) and 1,278 grasses.

There are 222 inches of existing trees which will be mitigated. These trees will be mitigated at the City-required 2" to 1" ratio, resulting in a total of 444" of additional trees being planted. Because of the large number of proposed trees, enlarging the size of the planted trees will facilitate this mitigation. The landscaping is designed according to principles of water conservation, in accordance with the Land Use Plan Goal J6 (new development shall incorporate water conservation measures). Automatic underground irrigation systems with automatic shutoff rain sensors will be provided for irrigation. Additionally, there is a reclaimed water line to be built by the City in Orchard Parkway. Wal-Mart intends to extend the line and to irrigate the landscaping on the entire ODP with reclaimed water.

Therefore, the proposed PDP and ODP meet this criterion.

**13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.**

As documented in the Traffic Impact Analysis, approved by City staff, the proposed improvements will accommodate the traffic generated by the proposed Wal-Mart in addition to projected regional traffic increases. The proposed improvements are consistent with the I-25/136th Avenue Interchange Environmental Assessment, and will provide for acceptable traffic operational levels through the year 2025.

Therefore, the proposed PDP and ODP meet this criterion.

**14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner that promote safe, convenient, free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.**

This criterion is the same as criterion 7 under Section 11-5-14 of the Westminster Code governing PDP Approval. See explanation under A.7., above.

**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.**

The proposed development will provide detached pedestrian sidewalks along both 136th Avenue and Orchard Parkway adjacent to the site. In addition, connections through the site are provided to existing and planned regional trails. These connections will be separated and buffered from vehicular traffic by extensive landscaping, including trees, shrubs and grasses.

Therefore, the proposed PDP and ODP meet this criterion.

**16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the PDP and utility master plans.**

This criterion is the same as criterion 9 under Section 11-5-14 of the Westminster Code governing PDP Approval. See explanation under A.9., above.

Dave Shinneman  
June 6, 2005  
Page 16

**17. The applicant is not in default or does not have any outstanding obligations to the City.**

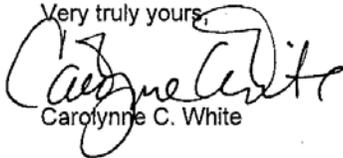
This criterion is the same as criterion 11 under Section 11-5-14 of the Westminster Code governing PDP Approval. See explanation under A.11., above.

**Conclusion**

The record is replete with evidence that the proposed project meets all applicable criteria in the Westminster Code for approval of a PDP and ODP.

Additionally, the proposed project will create approximately 450 new jobs, of which more than 70% will be full-time. The store is expected to generate approximately \$250,000 annually to the City in real estate and personal property tax revenue, and approximately \$1.5 million annually to the City in sales tax revenue. The store will produce an additional \$450,000 in revenue to the Regional Transportation District (RTD).

Very truly yours,



Carolynne C. White

88101331917532.1

# 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 (P.U.D.) 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 P.U.D. 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 P.U.D. is compatible and harmonious with existing public and private development in the surrounding area.
5. The P.U.D. 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 P.U.D. 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.

## Summary of Proceedings

Summary of proceedings of the regular City of Westminster City Council meeting of Monday, June 13, 2005. Mayor McNally, Mayor Pro Tem Kauffman, and Councillors Davia, Dittman, Dixion, Hicks, and Price were present at roll call.

The minutes of the May 23, 2005 meeting were approved.

Council approved the following: 2004 Comprehensive Annual Financial Report; BDCWWTF upgrade and expansion contract award; exchange agreement re open space at 104<sup>th</sup> and Wadsworth Blvd; 104<sup>th</sup> Ave and Bryant St and Tennyson Ct drainage improvements contract award; 1<sup>st</sup> qtr 2005 Insurance Report; 1<sup>st</sup> Amended PDP in Interchange Business Center PUD; and Interchange Business Center ODP (Wal-Mart).

The following Councillors' Bills were adopted on final reading:

A BILL FOR AN ORDINANCE VACATING AN 80-FOOT DRAINAGE EASEMENT AND A 16-FOOT UTILITY EASEMENT WITHIN LOTS 9 AND 10 OF THE BALL CAMPUS SUBDIVISION

A BILL FOR AN ORDINANCE AMENDING THE 2005 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2005 ESTIMATED REVENUES IN THE FUND.

A public hearing re the 3<sup>rd</sup> Amended PDP for Northridge at Park Center NWC 121<sup>st</sup> Ave. & Pecos St. was continued to the June 27 Council meeting; and a public hearing was held re Amendment to the Interchange Business Park PDP and an ODP for Wal-Mart (North).

Council adopted Resolution No. 22 allocating service commitments to the reclaimed water category.

The following Councillors' Bills were adopted on first reading:

A BILL FOR AN ORDINANCE INCREASING THE 2005 BUDGET OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2005 ESTIMATED REVENUES IN THE FUND. Purpose: appropriating proceeds of the 2005 Community Development Block Grant.

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3 OF TITLE XI OF THE WESTMINSTER MUNICIPAL CODE CONCERNING THE GROWTH MANAGEMENT PROGRAM ALLOCATIONS TO THE RECLAIMED WATER CATEGORY. Purpose: establishing annual allocations to the reclaimed water category equal to the Service Commitment supply figure for the reclaimed system.

At 11:34 p.m. the meeting was adjourned.

By order of the Westminster City Council  
Linda Yeager, MMC, City Clerk  
Published in the Westminster Window on June 23, 2005

BY AUTHORITY

ORDINANCE NO. **3211**  
SERIES OF 2005

COUNCILLOR'S BILL NO. **26**  
INTRODUCED BY COUNCILLORS  
**DITTMAN - PRICE**

A BILL

FOR AN ORDINANCE VACATING AN 80-FOOT DRAINAGE EASEMENT AND A 16-FOOT UTILITY EASEMENT WITHIN LOTS 9 AND 10 OF THE BALL CAMPUS SUBDIVISION

WHEREAS, certain easements were dedicated on the final plat for Ball Campus Subdivision, Book No. 57, Page No. 6, and Reception No.78095994 in the County of Jefferson; and

WHEREAS, the 16-foot utility easement between Lots 9 and 10 contains no utility facilities nor is it necessary for future drainage or utility purposes; and

WHEREAS, the 80-foot drainage easement on the west side of Lots 9 and 10 contains no utility facilities nor is it necessary for future public drainage or utility purposes in the future; and

WHEREAS, the property owner will provide a 20-foot wide drainage easement to satisfy local drainage needs and replace the 80 foot wide easement.

NOW THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. City Council finds and determines that the public convenience and welfare require the vacation of the easements in Sections 2 and 3 hereof.

Section 2. Legal Description of Utility and Drainage Easements: See attached legal description, exhibit A.

Section 3. This ordinance shall take effect upon its passage after second reading. 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 23rd day of May, 2005. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of June, 2005.

BY AUTHORITY

ORDINANCE NO. **3212**  
SERIES OF 2005

COUNCILOR'S BILL NO. **27**  
INTRODUCED BY COUNCILLORS  
**DAVIA - DIXION**

A BILL FOR AN ORDINANCE AMENDING THE 2005 BUDGET OF THE GENERAL CAPITAL IMPROVEMENT FUND AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2005 ESTIMATED REVENUES IN THE FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2005 appropriation for the General Capital Improvement Fund initially appropriated by Ordinance No. 3162 in the amount of \$7,587,000 is hereby increased by \$230,400 which, when added to the fund balance as of the City Council action on May 23, 2005 will equal \$8,068,650. The actual amount in the General Capital Improvement Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. The appropriation is due to the receipt of a TEA-21 grant from the Colorado Department of Transportation.

Section 2. The \$230,400 increase in the General Capital Improvement Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

<b>REVENUES</b>				
Description	Account Number	Current Budget	Amendment	Revised Budget
Fed T-21	7500.40610.0019	\$0	<u>\$230,400</u>	\$230,400
Total Change to Revenues			<u>\$230,400</u>	

<b>EXPENSES</b>				
Description	Account Number	Current Budget	Amendment	Revised Budget
Trails Development	80175050167.80400.8888	\$512,425	<u>\$(63,360)</u>	\$449,065
Farmer's Hi Line Trail	80575050406.80400.8888	118,000	<u>293,760</u>	411,760
Total Change to Expenses			<u>\$230,400</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 23rd day of May, 2005. PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 13th day of June, 2005.